

# RENEWABLE ENERGY AT WHAT COST?

A closer look at the DRC's nascent lithium sector

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## PART I: INTRODUCTION

The Democratic Republic of Congo is no stranger to astonishing mineral wealth,<sup>1</sup> and the country appears to have found yet more of it.

As yet unexploited hard-rock lithium deposits near the town of Manono in the DRC's south may be amongst the largest in the world, according to industry experts and mining publications.<sup>2</sup> Lithium and cobalt – for which DRC is also amongst the world's top producers<sup>3</sup> – are components of electric vehicle, wind turbine and solar panel batteries,<sup>4</sup> critical to renewable energy technologies.

**"We cannot expect to continue to consume energy or materials as we have done and meet the needs of all within our planetary boundaries"**

Kate Raworth, Doughnut Economics

Global lithium demand could increase by 40 times by 2040 (see IEA figures, graph 1),<sup>5</sup> and demand for other battery metals that may be used in the energy transition, like cobalt, nickel, manganese and rare earth elements (REE) is also set to exponentially rise (see graph 2).

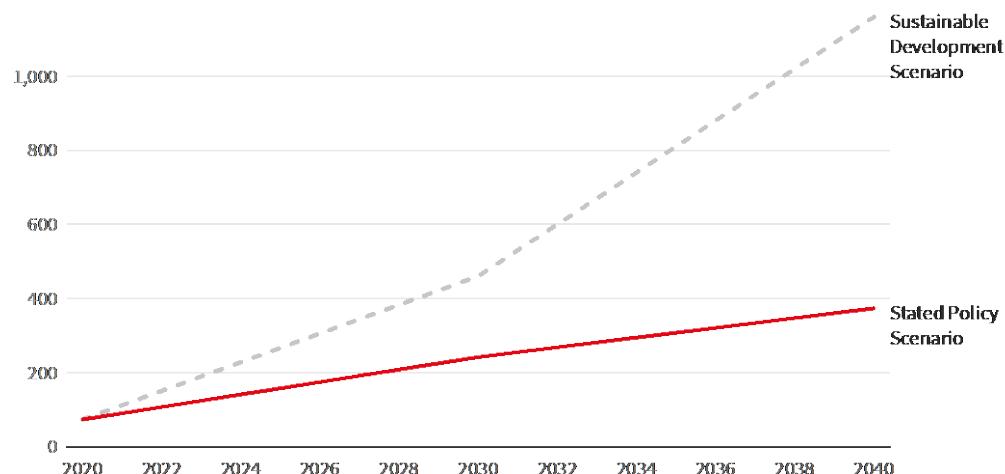
The need for ecological transition of our economic activities has never been more critical.<sup>6</sup> The 2021 Intergovernmental Panel on Climate Change (IPCC) report concluded that it is unequivocal that human influence has warmed the atmosphere, ocean and land, and that human-induced climate change is already affecting many weather and climate extremes in every region across the globe.<sup>7</sup>

And companies throughout the supply chains of battery metals, including investors and financiers, should have the policies and practices in place to ensure that the transition is not underpinned by predatory and harmful economic and social models and – perhaps the biggest irony of all – environmental harms, from extraction until end-of-life of the exploited

**Fig. 1: IEA Figures, Total Lithium Demand By Sector and Scenario**

## TOTAL LITHIUM DEMAND BY SECTOR AND SCENARIO

2020-2040, kt



Source: International Energy Agency

metals.<sup>8</sup> While the European Union and China have proposed laws making carmakers responsible for recycling batteries,<sup>9</sup> no country yet legally requires companies to publicly report on their lithium supply chains.

So as not to further abuses linked to the world's already troubled natural resources, Global Witness believes that current and future investors, banks and companies that

trade<sup>10</sup> or use the DRC's lithium have a responsibility to ensure that the lithium they invest in, buy, use or trade has been sourced responsibly, according to principles that avoid causing, contributing to or being linked to human rights abuses, corruption and environmental harm.<sup>11</sup>

In addition, we cannot expect to continue to consume energy or materials as we have done and meet the needs of all within our planetary boundaries.<sup>12</sup> As such, in addition to the global need to reduce consumption particularly in the global north and increase circularity, companies using the DRC's lithium in manufacturing and products must begin to do so in ways that will

allow for end-of-life lithium reuse<sup>13</sup> and recycling, for example.<sup>14</sup> And, unless we change them, most current models of mining for minerals needed for batteries for the energy transition will worsen the inequalities of the decarbonization divide, for example leaving people living in mining areas in energy poverty themselves.<sup>15</sup>

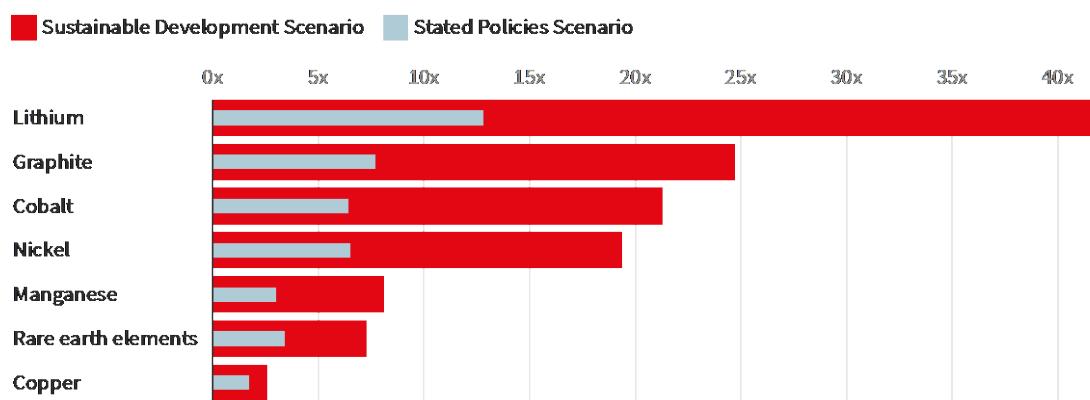
Global Witness has conducted this analysis investigating potential risks linked to the DRC's future lithium supply chains. We set out here what we found so that companies, investors, the DRC and home state governments can take steps to address these now, before the production of the DRC's lithium begins.

Using the Organisation for Economic Cooperation and Development (OECD) international guidance on conducting Due Diligence for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (the OECD Guidance) as a basis, this briefing outlines potential risks linked to the DRC's future lithium production, including lack of transparency around payments, contracts and beneficial ownership, and environmental and human rights risks.<sup>16</sup> Under this framework, companies must identify and address actual or

**Fig. 2: IEA Figures, Growth in Demand for Selected Minerals for Clean Energy Technologies by Scenario**

## GROWTH IN DEMAND FOR SELECTED MINERALS FOR CLEAN ENERGY TECHNOLOGIES BY SCENARIO

2040 relative to 2020



Source: International Energy Agency

potential risks in order to prevent or mitigate adverse impacts associated with their activities or relationships. Following this framework can support responsible, low-impact and transparent lithium trading and sourcing efforts that can genuinely benefit people in the DRC.

Congolese laws, as well as international laws and principles on mineral production and supply chains, that apply to lithium, do exist, although they are imperfect (see section below, “Existing laws, guidance and principles for responsible lithium production should be applied”). If applied robustly and in full, they should mitigate risk of the DRC’s lithium sector contributing – financially or in practice – to human rights abuses, environmental harms or corruption.

If these risks are mitigated, chances improve for the DRC’s lithium production to make an important contribution to advancing responsible renewable energy alternatives to climate devastating fossil-fuel sources, while also ensuring protections of local communities and the local environment.

### Introducing the DRC’s nascent lithium sector

In southern DRC, three international companies have announced their intention to explore for or produce lithium (see box: “Companies that hold permits around Manono”). Their mining concessions, some of which may begin producing as early as 2023 according to company information, are concentrated close to the town of Manono.

Manono, a town of an estimated 120,000 inhabitants<sup>17</sup> living mainly from local, small-scale agriculture and some small-scale or artisanal mining,<sup>18</sup> sits alongside lithium and other mineral deposits in the DRC’s Tanganyika province.<sup>19</sup> Local residents report that the town is without access to a reliable electricity supply, and that its inhabitants’ current source of drinking water is locally-dug ground-water wells.<sup>20</sup> The population mainly generates income from small-scale activities, including artisanal tin and tantalum mining and agriculture in the fields around Manono and its wider territory.<sup>21</sup>

“We hope the lithium will pay for something like development in our town”, one Manono inhabitant told Global Witness in the research for this brief. The Archbishop of Lubumbashi, the regional capital around 700km south of Manono, recently told the Congolese press that, “it is imperative, indispensable, legitimate and urgent that the population of Manono begins to feel the positive effects of the exploitation of its riches.”<sup>22</sup>

The mineral’s potential to do so is there. Roche Dure, one of the larger lithium-bearing rock bodies near to Manono town, holds an estimated 400 million tonnes of lithium according to AVZ Minerals Limited (AVZ),<sup>23</sup> the company that, as described in AVZ’s financial report of 30 September 2021, now holds 75 percent of the Manono Lithium and Tin project, and 100 percent of the Manono Extension project, two of the lithium-bearing concessions.<sup>24</sup>

## PART II: FINDINGS

### Potential supply chain risks in the DRC’s lithium sector

Global Witness conducted a preliminary desk-based review of publicly-available company registration and contract documents, company reports and social media posts, and has conducted 22 interviews with mining authorities and experts, civil society members and also with inhabitants of Tanganyika and Haut-Lomami (the provinces the Global Witness mining concession sample covered). We focused on a sample block of 51 mining concessions (the majority of which were still in research phase) situated around Manono town and a distance of approximately 150 kilometres south-west of the town (see Annex 1 and Map 1). Global Witness identified potential lithium supply chain risks linked to:

- Finding 1. A lack of detailed, publicly-available information about the environmental risks of lithium mining, in particular of hard-rock mining, and an apparent low level of community awareness of these potential negative impacts;

- Finding 2. Involvement of possible politically exposed persons (PEPs) in the DRC’s lithium sector, non-publicly disclosed beneficial ownership information and the potential for consolidation of control of lithium concessions and their eventual lithium supply into a small number of hands with the existence of company ownership links (see Annex 2);
- Finding 3. Undisclosed or partially-disclosed contracts and payments linked to future lithium production.

### Companies that hold permits around Manono

While dozens of companies hold mining permits around Manono (see Annex 1), as of September 2021, three companies had made public announcements about planned exploration, drilling or production of lithium at mining concessions in the area.

These were:

Australian-listed AVZ Minerals Limited, heading up the Manono Lithium and Tin project and the Manono Extension project;<sup>25</sup>

Critical Resources Limited (renamed since June 2021, prior to which called Force Commodities Ltd)<sup>26</sup>, also Australian-listed, relating to the Kitolo-Katumba and Kanukua lithium projects<sup>27</sup>, and;

Canada and Frankfurt-listed Tantalex Resources, relating to the Bucknell Lithium and Manono-Kitotolo Lithium Tailings projects.<sup>28</sup>

Dozens of other companies also hold mining research permits around the apparent lithium deposit, according to publicly available information on the DRC’s mining register.<sup>29</sup> Some of these research permits may become eventual mining permits for lithium.<sup>30</sup> The recommendations in this brief are aimed at any company producing or planning to produce or explore for the DRC’s lithium and their investors, not only the three companies that have already publicly declared their intention to explore, drill or produce.

AVZ aims to begin lithium production in 2023.<sup>31</sup> The company counts Yibin Tianyi Lithium Industry Co Ltd, Huayou International Mining (HongKong) Limited and BNP Paribas Nominees Pty Ltd ACF Clearstream amongst its top three shareholders, as of September 2021.<sup>32</sup> AVZ has already lined up three off-take agreements,<sup>33</sup> including with Shenzhen Chengxin Lithium Group Co.<sup>34</sup> and Yibin Tianyi Lithium Industry Co., Ltd, a leading global battery materials producer that is in the supply chain of Contemporary Amperex Technology (CATL), the world's largest lithium-ion battery maker.<sup>35</sup>

Global Witness notes that, on 29 October 2021, in its Activities Report for the Quarter Ending 30 September 2020, AVZ announced that CATH Energy Technologies, a company partly owned by CATL (see above) will pay US\$240 million for a “24 percent equity interest in the Manono Project” and a “pro rata portion of development capital with the transaction in totality contributing more than US\$400 million, subject to the final project capital being verified”.<sup>36</sup>

Critical Resources Limited has not announced a production date, although the company began lithium drilling in 2018.<sup>37</sup>

Tantalex began drilling at one of its concessions in August 2021, and has not yet announced a lithium production date.<sup>38</sup>

## The findings in more detail

> **Finding 1:** A lack of detailed, publicly-available information about the environmental risks of lithium mining, in particular hard-rock mining, and an apparent low level of community awareness of these potential negative impacts

Lithium market and investor discussion forums have been buzzing with news about the DRC's lithium deposits, their size and quality and, of course, speculation about company share prices.

However, relatively little online discussion appears to have focused on detailed environmental considerations of the DRC's

lithium mining or how the mines might affect the lives of people living in the mining area, or on the impact upon poverty and development more broadly in the DRC.

These are critical issues for consideration ahead of lithium production, and companies must meaningfully consult with locally-impacted communities and disclose potential environmental and social impacts, as required by Congolese law (see below) and detailed by the OECD Guidance and IFC Performance Standards.<sup>39</sup> These disclosures should be central to investors', financiers' and manufacturers' due diligence checks and risk assessments of Manono's lithium supply,<sup>40</sup> and be a major point of attention for the Congolese government.

A 2014 DRC Ministerial Decree setting out the rules and procedural mechanisms for environmental protection requires companies working with the DRC's natural resources to undertake an environmental and social impact assessment that can be consulted by the public on request.<sup>41</sup> Further, Articles 450 and 451 of the rules accompanying the Mining Code require that companies undertake an Environmental and Social Impact Assessment (ESIA), and a plan for Environmental and Social Management,<sup>42</sup> while article 25 octies requires the *Cellule Technique de Coordination et de Planification Miniere* (CTCPM), a government agency, to publish a synthesis of ESIAs on its website.<sup>43</sup> Companies' obligations include dialoguing with the community to explain the positive and negative impacts of mining in their area, answering questions and concerns that they may have, and communicating in writing to the local administration, authorities and civil society a summary of the ESIA.<sup>44</sup>

In its 2020 annual report to investors, AVZ stated that Dathcom Mining, a joint-venture company which holds 100 percent of the Manono Project license,<sup>45</sup> commissioned a full ESIA “on the *Manono Lithium and Tin Project* with the purposes of baselining the biodiversity of the proposed mine activity areas and to conduct stakeholder

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*consultations with the local communities to begin sensitising them to the upcoming economic activity and to listen to what their views and requirements of Dathcom would be.”<sup>46</sup> On 18 August 2021, the Environmental and Social Impact Assessment for the Manono project was signed off by the *Direction de Protection de l’Environnement Minier (DPEM)* department of the DRC’s Ministry of Mines.<sup>47</sup>*

AVZ’s feasibility study makes several environmental commitments,<sup>48</sup> and the company also provides a greenhouse gas assessment on its website.<sup>49</sup> Detailed plans about wastewater treatment, hazardous material activity and management of air, water, land and groundwater pollution is not available on the AVZ website, however.<sup>50</sup> A civil society representative told Global Witness that they had sought to review a copy of AVZ’s ESIA but had been unable to obtain a copy.<sup>51</sup>

Global Witness wrote to AVZ noting that copies of AVZ’s ESIA were not yet available on the company website, including to Congolese civil society, which is in breach of Congolese law, per Article 25 octies of Décret N° 038/2003 du 26 mars 2003 portant règlement minier tel que modifié et complété par le décret N° 18/024 d 08 juin 2018, a statement to which AVZ did not directly respond. Global Witness also requested a copy of the ESIA for the Manono project, but did not receive a copy from AVZ. A list of the environmental planning documents provided by AVZ to Global Witness is included in endnotes.<sup>52</sup> AVZ told Global Witness it was committed to developing leading environmental, social and governance practises to “support sustainable development” and to “leave lasting socio-economic benefits”. AVZ also stated, in response to Global Witness’ request for a copy of the ESIA, that “all work carried out by AVZ to date in relation to the Manono Project has been exploratory in nature and to determine whether a viable project exists”.

The company went on to note that AVZ was cognisant of its ESG obligations and “has begun

work on formulating its ESG commitments for the project”. Finally the company noted that adoption and implementation of its ESG commitments were contingent upon government approval of its Definitive Feasibility Study, granting of a mining license, granting of rights to rehabilitate a nearby hydro-electric power station, the final investment decision and project finance. The company noted that Dathcom has not yet been awarded an Exploration Permit by the Congolese government.

In its public statements and feasibility study, AVZ states that it has engaged with the local community, plans to put a Social Development Plan in place and that the company plans to build local infrastructure, including hospitals and schools.<sup>53</sup> The company also publicly states that, via Dathcom Mining SAS, it has taken fully auditable and transparent notes of meetings with stakeholders in Manono.<sup>54</sup> Global Witness requested copies of these notes from AVZ, but did not receive a direct response to this request.

Although members of the community interviewed by Global Witness often expressed hope that the mining companies will bring jobs and improve infrastructure in the area, they appear to have understood information or indications received from, or apparently on behalf of, AVZ and other companies operating in the region so far in varying ways, or do not have a clear, shared understanding of the companies’ commitments.

An individual interviewed by Global Witness who had participated in several meetings between, in his words “AVZ” and “the community” confirmed that some discussions had taken place, but said that as far as they knew, the company had not issued any written copies of its commitments to the community, either environmental or social.<sup>55</sup> In its response to Global Witness, AVZ noted that mining companies are required by law to put aside a percentage of revenue for community development and support (locally called a “cahier de charge”), and that it had registered the AVZ Foundation to this end, which it anticipated

would be run by a committee of local people under a “transparent set of Articles of Association” and that committee members would be rotated on a regular basis to “ensure parity with all stakeholders”. Additional information provided by AVZ about environmental management and socio-economic development, including about AVZ and Dathcom’s due diligence management systems, can be found in endnote.<sup>56</sup>

Local media reporting in weekly newspaper Le Palmier reported that, according to locals, Dathcom and AVZ had already started “clandestine” lithium production at Manono.<sup>57</sup> Global Witness has no evidence to suggest this claim of clandestine production could be true, and includes it here only to demonstrate degrees of confusion and uncertainty about mining activities and their impacts. In its response to Global Witness, AVZ categorically stated that there has been no lithium production at the Manono Project to date and “[a]ny reporting that lithium production has commenced at Manono is incorrect as we are not at this stage of development”. AVZ said that it had completed “drilling campaigns” and had shipped a 13-tonne bulk sample to an Australian laboratory for metallurgical test work, the results for which have been publicly announced.

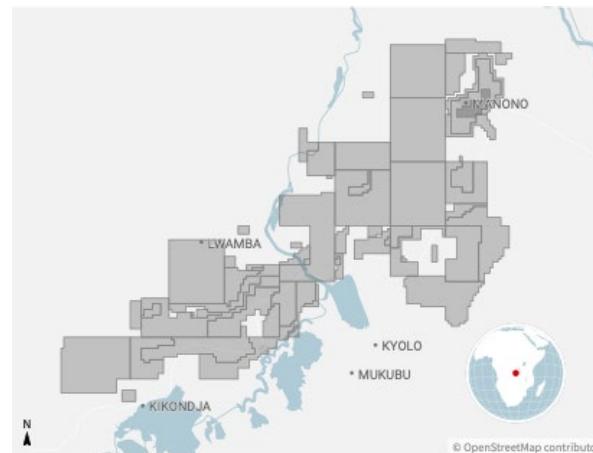
Global Witness was unable to locate publicly available online copies of an ESIA conducted, or plans for a future ESIA, by Tantalex<sup>58</sup> or Critical Resources Limited. Two people from the community told Global Witness that they were unaware of any community consultations by Tantalex, although another individual said that they had participated in a meeting organised by Tantalex, in which the company told local cooperatives engaged in artisanal mining in the area to leave and return to their officially designated artisanal mining areas.<sup>59</sup>

In response to questions about ESIA activities, Tantalex told Global Witness that the company was at “the very beginning of its exploration activities in the DRC”<sup>60</sup> and that “[o]nce a

**Fig. 3: Map of Mining Concessions around Manono, DRC**

#### MAP OF MINING CONCESSIONS AROUND MANONO, DRC

Global Witness reviewed the ownership of the 51 mining concessions, covering a range of minerals and including those with lithium research and exploration permits, spanning the block of concessions around an area to the south of Manono town. The concession ownership data was accurate as of 15 September 2021.



Source: DRC Mining Cadastre Map Portal

resource is confirmed, Tantalex will endeavour to complete the Feasibility Studies which would detail potential production scenarios and determine impacts on the environment and the communities (full ESIA studies). These are standard process in any project definition

program and in any country to which Tantalex will strictly abide by.”

The company pointed out that Tantalex was “still in the stages of defining if there is a resource and until then, it would not be in the interest of any of our shareholders, community stakeholders and partners to raise any level of expectation on future production and/or potential economic benefits to the community. Nonetheless, we have already held meetings with local administrators and community stakeholders who are all very aware and supportive of our current activities in the region.” Regarding its application of OECD Guidance, Tantalex stated that it “does plan to apply the policies and procedures contained within the OECD Guidance to our potential lithium operations although there is absolutely no indication provided to Tantalex that demonstrates that the Manono region is a

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conflict-affected and high risk area as per the definition of the OECD.” For further discussion of the OECD Guidance, see below, “Existing laws, guidance and principles for responsible lithium production should be applied”.

Critical Resources did not reply to Global Witness’ request for information or comment.

**> Finding 2:** Involvement possible politically exposed persons in the DRC’s lithium sector, non-public beneficial ownership information and the potential for consolidation of control of lithium concessions and eventual lithium supply into a small number of hands with the existence of company ownership links

Global Witness analysed publicly available information on the DRC’s company registry<sup>61</sup> and in its Official Government Gazette and found that a small number of companies and people, an individual reported to have been an advisor to the former President, likely qualify him as a politically exposed person (PEPs), currently or in the past held, partly-held or were involved with at least 17 of the mining concessions along the lithium deposits (see Annex 2).

These included a serving Minister, Guy Loando Mboyo,<sup>62</sup> and Cong Maohuai, reportedly a Chinese national, sometimes known as Cong Mao Huai, Simon Cong and Simon Cong Mao amongst other names<sup>63</sup> (see box: Cong Maohuai, below), an individual reported as close to former DRC President Joseph Kabila Kabange and his younger brother Zoe Kabila, and alleged to have been an advisor to the former President.<sup>64</sup> Zoe Kabila was governor of Haut-Lomai province, the location of some of the lithium deposits, until May 2021.<sup>65</sup>

Cong Maohui told Global Witness that it is not true that he has been advisor to the former President, Joseph Kabila Kabange, or his younger brother, Zoe Kabila. He stated that he has met both men, but that he has no business relationship with either, and has “never served as an advisor to either man.” Cong Maohuai went on

to state that he had first met President Kabila in 2007, when serving as an interpreter for Min Gou Wei, and that he had met Mr Kabila as a representative of the Groupement des entreprises chinoises (GREC), and that he was also received “a few times” by President Kabila in his capacity as President of the Chinese Chamber of Commerce of Katanga, and his “similar role with the Association of Overseas Chinese of the Congo”. Cong Maohuai went on to say that these were “normal, open and transparent discussions” for “mutual economic interests of many different businesses” and that at “no time” was he engaged in an advisory role or sought improper influence on his own or any other person or entity’s behalf. Regarding Mr Zoe Kabila, Cong Maohua stated that the two had met in February 2020 but that, as AVZ had taken over as majority shareholder Manono project, Cong Maohuai had suggested Governor Kabila contact AVZ directly. Cong Maohua also told Global Witness that he found the assertion that he was a PEP to be confusing, in line with OECD and FATF definitions of the term (and specifically FATF recommendations 12 and 22, that define a PEP as an “individual who is or have been entrusted with a prominent public function, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives or state-owned corporation, important political party officials.”) Cong Maohuai went on to state that he is not a PEP, holds no government position and does not fulfill any prominent public function. Rather, that he is a “private businessperson” and although had met PEPs, did not do business with them to the best of his knowledge.

La Congolaise d’exploitation minière SA (Cominière), a Congolese state-owned company, or the company’s Director General Athanase Mwamba Misao, were linked to 13 of the concessions analysed by Global Witness.<sup>66</sup>

Guy Loando Mboyo,<sup>67</sup> Minister of State in charge of Regional Planning since April 2021, or his wife, Linda Déborah (“Bobo Elite”),<sup>68</sup> were linked to

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two of the companies that held concessions in the Global Witness sample.<sup>69</sup> Loando Mboyo was also a non-executive director in AVZ between 21 August 2017 and 1 May 2019 and held 40,000,000 shares in the company at his resignation.<sup>70</sup> According to AVZ's 2 May 2019 Board Update, Loando Mboyo stepped down from AVZ after being elected as a Senator, as his "new position is constitutionally incompatible with a Directorship of a public company".<sup>71</sup> In its response to Global Witness, AVZ stated that they wrote to Loando Mboyo on 1 April 2019 requesting that he resign from his position, following his pending appointment as Senator due to conflict of interest concerns. They went on to say that Mboyo agreed and that he stepped down from the company on 1 May 2019. At the time of writing, Mboyo holds shares in at least two other mining companies, according to the most up to date information on the Congolese company registry.<sup>72</sup>

Global Witness wrote to Guy Loando Mboyo, who requested more time to respond to Global Witness' opportunity to comment, citing his heavy duties as Minister and current internal and foreign travel, in October 2021. Mr Loando Mboyo provided a fuller response to Global Witness after the deadline for comment had passed, in an 8 page letter. In his first and preliminary response to our invitation to comment, Mr. Loando Mboyo, stated that in his view, after a preliminary examination of the allegations, the majority of the information was incorrect according to his own recollections.

In his later, more extensive reply, Minister Loando Mboyo went on to note that between 2017 and 1 May 2019 he had exercised the function of non-executive director at AVZ, and that in this role he had no kind of responsibility in the daily running of the company, and that he had stepped down from AVZ board for the reasons given by the company (above), and in line with Congolese law and the rules of the Congolese Senate. Minister Mboyo went on to state that he could not comment on matters related to AVZ, which

should be addressed directly to the company. Finally, the Minister noted, with reference to AVZ, that as an Australian publicly listed company regulated by the Australian stock exchange (ASX), there was ample guarantee that durable lithium production would take place, with proper respect for social, ethical and environmental concerns, and for the benefit of Congolese citizens.

Minister Loando also noted that he was not currently a shareholder in HongKong Excellen Co. Mining Limited, involvement in which he renounced on 3 April 2019, or in HongKong Yisen Investment Congo SARL, involvement in which he renounced on 1 March 2019, and that he is not currently director of a copper mine at Musoshi, although he had been an advisor to a company called Societe d'Exploitation Miniere de Musoshi SA (SEM SA), from which he had stood down by letter, on 29 April 2019.

In addition, the Minister noted that development of the DRC's abundant natural resources and protection of the environment required considerable financial means, which could only be obtained via responsible international and foreign investment and that the people of the DRC, and their elected representatives and civil servants, had the power to determine the modalities of the related national development program. It was for these reasons, the Minister noted, that he no longer practised law (although he did remain founder and owner of his law firm), that he and his wife had created the Widal Foundation and that he had decided to present himself as an independent candidate for election. For these same reasons, he was elected to the Senate and he was nominated Minister. The Minister respectfully disagreed with Global Witness' opinion that he was a PEP. A summary of the remainder of the Minister's response is contained in this endnote.<sup>73</sup>

Global Witness attempted to contact Bobo Elite Linda Déborah via multiple email channels and did not receive any initial response.<sup>74</sup> Global Witness additionally couriered a letter to Bobo

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Elite Linda Déborah giving an opportunity to comment on the material about her in this report, to which she replied. In her reply, couriered to Global Witness, Bobo Elite Linda Déborah stated that she had difficulty understanding what relationship a report about lithium had with her, but that she provided a response due to her belief in total transparency and social responsibility. Bobo Elite Linda Déborah went on to state that she vigorously contested all allegations of fact and law that Global Witness had put to her. She noted that, according to the legal advice provided to her, public information on the internet about companies in the DRC was uniquely destined to inform the public, and that official information about Congolese companies and their activities was that which was held by the relevant competent bodies in DRC. Please also see Bobo Elite Linda Déborah's further response, below.

Six of the concessions in the Global Witness sample, including the AVZ Manono project (PR13359), and one of the Tantalex concessions (PR13698), are or had been owned, part-owned or had been acquired from companies associated with Cong Maohuai,<sup>75</sup> (see also box: Cong Maohuai below).

Cong Maohuai is also manager of Dathomir Mining Resources Sarl, which was one of AVZ's joint venture partners in Dathcom Mining SAS until September 2021. Dathomir Mining Resources Sarl is wholly owned by Dathomir International Corp, represented by Cong.<sup>76</sup> Dathomir Mining Resources Sarl was recorded as AVZ's largest shareholder in the company's 2018 and 2017 Annual Reports.<sup>77</sup> One year later, in AVZ's 2019 Annual report, Dathomir Mining Resources no longer appeared amongst AVZ's top 20 shareholders.

In their response to our request for comment for this briefing, AVZ told Global Witness that Dathomir acquired its shareholding in AVZ as part of the consideration paid by AVZ for its 60 percent interest in the Manono Project, and that "our

2018 Annual Report provides that, as of 30 June 2018, Dathomir held 240,000,000 shares (12.71 percent) interest in AVZ and that further detail of shareholders is contained in their 2018 annual report.

Cong Maohua confirmed with Global Witness that is manager of Dathomir Mining Resources SARL, and that on May 23 2017, Dathomir Mining Resources SARL sold 60 percent of its share capital of Dathcom Mining SAS to AVZ Minerals Ltd and that, as principal shareholder, AVZ has taken on the day-to-day management of Dathcom Mining SAS' operations. Cong Maohuai added that, since 2017 he had been a non-controlling partner of Dathomir Mining Resources SARL, which had limited his involvement. Cong Maohuai told Global Witness that Dathcom Mining SAS was established on 24 October 2016, by Dathomir Mining Resources SARL and Cominière SA. He added that, during the five-month period between the establishment of the joint venture and the purchase of the majority of shares by AVZ, he had served in his role as a representative of Dathomir Mining Resources SARL and briefly as President of Dathcom Mining SAS.

AVZ told Global Witness that, prior to investing in the Manono Project, the company had "engaged in due diligence of relevant corporations and individuals" and that this "included independent inquiries of local corporate regulators". AVZ stated that their due diligence did not "reveal any inappropriate links between individuals involved in the Manono Project and Joseph Kabilo Kabange nor any members of his family". AVZ added that "similarly, no concerns were identified to Cong Maohuai's involvement in the Manono Project".

The business links between Cong and Mboyo appear to be long-standing. From 21 August 2017, Mboyo was an executive director of AVZ, during the same period that Dathomir Mining Resources, represented by Cong, was AVZ's largest shareholder.<sup>78</sup> Cong, representing Lucky

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Resources Holding Company Limited and Mbogo, representing Summit Reward Investment Limited, were parties to a 2017 cooperation agreement with Huayou International Mining, a wholly-owned subsidiary of Zhejiang Huayou Cobalt Co., Ltd, according to information on the Huayou website.<sup>79</sup> Cong has also been listed as a director in the Societe Miniere d'Exploitation de Musoshi SA (SEM) alongside Mbogo.<sup>80</sup>

On the website of the Minister's Widal Foundation, Mbogo describes Cong as "*humble, rempli de sagesse et est un visionnaire* (humble, full of wisdom and visionary).<sup>81</sup> Cong Maohuai told Global Witness that Guy Loando Mbogo had founded a law firm and had served as a lawyer representing him and his businesses, although that since 2019 and Guy Loando Mbogo's election to the Senate, Guy Loando Mbogo stopped "personally representing me and my businesses".

In response to questions for this report, Huayou told Global Witness that in August 2017, Huayou Cobalt, through its wholly-owned subsidiary Huayou International Mining (Hong Kong) Ltd. (hereinafter referred to as "Huayou International Mining") subscribed for additional shares of AVZ, and that Huayou Cobalt "has hired relevant intermediaries agency to conduct due diligence on the Australian listed company AVZ, DRC's Manono project and its mining rights in accordance with the recognized business standards and ethics of the industry. Huayou Cobalt is only a minority shareholder of AVZ, and has not actually participated in the management and operation of the company and the Manono project."<sup>82</sup>

It added that "when Huayou Cobalt conducted the above two overseas investments and mergers, it did not find information from any public channels, media news and other organizations that Cong Maohuai and Guy Loando Mbogo are politically exposed person (PEPs)". Information supplied by Huayou about its OECD due diligence is provided in this endnote.<sup>83</sup>

In addition, Mbogo's wife Linda Bobo Elite may have been associated with Cong Maohuai via a company called Kibali-Ituri Resources sarl. An unsigned copy of what appears to be a 2016 company incorporation document, available online on the former website of the Congolese company registry,<sup>84</sup> lists Linda Bobo Elite as a party to the company contract alongside an individual called Min Guo Wei, a reported economic advisor to the Congolese presidency and prolific business owner in the DRC.<sup>85</sup> Global Witness has been unable to verify whether the cited company ever came into being, or if this document was formalised or signed.

Cong Maohuai and Min Guo Wei also share multiple business connections.<sup>86</sup> Cong Maohuai told Global Witness that he had known Min Guo Wei, a retired mining expert, since 2007, had hired Min Guo Wei to work for him and that Min Guo Wei was "involved" in Cong Maohuai's work with Dathomir International. Cong Maohuai stated that he had "no reason to believe that he [Min Guo Wei] has a business relationship with former President Kabila," although it was Cong Maohuai's understanding that Min Guo Wei had met the former president. Cong Maohuai also told Global Witness that, according to his understanding of the term, Min Guo Wei was not a PEP. Cong said that that he shared the view that PEP involvement should be limited to "legitimate enforcement of the DRC law" and that "award of access and the related contracts" should be disclosed in the manner required under the DRC law, and that "that is the approach which I take in my business".

Global Witness asked Cominière and its Director General Athanase Mwamba Misao, Cong Maohuai, Min Guo Wei and Bobo Elite Linda Déborah about these matters.

In her response to Global Witness, Bobo Elite Linda Déborah told Global Witness that she was founder and administrator of Winners Group Sarl, which in January 2016, in collaboration with an entity known as "Dathomir International Corp",

domiciled in the Seychelles and represented by Min Guo Wei, created Kibali-Ituri Resources Sarl, of which the social capital was divided 10 percent and 90 percent respectively. Bobo Elite Linda Déborah stated that she was not a specialist in law and as such had no comment on Min Guo Wei's or Cong Maohuai's status as a PEP, although noted that according to judicial advice she had received, Global Witness' assertions about the status of these individuals were not accurate. Bobo Elite Linda Déborah stated that following a decision on 3 or 4 August 2016, dating from 29 July 2016, Kibali-Ituri Resources Sarl changed its name to Dathomir Mining Resources Sarl and at the same moment, Min Guo Wei was replaced by Cong Maohuai as director general. Bobo Elite Linda Déborah contested all the affirmations of fact contained in the Boatman Capital Research report, or any of its subsidiaries. Finally, Bobo Elite Linda Déborah stated that as a Congolese citizen, she was fully committed to and had, to her knowledge, fully respected Congolese law and all international agreements or codes applied in her country.

When Global Witness wrote to Cong Maohuai inviting his comment on the matters in this briefing, he requested more time to respond. Global Witness gave Cong Maohuai an additional period in which to respond and he did respond within this agreed period. Global Witness did not become aware of this response until notified by Cong Maohuai on 17 December 2021.<sup>87</sup> Min Guo Wei did not respond to Global Witness' invitation to respond to or comment on the matters raised in this briefing.

Global Witness sent a letter to Cominière addressed to Athanase Mwamba Misao to give the company and him personally an opportunity to comment. No response was received from either of them.

## Cong Maohuai

Reported to have been an advisor to the former President, Joseph Kabil,<sup>88</sup> which if true would

suggest he is a politically exposed person, was the Chairman of the Katanga Chinese Chamber of Commerce and the Congo Overseas Chinese Association,<sup>89</sup> Cong owns or has established an array of mining companies across the DRC.<sup>90</sup>

Cong Maohuai told Global Witness that he had served as president to the Katanga Chinese Chamber of Commerce between 2008 and 2015, and had been serving as president of the Congo Overseas Chinese Association since 2015. He also added that he was pleased to have contributed to the growth of the economy of the DRC, through involvement in these non-governmental organizations.

According to the Congolese business registry, Cong Maohuai also presently owns MCC Resources Sarl, a company which holds two mining concessions near to Manono, in the Global Witness sample.<sup>91</sup> Cong Maohuai told Global Witness that although it was true that he had been a shareholder in MCC Resources SARL, on or about March 10 2021, he had transferred all his shares to another person, who he was not currently authorized to identify.

Mineral Mining Resources (MMR),<sup>92</sup> a company that is part of the Tanzanian-founded Vinmart Group,<sup>93</sup> manages, owns or part-owns a further eight mining concessions in the Global Witness sample.<sup>94</sup> Two of these concessions were the subject of a collaboration with Critical Resources. MMR told Global Witness that no joint venture was incorporated and the collaboration ceased in 2020.<sup>95</sup> MMR added that the company was not engaged in lithium related mining activities. MMR also stated that it "advocates compliance with OECD guidelines [...] All of MMR's mineral concentrate production is 100 percent ICGLR-certified conflict free. Critical Resources did not reply to Global Witness' request for information or comment.

Tantalex or SandStone Worldwide Ltd (which is a wholly-owned subsidiary of Tantalex) owned shares in companies controlling a further six

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concessions.<sup>96</sup> In 2017 SandStone Worldwide Ltd was listed in the Bahamas.<sup>97</sup>

Three other concessions in the Global Witness sample were held by Crown Mining, a company that was established in the DRC in 2012 by Ahmed Tajideen.<sup>98</sup> In 2017 Global Witness reported that Ahmed Tajideen was the boss and owner of the Congo Futur conglomerate, which has been sanctions-listed since 2010 by the US Treasury.<sup>99</sup> Ahmed Tajideen himself was not sanctioned.<sup>100</sup> At its 12 December 2017 AGM, Crown Mining replaced Tajideen with Kamal Srour as Managing Partner of the company, according to official documents reviewed by Global Witness. In its response to Global Witness Crown Mining told Global Witness that Kamal Srour was the sole “associate statutory manager” of Crown Mining and that Ahmed Tajeddine (their spelling) “left the company for his own reasons”, and that it had “pleased the company members” to replace Ahmed Tajeddine with Kamal Srour. The response also stated that there was no link, neither “close nor distant” between Ahmed Tajeddine and Kamal Srour. Crown Mining went on the say that they had not established a due diligence report for lithium mining because no industrial or artisanal exploitation of lithium was taking place on their concession. Crown Mining stated that they produced an annual due diligence report for the coltan and cassiterite mining that took place on their three Manono concessions, and that this report was available on the Crown Mining website.

➤ **Finding 3:** Undisclosed or partially-disclosed contracts and payments linked to future lithium production

Global Witness also found that only one mining contract and a verbal agreement (*proces-verbal*) document for the lithium projects included in our sample were publicly available online in full, even though publication by Congolese authorities of mining contracts and information about the real shareholders of mining companies is a requirement of the Congolese mining code. In

addition, information about mining contracts, their annexes and riders should be published in the official Journal and on the website of the Ministry of Mines within sixty days of their signature.<sup>101</sup> It is also a requirement for EITI implementing countries for contracts or licenses awarded after January 1, 2021 to be published by state authorities.<sup>102</sup>

The publicly available documents were a 2016 *proces-verbal* for a joint venture between state-owned Cominière SA and Dathomir Mining Resources sarl, creating Dathcom Mining (see box), and a 2010 contract for lithium mining concessions around Manono,<sup>103</sup> which has since been withdrawn by the Congolese state in contested circumstances.<sup>104</sup>

In addition, not all payments related to the lithium concessions that were made by companies appear to have been disclosed by the Congolese authorities, as required by Congolese law and the EITI standard, which Congo is bound to follow.<sup>105</sup>

In the course of this research, Global Witness identified a sample of six contracts for deals linked to Manono’s lithium projects, for which the full text and payment details were not available, either on the EITI website,<sup>106</sup> or on the relevant Congolese ministry page.<sup>107</sup> These are:

- The terms of an initial 2016 contract sale between AVZ and Medidoc FZE, a private Dubai-based company, in which AVZ secured the rights to two of its lithium concessions at Manono (PR4029 and PR4030). According to AVZ literature, the company paid US\$200,000 in cash and issued 30,000,000 shares to Medidoc FZE in 2016, and a further 20,000,000 after 30 April 2017, to secure the concession.<sup>108</sup> In its response to Global Witness, AVZ confirmed that AVZ has a 100 percent interest in both PR4029 and PR4030, and that “the terms of acquisition of this interest are summarised” in their 19 September 2016 and 31 October 2016 ASX announcements. AVZ told Global Witness that Dr Andy Reitmeier is the 100 percent owner of Medidoc FZE.

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- > The exact terms and start date of the Dathcom Mining SAS joint venture between AVZ, Cominière and Dathomir Mining Resources. Firstly, the publicly-available information about the date that the joint venture began is unclear. Secondly, the total sums paid by AVZ and to whom under the joint venture are also unclear (see box below: The Dathcom 2016 Joint Venture, including AVZ's reply to Global Witness on this point).
  - > Detailed information about a July 2021 binding agreement between Tantalex and Minor Sarl<sup>109</sup> is not available. A Tantalex company press release notes that the earn-in agreement allowed Tantalex up to 52 percent of the shares in Minocom Mining SAS, the title owner of PR 13698 and PR 13348 which was a joint venture between Minor Sarl (70 percent) and Cominière (30 percent), for which the terms are also not publicly available;<sup>110</sup> In its reply to Global Witness, Tantalex stated that, “[t]he final Deed of Agreement between TTX SAU and Minocom SAS is being finalized and will also be legalized in the DRC so this information will also be publicly available as per Congolese Law.”
  - > A July 2016 joint venture signed between Cominière SA and SandStone Worldwide Limited, creating United Cominière, for which Tantalex paid Cominière SA US\$50,000 thirty days after the signing of the contract and secured a 70 percent holding in the venture.<sup>111</sup> In a January 2017 Tantalex technical report, the company published a screenshot of the first page of the joint venture. Global Witness was unable to locate other details of the contract available online. In its reply to Global Witness, Tantalex stated that, “[s]tatutes from UC and UMC joint ventures are notarized and legalized and I cannot see any reason why these would not be made publicly available through the legal system of DRC”;
  - > A December 2017 joint venture between Critical Resources and Cominière SA in the Kitola Katamba Lithium project, for which the full text of the joint venture are not publicly available;<sup>112</sup>
  - > A January 2018 joint venture between Critical Resources and Mining Mineral Resources (MMR) for the Kanuka Lithium project joint venture, for which the full text of the joint venture is not publicly available. MMR told Global Witness that [t]he Joint Venture company was not incorporated and that “[w]hile Force did commence with exploration activities Force ceased with these activities in the first half 2020 and there has since been no further collaboration between the parties”.<sup>113</sup>
- Unless stated above, the contracting parties listed here did not respond to Global Witness' request for comment.
- Public disclosure of mining contracts required by Congo's law. This information is important for companies conducting risk-based checks on the DRC's lithium production and its supply chains. The lack of publicly-available information on these contracts underscores the need for companies considering or engaged in investment or trading in the DRC's lithium sector to conduct proper due diligence to mitigate the risk of contributing to harms, including those linked to governance and transparency.

### The Dathcom Mining joint venture: Why contract and beneficial ownership disclosure is important for supply chain due diligence in the DRC's lithium sector

The publication of a 2016 verbal commitment (*procès-verbal*) for a joint venture creating Dathcom Mining,<sup>114</sup> and publicly available information on the Congolese company registry, allows parties conducting their due diligence to compare and assess information, for example. It also allows interested parties conducting their due diligence to establish the initial ownership structure of Dathcom Mining SAS. Global Witness' analysis looked at the timeline for the creation of the joint venture, and at some of the payments made.

Based on this publicly available information, Global Witness found that:

- > On 24 November 2016, the proces-verbal committing to a joint venture called Dathcom Mining was signed, following a preliminary agreement reached on 23 September 2016 between Athanase Mwamba Misao for Cominière SA and Cong Maohuai for Dathomir Mining Resources sarl;<sup>115</sup>
- > The document creating Dathcom Mining SAS, a joint venture, was signed on 11 January 2019;<sup>116</sup>
- > Dathcom Mining SA was registered at the Congolese company registry on 9 December 2019. The online registry entry states that Dathcom Mining SA's operations started on the date of 15 December 2016.<sup>117</sup>
- > Finally, there is an apparent discrepancy between the amount that Dathcom Mining SA said it had paid to the Congolese state in 2019 and the amount the Congolese state said it had received in 2019 from Dathcom Mining SA, as submitted by each party to the EITI.<sup>118</sup>

In its response to Global Witness, AVZ stated that Cominière SA and Dathomir Mining Resources SARL “entered into an exploration joint venture agreement setting out their main terms and conditions of their cooperation with respect to the exploration of the Manono Project” and that “[o]n 28 November 2016, Cominière SA, AVZ and Dathomir entered a Binding Term Sheet whereby AVZ agreed to acquire from Dathomir its 60 percent of the share capital of Dathcom, for US\$500,000, subject to carrying out its due diligence”. AVZ stated that Dathcom Mining SA was incorporated on 16 December 2016.<sup>119</sup>

AVZ told Global Witness that the difference in payments reported may “be attributed to the differences in financial accounting years between the DRC government and Dathcom”.

Global Witness sent a letter to Cominière addressed to Athanase Mwamba Misao to give the company and him personally an opportunity to comment. No response was received from

either of them.

## Contract disclosure and beneficial ownership

According to the Congolese company registry, Dathomir International Corporation is the sole shareholder of Dathomir Mining Resources sarl. A report by The Boatman Capital Research (Boatman Capital),<sup>120</sup> suggests that Dathomir International Corporation is a Seychelles-based company whose shareholder is Foster Services Ltd in Belize.

Corporate registration documents for Foster Services Limited obtained by Global Witness from the Belize registry, do not record beneficial ownership information, and Global Witness had been unable to establish the ultimate beneficial owner of Foster Services Ltd, or of its shares in Dathomir International Corporation. When Global Witness contacted the Panama-based registered agent for Foster Services and asked them for this information, the registered agent said that they would pass the request on to the person in charge and that the letter received has been forwarded to the representative of Foster Services Ltd. for their attention. Global Witness did not receive any other response.

The Boatman Capital report also claims that when Dathomir Mining Resources sarl was incorporated its director was Min Guo Wei, a Chinese businessman (see above),<sup>121</sup> who was also one of the original shareholders in Sicominis,<sup>122</sup> a huge joint venture trade deal between the Congolese state and Chinese companies. Global Witness contacted The Boatman Capital Research Group about the allegations contained in their report. Boatman Capital Research Group’s response was “no comment”.

Because the ultimate beneficial owner of Dathomir Mining Resources is not publicly disclosed, it has been unclear who has ultimately benefited from payments made to the company

by AVZ.<sup>123</sup> Cong Maohuai told Global Witness that Foster Services Ltd is the shareholder of Dathomir International Corporation, and that Foster Services holds these shares on his behalf and that, in other words, he is the ultimate beneficial owner of Dathomir International Corporation. In situations like these, the opaque ownership structure can raise supply chain risks, in particular because it is unclear who was ultimately receiving monies for payments linked to the company.

AVZ told Global Witness that they had conducted an “adverse media and sanctions search” on Foster Services and that it had not returned “any negative results”. The company also told Global Witness that they had conducted an adverse media and sanctions check on Min Guo Wei, but that searches could not be performed due to the “common use of his name”.

Min Guo Wei did not respond to Global Witness’ invitation to respond or comment to the matters raised in this briefing.

## Existing laws, guidance and principles for responsible lithium production should be applied

The DRC’s lithium is of global geo-political importance. With around 345,000 tonnes of lithium produced globally in 2020, a figure projected to quadruple by 2030,<sup>124</sup> the country’s deposits could soon be in global demand. But while world-leading mineral production is no stranger to the DRC, neither are mining deals that often been bad for the people and the environment and been marred by corruption and opaque and unaccountable supply chains.

In the past, Global Witness exposed how the DRC’s copper and cobalt procured through deals involving commodity trading giant Glencore and its former partner Dan Gertler, since sanctioned by the US over corruption in the DRC’s mining sector,<sup>125</sup> may have deprived the Congolese people of US\$1.4 billion in revenue.<sup>126</sup> We have mapped out some of the DRC’s gold, tantalum

and tin supply chains that funded corruption, conflict and human and environmental abuse.<sup>127</sup> And in August 2020 we revealed how an US\$800 million deal for Deziwa copper mine risked leaving the country short-changed, again.<sup>128</sup>

The Organisation for Economic Cooperation and Development (OECD) has established international guidance on conducting Due Diligence for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (the OECD Guidance).<sup>129</sup> The OECD Guidance, now the international standard for responsible mineral supply chains from high risk and conflict-affected areas, provides a detailed five-step framework for companies and investors to assess and address risks in any mineral supply chain, including lithium.

Global Witness contends that the OECD Guidance is applicable given the governance, human rights and environmental risks previously identified in the DRC’s minerals sector.<sup>130</sup>

In addition, the Chinese Due Diligence Guidelines for Mineral Supply Chains, launched by the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCCMC) and now in its second version,<sup>131</sup> apply to all Chinese companies who are extracting or using minerals and mineral products at any point in the supply chain, and reflect the same risk-based supply chain check process for minerals as the OECD Guidance.<sup>132</sup>

The DRC does not yet legally-require companies producing or trading lithium to conduct OECD-standard supply chain due diligence – as it does for other minerals.<sup>133</sup> However, Global Witness believes that responsible companies producing, trading or investing in the DRC’s lithium should apply the OECD Guidance, which applies to all minerals,<sup>134</sup> from the outset and investors should demand the application of this international standard. Furthermore, Global Witness outlines in the following endnote guidance that responsible mining companies should adhere to.

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<sup>135</sup>Responsible companies should also apply the Performance Standards of the International Finance Corporation.<sup>136</sup>

In the DRC, publishing mining contracts, payments and beneficial ownership information by the relevant Congolese authorities is a requirement of Congolese law.<sup>137</sup> In addition, Extractives Industry Transparency Initiative (EITI) countries, of which the DRC has been a member since 2007, committed to contract transparency and to publicly disclosing the full text of any contract, license, concession or other agreement governing the exploitation of oil, gas and mineral resources.<sup>138</sup> Additionally, all EITI implementing countries are required to disclose all contracts entered into and licenses granted after January 1, 2021.<sup>139</sup>

CCCMC Guidelines for Social Responsibility in Outbound Mining Operations<sup>140</sup> also comprise standards on labour, environmental protection, supply chain due diligence, community engagement and human rights. In addition to supply chain checks, the CCCMC Guidelines also call on implementing companies to disclose payments made to host governments in line with global transparency standards, highlighting in particular EITI and multiple stock exchange listing rules.<sup>141</sup> In recent years, the scale of Chinese companies' investment in the mining industry of the DRC has continued to expand, and the amount of project contracting and the number of labor exports ranked among the top in Africa, making the CCCMC Guidelines particularly noteworthy.<sup>142</sup> Chinese Foreign Direct Investment in the DRC stood at US\$930 million for 2019.<sup>143</sup> China's Ministry of Commerce lists 28 mining investment corporation companies in the DRC.<sup>144</sup>

## Why beneficial ownership disclosures are important

As Global Witness has argued extensively, in order to make sound and responsible investment decisions, investors need to know who they are dealing with, what their track record is and what

if any conflicts of interest exist. If the real owners and beneficiaries are able to hide behind secret or anonymously-owned companies, it is very hard for shareholders and investors to manage all types of risk – both financial and non-financial, and for regulators to know the true sources of income. This is because sometimes it can be nearly impossible to identify the real people who own and control the companies that investors and companies do business with (also known as “beneficial owners”).<sup>145</sup>

An increasing number of global jurisdictions now also require financial market participants to make a statement on their due diligence policies with respect to the potential adverse impacts of their investments.<sup>146</sup> In particular, the European Union (EU) is mandating that investors must publish details of their “due diligence” policies to make sure they can systematically identify, prevent, mitigate and account for those adverse impacts.<sup>147</sup> Investors in the EU and elsewhere engaging in the DRC’s lithium sector should conduct robust checks in this regard.

Finally, although Congolese law does not specifically require politically exposed people, or PEPs, involved in mining deals to be formally identified,<sup>148</sup> responsible companies and investors should include identification and specific due diligence checks on any PEPs identified as involved in the DRC’s lithium sector.<sup>149</sup> As Global Witness has argued elsewhere, involvement of a PEP means that there is a risk that such an individual could have access to state funds or could be in a position to take bribes, for example.<sup>150</sup> As it stands, the DRC’s loose conflict-of-interest rules risk allowing such individuals to use their positions for personal gain. Global Witness has long-advocated for this potential for conflict-of-interest to be addressed by the Congolese government.

Unless politicians, military, civil servants and others in, or close to, positions of decision-making power are prohibited from profiting from Congo’s mining sector, the door is left open for

corrupt officials and others to make or influence decisions (allocation of mining rights at knockdown prices, for example) that are favourable to themselves or their family and friends and which drain Congo's natural resource wealth from the Treasury into private bank accounts.<sup>151</sup> PEP involvement in company ownership or management is a red flag<sup>152</sup> for increased corruption risks and should be treated as such. Companies owned by, or connected to, PEPs should be subjected to "enhanced due diligence" procedures – extra checks to ensure that nothing suspect is going on.

Moreover, supply chain consolidation that places control of one mineral into a small number of hands may, where not properly regulated and controlled, constitute a supply-chain risk linked to potential monopolistic behaviour and exploitative abuse of a dominant position.<sup>153</sup> This could impact a product's price, lead to corporate exercise of public power,<sup>154</sup> impact inequality<sup>155</sup> or lead to rent-seeking behaviour that negatively impacts state revenues, amongst others.<sup>156</sup>

## Respect human rights and the environment

Businesses should ensure that their operations, as well as those of their subsidiaries and suppliers, adhere to international environmental and human rights standards. The United Nations Guiding Principles on Business and Human Rights (UNGPs) outline what is expected from business enterprises to fulfil their responsibility.<sup>157</sup>

Australia, where two of the companies – AVZ Minerals Limited and Critical Resources Limited, both of whom have announced intentions to produce lithium in southern DRC – are registered, has agreed to implement the UNGPs.<sup>158</sup> Canada, where Tantalex Resources Corporation is registered,<sup>159</sup> also supports the implementation of best practises, including the UNGPs,<sup>160</sup> by Canadian companies operating abroad. The OECD Guidance (see above) is designed to help

companies in the minerals sector meet their corporate responsibility to respect human rights, as set out in the UNGPs, and to put into practice the OECD Guidelines for Multinational Enterprises (OECD Guidelines for MNEs).<sup>161</sup>

According to the UNGPs, the OECD Guidelines for MNEs and the OECD Guidance, businesses should continuously and proactively identify, prevent, mitigate and account for how they address actual and potential risks to people and the environment linked to their operations, products and business relationships, and provide adequate remediation in case of adverse impacts.<sup>162</sup> Global Witness and other civil society groups continuously advocate that this should include explicit reference to respecting the rights of land and environmental defenders.<sup>163</sup> Businesses must also comply with all existing laws, or international environmental standards (whichever are stronger) pertaining to the protection of the environment, health and safety, natural resource extraction and management, wildlife conservation, waste management,<sup>164</sup> hazardous material activity, and air, water, land and groundwater pollution.<sup>165</sup>

These are especially important considerations because research on specific socio-environmental impacts of lithium pegmatite mining appears relatively limited.<sup>166</sup> The DRC should also learn lessons from its own cobalt sector, which has already revealed the impacts of human exposure to toxicity in artisanal cobalt mining,<sup>167</sup> and its potential negative environmental effects.<sup>168</sup>

## RECOMMENDATIONS

Risks in the DRC's natural resource sector, including environmental and human rights harms and poor governance have typically been enabled by secrecy surrounding deals. Congo's next generation of energy and mineral deals should be accompanied by a new generation of transparency. As a basic starting point, the detail of mining contracts, the payments, the real

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owners of the companies researching, exploring for, producing, trading and financing the DRC's lithium should all be publicly available so it is clear where the revenues from these key industries are going, who ultimately benefits and who is ultimately responsible. Communities critically have a right to timely, accurate and accessible information upon which to make decisions, and companies must mitigate the potential negative social and environmental impacts of their activities, fully respecting the rights of those impacted by their activities. It is imperative that companies planning to engage in future Congolese lithium trading also do the following:

### **Recommendation: Human and environmental risks of lithium extraction and trade, including in supply chains**

1. Companies producing, using or trading the DRC's lithium must ensure that their operations, as well as those of their subsidiaries and suppliers, adhere to international environmental and human rights standards, and all existing Congolese laws (whichever are stronger), including pertaining to the protection of the environment, health and safety, natural resource extraction and management, wildlife conservation, waste management, hazardous material activity, and air, water, land and groundwater pollution;

2. Companies must also publish and implement robust due diligence policies and procedures in line with the OECD Guidance as well as other prevailing laws and international standards that seek to prevent, identify, mitigate and account for human rights and environmental harms in their operations, including supply chains and business relationships. At a minimum, these should include meaningful details including who at the senior level is responsible for its overall oversight, as well as how it will be implemented and monitored, and clear redlines for suspension or termination of contracts for suppliers who

continue to perpetuate environmental and human rights harms.

3. Companies must engage the local community through disclosure of project-related information and meaningful consultation with local communities on matters that directly and indirectly affect them;

4. Investors (including shareholders) and financiers involved in any stage of lithium production or trade should make public reporting, including evidence of (1) and (2) and (3) above, a requirement of their financial support or investment;

5. The Congolese government must ensure that all relevant state agencies publish a summary of company ESIA's in a timely way, which includes all identified risks and mitigation measures, including online in an accessible manner and with a wide local distribution in hard copy and in local languages, and where possible by radio as well as written distribution.

6. The Congolese government should expand current supply chain due diligence laws to require companies producing or trading lithium to publish and implement robust due diligence policies and procedures in line with the OECD Guidance.

7. Investor company's home state governments should put in place and enforce legislation requiring supply chain due diligence specifically with regard to links to environmental, conflict and human rights abuses; and to publicly clarify that companies remain individually responsible for their own due diligence.

### **Recommendation: Contract, payment and beneficial ownership transparency**

1. All companies operating in the DRC's lithium sector should adhere to the requirements of EITI implementing countries in ensuring their contracts can be made public and they provide complete and updated beneficial ownership

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- information to the DRC government for publication;
2. The DRC should update its laws to require companies to publish mining contracts on their own websites;
  3. Companies, investors and financiers engaging in the DRC's lithium sector must properly investigate and publicly report on, any politically exposed persons (PEPs), found in their supply chains, those of their subsidiaries or in companies or supply chains that they financially support or invest in; The Congolese government should take steps to revise its legal requirements so that PEPs including politicians, military, civil servants and others in, or close to, positions of decision-making power are prohibited from profiting from the DRC's mining sector;
  4. The Congolese government must ensure that all payments and contracts, including joint ventures, related to the DRC's lithium sector are conducted transparently and details of these made publicly available in accordance with Congolese law.
  5. As an EITI implementing country, the Congolese government must ensure public, project-level reporting for all of the DRC's lithium contracts. Generally speaking, corruption can take place at the project level in the oil and mining industries, and without detailed public, project-level reporting about payments, there's no way to know for sure where the money is going.

## CONCLUSION

The planet's climate crisis requires an urgent energy shift, but not at any cost, and particularly not for communities and countries least responsible for the situation. The current model of resource extraction has not only directly contributed to the current climate emergency but devastated communities and lands, further impoverishing countries and widening inequality, especially in countries with weak governance

systems. Through corrupt and opaque deals, the rights of people to determine their own development paths is disregarded. While multiple stakeholders have roles to play in improving extractive outcomes, the DRC government and companies directly involved and investing in the DRC's eventual lithium production, trade and use must ensure that DRC's lithium production does not contribute to human rights abuses, environmental harms or corruption.

Manono could be any one of hundreds of towns in the DRC situated alongside vast internationally-traded mineral deposits, whose inhabitants live and work in economically difficult, often socially and environmentally hazardous conditions and often do not experience the environmental, social or economic benefits of their mineral wealth. Like gold-rich Kamituga in South Kivu province, north of Manono, a town built on top of a gold field from where gold is exported internationally, but where the roads are impassable in rain and mine-site collapse is a regular feature of life.<sup>169</sup> Or like the cobalt mines around Kolwezi, to the south of Manono, where Amnesty International and Arewatch documented incredibly hazardous working conditions for artisanal miners, including children.<sup>170</sup>

And while there is no shortage of examples in the DRC – beyond the two cited here – these are not problems confined to DRC. The world over, people who live alongside enormous resource-wealth – in Brazil,<sup>171</sup> across Europe,<sup>172</sup> in Myanmar,<sup>173</sup> are negatively impacted by it, whilst meeting what we choose to refer to as market demand.

Building on the recommendations in this briefing, Global Witness is calling on these companies, individuals and financiers to conduct supply chain due diligence checks through which they must identify and mitigate any risks they find linked to abuses, including environmental and corruption risks.

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Companies should not need to wait for a law requiring them to undertake risk-based checks on their lithium supply chains.

Through the irresponsible management of fossil fuels, humanity has already precipitated an environmental emergency. It would be a terrible irony to repeat those mistakes now in the name of the ecological transition. Manono's lithium deposits must be properly managed, in ways that respect the community and their environment. Failing that, it is not only the people of Manono but all of us who will suffer the consequences.

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## ANNEX 1: Concessions

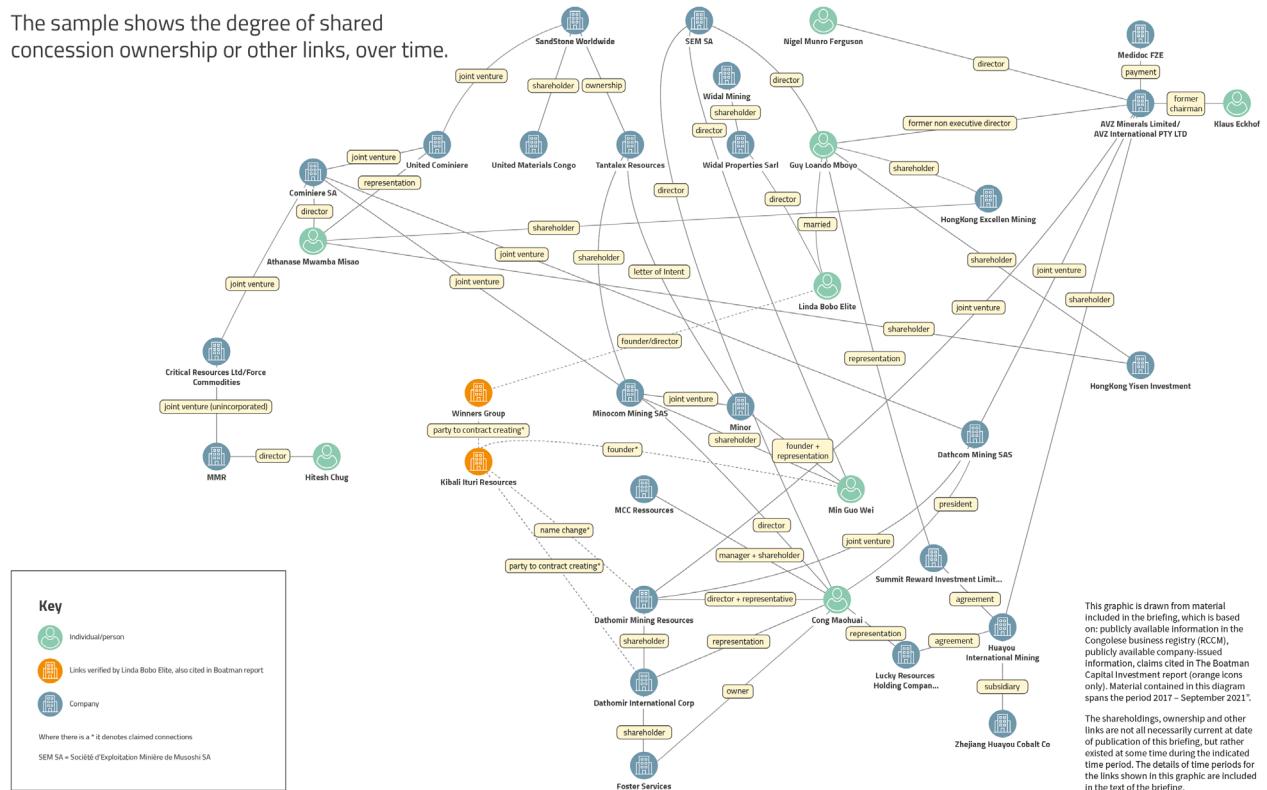
	Company name according to Cadastre Miniere (CAMI)	Permit for Exploitation (PE) or Permit for Research (PR)	Concession number
<b>1</b>	AVZ Minerals Congo Sarlu	PR	4029
<b>2</b>	AVZ Minerals Congo Sarlu	PR	4030
<b>3</b>	United Cominiere SA	PR	12448
<b>4</b>	United Cominiere SA	PR	12447
<b>5</b>	Cooperative Miniere Pour Le Developpement Communautaire	PR	14730
<b>6</b>	La Congolaise d'exploitation miniere/Cominiere SA	PR	12453
<b>7</b>	La Congolaise d'exploitation miniere/Cominiere SA	PE	13247
<b>8</b>	Minocom Mining SAS	PR	13348
<b>9</b>	Minocom Mining SAS	PR	13698
<b>10</b>	MCC Resources sarl	PR (lapsed due to non-payment)	14069
<b>11</b>	MCC Resources sarl	PR (lapsed due to non-payment)	14068
<b>12</b>	Widal Mining Sarl	PR	14537
<b>13</b>	Dathcom Mining SA	PR "en transformation" to PE	13359
<b>14</b>	Dathcom Mining SA	PR (lapsed due to non-payment)	12454
<b>15</b>	Kanuka Mining Company	PR "en transformation" to PE	4100
<b>16</b>	Kanuka Mining Company	PE	13082
<b>17</b>	Crown Mining	PE	13081
<b>18</b>	Crown Mining	PR "partial transformation" to PE	4076
<b>19</b>	Crown Mining	PR	4072
<b>20</b>	Group Emanuel sarl	PR	14713
<b>21</b>	In Put Mining	PR	14500
<b>22</b>	In Put Mining	PR	14499
<b>23</b>	Rubaco sarl	PR	14665
<b>30</b>	Rubaco Sarl	PR	14659
<b>24</b>	Equity Management sarl	PR (lapsed due to non-payment)	12674
<b>25</b>	Equity Management sarl	PR (lapsed due to non-payment)	12676

	<b>Company name according to Cadastre Miniere (CAMI)</b>	<b>Permit for Exploitation (PE) or Permit for Research (PR)</b>	<b>Concession number</b>
<b>26</b>	Air Marine Africa sarl	PR (lapsed due to non-payment)	14636
<b>27</b>	Compagnie Miniere de Katoto	PR	14476
<b>28</b>	Walni Mineral Company sarl	PR (lapsed due to non-payment)	4295
<b>29</b>	DRC Mining Exploration and Facility Business sarl	PR	14154
<b>31</b>	MMR	PR	14518
<b>35</b>	MMR	PR "partial transformation" to PE	5227
<b>32</b>	Rocbelt Congo sarl	PR (lapsed due to non-payment)	13984
<b>33</b>	Societe de recherche geologique et miniere	PR	14079
<b>34</b>	Societe de recherche geologique et miniere	PR	14081
<b>36</b>	Societe d'exploitation des gisements de Malemba Nkulu	PR "transformation" to PE	12204
<b>37</b>	Societe d'exploitation des gisements de Malemba Nkulu	PR "transformation" to PE	12205
<b>38</b>	Societe d'exploitation des gisements de Malemba Nkulu	PE	13065
<b>39</b>	Societe d'exploitation des gisements de Malemba Nkulu	PR "en transformation" to PE	12203
<b>40</b>	Nyota Mining Sarl	PR (lapsed due to non-payment)	14410
<b>41</b>	Stanvic Mining sarl	PR	14454
<b>42</b>	Stanvic Mining sarl	PR	14773
<b>43</b>	Ste Mit Minerals sarl	PR	14834
<b>44</b>	Ste Mit Minerals sarl	PR "rights granted"	14922
<b>45</b>	United Materials Congo sarl	PR "reported loss"	13590
<b>46</b>	United Materials Congo sarl	PR "rights removed"	13591
<b>47</b>	African Congo Mining sarl	PR (lapsed due to non-payment)	14493
<b>48</b>	Societe Congo Holding sarl	PR	13942
<b>49</b>	HongKong Excellen Mining Investment Congo sarl	PR	12450
<b>50</b>	Societe d'exploitation minieres	PR "rights removed"	6646
<b>51</b>	Mineral Development Investment	PR	13438

## ANNEX 2: Diagram outlining a sample of ownership and other links for companies holding concessions covered in the Global Witness briefing.

### Diagram outlining a sample of ownership and other links for companies holding concessions covered in the Global Witness briefing.

The sample shows the degree of shared concession ownership or other links, over time.



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## ENDNOTES

<sup>1</sup>Amongst others, the DRC holds some of the world's most significant cobalt deposits, according to the US Geological survey, see US Geological survey, 2020, Cobalt Data Sheet - Mineral Commodity Summaries 2020, <https://pubs.usgs.gov/periodicals/mcs2020/mcs2020-cobalt.pdf>. It also has some of the world's largest deposits of primary supply of tantalum, see United Nations Group of Experts on the Democratic Republic of Congo, 2021, para. 59, <https://www.undocs.org/en/S/2021/560>.

<sup>2</sup> Global Witness consulted five expert individuals with first-hand knowledge of the DRC's mining sector. See also US Geological Survey, 2021, <https://pubs.usgs.gov/periodicals/mcs2021/mcs2021-lithium.pdf>, and for example, Argus Media DRC's Manono claims largest hard rock Li resource, 2 August 2018, available at: <https://www.argusmedia.com/pt/news/1727972-drcs-manono-claims-largest-hard-rock-li-resource?page=1>.

<sup>3</sup> US Geological survey, 2020, Cobalt Data Sheet - Mineral Commodity Summaries 2020, available at: <https://pubs.usgs.gov/periodicals/mcs2020/mcs2020-cobalt.pdf>.

<sup>4</sup> Paulo de Sa, Jane Korinek, Resource efficiency, the circular economy, sustainable materials management and trade in metals and minerals', OECD, 2021, p.26, <https://www.oecd-ilibrary.org/deliver/69abc1bd-en.pdf?itemId=%2Fcontent%2Fpaper%2F69abc1bd-en&MimeType=pdf>. According to the World Economic Forum (WEF), an electric vehicle battery can contain as much lithium as 1000 smartphones, see World Economic Forum, A New Circular Vision for Electronics, Time for a Global Reboot, Platform for Accelerating the Circular Economy, , January 2019, p.11, [http://www3.weforum.org/docs/WEF\\_A\\_New\\_Circular\\_Vision\\_for\\_Electronics.pdf](http://www3.weforum.org/docs/WEF_A_New_Circular_Vision_for_Electronics.pdf), see also International Renewable Energy Agency, End of Life Management, Solar Photovoltaic Panels, June 2016, [www.irena.org/documentdownloads/publications/irena\\_ieavps\\_end-of-life\\_solar\\_pv\\_panels\\_2016.pdf](http://www.irena.org/documentdownloads/publications/irena_ieavps_end-of-life_solar_pv_panels_2016.pdf).

<sup>5</sup> This estimate is accurate in a scenario in which humanity collectively achieves climate stabilisation well below a 2°C global temperature rise by 2040, according to the International Energy Association (IEA), see IEA, The Role of Critical Minerals in Clean Energy Transitions, Report Extract, Executive Summary, May 2021, available at: <https://www.iea.org/reports/the-role-of-critical-minerals-in-clean-energy-transitions/executive-summary>. Academics point out that estimated future demand and supply scenarios for lithium vary, however, see for example, Vikström, H., et al, Lithium availability and future production outlooks, Applied Energy, Volume 110, 2013, Pages 252-266, <https://doi.org/10.1016/j.apenergy.2013.04.005>

<sup>6</sup> Guillaume Pitron, The Rare Metals War: the dark side of clean energy and digital technologies, p. xi Foreword by Hubert Védrine.

<sup>7</sup> Intergovernmental Panel on Climate Change, 9 August 2021, Sixth Assessment Report, Headline Statements from the Summary for Policymakers, available at: [https://www.ipcc.ch/report/ar6/wg1/downloads/report/I\\_PCC\\_AR6\\_WGI\\_Headline\\_Statements.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/I_PCC_AR6_WGI_Headline_Statements.pdf).

<sup>8</sup> Ensuring clean and green battery and other lithium-using supply chains must be a priority for businesses and governments. See Amnesty International's February 2021

paper, of which Global Witness was a co-signee, laying out a set of principles ensuring that lithium-ion batteries, which power electric vehicles and many electronic devices, and are essential minerals in renewable technologies climate change, are not linked to human rights abuses or environmental harm. This includes supporting the need to promote a more efficient use of resources, fewer vehicles, and the development of new battery technologies and other human rights-consistent solutions to climate change. See Amnesty International, 4 February 2021, Powering change: Principles for businesses and governments in the battery value chain available at: <https://www.amnesty.org/en/documents/act30/3544/2021/en/>

<sup>9</sup> European Parliamentary Research Service, (EPRS), July 2021, New EU regulatory framework for batteries Setting sustainability requirements, Briefing, available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689337/EPRS\\_BRI\(2021\)689337\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689337/EPRS_BRI(2021)689337_EN.pdf). Regarding the Chinese law, see the official regulation on a Chinese government website in Chinese language only: <http://www.gov.cn/zhengce/zhengceku/2021>. See also Administrative Measures for the Echelon Utilization of New Energy Vehicle Power Batteries, August 19, 2021, 《新能源汽车动力蓄电池梯次利用管理办法》[the measures for the Management of echelon Utilization of Power batteries for New Energy vehicles] , and SMM News, 7 September 2021,The Ministry of Industry and Information Technology interprets the measures for the Management of echelon Utilization of Power batteries for New Energy vehicles, at <https://news.metal.com/newscontent/101590252/The-Ministry-of-Industry-and-Information-Technology-interprets-the-measures-for-the-Management-of-echelon-Utilization-of-Power-batteries-for-New-Energy-vehicles/>

<sup>10</sup> Lithium is not currently traded as a commodity on an exchange, although exchanges like the London Metals Exchange (LME) are taking steps to establish trading contracts for the metal, see LME, <https://www.lme.com/en/Metals/EV/Lithium-prices>. Since 2019, the LME has established a Lithium Committee, see London Metals Exchange, 2019, The LME established guidance for responsible trading of its metal brands in 2019, <https://www.lme.com/en-GB/About/Responsibility/Responsible-sourcing>

<sup>11</sup> The risks of additional environmental harm and the abuse of human rights in the supply chains of battery metals needed for the energy transition are being increasingly well documented by a range of organizations. For example: Business and Human Rights Resource Centre, August 2019, Transition Minerals Tracker , <https://www.business-humanrights.org/en/from-us/briefings/transition-minerals-tracker-analysis-of-renewable-energy-mining-companies-human-rights-practice/>; SOMO, 22 December 2020, The Battery Paradox: How the electric vehicle boom is draining communities and the planet <https://www.somo.nl/the-battery-paradox/>; Institute for Sustainable Futures, 17 April 2019, Responsible minerals sourcing for renewable energy, University of Technology, Sydney, <https://www.earthworks.org/publications/responsible-minerals-sourcing-for-renewable-energy/>; Ate, August 2020, Batteries at the Centre of e-mobility, a review of

social and environmental impacts, <https://sehen-und-handeln.ch/content/uploads/2019/03/battery.pdf>;

<sup>12</sup> Kate Raworth, Exploring Doughnut Economics, <https://www.kateraworth.com/doughnut/>

<sup>13</sup> As documented by Harper, G., Sommerville, R., Kendrick, E. et al. Recycling lithium-ion batteries from electric vehicles. *Nature* 575, 75–86 2019, available at: <https://doi.org/10.1038/s41586-019-1682-5>, in the waste management hierarchy, re-use is considered preferable to recycling. See also, Ahmadi, L., Young, S.B., Fowler, M. et al. A cascaded life cycle: reuse of electric vehicle lithium-ion battery packs in energy storage systems. *Int J Life Cycle Assess* 22, 111–124 (2017). <https://doi.org/10.1007/s11367-015-0959-7>; and Pagliaro, M., Meneguzzo, F., Lithium battery reusing and recycling: A circular economy insight, *Heliyon*, Volume 5, Issue 6, 2019, <https://doi.org/10.1016/j.heliyon.2019.e01866>

<sup>14</sup> Global recycling rates for lithium are low, including due to raw material price fluctuations, product design without consideration of second-life uses, inefficient collection infrastructure, technological and safety concerns, transparency issues regarding secondary processes and the hibernation of electronics, see Church, C., and Wuennenberg, L., ‘Sustainability and Second Life: The Case for Cobalt and Lithium Recycling, International Institute for Sustainable Development (IISD)’, March 2019, [www.iisd.org/sites/default/files/publications/sustainability-second-life-cobalt-lithium-recycling.pdf](http://www.iisd.org/sites/default/files/publications/sustainability-second-life-cobalt-lithium-recycling.pdf). See also, Liu, C., Lin, J., Cao, H., Zhang Y., Sun, Z. Recycling of spent lithium-ion batteries in view of lithium recovery: A critical review, *Journal of Cleaner Production*, Volume 228, 2019, Pages 801-813, <https://doi.org/10.1016/j.jclepro.2019.04.304>

<sup>15</sup> Unless the majority of current business models change, the negative impacts of mineral extraction for battery metals, which can include human rights and environmental damage, will be borne by producer countries like, in this context, the DRC and its communities. Meanwhile, many of these countries and communities risk seeing far fewer of the benefits of low-carbon technologies and renewable energy sources, a situation that has been called the decarbonization divide, see for example: Sovacool, B.K., Hook, A., Martiskainen, M., Brock, A., Turnheim, B., The decarbonisation divide: Contextualizing landscapes of low-carbon exploitation and toxicity in Africa, *Global Environmental Change*, Volume 60, 2020, <https://doi.org/10.1016/j.gloenvcha.2019.102028>; and Payne, C. The decarbonisation divide. *Nat Hum Behav* 4, 236 (2020). <https://doi.org/10.1038/s41562-020-0843-8>. On energy poverty see, for example Jason B.Aamodt, Blake M Feamster , 2015, The role of appropriate sustainable energy technologies (ASETs) as a means for promoting access to energy for all, , In: Guruswamy, L. (Ed.). (2015). International Energy and Poverty: The emerging contours (1st ed.). Routledge. <https://doi.org/10.4324/9781315762203>

<sup>16</sup> The risks of environmental harm and the abuse of human rights in battery supply chains is well documented by a range of civil society and other organizations.

<sup>17</sup> The last census in DRC took place in 1984. Global Witness spoke to two local residents of Manono with knowledge of the town, who estimated the town's inhabitants at around 120,000.

<sup>18</sup> According to testimony from three Congolese individuals with first-hand knowledge of the town.

<sup>19</sup> The AVZ Minerals “Fly-Through” of the Manono Lithium and Tin project gives an visual idea of the town’s proximity to the planned mining area, see <https://avzminerals.com.au/flythrough>. Historically, Manono has long been the site of mining activity. This is exemplified, from the view of the coloniser, for example, in Belgian Congo-American Survey, 1954: A Publication Devoted to the Promotion of Trade Relations Between Belgium, the Belgian Congo and the United States of America, 1 January 1954, which states, “[t]here-fourths of the production of the Belgian Congo and Ruanda-Urundi are exported in the form of concentrates of tin-bearing ores which are among the purest in the world; certain ones reach nearly 77 percent tin and the average is around 74 percent, while the remaining fourth consists of metal tin coming from the foundry of Manono. The largest part of the exported tin-bearing ores is melted in Hoboken, near Antwerp; the tin thus produced uniformly carries the mark UMHK like that of Manono; it assays a minimum of 99.95 percent tin and is at premium on the market”, , available at: <https://play.google.com/store/books/details?id=XD8VAQAAQAAJ&rdid=book-XD8VAQAAQAAJ&dot=1>

<sup>20</sup> Three local residents confirmed to Global Witness that the town is without a national electricity supply or a mains water supply. See also Construction21, 21 June 2019, Manono: Electrification of an isolated city, <https://www.construction21.org/infrastructure/h/manono-electrification-of-an-isolated-city.html>

<sup>21</sup> According to three local residents interviewed by Global Witness.

<sup>22</sup> Le Palmier, 12 August 2021, Cinquantième anniversaire du diocèse de Manono : la population doit bénéficier la richesse minière, <https://palmiermagazine.com/societe/cinquantieme-anniversaire-du-diocese-de-manono-la-population-doit-beneficier-de-la-richesse-de-lexploitation-miniere-mgr-fulgence-muteba-aux-autorites-administratives-locales/12/08/2021/>

<sup>23</sup> The Assay TV, 6 March 2020, Nigel Ferguson, AVZ Minerals, available at: <https://www.youtube.com/watch?v=0ljRukywlDY>

<sup>24</sup> The Manono Project comprises concession PR13359. The Manono Extension Project comprises concession PR4029 and PR4030, see <https://avzminerals.com.au/manono-extension>. AVZ’s recent statements about the Manono Project include the following: The AVZ website previously stated that “AVZ holds 60 percent of the Manono Project with rights to secure additional interests; Project covers 188km<sup>2</sup> in southern Democratic Republic of Congo (DRC); Hosts lithium pegmatites with a strike length of 13km+ centred on an historical Tin mining operation; Outstanding results received from AVZ’s initial drilling program at Manono in 2017, including 235m @ 1.66 percent Li<sub>2</sub>O, 202.8m @ 1.57 percent Li<sub>2</sub>O and 250.9m @ 1.48 percent Li<sub>2</sub>O; Roche Dure Mineral Resource of 400 million tonnes grading 1.65 percent Li<sub>2</sub>O, 715ppm Sn, 34ppm Ta is world-class in scale and grade. The Manono Project is owned by AVZ (60 percent), La Congolaise d’Exploitation Minière SA (25 percent) (Cominière, a State-owned enterprise) and Dathomir Mining Resources SARL (15 percent) (Dathomir, a privately owned company). AVZ is responsible for funding expenditure to completion of a feasibility study and a decision to mine” see <https://avzminerals.com.au/manono-mine>, as accessed 9 September 2021.

26 May 2021 Investor Presentation stated that the Manono Project was “60 percent owned by AVZ Minerals Limited (15 percent under Option from Dathomir Mining Resources) and 25 percent owned by DRC Government”, available at <https://static1.squarespace.com/static/5934d2ae6b8f5beeb5ba23f3/t/60aded15bf07274532e661ad/1622011179582/20210526+-+ASX+Investor+Presentation.pdf>. Last accessed 28 October 2021.

30 June 2021 financial report, “AVZ Minerals Limited has secured a further 15 percent equity in the Manono Project from Dathomir Mining Resources SARL. AVZ Minerals now has a 75 percent interest in the Manono Project following completion of the acquisition in August 2021”, see AVZ Minerals Ltd, Financial Report, 30 June 2021, page 8, available at <https://static1.squarespace.com/static/5934d2ae6b8f5beeb5ba23f3/t/615579380738f0539e42988d/1632991553107/20210930+-+AVZ+Full+Year+Statutory+Accounts.pdf>. Last accessed 28 October 2021.

21 September 2021 ASX announcement stated, “AVZ secures rights to an additional 10 percent equity in Manono Project for US\$15.5 M • AVZ to own 75 percent of Manono Project on completion of transaction • Ongoing discussions to acquire additional equity in Manono Project”, available at <https://static1.squarespace.com/static/5934d2ae6b8f5beeb5ba23f3/t/5f67fde3c9621301a2198d07/1600650725499/ASX+Announcement+21092020.pdf>. Last accessed 28 October 2021.

In its reply to Global Witness, AVZ’s stated that “as at the date of this letter, AVZ Minerals Limited (AVZ) holds a 75 percent interest in the Manono Project (PR 13359) and a 100 percent interest in the Manono Extension Project (PR4029 and PR4030). The increase in our interest from 60 percent to 75 percent is explained in detail in our Australian Securities Exchange (ASX) announcement dated 21 September 2020.”

<sup>25</sup> *Ibid.*

<sup>26</sup> Force Commodities Ltd, which is the named company on the publicly-available documentation available to Global Witness, was renamed Critical Resources Limited on 31 May 2021. The company is referred to using its current name, Critical Resources Limited, throughout this briefing.

<sup>27</sup> In its 30 June 2021 Half Yearly Report and Accounts, Critical Resources Limited states “[n]o work was completed on the project during the period” in its review of accounts for the Kitotolo-Katamba Project and the Kanuka Project, see <https://wcsecure.weblink.com.au/pdf/CRR/02419547.pdf>. Last accessed 31 October 2021.

The last work conducted by the company, then called Force Commodities Ltd, appears to have been drilling activity which took place in 2019, according to company reports on the Critical Resources Limited website, when the company reported, amongst others, “[a]ssay results on the first batch of samples processed from the Phase 1 drilling program indicated the presence of shallow low grade (0.20 percent Li<sub>2</sub>O and 0.39 percent Li<sub>2</sub>O) lithium hosted in mica schists”, see <https://wcsecure.weblink.com.au/pdf/4CE/02168638.pdf>. The company name change was reported on 31 May 2021, at: <https://wcsecure.weblink.com.au/pdf/4CE/02379990.pdf>. Last accessed 31 October 2021.

Critical Resources Limited did not respond to Global Witness when Global Witness invited them to comment on the matters raised in this report.

<sup>28</sup> Tantalex Resources, Bucknell Lithium Exploration Project, available at: <https://www.tantalex.ca/buckell-lithium-exploration-project> and Manono Kitotolo Lithium Tailings Project, available at: <https://www.tantalex.ca/manono-kitotolo-lithium-tailings-project>.

See for example, Tantalex update, 19 October 2021, Tantalex Resources Corporation Extends Phase 1 Drilling on Manono Lithium & Tin Tailings, which states that ‘Tantalex controls 25km of a 70km long geologic trend (“pegmatite corridor”) which extends from the AVZ Manono Lithium Tin Project, located immediately east of PR12448 in the north, to Force Commodities Kitotolo-Katamba Lithium Project, located immediately to the west of PR12447 in the south. The “pegmatite corridor”, is highly prospective for further discoveries and to this day remains highly unexplored.’

In its 7 October 2021 reply to Global Witness, Tantalex stated that, “United Cominiere conducted a brief lithium exploration drilling program in 2018 on licence 12448 for which there has not been any follow-up exploration work performed since then. Minocom SAS has recently started drilling on the licence 13698 and to date there have not been any results received as to whether there is effectively lithium present at all. Results are expected in the next 2 months and will provide us indication of the grades of lithium and the quantities as well. United Materials Congo has not conducted any work on any of their licences since they have acquired them in 2017.”

<sup>29</sup> See Annex 1 for a complete list of all companies holding concessions in the Global Witness sample.

<sup>30</sup> In DRC a research permit is granted for specific resources. However, once research is conducted, a company can apply for an exploration permit for different resources to those in its initial research permit. In the area around Manono, some of the research permits do not include lithium, even though company and media reports state that the company is eventually going to mine lithium. Global Witness interview with DRC mining official, July 2021.

<sup>31</sup> According to publicly-available AVZ Minerals Limited literature, AVZ intends to produce lithium by 2023, see Investor Presentation, 26 May 2021, available at: <https://static1.squarespace.com/static/5934d2ae6b8f5beeb5ba23f3/t/60aded15bf07274532e661ad/1622011179582/20210526+-+ASX+Investor+Presentation.pdf>

<sup>32</sup> AVZ Minerals Ltd, Top 20 Shareholders as of 31 August 2021, 31 August 2021, accurate as of 14 September 2021, <https://avzminerals.com.au/top-20-shareholders>

<sup>33</sup> The company’s first offtake agreement was with GFL International Co. Limited, a subsidiary of Ganfeng Lithium Co Ltd, per AVZ’s announcement on 24 December 2020, <https://static1.squarespace.com/static/5934d2ae6b8f5beeb5ba23f3/t/5fe3df7002b953270aa60e56/1608769393907/20201223+AVZ+Signs+First+Offtake+with+Ganfeng+%28FINAL%29.pdf>

<sup>34</sup> YouTube, 9 March 2021, AVZ Minerals’ Nigel Ferguson details second lithium offtake deal for its Manono project, <https://www.youtube.com/watch?v=2igkxJciBhA>

<sup>35</sup> Green Car Congress, 2 April 2021, AVZ signs binding SC6 offtake agreement with major Chinese lithium converter Yibin Tianyi, supplier to CATL, see:

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<https://www.greencarcongress.com/2021/04/20210402-avz.html>

<sup>36</sup> AVZ Mineral Ltd, 29 October 2021, Activities Report for the Quarter ending 30 September 2021, available at: <https://avzminerals.com.au/quarterly-reports>. Last accessed 2 November 2021.

<sup>37</sup> In its 28 November 2018 announcement, the company reported that ‘Initial stage of Phase 1 RC drilling program at the Kitotolo-Katamba Lithium Project is now complete with 97 holes and approx. 4,200 metres drilled’, see: <https://www.criticalresources.com.au/announcements>, and ‘Force Commodities drilling 20,000 metres of RC and diamond at DRC lithium projects’, Proactive, undated, see: <https://www.proactiveinvestors.com.au/companies/news/310175/force-commodities-drilling-20000-metres-of-rc-and-diamond-at-drc-lithium-projects-10175.html>

<sup>38</sup> According a Tantalex media communication, Tantalex began drilling works on the Manono-Kitotolo lithium and tin tailings project, PR13698, on 12 August 2021. In a March 2021 MineAfrica presentation the company lays out the following bullet-pointed information: “Resource Definition program on Manono-Kitotolo Lithium, Tin and Tantalum Tailings Project - Near term industrial production of tin and tantalum concentrates on Manono properties - Additional exploration for spodumene pegmatites downstrike from Historical MK mine - Feasibility Study with Ximei Group (Guangdong) for tantalum refinery in Manono area - African Project Portfolio expansion in 2021 with an additional 1-2 near - term production assets. - Ensuring environmental and social sustainability in all activities and projects - Hands-on management. More than 200 staff in the DRC and a vast network throughout the continent with our major shareholder AfriMet Resources, an African focused metals trader.”, available at: [https://static1.squarespace.com/static/577c05a95016e168f25b1d1b/t/60477b4500f9b8533943ae1b/1615297358407/TTX\\_Corporate\\_Presentation\\_MineAfrica\\_2021.pdf](https://static1.squarespace.com/static/577c05a95016e168f25b1d1b/t/60477b4500f9b8533943ae1b/1615297358407/TTX_Corporate_Presentation_MineAfrica_2021.pdf), last accessed 28 October 2021.

Information on the Tantalex website covers PR12447, PR12448, both green field sites, and the PR13698 tailings deposit, see <https://static1.squarespace.com/static/577c05a95016e168f25b1d1b/t/58889cec03596e478e8126a3/1485348079791/Tantalex+NI+43-101+Technical+Report+1-24-17%5B13841%5D.pdf> and <https://www.tantalex.ca/manono-kitotolo-lithium-tailings-project> both last accessed 9 October 2021.

<sup>39</sup> See OECD Due Diligence Guidance for Responsible Business Conduct, third edition, 2016, Introduction, which states: Due diligence is an on-going, proactive and reactive process through which companies can ensure that they respect human rights and do not contribute to conflict. Due diligence can also help companies ensure they observe international law and comply with domestic laws, including those governing the illicit trade in minerals and United Nations sanctions. Risk-based due diligence refers to the steps companies should take to identify and address actual or potential risks in order to prevent or mitigate adverse impacts associated with their activities or sourcing decisions. For the purposes of this Guidance, “risks” are defined in relation to the potentially adverse impacts of a company’s operations, which result from a company’s own activities or its relationships with third parties, including suppliers and other entities in the supply chain. Adverse impacts may include harm to people (i.e. external impacts), or reputational damage or legal liability for the company (i.e. internal impacts), or

both. Such internal and external impacts are often interdependent, with external harm coupled with reputational damage or exposure to legal liability.

Available at:

<https://www.oecd.org/investment/duediligence-guidance-for-responsible-business-conduct.htm>. See also the International Finance Corporation Performance Standards on Environmental and Social Sustainability, 1 January 2012,

[https://www.ifc.org/wps/wcm/connect/24e6bfc3-5de3-444d-be9b-226188c95454/PS\\_English\\_2012\\_Full-Document.pdf?MOD=AJPRES&CVID=jkV-X6h](https://www.ifc.org/wps/wcm/connect/24e6bfc3-5de3-444d-be9b-226188c95454/PS_English_2012_Full-Document.pdf?MOD=AJPRES&CVID=jkV-X6h)

<sup>40</sup> The OECD Guidance recommends that companies assess the environmental risks of their area of operation, see Tin, Tantalum and Tungsten supplement, Annex Guiding Note for Upstream Company Risk Assessment, C.1.a, (p.58), and Gold supplement, Step 2, footnote 20, page 78, for example.

<sup>41</sup> Chapitres 6 et 7, Décret n° 14/019 du 02 août 2014 fixant les règles de fonctionnement des mécanismes procéduraux de la protection de l’environnement, available at: [https://www.leganet.cd/Legislation/Droit\\_percent20administratif/Environnement/D.19.019.02.08.21.4.htm](https://www.leganet.cd/Legislation/Droit_percent20administratif/Environnement/D.19.019.02.08.21.4.htm)

<sup>42</sup> Décret N° 038/2003 du 26 mars 2003 portant règlement minier tel que modifié et complété par le décret N°18/024 DU 08 JUIN 2018, available at: [https://www.droitcongolais.info/files/753.06.18\\_Reglement\\_minier-du-8-juin-2018.pdf](https://www.droitcongolais.info/files/753.06.18_Reglement_minier-du-8-juin-2018.pdf)

<sup>43</sup> Décret N° 038/2003 du 26 mars 2003 portant règlement minier tel que modifié et complété par le décret N° 18/024 d 08 juin 2018 (Textes coordonnés), Article 25 octies, available at :

[http://congomines.org/system/attachments/assets/000/01/550/original/J.O.\\_n\\_percentC2\\_percentB0\\_sp\\_percentC3\\_percentA9cial\\_du\\_12\\_juin\\_2018\\_REGLEMENT\\_MINIER\\_Textes\\_coodonn\\_percentC3\\_percentA9s.pdf?1553851275](http://congomines.org/system/attachments/assets/000/01/550/original/J.O._n_percentC2_percentB0_sp_percentC3_percentA9cial_du_12_juin_2018_REGLEMENT_MINIER_Textes_coodonn_percentC3_percentA9s.pdf?1553851275).

Global Witness was unable to locate any ESIA for lithium projects discussed in this briefing, on the CTCPM website, see <https://ctcpm.cd/site/grand-projet/>

<sup>44</sup> *Ibid.* Separately, and most recently, in July 2021, DRC’s Deputy Prime Minister and Minister of Environment, Eve Baziaba, adopted new measures for the sustainable management of DRC’s natural resources. According to an 11 July 2021 ministerial press release, the measures were adopted in order to “improve the management of the environmental sector, promote good governance and to implement a strategy of improving the tax base”, see Vice Primature, 11 July 2021, RDC/Conseil des ministres : Eve Baziaba fait adopter 10 mesures urgentes pour la gestion durable des ressources naturelles, available at :

<https://medd.gouv.cd/rdc-conseil-des-ministres-eve-baziaba-fait-adopter-10-mesures-urgentes-pour-la-gestion-durable-des-ressources-naturelles/>

<sup>45</sup> According to the Mining Cadastre, Dathcom Mining controls 100 percent of PR13359, which is the site of AVZ’s Manono Project. According to the same source, Dathcom Mining also controls 100 percent of PR12454 concession within the Global Witness sample.

As at 9 September 2021, the RCCM company record, available online, lists the following company shareholders for Dathcom Mining SAS :

- 1. AVZ INTERNATIONAL PTY LTD représenté par FERGUSON MUNRO NIGEL, né(e) le 03/12/1962 à KUCHING, AU
- 2. DATHCOMIR MINING RESSOURCES SRL représenté par CONG MAOHUAI , né(e)le 22/10/1962 à KINSHASA, CD
- 3. LA CONGOLAISE D'EXPLOITATION MINIERE représenté par MWAMBA MISAO ATHANASE, né(e) le 14/05/1948 à KALEMIE, CD
- For further information on Dathcom Mining SAS and to read AVZ's responses to Global Witness' questions about the joint venture, please see box "The Dathcom Joint Venture" below.

<sup>46</sup> AVZ Minerals Ltd, 29 October 2021, AVZ Delivers Highly Positive Definitive Feasibility Study for Manono Lithium and Tin Project, 21 April 2020, page 59, <https://avzminerals.com.au/manono-project-definitive-feasibility-review>, last accessed 28 October 2021. On page 12 of the same report, AVZ states that Dathcom Mining has already completed an ESIA for PR13359.

<sup>47</sup> AVZ Minerals Ltd, 18 August 2021, Manono Lithium and Tin Project Corporate Update, and AVZ Minerals receives environmental approval for Manono lithium-tin project, <https://avzminerals.com.au/asx-announcements> ;

<sup>48</sup> AVZ Minerals Ltd, 21 April 2020, AVZ Delivers Highly Positive Definitive Feasibility Study for Manono Lithium and Tin Project, sections 1.8 Environmental and Social Impact Assessment, pages 58-61 and section 3.9 Renewable Energy Operated Facilities, pages 101-103, <https://avzminerals.com.au/manono-project-definitive-feasibility-review>

<sup>49</sup> AVZ's Greenhouse Gas Assessment, which concludes: "To contextualise the Project's GHG emissions, the Project's emission intensity (i.e. total emissions per tonne of product produced) for both SC6 and PLS production were compared to published emission intensities for other lithium production facilities. Comparison of the Project's emission intensity with other available intensities for SC6 production, suggests that the Project will use technology that will result in a substantially less emission-intensive production than other existing facilities in Western Australia. The Project's emissions intensity for LCE production is lower than the emission intensities for other mineral mines.", available at <https://avzminerals.com.au/manono-project-greenhouse-gas-assessment>

<sup>50</sup> The AVZ feasibility study, available online, states that "many baseline biodiversity studies were done" including:

- Soil sample analysis
- Air Quality sample analysis
- Noise sample analysis
- Surface, ground and wastewater sampling and analysis
- Radiological study
- Fauna trapping and analysis
- Flora count and documentation
- Stakeholder Consultations".

The results of the samples are not included in the online documentation. The Feasability study contains information on the Tailings Storage Facility (TSF) in section 1.14, pages 48-51, see "AVZ Delivers Highly Positive Definitive Feasibility Study for Manono Lithium

and Tin Project", AVZ, 21 April 2020, page 53, <https://avzminerals.com.au/manono-project-definitive-feasibility-review>

<sup>51</sup> Global Witness interview with civil society organisation

<sup>52</sup> In their response to Global Witness for this report, AVZ provided copies of the following internal AVZ documents: Hydropower Environmental Management Plan; Mine Closure Plan; Manono Mine Environmental Management Plan ; MN to KD and ISS Environmental Management Plan; Sustainable Development Plan.

<sup>53</sup> The Assay TV: Nigel Ferguson, AVZ Minerals, [from 06.15 onwards, for example] available at: <https://www.youtube.com/watch?v=0ljRukywIDY>; and AVZ Minerals Ltd, 21 April 2020, AVZ Delivers Highly Positive Definitive Feasibility Study for Manono Lithium and Tin Project", page 53, <https://avzminerals.com.au/manono-project-definitive-feasibility-review>

<sup>54</sup> AVZ Minerals Ltd, 21 April 2020, AVZ Delivers Highly Positive Definitive Feasibility Study for Manono Lithium and Tin Project, page 60, <https://avzminerals.com.au/manono-project-definitive-feasibility-review>

<sup>55</sup>Global Witness interviews with individuals with knowledge of the matter. In its Quarterly Activity Report for the Quarter ending 31 December 2019, AVZ states that EmiAfrica Consultants and AVZ team members met with "local chiefs and dignitaries to appraise them of the company's intentions to mine the Roche Dure deposit, to obtain their input and address any concerns they have about the future activities of Dathcom Mining SA", see Quarterly Activity Report for the Quarter ending 31 December 2019, AVZ, page

<https://www.asx.com.au/asxpdf/20200131/pdf/44dp3nmrq99wtl.pdf> Global Witness wrote to EmiAfrica to request copies of the ESIA and copies of information about community engagement. EmiAfrica told Global Witness that they were unable to respond to our request because of their terms of engagement with their client, and that they had passed Global Witness' request to Dathcom.

<sup>56</sup> In its reply to Global Witness, AVZ stated that the company had a "Conflict Minerals Policy" that "indicates" that the company "develop and implement a due diligence management system that aligns with OECD and UN guidelines for company due diligence on minerals from Conflict Affected and High-Risk Areas" and that Dathcom's "Conflict Minerals Policy also reflects the same position".

AVZ also stated that it was "committed to the continued development of its environmental management programme" and had adopted internal environmental policies including an "Environmental Management Plan for mining activities, hydro power, logistics staging point at Kabondo Dianda and a [...] a mine closure plan" as well as a Corporate Social Responsibility Policy outlining commitments to contributing to the communities in which it operates.

AVZ also stated that it had commenced "formal engagement with the Manono community" to create a "Social Vision and Social Development Plan" and that

“[o]ver the last 12 months, we have focused on understanding the immediate and short-term needs of the Manono community and providing support where it is most valued and needed, developing a deeper awareness of community sensitivities, and building on the future social vision of the Manono community”. The company stated that it had engaged with the DRC Government to establish a Special Economic Zone at Manono, to “further maximise community employment opportunities”.

Finally, AVZ gave the following examples of its work in the local community to date, including:

Casual employment of “over 900 local people in infrastructure repair including 300 artisanal miners who were working at Roche Dure where our exploration was taking place. Over US\$1 million distributed to the local population in casual salaries”

Commissioning an unexploded ordinance clearing company in the area;

Training and support to “Super Appetit” a new lunch provision company, to supply meals to workers during 2017 and 2018 drilling;

airlift of medical supplies to Manono hospital during the wet seasons when roads were impassable

Logistical support to WHO polio vaccination program

Sanitary assistance during COVID-19 pandemic

Financial support for International Womens’ Day activities

“Ongoing repair and maintenance of the fire damaged main bridge over the river Lukoshi”

“Maize seeds purchased in Lubumbashi distributed freely to Manono farmers”

“Airlift of sick personnel, not Dathcom employees, to Lubumbashi for hospital treatment”

“Dissemination of medicines to the local hospital if not needed or used by Dathcom personnel”

“sponsoring new football strips and a trophy for the annual football league competition”

“random acts of kindness”

<sup>57</sup> Le Palmier Hebdo, 21-28 August 2021, stated that “According to our sources on site in Manono, Dathcom Mining and AVZ Minerals are already in full exploitation and are secretly exporting while they are still in the prospecting phase. According to the same sources, Dathcom Mining is already unofficially exploiting lithium. This state of affairs is not well appreciated by several analysts who believe that Manono has problems in road infrastructure, electrical energy etc. and this lithium exploitation could help in one way or another to the population of Manono to help themselves.” »

<sup>58</sup> The Tantalex feasibility study for the Bucknell Lithium exploration project has a short section on environmental and social risks, which is not the EISA itself, which states: “17.1. Environmental Studies: Not applicable at the early stage of the Project. 17.3. Social or Community Impact: The social impact on the town of Manono and surrounding villages can only be positive. According to the World Bank (2014) 63 percent of the DRC population lives in poverty, and the per capita income was USD\$380 per year (2012). The influx of exploration money will provide jobs and additional taxes for Manono.”, see “NI 43-101 Technical Report of the Buckell Li-Sn-Ta Project

Manono, Tanganyika Province Democratic Republic of Congo prepared for Tantalex Resources Corporation”, 25 January 2017, page 30, available at:

<https://www.tantalex.ca/buckell-lithium-exploration-project>; There is no environmental or social impact information available on the Tantalex Resources website concerning the Manono Kitolo Lithium Tailings project, see <https://www.tantalex.ca/manono-kitotolo-lithium-tailings-project>

<sup>59</sup> Global Witness interviews with individuals familiar with the matter.

<sup>60</sup> In its response to Global Witness, Tantalex also stated that that United Cominière had “conducted a brief lithium exploration drilling program in 2018 on licence 12448 for which there has not been any follow-up exploration work performed since then.” The company also stated that “Minocom SAS has recently started drilling on the licence 13698 and to date there have not been any results received as to whether there is effectively lithium present at all. Results are expected in the next 2 months and will provide us indication of the grades of lithium and the quantities as well.” Finally, Tantalex said, “United Materials Congo has not conducted any work on any of their licences since they have acquired them in 2017.”

<sup>61</sup> Registre de Commerce et du Crédit Mobilier (RCCM), available at <https://rccm.cd/rccm/index.html>

<sup>62</sup> Details of Minister Loando Mboyo’s holdings are included in endnotes 71 and 75 below.

<sup>63</sup> Mr. Cong Maohuai clarified to Global Witness that his full name is Cong Maohuai, and that is his only name, although cultural confusions between nomenclature in the DRC and also western style conventions such as those used in the UK, had resulted in his name appearing in various other forms, and Simon is a name he took on when he first arrived and uses informally for ease of communication in the DRC.

<sup>64</sup> See for example: Africa Intelligence, 25 September 2018, China's go-to man for Katanga, Simon Cong, takes control of Musoshi copper, [https://www.africaintelligence.com/mining-sector\\_exploration-production/2018/09/25/china-s-go-to-man-for-katanga-simon-cong-takes-control-of-musoshi-copper.108325089-art](https://www.africaintelligence.com/mining-sector_exploration-production/2018/09/25/china-s-go-to-man-for-katanga-simon-cong-takes-control-of-musoshi-copper.108325089-art); Africa Intelligence, 29 September 2018, China-DRC middleman Simon Cong goes into copper mining with Gecamines; Congo Virtuel, 23 April 2021, Propriétaire de Kempinski Hôtel Fleuve Congo, Cong Maohuai Mao Huai dit Simon Cong, proche de Zoé Kabila va développer une mine de cuivre non loin de Likasi, <https://congovirtuel.com/information/proprietaire-de-kempinski-hotel-fleuve-congo-cong-mao-huai-dit-simon-cong-proche-de-zoe-kabila-va-developper-une-mine-de-cuivre-non-loin-de-likasi/>; Sun Line, General Manager Jiang Weiming of Shenglun Logistics visited Shenglun Congo (Kinshasa) Company for investigation, available at: [https://sun-line.cn/index.php?m=default.news\\_detail&cid=6&ccid=59&did=150](https://sun-line.cn/index.php?m=default.news_detail&cid=6&ccid=59&did=150);

Congo Virtuel, 25 October 2020, Simon Cong, patron de business chinois en RDC, proche de Zoé Kabila Mbala se retire du projet lithium de Manono, <https://congovirtuel.com/information/simon-cong-patron-de-business-chinois-en-rdc-proche-de-zoe-kabila-mbala-se-retire-du-projet-lithium-de-manono/>

<sup>65</sup> The Africa Report, 12 May 2021, DRC: Zoe Kabila has been removed as governor of Tanganyika province,

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<https://www.theafricareport.com/87277/drc-zoe-kabila-has-been-removed-as-governor-of-tanganyika/>

<sup>66</sup> The concessions are as follows, based on information from the Congolese Mining Cadastre (CAMI) and the DRC's Business Registry (RCCM), all last accessed on 21 September 2021:

PR12448 and PR12447 held by United Cominière, in which Cominière, represented by Athanase Mwamba Misao, is a shareholder, see <https://rccm.cd/rccm/index.html>

PR12453 and PE13247 held by La Congolaise d'exploitation minière/Cominière SA, see <https://rccm.cd/rccm/index.html>

PR13348 and PR13698 held by Mincom Mining SA in which Cominière, represented by Athanase Mwamba Misao, is a shareholder, see <https://rccm.cd/rccm/index.html>

PR13359 and PR12454 held by Dathcom Mining, in which Cominière, represented by Athanase Mwamba Misao, is a shareholder, see <https://rccm.cd/rccm/index.html>

PR12204, PR12205, PR13065 and PR12203 held by Societe d'exploitation des gisements de Malemba Nkulu (SEGMAL), in which Cominière is a shareholder, according to a copy of the statute reviewed by Global Witness.

PR12450 held by HongKong Excellen Mining Investment Congo sarl, in which Athanase Mwamba Misao, is a shareholder, see <https://rccm.cd/rccm/index.html>

Cominière SA was represented by the company's Director General Athanase Mwamba Misao. In some cases, Athanase Mwamba Misao appears to hold directorships or shareholdings as a private individual.

<sup>67</sup> Mboyo gained a seat in the Senate in 2019, see <http://www.senat.cd/index.php/vos-senateurs/les-108-senateurs> and subsequently stepped down from the Senate in April 2021, when he was named as Minister.

<sup>68</sup> The Widal Foundation website refers to "sa chère épouse Madame Déborah Linda LOANDO" (his dear wife Madame Deborah Linda Loando).

<https://www.fondationwidal.org/site/apropos.php>. The Minister's Wikipedia page confirms that his wife was born "Deborah "Bobo" Elite Linda, last consulted on 9 September 2021.

<sup>69</sup> PR14537 is held by Widal Mining sarl, in which Widal Properties sarl was described as a 75 percent shareholder, on the 20 February 2019 company statute. The director of Widal Properties sarl was recorded as Linda Bobo Elite, Mboyo's wife, according to the Congolese Company Registry as last accessed on 22 September 2021. Minister Mboyo was also a shareholder in HongKong Excellen Mining Investment Limited (HongKong Excellen), according to the most up to date company records available on the Congolese company registry, as last accessed on 12 November 2021, alongside Athanase Mwamba Misao and another individual. HongKong Excellen holds concession PE12450. Widal Mining and HongKong Excellen share the same phone numbers (+243 813 699 899), which is also the same phone number associated with HongKong Yisen Investment, another company that holds mining concessions near to Manono and in which the Minister was recorded as a shareholder, alongside Athanase Mwamba Misao and another individual, according to the company registry, last accessed on 12 November 2021. HongKong Excellen and Yisen also share the same registration address (119 Boulevard Tsashi or Tshatsi, there are multiple spellings on the Congolese registry) as multiple companies owned by Cong Maohuai, including the Fleuve Hotel Congo.

In his response to Global Witness, Minister Mboyo told Global Witness that he is not currently a shareholder of HongKong Excellen Mining Investment Limited, or HongKong Yisen Investment. Please also see Minister Mboyo's response to Global Witness, in the main body of the text, above. In her response to Global Witness, Bobo Elite Linda Déborah told Global Witness that she would make no comment on her husband's goods and activities and that all questions should be addressed to him directly. Please also see Bobo Elite Linda Déborah's responses to Global Witness, in the main body of the text, above.

<sup>70</sup> AVZ Minerals Limited, 2019, annual report, available at: <https://avzminerals.com.au/annual-reports>

<sup>71</sup> AVZ Minerals Limited Board Update, 2 May 2019, available at: <https://static1.squarespace.com/static/5934d2ae6b8f5beeb5ba23f3/t/5cca38f0e79c7006d075ebce/1556756721773/20190501+Board+Update.pdf>

<sup>72</sup> These are Hongkong Yisen Investment Congo (shareholder), Societe d'exploitation minière de Musoshi (director, alongside Cong Maohuai and Min Guo Wei); HongKong Excellen Mining Investment Congo (shareholder), last accessed 18 November 2021.

<sup>73</sup> In addition to the response laid out in the main body of the text, Minister Loando Mboyo also stated in his letter to Global Witness that:

According to the DRC's rules regarding conflict of interest, his law firm and himself could not represent clients who had interests against the State or its public institutions, including before the courts and tribunals;

He was unable to reply to any question asked that required him to divulge confidential information about himself, his cabinet and his clients during the time that he was a lawyer, and that where Global Witness had invited comment on such matters the Minister was restricted by privilege and confidentiality.

The Boatman Capital Report contained various erroneous factual assertions;

That he was not currently a shareholder in HongKong Excellen Co. Mining Limited, which he renounced on 3 April 2019, or in HongKong Yisen Investment Congo SARL, which he renounced on 1 March 2019;

That he does not currently represent Summit Reward Investment Limited as since his arrival in the public service he has retired from his legal office;

That he is not currently director of a copper mine at Musoshi, although he had been an advisor to a company called Societe d'Exploitation Miniere de Musoshi SA (SEM SA), from which he had stood down by letter, on 29 April 2019;

That his status as a PEP is a legal question which must be settled by the provisions of DRC law, including international conventions and agreements to which it is a party and which are in force in its territory. He is convinced that he has fully satisfied the requirements of the law and regulations in force in the DRC, in particular by having made a complete and accurate declaration of all his assets to the Constitutional Court on 23 June 2021 or around that date, which is publicly available;

That he based his entry into the public service on three pillars: transparency, ethics and total commitment to the well-being of the Congolese people. His priorities are

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strictly focused on the DRC and the interests of its more than 100 million citizens. The abundant mineral resources of the DRC constitute the heritage of the country, in the same way that does the environment.

<sup>74</sup> Global Witness wrote to Déborah Linda Elite at three email addresses that are publicly-available on the Congolese business registry, provided for Elite or companies for which she is recorded as sole shareholder. All email addresses bounced back. Global Witness couriered a copy of our letter inviting Elite's comments and giving an opportunity to explain, to a company address in Kinshasa for which Elite is the sole shareholder and director, including with our email contact information provided and received a response whose main points are included in the body of the text, above.

<sup>75</sup> These concessions are:

PR13359 and PR12454 held by Dathcom Mining SAS. Dathcom Mining SAS is a joint venture in which Cong owned one of the companies in the venture.

PR13359 is the site of AVZ's Manono Project, as above.

PR14069 and PR14068 held by MCC Resources sarl, a company owned by Cong according the DRC company registry.

PR13348 and PR13698 held by Minocom Mining SAS. Minocom Mining SAS is directed by Cong Maohuai according to the DRC company registry, and Min Guo Wei is a 30 percent shareholder in the company, alongside Athanase Mwamba Misao. PR13698 is the site of Tantalex's Kitotolo Lithium Tailings Project. The DRC Official Gazette, dated 15 June 2017, records that Min Guo Wei was the original director of Minocom Mining SAS. On 7 July 2021 Tantalex announced that it had entered into a binding Letter of Intent (LOI) with Minor Sarl, including an earn-in option agreement allowing for TTX SAU, a wholly owned subsidiary of Tantalex, to acquire up to 52 percent of the shares in Minocom Mining SAS.

According to Tantalex documents, TTX will acquire 25 percent of shares in Minocom Mining SAS, for US\$2million and 20,000 shares in Tantalex, in addition to a sum of US\$3million already paid to Minocom Mining SAS, see: "Tantalex Resources Corporation Expands Lithium & Tin Resource Area on Manono-Kitotolo Tailing Project and announces start of drilling", 7 July 2021, <https://www.tantalex.ca/press-releases>

PR12450 held by HongKong Excellen Mining Co Limited, a company which shares the same registration address (119 Boulevard Tsashi/Tshatsi) as multiple other companies owned by Cong Maohuai.

<sup>76</sup> According to the Congolese company registry, Cong Maohuai is the director of Dathomir Mining Resources, and Dathomir International Corp, represented by Cong Maohuai , is its sole shareholder. See box: The Dathcom Joint Venture, below.

<sup>77</sup> AVZ annual report 2018, available at: <https://avzminerals.com.au/annual-reports>

<sup>78</sup> AVZ annual report 2018, page 59, available at: <https://avzminerals.com.au/annual-reports>

<sup>79</sup> The agreement ended in 2019. See Zhejiang Huayou Cobalt Industry Co., Ltd. Announcement on the foreign investment of overseas wholly-owned subsidiaries, December 2017, available at: [http://pg.jri.com.cn/acc/CN\\_DISC/STOCK\\_NT/2017/12/16/603799\\_ls\\_1204233016.PDF](http://pg.jri.com.cn/acc/CN_DISC/STOCK_NT/2017/12/16/603799_ls_1204233016.PDF)

<sup>80</sup> The most up-to-date RCCM publicly-available records, last accessed on 12 November 2021, include the following directors for Societe Miniere d'Exploitation de Musoshi SA (SEM): Cong Maohuai, Min Guo Wei, Loando Mboyo Guy. Global Witness has also reviewed a 28 December 2017 copy of the SEM SA statute, showing the company was established by SODIMICO SA, and BVI registered Shining Mining Company Limited, represented by Cong Maohuai , also available online on Twitter here: <https://twitter.com/equityechidna/status/991535630373933056> In his response to Global Witness, Minister Loando Mboyo state that he is not currently director of a copper mine at Musoshi, although he had been an advisor to a company called Societe d'Exploitation Miniere de Musoshi SA (SEM SA), from which he had stood down by letter, on 29 April 2019. Please also see Minister Mboyo's response to Global Witness, above.

<sup>81</sup> « Ce monde professionnel aujourd'hui constitué de plusieurs années d'expérience tant au niveau national mais aussi international, dans les secteurs des mines, droit des Affaires, investissement privé, etc. a servi de tremplin pour rencontrer un client partenaire, devenu mentor, M. Cong Maohuai, connu sous le nom de Monsieur Simon. « M. Simon est humble, rempli de sagesse et est un visionnaire » souligne Guy Loando et à ce jour, il est l'une des rares personnes à avoir compris ce que plusieurs jusqu'à ce jour ne comprenne de sa vision. » See <https://www.fondationwidal.org/site/fondateur.php>

<sup>82</sup> Huayou also stated, in its response to Global Witness, that in December 2017, Huayou Cobalt acquired 51 percent of Lucky Resources Holding Company Limited through its wholly-owned subsidiary Huayou International Mining. The company said that Huayou Cobalt "hired relevant intermediaries agency to conduct due diligence on Lucky Resources Holding Company Limited and its subsidiary Congo (DRC) New Minerals Investment SARLU in accordance with the recognized business standards and ethics of the industry, Huayou International Mining has withdrawn from Lucky Resources Holding Company Limited in August 2019."

<sup>83</sup> In response to Global Witness, Huayou Cobalt stated that it has "taken the lead to establish and implement a cobalt supply chain due diligence management system in the industry, to draw a cobalt supply chain's map, to identify and mitigate supply chain risks, and continued to improve the management level of supply chain due diligence, especially for those from high-risk areas, such as DRC's cobalt artisanal mining, joint stakeholders of supply chain, through a systematic method to regulate artisanal mining, and continuously improve the direct or indirect social responsibility risks of suppliers, which are highly recognized by industry stakeholders. Based on the basic principle of legal compliance, Huayou Cobalt has continuously improved its organizational structure and management system model. It has achieved legal compliance for investment and operation by promulgating and implementing the "Code of Business Ethics and Conduct" and "Administrative Measures on

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Outbound Investment and M&A"etc. company's Regulation."

<sup>84</sup> According to an unsigned 2016 copy of an incorporation document for Kibali-Ituri Resources sarl, Dathomir International Corp., incorporated in the Seychelles, and represented by Min Guo Wei, and Congolese company WINNERS GROUP Sarl, registration RCCM CD/KIN/RCCM/14-B-3844, managed by Bobo Elite Linda, available at:

[http://guichetunique.cd/IMG/pdf/jo\\_00878.16.pdf](http://guichetunique.cd/IMG/pdf/jo_00878.16.pdf).

According to an investor report by Boatman Capital (see box on the Dathcom Mining joint venture in the text), on 29 July 2016 Kibali-Ituri Resources changed its name to Dathomir Mining Resources, and Cong Maohuai became its director. Please also see Bobo Elite Linda Deborah's response to Global Witness, in the main body of the text, above.

<sup>85</sup> A Sichuan Investment Group Co Ltd announcement on the Invest.com website dated 27 November 2015, refers to Min Guo Wei as an economic advisor to the President, see, Sichuan Investment Group Co Ltd, 27 November 2105, Min Guowei, Economic Advisor to the President of the Democratic Republic of the Congo, and his delegation visited Sichuan Investment Group, <https://www.invest.com/news/group-news/405.html>; see also Chuantou news, <http://scjyt.com/chuantou-news/405.html>, and also

[https://www.baidu.com/s?wd=%E5%88%9A%E6%9E%9C%E6%B0%91%E4%B8%BB%E5%85%B1%E5%92%8C%E5%9B%BD%E6%80%BB%E7%BB%9F%E7%BB%8F%E6%B5%8E%E9%A1%BE%E9%97%AE%E9%97%B5%E5%9B%BD%E6%9A%90&rsv\\_spt=1&rsv\\_iqid=0xda018d72000051f2&issp=1&f=8&rsv\\_bp=1&rsv\\_idx=2&ie=utf-8&ttn=baiduhome\\_pg&rsv\\_enter=1&rsv\\_dl=ib&rsv\\_sug3=1](https://www.baidu.com/s?wd=%E5%88%9A%E6%9E%9C%E6%B0%91%E4%B8%BB%E5%85%B1%E5%92%8C%E5%9B%BD%E6%80%BB%E7%BB%9F%E7%BB%8F%E6%B5%8E%E9%A1%BE%E9%97%AE%E9%97%B5%E5%9B%BD%E6%9A%90&rsv_spt=1&rsv_iqid=0xda018d72000051f2&issp=1&f=8&rsv_bp=1&rsv_idx=2&ie=utf-8&ttn=baiduhome_pg&rsv_enter=1&rsv_dl=ib&rsv_sug3=1)

Min Guo Wei is also General Manager of China-Africa Mining Investment Management (Beijing) Co., Ltd, see <https://www.tianyancha.com/company/5078768>. In DRC, the 15 March 2014 Official Government Gazette lists Min Guo Wei as the president of the management board for MIKAS sarl, a mining company. He is also associated with Minor sarl, Musoshi and Minocom Mining, via shareholding, and was an original signatory Executive Director of La Sino-congolaise Des Mines S.A. (Sicomines), see above.

<sup>86</sup> According to the most up-to-date documents on the public Congolese business registry, last accessed on 14 November 2021, Min Guo Wei is a director in SEM SA alongside Cong Maohuai and Guy Loando Mbogo. Min Guo Wei is also the listed representative of MINOR sarl, which Cong Maohuai owns, and Min Guo Wei is also a shareholder in Minocom Mining SAS, a company directed by Cong Maohuai.

<https://twitter.com/equityechidna/status/991535630373933056>. In his response to Global Witness, Minister Loando Mbogo state that he is not currently director of a copper mine at Musoshi, although he had been an advisor to a company called Societe d'Exploitation Miniere de Musoshi SA (SEM SA), from which he had stood down by

letter, on 29 April 2019. Please also see Minister Mbogo's response to Global Witness, above.

<sup>87</sup> In addition to the response laid out in the main body of the text, Mr. Cong Maohuai also stated in his letter to Global Witness that:

he always directed his team to operate in strict compliance with applicable law, and that he supported national and international efforts to create fair and transparent business environments, that his extraction businesses operated in accordance with the Mining Code and Regulations of the DRC and that his contracts were approved by the CAMI.

he was aware of and understood the importance of the OECD Guidance, the UNGPs and the CCCMC Guidance and that, although the OECD had not produced a tailored supplement for lithium, that he "undoubtedly agree[d]" that the OECD Guidance provided a helpful "due diligence framework and model mineral supply chain policy to be broadly followed in relation to lithium mining in the DRC".

the articles of the UN Food and Agriculture Voluntary Guidelines drafted specifically for investors and enterprises, should be "broadly followed by responsible mining companies" and that the spirit of the IFC standards is reflected in the OECD Guidance and UNGPs.

to the extent that he is involved in development of DRC's lithium sector, he would use this body of knowledge to managed human rights impacts, which change over time, and that the "approach to ESG management" of DRC's lithium mining would inevitably evolve as "the stage of a project matures".

<sup>88</sup> See supra Note 64.

<sup>89</sup> According to Global Witness online research, Mr. Cong is the chairman of the Congo Katanga Chinese Chamber of Commerce (Chinese name is 刚果(金)加丹加中华商会), see Chinese Academy of International Trade and Economic Cooperation Ministry of Commerce/Bureau de l'Économie et du Commerce de l'Ambassade de la République Populaire de Chine en République Démocratique du Congo, December 2020, Guide for Countries and Regions on Overseas Investment and Cooperation of the 2020-Congo',

<http://www.mofcom.gov.cn/dl/gbdqzn/upload/gangguojin.pdf page79-80>. Cong Maohuai is also the chairman of the Congo Overseas Chinese

Association (Chinese name is 刚果(金)华侨华人联合会), established in 2016, see:

<http://cd.chineseembassy.org/chn/lqfw/t1384366.htm>. See also, Sun Line, "General Manager Jiang Weiming of Shenglun Logistics visited Shenglun Congo (Kinshasa) Company for investigation", available at: [https://sun-line.cn/index.php?m=default\\_news\\_detail&cid=6&ccid=59&did=150](https://sun-line.cn/index.php?m=default_news_detail&cid=6&ccid=59&did=150)

The Chinese Chamber of Commerce in the Democratic Republic of the Congo is a non-governmental organization composed of overseas Chinese, established in 2002. It is a non-profit, non-political association with

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the status of a legal person, headquartered in Kinshasa. The executive board of the Chamber of Commerce consists of a chairman, 11 vice-chairmen, a secretary-general and 4 deputy secretary-generals. <http://news.sina.com.cn/w/2002-10-08/1839759312.html>

<sup>90</sup> For example, Amani Gold Limited, in which Cong Maohuai is a director. Amani Gold Limited holds the Giro Gold Project, see: <https://www.amanigold.com/wp-content/uploads/2020/10/02288277.pdf> Cong Maohuai is an Amani Gold Limited director alongside Klaus Eckhof, who was also Chairman of AVZ Minerals Limited until June 2018, during which period Dathomir Mining Resources sarl, managed by Cong, was a joint venture party of AVZ, see AVZ Annual Report 2018, available at <https://avzminerals.com.au/annual-reports>. According to the Congolese company registry, Cong is also a shareholder in the Société d'exploitation minière de Matala, and the Societe Mines Dor Resources..

<sup>91</sup> MCC Resources sarl holds PR14069 and PR14068, although both are recorded as “lapsed due to non-payment” on the DRC mining cadastre website. Cong Maohuai is manager and sole shareholder of MCC Resources sarl.

According to a June 2021 United Nations Group of Experts on the Democratic Republic of Congo report, MCC is also the concession holder on which Muchacha Mining Complex is situated, an illegal gold mining site in the Okapi Wildlife reserve, a World Heritage site in DRC's Ituri province. According to the United Nations report, the Congolese army (FARDC) provided illegal security to miners at Muchacha during 2021. See para. 126, available at: <https://www.undocs.org/en/S/2021/560> Cong Maohuai did not provide a response to the UN Experts for the UN report.

<sup>92</sup> According to publicly-available documents on the Congolese company registry, MMR is managed by Hitesh Chug. Its three shareholders, according to RCCM filings, are Societe Shukrana Limited, Societe Piran Investments Ltd and Societe Kalyan Limited, available at: <https://rccm.cd/rccm/> Last accessed 9 September 2021.

<sup>93</sup> See the Vinmart Group website, available at: <https://www.vinmartgroup.com/associates.aspx> and Vinmart Group's LinkedIn page <https://www.linkedin.com/company/vinmart-group-of-companies>

<sup>94</sup> These are PR4100 and PR13082, held by Kanuka Mining Company, in which Chug is a shareholder, and PR14518, PR5227 held by MMR and PR12204, PR12205, PR13065 and PR12203 held by Societe d'exploitation des gisements de Malemba Nkulu, in which MMR, represented by Chug, is a shareholder.

<sup>95</sup> These are PR4100 and PR13082. See ‘Kanuka Lithium JV – Formal Decision to Proceed’, 14 January 2018 statement, now hosted on the Critical Resources website available at:

<https://www.criticalresources.com.au/announcements>. See also a 15 January 2018 press statement issued by James Sullivan of Force Commodities stating that: “The Kanuka Lithium Project Joint Venture, to be held 51 percent by Force and 49 percent by MMR will focus on two contiguous licenses: granted Mining License PE13082 and Exploration License PR4100”, available at: <https://www.juniorminingnetwork.com/junior-miner-news/press-releases/2360-asx/4ce/40615-force-commodities-kanuka-lithium-jv-formal-decision-to-proceed.html>

<sup>96</sup> These are:

PE13698 and PR13348 held by Minocom Mining SAS, whose director, according to the Congolese business registry, is Cong Maohuai<sup>97</sup>, and in which Tantalex's wholly owned subsidiary TTX SAU acquired up to 52 percent of the shares in July 2021 (see above);

PR13590 and PR13591 held by United Materials Congo sarl, whose majority shareholder is SandStone Worldwide Ltd, listed in the Bahamas and a wholly owned subsidiary of Tantalex;

PR12448 and PR12447 held by United Cominière, a joint venture between SandStone Worldwide Limited and Cominière.

<sup>97</sup> Global Witness has reviewed a copy of the SandStone Worldwide Ltd 2017 declaration to the Registrar General of the Bahamas, which states that the company records are being maintained by Trident Corporate Services of the Bahamas Limited.

<sup>98</sup> According to the Mining Cadastre, Crown Mining Sarl holds an exploration permit, PE13081, for gold, copper, cobalt, diamonds and tin. The company also holds two research permits, PR4076 and PR4072, see annex 1. The 15 January 2012 Official Government Gazette, reviewed by Global Witness, lists Ahmed Tajideen (spelled Ahmed Tajeddine in the company's response to Global Witness) as the statutory director of Crown Mining Sarl. The 1 June 2018 Official Government Gazette, also reviewed by Global Witness, notes that partners Ahmed and Ali Tajideen ceased partnership and that Kamal Srour was designated associate manager in place of Ahmed Tajideen.

<sup>99</sup> U.S. Department of the Treasury, 12 September 2010, <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20101209>

<sup>100</sup> Global Witness, 9 February 2019 Unsanctioned Trade, , available at: [https://www.globalwitness.org/documents/18809/unsanctioned\\_trade\\_2017\\_lowres.pdf](https://www.globalwitness.org/documents/18809/unsanctioned_trade_2017_lowres.pdf). Three members of Ahmed Tajideen's family were added to the terrorism sanctions list by the US Treasury. In March 2012 Reuters reported that Congo Futur and Trans-M were both controlled by Ahmed Tajideen, who told the journalist “I am the majority shareholder of both companies. I created both companies independently of each other. My brothers have nothing to do with the companies”, see page 5 of “Unsanctioned Trade”.

<sup>101</sup> Article 7 quater. Loi n°18/001 du 09 mars 2018 modifiant et complétant la Loi n° 007/2002 du 11 juillet 2002 portant Code minier. Accessed at:

[https://www.mines-rdc.cd/fr/wp-content/uploads/Code%20minier/J.O.\\_n%C2%B0\\_spe%C3%ACcial\\_du\\_28\\_mars\\_2018\\_CODE\\_MINIER%20DE%20LA%20RDC.PDF#page=40](https://www.mines-rdc.cd/fr/wp-content/uploads/Code%20minier/J.O._n%C2%B0_spe%C3%ACcial_du_28_mars_2018_CODE_MINIER%20DE%20LA%20RDC.PDF#page=40)

<sup>102</sup> EITI Standard, 2019, 2.2, See EITI, Requirements for EITI Implementing Countries, <https://eiti.org/contract-transparency#requirements-for-eiti-implementing-countries>

<sup>103</sup> The parties to the 2010 contract were Cominière, represented by Justin Nyembo Mutahile and Athanese Mwambo Misao, and DBB Resources Corporation, registered in the British Virgin Islands and represented by Lugunda Lubamba Francis, available at: <https://www.resourcecontracts.org/contract/ocds-591adf-4534496341/view#/>. A 17 December 2010 Securities and Exchange Commission Notice of Exempt Offering for Securities records a company name change from DBB Resources Corporation to Global Tin Corp, see: [https://www.sec.gov/Archives/edgar/data/1507757/000150775710000001/xslFormDX01/primary\\_doc.xml](https://www.sec.gov/Archives/edgar/data/1507757/000150775710000001/xslFormDX01/primary_doc.xml)

<sup>104</sup> The 2016 *process-verbal* document states that Dathcom Mining would take over seven mining titles, PR12436, PR12449, PR12450, PR12454, PR12206, PR12459 and PR12461, which had been withdrawn from Manomin Minerals, the previous concession owner. According to The Boatman Capital report, Manomin subsequently sought international arbitration following withdrawal of its titles. In February 2017, when AVZ acquired a stake in the PE13359 mining title, a title previously part of the Manomin concession, then-AVZ executive chairman Klaus Eckhof noted in a public release by the company that an “action by a third party in DRC claiming that a historic mining right at Manono was invalidly cancelled has been dismissed by the DRC Supreme Court of Justice”, available at:

<https://www.asx.com.au/asxpdf/20170508/pdf/43j34yz43twlb2.pdf> Klaus Eckhof requested additional time to respond to Global Witness’ invitation to comment to matters arising from this brief. Global Witness extended the comment period, but Klaus Eckhof did not provide a further response.

<sup>105</sup> As outlined above, disclosure of payments is a requirement of Congolese law. See Décret N° 038/2003 du 26 mars 2003 portant règlement minier tel que modifié et complété par le décret N° 18/024 d 08 juin 2018 (Textes coordonnés), Article 54bis [https://www.mines-rdc.cd/fr/wp-content/uploads/Code\\_percent20minier/J.O.\\_n\\_percentC2\\_percentB0\\_spe\\_percentC3\\_percentACCial\\_du\\_28\\_mars\\_2018\\_CODE\\_MINIER\\_percent20DE\\_percent20LA\\_percent20RDC.PDF](https://www.mines-rdc.cd/fr/wp-content/uploads/Code_percent20minier/J.O._n_percentC2_percentB0_spe_percentC3_percentACCial_du_28_mars_2018_CODE_MINIER_percent20DE_percent20LA_percent20RDC.PDF)

<sup>106</sup> EITI-RDC website, ‘Consultez ici les principaux contrats miniers’, undated, available at: <https://www.itierdc.net/carte-de-la-rdc-cliquable/contrats-miniers/>

<sup>107</sup> See <https://www.mines-rdc.cd/resourcecontracts/>

<sup>108</sup> ‘AVZ to complete acquisition of Manono extension lithium, tin and tantalum project in the Democratic Republic of Congo’, AVZ Minerals Limited, 31 October 2016. Available at: at: <https://www.asx.com.au/asxpdf/20161031/pdf/43cjtcvd3d6fwp.pdf>. Klaus Eckhof, when in post as AVZ’s Executive Chairman, also conducted separate business with Medidoc FZE, when in 2016 he paid the company US\$250,000 in cash and 40,000 ordinary shares for a 60 percent stake in Tendao gold project [https://www.asx.com.au/asxpdf/20161103/pdf/43cm1gw\\_wjqnrrp.pdf](https://www.asx.com.au/asxpdf/20161103/pdf/43cm1gw_wjqnrrp.pdf) Global Witness has been unable to establish the ultimate beneficial owner of Medidoc FZE. Klaus Eckhof did not respond to Global Witness on this point.

<sup>109</sup> See detail in endnote 75 above.

<sup>110</sup> ‘Tantalex Resources Corporation Expands Lithium & Tin Resource Area on Manono-Kitotolo Tailings Project and Announces Start of Drilling’, Junior Mining Network, 7 July 2021, <https://www.juniorminingnetwork.com/junior-miner-news/press-releases/2584-cse/ttx/102736-tantalex-resources-corporation-expands-lithium-tin-resource-area-on-manono-kitotolo-tailings-project-and-announces-start-of-drilling.html>

<sup>111</sup> Raymond P. Spanjers P.Geo, 25 January 2017, NI 43-101 Technical Report of the Buckell Li-Sn-Ta Project Manono, Tanganyika Province Democratic Republic of Congo prepared for Tantalex Resources Corporation,. The JV included concessions PR12447 and PR12448. Page 9 and Appendix F, <https://static1.squarespace.com/static/577c05a95016e168f25b1d1b/t/58889cec03596e478e8126a3/1485348079791/Tantalex+NI+43-101+Technical+Report+1-24-17%5B13841%5D.pdf>

<sup>112</sup> Force Commodities, 28 September 2018, Additional Mining License Included in Kitolo Lithium Project Acquisition, [https://www.asx.com.au/asxpdf/20170928/pdf/43mqb2lp\\_gc080q.pdf](https://www.asx.com.au/asxpdf/20170928/pdf/43mqb2lp_gc080q.pdf)

<sup>113</sup> “The Kanuka Lithium Project Joint Venture (Force 51 percent, MMR 49 percent) includes granted Mining License PE13082 and Exploration License PR4100 and extends over an area of 194km<sup>2</sup>. The Kanuka Lithium Project Joint Venture is located 5km immediately south of AVZ Mineral’s ‘worldclass’ Manono-Kitotolo Lithium Project licenses and 20km east of the Company’s Kitotolo Lithium Project”, KANUKA LITHIUM PRODUCTION PROJECT UPDATE, 23 May 2018, <https://wcsecure.weblink.com.au/pdf/4CE/01983984.pdf>

<sup>114</sup> Process verbal de negociation entre Cominière SA and Dathomir Resources sarl, available at : <https://www.mines->

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[rdc.cd/resourcecontracts/contract/ocds-591adf-0616740576/view#/pdf](https://rdc.cd/resourcecontracts/contract/ocds-591adf-0616740576/view#/pdf)

<sup>115</sup> Ibid

<sup>116</sup> Global Witness obtained a copy, from the Congolese company registry and not yet available on the registry website, of the document signed by Nigel Munro Ferguson for AVZ International (PTY) Ltd, a subsidiary of AVZ Minerals Ltd, alongside Simon Cong Maohuai for Dathomir Mining Resources sarlu and Athanese Mwambo Misao for Cominiere, creating Dathcom Mining SAS.

<sup>117</sup> See Congolese company registry online webpage for Dathcom Mining SA, available at <https://rccm.cd/rccm/>

<sup>118</sup> For 2019, Dathcom (listed as “for AVZ, formerly Dathomir, on the EITI website) reported USD118,460 in payments, whereas the state declared that it had received USD436, 934 a discrepancy of USD308,474 which after adjustments also stayed the same. See <http://tierdc-data.masivuvu.fr/donnees-itie/>

<sup>119</sup> AVZ also stated in their response that “that on 27 January 2017, AVZ, Cominière SA, Dathomir, and Dathcom entered into an Initial Joint Venture Agreement with respect of PR 13359 and additional PRs 12436, 12449, 12450 and 12454. The agreement was documented in writing. A detailed overview of the terms of the Initial Joint Venture Agreement, including the payment terms, is provided in our ASX announcement dated 2 February 2017.”

<sup>120</sup> The Boatman Capital Report is available online at: <https://theboatmancapital.com/wp-content/uploads/2021/06/Boatman-Report-on-AVZ-Minerals-July-2019.pdf>, last accessed 29 October 2021.

<sup>121</sup> Ibid.

<sup>122</sup> Congolese Gazette, dated 1 April 2011, lists Min Gou Wei as a Sicomines founder. See also Global Witness, March 2011, China and Congo: Friends in Need, , available at: [https://cdn.globalwitness.org/archive/files/library/friends\\_in\\_need\\_en\\_lr\\_1.pdf](https://cdn.globalwitness.org/archive/files/library/friends_in_need_en_lr_1.pdf)

<sup>123</sup> In its 2020 Interim Financial report, the company disclosed that AVZ executed a Share Sale Purchase Agreement for an additional 10 percent equity stake in Dathcom Mining SA (which holds 100 percent of the Manono Project) from its joint venture partner, Dathomir Mining Resources. The company also disclosed that AVZ had secured 5 percent equity interest from Dathomir Mining for a total consideration of US\$5.5M, with an advance payment already made of US\$500,000. The report states, “AVZ will own 75 percent of the joint venture company, Dathcom Mining SA upon completion of both agreements. The remaining 25 percent of the joint venture company is owned by La Congolaise D’Exploitation Miniere SA, the DRC Government”. Available at: <https://avzminerals.com.au/annual-reports> See also endnote 70 above, which details the most recent changes in shareholding of Dathcom Mining SA.

<sup>124</sup> Fast Markets, 22 July 2021, Lithium supply and demand to 2030, <https://www.fastmarkets.com/article/3999803/lithium-supply-and-demand-to-2030#:~:text=A%20total%20of%20345%2C000%20tonnes,%20million%20tonnes%20in%202030> and see IEA report above.

<sup>125</sup> Global Witness, 9 March 2021, Global Witness welcomes the reversal of US sanctions reprieve granted to mining magnate Dan Gertler, <https://www.globalwitness.org/en/press-releases/global-witness-welcomes-reversal-us-sanctions-reprieve-granted-mining-magnate-dan-gertler/>

<sup>126</sup> Global Witness, undated, Secret Sales Publications, The Core Documents, available at: <https://www.globalwitness.org/en/archive/secret-sales-publications/> and Global Witness, 16 May 2014, Glencore and the Gatekeeper, <https://www.globalwitness.org/en/archive/glencore-and-gatekeeper/>

<sup>127</sup> Global Witness, undated, Responsible Minerals, available at: <https://www.globalwitness.org/en/campaigns/conflict-minerals/>

<sup>128</sup> Global Witness, 6 August 2021, The Deal for Deziwa, available at: <https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/deal-deziwa/>

<sup>129</sup> See OECD Due Diligence Guidance for Responsible Business Conduct, third edition, 2016. Available at: <https://www.oecd.org/investment/duediligence-guidance-for-responsible-business-conduct.htm>.

<sup>130</sup> Conducting due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas is an on-going, proactive and reactive process through which companies can ensure that they respect human rights and do not contribute to conflict. The OECD Guidance notes that conflict-affected and high-risk areas are identified by the presence of armed conflict, widespread violence or other risks of harm to people. Under this definition, high-risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. Such areas are often characterised by widespread human rights abuses and violations of national or international law. See OECD Due Diligence Guidance for Responsible Business Conduct, Introduction, third edition, 2016. Available at: <https://www.oecd.org/investment/duediligence-guidance-for-responsible-business-conduct.html>

<sup>131</sup> The CCCMC is supervised by the Chinese Ministry of Commerce. The guidelines were drafted with input from international and Chinese partners, including Global Witness and the Organisation for Economic Co-operation and Development, following a public consultation and year-long drafting process. Available at:

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<http://www.cccmc.org.cn/docs/2021-04/20210429175116015947.pdf>

<sup>132</sup> Key elements of the guidelines include:

- A 5-step risk-based supply chain check process for minerals, reflecting Due Diligence Guidance developed by the OECD and recognised as international best practice. This reflects companies' individual responsibility to carry out their supply chain due diligence, conduct a third party audit of the process, and publish their related policies and practices.
- Checks for risks of contributing to conflict and serious human rights abuses, reflecting the OECD Guidance, and risks associated with other serious misconduct, reflecting CCCMC's 2014 Guidelines for Social Responsibility in Outbound Mining Investments.
- Applicability to all Chinese companies who are extracting or using minerals and mineral products at any point in the supply chain, see below.
- Applicability to all mineral resources, with an initial focus on gold, tin, tungsten and tantalum.
- Not specific to particular country or region.
- "Chinese companies" in this Guideline include legal entities registered in China for profitmaking purposes, as well as overseas companies owned or controlled by Chinese companies. In addition, companies in other countries can also use this Guideline as a guiding document to prevent and mitigate adverse impacts, and make positive contributions to social welfare, environmental protection and economic development.
- Refer to: Page 8, <http://www.cccmc.org.cn/docs/2021-04/20210429175116015947.pdf>

For additional information, see Global Witness, <https://www.globalwitness.org/en/press-releases/new-chinese-guidelines-offer-mineral-companies-chance-reduce-conflict-corruption-risks-and-show-value-host-communities/>

China has also recently introduced "Green development guidelines for overseas investment and cooperation" which stress the need to "Encourage the practice of environmental impact assessments and due diligence in accordance with internationally accepted standards".

<sup>133</sup> For companies producing and trading tin, tantalum, tungsten and gold in the DRC, this is already a legal requirement. See Arrêté ministériel N.0057.CAB.MIN/MINES/01/2012 du 29 février 2012 portant mise en oeuvre du mécanisme régional de certification de la Conférence Internationale sur la Région des Grands-Lacs « CIRGL » en République Démocratique du Congo, Article 8

<sup>134</sup> The third edition of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas provides clarification on the scope of the Guidance by removing language in the Introduction that was perceived to limit its application only to the supply chains of tin, tantalum, tungsten and gold. The updated edition clarifies that the Guidance provides a framework for detailed due diligence as a basis for responsible supply chain management of all minerals.

See OECD Due Diligence Guidance for Responsible Business Conduct, Foreword, third edition, 2016. Available at:

<https://www.oecd.org/investment/duediligence-guidance-for-responsible-business-conduct.html>

<sup>135</sup> Global Witness believes that responsible mining companies intent on contributing to achieving sustainable livelihoods, social stability, housing security, rural development, environmental protection, and sustainable social and economic development should adhere to the United Nations Food and Agriculture Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, see Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, FAO, 2012, <http://www.fao.org/tenure/voluntary-guidelines/en/> In addition, companies should use the guidance produced by the Interlaken Group laid out how companies should implement the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries and Forestry in the Context of National Food Security (VGGT), which were themselves the result of extensive consultation with governmental, private sector and civil society representatives, and are endorsed by 193 governments. The Interlaken Group guidance, entitled 'Respecting Land and Forest Rights' (the Interlaken Guidance), is unique in being the only authoritative agribusiness guidance actually written by representatives from the private sector, together with civil society and governments. It lays out what companies need to do to comply with the VGGT, what indicators of compliance might look like, and which resources exist to support efforts towards compliance. The guidance covers a range of project types: greenfield investments, brownfield investments, existing holdings, joint ventures or mergers and acquisitions, plus procurement and supply chains, see 'Voluntary guidelines for agribusiness, and their relevance to defenders', Global Witness, 20 August 2018, <https://www.globalwitness.org/en/campaigns/environmental-activists/voluntary-guidelines-agribusiness-and-their-relevance-defenders/>

<sup>136</sup> International Finance Corporation, 2012, Environmental and Social Performance Standards [https://www.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards](https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards)

<sup>137</sup> Article 54 bis, Loi n°18/001 du 09 mars 2018 modifiant et complétant la Loi n° 007/2002 du 11 juillet 2002 portant Code minier. Accessed at: [https://www.mines-rdc.cd/fr/wp-content/uploads/Code%20minier/J.O.\\_n%C2%BDspe%C3%A9cial\\_du\\_28\\_mars\\_2018\\_CODE\\_MINIER%20DE%20LA%20RDC.PDF#page=8](https://www.mines-rdc.cd/fr/wp-content/uploads/Code%20minier/J.O._n%C2%BDspe%C3%A9cial_du_28_mars_2018_CODE_MINIER%20DE%20LA%20RDC.PDF#page=8)

<sup>138</sup> See ITIE-RDC, undated, 'Dans cette section vous trouverez les textes légaux qui régissent l'ITIE-RDC, les PV

des réunions du Comité Exécutif, les documents de mise en œuvre’, , at [https://www.itierdc.net/new\\_itie-rdc/](https://www.itierdc.net/new_itie-rdc/) On its website, the Extractive Industry Transparency Initiative (EITI) DRC states: At the height of the commodity boom in 2007, when the DRC began implementing the EITI, decades of conflict, political instability, corruption, looting and mineral smuggling had decimated the mining sector, which used to be DRC’s engine of growth, and left the government with large liabilities for its state-owned enterprises (SOEs) that had become practically insolvent. Despite the country’s vast natural resources, 63% percent of the 75 million Congolese citizens were living below the poverty line of less than one dollar per day in 2012, according to the World Bank. Available at: <https://eiti.org/democratic-republic-of-congo>

<sup>139</sup> EITI Standard, 2019, 2.2, See EITI, Requirements for EITI Implementing Countries, <https://eiti.org/contract-transparency#requirements-for-eiti-implementing-countries>

<sup>140</sup> CCCMC drafted the Guidelines in association with the Chinese Ministry of Commerce and the German development agency GIZ, following a year-long drafting process and public consultation.

<sup>141</sup> CCCMC, 2015, Chinese due diligence guidance for responsible mineral supply chains, , available at: [https://www.globalwitness.org/documents/18138/201512\\_Chinese\\_Due\\_Diligence\\_Guidelines\\_for\\_Responsble\\_Mineral\\_Supply\\_Chains\\_-\\_En\\_K83fxzt.pdf](https://www.globalwitness.org/documents/18138/201512_Chinese_Due_Diligence_Guidelines_for_Responsble_Mineral_Supply_Chains_-_En_K83fxzt.pdf) and Global Witness, 2 December 2015 Global Witness welcomes progressive new Chinese mineral supply chain guidelines, see: <https://www.globalwitness.org/en/press-releases/global-witness-welcomes-progressive-new-chinese-mineral-supply-chain-guidelines/>

<sup>142</sup> Mofcom, 2020, China's Foreign Investment Cooperation and Development Report 2020, page 3, <http://www.mofcom.gov.cn/dl/gbdqzn/upload/gangguojin.pdf>

<sup>143</sup> Mofcom, 2020, China's Foreign Investment Cooperation and Development Report 2020, <http://images.mofcom.gov.cn/fec/202102/20210202162924888.pdf> The report states that from the perspective of financial flows, China's investment in Africa in 2019 will mainly flow to Congo (DRC), Angola, Ethiopia and other countries. Among them, the flow of direct investment in the Democratic Republic of the Congo was US\$930 million, a year-on-year increase of 44.8 percent.

<sup>144</sup> See, Guide to countries (regions) for foreign investment and cooperation Democratic Republic of Congo, Mofcom, available at: <http://www.mofcom.gov.cn/dl/gbdqzn/upload/gangguojin.pdf>

<sup>145</sup> Global Witness, undated, Anonymous Company Owners, available at:

<https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/anonymous-company-owners/>

<sup>146</sup> Global Witness, 9 December 2019, ‘EU Investor disclosure regulation, <https://www.globalwitness.org/en/campaigns/european-union-brussels-global-witness-eu/eu-investor-disclosure-regulation/>

<sup>147</sup> This Regulation lays down harmonised rules for financial market participants and financial advisers on transparency with regard to the integration of sustainability risks and the consideration of adverse sustainability impacts in their processes and the provision of sustainability-related information with respect to financial products. For more information, see: Global Witness, 9 December 2019, EU Investor Disclosure Regulation’ <https://www.globalwitness.org/en/campaigns/european-union-brussels-global-witness-eu/eu-investor-disclosure-regulation/>

<sup>148</sup> The DRC’s 2018 Mining Code revision does not prohibit members of the security forces and senior public officials from holding industrial mining rights, as long as done so via a company. See, Décret N° 038/2003 du 26 mars 2003 portant règlement minier tel que modifié et complété par le décret N° 18/024 d 08 juin 2018 (Textes coordonnés), Article 54bis [https://www.mines-rdc.cd/fr/wp-content/uploads/Code%20minier/J.O. n%C2%B0C0 spe%C3%ACcial du 28 mars 2018\\_CODE MINIER%20DE%20LA%20RDC.PDF](https://www.mines-rdc.cd/fr/wp-content/uploads/Code%20minier/J.O. n%C2%B0C0 spe%C3%ACcial du 28 mars 2018_CODE MINIER%20DE%20LA%20RDC.PDF) See also, “New Democratic Republic of Congo mining law could leave the door open to corrupt deals”, Global Witness, 12 March 2018, available at: <https://www.globalwitness.org/en/press-releases/new-democratic-republic-congo-mining-law-could-leave-door-open-corrupt-deals/>

<sup>149</sup> As Global Witness has laid out elsewhere, senior government officials or their relatives and associates who, by reason of their high-level position may be deemed vulnerable to corruption, have become known in law and policy circles as ‘PEPs’ (politically-exposed persons). To say that somebody is a PEP is not to say that they are corrupt; the head of every state in the world is a PEP, see “Time to Dig Deeper”, Global Witness, page 23, available at <https://www.globalwitness.org/en/campaigns/democratic-republic-congo/time-dig-deeper/>

<sup>150</sup> Global Witness, 15 February 2019, A Dud Deal, page 4 <https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/a-dud-deal/>. See also “Twelve red flags: corruption risks in the award of extractives sector licenses and contracts”, Natural Resource Governance Institute (NRGI), April 2017; ‘Banks and Money, how the Financial System enables looting at a devastating human cost’, Global Witness, 1 October 2015,

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[https://www.globalwitness.org/documents/18012/Banks\\_and\\_Dirty\\_Money\\_Global\\_Witness.pdf](https://www.globalwitness.org/documents/18012/Banks_and_Dirty_Money_Global_Witness.pdf)

<sup>151</sup> Global Witness' recommendations for Democratic Republic of Congo's new mining law, Point (1) Conflict of Interest, October 2015, available at: [https://www.globalwitness.org/documents/18091/GW\\_DRC\\_mining\\_code\\_analysis - 15.10.15.pdf](https://www.globalwitness.org/documents/18091/GW_DRC_mining_code_analysis - 15.10.15.pdf)

<sup>152</sup><sup>153</sup> Regarding recommendations on politically-exposed persons (PEPs) in the extractives sector see, for example, OECD, 2016, Corruption in the Extractive Value Chain: Typology of Risks, Mitigation Measures and Incentives, and Natural Resource Governance Institute (NRGI), April 2017, Twelve red flags: corruption risks in the award of extractives sector licenses and contracts., Regarding PEP recommendations contained in international anti-money laundering standards for banks, financial professionals and some non-financial institutions (including dealers in precious metals and precious stones), see, FATF Guidance, June 2013, Politically Exposed Persons (Recommendations 12 and 22),.

<sup>153</sup> OECD, 22 November 2019, Competition for the Market – Contribution from BIAC, pages 8-9, available at: [https://one.oecd.org/document/DAF/COMP/GF/WD\(2019\)61/en/pdf](https://one.oecd.org/document/DAF/COMP/GF/WD(2019)61/en/pdf)

<sup>154</sup> Teachout, Z., 2018, pages 111-126, available at: [https://www.jstor.org/stable/48563084?seq=1#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/48563084?seq=1#metadata_info_tab_contents)

<sup>155</sup> Ennis, S., Gonzaga, P., Pike, C., Inequality: A hidden cost of market power, Oxford Review of Economic Policy, Volume 35, Issue 3, Autumn 2019, Pages 518–549, <https://doi.org/10.1093/oxrep/grz017>

<sup>156</sup> R. Quentin Grafton & John Williams 2020 ,Rent-seeking behaviour and regulatory capture in the Murray-Darling Basin, Australia, International Journal of Water Resources Development, 36:2-3, 484-504; 'Nigeria: Evidence of corruption and the influence of social norms', U4 Expert Answer, 24 September 2014, page 2, available at: [https://www.transparency.org/files/content/corruption\\_as/Nigeria\\_overview\\_of\\_corruption\\_and\\_influence\\_of\\_social\\_norms\\_2014.pdf](https://www.transparency.org/files/content/corruption_as/Nigeria_overview_of_corruption_and_influence_of_social_norms_2014.pdf)

On rent-seeking in the DRC in particular, see: Matti, S., 'Resources and Rent Seeking in the Democratic Republic of the Congo' Third World Quarterly, Vol. 31, No. 3 (2010), pp. 401-413, Taylor & Francis, Ltd, <https://www.jstor.org/stable/27867932>

<sup>157</sup> See UN Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (2011), UN Doc HR/PUB/11/04, Framework (2011), UN Doc HR/PUB/11/04, [www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) The OECD Due Diligence Guidance for Responsible Business Conduct, which was adopted in

May 2018, offers practical guidance on human rights, environmental due diligence and corruption for businesses,

<https://www.oecd.org/investment/duediligence-guidance-for-responsible-business-conduct.htm>.

<sup>158</sup> <https://humanrights.gov.au/our-work/business-and-human-rights/about-business-and-human-rights>

<sup>159</sup> AVZ Mining Limited (stock symbol AVZ) principal place of business is registered in Australia, see <https://avzminerals.com.au/corporate-directory> and the company is listed on the Australian stock exchange, <https://www2.asx.com.au/markets/company/avz>. Critical Resources Limited (stock symbol CRR) (formerly Force Commodities Ltd, stock symbol 4CE), is also registered in Australia <https://www2.asx.com.au/markets/company/crr>.

Tantalex Resources Corporation (stock symbol TTX and 1TO) is registered in Canada, see <https://www.sedar.com/DisplayProfile.do?lang=EN&issueType=03&issuerNo=00029657> and is listed on the Canadian stock exchange, [https://thecse.com/en/listings/mining/tantalex-resources-corporation#:~:text=TANTALEX%20is%20a%20mining%20company,Exchange%20\(symbol%3A%201TO\)](https://thecse.com/en/listings/mining/tantalex-resources-corporation#:~:text=TANTALEX%20is%20a%20mining%20company,Exchange%20(symbol%3A%201TO)) and on the Frankfurt stock exchange <https://www.boerse-frankfurt.de/equity/tantalex-resources-corp>.

<sup>160</sup> See, for example, OHCHR Working Group on the issue of human rights and transnational corporations and other business enterprises – Questionnaire, 1 June 2017 <https://www.ohchr.org/Documents/Issues/Business/UNGPsBHRnext10/inputs/states-igos/Canada.pdf>

<sup>161</sup> The OECD Guidelines for Multinational Enterprises are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. Australia and Canada are both adherent countries to the OECD Guidelines for Multinational Enterprises <https://www.oecd.org/corporate/mne/>

<sup>162</sup> See OECD Due Diligence Guidance for Responsible Business Conduct, third edition, 2016, page 13 and Footnote 2. Available at: <https://www.oecd.org/investment/duediligence-guidance-for-responsible-business-conduct.htm>.

<sup>163</sup> Since 2012, Global Witness has been gathering data about land and environmental defenders. In that time, a grim picture has come into focus – with the evidence suggesting that as the climate crisis intensifies, violence against those protecting their land and our planet also increases. It has become clear that the unaccountable exploitation and greed driving the climate crisis is also driving violence against land and environmental defenders, see "Last Line of Defence", Global Witness, 13 September 2021,

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<https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/>

<sup>164</sup> Mine waste or tailings must not be stored in upstream dams, or disposed of into rivers, lakes, streams or the ocean. Mining companies must fully account for the costs of long-term mine waste storage, mining closure and reclamation, see: “Safety First – The Peoples’ Tailings Standard To End Mine Waste Disasters”, Mining Watch, 30 June 2020,  
<https://miningwatch.ca/news/2020/6/30/safety-first-new-report-outlines-guidelines-end-minewastedisasters>.

<sup>165</sup> Amnesty International, 4 February 2021, Powering change: Principles for businesses and governments in the battery value chain co-signed by Global Witness,  
<https://www.amnesty.org/en/documents/act30/3544/2021/en/>

<sup>166</sup> Academic papers analysing the socio-economic impacts of lithium mining, and particularly hard-rock mining, consistently note that these are as yet poorly studied and understood. For example, Ambrose, H., and Kendall, A., note that “These [battery] technologies are often deployed to improve environmental sustainability, yet the environmental effects and sustainability of the [lithium] resources they rely on are often not well understood, especially as demand increases over time”, see Journal of Industrial Ecology, 01 October 2019,  
<https://doi.org/10.1111/jiec.12949>; Datu Buyung Agusdinata *et al*, Socio-environmental impacts of lithium mineral extraction: towards a research agenda, 2018, available at:

<https://iopscience.iop.org/article/10.1088/1748-9326/aae9b1/meta>, See also, Chaves, C., et al, ‘Concerns about lithium extraction: A review and application for Portugal’, The Extractive Industries and Society, Volume 8, Issue 3, 2021,  
<https://doi.org/10.1016/j.exis.2021.100928>. Studies on current and future lithium extraction in South America show how environmentally and socially damaging different types of lithium mining can be, including potential adverse impacts on water sources, ecosystems, biodiversity and human health, see  
<https://www.tandfonline.com/doi/abs/10.1080/02646811.2020.1754596>

<sup>167</sup> Luboya, O., et al. “High Human Exposure to cobalt and other metals in Katanga, a mining area of the Democratic Republic of Congo”, 2009, Environmental Research,

available at:

[https://www.academia.edu/29900872/High\\_human\\_exposure\\_to\\_cobalt\\_and\\_other\\_metals\\_in\\_Katanga\\_a\\_mining\\_area\\_of\\_the\\_Democratic\\_Republic\\_of\\_Congo?auto=citations&from=cover\\_page](https://www.academia.edu/29900872/High_human_exposure_to_cobalt_and_other_metals_in_Katanga_a_mining_area_of_the_Democratic_Republic_of_Congo?auto=citations&from=cover_page); and Van Brusselen D, Kayembe-Kitenge T, Mbuyi-Musanzayi S, Lubala Kasole T, Kabamba Ngombe L, Musa Obadia P, Kyanika Wa Mukoma D, Van Herck K, Avonts D, Devriendt K, Smolders E, Nkulu CBL, Nemery B. ‘Metal mining and birth defects: a case-control study in Lubumbashi, Democratic Republic of the Congo.’, Lancet Planet Health. 2020 Apr; <https://pubmed.ncbi.nlm.nih.gov/32353296/>.

<sup>168</sup> Pulitzer Centre, April 2021, The Cost of Cobalt, Conversation with Fiona Lloyd-Davies and Robert Flummerfelt,  
<https://pulitzercenter.org/blog/conversation-fiona-lloyd-davies-and-robert-flummerfelt-cost-cobalt>

<sup>169</sup> The Africa Report, 11 January 2021, The rush for gold is one of the ugliest market forces in the world,  
<https://www.theafricareport.com/55342/the-rush-for-gold-is-one-of-the-ugliest-market-forces-in-the-world/>

<sup>170</sup> Amnesty International and Afrewatch, 19 January 2017, This is what we die for,  
<https://www.amnesty.org/en/documents/afr62/3183/2016/en/>

<sup>171</sup> Global Witness, undated, The climate-critical Amazon rainforest is under major threat from destructive agribusiness. Brazil is also one of the deadliest countries in the world for land and environmental defenders, many of them from indigenous communities,  
<https://www.globalwitness.org/en/all-countries-and-regions/brazil/>

<sup>172</sup> Global Witness, 24 June 2021, New images of EU’s methane leaks expose deadly reality of gas industry,  
<https://www.globalwitness.org/en/press-releases/eu-methane-leaks-expose-reality-of-gas-industry/> See also Global Witness, 20 November 2019, For the future of the UK and the planet: Global Witness’ Challenges for the 2019 UK General Elections,  
<https://www.globalwitness.org/en/blog/for-the-future-of-the-uk-and-the-planet-global-witness-challenges-for-the-2019-uk-general-elections/>

<sup>173</sup> Global Witness, undated, Myanmar,  
<https://www.globalwitness.org/en/all-countries-and-regions/myanmar/>