

## THE SINO-CONGOLAISE DES MINES FACING THE CHALLENGE OF THE MILLENNIUM



How Sicomines deprived communities of  
their rights after polluting the environment

This publication received support from

 GoodElectronics



# THE SINO-CONGOLAISE DES MINES FACING THE CHALLENGE OF THE MILLENNIUM

How Sicomines deprived communities of their  
rights after polluting the environment

## **Content**

Acknowledgement .....	5
Acronyms.....	6
I. Executive summary.....	7
II. INTRODUCTION .....	10
1. Context.....	10
2. Value of the investigation.....	12
3. Brief presentation of the Sicomines.....	13
III. INVESTIGATION METHODS .....	15
1. Description of the inhabitants covered by the investigation.....	15
2. Data collection methods.....	15
IV. DUMPING OF CHEMICAL SUBSTANCES INTO THE LUILU RIVER BY SICOMINES .....	17
1. Scope of the problems.....	17
2. Communities living along the Lulu River .....	18
V. NEGATIVE EFFECTS OF THE INCIDENT AND PROBLEMS CAUSED .....	20
1. Negative effects of the pollution.....	20
A. Presentation of the facts.....	20
B. Socio-economic effects.....	21
2. Problems caused by the pollution .....	22
A. Public health problems.....	22
B. Concerns relating to the care and compensation for the victims .....	23
VI. ROLES OF STATE OFFICIALS AND THE JOINT COMMISSION OF INQUIRY .....	24
1. The role of local authorities.....	24
2. Role and critical analysis of the work of the joint commission of inquiry .....	24
VII. SICOMINES ATTEMPTS TO REHABILITATE THE AFFECTED SOCIAL AND PHYSICAL ENVIRONMENT .....	26
1. Considerations .....	26
2. Decontamination of the physical environment .....	26
3. Analysis of the situation .....	27
4. Compensation for the victims .....	27
5. Overview of the compensation.....	29
VI. LIABILITY AND SICOMINES' ROLE IN MANAGING THE INCIDENT.....	31
1. Analysis of the Sicomines company's role.....	31
A. Sicomines' legal standing vs that of the local inhabitants .....	31
B. Victims' claims.....	31
CONCLUSION AND RECOMMENDATIONS .....	33
ANNEXES.....	36

**This publication received support from**



The content of this publication is the sole responsibility of the author (AFREWATCH) and does not necessarily reflect the position of the EU.

## **Acknowledgement**

We are grateful to Mr Christian Alubati Katamea who carried out the field investigation, Mr Emile Wembelo Longa who reviewed the draft and Mr Richard Ilunga Mukena who coordinated the investigation.

We are thankful to Mr Patrick Bombi the Coordinator of the Luilu Association for sustainable development (ADDL) to have participated to the investigation.

We are also grateful to state officials for accepting to collaborate with the investigation team.  
We are thankful to GoodElectronics whose financial support was necessary to accomplish the investigation.

## **Acronyms**

ADDL	: Association for Sustainable Development of Luilu
AFREWATCH	: African Resources Watch
BCPSC	: Office of Coordination and Monitoring of the Sino-Congolese Programme
DPEM	: Department for the Protection of the Mining Environment
DR Congo	: Democratic Republic of the Congo
DRC	: Democratic Republic of the Congo
EIA	: Environmental Impact Assessment
IBGDH	: Initiative for Good Governance and Human Rights
IFC	: International Finance Corporation
NGO	: Non-governmental organisation
P.A.R.	: Plan for Risk Mitigation and Rehabilitation of the Environment
PGEP	: Mining Project Environmental Management Plan
SICOMINES	: Sino-Congolaise des Mines

## I. Executive summary

This report is the result of an investigation which AFREWATCH conducted in January and February 2017. The purpose of the investigation consisted in documenting the consequences of the incident that occurred on September 9, 2016 and in assessing the compensation process that Sicominés initiated. AFREWATCH is thus revealing to the international community the problems found and proposing solutions to government and company decision makers.

AFREWATCH documented the current impacts based on field investigation and populations testimonies regarding the contamination of the soil, vegetable gardens and the Luilu River. The findings include permanent health problems, especially in several villages. The results of the investigation confirm that no clean-up action has been taken in any of the areas affected by the incident. According to populations the investigation team to, the incident severely affected their living environment and means of subsistence. This report contains claims from communities demanding the cleaning up of contaminated soil and the compensation of the victims.

The results of this investigation show that compensation was only carried out in the Sapatelo neighbourhood. However, the consequences of the incident could be seen in the villages of Noa, Yenge and Sept. Claims by the local communities to State officials and to Sicominés mainly focus on compensation for the victims and clean-up of the physical environment.

In addition this report shows that the legal and regulatory provisions on protection of the socio-economic environment and compensation for local communities have not been applied effectively regarding compensation of the victims and reparation of the environment. AFREWATCH will rely on this report to make advocacy actions with the support of other groups from the international and domestic nongovernmental organisations committed to this matter in order to hold the company liable for the incident and, ultimately, for reparations for the losses and damage suffered by the victims and the environment.

This investigation revealed that while Sicominés did indeed compensate 24 people affected by the incident in the village of Sapatelo, other communities were still facing consequences of the incident and therefore were also entitled to receive compensation. Moreover, the fact that the Luilu River and the soil have not been cleaned up has a very negative effect on the living conditions of these communities because their fields, vegetable gardens and the Luilu River constitute their main source of income.

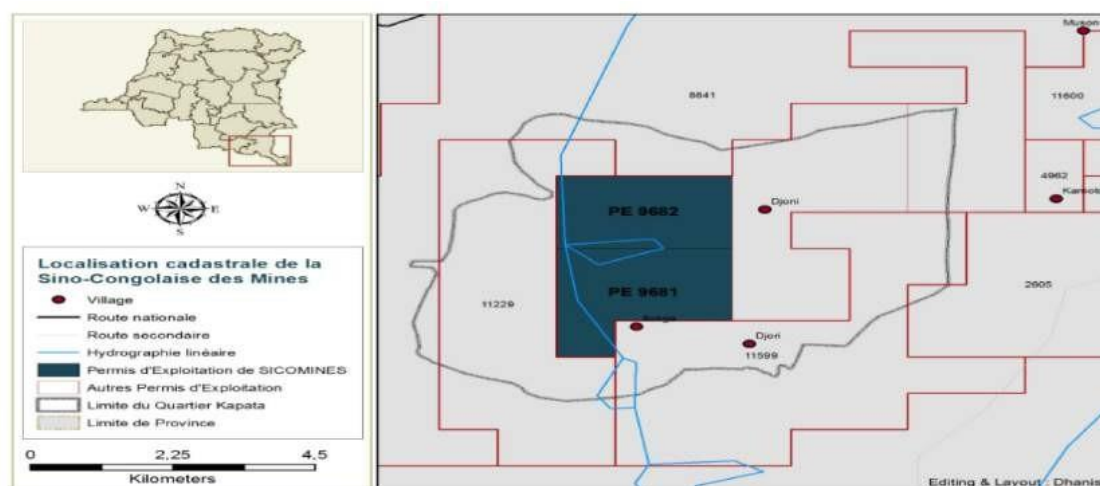
## II. INTRODUCTION

### 1. Context

The Democratic Republic of the Congo (DRC) is a country in Africa with major reserves of natural resources, including mining, oil and natural gas<sup>1</sup>. Research has shown that the DRC has 40% of world mineral reserves, worth US\$ 24 trillion<sup>2</sup>. in minerals, and more than 300 M bbl of oil and natural gas reserves<sup>3</sup>. This explains the significant growth of mining industries throughout the country, and especially in the provinces.

Reforms undertaken by the government in the early 2000's, under the aegis of the World Bank, resulted in the enactment of the Mining Code in 2002 and opening up of the mining sector to foreign capital<sup>4</sup>. The goal of this process was to open up the mining sector to attract more investors so that commercial use of the country's mineral resources would contribute significantly to its economic and social development<sup>5</sup>.

It was in this sense that the DRC and a Chinese consortium signed a collaborative agreement called a "programme for cooperation"<sup>6</sup>. According to that agreement, the profits from mining operations would first be used to reimburse mining investments and infrastructure, along with interest on them<sup>8</sup>.



<sup>1</sup>[https://static1.squarespace.com/static/52117f47e4b01103f3653a0f/t/552239d4e4b0adb698701c36/1428306388155/Natural+Resources+in+g7%2BCountries\\_fr.pdf](https://static1.squarespace.com/static/52117f47e4b01103f3653a0f/t/552239d4e4b0adb698701c36/1428306388155/Natural+Resources+in+g7%2BCountries_fr.pdf)

<sup>2</sup><http://www.congoforum.be/upldocs/Ressources%20naturelles%20rapport%20Allemand%20avril%202007.pdf>

<sup>3</sup> [http://postconflict.unep.ch/publications/DR Congo/RDCongo\\_PCEA\\_factsheet\\_French.pdf](http://postconflict.unep.ch/publications/DR Congo/RDCongo_PCEA_factsheet_French.pdf)

<sup>4</sup> <http://www.leganet.cd/Legislation/Droit%20economie/Code%20Minier/cd-codeminier.pdf>

<sup>5</sup> Exposé on grounds for Law 007/2002, of 11 July 2002 serving as the Mining Code. In order to mitigate this deficiency, the legislature had to set up new incentives legislation with procedures for granting mining or quarry rights that were objective, quick and transparent, that organised tax, customs and exchange statutes. That is the reason for the present Code.

<sup>6</sup> <http://static.tijd.be/pdf/congochina.pdf>

<sup>7</sup> Collaboration agreement of 22 April 2008 between the RDC and the Chinese consortium for the development of a mining project and infrastructure project in the RDC.

<sup>8</sup> Article 6.13 of Amendment 3 to the Collaboration Agreement.



On 26 October 2015, Sicominés began production operations. It planned to produce 125,000 tons of copper in the first phase and 250,000 tons in the second phase<sup>9</sup>.

One year later, the company was faced with the problem regarding the management of its waste water and toxic waste products. On September 7, 2016, an “incident” occurred at Sicominés and caused waste spill into the Luilu river. This dumping caused enormous social, economic and environmental damage to the villages of Sapatelo, Noa, Yenge and Sept. For the purposes of this investigation, we have interpreted the damage and losses as socio-environmental problems. More specifically, among the damage to the biophysical environment were destruction and reduction of biodiversity, pollution of the soil and water, reduced soil fertility, displacement of inhabitants and the depletion of fishing resources<sup>10</sup>.

However, with regard to this matter, the Mining Code contains provisions that should be enforced by the a State department entrusted to protect the mining environments<sup>11</sup>. This department offers technical assistance to the “Plan for Risk Mitigation and Rehabilitation of the Environment”, abbreviated (in French) as the “PAR”, to the Environmental Impact Assessment (EIA), and to the Mining Projects Environmental Management Plan, “PGEP”<sup>12</sup>.

In the interest of strengthening mechanisms for protection of the environment and the rights of local communities, the legislature passed a law guaranteeing everyone the right to a healthy environment propitious for their full development<sup>13</sup>, and the government was to take suitable measures to prevent, mitigate and eliminate any harmful effects on the environment and public health of chemicals and persistent organic pollutants<sup>14</sup>.

In practical terms, it is to claim compensation for the losses caused by the Sino-Congolese mining company to the environment and the communities, whose efforts are on-going, that AFREWATCH has conducted an investigation to bring up to date the effects of the dumping of various toxic chemicals that became flammable once they made contact with the river.

Based on the results of this investigation, AFREWATCH will collaborate with the coalitions of the international and domestic nongovernmental organisations to lead an advocacy campaign to hold the company liable for reparations for all the losses caused to both the inhabitants and the environment.

<sup>9</sup> <https://www.radiookapi.net/2015/11/16/actualite/economie/rdc-la-sicomines-envisage-de-produire-125-000-tonnes-par>

<sup>10</sup> [http://www.congominés.org/system/attachments/assets/000/000/604/original/Rapport-d\\_C3\\_A9valuation-des-im-pacts-de-la-Sicomines-sur-les-droits-humains-\\_C3\\_A0-Kolwezi.pdf?1430929364](http://www.congominés.org/system/attachments/assets/000/000/604/original/Rapport-d_C3_A9valuation-des-im-pacts-de-la-Sicomines-sur-les-droits-humains-_C3_A0-Kolwezi.pdf?1430929364)

<sup>11</sup> Article 14: From the Department of Mines

<sup>12</sup> Article 15: From the Department in charge of Protection of the Mining Environment

<sup>13</sup> The Law regarding fundamental principles of the environment; article 46 - Every person has the right to a healthy environment propitious for their full development. Everyone has a duty to defend that right by personal or collective action through all legal means.

<sup>14</sup> The Law regarding fundamental principles of the environment; Article 53 - The government shall take suitable measures to prevent, mitigate and eliminate any harmful effects on the environment and public health of chemicals, hazardous pesticides, and persistent organic pollutants.

## 2. Value of the investigation

On 7 September 2016, at around 3:00 pm, when the Sicominés dumped toxic substances into the Luilu river, loud explosions were heard along the river. The acid caused tremendous damage and exposed thousands of inhabitants in the Sapatelo, Yenge, Noa and Sept stinging odours and dense, heavily-loaded smoke given off, and to the risks of poisoning by eating infected fish.

Despite the lack of an investigation to ascertain the negative effects of this toxic substance, there was sufficient evidence exposing the following damages: burned crops, dead fishes by poison in the ponds and the Luilu river, sick children and women - some of them pregnant, as well as adults and the elderly, headaches, dizziness, abdominal and chest pain, bleeding and severe cases of bloody diarrhoea<sup>15</sup>.

In the evenings of 8 and 9 September 2016, the governor of the province of Lualaba broadcasted a press release over the local Kolwezi radio and TV stations (in Palmier and Manika) prohibiting populations living along the Luilu river to use its waters since they were unfit for human consumption. Sicominés gave the same instruction to the populations of Noa on September 7, 2016.

On Monday, September 12, 2016, a three-party meeting<sup>16</sup> was held at the governor's office of the Lualaba province gathering political and administrative authorities, civil society from Luilu and a Sicominés. Participants put in place a committee to assess the situation. Unfortunately, no timetable was defined for that commission's work and even the results of its investigation were never released to the public.

In reality, the negative effects of Sicominés mining exploitation disrupted the socio-economic life of the riverside communities who lost their hopes compared to the time the company started off.

For this reason, AFREWATCH published a press release denouncing the destruction of the inhabitants' fields and the pollution of the Luilu river by Sicominés. The investigations reveal that the dumping incident happened due to a technical failure in the handling of toxic chemicals, which flowed through a pipeline from a Sicominés' industrial facility into the Luilu River. When these substances came into contact with the river waters, there were loud explosions lasting nearly an hour that were heard by the inhabitants of Yenge, Sapatelo and Noa. AFREWATCH thus issued strong recommendations for clean-up, repairs and compensation for the victims.

A joint committee comprised of agents from the provincial government and legislature, and members of Lualaba civil society, visited the area to inspect the damage and produced an ad hoc situation report. The report should have laid down criteria for a good compensation for the victims.

---

<sup>15</sup> AFREWATCH press release issued on 19 September 2016

<sup>16</sup> The three-party meeting held at the governor's office and chaired by the provincial governor, included the presence of the Provincial Minister of the Environment, the mayor of that city, the mayor of the town of Dilala, Luilu civil society representatives, and a Sicominés delegation led by its CEO.

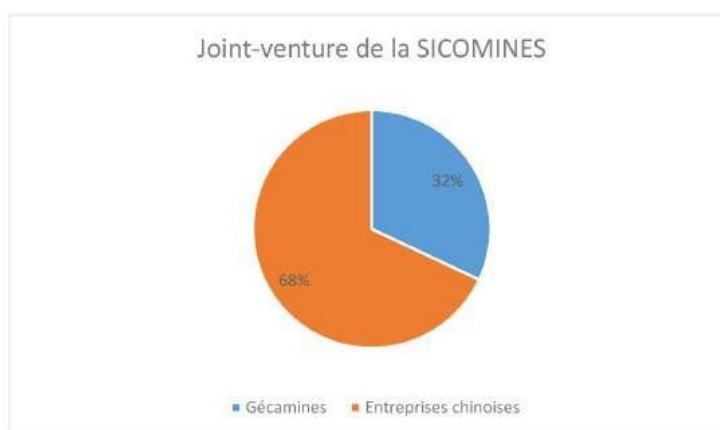
Most regrettably, very few victims have received fixed sums in the form of compensation.

AFREWATCH investigated the situation to prepare advocacy actions for the victims; the investigation updated the situation regarding the impact of Sicominex on communities.

### 3. Brief presentation of the Sicominex

The Sicominex project is the result of win-win diplomatic contacts between the DRC and the Republic of China. Under this mining agreement Sicominex is entitled to exploit ores while building new infrastructures in the DRC

Founded in December 2007, Sicominex is a company that mainly mines cobalt and copper in the new province of Lualaba, a former entity of the former province of Katanga. According to its articles of incorporation (2007), it is a shareholder company with limited liability, created under Chinese and Congolese capital for an initial period of 30 years<sup>17</sup>. Its shareholders include Gécamines, with a 32% share, and a Chinese consortium, with a 68% share<sup>18</sup>.



Other Chinese entities, such as the Exim Bank, which is a Chinese government financial institution and the main provider of funding for Sicominex, even though it did not sign the agreement, and the Chinese Business Council<sup>19</sup>, played a major role in setting up the project.

Two parties were involved in the implementation of this collaborative agreement; on one side the DRC Office for Coordination of the Sino-Congolese Programme (BCPSC)<sup>20</sup> oversees the activities and on the other side a consortium of Chinese companies (China Railway Group Limited,

<sup>17</sup> Collaborative agreement between the RDC and the Chinese consortium: China Railway Group Ltd, SinoHydro Corporation for the development of a mining project and infrastructure project in the RDC.

<sup>18</sup> [http://www.congominex.org/system/attachments/assets/000/000/604/original/Rapport-d\\_C3\\_A9valuation-des-impacts-de-la-Sicomines-sur-les-droits-humains-\\_C3\\_A0-Kolwezi.pdf?1430929364](http://www.congominex.org/system/attachments/assets/000/000/604/original/Rapport-d_C3_A9valuation-des-impacts-de-la-Sicomines-sur-les-droits-humains-_C3_A0-Kolwezi.pdf?1430929364)

<sup>19</sup> <http://static.tijd.be/pdf/congochina.pdf>

<sup>20</sup> [static.tijd.be/pdf/congochina.pdf](http://static.tijd.be/pdf/congochina.pdf) 22 avr. 2008 - concerning the development of a mining project and a ... the RDC, represented for purposes of the present 1.2.1 the Chinese consortium undertakes to mobilise and ...infrastructure works will be the subject of a special contract.

SinoHydro Corporation et Zhejiang Huayou Cobalt)<sup>21</sup>.

The funding linked to both development of the mine and construction of the infrastructure is subject to prior approval by the National Commission on Development and Reform in China, which is a Chinese government institution<sup>22</sup>.

Following eight years of study and prospection, the annual production of Sicominés is estimated at 125,000 tons of copper<sup>23</sup>.

However, according to Agence Ecofin, “the proven reserves of the copper mine owned by Sicominés were revised downwards, from 10,000,000 to 6.8 million tons. And, in 2008, the DRC granted Sicominés the exploitation licence, whereby the investment cost required to develop the mine amounts to some 3 billion dollars in return for the construction of schools, roads and railways”<sup>24</sup>.

---

<sup>21</sup> Collaborative agreement between the RDC and the Chinese consortium: China Railway Group Ltd, SinoHydro Corporation for the development of a mining project and infrastructure project in the RDC.

<sup>22</sup> In Amendment no. 3, point C, one can clearly see the participation of the Chinese Business Council in setting up both the mining and infrastructure projects

<sup>23</sup> <http://www.radiookapi.net/2015/11/16/actualite/economie/rdc-la-sicomines-envisage-de-produire-125-000-tonnes-par>

<sup>24</sup> <http://www.agenceecofin.com/cuivre/2705-11210-rd-congo-les-reserves-prouvees-de-la-mine-de-cuivre-de-sico-mines-revues-a-la-baisse>

### III. INVESTIGATION METHODS

#### 1. Description of the inhabitants covered by the investigation

The investigation consisted in speaking with people involved in the incident, specifically the local communities in the affected areas (Sapatelo, Noa, Yenge and Sept). In addition, the AFREWATCH team inspected various places affected by the toxicity of the chemical substances. Furthermore, a number of government agencies, including the Ministry of the Environment and the Lualaba Provincial Assembly, reacted to the concerns over this incident.

AFREWATCH's request to meet with Sicomines officials was unsuccessful; the investigation team received no answer<sup>25</sup>.

Here is an outline of the people AFREWATCH met with during the investigation; they represent all of the places affected by the incident as well as representatives of the government and the company:

Entité	Men	Women	Total
NOA	9	2	<b>11</b>
YENGE	11	5	<b>16</b>
SAPATELO	1	1	<b>2</b>
SEPT	3	0	<b>3</b>
JOINT COMMISSION OF ENQUIRY AND CIVIL SOCIETY	2	1	<b>3</b>
Total	4	<b>26</b>	<b>9</b>

In total, AFREWATCH interviewed 35 persons. Beside affected villages, the table above includes members of the joint commission of enquiry set up by the Lualaba provincial government to assess the consequences of the incident.

#### 2. Data collection methods

Discussions with all of the above-mentioned persons were conducted in the form of interviews through which information was collected. In addition, AFREWATCH visited affected places to consolidate the proofs and views expressed during the discussions.

The above table show the four villages which are crossed by the Luilu river (called otherwise Katapula) along which communities have vegetable gardens and to which Sicomines discharges chemical waste<sup>26</sup>.

<sup>25</sup> Letter no. 039/2016, dated 22/12/2016, to the Director of the Sicomines Legal Affairs department in Kolwezi to request a meeting.

<sup>26</sup> Sicomines discharges waste into the Luilu river which, in turn, pours its waters into the Lualaba river, as shown in the illustration on page 19.

In addition, the investigation team collected documents and took pictures which could be categorised as follows:

- Letters sent to political and administrative officials (governor, legislature, ministries)
- Photos related to the disaster
- Video on the incident that Sicominex caused
- List of victims

For this investigation, AFREWATCH started gathering the information when the incident occurred till field investigation in various affected areas.

In practice, our investigation used a participatory method with three key parties involved in the implementation of the mining project, i.e. the local communities, government agencies and company officials. Along with those, we added the legislators of the Lualaba provincial assembly.

This approach enabled local communities affected whose gardens burned to identify cases and provide information on the failure of the compensation process.

In practice, the investigation team collected data and information from a number of sources, including legal statutes regulating the mining sector in the DRC, Sicominex contract and its Amendment no. 3. The team also analysed mails between local communities, government agencies and the company.

Populations contributed to the investigation by providing their views and testimonies regarding the effects of the pollution on their vegetable gardens. In total, 35 people were interviewed and made forthright statements.

However Sicominex was not available to discuss about the incident; AFREWATCH sent a letter requesting a meeting but the team did not receive any feedback from the company. Nevertheless the investigation relied on Sicominex responses made during meetings with state and company officials.

## IV. DUMPING OF CHEMICAL SUBSTANCES INTO THE LUILU RIVER BY SICOMINES

### 1. Scope of the problems

On the night of 8-9 September 2016, a technical problem occurred at the Sicominex plant and caused the spill of a chemical substance into the Luilu river.

The acid was carried off by the river waters to the Lualaba river and thus crossed through several villages. A few hours after the incident occurred, local community members informed AFREWATCH about the damage caused. The statements we received on this matter converge: nearly everyone said they had noticed the effects of the incident on the morning of 9 September 2016.

One inhabitant of Luilu stated they had seen a blackish substance floating down the Luilu river. The investigation team also watched a video made by a human rights activist showing the Luilu river, where the water was unrecognisable due to the presence of a blackish substance extended over it. That same finding was reported by witnesses the investigation team interviewed.

The chemical substances poured through a pipeline from a Sicominex, spilled into the Luilu river; loud explosions were heard in next hour.

Villages located alongside the Luilu River were affected by the chemicals; horrible consequences were recorded including property and health damage to the inhabitants of Yenge, Sapatelo (5,000+ inhabitants), Noa (1000+ inhabitants) and Sept (~150 inhabitants).

These villages are located at distances of, respectively, 5, 7, 10 and about 45 km from the Sicominex facilities.

The investigation shows that the inhabitants suffered, for several hours, from acrid odours and dense smoke given off by the explosion in Sapatelo.

The water of the Luilu river and in local wells was poisoned. Many hectares of vegetables (cabbage, onions, tomatoes, spinach, carrots, peppers and amaranth) dried out in Noa by subsequent use of irrigation waters.

In Sapatelo, fields of cabbage, onions, tomatoes, spinach and amaranth were burn.

In the village of Sept, fishes died because of due to the toxicity of chemical. In terms of public health, more than 30 people, including 15 children and 4 pregnant women were directly affected in the above-mentioned villages. People who by mistake consumed dead fishes or vegetables suffered from cough, nose bleeds, and bloody diarrhoea as the case in the village of Sept.

Following severe consequences due to the incident, the governor of the Lualaba province released an official communiqué forbidding the inhabitants of Sapatelo and Noa to use polluted water from the Luilu river; the message was broadcast, on September 8 and 9, 2016, over local Kolwezi radio and TV stations (Palmier and Manika),.

Though a message has been sent out through media, no effective preventive measures had been taken by local officials, specifically the Department for the Protection of the Mining Environment (DPEM). In order to mitigate or eliminate the toxicity of the substance spilled into the Luilu river, Sicominés poured lime into it, which unfortunately did not produce the desired results since damages have already occurred.

Subsequently, Sicominés representatives initiated talks with the traditional leader of the Noa village to alert the inhabitants that they should not use water from the river and that they would be taken care of in terms of drinking water while awaiting complete clean-up of the river.

Unfortunately, since the incident happened, affected communities have not received any assistance from Sicominés; no significant initiative has been taken to help the victims. Sicominés occasionally supplied insufficient waters to inhabitants of Noa and Yenge. Due to the scarcity of waters, populations in Yenge had no choice but to use rain waters or travel 5 km to get waters at the Kaya source, and the inhabitants of Noa had to seek water from a source in Kamilembe, located 3 km.



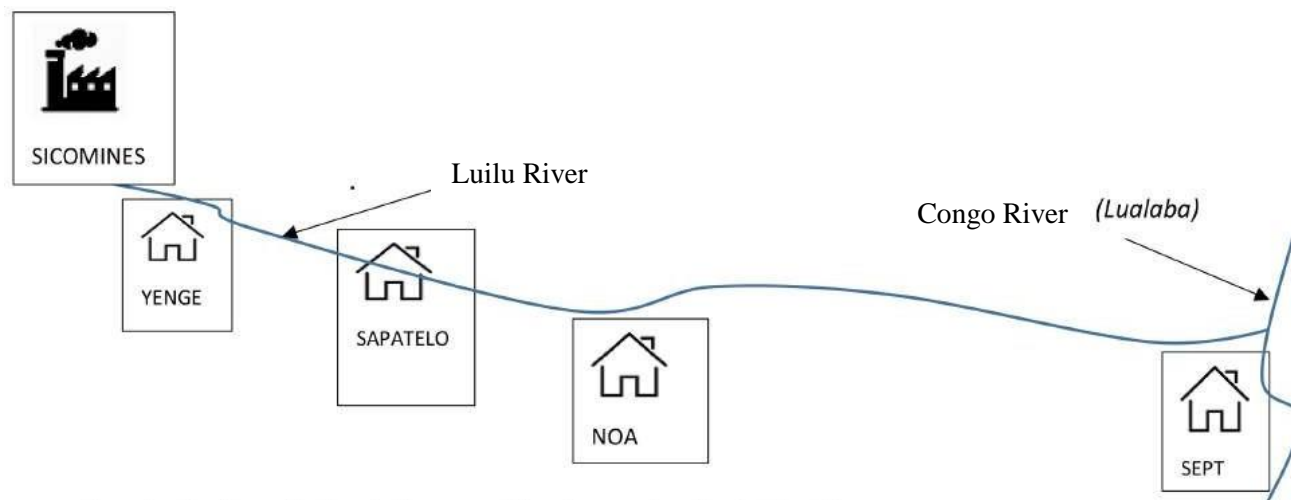
*Sicominés dumps its chemical waste directly into the Luilu river from this channel, on this photo.*

## 2. Communities living along the Luilu River

The investigation focused on communities living along the Luilu river and who have been affected by the dumping of the chemicals from Sicominés. Target areas are: Sapatelo, Noa, Yenge and Village Sept. Sapatelo is located in Luilu which is a residential area belonging to Gécamines workers; it is about 10 km from the city of Kolwezi. Noa is situated at 4 km away from Luilu; this village is governed by the traditional leader Chief Noa. There are around 430 households and 2,400 inhabitants living mainly on agriculture<sup>27</sup>. The Yenge village is located at 7 km away from Luilu; it is near the Sicominés plant, upstream on the Luilu river, and has 83 households. Lastly, the village of Sept is located 40 km from Kolwezi, downstream on the Luilu river and near the Lualaba river. Sept has 32 households and some 150 inhabitants.

<sup>27</sup> Statements received from the Noa traditional leader speaking about the Sicominés incident





*Illustration of villages affected by chemicals poured into the Luilu river*

## V. NEGATIVE EFFECTS OF THE INCIDENT AND PROBLEMS CAUSED

### 1. Negative effects of the pollution

#### A. Presentation of the facts

Environmental impact assessment plans for mining projects often underestimate potential health risks of such projects. However, those projects use toxic substances that are harmful to human health. Once those hazardous substances are in contact with the water, the air or the soil, they may produce terrible health effects. They may cause death or horrible diseases due to the high level of toxicity found in them. This constitutes a significant danger to human health or the environment if the substances are not properly handled<sup>28</sup>.

The Sicominex incident caused a number of health-related diseases; testimonies from populations revealed that dozens of persons, including pregnant women and children, were affected.

In addition people who inadvertently came into contact with contaminated waters, suffered from headaches and bleeding. Victims stated that they did not receive any assistance or compensation after having been profoundly harmed by the incident<sup>29</sup>.

Worst still, field visits of the joint commission of enquiry did not cover all villages while it was entrusted to investigate the matter from Sicominex down to Congo river. Populations' testimonies revealed that the joint commission of enquiry visited only Noa, Yenge and Sapatelo because these areas are located in the neighbourhood of Luilu and near the company's plants.

Regarding States business obligations, the United Nations Guiding Principles on Business and Human rights call upon governments to protect and respect human rights and to consider remedies and reparation for the victims<sup>30</sup>.

The investigation team analysed how well the situation was managed including assessing the level of assistance for the victims such as healthcare, compensation and waters decontamination. The findings show that the DRC government did not protect its citizens as required; no appropriate measure was taken to prevent Sicominex from infringing community's rights.

---

<sup>28</sup> [www.environnement.gov.ma/fr/strategies-et...risques/impact-sanitaire-pollution?id](http://www.environnement.gov.ma/fr/strategies-et...risques/impact-sanitaire-pollution?id).

<sup>29</sup> Meeting with the assistant district chief of the village of Sept in January 2017

<sup>30</sup> <http://www.diplomatie.gouv.fr/fr/politique-etrangere-de-la-france/diplomatie-economique-et-commerce-exterieur/peser-sur-le-cadre-de-regulation-europeen-et-international-dans-le-sens-de-nos/l-engagement-de-la-france-pour-la-responsabilite-sociale-des-entreprises/les-referentiels-internationaux-et-la-participation-de-la-france-a-leur/article/les-principes-directeurs-du-conseil-des-droits-de-l-homme-des-nations-unies-sur>

## **B. Socio-economic effects**

### **a) *Consequences regarding access to water***

Access to clean water was a problem that communities faced when Sicomines poured chemicals into the Luilu river. Due to the high risk of contamination and public health, the governor of the province of Lualaba prohibited the populations of Sapatelo, Noa, Yenge and Sept to consume the river's waters.

Under such circumstances, Sicomines should have provided clean water to all villages affected by the incident. However the company merely supplied clean water to inhabitants of Noa between 9 and 26 September 2016 on an irregular basis. Populations were served by a tank truck, twice a day. Since then, populations had received no further service. Furthermore, populations in Noa did not get enough water supply; they were forced to fetch source waters at Kamilembe, located at 3 km away.

The inhabitants of Yenge stated that they had received a tank truck of water on 3 different days on 9, 12 and 15 September 2016. A community leader stated that populations abandoned 5 wells because their waters became unfit to drink. When this assistance ended, populations had no choice but to consume rain waters or seek source water at Kaya located about 5km.

Populations deplored the poor assistance from the government and Sicomines; the lack of clean water had an impacted on communities farms and public health. Furthermore wells were not decontaminated; therefore populations could not water their farms.

The decision prohibiting the inhabitants to use water from the Luilu river and certain wells was a good news. However, the inhabitants lamented that the government had not provided an alternative means of supplying them with clean water. They were thus forced to travel several kilometres to obtain clean water.

### **b) *Consequences regarding agricultural activities***

Taking care of farms was the main concern of affected communities whom the investigation team spoke. Farming is the main means of subsistence for affected communities; it allow them to face livelihood expenses including paying school fees for the kids, supporting medical care, buying cloths... The problems were raised in three forms during our interviews with the victims: there was a risk of contaminating farms using polluted waters; a sharp drop in earnings due to the contamination of farms; and compensation for the victims.

These problems were mainly faced by the farmers in Sapatelo, Noa and Yenge. As mentioned earlier, over 4 hectares of vegetables (cabbage, onions, tomatoes, spinach, carrots, peppers and amaranth fruit, mainly in Noa) were charred by the flames that were provoked due to the presence of chemicals on the Luilu River.

In Sapatelo, an entire hectare of cabbages, onions, tomatoes, spinach and amaranth fruit was charred and destroyed. This incident caused food shortage in affected areas.

Regarding the Sicomines social responsibility, the company in collaboration with state officials should have sought other lands for the victims and provide these with technical assistance in handling farms.

## 2. Problems caused by the pollution

### A. Public health problems

Populations endured health problems due to the incident. Testimonies from the victims revealed that the inhabitants of Noa suffered for about 5 days from bloody diarrhoea, headaches, coughing, colds, and nose bleeds; and pregnant women were affected by the contaminated waters<sup>31</sup>.

The victims said that they had received no health assistance from the government, and even less so from the Sicomines company<sup>32</sup>. In contrast, that had to support medical care at their own expense at the nearest healthcare centres<sup>33</sup>.

The populations of Yenge endured the same health problems; they testified that they were victims of diarrhoea, vomiting, spontaneous abortions and eye disorders for which no health care had been provided<sup>34</sup>.

In the village of Sept, located at the junction of the Luilu and Lualaba rivers, there were no victims at the side of Lualaba River. However, the families living along the Luilu river side were indeed affected; an inhabitant of Sept testified as follows *“ten people in my cousin’s family living on the side of the Luilu river suffered from diarrhoea because they ate dead fishes”*<sup>35</sup>.

However Sapatelo was not concerned by health problems; its populations consume waters located far away from the Luilu river.

---

<sup>31</sup> Meeting with Noa inhabitants in January 2017.

<sup>32</sup> Meeting with Noa inhabitants in January 2017.

<sup>33</sup> The victims of the health problems mentioned were treated, at their own expense, at the Maman Godelieve, Uzima and Salama health clinics.

<sup>34</sup> Meeting with Yenge inhabitants in January 2017

<sup>35</sup> Meeting with the assistant district chief of the village of Sept in January 2017

**B. Concerns relating to the care and compensation for the victims**

The Congolese government should have applied national and international laws regarding medical care and compensation for the victims of the incident.

Communities were not included in any decision related to the compensation process. In this regards they were not able to comprehend the government calculations to fix the compensation amount. In addition these amounts were critically reduced by Sicominex. This clearly shows that the compensation process was not done according to the principles of free, prior and informed consent.

## VI. ROLES OF STATE OFFICIALS AND THE JOINT COMMISSION OF INQUIRY

### 1. The role of local authorities

The government's role in the process of identifying and compensating the victims was not clearly defined.

It became clear that public officials, especially the governor, were aware of the bad effects of incident when they prevented populations living along the Luilu river from consuming waters, fishes and vegetables.

The day after the incident, the provincial government of Lualaba took measures to prevent aggravation of the consequences of the incident. People testified that messages were broadcasted on TV and radio prohibiting consumption of vegetables farmed along the Luilu river. The assistant chief of the Sept village said he had heard such a prohibition on the radio, and inhabitants of Noa attested the communication was made by Mr Florent Mumba the head of the health district for Luilu.

The investigation team found that no provincial officials had visited the area to meet with the affected communities. In contrast, it was the victims who, in attempting to have their claims heard, had several times sought to meet with officials in vain. The victims were thus frustrated; they felt abandoned because their concerns had been overlooked.

Following the involvement of public officials, a joint commission of inquiry was finally put in place and talks started with the victims. Unfortunately, the investigation could not be undertaken as expected and therefore the victims could not have been assisted.

### 2. Role and critical analysis of the work of the joint commission of inquiry

A few days after the incident occurred, the Lualaba provincial government set up a joint commission of inquiry that was comprised representatives of the provincial government, the civil society and the Kolwezi public prosecutor's office.

The commission's mission consisted in documenting the consequences following the discharge of chemicals by Sicominés into the Luilu River on September 9, 2016; these effects included the alteration of the environment and health issues that affected the inhabitants of Sapatelo, Yenge, Noa and Sept.

According to statements by Mr Florent Mumba, the commission was instructed to produce a survey of the areas affected by the incident, ranging from Sicominés' land to the Luilu river, which flows into the Lualaba river. It was entrusted to document the facts in each village crossed by the Luilu river up to place where it flows into the river. He said that the commission had performed all the tasks and had released a public report to that end.

However, AFREWATCH's investigation team found a number of inconsistencies in the affirmations of the chairman of the joint commission of enquiry. He stated that a final report had been made public, but no copy of that report exists. AFREWATCH found no evidence that proves the existence of such report, and the Kolwezi civil society which took part in talks only heard about it but has never seen.

In this respect, it was hard to evaluate the work of the joint commission of enquiry without the report. Therefore, the only way the investigation team could verify the work of the commission was to compare the chairman's statements with the testimonies by the inhabitants and with facts observed on the field visits.

According to the chairman, Mr Florent Mumba<sup>36</sup>, the commission visited all of villages crossed by the Luilu River in order to document the damage and losses. However, AFREWATCH's investigation team found that the commission did not reach the village of Sept; populations of Sept revealed that they had received no such visit. This inconsistency undermines the credibility of the commission's work since all the affected areas by the incident were not covered.

---

<sup>36</sup> Interview with Mr Florent Mumba, coordinator of the joint commission of inquiry

## VII. SICOMINES ATTEMPTS TO REHABILITATE THE AFFECTED SOCIAL AND PHYSICAL ENVIRONMENT

### 1. Considerations

Sicomines should have repaired all damage caused to the environment and to persons, as required by national and international legislations regarding corporate environmental responsibility.

Exim Bank that finances Sicomines believes that the environmental monitoring and assessment of projects or investments should be done according to the standards of the International Finance Company (SFI)<sup>37</sup>. And yet, the SFI recommends that companies adopt an Environmental and Social Management Plan, based on which they can “*treat and mitigate the risks and impacts identified during the assessment, and seek to avoid, minimise the impact and adopt compensation measures*”<sup>38</sup>.

Based on the above instruments, Sicomines should have clean up the Luilu River and compensate the victims. To date, the Exim Bank has taken no action compelling Sicomines to comply with such regulations.

### 2. Decontamination of the physical environment

Article 49, of Law no. 11/009, of 9 July 2011, containing basic standards for protection of the environment, stipulates that “*it is forbidden to dump waste products or substances likely to pollute the marine environment, to alter or degrade the quality of surface or underground water, both on land and at sea, to harm their biological resources and coastal eco-systems, and to endanger public health. Waste dumped into the water comprises any spills, effluents, discharges, immersion or the direct or indirect depositing of any solid, liquid or gaseous substance. These are subject to regulations relating prohibition, declaration or authorisation*”. Sicomines infringed these provisions by discharging chemicals.

As a result, a Sicomines poured lime to reduce the toxicity of the chemical substance the Luilu River<sup>39</sup>; however this effort was insignificant because it was done too late whereas the substances had already flowed down the river. This action had no effect since the biological resources and other eco-systems had already been exterminated. The chemicals affected vegetables and crops that populations were consuming.

The investigation team found that Sicomines did not take any strong decontamination measure since the soil was still undermined by chemicals. Yet the above-mentioned national law no. 11/009 requires reparations, and that all costs relating to the prevention, containing and reducing the pollution, or rehabilitating affected sites supported by the polluter<sup>40</sup>. Investigations reveal that dead

<sup>37</sup> Environmental and Social Due Diligence Procedures and Guidelines June 27, 2013 as revised December 12, 2013, article 11

<sup>38</sup> The Equator Principles, 2013; [http://www.equator-principles.com/resources/equator\\_principles\\_french\\_2013.pdf](http://www.equator-principles.com/resources/equator_principles_french_2013.pdf)

<sup>39</sup> Interviews conducted with Mr Florent Mumba on January 4, 2017

<sup>40</sup> Article 12, of law no. 11/009, of 9 July 2011, containing basic standards for protection of the environment. The costs incurred for the prevention, for combating pollution and reducing it, or for the rehabilitation of polluted sites are to be borne by the polluter.



fishes that were found dead following the incident were unhealthy to be consumed.



*On the left, two inhabitants of the village of Yenge showing a canal and pipeline through which Sicomines' waste are poured into the Luilu river. On the right, an inhabitant of the village of Sept deplors the quality of the Luilu river waters at downstream.*

### 3. Analysis of the situation

Following the discharge of chemicals into the Luilu River<sup>41</sup>, Sicomines should have ensured that the River is decontaminated the soonest in order to prevent any potential damage. Mr Florent Mumba<sup>42</sup> disclosed that, one day after the incident occurred, Sicomines poured lime into the river to reduce the toxicity of the chemical substance; however populations claimed that their wells located along the Luilu river were not cleaned up.

In reaction to a question about the pollution, Mr Florent Mumba<sup>43</sup> claimed that Sicomines was not the first company to pollute the Luilu River; the river's waters were already polluted by Gécamines. He added that Sicomines poured lime into the river to reduce the toxicity of the waters but not to depollute it.

The waters of the Luilu River had been polluted for many years and declared unfit for human consumption. Victims' testimonies indeed affirmed that the fields of the inhabitants of Sapatelo, Yenge, Noa and Sept were located along the Luilu river. One of them said: *"we prefer to use wells dug next to the river to water our field; because of this incident, we no longer know whether that water can be used for our vegetables and what might happen to us latter"*<sup>44</sup>.

In reality the lime poured onto the Luilu River served to decrease the acidity of chemicals and prevent the contamination of wells due to waters infiltration.

### 4. Compensation for the victims

Victims are entitled to indemnification and compensation for all losses of goods and assets. The indemnities and compensations to be paid shall be determined by government experts in compliance

<sup>41</sup> Statements made by Mr Florent Mumba

<sup>42</sup> Mr Florent Mumba speaking as the chairman of the joint commission of inquiry

<sup>43</sup> Mr Florent Mumba speaking as the chairman of the joint commission of inquiry

<sup>44</sup> Statements taken from inhabitants of the villages of Yenge and Sept on 4 January 2017

with domestic legislations<sup>45</sup>.

*In addition, the Article 281 of the 2002 Mining Code stipulates that “Any occupation of land that deprives those entitled to use of the soil, and any change that makes the land unfit for farming, shall imply, for the rights holder or implementer of the mining and/or quarry rights, at the request of the rights holders to the land and at their convenience, the obligation to pay a fair indemnity corresponding to either the rent or the value of the land during its occupation, plus half of that sum”.*

On this basis, Sicominés should indemnify everyone affected by the incident that occurred on September 7, 2016. Given that the substances flowed from Sicominés into the Luilu river, which feeds the ponds, vegetable gardens and farmers’ fields in the villages of Sapatelo, Noa, Yenge and Sept, all the victims in those villages should be compensated.

The investigation proves, unfortunately, that the work done by the so-called joint commission of inquiry did not cover all of the areas affected by the incident. People found in Sept said that they had never seen any member of the commission in their area. This means that the commission’s results are biased.

However, according to some members of the commission, only the inhabitants of Sapatelo were affected by the incident. They were thus the only ones concerned by the compensation for their destroyed fields and, furthermore, the only ones visited by the commission.

Given the eligibility criteria for compensation, the nature of the incident and the environment where it occurred, commission’s consultations should have taken place in a much broader framework and with substantial community input. That would have required the presence of officials from Sicominés, representatives of the affected communities, the victims, local officials and traditional leaders of the communities. Government agencies are to determine the scales and rates of indemnification and the means of payment of the indemnities and compensation for all losses incurred. In the case at hand, the eligibility criteria for compensation are unknown.

According to Mr Florent Mumba, it seems that some villages were not affected by the incident and were thus not concerned by the compensations. Based on no factual considerations, especially since the joint commission inquiry did not visit those villages, that argument was directly contradicted by the inhabitants of Noa and Sept, where there were also victims of the incident.

---

<sup>45</sup> Guidelines on procedures for the expropriation, indemnification, displacement or relocation of communities affected by mining projects in the DRC, published by the POM, December 2015

## 5. Overview of the compensation

The investigation team identified 24 victims who were compensated; they all had farming activities Sapatelo neighbourhood district. Synoptic

Number of victims identified	Types of farming	Amount in US\$
9 persons lost fruit trees due to flames	Fruit trees: mangoes, oranges, mandarin, avocado; pawpaw	Varying between 95\$ and 2067\$
15 persons lost their gardens due to flames	Tomatoes, onions, cabbages etc.	

The highest amount paid was \$2,067 to one victim, who had lost 30 banana trees and 1 avocado tree; and the lowest amount was \$95 to a person who had lost 2 plots of amaranth.

Investigation conducted by AFREWATCH shows that the amount set by the commission did not take into account either market prices of the agricultural products, or even the scale set by the Article 281 of the Mining Code regarding compensation. This means that the paid amounts did not take into account all the aspects regarding a lost property, especially the sacrifices made by the owner, the usefulness of the goods, the affective value between the owner and the goods, and the social and anthropological bonds. This was the case of the fruits and vegetables, and the fruit trees, which could have produced substantial revenue for their owners during their entire life. The compensation amounts varied between \$95 for the amaranth gardens to \$2065 for the fruit trees.

The incapacity to hold a fair process in consulting local communities showed the Congolese government failure to ensure that the victims were properly consulted and had effective input into the compensation process. Calculations made by the president of the informal association of Sapatelo horticulturists (aka Maendeleo) show that the sale value of the products from their fields would have been \$17,000, but the members of that association received only a collective amount of \$5,000 as compensation.

The above-mentioned problems have had a real and sustained negative effect on the daily life of the affected communities. By losing their gardens, the inhabitants of Noa have lost their crops including pistachios, beans, manioc, groundnuts and other crops.

In the village of Yenge, the investigation team surveyed 30 farmers who said they would have a hard time to survive after the destruction of their gardens. Some families can no longer get enough to eat since their vegetable gardens were their main source of revenue. Three women farmers in Yenge stated that [previously] they were able to sell their crops to purchase medications and to support school fees for their kids. In Sapatelo, a 66-year old man, who asked to remain anonymous, expressed that after the end of his career at Gécamines, farming was his only means of subsistence that enabled him to feed himself and his family. In his case, he was earning his living from agriculture.

In the villages of Yenge, Sapatelo, Noa and Sept, and in surrounding areas, there are more women

farmers than men. Most of them are now unemployed because of the destruction of their fields and the soil; their concerns were not considered and the gender approach was ignored by Sicominés and the Congolese government. The inhabitants of these villages have been demanding fair and equitable compensation based on the worth of their plants, the affective value between them and their goods and the social and anthropological bonds.

Following the work of the joint commission of enquiry, only the inhabitants of Sapatelo were chosen for compensation because their vegetable gardens were consumed by fire<sup>46</sup>. This interpretation clearly excludes victims from other places and ignores the pollution of the Lulu river.

According to the same source, compensation was paid only to the victims in Sapatelo, of which 24 people in total were compensated by Sicominés on 7 October 2016.

The chairman of the joint commission of inquiry told the investigation team that all problems regarding the incident were solved, all of the victims were compensated; therefore this case was closed.

However, the victims in Sapatelo contest this modest compensation paid and have expressed their anger with Sicominés.

In their discussions with the AFREWATCH investigation team, the victims said they would have preferred that the compensation applies to their association rather than individual persons<sup>47</sup>. The members of that association practices communal farming and knew what each person contributed, and they thus wanted the association to be compensate rather than individual persons. This unofficial farmers' cooperative denounced the fraudulent practices of the compensation process since those who received payment had to sign a document that they were not allowed to carry away or even obtain a copy of. The absence of any proof of payment thus seems to justify the absence of transparency in the modest amounts paid to a few victims and that Sicominés sought to hide.

---

<sup>46</sup> Statement by Mr Florent Mumba speaking as the chairman of the joint commission of inquiry

<sup>47</sup> Statement by the president of the Sapatelo Maendeleo Association of 15 vegetable farmers

## VI. LIABILITY AND SICOMINES' ROLE IN MANAGING THE INCIDENT

### 1. Analysis of the Sicomines company's role

#### A. Sicomines' legal standing vs that of the local inhabitants

Various legal statutes govern the liabilities of mining companies in their relationships with the communities affected by their investments. In the RDC, the Mining Code characterises one population group affected by a mining project as dependent *"on the presence of a body of water on or near the project land worked that is used as a source of clean water or water for subsistence by a population group"*<sup>48</sup>. Although the inhabitants living along the Luilu river do not directly depend on its water for drinking and other household and farming needs, they preferred to dig their wells along the river to take advantage of the shallowness to reach the water table. Those wells are, in a fashion, an extension of the river, and in that sense the inhabitants of Yenge, Noa, Sapatelo and Sept are affected by the Sicomines mining project.

Establishing a clear relationship between the mining project and the affected inhabitants is the key condition for determining the mining company's liability to the inhabitants.

Moreover, the above-mentioned national law containing basic standards for protection of the environment requires that mining companies *"develop and implement suitable industrial safety measures and set up an emergency action plan describing the measures required to manage industrial accidents and limit their effects on the environment and public health. This plan shall be made known to competent local authorities and neighbouring inhabitants"*<sup>49</sup>.

This provision concerns the development and distribution, by the company exploiting the natural resources, of the emergency action plan in case of industrial accidents. We find that Sicomines did not apply such an emergency action plan, if it had one, when the incident occurred. Statements by the inhabitants and our own findings show that the company took no action in terms of implementing emergency actions to mitigate the consequences of the incident and assist the victims.

#### B. Victims' claims

Communities who were victims of the Sicomines incident have filed a number of plea actions to obtain reparation for the damage incurred. In this regard the AFREWATCH investigation team collected statements and documents from the inhabitants.

A few days following the incident, the inhabitants of Yenge set up a delegation that should have met and spoke with the governor of the Lualaba province. They reported that their meeting was not productive because, in their words: *"The governor told us sarcastically to harvest and eat our*

<sup>48</sup> Article 480 of the Mining Code of 2003: on inhabitants affected by the mining project

<sup>49</sup> Article 40 of law no. 11/009, containing basic standards for protection of the environment

*manioc (cassava) tubers and then wait to see if we died*"<sup>50</sup>. The inhabitants of Yenge then sent a letter to Sicomines officials denouncing the company's pollution of their water sources. This letter is part of the enclosures of this report.

In another letter (attached) sent to Sicomines in September 2016, the village chiefs of Yenge and Noa described their sufferings since the incident occurred and expressed their claims.

Here are a few extracts from that letter: The inhabitants affected demand that Sicomines provides fair compensation to the victims of the pollution in Yenge and Noa, drill new wells in the villages affected by the pollution, and recommend that the government of the province of Lualaba ensure to clean up of the Luilu river and supervise indemnification of the victims by Sicomines.

The inhabitants of the village of Sapatelo took measures to claim fair compensation after denouncing the lack of transparency in the process of reparations to the victims for damage and losses. Sapatelo was the only community to which Sicomines agreed to provide compensation, in an arbitrary manner<sup>51</sup>.



*The president of the Sapatelo Maendeleo Cooperative and her husband, explaining their horticultural activities*

In turn, AFREWATCH met with the vice president of the Lualaba provincial assembly on 21 March 2017. During that meeting of nearly 1 hour, all the matters at hand were discussed, specifically the reality of the pollution, the lack of transparency in the process of identifying and compensating the victims, and the government's failure to protect the rights of the communities. The assembly official and AFREWATCH representatives reviewed the major problems surrounding the work of the joint commission of inquiry. The official promised to involve the legislative body in the protection of the rights of communities affected by the incident. In order to pursue these advocacy actions, AFREWATCH requested meetings with Sicomines, state officials in the province of Lualaba for clarification of the situation, specifically the provincial governor and minister of the environment. Neither official responded to the request.

<sup>50</sup> Reaction of the governor of Lualaba province during a meeting with the delegation from the village of Yenge

<sup>51</sup> The Sapatelo Maendeleo Cooperative provided AFREWATCH with copies of the claims from their 15 members, sent to government and Sicomines officials to object to the arbitrariness in the process of evaluation of property and compensation of the victims.

## CONCLUSION AND RECOMMENDATIONS

Since the release of chemicals into the Luilu river by Sicominés in September 2016, AFREWATCH has closely monitored the process for compensating the victims and for reparation of the damage and losses incurred by the inhabitants.

This investigation has explained the physical and human health aspects of the incident, and examined the responsibilities of the Lualaba provincial government and the work of the joint commission of inquiry.

The investigation has shown that Sicominés is liable for taking care of the victims, for their compensation, and for cleaning up both the Luilu river and the contaminated soil. AFREWATCH's analysis was based on written documents and statements made by the victims.

Only the owners of the vegetable gardens in Sapatelo were taken into consideration for the compensation operation because, according to Sicominés, their gardens were damaged by the fire due to an explosion. However villages that were excluded from the compensation process reported cases of contamination of their vegetable gardens. Furthermore, provincial authorities prohibited the sale of crops from Yenge and Noa, for which Sicominés refused to compensate the victims; in addition Sicominés provided potable water to the inhabitants of those villages when it was proven that their wells were contaminated.

Meanwhile, in Sapatelo, the victims were compensated under deplorable conditions, not conducive to transparency. Despite complaints by those who received payments, many irregularities were reported in this respect. The victims were forced to sign documents without knowledge of their contents, and anyone who protested was threatened with exclusion from the operation. There was no logical relationship between the amounts paid and the damage and losses caused to the individual gardens of the inhabitants. Those who received payments were not allowed to keep any evidence that they had been paid.

As for the depollution of the Luilu river and, eventually, the surrounding soil, Sicominés said that it spread lime into the river to mitigate the acidity of the chemical substance. That operation occurred late and did not take into account the contaminated wells located near the river.

The assistance provided to the victims after the incident was deplorable: the inhabitants of Noa and Yenge received tank truck of clean water respectively two and three times on an irregular basis. Since then, they have had to travel long distances to get their clean water supply.

A number of households which lost their farms are living now in misery they have lost their means of subsistence.

The current effects of the incident on the livelihood of communities are: contamination of the soil, water table, fish ponds and vegetable gardens; the pollution of the Luilu river; and on-going health problems, especially in the village of Sept.

This investigation has confirmed that the legal and regulatory statutes governing the protection of

the socio-economic environment and compensation of the local communities were violated, and the joint commission of inquiry did not comply with the standards set for reparations and compensation. Meanwhile, AFREWATCH detected the following contradictions regarding Sicominés' actions, the work of the joint commission of inquiry, and the government's intervention:

- Although the provincial Lualaba government did not compensate the victims of Yenge and Noa by Sicominés, it prevented those communities from consuming their horticultural products. That decision confirms that the chemical substance had negative consequences for which the victims deserved to receive assistance.
- The joint commission of inquiry set up by the provincial government said it investigated the effects of the dumping of acid from the Sicominés land down to the the Congo (Lualaba) river. AFREWATCH learned from the victims that this commission has never visited the village of Sept, where the waters of the Luilu flow into the Lualaba and where harmful effects were also found. AFREWATCH investigators reached that distant place.
- The joint commission of inquiry affirmed that all the matters relating to the Sicominés incident were solved and the case had been declared closed, whereas the victims are continuing to claim their rights since not everyone was selected to receive compensation.

Given the above, AFREWATCH recommends that:

The Sicominés company should:

- identify and compensate all of the victims of the pollution without discrimination in Noa, Sapatelo, Yenge and Sept; in this regards the compensation should reflect the value of the property damaged.

The Congolese government should:

- ensure that Sicominés complies with the standards and rules on the protection of the environment regarding mining exploitation;
- discharge the joint commission of inquiry which failed to investigate the matter as required;
- appoint a new commission that would investigate objectively the incident and facilitate the compensation for all the victims,
- ensure that all the victims are compensated and all damage repaired .

The Exim Bank should:

- ensure thatSICOMINES complies with the recommendations of the IFC regarding corporate environmental and social responsibility, and take appropriate measures on the company for failing to assist the victims.

The Communities should:

- form a committee that should initiate talks with state and company officials regarding compensation for the victims



The NGO's should:

- assist the victims through the claim process .

## ANNEXES

1. *AFREWATCH Press Release N°02/AFREWATCH-ADDL-IBGDH/09/2016*
2. *Joint letter from the communities of Noa and Sapatelo*
3. *Letter from the village of Yenge*
4. *List of the victims in Sapatelo*

Association pour le  
Développement Durable  
de Luilu (ADDL)



COMMUNIQUE DE PRESSE N°02/AFREWATCH-ADDL-IBGDH/09/2016

**« La pollution de la rivière Luilu par SICOMINES cause d'énormes dégâts  
sur les communautés locales de Kolwezi »**

Dans leur mission de protection et de promotion des droits humains, African Resources Watch (AFREWATCH), l'Initiative Bonne Gouvernance et Droits Humains (IBGDH) et l'Association pour le Développement Durable de Luilu (ADDL), trois organisations non gouvernementales des droits humains, expriment leur vive préoccupation au sujet de la pollution de la rivière Luilu suite à une fuite d'une substance toxique des usines de la Sino-Congolaises des Mines (SICOMINES)<sup>1</sup> et exigent une enquête sérieuse qui conduirait à l'établissement des responsabilités et réparations pour les victimes.

En date du 07/09/2016 vers 15 heures, à la suite du déversement des substances toxiques dans la rivière Luilu par l'entreprise minière SICOMINES, des fortes explosions qui ont duré plus d'une heure ont été perçues le long de la rivière. Ces substances ont causé d'énormes dégâts et exposé plus de 8000 habitants des villages Yenge, Sapatelo, Nowa, Mpambeji, Tshibalenji et Sept aux risques permanents des odeurs piquantes et d'une fumée compactée très chargée dégagée.

Malgré l'absence d'une enquête pouvant établir avec exactitude les impacts négatifs de cette fuite de la substance toxique, il y a lieu de noter les dégâts suivants : brûlure des produits vivriers ; mort des poissons par contamination des étangs et dans la rivière Luilu ; souffrance des enfants, des femmes dont certaines enceintes, des adultes et des vieillards, des maux de tête, de vertiges, des douleurs abdominales et thoraciques, de saignement et des fortes et sanguinolentes diarrhées.

Dans un communiqué du gouverneur de la province du Lualaba, diffusé le soir du 08 et du 09/09/2016 sur les antennes des radiotélévisions locales de Kolwezi (Palmier et Manika) et par l'entretien d'un responsable de SICOMINES avec le chef du village Nowa le 07/09/2016, il a été interdit aux populations longeant la rivière Luilu, d'utiliser cette eau.

Il sied de signaler que le lundi 12/09/2016, une réunion tripartite<sup>2</sup> s'est tenue au gouvernorat de la Province de Lualaba entre les autorités politico-administratives, la société civile de Luilu et une délégation de SICOMINES au cours de laquelle, une commission a été mise en place pour évaluer la situation. Malheureusement, la durée de la mission de cette commission n'a pas été fixée.

En attendant les conclusions de cette commission, les populations victimes n'ont à ce jour reçu aucune importante assistance ni des autorités politico-administratives provinciales moins encore de SICOMINES.

<sup>1</sup> La SICOMINES en sigle est un partenariat établi le 28 avril 2008 entre la RDC représentée par la Gécamines avec 32% de parts sociales et un groupement d'entreprises chinoises avec 68%.

<sup>2</sup> La réunion tripartite tenue au siège du gouvernorat et présidée par le Gouverneur de province a connu la participation du ministre provincial de l'environnement, du maire de la ville, du bourgmestre de la commune de Dilala, des membres de la société civile de Luilu et d'une délégation de SICOMINES conduite par son Président du Conseil d'Administration.

Les ONG soulignent que la fuite de la substance toxique constatée dans les usines de Sicominés est contraire aux articles 49 et 57 de la loi sur la protection de l'environnement qui stipulent respectivement : « *Sont interdits la détention, le dépôt ou l'abandon à des endroits non appropriés des déchets de toute nature susceptibles de provoquer des odeurs incommodantes, de causer des nuisances et des dommages à l'environnement, à la santé et à la sécurité publique* » ; « *Est interdit tout rejet des déchets ou substances susceptibles de polluer le milieu marin, d'altérer ou de dégrader la qualité des eaux de surface ou souterraine, tant continentales que maritimes, de nuire à leurs ressources biologiques et aux écosystèmes côtiers et de mettre en danger la santé. Les rejets dans l'eau sont constitués de tout déversement, effluent, écoulement, immersion et tout dépôt direct ou indirect de substance solide, liquide ou gazeuse. Ils sont soumis au régime d'interdiction, ...* »,<sup>3</sup>

Eu égard à ce qui précède, AFREWATCH, IBGDH et ADDL recommandent :

**a) Au gouvernement national et à l'assemblée provinciale du Lualaba de :**

- exiger une contre-expertise pour l'évaluation des dégâts environnementaux et la mise en œuvre des mécanismes d'indemnisation et de prise en charge des victimes de la pollution ;
- assurer le suivi du travail d'enquête, intégrer et garantir la représentativité de chaque village victime dans la commission en dehors de celle de la société civile ;
- se rassurer que les victimes soient réellement indemnisées et que la rivière soit dépolluée par Sicominés ;
- se rassurer que les victimes reçoivent une assistance médicale gratuite.

**b) A l'entreprise SICOMINÉS<sup>4</sup> de :**

- assurer réellement la prise en charge des populations victimes par l'approvisionnement en eau potable, l'indemnisation, la prise en charge des cas de troubles de santé, la dépollution totale et rapide de la rivière Luilu et des terres arables ;
- être responsable de la sécurité environnementale compte tenu des impacts de cette contamination des moyens de subsistance des communautés locales.

**c) Aux ONG locales de :**

- accompagner les communautés locales dans la revendication de leurs droits légitimes ;
- veiller sur la qualité de l'indemnisation des victimes et de la réelle dépollution de l'eau et de terres arables.

**d) Aux populations victimes et locales de :**

- exiger la représentativité au sein de la commission mixte pour un meilleur suivi des obligations des partenaires ;
- se mobiliser pour exiger un suivi sérieux des autorités étatiques pour le respect des engagements par les responsables de SICOMINÉS.

Fait à Lubumbashi, le 19/09/2016

AFREWATCH-IBGDH-ADDL

**Contacts**

AFREWATCH : Emmanuel Umpula, [info@afrewatch.org](mailto:info@afrewatch.org), +243 818577577

IBGDH : Donatien Kambola, [ibgdhasbl2016@gmail.com](mailto:ibgdhasbl2016@gmail.com), +243 99 48 34 158

ADDL : Patrick Mbombi, +243 821084991

<sup>3</sup> Articles 49 & 57 de loi n° 11/009 du 09 juillet 2011 portant principes fondamentaux relatifs à la protection de l'environnement en RDC in Journal officiel, n°spécial du 16 juillet 2011.

<sup>4</sup> Article 12, op. cit., « *Les coûts résultant des mesures de prévention, de lutte contre la pollution et la réduction de celle-ci ou de remise en état des sites ou paysages pollués sont supportés par le pollueur* ».

République Démocratique du Congo  
Province du Lualaba  
Territoire de Mutshatsha  
Groupement de Mwilu  
Commission de suivi

- Copie pour information :  
Au Gouvernement provincial
- Copie pour information :  
A l'Assemblée provinciale
- Copie pour information :  
La Mairie
- Copie pour information :  
A la société civile
- Copie pour information :  
Programme Humanitaire pour le  
Développement « PHD »

Objet : la Revendication

A Monsieur le Responsable de  
la société SICOMINES

SICOMINES, nous populations victimes de cette pollution, c'est-à-dire village  
YENGE, NOA, SAPATELO, ....

Nous avons constaté que l'eau de la  
rivière Luilu était affectée par des produits de couleur noire qui dégageaient des  
odeurs nauséabondes.

Par les communautés de NOA, vers  
13h00 locale dans la rivière même une explosion de feu coulé sur la rivière, une  
grande fumée qui montait plus haut presque jusqu'à la hauteur de quelques  
distances de plus ou moins 100 mètres, est une grande partie de la place était en  
obscurité par ce fumé de feu. Toute la population du parage c'est approchée pour  
voir que ce qui a eu ; alors on a vu que la rivière était contaminée par les produits  
toxiques déversées dans cette rivière par la société minière SICOMINES.  
Ces acides coulés jusqu'au fleuve Lualaba.

Lors de cet évènement les services  
différents étaient descendus sur place pour voir de quoi s'agit-il ? Il s'agissait des  
produits toxiques. Un communiqué du Gouvernement provincial du Lualaba diffusé  
sur une chaîne locale a demandé aux populations riveraines de ne pas utiliser ou  
consommer l'eau de la rivière Luilu et de ne pas vendre ou acheter les légumes de  
ces villages cités ci-haut.

Suite à un dysfonctionnement au sein d'une société minière de la place. Les communautés de YENGE ont confirmé que ce bel et bien SICOMINES qui est responsable, car nous avons trouvé ses agents Chinois et Congolais entrain de récupérer les acides et nous leurs avons posé la question où allons-nous puiser de l'eau ? En plus hier Dimanche 11/09/2016, SICOMINES a placé dix agents au niveau du pompage Lulu de 07h00 à 11h00 pour couper les herbes afin de libérer le passage des acides. Et aussi ces agents ont interdit à la population de ne plus consommer les légumes de ces entités.

- Du 07 au 08/09/2016, les populations riveraines n'ont pas eu accès à l'eau potable. C'est seulement à partir du 09/09/2016 à 17h25 un camion-citerne appartenant à SICOMINES est arrivé aux villages NOA et SAPATELO pour ravitailler les populations en eau. Alors que celles de YENGE n'ont pas bénéficié aucune goutte d'eau et sont obligés de se rendre à 15 Km pour s'approvisionner en eau.

Nous vous signalons que ces villages vivent de la culture maraichère et potagère quotidiennement en passant par cette eau de la rivière.

- Voici les nombres des victimes maraichères et ceux-là qui ont mis leurs maniocs dans l'eau pollué par l'acide de la société SICOMINES.
- Nous avons : YENGE 75, NOA 62, SAPATELO 14, le reste du nombre (voir Papa MAKULA) pour SAPATELO.

En effet, quelques personnes ont commencées à vomir, il y a eu aussi la démangeaison, la respiration difficile, l'hémorragie externe, la pollution environnementale.

#### Difficultés :

- la famine, manque d'argent pour la scolarisation des enfants, parce qu'on avait interdit de ne pas vendre les produits maraichères.
- Les légumes étaient abimées.
- Rareté des légumes en circulation (au marché)
- Les activités maraichères ne marchent pas bien

Ces dommages exigent des réparations urgentes de la part de la Société SICOMINES.

Face à ce qui précède, les populations victimes recommandent à la Société SICOMINES :

- d'indemniser de manière équitable les victimes de la pollution à partir du village YENGE, NOA, SAPATELO, etc.
- Forer les puits d'eau au profit de tous les villages affectés par la pollution.
- La construction des écoles dans les villages
- L'électrification dans les villages
- Construire les centres de santé moderne
- Examiner les santés de la population
- Appuis des intrants agricoles

**Au gouvernement provincial :**

- De veiller à ce que la rivière soit dépouiller et réhabilité conformément aux normes nationales et internationales en la matière.
- Veiller à une indemnisation équitable et juste de toutes les victimes
- Veiller à ce que le Gouvernement provincial fait son rôle.

**A l'Assemblée Provinciale :**

- Interpeller SICOMINES et d'initier une enquête afin d'établir les responsabilités
- Veiller à ce que les membres de la Commission mise en place pour s'occuper de l'indemnisation des victimes s'abstiennent de tout acte de compromission au détriment des victimes.

**A la Mairie :**

- Veiller de garder ou protéger son peuple

**A la société civile du Lualaba :**

- Accompagner les victimes dans tout le processus d'indemnisation
- Veiller à ce que les membres de la commission mise en place accomplissent leur travail au profit des victimes.

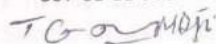
Fait à Kolwezi, le ...../09/2016

Pour tout contact

1. KAPENDA SAMUKEU Philippe  
Président  
082 55 78 209



3. THUNGA NDONDJI EDOUARD  
Secrétaire  
097 63 53 768



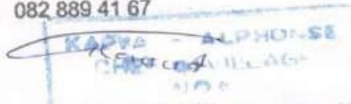
2. LUPUWE KUZUNGA Crispin  
V/Président  
081 173 72 39



4. KAUMBA ILUNGA MERIE  
Relation publique

**Le Chef du village NOA**

KAPYA Alphonse  
082 889 41 67


**Le Chef du Village YENGE**

MBAKA MUSANGU  
085 34 85 711

REPUBLIQUE DEMOCRATIQUE DU CONGO  
PROVINCE DU LUALABA  
VILLE DE KOLWEZI  
TERRITOIRE DE MUTSHATSHA  
GROUPEMENT MWILU  
VILLAGE YENGE

OBJET : LA PETITION DU VILLAGE

YENGE A YENGE

✓ A tous les responsables de la société SICOMINES

Nous les habitants du village YENGE, notre village était fonde depuis 1979 à l'époque de la société GECAMINES GCM Notre rivière KALEMBA est la rivière dont ont consommé de l'eau, et cette rivière on faisait même la pêche de toutes sortes de poissons et on a grandi nos enfants et les scolariser, nous n'avions plus des problèmes avec la Gécamines maintenant depuis l'arrivée de la société SICOMINES comme notre voisin de notre village et quand on a mis l'usines a cote de nous et entourer des bassin de rejet contenant des acides, nous constatons l'eau devient désagréable tous les villageois du village YENGE se plaignent pour raison de l'eau à boire parce que tous nos puits sont au bord de la rivière Kalembe tout l'eau du bassin SICOMINES est entrain d'entré dans nos puits.

Comment vivre cette fois si à propos de l'eau, l'eau c'est la vie ?

NB : On dit que le pré vaillance coute très chers que la sécurité

1. Nous sommes entourées des bassins à rejet d'acides
2. Nous consommons l'eau maintenant aux sources de la rivière KAYA presque a 5 kilo mètre avec un Bidon sur la tête Est-ce que comment faire l'agriculture face à cette situation ?

Donc nous demandons à tous les responsables de la société SICOMINES de nous protéger avant qui ait un mauvais dégât mortel parce qu'il y a beaucoup de malade qui souffre à cause de l'eau.

Merci



## ASSOCIATION SAPATELO

MAENJELEO

ASM (ASBL)

## LISTE DES JARDINIERS.

- |      |                              |        |
|------|------------------------------|--------|
| 1 -  | CHEF SAPATELO BINDA TSHIKUMA | 20/30  |
| 2 -  | PAST. MVULA KAUMBA ANDRE     | 20/50  |
| 3 -  | KALIMA MAFO HENRI            | 26/30  |
| 4 -  | KAMASONGO NANDONA EMELIE     | 20/50  |
| 5 -  | KATULUSHI MUTULA             | 10/25  |
| 6 -  | JINGA OMBA MATIRDI           | 20/30  |
| 7 -  | NDZI KASHIRIKILU             | 10/10  |
| 8 -  | TUPILA MUKONKO               | 15/50  |
| 9 -  | KALEMA <del>MWANE</del>      | 20/25  |
| 10 - | KUTEMBA ANNIE                | 10/10  |
| 11 - | KAYOMBO TSHIKUTA JACQUES     | 10/10  |
| 12 - | MWAKU TSHAKWANBA DAVID       | 10/10  |
| 13 - | KUMBIZO MAKONGA              | 10/5   |
| 14 - | MUZALA TSHILENGA MOÏSE       | 20/35  |
| 15 - | KENGE                        | 10/10. |

## CONTENU - CHOUX-DE-CHINE

- CHOUX-POMME

- EPINARD.

- MAÏS.

- OIGONS (CBOULETTES.).

- TOMATES.

- PLANTES : MANGUIER, AVOCATIERS,  
GERMOIRS DES ORANGERS, MANDARIN  
ET POMMIERS. (PAST. MVULA KAUMBA  
CANNES A SUCRE et oserignes.

- |      |             |
|------|-------------|
| 16 - | PAULIN      |
| 17 - | KAUMBA      |
| 18 - | KANONDA     |
| 19 - | KARANGA     |
| 20 - | PUJINGA     |
| 21 - | PAPY        |
| 22 - | REBEKA      |
| 23 - | PAPY AFRICA |
| 24 - | KAKONSE     |
| 25 - | ROZETTE     |

- les bananiers.

ASSOCIATION SAPATELO

MAENDELEO

AS.M. (ASBL)


LISTE DES JARDINIERS.

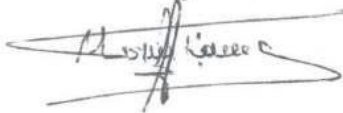
- 1 - CHEF SAPATELO BINDA TSHIKUWA
- 2 - PASTEUR MVULA KAUMBA
- 3 - KAMASONGO NANDONA
- 4 - KUTUZUSHI SAMUEL
- 5 - NSONJI KASHIBIKILU
- 6 - KAYOMBO JACQUES ✓
- 7 - MWAKU TSHAKWANDA
- 8 - ~~KUTUBA~~ ANNIE
- 9 - ~~JH~~ OMBA MATIRDE ✓
- 10 - ~~GA~~ KAWANGU ✓
- 11 - ~~MUZALA~~ TSHILENGA NOIS.E ✓
- 12 - KALEMA ~~NOIS.E~~ YOANE ✓
- 13 - ~~NOIS.E~~ KENGE ✓
- 14 - KALIMA MAFU HENRI ✓

CONTENU

- CHOUX SECHINES
- CHOUX POMPES
- EPINARDS
- OIGNONS (Bboulettes)
- CAROTTES
- ARBRES FRUITIERS - Avocats
- Manguiers
- Orangers
- Mandariniers
- Pommiers
- TOMATES
- CANNES A SUCRE

tous abimés  
Par l'acide  
de la SIFCO  
~~SA~~  
SOKOMINE

Présidente - KAMASONGO 

Suivi - Past. Nwuler 

# AFREWATCH

African Resources Watch

## Sectors of activities

AFREWATCH focuses its activities on the exploitation of natural resources including the mines, hydrocarbon and hydrology. Cross-cutting issues include artisanal mining, climate change, hydropower, protection of human rights defenders, security services in the mines. Three programmes have been put in place to approach these issues and implement various activities:

- Human rights: communities rights, protection of the environment, child and women rights
- Governance: legal framework and transparency
- Advocacy: advocating for change

## Mission

- Advancing human rights in the extractive sector
- Increasing the participation of citizens in managing natural resources by promoting access to resources and information
- Holding governments and companies accountable for the exploitation of natural resources
- Working for the improvement of African policies regarding the exploitation of natural resources

## Means of actions

- Monitoring
- Research
- Advocacy
- Publication
- Judicial assistance
- Capacity building

## Working tools and target groups

- EITI, UNGP, Universal periodic review, ILO convention n°169, national legislations
- Communities, firms, banks, public institutions, parliament, universities, ECOSOC, NGOs ( GoodElectronics, OECD Watch, ACCA)

## Why creating AFREWATCH?

- The need for having good governance practices (State obligations and corporate social responsibility)
- Mismanagement of natural resources across Africa
- Lack of expertise needed in the civil society across Africa
- Absence of advocacy actions to address human rights and environment issues

## CONTACT

Tel. +243 82 230 4800

Email: [info@afrewatch.org](mailto:info@afrewatch.org)

Website: [www.afrewatch.org](http://www.afrewatch.org)

Physical address: 1856 Maman Yemo avenue, Makutano, Lubumbashi, Haut-Katanga, DRC