



Photo: "The Kipoi Copper Mine" Energyst.com

Has the IFC investment in a Congolese copper mine brought benefits to local residents or the country?

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I. ACKNOWLEDGEMENTS; NOTE TO READERS

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Finally, the authors would like to say thank you to the Bank Information Center (BIC) for its technical and financial support, which helped us to conduct this study.

To our readers:

Following preparation of this report, the authors requested comments from IFC. The authors were advised, to our surprise, that IFC had divested its equity in and closed its loan to SEK in 2020, facts not divulged on IFC's website or in prior exchanges on the topic.

The authors decided to proceed with publication of this report as the authors believe 1) the impacts (and missing benefits) of SEK's operations on the local communities and their environment still need to be addressed by SEK, the government, and (to the extent they have means and agency) by the communities themselves; and 2) the findings of impacts here may be instructive as an example, mostly of what needs to be improved or avoided, for future mining investments, especially those that benefit from IFC financing, for which IFC's Performance Standards will apply.

II. ACRONYMS AND ABBREVIATIONS

ACIDH	: Action Against Impunity for Human Rights
AFREWATCH	: African Resources Watch
BIC	: Bank Information Center

CF	: Congolese Francs
CM	: Mining Code
COMIN	: Congo Minerals
CSR	: Corporate Social Responsibility
DRC	: The Democratic Republic of Congo
EIA(S)	: Environmental (and Social) Impact Assessment
EITI	: Extractive Industries Transparency Initiative
ESMP	: Environmental and Social Management Programme
GCM	: Générale des Carrières et des Mines
HP	: Hydrogen Potential
IFC	: International Finance Corporation
MDB	: Multilateral Development Banks
MP	: Mining Permit
MR	: Mining Regulation
NGO	: Non-Governmental Organization
NR	: National Road
OECD	: Organization for Economic Cooperation and Development
PS	: Performance Standards
SEE	: Société d'Exploitation du gisement de l'Etoile
SEK	: Société d'Exploitation de Kipoi
SPRL	: Private Limited Company
Tiger	: Tiger Resources Limited
UNDP	: United Nations Development Programme
US\$: United States Dollars
WBG	: World Bank Group

III. EXECUTIVE SUMMARY

The Democratic Republic of Congo promulgated the revised Mining Code on March 9, 2018 and its Mining Regulations on June 8, 2018. This new legislation contains several innovations in general and, in particular, on Corporate Social Responsibility (the 0.3 allocation of turnover for contribution to community development,¹ the mining royalty,² and the specifications)³ which, properly applied, can significantly sort out a huge number of community frustrations accentuated by the mining sector's low contribution to community development.

The revision of the Mining Code raised a lot of hope for the improvement of the living conditions of the populations around SEK through the standardization of how to contribute to community development and the compulsory nature of Corporate Social Responsibility.

Based on data collected in the field, this study, which updates the May 2016 report named "Report on the impacts of mining activities in Katanga: focus

1 Article 258a: Endowment Funding for the Community Development Project

2 Article 242: Distribution of the mining royalty

3 Article 285f (p. 109) : Specifications. Available at https://www.mines-rdc.cd/fr/wp-content/uploads/Code%20minier/J.O._n%C2%B0spe%C3%ACcial_du_28_mars_2018_CODE_MINIER%20DE%20LA%20RDC.PDF

on SEK (Société d'Exploitation de Kipoi) on the local communities", reveals how rudimentary the development of the local communities around SEK has been.

The finding is similar to that of 2016, which highlighted the fact that the living conditions of local communities around SEK were far from improving because they lacked access to basic social services. The lack of schools, health centers, electricity and drinking water in almost all of SEK's area of operation is a telling indicator of this situation.

SEK is one of the mining companies that have not yet signed the specifications with the communities concerned. This process has not even begun. This is due to the weak commitment of the company to the effective application of the provisions of the revised Mining Code on community development and the implementation of its social responsibility.

This is surprising because SEK received an investment in 2015 from the International Finance Corporation, whose performance standards (PS) require consideration of impacts on local populations, for example, "Depletion or degradation of natural resources, which may adversely affect, among other things, the quality, quantity and availability of drinking water" (PS 4, para. 8).



Map showing location of Kipoi copper mine, coordinates 11°12'52"S 27°03'26"E.

IV. RECOMMENDATIONS

To the IFC:

- Make sure SEK operates in strict compliance with the IFC Performance Standards, including PS1 (Assessment and Management of Environmental and Social Impacts and Risks, especially with regard to informed consultation and participation), PS3 (Resource Efficiency and Pollution Prevention, including water and soil), and PS4 (Community Health, Safety and Security);
- Make continued investment in SEK conditional on the implementation of the performance standards by this company;
- Obtain and update on the IFC website the Indicators and Measures for 2018 and 2019 for direct jobs (#) [in operations and maintenance], direct jobs for women, annual payments to government (M\$), community development spending (\$), people benefiting (#), domestic procurement (M\$ and MT), and routine procurement (M\$);
- Add to the indicators and measures of investment success: forest in or adjacent to the SEK concession restored or added with native tree species (# ha.); open wells with drinking water in the five villages closest to the SEK concession (#); percentage of processed wastewater; reduction in pollution of rivers downstream of the mine (number of contaminants reduced to safe levels for swimming or drinking).

To the Government:

- Make sure SEK complies with its Sustainable Development Plan for the local communities, its Environmental Impact Assessment (EIA), and its Environmental and Social Action Plan.

To SEK:

- Extend social projects (school, water and health center) beyond Kangambwa village, as the other neighboring villages not only have rights, but lack basic social infrastructure;
- Facilitate transportation for teachers and students who are forced to travel 2 up to 10 km every day;
- Support the school by taking charge of part of the payment of the teachers as well as by supplying operating costs;
- Hire a qualified resident doctor to manage the

Health Center and handle medical tools;

- Equip the Health Center in Kangambwa, supply pharmaceutical products, and build other health centers in other riverside villages;
- Add hydrants to meet the water needs in other villages, including Lwafi, Lukutwe, Hewa Bora and Katanga;
- Train the inhabitants on its project so that they are eligible for the different positions and avoid taking advantage of the legal vacuum to continue to exploit the inhabitants by making them sign 22-day contracts;
- Relaunch the agricultural support project for farmers in order to enable them to fight hunger and revive the local economy;
- Complete all other actions planned in the Environmental and Social Action Plan;
- Follow the advice of IFC social and environmental specialists and their performance standards, and exercise informed consultation and participation (ICP) with the aforementioned villages in carrying out the steps described above.

To the local communities:

- Claim from the Lufira sector their share of the mining royalty funds paid by SEK to their entity;
- Obtain their participation in the decision-making process on matters that affect them;
- Use SEK's consultation and grievance mechanisms or, if not satisfied, the IFC mechanisms.

To the Lufira sector:

- Share the mining royalty funds with the local communities directly affected by the SEK project by initiating community projects related primarily to water and health;
- Report on the management of the mining royalty funds to the local communities and the general public.

1. INTRODUCTION

1.1. CONTEXT AND RATIONALE

In 2016 AFREWATCH and ACIDH conducted a study on the KIPOI project. The study consisted of assessing the contribution of SEK in the development of the riverside communities as well as identify the impacts of this project on the environment.

At the end of that study, on the basis of factual data collected in the field, these two organizations revealed that the living conditions of these local communities were far from improving for they had no access to basic social services. This was due to the company's weak commitment to implementing its social responsibilities. Of the four villages within its reach, only one benefited from some basic infrastructure, while the other three continued to face multiple challenges related to health, water, education and employment.

In addition to the social issues, the 2016 report also noted environmental problems caused by the mining operations of SEK on water and soil in the villages around.

The 2015 expansion of the project from the IFC loan and investment not only increased production by 25 kTpa, but also raised the hopes of the local communities about the benefits they expected from the project. Thanks to the innovations that it enshrines for the initiation of local development, the revision of the Mining Code has obviously sealed this conviction.

However, no significant change is yet seen within the local communities around SEK. Hence, the need for AFREWATCH and BIC to initiate a study on this company in order to re-identify the social achievements by this company for the communities, but also to identify negative impacts of this project on the environment. As an update study, this research will therefore consist of evaluating the implementation of the 2016 recommendations in order to identify improvements and problems.

1.2. OBJECTIVES OF THE STUDY

1.2.1. Overall Objective

To research and monitor the Kipoi Copper Mine Project, and to update and complete the 2016 documentation and existing reports related to the environmental and social impacts of the KIPOI

project considering IFC Performance Standards as an investor in SEK.

1.2.2. Specific Objectives

- To conduct in-depth interviews and discussions with project-affected communities, SEK and its workers in order to identify existing gaps in the local communities' and civil society's commitment;
- To identify and analyze environmental risks to communities and conduct field research to assess and quantify the environmental, social, and economic impacts associated with SEK's project implementation and mining operations;
- To compare SEK's practices to the IFC Performance Standards, note those that do not comply, and consider the value of setting up inclusive grievance mechanisms;
- To update the 2016 Joint Report with the statistical data and the events from 2016 to present;
- To set up and maintain direct involvement with SEK and other relevant stakeholders on how the project is being implemented, how communities and stakeholders are engaged, key areas for improvement.

1.3. RESEARCH METHODOLOGY

In order to conduct this study, the AFREWATCH team used both analytical and comparative methods. The analytical method consisted of analyzing the field data, and the comparative method helped the researchers to compare the current situation with that of 2016, given that this study tends to update the report of 2016 jointly published by AFREWATCH and ACIDH on the same company.

Documentary, interview and free observation techniques were used to support the above methods. The documentary technique helped us to review all the documents related to the subject of our study. The interview technique consisted of interviews and exchanges that the researchers had with the local communities both individually and in groups (focus groups), and the free observation technique helped the researchers to feel the reality on the ground by themselves in order to draw conclusions.

1.4. LEGAL FRAMEWORK OF THE STUDY

The mining sector in the DRC is currently substantially under Law No. 18/001 amending and

supplementing Law No. 007/2002 of July 11, 2002 on the Mining Code⁴ and Decree No. 038/2003 of March 26, 2003 on Mining Regulations as amended and supplemented by Decree No. 18/024 of June 8, 2018.⁵ This new legislation contains several innovations, particularly on corporate Social Responsibility (the 0.3 allocation of turnover for contribution to community development,⁶ the mining royalty⁷ and the specifications.⁸

In addition to these two pieces of legislation comes the Constitution of the Republic. The 2006 Constitution⁹ devotes a title to human rights, fundamental freedoms and the duties of the citizen and the State. The first chapter has 23 articles dealing with civil and political rights, the second with economic, social and cultural rights and the third with collective rights.

At the international and regional level, there are principles and treaties to which the DRC acceded and by which it has to abide. For instance, there are:

- The International Covenant on Economic, Social and Cultural Rights;
- The International Covenant on Civil and Political Rights;
- and the African Charter on Human and Peoples' Rights.

⁴ https://www.minesrdc.cd/fr/wpcontent/uploads/Code%20minier/J.O._n%C2%B0_spe%C3%A9cial_du_28_mars_2018_CODE_MINIER%20DE%20LA%20RDC.PDF

⁵ http://congominer.org/system/attachments/assets/000/001/550/original/J.O._n%C2%B0_sp%C3%A9cial_du_12_juin_2018_REGLEMENT_MINIER_Textes_coordonn%C3%A9s.pdf?1553851275

⁶ Article 258 bis: Endowment for contribution to community development projects

The holder of a mining right or permanent quarrying authorization is required to make up, free of tax on profits and earnings, an endowment for contribution to community development projects, the minimum amount of which is equal to 0.3% of the turnover of the financial year during which it is made up.

The endowment must be entirely made available to the local communities before the end of the fiscal year following the one during which it was made up.

⁷ Article 242: Distribution of mining royalties

The mining royalty is paid by the holder of the mining title at the rate of :

- 50 % to the Central Government;
- 25% paid into an account designated by the Administration of the province where the project is located;
- 15% to an account designated by the decentralized territorial entity in whose jurisdiction the mining operation is carried out;
- 10% to the Mining Fund for Future Generations.

⁸ Article 285e: The specifications

In accordance with this law, the specifications define the social responsibility of the holders of mining rights or permanent quarrying authorization with respect to local communities affected by the mining activities. The purpose of the specifications is to guide and organize the implementation of the commitments of the holders of mining exploitation rights or permanent quarrying authorizations related to carrying out socio-economic infrastructures and social services for the benefit of local communities affected by its mining activities.

The holder of mining exploitation rights or of the permanent quarrying exploitation authorization has, from the time of the issuance of their mining and/or quarry title and at the latest within six months before the beginning of exploitation, to elaborate and hand in the specifications defining the social responsibility towards the local communities affected by the mining activities and obtain the approval of the Provincial Government after the advice of the technical services

⁹ Constitution of the Democratic Republic of Congo as amended by Law No. 11/002 of January 20, 2011 revising certain articles of the February 2006 constitution, available at www.journalofficiel.cd

2. PRESENTATION OF THE SEK COMPANY

2.1. SHAREHOLDERS

SEK (Société d'Exploitation de Kipoi) is a limited liability company under Congolese law. It was created on September 5, 2000 under the name SEE (Société d'Exploitation du gisement de l'Etoile) by the creation contract number 417/6789/SG/GC/2000 between Gécamines, a public company under Congolese law, and Congo Minerals SPRL (COMIN), another company under Congolese law whose shares are 60 percent. Two amendments to the contract were made on March 7, 2007 and January 14, 2009. In 2010: Tiger Resources Limited, which is listed on the Australian stock exchange, acquired COMIN, which owned 60% of the shares in SEK. The acquisition was financed by Trafigura,¹⁰ a multinational trading group. In October 2014, the same company also acquired the 40% belonging to GECAMINES, so SEK became 100% owned by Tiger Resources Limited.¹¹

In December 2015, the International Finance Corporation (IFC) of the World Bank Group approved a copper mine project in Kipoi, DRC. SEK's financing from the IFC allowed for an expansion of the mine to increase production by 25 ktpa and its infrastructure capacity. The cost of this expansion was budgeted at US\$162.5 million, of which IFC financed US\$40.5 million (in the form of debt), and may invest or have invested up to US\$5 million in new equity in Tiger. According to Tiger's report (p.7), IFC investments amounted to US\$ 50.8 million in debt and 11.3% of equity as of December 31, 2018.

2.2. GEOGRAPHICAL LOCATION OF THE OPERATING AREA

SEK (Société d'Exploitation de Kipoi SA) operates in the province of Haut-Katanga, the Democratic Republic of Congo, 75 km from Lubumbashi, in the central part of the Katanga copper belt. These mining permits cover an area of 55 km² and contain a 12-km-long segment mineralized largely with copper and cobalt. The project covers five copper and cobalt deposits named as follows: Kipoi centrale, Kipoi Nord, Kileba, Judeira, and Kaminafitwe.

SEK is located 75 km from Lubumbashi and 7 km

from the National Road (RN) covered by the following Mining Permits: PE11383, PE 11386, PE 533, PE 11385 and PE 11384. SEK currently produces 25,000 tons of copper cathodes per year.¹²

2.3. SOCIOLOGICAL DATA OF THE AREA

Several villages are located around the company's operating site, including Kangambwa (approximately 2,300 inhabitants), Lwafi (more than 600 inhabitants), Bungu-Bungu (3,200) and Hewa Bora (300 inhabitants).

The livelihood of these villagers is mainly extensive farming of market garden crops such as tomatoes, peppers, eggplants, onions and the annual cultivation of corn, groundnuts, beans, cassava, soybeans and sweet potatoes. In addition to that, there are also the family breeding of goats, sheep, chickens and ducks, and the making of charcoal and the small trade of rural products.

For several years and even prior to SEK, these villages were deprived of educational, health, water and electricity supply facilities, as well as buying and selling points for the inhabitants. The reasons for these plagues of underdevelopment are mainly the lack of political will and community development policy.

Consequently, owned by Tiger Resources Limited, an Australian company, SEK is bound by strict compliance with the national legislation of the Democratic Republic of Congo, the International Bill of Human Rights and the OECD guidelines.¹³ In addition, SEK is required to comply with the Performance Standards of the International Finance Corporation.

10 See for example <http://www.proactiveinvestors.com.au/companies/news/7536/tiger-resources-takes-ownership-of-congo-minerals7536.html>

11 EITI Reconciliation Report DRC 2013, p.160, available at <https://eiti.org/files/Rapport%20de%20Conciliation%20ITIE%20RDC%202013%20-%20Final%20-%20PG.pdf>

12 SEK flyer given to the public during consultation for the expansion project, January 2016

13 Australia is a member of the OECD. Point XIV, on general principles, calls for companies to engage with relevant stakeholders by providing them with meaningful opportunities to make their views known when planning and making decisions about projects or other activities that may have a significant impact on local people. It should be noted that the OECD principles are voluntary.

3. SOCIAL ACHIEVEMENTS AND ENVIRONMENTAL IMPACTS OF THE SEK PROJECT

Under the 2002 Mining Code, Corporate Social Responsibility (CSR) was not compulsory. Therefore, mining companies could not be penalized for not having carried out social actions. The contribution to social development was made on a voluntary and non-binding basis. However, Article 69e¹⁴ obliged companies to have a plan for the project's contribution to the development of riverside communities. The lack of clarity in the law made it difficult for local communities to monitor the implementation of this development plan with mining operators.

But with the revision of the mining code that occurred in March 2018, the Congolese legislator not only made CSR compulsory, but also introduced several innovations that contribute to its implementation in order to materialize the development of communities impacted by mining projects. According to article 285e of the Mining Code, the holder of mining rights is required to contribute, during the period of its project, to the definition and the achievement of socio-economic and industrial development projects of the local communities affected by its project activities.¹⁵ This contribution is made on the basis of the signature of the specifications, the mining royalty to be paid directly to the Decentralized Territorial Entity and the allocation of 0.3% of the turnover to community development. This is relevant not only as a legal obligation, but also as a condition of funding, according to the IFC Performance Standards.¹⁶

However, three years after the law came into force, the social situation of the local communities around SEK has not changed. Despite the fact that SEK paid the mining royalty to the Lufira sector, as we will see later, the kick-off of local development is not always obvious. Also, SEK has not yet signed the terms of reference with the communities. Moreover,

the implementation of the 0.3% is slow because the government does not hurry up in setting up the procedure manual in accordance with Article 414f of the 2018 Mining Regulations.¹⁷

Failure to comply with these provisions of the Mining Code and some IFC Performance Standards has a direct impact on the lack of basic infrastructure development in local communities.

In the following points, we address these issues:

- Access to education
- Access to clean water
- Access to electricity
- Access to health care
- Access to employment, etc.

3.1. SOCIAL ACHIEVEMENTS BY SEK

3.1.1. Access to education

Two schools were built in 2012 by SEK in Kangambwa. Named respectively "MAISHA YA KESHO" (for primary education) and "INSEBA KWIMINA PAMO" (for secondary education), these schools are housed in three buildings comprising: six classrooms with, in each, benches, blackboards, office tables and chairs, a teacher's room with tables and chairs, a bursar's office, toilets as well as the principal's office.¹⁸

To date, no new schools have been built in other villages or in Kangambwa. Due to the lack of schools, some children from other villages (Lwafi, Lukutwe and Hewa Bora) travel 2 up to 15 km to study in Kangambwa or in Bungu-Bungu.¹⁹ Others also have class in churches, which goes against the pedagogical norms: children of different levels, i.e., those in 1st to 6th grade have classes in a single room and sit on bricks. Due to the lack of a school close to the village, more than 70 school-age children under 10 years old in Hewa Bora village miss education.²⁰

14 Read Article 69 point g of the 2002 Mining Code of the Democratic Republic of Congo.

15 Article 285e of Law n°18/001 amending and supplementing Law n° 007/2002 of July 11, 2002 on the Mining Code, states "Without prejudice to the provisions of articles 212, 213, 214 and 242 paragraph 2 of the present Code, the holder of mining exploitation rights and permanent quarrying authorizations is required to contribute during the period of their project to the definition and the achievement of socio-economic and industrial development projects of the local communities affected by the project activities on the basis of a schedule of conditions for the improvement of the living conditions of the communities."

16 In addition to meeting the requirements of the Performance Standards, clients must comply with applicable national law, including the implementing legislation for host country obligations under international law. (Performance Standards: Introduction, p. 4, para. 5.)

17 Article 414 septies of Decree No. 18/024 of June 08, 2018, amending and supplementing Decree No. 038/2003 of March 26, 2003, on mining regulations, states: "The powers and operating procedures of the Specialized Body are determined in a procedures manual approved by Inter-ministerial Order of the Ministers having Mines and Social Affairs in their attributions. Procurement for the execution of community development projects shall be carried out through public tenders."

18 This information is included in the 2016 study report and was confirmed in the focus group 3 held in Kangambwa on October 14, 2020, in which 21 people participated, including 4 women and 17 men.

19 Comments collected individually and confirmed in focus groups 4, 5 and 6 held respectively in Lukutwe, Lwafi and Hewa Bora.

20 Comments from the inhabitants of the village of Hewa Bora collected individually and in focus groups on October 16 and 17, 2020 in the village of Hewa Bora.

Those who travel long distances to school are exposed to multiple risks, including traffic accidents. Cases of student traffic fatalities have already been recorded on this roadway. During the 2019-2020 school year, a 10-year-old primary student in grade 3 was hit by a truck on his way to school in Kangambwa, 2 km away from home in Lwafi village.²¹ As a result of this risk, about 70 school-age children under 10 years of age, especially those from Hewa Bora village, do not have class and are kept at home by their parents.²² There is no need to remind people that education is the foundation for the development of any society.

In addition, the capacity of the two schools built in Kangambwa no longer meets the demand. Built for a capacity of more or less 300 students, the classrooms are overflowing, so some students have their classes

sitting on the ground. Free primary education and the demographic evolution of the villages have contributed to this. The number of students went from 324 in 2019 up to 434 in 2020.²³ The lack of benches inconveniences some of these children. As an example, the number of students in the first year of primary school increased from 50 (normal number of students for a classroom) in 2019 to 118 in 2020.²⁴

As the management of these two schools is entrusted to the Congolese State, the teachers receive a 180,000 Congolese francs per month as a wage, which is not sufficient to make ends meet. Though low, this wage is paid regularly with no arrears. However, these two schools hardly benefit from the support of SEK for its operation. They use their meager resources to ensure the administration and the operation of the school.

21 Comments collected during the focus group 4 held in Lwafi on October 15, 2020, in which 16 people took part, including 10 women and 6 men. And confirmed by the Director of MAISHA YA KESHO elementary school, Mr. Luc BUBE, during our interview in his office.

22 Interview with Mr. NGOYI MAKAYA, Chief of Hewa Bora village, on October 16, 2020.

23 Interview with Mr. Luc BUPE, Director of MAISHA YA KESHO Primary School, on October 14, 2020 at his office.

24 Idem

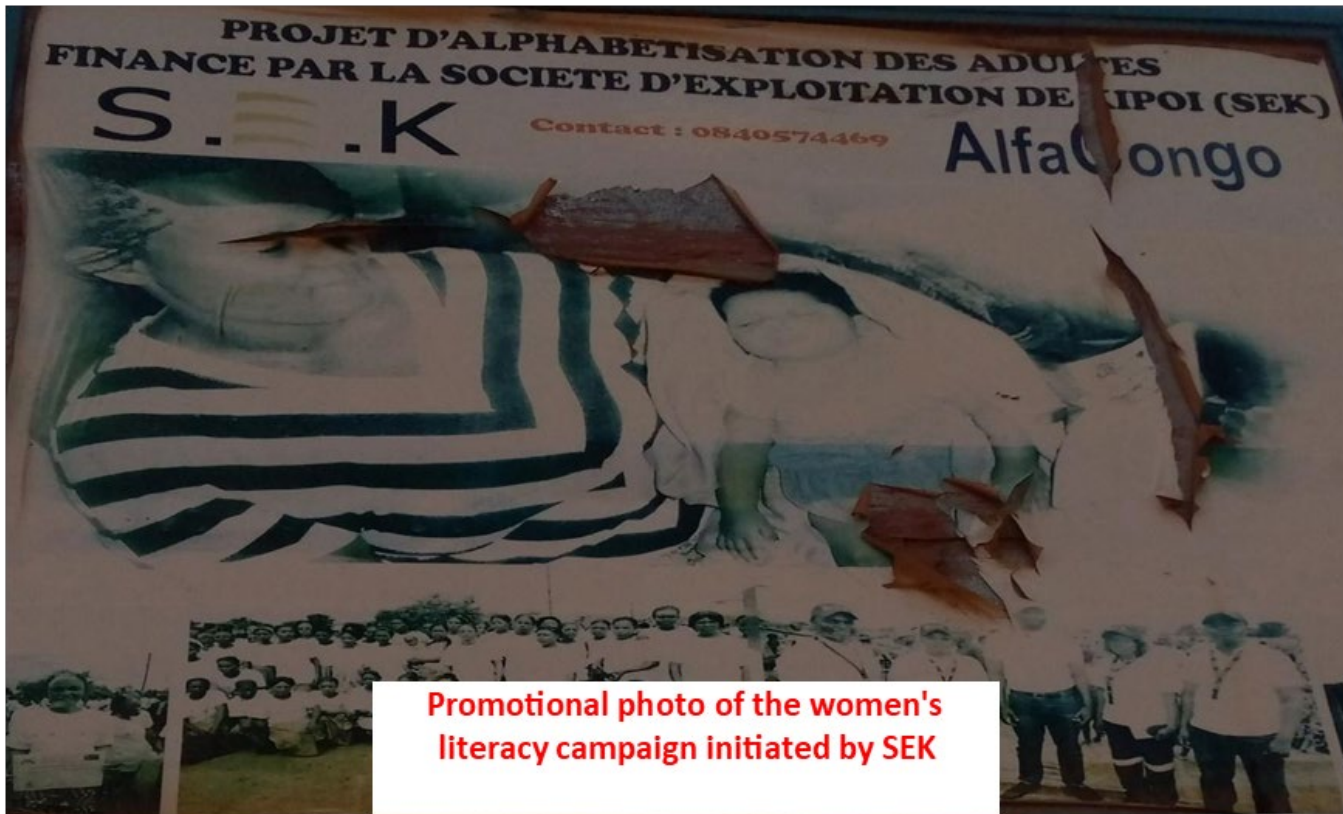


Most of the teachers live 10 miles from the school. They stay at the school from Monday to Friday and return home every Friday night and go back to school on Monday morning.

From the above, it is clear that access to education, a right guaranteed by Article 47 of the Constitution, is not a concern for SEK either. Not enough efforts are not made to respect this constitutional right, and especially to contribute to the education of several hundred children from the surrounding villages. As part of the communities directly impacted,

unfortunately these children do not benefit from the SEK project. This situation is at odds with PS 1, which promotes better environmental and social performance of the IFC's clients,²⁵ in that SEK's lack of concern for the education and/or upbringing of the many children in its communities has not taken its societal obligations into account.

25 IFC, Environmental and Social Sustainability Performance Standards, 2012, p. 7 available at: <https://www.ifc.org/wps/wcm/connect/2ae358ff-d348-4702-9840-1ed352b1f36f/IFCPerformanceStandardsFrench.pdf?MOD=AJPERES&CVID=j-BmV33#:~:text=Les%20Normes%20de%20performance%20sont,leurs%20activit%C3%A9s%20de%20mani%C3%A8re%20durable.>



In addition, as part of the training of women and girls, SEK partnered with ALFACONGO, a NGO, and launched a literacy program in almost all the villages, except for Hewa Bora village. For 2 years, women and girls, estimated at more or less 800 people, were coached by ALPHACONGO on various topics, including French, Swahili, mental and written calculation.²⁶ Launched in 2017, this project stopped in early 2020 due to the COVID-19 pandemic. The few beneficiaries of the training that met the AFREWATCH team think that this training provided capacity building for them, which will particularly help them to ensure good management of their households, do small business, but also integrate into society and participate in the development of their communities

26 Interviews with individuals and focus groups conducted in Bunu-Bungu, Katanga, Kangambwa, Lukutwe and Lwafi.

as development actors.²⁷ However, the women and girls in Hewa Bora village did not benefit from this training, as they were not involved.

3.1.2. Access to drinking water

Three (3) wells were drilled by SEK in Kangambwa: two in between 2012 and 2016 (one in the school compound and another in the village)²⁸ and another with a motor pump in between 2017 and 2019 in the hospital compound.²⁹ In 2019 two other wells were drilled: one in Lukutwe, which is still open and one

27 Interviews were conducted individually and in focus groups in the villages of Bunu-Bungu, Katanga, Kangambwa, Lukutwe and Lwafi.

28 2016 Study Report, p. 20, this information was confirmed in the focus group of the 3 tenuous in Kangambwa on October 14, 2020

29 Comments collected in the above-mentioned focus group

in Lwafi, which is out of order. In spite of this, the inhabitants of these two villages continue to use the river water for multiple tasks whereas, according to the inhabitants of Lwafi village, this water has a bitter taste and causes skin itching.³⁰ Women and girls aged 9 to 15 walk 2 km to get water, even though it is of poor quality,³¹ so there are various risks, including drowning.

Despite the fact that SEK forbade the use of water from Lwafi River³² saying that it was polluted, in

30 Information gathered during focus group 5 held in Lwafi village on October 15, 2020

31 Information collected in focus groups 4 and 5 held respectively in Lukutwe and Lwafi on October 15, 2020

32 Information collected in focus groups 4 and 5 held respectively in

the absence of other sources of drinking water, several hundred people continue to use it. The only well drilled by SEK in 2019 to try to compensate for the damage does not manage to cover 2/3 of a population estimated at 400 inhabitants.³³ The well drilled in Lukutwe village the same year is no longer operational. Since then, the company has no longer gone there to provide maintenance or to inquire about the new situation of the communities.

Lukutwe and Lwafi on October 15, 2020

33 AFREWATCH and ACIDH, Rapport sur les impacts des activités minières au Katanga : cas de la société d'exploitation de Kipoi (SEK) sur les communautés locales, Op.cit, p.21. This information was confirmed in focus group 5 held in Lwafi on October 15, 2020



On the other hand, the other villages have not benefited from any wells. In Hewa Bora village, which was a new village founded following relocation, water is a rare commodity. The inhabitants (men, women and children) travel 7 km per day by bicycle or motorcycle to draw water from Kangambwa. The price is 500 Congolese francs (0.25 US\$) a 20-liter can. The steps taken with the SEK company as well as with the chief of the Lufira Sector to have even a well that would relieve this population in part, have unfortunately been unsuccessful.³⁴ More than 300 relocated people live without water.

This situation violates not only Article 48 of the DRC Constitution,³⁵ which guarantees the right of access to drinking water, but also the IFC Performance

Standards 3 and 4,³⁶ which aim to avoid and reduce the negative impacts of projects on human health and the environment. Instead of protecting communities from the risk of water pollution and contributing to their well-being through the supply of drinking water in sufficient quality and quantity, SEK pollutes river water and exposes communities (women and children) to water-borne diseases, according to the testimonies of the communities corroborated by the laboratory analysis results presented below. In addition, SEK deprives some communities within its range of drinking water.

34 Remarks collected from the chief of the village Hewa Bora, whose name is better known above

35 Article 48 of the DRC Constitution states that: "The right to decent housing, the right of access to drinking water and electrical energy are guaranteed. The law sets the modalities for the exercise of these rights."

36 Cfr. Les NPs 3 et 4 de la SFI <https://www.ifc.org/wps/wcm/connect/2ae358f-d348-4702-9840-1ed352b1f36f/IFCPerformanceStandardsFrench.pdf?MOD=AJPERES&CVID=j-BmV33#:~:text=Les%20Normes%20de%20performance%20sont%20leurs%20activit%C3%A9s%20de%20mani%C3%A8re%20durable>
See Tiger Resources LTD January 2019 report, p. 20 available at <http://www.tigerresources.com.au/wp-content/uploads/2019/01/20190122-Shareholder-Presentation-FINAL.pdf>

3.1.3. Access to electricity

Being unable to have access to the contract SNEL has with SEK for power supply, as it has not been published, we rely on information that SEK recently published in its January 2019 report.³⁷ According to the content this document, the electrical power that SNEL supplies to SEK was limited to 8.5 MW, but SEK's current consumption varies between 7 and 9 MW. Consequently, this overrun brings about other fees for the additional power.³⁸

In order to cope with power outages or power failures in the nationwide network, SEK has diesel generators supplied by Energyst, which produce up to 12 MW.³⁹

In other words, apart from the 8.5 MW supplied by SNEL, of which it consumes between 7 and 9 MW, SEK is capable of producing 12 MW thanks to its generators. It consumes 9 MW and keeps 3 MW.

However, no electrification project has been materialized or initiated in the local communities. The various villages around SEK have no electricity. People use generators, batteries and solar panels. This situation has not changed since the arrival of

37 See Tiger Resources LTD January 2019 report, p. 20 available at <http://www.tigerresources.com.au/wp-content/uploads/2019/01/20190122-Shareholder-Presentation-FINAL.pdf>

38 Tiger Resources LTD Report of January 2019, p.20

39 Tiger Resources LTD Report of January 2019, p.20

SEK. However, it contributes to underdevelopment, as it does not help the local communities to initiate some activities that could boost the local economy. In addition, the lack of electricity could also cause counter-performance for the students because they have trouble reading in the evening.

According to the local communities, this issue has never been discussed with the company in any meeting or during the consultations conducted by SEK with the communities. Although the company initiates projects without prior consultation with the beneficiary communities, it is clear that village electrification is not a priority for SEK.

3.1.4. Access to employment

Beyond its social achievements, the SEK project is also, by its size, an opportunity to reduce poverty in the surrounding communities through the employment it can generate for local people. Based on the IFC Performance Standard 2 (PS2), which promises fair treatment, non-discrimination, and equal opportunity for workers, SEK should also provide sustainable employment for local people to enable them to contribute to the development of their respective villages. Those for 2018 and 2019 not being available so far, the 2014 to 2017 EITI reports present the direct employment created by SEK as follows:

Chart 1: statistical data of jobs created by SEK

N°	YEAR	DIRECT JOBS		
		Nationals	Foreigners	Total
1	2014	320 ⁴⁰	17	337
2	2015	273 ⁴¹	17	290
3	2016	262 ⁴²	14	276
4	2017	264 ⁴³	15	279

40 2014 ITIE Report, p. 139 available at https://eiti.org/files/migrated_files/rapport_de_conciliation_itie_rdc_2014_-_final.pdf

41 2015 ITIE Report, p. 141 available at https://eiti.org/files/documents/rapport_de_conciliation_itie_rdc_2015_-_signe_envoye_st.pdf

42 <http://itierdc-data.masiavuvu.fr/donnees-itie/>

43 <http://itierdc-data.masiavuvu.fr/donnees-itie/>

Considering the 2017 statistical data, out of 264 Congolese workers on permanent contracts that SEK employs, only 15 (6 from Bungen-Bungen and 9 from Katanga) are local, or 5.68%. Out of a total of 279 direct jobs, the jobs created for Congolese are 94.62% and 5.37% for foreigners. It is clear that the number of direct jobs for nationals is very significant compared to those for foreigners, even though the

way this information is presented in the EITI report does not help us to identify the percentage by category of employment in accordance with Article 405e of the Mining Regulations. According to this Article, the minimum quota of Congolese employees by category in the different phases of a mining project must be as follows:

JOB CATEGORIES	PHASES OF THE PROJECT				
	Mining Research	Development and construction	Commercial Production		
			1st - 5th	6th - 10th	11th - beyond
Executives	20%	25%	60%	65%	70%
Supervisory staff	30%	35%	70%	75%	80%
Skilled workers	60%	40%	80%	85%	90%
Workers	80%	85%	90%	95%	100%

However, out of approximately 43,742⁴⁴ people in six villages, SEK employs only 15 people, that is 0.1 percent of the local population. The rest are recruited, often in groups of 3 or 4, for 22-day periods (with no break) for US\$ 110⁴⁵ (220,000 Congolese Francs), or \$5/day. This type of contract is not common and is often arranged once or twice a year.

The communities declare that SEK does not sign permanent employment contracts with local people because they are underqualified. Even for jobs that do not require specific qualifications, SEK always hires people from elsewhere (Lubumbashi, Likasi, Kolwezi, etc.).

For reasons unknown to them, the local people believe that they are victims of discrimination, whereas this project should also be beneficial to them since it directly impacts them and that the right to work is guaranteed to all Congolese by both the Constitution and Article 2 of the Labor Code. In light of the above, it is clear that the SEK project does not contribute enough to the development of the local communities. Access to permanent employment for local people would have had a positive impact on the local economy and would have contributed to the fight against poverty. In receiving the IFC loan, SEK also committed to respecting its performance standards, but also to initiating actions or projects in favor of the local communities, which would contribute to the accomplishment of its missions, including the fight against poverty. Therefore, it is clear that SEK's attitude toward local people violates the IFC PS 2, which promotes fair treatment, non-discrimination and equal opportunity for workers.⁴⁶

44 According to the information that the village chiefs provided to AFREWATCH researchers, their populations are respectively estimated at 2000 (Lukutwe), 342 (Hewa Bora), 3000 (Kangambwa), 18 000 (Katanga), 400 (Lwafi) et 20 000 Bungu-Bungu.

45 Comments collected in individual interviews with the inhabitants of the abovementioned villages. These comments were also confirmed in almost all the focus groups.

46 See PS 2 of the IFC <https://www.ifc.org/wps/wcm/connect/2ae358ff-d348-4702-9840-1ed352b1f36f/IFCPerformanceStandardsFrench.pdf?MOD=AJPERES&CVID=j-BmV33#:~:text=Les%20Normes%20>

In the absence of permanent employment, the communities directly impacted by the SEK project goes through unprecedented poverty. They make both ends meet on small-scale food-producing activities such as charcoal making, field work, and petty trade. Worse, some parents cannot afford monthly tuition for their children which is 3,500 Congolese francs (1.75 US\$).

3.1.5. Access to healthcare

Although the right to health is provided by Article 47⁴⁷ of the DRC Constitution and the IFC PS 4,⁴⁸ we curiously note that this sector, which is so important to the communities, is not considered by SEK. From the arrival of this company until 2020, only one poorly equipped health center has been built in Kangambwa village. The inhabitants of other villagers, notably those in Lukutwe, Lwafi and Hewa Bora, travel 2 up to 10 km for health care in Kangambwa. Due to the lack of premises, equipment and qualified personnel, some serious cases, especially those involving surgery, are transferred either to Bungu-Bungu or Kapolowe Mission.⁴⁹

The conditions of internment of patients are too bad. The nurse in charge of this center (IT)⁵⁰ said that this center was built for a capacity of 20 beds, but only 7 remained. Since there is only one observation room, women, children and men are all put in the

[de%20performance%20sont,leurs%20activit%C3%A9s%20de%20mani%C3%A8re%20durable](#)

47 Article 47 of the DRC Constitution as revised in 2011, states that "The right to health and food security is guaranteed (...)".

48 The IFC PS4 requires its loan recipients to:

"(1) Anticipate and avoid, during the life of the project, adverse impacts on the health and safety of affected Communities that may result from ordinary or non-ordinary circumstances;
(2) Make sure the protection of persons and property is provided during all phases of the project in accordance with applicable human rights principles and in a manner that avoids exposing affected Communities to risk or minimizes risk."

49 Comments by Mr. Jean-Paul KISALE, Titular Nurse (TN) of this health center.

50 Idem

same room which does not have enough beds. Due to a lack of medicine, the pharmacy at this center is no longer operational. "The grievances submitted to SEK through its social service have never been sorted out,"⁵¹ he concludes. So, due to the lack of a local

51 Idem

health center, folks from other communities firstly use self-medication, with all the risks linked to this practice. Others use traditional medicine and treat themselves with plants.



Patient observation room at the Health Care Center in Kangambwa



Health and maternity center KANGAMBWA



3.1.6. Agriculture

In this sector, SEK has intervened in almost all of the villages around, with the exception of Hewa Bora village, the new relocation site, which for unknown reasons was excluded from SEK's agricultural action plan. To begin with, SEK provided a training for the local communities on agriculture through MOCC (Congo Christian Labor Movement), which is a NGO.

Later on, during 5 years, as of 2013 to 2018, SEK supported them with loans in agricultural inputs, mainly corn, that were to be repaid at harvest time at a rate of 13 bags of 50 Kg per hectare the first year, 18 bags the second year and 23 bags the third year.⁵² This project stopped in 2018, so the farmers

52 Comments collected in individual interviews and in focus groups in

do not receive any support and it has been painful to cultivate because they cannot buy chemical fertilizers. Plus, the soil is no longer fertile.

Moreover, the communities feel that the agricultural support by SEK did not help them to restart this activity on their own, because the number of bags that SEK demanded in terms of repayment was too big in comparison to their annual yield, which prevented them from saving money.⁵³ In other words, out of about 40 bags of corn obtained by Hectare, 13 or 18 bags were repaid to SEK, and only about 20 bags were to be kept by the farmer, without considering the expenses incurred by the farmer from the preparation of the soil to the harvest.

Bungu-Bungu, Katanga, Kangambwa, Lukutwe and Luafi

53 Idem



In the same framework, SEK also organized and supported women's market gardening associations. In addition to providing them with agricultural techniques and certain working tools, SEK also bought their products in return paying two to three weeks later.⁵⁴ Although this initiative helped women become financially independent, it should also be noted that it did not go longer than the project. Apart from the women's market garden association in Katanga village, which keeps producing and selling its products to SEK, those in other villages (Kangambwa, Lwafi and Lukutwe) are no longer operational. The lack of organization, transparency and good leadership are the main causes. The opinion of the women from Lukutwe village is that those who were in charge of the association were not accountable to the other members for the management of funds. The lack of transparency and

54 Idem

the misallocation of the benefits were issues that discouraged other members in such a way that they completely paralyzed the association.⁵⁵

3.2. Environmental impacts of the SEK project

In this chapter, we generally address the issue of the impact of SEK's mining activities on the environment. We look into the relationship between environmental problems in local communities and SEK. In order to better understand the link between SEK's mining operations and the destruction of the environment, this section addresses three main points: (a) environmental impacts of the project, (b) sample collection and analysis, and (c) presentation and interpretation of the results from the analysis.

55 Comments by a market gardener in Lukutwe village who requested anonymity, collected on October 15, 2020 in Lukutwe

3.2.1. Environmental Impacts of the Project

The communities in the villages impacted by KIPOI's activities complain about water and land degradation by the company which takes no measures to mitigate or compensate for the degree of violations. Yet, KIPOI has affiliated itself to international standards such as the International Finance Corporation's Performance Standards for Environmental Sustainability in order to ensure environmental and social performance.

The Environmental and Social Impact Assessment (ESIA) for the KIPOI project⁵⁶ broadly describes the adverse environmental and social consequences of the project and proposes ways to avoid or mitigate these impacts. However, we heard concerns about the degradation of water and soil quality, which would respectively cause certain diseases and a decrease in agricultural production. According to the chief of Lukutwe village, John Musumia Mwanza, the population of the village is estimated at more than 2,000 inhabitants who depend mainly on Lukutwe river. He confirmed that the river was polluted by SEK since it was the company that prohibited the consumption of this water on the grounds that it was unsuitable. In compensation, SEK built a single water well, which is not sufficient to meet the water needs of the local population. It is reported that fish and other aquatic species have disappeared due to the mining activities of KIPOI.

However, interviews in Lukutwe village revealed that SEK does not destroy the vegetation cover or negatively influence deforestation. However, that does not stop the company from discharging its toxic acids directly into the river.⁵⁷

In order to make sure how good water and soil are, the AFREWATCH team took water and soil samples and submitted them for analysis to a private laboratory (Robinson International) based in Lubumbashi. The results of the analyses were interpreted by experts from the University of Lubumbashi according to whom water and soil have a high concentration of aluminum, cobalt, lead, nickel, iron, calcium and magnesium, which causes several risks for the health of the communities.

SEK will have to conduct biological screening on samples from the villages around the mine in order

to determine the conditions of microscopic aquatic organisms, which will help identify and assess any potential toxicity related to its activities. Mbuy Cubain, a farmer from BUNGU-BUNGU village, said, 'SEK's activities have destroyed our farmland and our social environment. My field is less than 5 meters away from SEK's operating site. Currently, I can no longer harvest as I used to, and yet my field is my main livelihood'. It should be noted that this field is contiguous to Lwafi River, which is allegedly polluted by the SEK. Since the company blocked Lwafi River by erecting a bridge to facilitate the passage of its vehicles, the water in the river is no longer suitable for consumption or for field work.⁵⁸

As for the ecosystem around the mine, we note that SEK uses a reforestation policy in the forest around its concession by planting trees every year. This policy is part of the process of repairing part of the forest destroyed during the construction of the plant. Besides, experts and village residents note that biodiversity in the zone goes through devastating degradation. Water pollution, for example, kills some aquatic species.

3.2.2. Sample collection and analysis

Following all the complaints from the local communities about the degradation of water and soil quality in Lwafi and Lukutwe villages, samples were taken and submitted for processing in order to assess the level of pollution and the impact it might have on human health and crops.

Of a total of eight samples taken from the Lwafi and Lukutwe rivers (four water samples and four soil samples), four, two water samples and two soil samples, were analyzed by the ROBINSON International laboratory in the DRC. In order to distinguish them and facilitate their processing, each of these samples was coded according to where they were collected. The analyzed and interpreted ones are coded as follows E/LUA/02/Me; E/LU/4/Sa; S/LUA/01/Me and S/LU/02/Me. As the results of the analyses are presented in the charts below, it is important to present the samples with further information on the date, time and place of collection, as well as photos and geolocation data.

⁵⁶ http://congomines.org/system/attachments/assets/000/000/903/original/REVISION_EIE_SEK_DRC_GREEN_EMEC_ESIA_%281%29.pdf?1446813119

⁵⁷ Comments collected in a focus group on 6 /11/2020, in the village BUNGU-BUNGU

⁵⁸ Comments collected in a focus group on 6 /11/2020, in the village BUNGU-BUNGU

A. LWAFI VILLAGE

Water Sample 2 (E/LUA/02/ME)



This water sample (E/LUA/02/Me) was taken out of Lwafi River on Wednesday, December 16, 2020 by the AFREWATCH research team. This water is used by the communities for several purposes, including cooking, drinking, etc. Lwafi village is 75 km from Lubumbashi.

Geolocation:

GPS: 3 m, S 11.20447°, E 027.11007

Soil Sample 1 (S/LUA/01/Me)



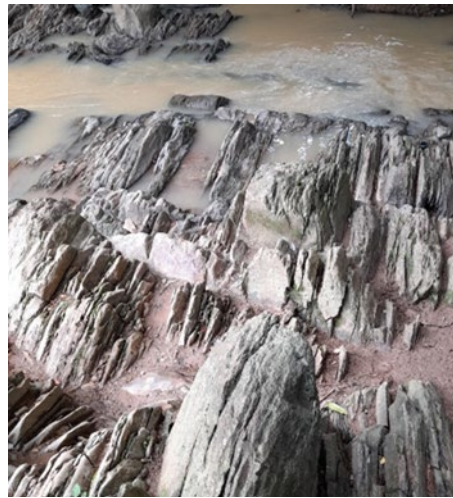
The soil was taken off the bank of Lwafi River on the same Wednesday, December 16, 2020. Before SEK came, this place was used for market gardening. But ever since exploitation began, nothing has grown there anymore.

Geolocation:

GPS: 3m, S 11.20454°, E 027.11004°

B. LUKUTWE VILLAGE

Water Sample 4 (E/LU/4/Sa)



A batch of samples including this one was taken in Lukutwe village out of the river of the same name on Wednesday, December 16, 2020. This water is used for housework and bathing. While for cooking and drinking, they use well water. For example, this village has only one well drilled by SEK, with a population around 2000 people.

Geolocation:

GPS: 4m, S 11.23615°, E 027.17040°

Soil sample 2 (S/LU/02/Me)



This soil sample is part of a batch of four samples that were collected in Lukutwe village near the river on Wednesday, December 16 and Saturday, December 19, 2020. This river is less than one km away from the village.

Geolocation:

GPS: 4m, S 11.23572°, E 027.17093°

3.2.3. Presenting and interpreting the results

The analysis of the samples was carried out by the ROBINSON International laboratory, while the interpretation of the results was done by experts from the Toxicology and Environment Unit of the University of Lubumbashi in accordance with the World Health Organization (WHO) standards.

The results show that the water and soil in these two villages (Lukutwe and Lwafi) are polluted and have a negative impact not only on human health, but also on crops. Moreover, the local communities thought that SEK forbade the consumption of water from

Lwafi River claiming that it was unfit for consumption. However, SEK took no mitigation measures. The only well drilled by the company in Lwafi is no longer operational, and there is no other source of drinking water besides this river whose water is allegedly polluted.

As shown below, the results of these samples and their interpretations are worrisome for the lives of several hundred people who live in these two villages because they would be exposed to multiple diseases.

The tables below show the results of the samples according to their categories which are water first and then soil.

A. Water Samples

WATER 2 (E/LUA/02/Me)

Parameter	Cu	Co	Fe	Al	Cr	Mn	Ni	Pb	Zn	As
Result	0.036	0.452	0.203	0.192	<0.001	1.796	0.032	0.081	0.172	<0.001
Standard	2	0.005	2	0.2	0.05	0.4	0.02	0.01	0.0031	0.01
Remark	-1.964	0.447	-1.797	-0.008	inf.	1.396	0.012	0.071	0.1689	inf.

Parameter	Cd	Ca	Mg	S	Na	K	U	V	Hg	Se
Result	<0.001	19.34	14.47	0.292	5.479	4,02	0,053	<0,001	0,005	0,082
Standard	0.003	500		500	20		0,0003	0,0008	0,001	0,4
Remark	inf.	-480.66	14.47	-499.708	-14.521	4,02	0,0527	inf.	0,004	-0,318

Parameter	P	B	Be	Ba	Mo	Sb	pH	TDS	µS	TSS
Result	0,005	<0.001	0.001	0.059	<0.001	<0.001	7.5	119	243	54
Standard		0.3	0.001	0.07	0.07	0,005				
Remark	0,005	inf.	0	-0.011	inf.	inf.				

Remarks

There is exceedance for: Co, Mn, Ni, Pb, Zn, Mg, K, U and Hg

WATER 4 (E/LU/4/Sa)

Parameter	Cu	Co	Fe	Al	Cr	Mn	Ni	Pb	Zn	As
Result	0.015	<0.001	2.766	4.398	<0.001	0.022	0.002	<0.001	0.032	<0.001
Standard	2	0.005	2	0.2	0.05	0.4	0.02	0.01	0.0031	0.01
Remark	-1.985	inf.	0.766	4.198	inf.	-0.378	-0.018	inf.	0.0289	inf.

Parameter	Cd	Ca	Mg	S	Na	K	U	V	Hg	Se
Result	<0.001	11.41	4.849	0.07	8.862	3,14	0,031	<0,001	<0,001	<0,001
Standard	0.003	500		500	20		0,0003	0,0008	0,001	0,4
Remark	inf.	-488.59	4.849	-499.93	-11.138	3,14	0,0307	inf.	inf.	inf.

Parameter	P	B	Be	Ba	Mo	Sb	pH	TDS	µS	TSS
Result	<0.001	<0.001	<0.001	0.019	<0.001	0.495	7.6	59	119	57
Standard		0.3	0.001	0.07	0.07	0.005				
Remark	inf.	inf.	inf.	-0.051	inf.	0.49				

Remarks

Exceedances are observed for Fe, Al, Zn, Mg, K, U and Sb

Potential health risks related to:

- Aluminum: intestinal inflammation, Alzheimer's disease, Parkinson's disease;
- Cobalt and Antimony: skin and mucous membrane irritation, dermatitis, respiratory tract and cardiomyopathy;
- Uranium and lead: nephro-toxicity (tubular damage), cancer of the bones and hematopoietic organs, skin and lung tumors, congenital malformations;
- Nickel: allergic dermatosis, eczema and tubular renal damage.

References:

- Guidelines for drinking water quality, second edition, Vol 2: Hygiene criteria and supporting documentation, World Health Organization, Geneva 2000 (WHO 2000);
- Exposition de la population française aux substances chimiques de l'environnement, Volume 1, Présentation générale de l'étude, Métaux et métalloïdes, Institut de Veille Sanitaire (InVS) Nadine Fréry, Abdelsattar Saoudi, Robert Garnier (Centre AntiPoison (CAP)-Paris), Abdelkrim Zeghnoun, Grégoire Falq (Plomb-Etude Nationale Nutrition Santé (ENNS) 2006.

B. Soil Samples

SOIL 1 (S/LUA/01/Me)

	Cu%	Co%	Fe%	Mn%	Al%	Ni%	Pb%	Zn%	Ca%	Mg%
Result	0.73	0.12	3.94	0.12	0.98	0.01	0.03	0.06	0,63	0,79
Ppm standards	500	300	7.4	2200		500	1000	1500		0,5
Ppm result	7300	1200	39400	1200	9800	100	300	600	6300	7900
Remark	6800	900	39392.6	-1000	9800	-400	-700	-900	6300	7899,5

Remarks

There is exceedance for Cu, Co, Fe, Al, Ca and Mg

SOIL 2 (S/LU/02/Me)

	Cu%	Co%	Fe%	Mn%	Al%	Ni%	Pb%	Zn%	Ca%	Mg%
Result	<0.01	0.02	2.67	0.03	0.7	0.01	<0.01	0.01	0,72	0,25
Ppm standards	500	300	7.4	2200	10.7	500	1000	1500		0,5
Ppm result	inf.	200	26700	300	7000	100	inf.	100	7200	2500
Remark	inf.	-100	26692.6	-1900	6989.3	-400	inf.	-1400	7200	2499,5

Remarks

There is exceedance for Cu, Co, Fe, Al, Ca and Mg

Potential health risks: Risk of transmission to the population through water and plant consumption (through bio-concentration and bio-magnification in the trophic chain)

3.3. NATIONAL ECONOMIC IMPACTS OF THE SEK PROJECT

The KIPOI project is one of the largest mining projects in Haut-Katanga. Due to its size, it seems obvious that it contributes more or less considerably to the economic activity of both the province and the entire country. Two important factors, namely tax revenues and created jobs, can be analyzed here in an attempt to estimate SEK's contribution to the national economy. Since the jobs created by SEK are analyzed above, and since we do not have access to the other necessary information on them, particularly the information relating to workers' wages by job category, this section will be limited to presenting, on the basis of the EITI reports, the various payments

by SEK from 2015 to 2018. As for 2019 and 2020, the data are unavailable. In this section, we will also try to present the mining royalty payments by SEK from 2018 to 2020, aiming to identify the impact of all these payments on the development of the local communities around the SEK operating site.

3.3.1. Payments by SEK

Since EITI provides more or less comprehensive information on company payments, its reports from 2015 to 2017 are primary sources on which we base our presentation in the table below of payments that the government has received from SEK in taxes, rights, royalties, and miscellaneous taxes.

Chart: Statistical data for payments by SEK from 2014 to 2020

N°	YEAR	PAYMENTS IN US\$	REMARKS
1	2014	Nothing to report (RAS)	There were no payments in 2014 because SEK became exclusive property of exclusive of Tiger Resources in October 2014.
2	2015	6,487,058	
3	2016	12,709,454	
4	2017	10,828,289	
5	2018	N/A	Declarations of payments unavailable
6	2019	N/A	Declarations of payments unavailable
7	2020	N/A	Declarations of payments unavailable
Total		30,024,795 US\$	

In addition to the payments by SEK at the national level, there are others at the local level. This is the case of the mining royalties that are directly collected by the ETD (Decentralized Territorial Entities). (DTEs).

3.3.2. How SEK paid the mining royalty

Since 2018, in accordance with the requirements of the revised Mining Code, SEK pays 15% of the mining royalties to the Lufira sector. According to the spirit of Article 242 of the Mining Code, these significant funds are to be used to contribute to local development of

the communities impacted by mining projects.

Below is a table that summarizes the payments by SEK to the Lufira sector as a contribution to local development.

Chart: Mining royalties paid by since 2018

N°	MONTHS	AMOUNTS IN US\$
2018		
1	July	54,430.55
2	August	64,358.88
3	September	22,597.54
4	October	65,211.78
5	November	42,616.94
6	December	61,596.02
Sub-total		310,811.71⁵⁹
2019		
1	January	23,672.97
2	February	36,336.02
3	March	17,263.16
4	April	20,699.39
5	May	27,515.26
6	June	17,339.70
7	July	23,682.27
8	August	21,245.06
9	September	27,579.38
10	October	40,258.38
11	November	29,286.35
12	December	34,490.35
Sub-total		319,368.3⁶⁰
2020		
1	January	RAS
2	February	41,256.54
3	March	42,993.91
4	April	13,825.92
Sub-total		98,076.37⁶¹
Overall total		US\$ 728,256.38

59 Consortium Makuta ya Congo, Study Report « La redevance minière destinée aux entités territoriales décentralisées : un casse-tête à résoudre », November 2020, p. 38

60 Consortium Makuta ya Congo, Study Report « La redevance minière destinée aux entités territoriales décentralisées : un casse-tête à résoudre », November 2020, p. 38

61 These data come from http://congomines.org/search?utf8=%E2%9C%93&search=note+de+d%C3%A9bits&theme=&type_document=&type_source=&province=

According to the report published in 2020 by the Makuta ya Congo Consortium “La redevance minière destinée aux entités territoriales décentralisées: un casse-tête à résoudre” (mining royalties destined to decentralized territorial entities) coupled with debit notes from the Mining Provincial Office between July 2018 and April 2020, except for the month of January 2020 for which information is not available, the Lufira sector collected a total of US\$ 728,256.38 from SEK as a contribution to local development. However, this huge amount unfortunately does not reflect the poverty level of the communities impacted by SEK. The surveys conducted in the communities around SEK do not reveal any social achievements made with the mining fees. Moreover, the inhabitants accuse the Lufira sector in charge of collecting this big money of mismanaging this fund. Since the budget of this sector is not published, it is currently difficult to know exactly how much of the budget the mining royalties contribute with to this entity.

4. COMPLIANCE WITH THE ACTIONS REQUIRED OR RECOMMENDED BY IFC

4.1. DESCRIPTION OF THE REQUIRED ACTIONS WITH EXPECTED COMPLETION DATE

1. SEK will complete a revised ESIA including an ESMP for the Kipoi project that complies with the IFC performance standards. The ESIA will be submitted to IFC for examination and will be published in accordance with the IFC policies. The ESMP will include compliance criteria and the location of compliance points for the physical, chemical, and biological target limits for the expanded operation. July 31, 2016.

Current Situation:

SEK elaborated its Environmental Impact Assessment and Environmental Management Plan (EIA/PGEP), with a view to revising its approved Environmental Study in accordance with the legal and regulatory provisions in force that rules the mining sector in the Democratic Republic of Congo.⁶²

In order to proceed with the revision of this Environmental Impact Assessment and the Environmental Management Plan of the Project, SEK requested the services of DRC GREEN - EMEC and signed with it a contract for the provision of services with the objective of preparing and elaborating this revised environmental study in accordance with the provisions of the new mining legislation and particularly the requirements in terms of environmental protection.

DRC GREEN-EMEC Sprl is an Environmental Study Office that works in the Democratic Republic of Congo and that is approved by the Minister of Mines through the February 02, 2007 Ministerial Order N°2463/CAB.MIN/MINES/01/07.

2. SEK will fully implement the revised environmental and social management system, including the revised policies. Dec 31, 2017.

Current situation:

SEK wished to be involved in the community and

⁶² http://congominer.org/system/attachments/assets/000/000/903/original/REVISION_EIE_SEK_DRC_GREEN_EMEC_ESIA_%281%29.pdf?1446813119

sustainable development of local communities through the setting up of a Foundation the objective of which is to deal with all the social aspects including local development in its operating sites. This foundation was to implement the community and sustainable development plan designed by SEK and have an operational timetable and 150,000 USD per year mobilized by SEK. Unfortunately, that wish never materialized.

3. SEK will set up a procedure for covering off-site management rotations with defined roles for interim environmental, community, safety and security managers. October 31, 2015.

Current Situation:

Nothing to report.

4. SEK will hire an independent geotechnical specialist for the ongoing review and monitoring of SEK tailings facilities to demonstrate compliance with the provisions of the IFC mining guidelines. The frequency of inspections will be determined by the initial risk review. December 31, 2015.

Current Situation:

Nothing to report.

5. SEK will install water level monitoring alarms in all containments without existing spillways and install spillways for all tailings facilities during the next outage. December 31, 2015.

Current Situation:

Nothing to report.

6. Set up a framework to define community-SEK interactions and develop appropriate metrics and reporting on stakeholder commitment and community development programs. July 31, 2016.

Current Situation:

In our interviews with the local communities, we found out the fact that since 2016 SEK has not conducted community consultations. The last consultations that took place in 2016 were aimed to inform the local communities about the second phase of the project expansion. As SEK did not react to our letter of interview request, we could not verify this information or get the company's viewpoint on this issue. However, it should be noted that the interaction between the company and the local

communities is too weak or almost non-existent.

7. Strengthen the current community grievance mechanism in order to facilitate the identification of significant issues concerning different stakeholders, and develop a system to track the company's response to the reported complaints. July 31, 2016.

Current Situation:

There may be such a mechanism within the company. However, it should be noted that it has never been communicated and is therefore unknown to the communities. Nevertheless, suggestion boxes have been set up in five (5) villages (Bungubungu, Katanga, Lufira, Lukutwe and Kangambwa) in order to collect problems, probably also the complaints of the communities. It should also be noted that this mechanism is not used enough by the communities because ever since these boxes were brought, the company has never come to collect the complaints or other suggestions that the communities put in there.

8. Set up a funding mechanism on an accrual accounting basis (e.g., escrow account, sinking fund) for the mine closure and rehabilitation plan and include details in the ESMP. July 31, 2016.

Current Situation:

On page 197 of its revised ESIA, SEK provides quantified projections of annual financial security installments as of 2014 to 2025. It is difficult to have a coherent and objective assessment of the effectiveness of SEK's financial security due to a lack of communication on the issue and the funds that has already been gathered.

9. SEK will implement an action plan with a timetable agreed with the IFC, mainly in order to address environmental and social risks related to water management at tailings and water treatment facilities. This will include an Emergency Water Management Response Plan ("EWMRP") that is consistent with the IFC Performance Standards, WBG General EHS Guidelines, and Mining EHS Guidelines, as appropriate for the context of the Kipoi mine site and in line with the international industry best practice, as well as the necessary infrastructure investments to ensure its delivery. It is up to the engineer in charge to provide oversight, opinions or an exam and approval of all relevant actions as agreed by SEK with IFC. December 31,

2019.

Current Situation:

It is not certain that SEK implements the environmental and social risk mitigation action plan, and an emergency response plan for water management on the ground. Communities keep on complaining about water pollution from SEK.

4.2. RECOMMENDED ACTIONS BY IFC FOR CONSULTATION AND GRIEVANCE MECHANISMS

SEK's grievance mechanism has been largely informal. But to improve SEK's responsiveness to community complaints, IFC suggested the following as key elements:

1. Setting up a community consultation mechanism that includes capacity building for the community's representatives so as to identify and communicate concerns and priorities of the stakeholders to the company;

Current situation:

There is no formal community consultation mechanism set up by SEK. In fact, since the last consultations in 2016, SEK has not conducted any more. Local communities claim that there is no permanent contact or framework for exchange between them and the company. The few social achievements by SEK for their benefit were never submitted to any prior consultation of the local communities even only for their opinion.

2. Developing a long-term community strategy based on the results of the consultation mechanism, using participatory learning for action / participatory rural appraisal tools, and the planned social impact assessment work (as part of the revised ESIA);

Current situation:

There is no mechanism for ongoing and sustainable consultation as a long-term community strategy set up by SEK in order to improve their various interactions with community members. Nevertheless, SEK tries as much as possible to use a number of tools to assess the social and community development impact of their activities.

3. Improving the community reporting process by increasing the frequency of reports from yearly to monthly and by using the reports

to show progress against the company's community strategy and long-term goals.

Current Situation:

There has been little improvement in documentation and community reporting. It is currently difficult to find monthly documentation in the form of a newsletter or journal produced by SEK in which SEK shows change, progress, and the impact of its activities on community development.

4.3 IFC RESPONSES TO THIS REPORT

The following responses to this report were received on April 12 and 27, 2021:

"Thank you for reaching out to IFC regarding your report on Société d'Exploitation de Kipoi (SEK)'s Kipoi copper mine project in the Democratic Republic of Congo. Please note that IFC exited this investment in 2020. We are no longer involved in the project and do not have current information beyond our exit.

During the period of our investment and to our knowledge, there was no leak of contaminated water into the broader environment. This was regularly confirmed by the company's water monitoring campaigns.

Moreover, based on the findings of the company's environmental and social impact assessment, the IFC-financed project did not lead to physical or economic displacement of communities.

We are aware that SEK was implementing various community programs in line with DRC's legal requirements, including, for example, maize production and social infrastructure, and that they conducted regular community consultations.

Upon our exit, we provided guidance to the company on the need for ongoing environmental and social risk management. For any further information we recommend that you reach out directly to SEK."

Follow-up reply following our request for further details:

"IFC sold its debt investment in Société d'Exploitation de Kipoi in March 2020 and its equity investment in Tiger Resources in July

2020.

As reflected in the Environmental and Social Review Summary for the project (<https://disclosures.ifc.org/project-detail/ESRS/36313/kipoi-copper>), IFC's review of the project in 2015 did not identify the presence of villages or communities on the mine concession that needed to be resettled as a result of the expansion project."

5. CONCLUSIONS

This study had the objective of monitoring the Kipoi Copper Mine Project by updating and supplementing the 2016 documentation on the socio-economic and environmental impacts of the KIPOI Project and taking the IFC Performance Standards into account.

To conduct this study, the AFREWATCH team used the analytical and comparative methods, as well as documentary, interview and observation techniques.

Through the study, we found close similarities with the findings of the study in 2016, which highlighted that the living conditions of the local communities around SEK were far from improving as they had no access to basic social services. The lack of schools, health centers, electricity, and drinking water throughout the area surrounding SEK's operations is a serious indicator of this situation.

In relation to the issue of education, we noted that two schools were built in 2012 by SEK in Kangambwa the names of which are "MAISHA YA KESHO" for primary education and "INSEBA KWIMINA PAMO" for secondary education. To date, no new school has been built either in Kangambwa or in any other village.

As far as access to drinking water is concerned, three (3) wells were drilled by SEK in Kangambwa: two in between 2012 and 2016 (one in the school compound and another in the village) and the third with a motor pump in between 2017 and 2019 in the hospital compound. In 2019 two other wells were drilled: one in Lukutwe, which is still open and one in Lwafi, which no longer functions. Despite this, the inhabitants of these two villages continue to use river water for multiple tasks, while according to the inhabitants of Lwafi village, this water has a bitter taste and is the source of skin irritations. In view of the pollution of the rivers from the mine and the lack of drinking water sources to substitute, it seems that SEK is not respecting the IFC Performance Standards 3 and 4.

As for access to health care, in Kangambwa village only one poorly equipped health center has been built. That was the population's demand for their minimum needs. Residents of other villages, including Lukutwe, Lwafi, and Hewa Bora, travel from two to 10 km to Kangambwa for health care.

Concerning the issue of access to electricity for local communities, no electrification project has been achieved or started. There is no electricity

in the surrounding villages. People use dynamos, batteries and solar panels for electricity, and most of them use charcoal for cooking. Consequently, rapid deforestation continues. The overall conditions of the local ecosystem continue to deteriorate partly because of the multiple forms of pollution not mitigated by SEK.

When it comes down to the creation of local jobs, SEK does not sign permanent employment contracts with local people because they are deemed underqualified. Even for jobs that do not require a specific qualification, SEK always employs people from elsewhere (Lubumbashi, Likasi, Kolwezi, etc.). The way SEK behaves with local people violates the IFC Performance Standard 2, which promises fair treatment, non-discrimination, and equal opportunity for workers.

Finally, on the issue of agricultural support, SEK has intervened in almost all of the localities surrounding it, with the exception of Hewa Bora village, a new relocation site which for unknown reasons has been excluded from SEK's agricultural action plan. However, these interventions did not improve local agricultural production in a sustainable way, as local farmers were not able to maintain the use of chemical fertilizers. In addition, the way fertilizers are applied tended to degrade the soil, so that in some cases yields decreased as a result of the interventions promoted by SEK.