

CHILDHOOD LOST

Diamond mining in the Democratic Republic of the Congo and weaknesses of the Kimberley Process

Report #83

SWED
WATCH

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Swedwatch would like to extend its gratitude to Félicien Mbikayi Cimanga, Secretary General of CNONGD RDC, for facilitating the research in the DRC.

All interviewees provided verbal informed consent and were assured that they could end the interview at any time or decline to answer any questions.

Swedwatch does not publish the names of interviewees or individuals who appear in photos unless otherwise agreed.



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Publisher: Alice Blondel
Published: 21 December 2016
ISBN 978-91-88141-14-9

This report has been financed by the Government of Sweden. Responsibility for the content lies entirely with the creator. The Government of Sweden does not necessarily share the expressed views and interpretations.



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Executive summary

As reflected in the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the Children's Rights and Business principles, businesses have a responsibility to mitigate any negative impacts on children's rights throughout their supply chain. This report examines how children in the Democratic Republic of the Congo (DRC), the world's third-largest diamond producer, are affected by conditions in small-scale (so-called artisanal) mine sites, and explains companies' corporate responsibility in relation to children's rights in the diamond supply chain.

Findings from Swedwatch's investigation in the DRC indicate that large numbers of children work in the country's diamond mines, seemingly several thousands, and are exposed to abuses and violations of their rights. Girls and young women in mining areas are particularly exposed to sexual violations and forced marriage, and are not provided with psychosocial support. The work in the mines severely impacts girls' and boys' education and deprives them of the chance to create a better future. The DRC government is not sufficiently addressing these problems. Swedwatch interviews indicate that few (if any) mine sites in the diamond region have been visited as part of a due diligence process by any foreign companies.

The lack of traceability regarding origin is an issue of deep concern in the diamond trade. However, given that the DRC is one of the world's largest producers of diamonds¹, it is likely that diamonds from the DRC are part of European, including Swedish, jewellery companies' supply chains. Still, Swedwatch findings indicate that risks associated with artisanal diamond mines in the DRC and other Central African countries are not adequately represented in available corporate information as regards the companies reviewed for this report.

Swedwatch's survey of Swedish diamond importers and jewellery companies indicates that implementation of applicable frameworks, particularly as regards human rights due diligence is low. This report outlines corporate responsibility as defined by the UNGPs and other complementary frameworks including the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Guidance). Although not legally binding, these frameworks are globally recognized as soft law, and build and elaborate on existing legal standards.

Today, as little as 0.1 percent of the world's diamonds are considered untradeable as per the Kimberley Process Certification Scheme (KPCS) – the only sustainability certification available for diamonds with significant reach. This report argues that the KPCS obscures the true human rights problems within today's diamond trade. Based on the findings from the DRC, it argues that the KPCS must be restructured or replaced in order to protect the people who are bearing the true cost of the diamond trade.



Most people around the town of Demba used to work in agriculture. Today, at least 70 000 people in the Demba area are full time artisanal mine workers, digging for diamonds. One of the men in the picture explains: “These diamonds will be sold at the market. We have never really thought about where our diamonds end up after that.”

Key findings

- Diamond supply chains are tainted by gross human rights violations, including those committed against children. Diamonds originating from western and central Africa are of particular concern, and it is to date not possible to guarantee that they are excluded from European supply chains.
- Diamond extraction in high-risk areas, such as the DRC, particularly expose girls and women to harm and sexual abuse, including commercial sexual exploitation - a fundamental violation of human rights and children’s rights.
- Although prohibited by law, thousands of children appear to work in DRC diamond mines.
- There is practical guidance to help companies in the diamond business adhere to international norms on business and human rights, such as the OECD Guidance. It is unclear whether Swedish jewellery companies are applying this guidance. Swedwatch reviews indicate significant gaps in relation to policies and/or processes regarding human rights, labour rights, and child labour in their diamond supply chains.
- According to the Kimberley Process, 99.9 percent of the world’s diamonds no longer originate from countries of conflict. Yet, the KPCS is still referred to by jewellery companies as the main sustainability framework for diamonds.
- The KPCS relies on a definition of unethical diamonds that no longer reflects the reality in many diamond-producing countries. Therefore, it is failing the most vulnerable adults and children within the diamond trade.

Recommendations

To the European Union and its member states

- Establish laws requiring companies headquartered or domiciled within their borders to investigate, and publicly report on, their diamond supply chains in accordance with international standards such as the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, and the UN Guiding Principles on Business and Human Rights.
- Provide assistance to the government of the DRC to support its efforts to 1) ensure that children are not exposed to child labour, 2) extend labour protections to all artisanal miners.
- Implement strict social criteria (i.e demand compliance with human rights and international conventions on labour conditions) when products containing diamonds or other minerals sourced from conflict-affected or high-risk areas are publicly procured.

To the Swedish government

- Adopt national legislation on mandatory human rights due diligence for all Swedish companies operating in, or importing from, conflict-affected or high-risk areas, in accordance with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and the UN Guiding Principles on Business and Human Rights.
- Actively urge the Kimberley Process and the World Diamond Council to adopt the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and the UN Guiding Principles on Business and Human Rights.
- Implement strict social criteria (i.e demand compliance with human rights and international conventions on labour conditions) when products containing diamonds or other minerals sourced from conflict-affected or high-risk areas are publicly procured.
- In accordance with the National Action Plan on Business and Human Rights, strengthen the OECD National Contact Point by increasing its capacity to handle cases, establishing a permanent office with staff and an expert chairperson, as well as granting the NCP the power to investigate cases on its own.

To the government of the Democratic Republic of the Congo

- Review mechanisms that underpin the unofficial payments of schoolteachers and implement actions to enforce the abolition of unofficial payments to teachers.
- Cooperate with the Ministry of Gender, Women and Children and Ministry of Education to ensure that children are not involved in artisanal or industrial mining.

- Implement measures to address children’s health, physical, educational, economic and psychological needs. Ensure that reintegration activities are aligned with income-generating opportunities for communities involved in artisanal mining.
- Reintegrate into the school system children whose education has been disrupted because of their involvement in artisanal mining.
- Ensure that the labour inspectorate has sufficient resources and training to monitor and enforce labour laws in artisanal mining areas and to address the worst forms of child labour.
- Ensure that relevant local authorities, especially in high-risk areas (such as mining regions), are equipped to investigate and end the impunity around sexual abuse of children, including forced marriage.
- Ensure that medical treatment and psychosocial support is available to victims of sexual abuse, and are tailored also to young victims.

With respect to artisanal miners:

- Put in place mechanisms to support safe artisanal diamond mining. Any system to support artisanal miners should have as a primary objective the right to livelihood, and therefore should not impose onerous administrative or financial requirements.
- Implement a system to prevent the exploitation of artisanal miners by traders. This mechanism should be developed through a consultative process and be tested to ensure that it is robust and does not result in unintended consequences.

To Swedish and non-Swedish companies operating in the diamond industry

- Publicly commit to respecting human rights and children’s rights throughout the company’s operations, including through the disclosure of human rights due diligence policies and practices.
- In accordance with international standards such as the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and the UN Guiding Principles on Business and Human Rights, put in place adequate systems to enable the company to become aware of, prevent and address human rights abuses linked to its operations, and to source its diamonds and products containing diamonds responsibly. Publicly report the steps taken by the company in accordance with these standards.
- Actively urge the Kimberley Process and the World Diamond Council to adopt the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and the UN Guiding Principles on Business and Human Rights.
- Expand sustainability efforts to focus not only on direct suppliers through for example initiating cooperation with other actors in the diamond supply chain (such as other companies in the same industry or other important stakeholders in the value chain).

List of abbreviations

CAR	Central African Republic
CEEC	Centre for Evaluation, Expert Analysis and Certification of Precious Minerals
COCOPEF	Consortium communautaire pour la prévention contre l'exploitation des l'Enfant et de la Femme dans les sites miniers
DRC	Democratic Republic of the Congo
EU	European Union
ILO	International Labour Organization
KP	Kimberley Process
KPCS	Kimberley Process Certification Scheme
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
PAC	Partnership Africa Canada
UNGP	United Nations Guiding Principles on Business and Human Rights
UNICEF	United Nations Children's Fund

1. Introduction

The mining industry creates millions of employment opportunities around the world, and is an important source of income for many countries, especially among developing economies. At the same time, mining represents one of the most hazardous work sectors, and is a form of work that is particularly dangerous to children. According to the International Labour Organization (ILO), “the dangers are so obvious and extreme that there are no conditions – poverty included – under which child work in mining can be tolerated.”² Nevertheless, an estimated one million children aged 5–17 work in small-scale mining (so-called artisanal mining) globally, and the number is said to be increasing.³

Almost two-thirds (65 percent) of the world's diamonds are extracted in African countries.⁴ Child labour in diamond mines has been identified in several nations on the continent, particularly in the western and central parts. Children in artisanal diamond mines are exposed to physical and mental hardship, and the work deprives them of their childhood.⁵ Girls are particularly exposed to the extensive sexual abuse that exists in mining areas. Children who work in mines often do not complete their schooling, which limits their ability to create a better future outside the mine.⁶ As this report will show, this is the situation faced by many, probably thousands, of children in the world's third-largest diamond producing country (by volume), the Democratic Republic of the Congo (DRC).

There are rights that specifically apply to children due to their particular needs and vulnerabilities.⁷ Governments have the duty to protect, respect and fulfil these rights. However, as established in business principles developed by the UN Global Compact, all businesses must respect international standards on children's rights.⁸ The UN Security Council has – along with several human rights research organisations, including Amnesty International and Global Witness – produced reports on human rights problems related to African diamond extraction in the past decade. Several studies also discuss the role of the European Union (EU) and multinational mining companies in making the diamond trade more transparent.⁹

The lack of traceability in the diamond supply chain makes it difficult for European diamond importers and jewellery makers to identify the origin of each diamond, and thereby understand the conditions under which it was extracted. Nevertheless, as businesses, they have a responsibility to assess and mitigate human rights risks along their supply chains, which includes identifying the risk of child labour and other abuses of minors. Companies should also publicly communicate these efforts.

The purpose of this report is twofold. First, it explores the corporate responsibility of diamond importers and jewellery retailers in relation to children's rights in the diamond supply chain. It draws on findings from Swedwatch's investigations in two of the DRC's diamond provinces and a survey of Swedish jewellery companies' efforts regarding their respective diamond supply chains. Second, the report extensively discusses the main sustainability certification of diamonds, the Kimberley Process Certification Scheme (KPCS), in order to enhance understanding of its limitations in addressing human rights and children's rights violations related to diamond extraction.

2. Methodology

This report is the result of research on the DRC, the diamond industry and the international diamond supply chain. Swedwatch researchers visited the DRC's diamond provinces Kasai and Kasai Central in September 2016. Research on the Kimberley Process was conducted by Swedwatch's member organisation, the solidarity organisation Afrikagrupperna (The Africa Groups of Sweden), in 2015.

During the field study, Swedwatch visited four artisanal mine sites, two land-based and two river-based. A total of 49 interviews were conducted with government officials, teachers, parents, mine workers, medical doctors, nurses, NGO workers, diamond traders, and teenage girls and boys. The interviews and research took place at the mine sites and in their surrounding villages, and in the two provincial capitals Tshikapa, a town originally built around the diamond trade, and Kananga.¹⁰

In line with best practice on conducting child-focused research in environments of enhanced security risks, Swedwatch did not interview children directly. Instead, interviews were conducted with teenagers and adults with direct insight into the situation of children in the area. Only one interviewee was under the age of 16 (a girl of 14). All the interviewed teenagers worked at mine sites, either full time or part time.

The interviews were conducted in a semi-structured manner. Most of them were carried out individually. The interviews with teenagers were conducted in focus groups, ranging from three to six persons.

Based on the findings from the DRC, Swedwatch sent a survey to seven jewellery businesses in Sweden that import diamonds from European traders and/or sell diamond jewellery on the Swedish or international market.¹¹ Two companies replied to the survey, and one company shared a statement. Another company initially replied but retracted its response when it was given the chance to confirm the quotes it originally provided.¹² Three companies did not reply, including the Swedish market leader Iduna AB. Swedwatch offered to extend the deadline to those companies that did not





Adult mine workers explain to Swedwatch that they started accompanying their parents to the mines at an early age, and have been digging for diamonds their whole lives. "We have never seen people from foreign or DRC companies visiting a mine site".

reply. They were also offered to propose an even later date at their own convenience. Iduna and Engelbert Stockholm were also given the option to only reply to parts of the survey, as per their own preference.

It should be noted that the industrial use of natural diamonds (which are unsuitable for use in jewellery) is larger than that of jewellery companies. Diamonds are important parts in machinery, such as drills and saw blades, in cutting and grinding tools, and in ophthalmology surgical knives.¹³ The DRC is one of the largest producers of industrial diamonds, but according to statistics from 2013, an estimated 20 percent of the country's total diamond production is of gemstone quality and can therefore be used for jewellery.¹⁴ While industry companies are beyond the scope of this study, it would be relevant to further investigate and include such companies in a similar survey.

3. Background and the Kimberley Process

The modern diamond industry was established in South Africa during the second half of the 1800s. Over the following century, South Africa was, along with Namibia,¹⁵ the world's main diamond producer.¹⁶ The global diamond trade was at the time largely unregulated and tainted by money laundering, tax evasion and drug trafficking.¹⁷ Diamonds also became an efficient source of income for warlords and rebels, and helped finance insurgencies and civil wars in sub-Saharan Africa during a turbulent period from the 1980s to the early 2000s. These so-called conflict diamonds, also known as blood diamonds, fuelled armed conflicts that took the lives of millions of people in Angola, Sierra Leone, Liberia and the DRC.¹⁸

Diamonds are still mainly sourced from Africa, but also from Canada, Russia, Australia and South America. A large share of the extraction is conducted on an industrial basis (extracting so called kimberlite diamonds that require drilling as they are deposited in shafts), in which mining companies operate under clear regulations. In such contexts, notably in Canada and Australia, the associated risks of human and labour rights violations are comparatively low.

Up to 20 percent of the world's gem-quality diamonds are, however, mined by artisanal (small-scale) miners in unregulated and often unsafe conditions.¹⁹ Such mining is performed by individuals and often involves families, including children, using basic equipment such as sieves and pans. It is often characterized by poor health and safety practices, vulnerability to physical and economic exploitation, and harmful environmental effects. This form of mining is particularly common in the DRC and other African countries.²⁰

FACT

Alluvial diamonds are found in riverbeds and in shallow deposits, and can therefore be mined without high-tech equipment or drills. Most alluvial diamond deposits are spread across vast geographic areas that cannot be easily isolated, and therefore are not mined industrially. These deposits are mined informally, without regulations, by artisanal miners.²¹ Artisanal miners source up to 20 percent of the world's gem-quality diamonds.²²

3.1 The Kimberley Process

In the face of growing international pressure against the trade of conflict diamonds and the issuing of several diamond sanction resolutions by the United Nations Security Council,²³ major diamond producing and trading countries met with the diamond industry and civil society in 2000 in Kimberley, South Africa, to determine how to tackle the problem. The initiative was named the Kimberley Process (KP). Two years later the Kimberley Process Certification Scheme (KPCS) was launched, which for the first time established requirements for controlling rough diamond production and trade. The KPCS came into force in 2003.²⁴

The aim of the KP was – and still is – to exclude conflict diamonds from global markets, and thereby prevent diamond-fuelled wars. To achieve its goal, the KP relies on each member country to implement control systems for the import and export of rough diamonds.²⁵ According to the KP's definition, conflict diamonds are:

*[R]ough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described in relevant United Nations Security Council resolutions[.]*²⁶

By the time the KP came into force, the last of the diamond-financed conflicts in the region had ended. Nevertheless, the aim of the KP remains focused on ending armed conflicts, and its definition of a conflict diamond has not been changed.

Members of the Kimberley Process

Countries that export or import diamonds can become members of the KP.²⁷ Signing up to the KP is entirely voluntary, but once affiliated, members undertake to submit to certain mandatory obligations. KP members are not permitted to export or import diamonds to or from a non-member.²⁸

As of 2016, the KP has 54 members, covering 81 countries.²⁹ The EU and 28 of its member states together constitute one member and are represented by the European Commission.³⁰ 27 of the world's 30 rough diamond-producing countries are KP members. Together they account for around 99.8 percent of the global production of rough diamonds.³¹

The diamond industry, through the World Diamond Council, and civil society, through the KP Civil Society Coalition, are also integral parts of the KP and are referred to as Observers.³² These stakeholders can be involved in working groups. Although only members, not Observers, have a vote in decisions within the KP, Observers can influence the decision making process.³³

The Kimberley Process³⁴ is a collaborative initiative between governments, industry and civil society that regulates the trade and production of rough diamonds. Its aim is to stem the flow of conflict diamonds into the diamond trade. The KP requires member countries to set up an import and export control system for rough diamonds. Although voluntary, member countries are not permitted to export or import diamonds to/from a non-member country.

Procedures and requirements

Each member country is responsible for issuing its own KPCS certificate for each diamond shipment, which guarantees that the shipment contains conflict-free rough diamonds. The certificate also serves as a guarantee that the government has a review system for internal control. To comply with the KPCS, the following is required:

- Each shipment of rough diamonds crossing an international border should be:
 - transported in a tamper-resistant container and
 - accompanied by a government-validated KP certificate.
- Each certificate must be resistant to forgery, uniquely numbered and describe the shipment's contents.
- The shipments can only be exported to other KP member countries.

Failure to comply with these procedures may lead to special measures including export embargoes being placed on the non-complying member country.³⁵

3.2 Weaknesses of the Kimberley Process

Since its launch, the KP has been criticized for its shortcomings. Two of the human rights research organisations involved in its founding, Global Witness and Partnership Africa Canada (PAC), have over the years raised serious criticisms and reported human rights abuses linked to diamond extraction in several KP member countries, including the Central African Republic (CAR),³⁶ Angola³⁷ and Zimbabwe.³⁸ In 2011, Global Witness resigned as an official observer to the KP, citing the failure of the process to resolve persistent concerns.³⁹ Amnesty International has also published extensively on the continued human rights problems linked to diamond extraction in the region.⁴⁰

Two principal weaknesses that characterize the concerns regarding the KP are:

1. the narrow definition of a conflict diamond which does not consider human rights abuses linked to diamond extraction in several KP member countries; and
2. the poor traceability of diamonds.

Narrow definition

The definition of a conflict diamond does not cover diamonds that are mined or traded in circumstances involving human rights abuses, or diamonds that have financed abusive government forces, as long as they were extracted in a non-conflict area. Therefore the KP is not empowered to address the broader range of human rights risks posed by the trade in diamonds, such as those documented by international human rights organisations.⁴¹

FACT

Examples of critical human rights issues not covered by the Kimberley Process

Apart from the range of human rights abuses linked to diamond extraction in the DRC as presented in this report, diamond mining in other countries, including Angola, Sierra Leone and Zimbabwe, involves severe human rights violations. These countries are all KP members and supply diamonds to the international market, including to Sweden.⁴²

Angola Diamond extraction in Angola has over the past decades been linked to torture, murder and forced displacement,⁴³ and relies on both child labour and forced labour. Research suggests that undocumented migrant children from the DRC enter Angola to work in diamond-mining districts and experience conditions of forced labour or commercial sexual exploitation in mining camps.⁴⁴

Sierra Leone Children are engaged in the worst forms of child labour in Sierra Leone, including in diamond mining. Children are also trafficked internally for forced labour in diamond mines.⁴⁵

Zimbabwe In 2009, military forces entered Zimbabwe's Marange diamond field. In the attack, the military forces killed over 200 diamond miners, and raped and gang raped many women and young girls. Following the attack, the KP temporarily banned diamonds from Marange to be exported, but revoked the ban in 2011. The victims of rape and violence have to date not been compensated by the government. According to reports, artisanal miners were killed by security forces in 2016, and harassments continue. Over one thousand families that have been relocated by diamond mining companies in the area currently live in dire poverty as they have not received the compensation they were promised.⁴⁶

Traceability

The KPCS does not guarantee the traceability of individual diamonds. It only applies to packages of rough diamonds that are sold on for cutting and resale. Once diamonds enter a trading centre from their country of origin, they can be mixed with diamonds originating from other countries in new parcels that are certified as 'mixed

origin'. The 'mixed origin' parcels that are then shipped onwards from the trading centre do not identify which countries the diamonds are from.

Forged KPCS certificates further weakens traceability. The KP regularly issues "Warning to the public concerning fake certificates" on its website. In 2016, Swedwatch noted that such warnings were issued in relation to the DRC, Angola, CAR, Sierra Leone, Ghana and Malaysia.⁴⁷

The smuggling of diamonds between member states to avoid taxation or embargos is an additional obstacle to traceability. In relation to the DRC, an estimated 20 percent of the diamonds leaving the country are smuggled out.⁴⁸ Political polemics among the KP's members, combined with weak control institutions, weakening political will to enforce breaches in KP minimum requirements, and the consensus-based decision-making system that prevents critical reforms partly explain why its shortcomings persist more than a decade after it came into existence.⁴⁹

"The figure of 0.1 percent relies on the outdated conflict diamond definition. For the last several years, the majority of human rights abuses linked to diamond mining have been carried out by either state actors or private security companies, but they are not considered by the KP. In Angola for example, government security forces have regularly beat, raped, killed and disposed illegal Congolese miners in border regions. If you also consider the "conflict-affected" diamond production from Marange, Zimbabwe, you get a sense that this figure is completely ridiculous."

/Alan Martin, PAC

FACT

"99.9 percent of world's diamonds no longer originate from conflict-affected countries"

In the 1990s, when the concept of diamond-fuelled wars was first internationally recognized, conflict diamonds represented approximately 4 percent of the world's diamond production.⁵⁰ Today, according to the KP, only one country fulfils the KP's own definition of a conflict-diamond-producing nation: "The only current case of rebel forces controlling diamond-producing areas is in Côte d'Ivoire. These conflict diamonds constitute less than 0.1 percent of the world's production."⁵¹

The World Diamond Council represents some of the largest stakeholders in the diamond industry, including diamond and jewellery companies.⁵² The council recognizes that the diamond-fuelled wars in Africa have ended, and that "international monitoring has demonstrated that diamonds are no longer being used to fund conflict in the DRC".⁵³

The KP remains the diamond industry's main tool for addressing human rights concerns about diamond extraction. In light of the statements made by the KP and the World Diamond Council, however, the process (and its continued sole focus on conflict diamonds) appears to be outdated.

Global diamond production and human rights					
	The ten largest diamond-producing countries in 2015 ⁵⁴ (volume, carats, in millions)		Child labour in diamond mines ⁵⁵	Forced labour in diamond mines ⁵⁶	Ranked among the world's 21 most corrupt countries ⁵⁷
1	Russian Federation	41.9			
2	Botswana	20.8			
3	Democratic Republic of the Congo (DRC)	16	X	X	X
4	Australia	13.6			
5	Canada	11.7			
6	Angola	9	X	X	X
7	South Africa	7.2			
8	Zimbabwe	3.5			X
9	Namibia	2			
10	Sierra Leone	0.5	X	X	
	World total (rounded)	127.4			

Note: For gem diamonds in particular, the ranking in 2014 was: 1. Russia, 2. Botswana, 3. Canada, 4. Angola, 5. South Africa, 6. The DRC. Source: Mineral Commodities Summaries 2015

4. Mining in the DRC

Despite enormous natural resource wealth, including diamonds and other minerals, the DRC remains one of the poorest countries in the world;⁵⁸ an estimated 70 percent of its population lives off less than 1 USD per day.⁵⁹ This is in large part due to the ‘resource curse’, a situation in which countries rich in natural resources remain extremely poor, and the general population does not benefit from the trade.⁶⁰

The DRC is the world’s largest producer of cobalt, and an important producer of the four ‘conflict minerals’: tin, tantalum, tungsten and gold (the four are together referred to as the 3TG).⁶¹ These minerals are essential to components of mobile phones, computers, cars and light bulbs, and are in high demand on the international market – yet drive one of the world’s most violent and protracted humanitarian emergencies.

From 1997–2003, the DRC experienced an armed conflict with devastating effects on its civilian population. The conflict and its humanitarian impact has claimed the lives of millions, either as a direct result of combat or because of disease and starvation. In 2007, the International Rescue Committee described it as the world’s deadliest crisis since the Second World War.⁶² While the DRC is now referred to as a post-conflict country, army and militia violence in the North Kivu and South Kivu provinces in the northeast, and the Katanga province in the southeast, are still ongoing.⁶³

Democratic Republic of Congo / DRC

Population: around 70 million

UN Development Programme Human Development Index ranking: 176 (of 188)

Poverty rate: 70 percent lives on less than 1 USD a day

Life expectancy: 58 years

Gross rate of school enrolment (girls/boys): 54 percent

UNICEF estimate of children working instead of attending school: 40 percent

Corruption Perceptions Index ranking: 147 (of 168)

Value of diamond exports (2015): 207 million euros

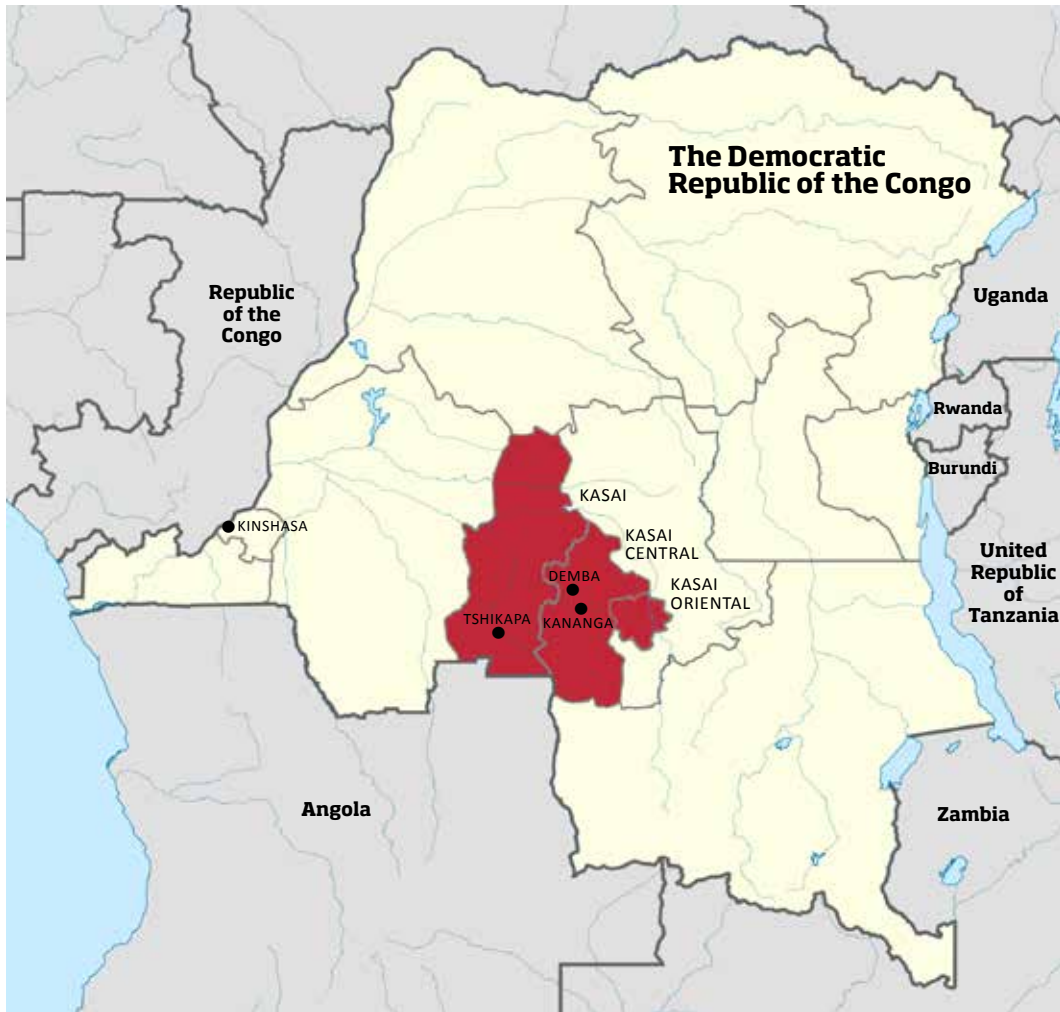
Member of the Extractive Industries Transparency Initiative (EITI): Yes, since 2008 (full member since 2014)

Sources: UNDP, U.S Department of State, World Bank, UNICEF, Transparency International, Kimberley Process, EITI.

The humanitarian crisis in the east has been partly financed by the extraction of the 3TG, with armed groups fighting to control resource-rich areas in order to bankroll their activities and ensure strategic control. As a result, human rights abuses have been concentrated in these areas and sexual violence is still rampant. In 2016, the UN reported continued violent attacks against the population by militias in the east. These included rape, mass rapes, abductions, looting and extortion in the vicinity of mining sites.⁶⁴ Human rights groups also report that militias extort artisanal miners at mine sites and conduct raids in villages, burning houses and looting miners of their mineral findings.⁶⁵

International human rights organisations widely cite sex and labour trafficking of adults and children in mining communities in both the conflict-affected eastern DRC and throughout the country.⁶⁶

During the years of conflict, tens of thousands of women and girls, as well as men and boys, were raped and otherwise sexually abused by armed groups and members of the Congolese army.⁶⁷ In 2009 alone, six years after the war had officially ended, more than 8,000 women in eastern DRC were raped.⁶⁸ The rates of sexual violence remain high,⁶⁹ particularly in mining areas since they coincide with the presence of armed groups.⁷⁰ The abuse of children is said to be rising.⁷¹



The country's diamond reserves – the world's second largest⁷⁸ – are mainly concentrated in the three adjacent provinces of Kasai, Kasai Central and Kasai Oriental.⁷⁹

4.1 Diamond extraction in a high-risk area

The DRC is the world's third-largest producer⁷² of rough diamonds and is responsible for approximately 13 percent of the global output.⁷³

The first diamond field to be discovered in the country was in the province then named Kasai Occidental, which was divided in 2015 into two provinces, Kasai and Kasai Central. The discovery was made in 1912 by the Belgian mining company For-
 minière.⁷⁴ The company also founded Tshikapa, a town still known as a diamond centre.⁷⁵ More than 100 million carats of alluvial diamonds have been produced in the Tshikapa area since that time.⁷⁶ Diamonds from this area are recognized for their high quality and are valued at 180–270 euros per carat.⁷⁷

Of the country's estimated tens of thousands of alluvial mines,⁸⁰ several thousand are in the Kasai and Kasai Central provinces,⁸¹ mainly in the areas of Tshikapa, Demba⁸²

and Luebo. An estimated 70 percent of the diamond mining in the DRC is artisanal,⁸³ and miners in these mine sites are not paid for labour. Hundreds of miners die every year in drowning accidents and tunnel collapses that are seldom reported.⁸⁴

In 2015, the U.S. Department of State described the situation of artisanal mining in the DRC, stating that “In the artisanal mining sector, individuals took on debt from intermediaries and dealers to acquire food, supplies, and mining tools and equipment, often at high interest rates despite low wages. Miners who failed to provide sufficient ore to pay debt were at risk of becoming perennial debtors. The government did not attempt to regulate this practice.”⁸⁵

Several parts of the DRC are designated areas of “humanitarian emergency”.⁸⁶ The Swedish International Development Agency (Sida) concluded in its 2016 Humanitarian Crisis Analysis that “The crisis in DRC is complex and protracted, so far without exit prospect.”⁸⁷ The same report refers to Kasai and Kasai Central,⁸⁸ the diamond provinces, as “a forgotten area of DRC where no actors are present”.⁸⁹ Thus the DRC meets the criteria of a high-risk area.

FACT

What constitutes a high-risk area?

According to the Organisation for Economic Co-operation and Development (OECD), “high-risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. Such areas are often characterised by widespread human rights abuses and violations of national or international law.”⁹⁰

FACT

It is difficult to accurately determine the number of **artisanal miners** in the DRC, as most work under informal conditions. According to industry and government estimates, there were between 700,000 and one million artisanal miners in 2006.⁹¹ The DRC’s official diamond exports have slightly decreased in recent years,⁹² which may have lowered the number of artisanal miners.

4.2 Poverty in the diamond region

The social conditions are critical in Kasai and Kasai Central, especially in rural areas where government presence is virtually non-existent.⁹³ A 2014 survey by the African Development Fund⁹⁴ found that 82 percent of households in the areas around Tshikapa live in houses made of mud walls, with dirt floors and straw roofs.

The study also found that most rural households lack access to electricity and drinking water, and mainly rely on rudimentary water sources. Nearly 30 percent of the households were found to lack toilets.⁹⁵

4.3 The DRC and the Kimberley Process

The DRC was a KP member from the onset in 2003 and is part of several working groups, including the Artisanal and Alluvial Production working group that “aims to promote more effective internal controls on the production and trade of alluvial diamonds”.⁹⁶ The DRC served as chair of the KP in 2011.⁹⁷

Central to the fulfilment of KP criteria is the DRC’s Centre for Evaluation, Expert Analysis and Certification of Precious Minerals (CEECA)⁹⁸ – the government body responsible for monitoring mining and the processing of all minerals and precious metals in the country, including diamonds.

In September 2016, Swedwatch interviewed a government official from the CEECA with many years of experience working with the implementation of the KP in the DRC on behalf of the government.⁹⁹ According to the government official, the smuggling of diamonds is still significant: “About 20 percent of the diamonds leaving the DRC are smuggled. The smuggled diamonds end up in the same trading centre [as the certified diamonds] and contaminate the supply chain.”

The government official added that “The European trading centres have very poor due diligence. They should have better control. They should look both downstream and upstream. If it is bad at one end, it will contaminate the other end.”

The official also stressed that “European governments should take more responsibility for increasing transparency”, adding that Western buyers have a large responsibility, which they are not living up to. “Nobody in Antwerp or New York asks for certificates – they just want diamonds.”

FACT

Undervaluation is a practice where diamonds are assigned a low value in the country where they are mined, often by the company that is exporting them, in order to pay less tax. This practice means that diamond-producing countries receive far less revenue from taxing diamond exports than they would if the diamonds were exported at their market value.¹⁰⁰ The DRC was in 2012 the world’s second-largest diamond producer (in quantity), but was ranked only tenth in terms of market value, in part due to the export of undervalued diamonds. According to KPCS statistics, undervaluations cost the DRC an estimated 60 million euros in lost tax on profits in 2013.¹⁰¹



Young diamond diggers return after a day at the mine. In mining villages, many boys start working full time, looking for diamonds six days per week, instead of continuing to secondary school. Younger siblings often help out with simple tasks.



5. Children in the DRC diamond mines

According to the United Nations Children’s Fund’s (UNICEF) child poverty measure, the DRC has among the highest rates of child poverty in sub-Saharan Africa.¹⁰² Within the DRC, children in Kasai and Kasai Central provinces experience the most serious deprivations.¹⁰³

Due to the extensive poverty in these two diamond-rich provinces, thousands of children work in the mines. In 2014, a local human rights organisation specialized in monitoring the rights of women and children in mines, The Consortium communautaire pour la prévention contre l’exploitation des l’Enfant et de la Femme dans les sites miniers (COCOPEF), conducted an extensive investigation at diamond and gold mines in the area, interviewing over 2,300 children and teenagers working in mines. The research covered a limited part of the two provinces, but reached the conclusion that over 8,000 children work as artisanal miners.¹⁰⁴

FACT

The DRC is a party to the ILO’s **Worst Forms of Child Labour Convention** (No. 182), which requires governments to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour.¹⁰⁵

In 1990, the DRC ratified the Convention of the Rights of the Child.¹⁰⁶ According to the DRC Constitution, primary education is compulsory and free in public establishments.¹⁰⁷ UNICEF found that poor school attendance is greatest in the DRC provinces with high mining production.¹⁰⁸ Kasai and Kasai Central were found to have one of the country’s highest proportions of out-of-school children (32.4 percent),¹⁰⁹ a figure close to that of the DRC’s other important diamond province, neighbouring Kasai Oriental.

FACT

UN Convention of the Rights of the Child¹¹⁰

Article 28

1. States Parties recognize the right of the child to education [...] in particular:
 - (a) Make primary education compulsory and available free to all;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical [...] development.

Article 34

- States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.

Women and girls are especially exposed in this context, and sexual violence is known to be widespread in Tshikapa town¹¹¹ as well as in nearby rural areas, with the highest rates concentrated in mine sites and mining villages.¹¹² According to COCOPEF's findings, 7 out of 10 women at mine sites in this region¹¹³ offer sexual favours to mine workers in exchange for money.¹¹⁴

The same report found that that the mine quarries are an extremely dangerous environment for the girls that frequent them, and that the girls are subjected to sexual violence by multiple aggressors. Tradesmen and diggers, who wield considerable power in the quarries, were found to constitute the main part of the aggressors (42 percent).¹¹⁵

In sum, thousands of children in the DRC diamond region are forced by poverty¹¹⁶ to engage in what the ILO has established as a form of work that is dangerous to children in every way, and which should never be tolerated.¹¹⁷ In this context, girls are particularly exposed to serious abuses. Swedwatch's research findings in the two diamond provinces in 2016 were in line with these conclusions.

FACT

Child labour

Child labour is work that deprives children of their childhood, their potential and their dignity, and is harmful to physical and mental development. This includes work that:

- is mentally, physically, socially or morally dangerous and harmful to children;
- interferes with their schooling; and
- involves children who are under the minimum working age(s) set by national legislation or international standards.

No child under 18 years old should be engaged in hazardous work.¹¹⁸

Source: UN Children's Rights and Business Principles

6. Swedwatch's investigation in the DRC

Swedwatch's investigations in the DRC uncovered wide-scale yet common violations of children's rights – especially girls – at artisanal diamond mine sites. Swedwatch was not able to verify the number of children working in the mines, but was told by several interviewees that there are thousands.

The findings presented in this chapter are based on Swedwatch interviews conducted in August and September 2016 as per the following table.

Interviews conducted in Kasai and Kasai Central (rural and urban areas)

Interviewee category	Number of interviewees	Specification
Government officials	4	Head of Provincial Division of Mines (Kasai Central province), Provincial Minister of Mines (Kasai province), Head of Mining Department in Demba, and a CEEC official (anonymous)
Teachers	7	Representing five mixed secondary schools and one all-girls secondary school.
Parents	7	Two mothers, five fathers. All parents had children working in mines. All fathers were mine workers but were interviewed in their capacity as parents.
Medical doctors	2	One female and one male
Nurses	2	One female and one male
NGO/INGO workers	4	UNICEF, COCOPEF, CRONGD, CNONGD
Diamond traders	2	Anonymous
Adult mine workers	3	Males, representing different mine sites
Teenage mine workers (boys)	14	Age 16-19
Teenage mine workers (girls)	4	Age 14-18
Total	49	–

CRONGD = Conseil Régional des Organisations Non Gouvernementales de Développement (Regional Council of Non-Governmental Development Organisations); CNONGD = Conseil National des ONG du Congo (National Council of Congolese NGOs)

6.1 Childhood in the diamond mines

During the two months of national summer vacation, children in mining areas usually work full-time in the mines – from about 9 am until 6 or 7 pm, six days per week. All interviewees stated that the main reason why children work is to cover basic expenses for food and school, and many do not begin secondary education. The teachers interviewed explained that a significant number of children in the area are orphans or have been abandoned by their parents and must therefore work in the mine to survive.

Teachers' salaries are notoriously low, and although school is free according to national law, there is a strong tradition of requiring students to pay a "contribution" to their teachers. These unofficial fees vary between 10–15 euros/trimester in rural villages, and up to 30 euros/trimester in towns. All the teenagers that Swedwatch interviewed wished to complete secondary school, and none wanted to work in the mine. Several boys expressed hope of finding a big diamond that would allow them to leave the village and study in the city. This, according to the boys, would allow them to find different jobs in the future.

"It's a bad work. It's very hard but I have no option. I would rather work as a mechanic or with anything else than in the mine when I grow up, but to find a good job, I would have to study."

/19-year-old artisanal diamond mine worker who started working at age 14.

The boys Swedwatch spoke to have, despite having worked for several years, only found small diamond stones. Sometimes a month or two passes in which they find nothing.

"If I find a big diamond, I will use the money to go to the city to study. Then I could get a job. Any job is better than the mine."

/17-year-old boy

Many children go to school in the morning and work in mines in the afternoon. Due to the physically demanding nature of the work in mines, many children have difficulties focusing in school and are too tired to do their homework. Many students also miss several days of school each week in order to work. According to the teachers interviewed by Swedwatch, 40–60 percent of their students work in the mines, and during a normal school day about 25–35 percent of them are absent for this reason. The children are often introduced to life at the mine site when they start accompanying their parents to work at a young age.

Boys often start at the age of 8–10 (or as early as at age 6, although this is not as common). They often join a team of 6–10 diggers that also includes adults. At this age, the team leader assigns them simpler tasks such as collecting grass to support mud walls in the mine, or sifting gravel. Starting from the age of 14, boys are assigned physically heavier tasks such as panning and digging gravel. At this age, a boy working full time can earn 18–45 euros during what is considered a good month, and around 6 euros in a bad month. The majority of the teenage boys that Swedwatch spoke to started working full time around the age of 14, and did not continue their education.

Girls tend to start working in diamond mines slightly later than boys, commonly around age 12. While some girls pan, most sell food or simple snacks to the mine workers. These tasks can yield 2–4 euros in a good day. Girls normally have to combine their work with many household duties, such as cooking, cleaning and walking long distances to fetch water. Girls are commonly responsible for such duties well before age 12.

6.2 Girls' exposure to sexual exploitation

The following findings are based on Swedwatch interviews with UNICEF DRC, two medical doctors and four secondary school teachers in Tshikapa.¹¹⁹

Forced marriage

Girls in mining areas are commonly forced to get married before they reach the legal marriage age (18 years). This practice is said to be much more common in mining families than in non-mining families. Forced marriages can be a form of sexual exploitation and/or commercial sexual exploitation of children, depending on if there are commercial aspects involved.¹²⁰

Because of poverty, many parents lack the ability to provide for their children, and when a daughter is born she may be regarded as a potential source of future income.

“A daughter is considered goods, merchandise, that can be sold.”

/ FEMALE TEACHER OF AN ALL-GIRLS SECONDARY SCHOOL IN TSHIKAPA

It is common for 12-year-old girls to be sold as spouses to men who work with the parents in the mines.

“Her parents can receive around 450–1,000 euros from the prospective husband. The daughter has no possibility to refuse. At best, the parents use the money to pay the school fees for other children in the family.”

/ MALE TEACHER AT SECONDARY SCHOOL, TSHIKAPA

Older men have often worked in the diamond mines for years and are seen as more able to provide for a household. Because of the extensive poverty, young girls often have no other option but to marry men, often several times their age.

“Girls who marry leave school, no matter how young she is.”

/ MALE TEACHER AT SECONDARY SCHOOL, TSHIKAPA

“Most of the time the man who the daughter has to marry is a lot older than her; he can be 40–50 years old and marry a girl of 12–16 years. To the girl, getting married is the end of her possibilities for education. When she moves in with the older man and becomes his wife she cannot go to school anymore, if she ever wanted to. The fate of the daughters is a result of poverty being so widespread.”

/ TEACHER AT AN ALL-GIRLS SECONDARY SCHOOL, TSHIKAPA

“At the start of the last semester, there were around 200 girls among the students of my school. At the end of the semester, 20 of them had quit school because they were forced into marriage by their parents. Instead of being children they have become wives to men who are much older.”

/ MALE TEACHER AT SECONDARY SCHOOL, TSHIKAPA

Sexual harassment, rape and commercial sexual exploitation

Sexual harassment and rape of girls and women around mine sites is extensive. Cases of sexual exploitation of boys appear to be very rare, although they do exist. There is no access to professional psychosocial support for victims.

“Many victims of sexual abuse just think that it’s part of a woman’s life.”

/ FEMALE MEDICAL DOCTOR

Unmarried girls who get pregnant are often abandoned by the father of the child. As a consequence, they may become socially stigmatized.

“In such situations, it is common that the girl tries to move to another village where her past is unknown.”

/ FEMALE TEACHER OF AN ALL-GIRLS SECONDARY SCHOOL IN TSHIKAPA

Commercial sexual exploitation¹²¹, commonly known as prostitution, around the mine site is also widely prevalent. Girls around the age of 14 (sometimes even at the age of 10) who live in mining areas are commonly sexually exploited in exchange for money, food, clothes, shoes or shampoo. Several interviewees stated that engaging in sexual exploitation in exchange for money is seen as the only option for many girls due to their families’ dire economic situation. Normally the sexual exploitation is not formally organized by anyone, but is instead an informal transaction between the girl and the abuser. However, one interviewee explained that:

“Sometimes the mother systematically ‘rents out’ her daughter. The daughter may receive a share of the money her client pays, while the main share goes to the mother, or she may receive a monthly salary from her mother”.

“Girls who sell their bodies do not really do it voluntarily. They are manipulated into doing it. In many cases young men force the girls.”

/ FEMALE MEDICAL DOCTOR

Pregnancies at early ages are common around mining areas. Taking care of newborns is often impossible for young mothers due to a lack of money.

A teacher at an all-girls secondary school explained:

“Sometimes young girls who become mothers abandon the baby. Sometimes they let the baby drown in the river. They simply can’t afford to take care of it.”



An estimated 82 percent of households in the diamond rich areas around Tshikapa live in houses made of mud walls, with dirt floors and straw roofs. Most rural households lack access to electricity and drinking water, and mainly rely on rudimentary water sources.



Commercial Sexual Exploitation of Children

Sexual exploitation of minors is a fundamental violation of human rights and of children's rights. The commercial sexual exploitation of children consists of criminal practices that demean, degrade and threaten the physical and psychosocial integrity of children. Forced marriages is a form of commercial sexual exploitation of children.

Source: ECPAT International

6.3 Impact on physical health

Most of the boys interviewed have had minor injuries such as cuts from shovels and hoes, and some of them showed scars from larger wounds. None of them had received professional treatment, and none used protective equipment during work. None had been in life-threatening incidents themselves, although some had witnessed serious accidents involving adults, for example collapsing mine walls.

6.4 Exposure to sexually transmitted diseases

In 2014, the rate of HIV/AIDS in Tshikapa was 4.2 percent, compared to the national average of 1.1 percent.¹²² According to the medical doctors interviewed by Swedwatch, there is an overrepresentation of HIV in the mining areas due mainly to contraceptives or other protection not being used.

The main reasons are said to be the price ("too expensive") and "not being used to doing so" and, therefore, sexually transmitted diseases, including HIV, spread extensively in these areas.¹²³ The findings are supported by the COCOPEF report, which found that only 8.4 percent of the girls and boys who work in mines and have a sexual partner use condoms. The same study identified that 80 percent of the women in mine sites do not use condoms during sex with casual partners.¹²⁴

6.5 Government responsibilities as a provider of basic services

Taxes are supposed to finance a number of basic services that governments are responsible for providing to the public. Due to its vast natural resources, the DRC has the potential to become one of the richest countries on the African continent.¹²⁵

If taxes, for example deriving from diamonds, were to be collected and responsibly used, the population in the DRC could enjoy a much higher level of basic services. The following conditions were identified by Swedwatch in the natural-resource-rich Kasai and Kasai Central provinces:

- **ACCESS TO EDUCATION:** Some villages offer both primary and secondary education, but many villages only have a primary school. Since most families cannot afford boarding or transport, many children do not have the chance to continue to secondary school. Schools in rural mining villages are made from sticks and have straw roofs, without walls.¹²⁶
- **ACCESS TO WATER:** Access to clean water is scarce, and most people Swedwatch spoke to rely on dirty rivers for their drinking water. Many adults and children get sick as a result.
- **ACCESS TO HEALTH AND SANITATION:** All services provided by rural health clinics seem to be supported by international donors. Since most families cannot afford to pay clinic fees, the bulk of illnesses appear to be treated with traditional cures. One mother explained that women in her village deliver their babies in the local clinic if they can afford to pay the fee; if not, they give birth at home.

“Sometimes the mother dies giving birth at home.”

/Mother, Lungudi village

In nomadic mining villages, access to health care is seemingly non-existent. Poor sanitation and the lack of toilets often lead to infections, especially among women and girls.¹²⁷

6.6 Comments by government representatives

The interviewed government officials differed greatly in their interpretation of the situation of children working in mines and contradicted each other.

The Head of Provincial Division of Mines in Kasai Central expressed that there are no human rights problems linked to artisanal mining in the area. According to him, children only work in mines during their vacation; their work therefore does not interfere with their school attendance.¹²⁸

Another government representative, the Head of the Mining Department in Demba, Kasai Central, recognized that children work in mines but said that the majority combine their work with school.¹²⁹

A third government representative, the Provincial Minister of Mines in Kasai province, also recognized that problems exist, and that it is the government’s responsibility to get the children away from the mines. According to this minister, the government is taking measures to ensure that children do not work at the mines and added that the diamond mining sector yields sufficient financial resources to keep them away.¹³⁰

The U.S. Department of State concluded the following about the DRC in its 2016 **Trafficking in Persons Report**: “The Ministry of Labor, responsible for inspecting worksites for child labor, remained understaffed and had limited resources to conduct inspections of child labor violations, including trafficking violations, throughout the country. Furthermore, the government’s committee to address child labor lacked funding and did not meet in 2015, nor did the government adopt a draft national action plan to combat the worst forms of child labor.”¹³¹

6.7 Company visits

None of the interviewees in Kasai and Kasai Central (including adult mine workers with 30 years of experience in the mines) had seen or heard of a national or international company, or an organisation representing such companies, visiting a mine site to investigate the conditions in which the diamonds are extracted.

7. The diamond supply chain

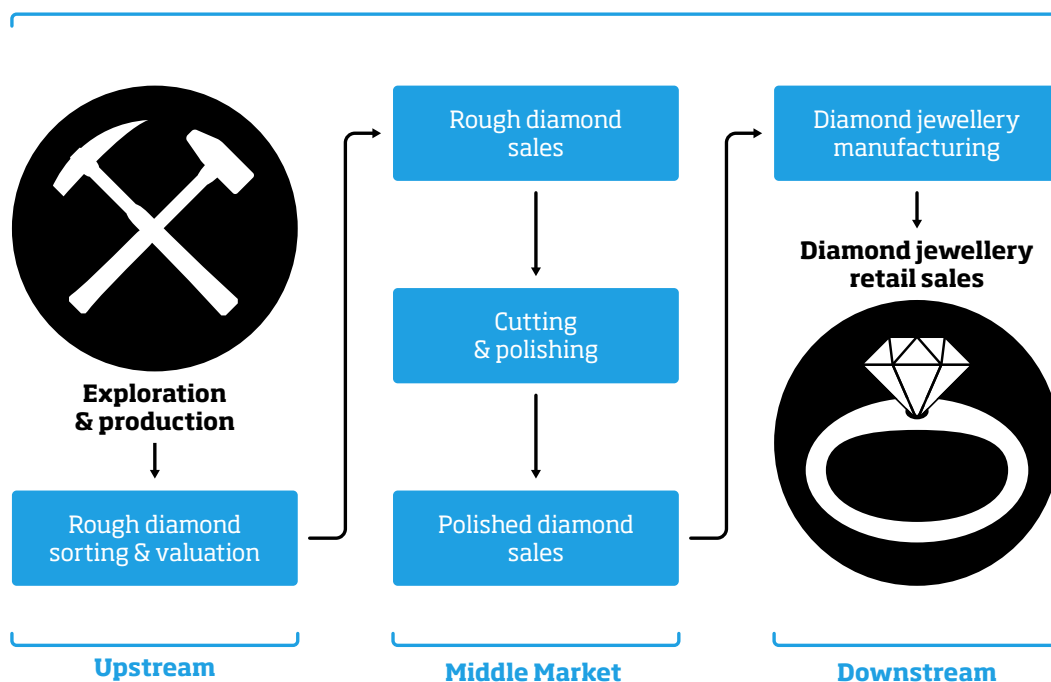
Like many other minerals, diamonds pass through a long chain that involves many actors in several countries. Today, diamonds are extracted in around 30 countries, an industry that involves an estimated ten million workers. The global jewellery retail industry is worth an estimated 63 billion euros a year¹³² and involves some of the world’s largest mining companies (such as De Beers and Rio Tinto). As this report illustrates, however, many diamond supply chains start with little more than shovels and long work hours under harsh conditions.

The following overview is a generalized depiction developed by Swedwatch, drawing largely on interviews in the DRC. One of the main informants is a diamond trader in Tshikapa.¹³³ It should therefore be noted that variations to this overview may exist.

After finding a diamond in an artisanal mine, the digger sells it to a local buyer – either a small diamond shop in the same village or to a middleman who travels between villages and buys diamonds directly from diggers. The digger and the buyer may evaluate the quality of the diamond differently, but diggers tend to have significantly less, if any, leverage in the price negotiation.¹³⁴

Next the diamond is sold to a diamond trader in a town, either directly at a local diamond market or by the middleman. The diamond is from this point forward mixed into a batch of diamonds from other mine sites. These diamonds may vary in quality and size.¹³⁵

THE DIAMOND SUPPLY CHAIN



Source: Amnesty International and PAC

In the DRC's diamond districts, diamond markets are usually held once a week. One market outside of Demba¹³⁶ has around 60 stands. About 2,000 carats are traded on this market each week, for an estimated 100,000 euros. Each stand pays a flat rate of 10 euros in tax.¹³⁷

If the diamond does not pass through the diamond market, the middleman takes it directly to a town, for example to Tshikapa or Kananga. In Tshikapa there are hundreds of diamond traders with their own shops. Around 20 of them are foreigners (for example Lebanese, Indian and Israeli). After evaluating each diamond in the batch brought in by the middleman (which may consist of thousands of diamonds), the trader negotiates a price with the middleman.¹³⁸ The trader usually seeks to make around a 10–20 percent margin and will try to pressure the price from the middleman.¹³⁹

To export the diamonds, the trader must allow a government official from the CEEC to evaluate each batch. The official must also put the batch into an envelope and seal it. The officials assign a monetary value to each batch. If the officials undervalue it, the trader will have to pay less tax once the batch is taken to Kinshasa for export.



Artisanal diamond workers and the buyer may evaluate the quality of the diamond differently, but diggers tend to have significantly less, if any, leverage in the price negotiation. In a next step, the buyer often sells the diamonds at a local diamond market (picture).

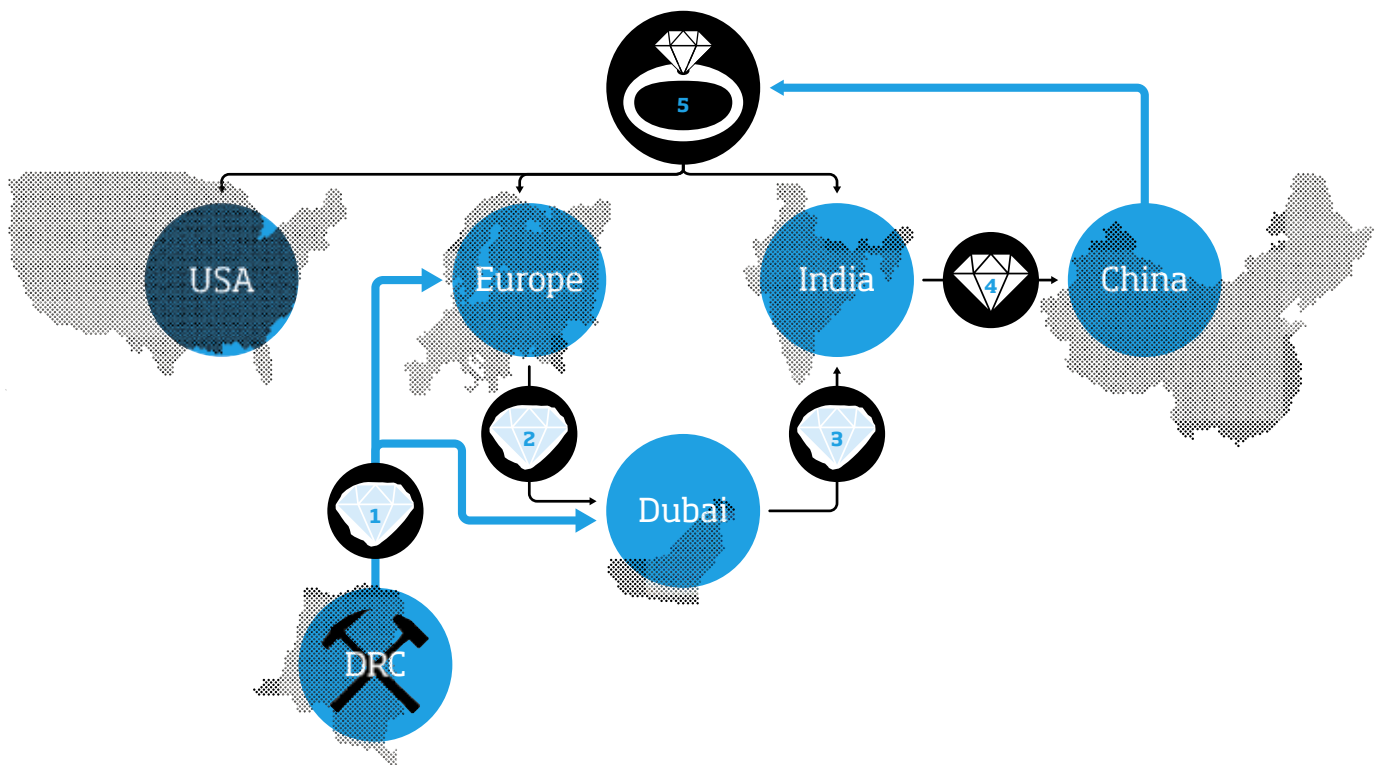
A diamond trader in Tshikapa admitted to Swedwatch that he regularly bribed CEEC officials who come to his trade shop to evaluate the batches of diamonds.¹⁴⁰ The trader travels to Kinshasa with the sealed envelope to export it, and must pay tax to the national government.¹⁴¹ The diamonds are then transported to trading hubs such as Dubai, Antwerp or Israel, where they are mixed with diamonds of other origin and become impossible to trace. Diamond shipments are always hand-carried on the airplane to such hubs.¹⁴²

The rough diamonds are then usually exported to India to be polished. India handles the cutting, polishing and manufacturing of 92 percent of the world's diamonds.¹⁴³ Here, diamonds from all over the world – whether entirely conflict free, extracted from conflict areas or smuggled from war zones – are once again mixed.¹⁴⁴

The Indian polishing workshops are usually family owned, and most of them are located in the city of Surat. The levels of child labour in the workshops are believed to be very high, but there are no formal statistics. International researchers have tried to gain access to investigate the matter, but so far with little success.¹⁴⁵

From India, the diamonds are sold to traders for manufacturing and retail, mainly in China, Antwerp, Israel, New York, London and Shanghai.¹⁴⁶ The diamonds can change hands several times before they end up with a jewellery maker (see figure on page 37).¹⁴⁷

THE GLOBAL DIAMOND TRADE



1. In 2015, the DRC exported over 16 million of rough diamonds with a value of 2 billion euro under the KP.
2. Antwerp and Dubai are the world's biggest diamond trading and sorting centres. Some diamonds are also sent to Israel. Diamonds are usually traded and sorted five or six times before they are cut and polished.
3. 92 percent of the world's diamonds are cut and polished in India. India is also a key manufacturing centre.
4. China is the world's largest diamond jewellery producer, and a large cutting and polishing centre.
5. The main markets for diamond jewellery are the US, China, India, Japan and Europe.

Source: Amnesty International and PAC

Once the diamonds have been placed on a piece of jewellery, the jewellery may be sold directly to customers or to a jewellery store. The main markets for diamond jewellery are the United States, China, India, Japan and Europe. The United States is by far the largest market for diamond jewellery, accounting for 30–40 percent of the world market.¹⁴⁸

Several actors, including Amnesty International, have highlighted the need for greater responsibility among diamond-importing countries. Amnesty has, for example, called for more robust and transparent systems in key transit sites for diamonds in the global supply chain to check the records and processes of diamond traders.¹⁴⁹

8. What should companies do? Norms and good practice

According to international norms on business practice developed by the UN, companies have a responsibility to respect all human rights wherever they operate. Although the norms are not legally binding, they are globally recognized as soft law, and build and elaborate on existing legal standards. During 2016, the UN advanced in its discussions on how to create an internationally legally binding instrument on business and human rights.¹⁵⁰

Thus, regardless of state-based initiatives such as the KP, companies at all stages of the diamond supply chain should respect human rights and conduct due diligence in accordance with widely endorsed international standards.

This section outlines the three main relevant international frameworks: the UN Guiding Principles on Business and Human Rights, the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, and the Children’s Rights and Business Principles. It also presents the Swedish government’s national action plan on business and human rights.

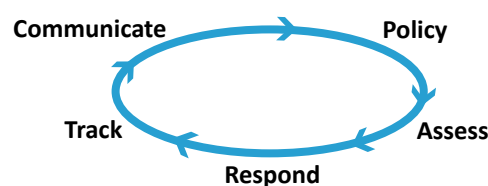
8.1 UN Guiding Principles on Business and Human Rights

The UN Guiding Principles on Business and Human Rights (UNGPs)¹⁵¹ elaborate on all states’ duty to protect the human rights of their citizens, and outline how all business enterprises – regardless of national legislation – must respect human rights in all of their operations. As a minimum requirement, all rights under the International Bill of Human Rights¹⁵² and the ILO’s core conventions¹⁵³ should be respected.

According to the UNGPs, businesses must take measures to address adverse human rights impacts, including prevention, mitigation and, when needed, remediation.

In order to meet these requirements a company should:

1. Adopt a human right policy, approved at the most senior level;
2. Identify and assess any actual or potential adverse human rights impacts through a human right due diligence process;
3. Respond to risks that have been identified;
4. Track effectiveness of measures to minimise or mitigate risks;
5. Openly communicate how the company has responded to the identified risks.



Human rights due diligence is an ongoing risk management process to identify, prevent, mitigate and account for how a company addresses its adverse human rights impacts. It includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed.

Source: UN Guiding Principles Reporting Framework¹⁵⁴

Companies are also expected to establish mechanisms to enable remediation of any adverse human rights impacts that they are causing and/or contributing to. Under the UNGPs, the action expected from a company that is negatively impacting human rights depends on how closely linked the company is to the problem. It also depends on what kind of leverage the company can realistically exert in order to help prevent, stop or mitigate negative impacts.

The UNGPs define three levels of responsibility:

1. At the highest level of responsibility, a company is causing adverse human rights impacts when it is the principal actor in the breach of human rights – either by its actions, or its lack of action.
2. If a company is enabling, encouraging or facilitating adverse human rights impacts, it is said to be contributing to the problem – sometimes through or together with a third party.
3. Finally, a company may be neither causing nor contributing to adverse human rights impacts, but the problem may be directly linked to its operations, products and services by means of a business relationship.

Companies that are causing or contributing to adverse human rights impacts are responsible for ceasing their detrimental practices, ensuring that they are not repeated in the future, mitigating the consequences of the problem and remediating any actual impacts.

Companies that are linked to adverse human rights impacts should maximize their leverage and put pressure on other actors causing or contributing to the impact, to work towards stopping and preventing further adverse impacts. Companies linked to adverse impacts are however not responsible for remediation.

As per the UNGPs, companies at the end of the diamond supply chain, such as European jewellery companies, should as a first step, regardless of their size, adopt relevant policies, conduct human rights due diligence to identify risks in their own supply chain, and then use their leverage where it has been identified as most adequate and efficient to do so. Otherwise they risk being linked to negative human rights impacts through their supply chain.



Several of these teenagers started working when they were 11 years old. "Diamonds are not easy to find, and often we don't find anything. I have only found small stones, but I hope to find a big stone to be able to leave and do something else", says one of them.



8.2 The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (the OECD Guidance) was first published in 2011 and updated in its third edition in April 2016. The OECD Guidance¹⁵⁵ is an effort to clarify how companies can identify and better manage risks throughout their mineral supply chain - including the diamond supply chain. The OECD Guidance provides detailed recommendations to companies on how to conduct due diligence for minerals. The objective is to help companies respect human rights and ultimately to promote responsible private sector engagement in post-conflict fragile states.

The OECD Guidance applies to all companies potentially sourcing minerals or metals from conflict-affected and high-risk areas, and establishes due diligence procedures for both upstream and downstream companies.

In the context of the diamond supply chain, the term “upstream” relates to the actors involved from the diamond extraction (the mines sites) to the centers of sorting and evaluation. “Downstream” refers to the supply chain from centers of sorting and evaluation to retailers. “Downstream companies” include diamond traders and exchangers, product manufacturers, and retailers. What is expected of a company, and the due diligence process, differs depending on whether the enterprise is an upstream or downstream actor.

The OECD Guidance distinguishes between upstream and downstream due diligence due to the fact that traceability of minerals is generally unfeasible after mixing of different batches (or smelting in the case of other minerals, such as gold). Downstream companies should therefore establish control over their suppliers and use their leverage to increase the traceability of their supply chain, while upstream actors have better control of the actors in immediate connection to the mining of minerals. It is important to note that the OECD Guidance acknowledges that due diligence will vary in complexity with the size of the business enterprise, and the nature and context of its operations. Due diligence is therefore not a one-size-fits-all exercise; due diligence processes for a small or medium sized enterprise will not be the same as for a large multinational company.¹⁵⁶

The diamond supply chain as described in this report also includes a “middle market” consisting of actors that sell rough and polished diamonds, and those that polish and cut the diamonds. Since the traceability is lost when the diamonds reach these actors, it can by the logic of the OECD Guidance be argued that these actors fall into the category of downstream companies.

The due diligence process as described in the OECD Guidance includes five steps (see Annex 3 for more detail):

1. Establish strong company management systems
2. Identify and assess risks in the supply chain

3. Design and implement a strategy to respond to identified risks
4. Conduct independent third-party audits of supply chain due diligence
5. Report annually on supply chain due diligence

The OECD Guidance also addresses the specific challenges related to artisanal mining in order to ensure that international standards do not further marginalize workers in the informal sector. It includes an appendix on “suggested measures to create economic and development opportunities for artisanal and small-scale miners”, which calls on all stakeholders to engage in legalization and formalization programmes in artisanal mining communities.¹⁵⁷

Since Sweden is a member of the OECD, the OECD Guidance is applicable to all Swedish companies that have a supply chain that supplies or uses minerals sourced from conflict-affected or high-risk areas. As a large share of diamonds on the global market originates from such contexts, the OECD guidance is relevant to any business in the OECD that is involved with a diamond supply chain.

*“This Guidance applies to all companies in the mineral supply chain that supply or use minerals sourced from conflict-affected or high-risk areas. While implementation of due diligence should be tailored to particular company activities and relationships, such as their position in the supply chain, **all companies should conduct due diligence aimed at ensuring that they do not contribute to human rights abuses or conflict**” (emphasis added).*¹⁵⁸

8.3 Children’s Rights and Business Principles

The UN Global Compact, UNICEF and Save the Children launched the Children’s Rights and Business Principles in 2012,¹⁵⁹ which build on the UNGPs to articulate companies’ responsibilities in regards to children’s rights. The ten principles clarify that governments at all levels have the duty to protect, respect and fulfil children’s rights. The principles also make clear that all societal actors, including businesses, must comply with applicable national law and respect international standards on children’s rights (See Annex 4 for more information.)

The principles state that all businesses should:

- Respect children’s rights and commit to supporting the human rights of children (Principle 1)
- Contribute to the elimination of child labour, including in all business activities and business relationships (Principle 2)

Based on international children’s rights and human rights standards – primarily the Convention on the Rights of the Child (CRC) and the International Covenant on Civil and Political Rights and (ICCPR) – UNICEF has also identified how the principles specifically apply to artisanal mining (see table on page 44).

Children in artisanal mining and business responsibilities¹⁶⁰

Impact on children	Rights impacted	Reference to the Children's Rights and Business Principles
<i>Activity that impacts children directly</i>		
Health and safety risks leading to injury or the loss of life	<p>ICCPR art. 6: The right to life</p> <p>CRC art. 6: Right to life, survival and development</p>	<p>Principle 1 Respect and support children's rights and commit to supporting the human rights of children</p>
Increase in sexual exploitation and violence	<p>ICCPR art. 9: Right to liberty and security</p> <p>CRC art. 19: Protection from all forms of violence</p> <p>CRC art. 32: Freedom from economic exploitation and from performing any work that is likely to be hazardous</p> <p>CRC art. 34: Protection from sexual exploitation and sexual abuse</p> <p>CRC art. 36: Protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare</p>	
Increase in communicable diseases	<p>CESCR art. 12: Right to the enjoyment of the highest attainable standard of health</p> <p>CRC art. 24: Rights of the child to the highest attainable standard of health</p>	
Loss of access to education	<p>ICESCR art. 13: Right to education</p> <p>CRC arts. 28 and 29: Rights of the child to education, including primary education compulsory and available free to all</p>	
Use of forced child labour in artisanal mining sites	<p>ICCPR art. 9: Right to liberty and security</p> <p>CRC art. 19: Protection from all forms of violence</p> <p>CRC art. 32: Freedom from economic exploitation and from performing any work that is likely to be hazardous</p> <p>CRC art. 34: Protection from sexual exploitation and sexual abuse</p> <p>CRC art. 36: Protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare</p> <p>ICESCR art. 13: Right to education</p> <p>CRC arts. 28 and 29: Rights of the child to education, including primary education compulsory and available free to all</p>	<p>Principle 2 Contribute to the elimination of child labour, including in all business activities and business relationships</p>



During the school year, young boys commonly go to school in the morning and look for diamonds in the afternoon. “Many, many children work here. Most days I am too tired to do my homework in the evening. In the summer, when the schools are closed, we work every day”, says one of the boys.

8.4 The Swedish National Action Plan for Business and Human Rights

In 2015, in response to the European Commission’s request, the Swedish government launched a national action plan that translates the UNGPs into practical action for Swedish companies.¹⁶¹ In addition to expecting that companies operating in Sweden or abroad should comply with the UNGPs and other relevant guidelines, the action plan expresses that Swedish companies:

“review their due diligence and redress mechanisms. Companies operating in markets where human rights challenges are particularly serious should place special emphasis on work in the area”.

The action plan also articulates that one of its goals is to prevent companies’ activities from leading to human rights abuses, including the exploitation of children. According to the action plan, the Swedish government has launched an inquiry to examine whether the Convention on the Rights of the Child should be incorporated into Swedish law. A revision of the action plan is scheduled for 2017.

9. Swedish diamond jewellery retailers

It is not possible to determine the exact retail value of diamond jewellery in Sweden¹⁶² nor to state the value of DRC-origin diamonds in Sweden. However, diamonds are part of jewellery items sold by the two market leaders Iduna AB and Smycka AB, who combined have an estimated yearly turnover of 180 million euro.¹⁶³ Iduna is the dominant actor on the Swedish jewellery market, and owns the three jewellery chains Guldfynd, Albrekts Guld and Hallbergs Guld.

There are also several Swedish companies that produce their own jewellery, which is either sold in their own stores or purchased by larger actors. Other companies specialize in diamond importing, and sell on to jewellery companies.

The smaller companies in this report were selected to allow for a diversified overview of actors on the Swedish jewellery market. The seven companies assessed in this study together represent a significant share of the Swedish jewellery market.

In September and October 2016, Swedwatch sent a survey to the seven companies, which contained nine questions about their diamond supply chain. The questions were designed based on the international norms that apply to their business, as presented above. The questions focused on their efforts to identify, prevent and mitigate possible adverse human rights impacts throughout the value chain of the diamonds used in their jewellery (see Annex 2 for the full survey).

The UNGPs and the OECD Guidance outline how companies should operationalize their efforts to address human rights risks in their supply chains. According to these frameworks, companies should conduct human rights due diligence and should publicly report on their due diligence policies and practices. Swedwatch does not claim that Swedish jewellery retailers are responsible for human rights violations in the DRC. Swedwatch's results are an overview of what the companies reviewed are doing to identify, prevent, and mitigate risks that diamonds mined in high-risk areas end up in their business and how such efforts are communicated publicly.

As outlined in the UNGP No. 17 regarding human rights due diligence processes, these should include “assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.”

Smycka discussed Swedwatch's questions during a phone call, while Ahrenbecks Ädelsliperi provided a written reply. Gemma AB shared a partial reply in the form of overall comments in a separate letter (which did not respond to the survey questions per se). Iduna chose to not reply to the survey in any form. Guldbolaget, Engelbert Stockholm and Schalins ringar also refrained from responding in spite of extended deadlines and the option provided for them to name a time and date most suitable to them. The following overview is based on both company replies (in the case of three companies) and publicly available information.

9.1 Guldbolaget

Guldbolaget is a family-owned jewellery business, founded in the 1980s. It initially responded to Swedwatch's survey questions in a phone call, but later withdrew its reply.¹⁶⁴

The company is a significant producer and retailer of rings in Sweden and Scandinavia. Its website states that all of the diamonds it imports are certified under the KPCS.¹⁶⁵ The company website contains no further information on issues related to responsible business conduct. Due to the lack of information available, it is not possible to make a thorough assessment of its potential efforts to comply with the relevant international norms. However, it is clear that it fails to live up to the UNGPs to transparently communicate efforts to adhere to international norms.

Guldbolaget's efforts to address human rights risks in its supply chain were unclear. Information regarding human rights due diligence processes, eventual findings and/or acting on such findings were not forthcoming. Communication on addressing possible impacts was not either made available to Swedwatch. As such, the international frameworks that this report refers to do not appear to be streamlined in Guldbolaget's processes. Swedwatch therefore recommends that Guldbolaget reviews policies and practices and ensures that they are streamlined throughout the company.

9.2 Iduna AB

Iduna AB/Iduna Group owns the jewellery retail chains Guldfynd, Hallbergs Guld and Albrekts Guld, and is the market leader on jewellery in Sweden. With 120 stores around Sweden, retail sales amount to approximately 146 million euros.¹⁶⁶ Iduna communicated to Swedwatch that it would not respond to the survey.¹⁶⁷ The following information is therefore gathered from the company's website.

Iduna is a member of the Business Social Compliance Initiative (BSCI) and thereby commits to implement the BSCI's Code of Conduct throughout its supply chain. Among other labour rights issues, the Code of Conduct includes a prohibition on child labour, and the requirement to provide safe and sound work environments, as well as reasonable salaries.

Iduna expresses several goals and commitments, including to ensure that all products are produced under safe and acceptable conditions,¹⁶⁸ and to have an open communication and external stakeholder dialogue. The company's website offers no specific information about its diamond supply chain.

Iduna chose not to respond to the survey and does not publicly disclose any further substantial information. The company can therefore be said to not live up to its own commitment of open communication. Due to the lack of information available, it is not possible to make a thorough assessment of its potential efforts to comply with the relevant international norms.



Workers can spend hours in the water, sifting gravel in the search for diamonds. This 17-year old explains that he started working at the age of 11. "It's a very heavy job, and you get very, very tired".



Iduna's efforts to address human rights risks in its supply chain were unclear. Information regarding human rights due diligence processes, eventual findings and/or acting on such findings were not forthcoming. Communication on addressing possible impacts was not either made available to Swedwatch. As such, the international frameworks that this report refers to do not appear to be streamlined in Iduna's processes. Swedwatch therefore recommends that Iduna reviews policies and practices and ensures that they are streamlined throughout the company.

As the market leader on jewellery in Sweden, the company's approach to sustainability is likely to impact the overall sustainability compliance within the Swedish jewellery sector. Iduna's seemingly weak implementation of sustainability standards is therefore of concern.

9.3 Smycka AB

Smycka AB is a chain of more than 60 independently owned jewellery stores around Sweden that collaborate through Smycka's headquarters.¹⁶⁹ The stores represent a combined yearly turnover of about 36 million euros.

Smycka agreed to engage in a more general conversation about its diamond supply chain with Swedwatch, in which company CEO Catharina Becker explained in a phone call that Smycka does not buy diamonds directly from suppliers, but purchases jewellery with diamonds from Swedish suppliers.¹⁷⁰ Its two largest suppliers are Guldbolaget and Gemma. As per its own reply, Smycka "has confidence that the suppliers are doing a good job, following the UN Supplier Code of Conduct and the Kimberley Process". Becker also referred to Gemma as one of the most experienced companies in Sweden in regards to responsible diamond trade.

Smycka has cooperation agreements with Guldbolaget and Gemma, which include a requirement for KP-certified diamonds. Smycka was not willing to share any policies or cooperation agreements with Swedwatch. Becker, however, asserted that the agreements refer to the UN Supplier Code of Conduct and that they "should be followed by all suppliers". Becker added that "child labour should not exist in the production or extraction processes, and the work conditions should be ok".

Smycka has not conducted audits or followed up to verify whether its diamond suppliers adhere to international norms on labour conditions. Becker explained that as a small organisation, Smycka currently has no ability to conduct audits in regard to its diamonds; the cooperation agreements are therefore the main instrument for addressing labour-related issues.

Smycka does not know the origin of any of the diamonds in its jewellery products, and according to Becker, its suppliers Guldbolaget and Gemma are similarly not able to trace the origin.

Smycka is not part of initiatives related to business audits in relation to diamonds or ethical diamond trade. According to Becker, a "sustainability ambassador" has been

elected, who is tasked with monitoring sustainability questions within the company and supporting Smycka's CEO and management.

Smycka was the only company that engaged in dialogue with Swedwatch, and as such demonstrated understanding for an important component of the UNGPs; communication and transparency. Smycka's inclusion of the UN Supplier Code of Conduct is a positive measure. However, contractual references to such codes must be accompanied by mechanisms for monitoring and following up to verify that suppliers adhere to the codes. In spite of encouraging steps, Smycka's response indicates that the company's awareness of international norms that apply to its business may not currently reflect the risks associated with the diamonds trade. Based on answers provided to Swedwatch, it was not clear how it seeks to adhere to such norms.

9.4 Gemma AB

Gemma AB is a family-run Swedish jewellery company founded in 1919. The company designs and sells jewellery and has a strong profile on engagement rings and wedding rings. It is one of the largest suppliers of diamond jewellery to Smycka.¹⁷¹

Gemma did not respond to Swedwatch's survey, but shared a letter in which the company CEO Jonas Gewers explained that Gemma "indirectly is a member" of the World Jewellery Confederation.¹⁷² Gewers added that "ethical issues are also raised within this organisation, which is good."

Concerning traceability, Gewers explained that "all diamonds used by Gemma are certified according to the [Kimberley] Process", and added that "one might wish for greater traceability, but it can be difficult to say with 100 percent certainty where the diamonds come from".

No further information was shared by Gemma, and it is therefore not possible to make a thorough assessment of its potential compliance with relevant international norms.

Gemma's efforts to address human rights risks in its supply chain were unclear. Information regarding human rights due diligence processes, eventual findings and/or acting on such findings were not forthcoming. Communication on addressing possible impacts was not either made available to Swedwatch. As such, the international frameworks that this report refers to do not appear to be streamlined in Gemma's processes. Swedwatch therefore recommends that Gemma reviews policies and practices and ensures that they are streamlined throughout the company.

9.5 Ahrenbecks Ädelsliperi

Ahrenbecks Ädelsliperi¹⁷³ imports around 1,000 carats of diamonds per year. The company replied in writing to Swedwatch's survey, and according to company CEO Magnus Ahrenbeck, it is able to state the origin of all its diamonds. It also claims that all of its diamonds are certified according to the KPCS.

The five largest countries of origin for Ahrenbecks Ädelsliperi's diamonds are Botswana, Russia, Angola, Namibia and South Africa.

The company shared that it has not conducted a risk analysis or human rights due diligence in relation to these countries or to its diamond supply chain. According to the CEO, the company's insight into its diamond supply chain is limited to its suppliers in Belgium and India.

In responding to which policies and processes the company has in place to ensure adherence to international norms on human rights and labour rights in its diamond supply chain, Ahrenbeck refers to the Kimberley Process. Ahrenbeck explained that the company has no measures or mechanisms to address issues of child labour in its diamond supply chain. Similarly, according to the company, it does not have any tools in place to verify that its suppliers adhere to international norms on human rights or labour rights during the extraction of diamonds.

Ahrenbecks Ädelsliperi should be commended for submitting a reply, and it is the only company that claims to know the origin of its imported diamonds. As described above however, Angola is one of the diamond-producing countries with the highest risk of human rights violations, and Ahrenbecks Ädelsliperi does not appear to have measures in place to assess such risks. From a transparency point of view, it should be noted that there is no significant information related to corporate responsibility or human rights available on its website.

Based on the company reply, the international frameworks that this report refers to, particularly in regard to policies and due diligence processes, do not appear to be streamlined in Ahrenbecks Ädelsliperi's processes. Swedwatch therefore recommends that Ahrenbecks Ädelsliperi reviews policies and practices and ensures that they are streamlined throughout the company.

9.6 Engelbert Stockholm

Engelbert Stockholm is a family-based jewellery company specializing in exclusive wedding rings and engagement rings and other jewellery. The company opened its first design studio in 1920 and its products are currently sold by 101 retailers throughout Sweden, mainly those belonging to Smycka and Hallbergs (part of the Iduna Group).

Company CEO Johanna Pietsch explained in a written response to Swedwatch that it would not respond to Swedwatch's survey due to time restraints. Pietsch added that all Engelbert Stockholm's suppliers guarantee Kimberley-certified diamonds. Swedwatch offered to schedule a more convenient time to talk, but Engelbert Stockholm did not respond further prior to the deadline given.

Apart from a commitment to supplying conflict-free diamonds through the KP, there is no further information on the company website in reference to risks or corporate responsibilities linked to its diamond supply chain.¹⁷⁴ Due to the lack of information

Overview of Swedwatch's company survey

	Submitted a reply or engaged in discussion	Claims to have 100 percent KP-certified diamonds	Has policies on human rights and/or labour rights in its diamond supply chain	Has a policy on child labour in its diamond supply chain	Has conducted human rights due diligence
Guldbolaget	No*	Yes	No reply	No reply	No reply
Gemma AB	Partially	Yes	No reply	No reply	No reply
Smycka Ab	Yes	Yes	Insufficient information	Insufficient information	No
Iduna	No	Insufficient information	Insufficient information	Insufficient information	No reply
Ahrenbecks Ädelsliperi	Yes	Yes	No	No	No
Engelberts Stockholm	No	Yes	No reply	No reply	No reply
Schalins ringar	No	Yes	No reply	No reply	No reply

**Guldbolaget initially engaged in a discussion with Swedwatch and replied to the survey, but when offered the chance to review its original comments, retracted its response.*

available, it is not possible to make a thorough assessment of its potential efforts to comply with the relevant international norms.

Engelbert Stockholm's efforts to address human rights risks in its supply chain were unclear. Information regarding human rights due diligence processes, eventual findings and/or acting on such findings were not forthcoming. Communication on addressing possible impacts was not either made available to Swedwatch. As such, the international frameworks that this report refers to do not appear to be streamlined in Engelbert Stockholm's processes. Swedwatch therefore recommends that Engelbert Stockholm reviews policies and practices and ensures that they are streamlined throughout the company.

9.7 Schalins ringar (Schalins of Sweden)

The Schalin family started its jewellery business in 1994, and is today one of the largest ring makers on the Nordic market. The company's rings are sold by several hundred retailers, including the three goldsmith chains Guldfynd, Albrekts and Hallberg, which are all part of the Iduna Group. Engagement rings and wedding rings are promoted as the company's specialty.¹⁷⁵



“Women usually don’t dig, but sometimes they are assigned gravel that the men have already looked through. Sometimes the women find diamonds in this second round, but it’s less likely” explains one diamond digger to Swedwatch.

Schalins ringar did not respond to Swedwatch’s communication attempts, including the survey.¹⁷⁶

On its website, the company states that its “diamonds are conflict free, and comply with The Kimberley Certification Scheme (KPCS)”.¹⁷⁷

Due to the lack of information available, it is not possible to make a thorough assessment of the company’s potential efforts to comply with the relevant international norms.

Schalins ringar’s efforts to address human rights risks in its supply chain were unclear. Information regarding human rights due diligence processes, eventual findings and/or acting on such findings were not forthcoming. Communication on addressing possible impacts was not either made available to Swedwatch. As such, the international frameworks that this report refers to do not appear to be streamlined in Schalins ringar’s processes. Swedwatch therefore recommends that Schalins ringar reviews policies and practices and ensures that they are streamlined throughout the company.

9.8 Conclusions from company replies

Two companies replied to all of Swedwatch's questions; one company submitted a partial reply, and four chose not to respond at all. While the low response-rate limits the ability to draw far-reaching conclusions about the Swedish jewellery sector, the replies (or the absence thereof) indicate the points below about the seven jewellery companies approached by Swedwatch.

It is important to note that since Iduna did not submit a reply and the publicly available information is limited, the company may be an exception to some of these conclusions. Guldbolaget, Engelbert Stockholm and Schalins ringar may also be exceptions; however, as the information they present publicly on these matters is limited or non-existent, it is also not possible to conclude that their efforts specifically address the risks associated with gaps in the KPCS and high-risk diamond-producing countries. The following could be noted from the review of the seven companies included in this report:

- The traceability of imported diamonds is seemingly non-existent beyond the first tier. (Although it should be noted that one company stated to know the origin of its diamonds.)
- The KPCS is referred to as the main, and often only, sustainability framework.
- Few – or no – human rights due diligence processes have been conducted to assess and mitigate the risks related to diamond supply chains.
- There are few – or no – specific policies or processes in place regarding human rights and labour rights in relation to the companies' diamond supply chains.¹⁷⁸
- There are few – or no – policies or processes regarding the risks of child labour in the diamond supply chain.¹⁷⁹
- Most of the companies significantly lack transparency, as they either chose not to communicate and/or failed to provide public information on their sustainability efforts.

As most companies were not open and/or transparent with information relevant to the risks raised in this study and none of the companies that did respond have conducted human rights due diligence to assess the human rights risks related to their diamond supply chains, it cannot be concluded that companies reviewed in this report satisfactorily adhere to the UNGPs, the OECD Guidance, the Children's Rights and Business Principles, or the Swedish national action plan for business and human rights.

The seven companies can be defined as upstream companies and should as such, according to the OECD Guidance, "establish control over their suppliers and use their leverage to increase the traceability of their supply chain". By date, none of the Swedish jewellery companies appear to have done so.

10. Conclusion

Artisanal diamond extraction in the DRC is tainted by child labour and girls in mining communities are particularly exposed to widespread sexual exploitation. Poverty forces many, likely thousands, of children in the DRC diamond region to engage in what the ILO has established as a form of work that is dangerous to children in every way, and which should never be tolerated. Sexual exploitation of minors is a fundamental violation of human rights and of children's rights.

This report concludes, first, that the DRC government is clearly failing to protect thousands of mine-working Congolese children's right to a safe environment; as well as the right to be protected from economic exploitation, from work that interferes with education, and from work that is harmful to children's health and physical development. The DRC government is also failing to fully protect children from all forms of sexual exploitation and sexual abuse.

Second, due to this high-risk context, companies with diamond supply chains that knowingly or unknowingly originate in the DRC have an enhanced responsibility to assess, mitigate and address possible human rights impacts in supply chain.

Third, by pointing to examples from different African countries, particularly the DRC, this report also echoes conclusions about the weaknesses of the KP that international human rights organisations have established in previous investigations. It is apparent that the KP is not promoting a trade of traceable diamonds that are free from links to human rights abuses. It is also clear that jewellery companies are to a large part relying on the KPCS in their sustainability work.

In addition, only 0.1 percent of the world's diamonds are said to meet the criteria of diamonds that may not be traded, as per the KP definition. At the same time, it has been verified that diamond mining in several countries is linked to gross human rights and children's rights violations. As the only far-reaching sustainability certification available for diamonds, the KP could be described as a fig leaf that disguises the reality for the people who are most affected by the diamond trade. In doing so, the KP creates confusion and a false sense of security for both companies and consumers who want to take a stand on ethical diamonds.

The scope of the KP should therefore be widened to also consider the conditions under which diamonds are extracted. Alternatively, it should be replaced by a more credible and efficient certification scheme that reflects the true face of diamond extraction. The KP should also make it very clear to all companies that rely on it for sustainability efforts what is and is not covered and guaranteed by the process.

The results of this study also indicate that the companies reviewed for this study rely in large part on the KPCS as an indicator of ethical diamonds. Based on the analysis of company replies and non-replies to Swedwatch's survey questions, it is apparent that a risk exists that none of the companies has a satisfactory awareness of – let

alone preparedness to fully implement – the international human rights standards that apply to their businesses.

The current structure of the diamond trade makes it difficult, if not impossible, to maintain clean supply chains. Although it is difficult to determine whether diamonds from the DRC or other similarly high-risk areas are included in the diamonds sold by the seven Swedish companies, there is a risk that diamonds tainted by child labour, the sexual abuse of girls and other grave human rights violations are sold on the Swedish and other European markets.

In conclusion, the range of serious human rights violations within small-scale diamond extraction presented in this study, including child labour and the specific vulnerability of girls and women, calls for an urgent revision of the KP's scope and definition of what constitutes a conflict diamond in its truest meaning.

It also calls for a pressing need for companies to better understand – and show how they adhere to – the international norms that address human rights in general, and children's rights in particular, within the diamond supply chain.

To do so, companies should start by turning to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, and fully implement the UNGPs.

Glossary

Alluvial

A type of diamond found in riverbeds and in shallow deposits. Alluvial mine sites can be exploited by artisanal techniques.

Artisanal mining

Small-scale mining by individuals, families or communities, who use basic equipment. It is often done under informal/illegal conditions.

Carat

Unit of measurement of a diamond. There are five carats to one gramme. Diamonds vary from a fraction of one carat up to a very rare couple of thousand. In trade, a stone of 60 carats would be considered large.

Commercial sexual exploitation of children

Sexual exploitation of minors is a fundamental violation of human rights and of children's rights. The commercial sexual exploitation of children consists of criminal practices that demean, degrade and threaten the physical and psychosocial integrity of children. Meaning children being sexually exploited by the abuser/s in exchange for commercial goods (food, housing, money). Forced marriages is depending on context a form of commercial sexual exploitation of children.

Conflict diamond/blood diamond

A general term used to refer to diamonds that fuel armed conflict. Conflict diamonds are narrowly defined under the KP as “diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments”.

Conflict minerals

Tin, tantalum, tungsten and gold, the four are together referred to as the 3TG.

Kimberley Process (KP)

The Kimberley Process and its Certification Scheme (KPCS) is a global initiative set up to stop conflict or blood diamonds from entering international supply chains. It was founded in 2003 and includes governments, industry and civil society. The KP requires member states to set up an import and export control system for rough diamonds.

Kimberley Process certificate

A document that identifies a shipment of rough diamonds as compliant with the requirements of the KPCS. The document is supposed to be forgery resistant.

Kimberlite

A type of diamond extracted from subterranean volcanic pipes.

Mixed parcel

Parcel of rough diamonds from more than one country.

OECD Due Diligence Guidance

The (full name) OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas is a supply chain due diligence framework that covers all minerals – including diamonds – and sets out a

five-step framework for companies to use to ensure they respect human rights when sourcing minerals.

Parcel

A quantity of diamonds that can vary from 10 carats up to thousands of carats.

Polished diamonds

Term used to describe diamonds that have been treated (and are therefore no longer referred to as “rough”). Most diamonds are polished in India due to cheap labour costs.

Rough diamonds

Term used to describe diamonds that have not been treated, but are in their natural state.

UN Guiding Principles on Business and Human Rights

A framework that sets the standard for governments and companies on how to ensure that businesses avoid negative impacts over human rights.

Sources: Kimberley Process, Global Witness, Amnesty International, OECD, ECPAT International

Annex 1: Swedish jewellery companies that received Swedwatch's survey

Provided full reply:

Smycka AB (phone interview)
Ahrenbecks Ädelsliperi

Provided a partial reply:

Gemma AB

Chose not to reply:

Iduna AB/Iduna Group
Shalins ringar
Engelbert Stockholm
Guldbolaget (retracted its initial reply)

Annex 2: Survey



16 September 2016

Questions on sustainability and diamonds
Reply submitted by: _____

Amount and origin

- 1) How many carats of diamonds does your organisation purchase per year?
- 2) Of the diamonds that you sell, how many (in percent) are you able with certainty to state the origin of?
- 3) Please list the five most common countries of origin of your diamonds.

Traceability along the supply chain

- 4) Please describe to what extent you have insight into the steps in your diamond supply chain? Where does your insight end?

Compliance with international norms

The Kimberley certification aims primarily to stop the use of diamonds in financing armed conflict, and does not make claims to promote fair labour conditions or respect for human rights in relation to diamond extraction in non-conflict areas. Against this background, Swedwatch would like to inquire:

- 5) How many (in percent) of the diamonds that you purchase are Kimberley certified?
- 6) Have you conducted general or country-specific risk assessments for the value chain of your diamonds, in which you identify the risks of potential violations of human rights and labour rights (so-called human rights due diligence)? If yes:
 - a) Are you able to share the results or a summary of the risks with Swedwatch?
 - b) Have you conducted a specific assessment for the Democratic Republic of the Congo?
- 7) What policies and processes do you have in place to ensure adherence to international norms on human rights and labour conditions in relation to the extraction and treatment of diamonds? Kindly attach any relevant policies or documents.
- 8) What tools do you have in place to follow up on compliance with your policies and processes?
- 9) Do you have any specific mechanisms in place to ensure that child labour is not used in the supply chain of your diamonds?

Thank you for taking the time to respond to Swedwatch's questions, and we look forward to continuing the contact.

Annex 3: Five-Step Framework for Risk-Based Due Diligence in the Mineral Supply Chain¹⁸⁰

While specific due diligence requirements and processes will differ depending on the mineral and the position of the company in the supply chain (as detailed in the mineral Supplements), companies should review their choice of suppliers and sourcing decisions and integrate into their management systems the following five-step framework for risk-based due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas:

1. Establish strong company management systems. Companies should:

A) Adopt, and clearly communicate to suppliers and the public, a company policy for the supply chain of minerals originating from conflict-affected and high-risk areas. This policy should incorporate the standards against which due diligence is to be conducted, consistent with the standards set forth in the model supply chain policy in Annex II.

B) Structure internal management to support supply chain due diligence.

C) Establish a system of controls and transparency over the mineral supply chain. This includes a chain of custody or a traceability system or the identification of upstream actors in the supply chain. This may be implemented through participation in industry-driven programs.

D) Strengthen company engagement with suppliers. A supply chain policy should be incorporated into contracts and/or agreements with suppliers. Where possible, assist suppliers in building capacities with a view to improving due diligence performance. E) Establish a company-level, or industry-wide, grievance mechanism as an early-warning risk-awareness system.

2. Identify and assess risk in the supply chain. Companies should:

A) Identify risks in their supply chain as recommended in the Supplements.

B) Assess risks of adverse impacts in light of the standards of their supply chain policy consistent with Annex II and the due diligence recommendations in this Guidance.

3. Design and implement a strategy to respond to identified risks. Companies should:

A) Report findings of the supply chain risk assessment to the designated senior management of the company.

B) Devise and adopt a risk management plan. Devise a strategy for risk management by either i) continuing trade throughout the course of measurable risk mitigation efforts; ii) temporarily suspending trade while pursuing ongoing measurable

risk mitigation; or iii) disengaging with a supplier after failed attempts at mitigation or where a company deems risk mitigation not feasible or unacceptable. To determine the correct strategy, companies should review Annex II (Model Supply Chain Policy for Responsible Global Supply Chains of Minerals from Conflict-Affected and High-Risk Areas) and consider their ability to influence, and where necessary take steps to build leverage, over suppliers who can most effectively prevent or mitigate the identified risk. If companies pursue risk mitigation efforts while continuing trade or temporarily suspending trade, they should consult with suppliers and affected stakeholders, including local and central government authorities, international or civil society organisations and affected third parties, where appropriate, and agree on the strategy for measurable risk mitigation in the risk management plan. Companies may draw on the suggested measures and indicators under Annex III of the Due Diligence Guidance to design conflict and high-risk sensitive strategies for mitigation in the risk management plan and measure progressive improvement.

C) Implement the risk management plan, monitor and track performance of risk mitigation efforts and report back to designated senior management. This may be done in cooperation and/or consultation with local and central government authorities, upstream companies, international or civil society organisations and affected third-parties where the risk management plan is implemented and monitored in conflict-affected and high-risk areas.

D) Undertake additional fact and risk assessments for risks requiring mitigation, or after a change of circumstances.

4. Carry out independent third-party audit of supply chain due diligence at identified points in the supply chain. Companies at identified points (as indicated in the Supplements) in the supply chain should have their due diligence practices audited by independent third parties. Such audits may be verified by an independent institutionalised mechanism.

5. Report on supply chain due diligence. Companies should publicly report on their supply chain due diligence policies and practices and may do so by expanding the scope of their sustainability, corporate social responsibility or annual reports to cover additional information on mineral supply chain due diligence.

Annex 4: Children’s Rights and Business Principles¹⁸¹

Human rights due diligence should cover any adverse impact that the business may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by a business relationship. To carry out human rights due diligence, all businesses should:

- Identify and assess any actual or potential adverse impact on children’s rights. This should draw on human rights expertise and involve meaningful consultation with children and other potentially affected groups and relevant stakeholders. It should take into account the fact that girls and boys may face different risks.
- Integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action (as defined in the Guiding Principles). Where a business causes or contributes to an adverse impact on children’s rights, or where it may do so, it should take the necessary steps to cease or prevent the activity, or its contribution to it, and use its leverage to mitigate any remaining impact. Where a business relationship links a company to an adverse impact, it should use its leverage and consider other relevant factors when determining the appropriate action to take.
- Monitor and track the effectiveness of the business’ responses in order to verify whether the adverse impact on children’s rights is being addressed, using appropriate qualitative and quantitative indicators and drawing on feedback from internal and external sources, including affected children, families and other stakeholders. The business should consider using tools such as performance contracts and reviews, surveys and audits (self-assessments or independent audits) on a periodic basis.
- Be prepared to communicate externally on their efforts to address the impact of the business on children’s rights in a form and frequency that reflects such an impact, and that is accessible to its intended audiences. The business should provide sufficient information to evaluate the adequacy of its responses. Such communication should not pose risks to affected stakeholders or personnel, or to legitimate commercial confidentiality requirements. These processes should be appropriate to the business’ size and circumstances, and be in alignment with the Guiding Principles on Business and Human Rights.

The corporate responsibility to respect includes respect for the rights in the ILO’s Declaration on Fundamental Principles and Rights at Work. Actions for all business include:

a. Eliminating child labour

- Do not employ or use children in any type of child labour.
- Establish robust age-verification mechanisms as part of recruitment processes and ensure that these mechanisms are also used in the value chain.
- Be aware of the presence of all children in the workplace. In removing children

from the workplace, measures to ensure protection of affected children, and, where appropriate, decent work for adult household members should be pursued.

- Do not put pressure on suppliers, contractors and subcontractors that are likely to result in abuses of children's rights.

b. Preventing, identifying and mitigating harm to young workers and protecting them from work that is prohibited for workers under 18 years old or beyond their physical and psychological capacity

- Protect children from hazardous work, which is likely to harm their health, safety or morals.
- Prevent and eliminate workplace hazards or remove children from such workplaces. Children in hazardous work should be immediately removed from the source of the hazard and protected against the loss of income resulting from such interventions.
- Be mindful that children of working age may face different risks in the workplace than adults, and that girls may face different risks than boys.
- Respect, in particular, children's right to information, freedom of association, collective bargaining, participation, non-discrimination, privacy and protection from all forms of workplace violence – including physical, mental and other humiliating punishment, bullying and sexual abuse.

The corporate commitment to support includes:

- Working with governments, social partners, and others to promote education and sustainable solutions to the root causes of child labour.
- Work with business peers, communities, child rights organizations, trade unions and governments to promote children's education and sustainable solutions to the root causes of child labour.
- Support broader community, national and international efforts to eliminate child labour, including through social mobilization and awareness raising, and programmes to eradicate child labour that are designed and carried out in cooperation with local community members and children.
- Work in partnership with other companies, sectoral associations and employers' organizations to develop an industry-wide approach to address child labour, and build bridges with trade unions, law enforcement authorities, labour inspectorates and others.
- Establish or participate in a task force or committee on child labour in representative employers' organizations at the local, state or national level.
- Support the development and implementation of a national action plan against child labour as part of key policy and institutional mechanisms to combat child labour at the national level.
- Participate in programmes to promote youth employment, skills development and job training opportunities for young workers above the minimum age for employment.
- Seek to concentrate production in the formal economy and avoid informal working arrangements that may contribute to child labour.

Annex 5: Kimberly Process list of participants - status 2016¹⁸²

1. Angola
2. Armenia
3. Australia
4. Bangladesh
5. Belarus
6. Botswana
7. Brazil
8. Cambodia
9. Cameroon
10. Canada
11. Central African Republic
12. China, People's Republic of
13. Congo, Democratic Republic of
14. Congo, Republic of
15. European Union
16. Ghana
17. Guinea
18. Guyana
19. India
20. Indonesia
21. Israel
22. Italy
23. Côte d'Ivoire
24. Japan
25. Kazakhstan, Republic of
26. Korea, Republic of
27. Lao, Democratic Republic of
28. Lebanon
29. Lesotho
30. Liberia
31. Malaysia
32. Mali
33. Mauritius
34. Mexico
35. Namibia
36. New Zealand
37. Norway
38. Panama
39. Russian Federation
40. Sierra Leone
41. Singapore
42. South Africa
43. Sri Lanka
44. Swaziland
45. Switzerland
46. Tanzania
47. Thailand
48. Togo
49. Turkey
50. Ukraine
51. United Arab Emirates
52. United States of America
53. Venezuela
54. Vietnam
55. Zimbabwe

Note: The rough diamond-trading entity of Chinese Taipei has also met the minimum requirements of the KPCS

Annex 6: Previous Swedwatch reports on conflict minerals in the DRC

Far from Reality – How the EU Falls Short in Preventing the Illicit Trade of Conflict Minerals¹⁸³ (2016)

A Lot of Gold a Lot of Trouble – A Study of Humanitarian Impacts of the Gold Industry in DR Congo¹⁸⁴ (2012)

Voices from the Inside: Local Views on Mining Reform in Eastern DR Congo¹⁸⁵ (2010)

Update on the Electronics Industry's Use of Metal: Increasing Number of Companies are Taking Steps to Better Control their Supply Chain¹⁸⁶ (2009)

Risky Business – The Lundin Group's Involvement in the Tenke Fungurume Mining Project in the Democratic Republic of Congo (2008)¹⁸⁷

Annex 7: UN Guiding Principles on Business and Human Rights

The following is an excerpt taken from the UN Guiding Principles on Human Rights (UNGPs). This excerpt provides commentary and focuses on corporate responsibility to respect human rights.

The UN Guiding Principles in full can be found on: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

II. THE CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS

A. FOUNDATIONAL PRINCIPLES

11. Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

Commentary

The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States' abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights. Addressing adverse human rights impacts requires taking adequate measures for their prevention, mitigation and, where appropriate, remediation. Business enterprises may undertake other commitments or activities to support and promote human rights, which may contribute to the enjoyment of rights. But this does not offset a failure to respect human rights throughout their operations. Business enterprises should not undermine States' abilities to meet their own human rights obligations, including by actions that might weaken the integrity of judicial processes.

12. The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work.

Commentary

Because business enterprises can have an impact on virtually the entire spectrum of internationally recognized human rights, their responsibility to respect applies to all such rights. In practice, some human rights may be at greater risk than others in particular industries or contexts, and therefore will be the focus of heightened attention. However, situations may change, so all human rights should be the subject of periodic review. An authoritative list of the core internationally recognized human rights is contained in the International Bill of Human Rights (consisting of the Universal Declaration of Human Rights and the main instruments through which it has

been codified: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights), coupled with the principles concerning fundamental rights in the eight ILO core conventions as set out in the Declaration on Fundamental Principles and Rights at Work. These are the benchmarks against which other social actors assess the human rights impacts of business enterprises. The responsibility of business enterprises to respect human rights is distinct from issues of legal liability and enforcement, which remain defined largely by national law provisions in relevant jurisdictions. Depending on circumstances, business enterprises may need to consider additional standards. For instance, enterprises should respect the human rights of individuals belonging to specific groups or populations that require particular attention, where they may have adverse human rights impacts on them. In this connection, United Nations instruments have elaborated further on the rights of indigenous peoples; women; national or ethnic, religious and linguistic minorities; children; persons with disabilities; and migrant workers and their families. Moreover, in situations of armed conflict enterprises should respect the standards of international humanitarian law.

13. The responsibility to respect human rights requires that business enterprises:
a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;

b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

Commentary

Business enterprises may be involved with adverse human rights impacts either through their own activities or as a result of their business relationships with other parties. Guiding Principle 19 elaborates further on the implications for how business enterprises should address these situations. For the purpose of these Guiding Principles a business enterprise's "activities" are understood to include both actions and omissions; and its "business relationships" are understood to include relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services.

14. The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise's adverse human rights impacts.

Commentary

The means through which a business enterprise meets its responsibility to respect human rights will be proportional to, among other factors, its size. Small and medium-sized enterprises may have less capacity as well as more informal processes and management structures than larger companies, so their respective policies and processes will take on different forms. But some small and medium-sized enterprises can have severe human rights impacts, which will require corresponding measures regardless of their size. Severity of impacts will be judged by their scale, scope and

irremediable character. The means through which a business enterprise meets its responsibility to respect human rights may also vary depending on whether, and the extent to which, it conducts business through a corporate group or individually. However, the responsibility to respect human rights applies fully and equally to all business enterprises.

15. In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:

- c) A policy commitment to meet their responsibility to respect human rights;
- d) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- e) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.

Commentary

Business enterprises need to know and show that they respect human rights. They cannot do so unless they have certain policies and processes in place. Principles 16 to 24 elaborate further on these.

B. OPERATIONAL PRINCIPLES

POLICY COMMITMENT

16. As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that:

- (a) Is approved at the most senior level of the business enterprise;
- (b) Is informed by relevant internal and/or external expertise;
- (c) Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;
- (d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;
- (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise.

Commentary

The term "statement" is used generically, to describe whatever means an enterprise employs to set out publicly its responsibilities, commitments, and expectations. The level of expertise required to ensure that the policy statement is adequately informed will vary according to the complexity of the business enterprise's operations. Expertise can be drawn from various sources, ranging from credible online or written resources to consultation with recognized experts. The statement of commitment should be publicly available. It should be communicated actively to entities with which the enterprise has contractual relationships; others directly linked to its operations, which may include State security forces; investors; and, in the case of operations with significant human rights risks, to the potentially affected stakeholders. Internal communication of the statement and of related policies and procedures should make clear what the lines and systems of accountability will be, and should be supported by any necessary training for personnel in relevant business functions. Just as States should work towards policy coherence, so business enterprises need to

strive for coherence between their responsibility to respect human rights and policies and procedures that govern their wider business activities and relationships. This should include, for example, policies and procedures that set financial and other performance incentives for personnel; procurement practices; and lobbying activities where human rights are at stake. Through these and any other appropriate means, the policy statement should be embedded from the top of the business enterprise through all its functions, which otherwise may act without awareness or regard for human rights.

HUMAN RIGHTS DUE DILIGENCE

17. In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:

- (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
- (b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;
- (c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.

Commentary

This Principle defines the parameters for human rights due diligence, while Principles 18 through 21 elaborate its essential components. Human rights risks are understood to be the business enterprise's potential adverse human rights impacts. Potential impacts should be addressed through prevention or mitigation, while actual impacts – those that have already occurred – should be a subject for remediation (Principle 22). Human rights due diligence can be included within broader enterprise riskmanagement systems, provided that it goes beyond simply identifying and managing material risks to the company itself, to include risks to rights-holders. Human rights due diligence should be initiated as early as possible in the development of a new activity or relationship, given that human rights risks can be increased or mitigated already at the stage of structuring contracts or other agreements, and may be inherited through mergers or acquisitions. Where business enterprises have large numbers of entities in their value chains it may be unreasonably difficult to conduct due diligence for adverse human rights impacts across them all. If so, business enterprises should identify general areas where the risk of adverse human rights impacts is most significant, whether due to certain suppliers' or clients' operating context, the particular operations, products or services involved, or other relevant considerations, and prioritize these for human rights due diligence. Questions of complicity may arise when a business enterprise contributes to, or is seen as contributing to, adverse human rights impacts caused by other parties. Complicity has both non-legal and legal meanings. As a nonlegal matter, business enterprises may be perceived as being "complicit" in the acts of another party where, for example, they are seen to benefit from an abuse committed by that party.

As a legal matter, most national jurisdictions prohibit complicity in the commission of a crime, and a number allow for criminal liability of business enterprises in such cases. Typically, civil actions can also be based on an enterprise's alleged contribution to a harm, although these may not be framed in human rights terms. The weight of international criminal law jurisprudence indicates that the relevant standard for aiding and abetting is knowingly providing practical assistance or encouragement that has a substantial effect on the commission of a crime. Conducting appropriate human rights due diligence should help business enterprises address the risk of legal claims against them by showing that they took every reasonable step to avoid involvement with an alleged human rights abuse. However, business enterprises conducting such due diligence should not assume that, by itself, this will automatically and fully absolve them from liability for causing or contributing to human rights abuses.

18. In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:

- (a) Draw on internal and/or independent external human rights expertise;
- (b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.

Commentary

The initial step in conducting human rights due diligence is to identify and assess the nature of the actual and potential adverse human rights impacts with which a business enterprise may be involved. The purpose is to understand the specific impacts on specific people, given a specific context of operations. Typically this includes assessing the human rights context prior to a proposed business activity, where possible; identifying who may be affected; cataloguing the relevant human rights standards and issues; and projecting how the proposed activity and associated business relationships could have adverse human rights impacts on those identified.

In this process, business enterprises should pay special attention to any particular human rights impacts on individuals from groups or populations that may be at heightened risk of vulnerability or marginalization, and bear in mind the different risks that may be faced by women and men. While processes for assessing human rights impacts can be incorporated within other processes such as risk assessments or environmental and social impact assessments, they should include all internationally recognized human rights as a reference point, since enterprises may potentially impact virtually any of these rights. Because human rights situations are dynamic, assessments of human rights impacts should be undertaken at regular intervals: prior to a new activity or relationship; prior to major decisions or changes in the operation (e.g. market entry, product launch, policy change, or wider changes to the business); in response to or anticipation of changes in the operating environment (e.g. rising social tensions); and periodically throughout the life of an activity or relationship. To enable business enterprises to assess their human rights impacts accurately, they should seek to understand the concerns of potentially affected stakeholders by consulting them directly in a manner that takes into account language and other potential barriers to effective engagement. In situations where such consultation is not possible, business enterprises should consider reasonable alternatives such as consulting

credible, independent expert resources, including human rights defenders and others from civil society. The assessment of human rights impacts informs subsequent steps in the human rights due diligence process.

19. In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.

(a) Effective integration requires that:

(i) Responsibility for addressing such impacts is assigned to the appropriate level and function within the business enterprise;

(ii) Internal decision-making, budget allocations and oversight processes enable effective responses to such impacts.

(b) Appropriate action will vary according to:

(i) Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship;

(ii) The extent of its leverage in addressing the adverse impact.

Commentary

The horizontal integration across the business enterprise of specific findings from assessing human rights impacts can only be effective if its human rights policy commitment has been embedded into all relevant business functions. This is required to ensure that the assessment findings are properly understood, given due weight, and acted upon. In assessing human rights impacts, business enterprises will have looked for both actual and potential adverse impacts. Potential impacts should be prevented or mitigated through the horizontal integration of findings across the business enterprise, while actual impacts—those that have already occurred – should be a subject for remediation (Principle 22). Where a business enterprise causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact. Where a business enterprise contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible. Leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of an entity that causes a harm. Where a business enterprise has not contributed to an adverse human rights impact, but that impact is nevertheless directly linked to its operations, products or services by its business relationship with another entity, the situation is more complex. Among the factors that will enter into the determination of the appropriate action in such situations are the enterprise's leverage over the entity concerned, how crucial the relationship is to the enterprise, the severity of the abuse, and whether terminating the relationship with the entity itself would have adverse human rights consequences. The more complex the situation and its implications for human rights, the stronger is the case for the enterprise to draw on independent expert advice in deciding how to respond. If the business enterprise has leverage to prevent or mitigate the adverse impact, it should exercise it. And if it lacks leverage there may be ways for the enterprise to increase it. Leverage may be increased by, for example, offering capacity-building or other incentives to the related entity, or collaborating with other actors. There are situations in which the enterprise lacks the leverage to prevent or mitigate adverse impacts and is unable to increase its leverage. Here, the enterprise should consider ending the rela-

tionship, taking into account credible assessments of potential adverse human rights impacts of doing so. Where the relationship is “crucial” to the enterprise, ending it raises further challenges. A relationship could be deemed as crucial if it provides a product or service that is essential to the enterprise’s business, and for which no reasonable alternative source exists. Here the severity of the adverse human rights impact must also be considered: the more severe the abuse, the more quickly the enterprise will need to see change before it takes a decision on whether it should end the relationship. In any case, for as long as the abuse continues and the enterprise remains in the relationship, it should be able to demonstrate its own ongoing efforts to mitigate the impact and be prepared to accept any consequences – reputational, financial or legal – of the continuing connection.

20. In order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their response. Tracking should:

- (a) Be based on appropriate qualitative and quantitative indicators;
- (b) Draw on feedback from both internal and external sources, including affected stakeholders.

Commentary

Tracking is necessary in order for a business enterprise to know if its human rights policies are being implemented optimally, whether it has responded effectively to the identified human rights impacts, and to drive continuous improvement. Business enterprises should make particular efforts to track the effectiveness of their responses to impacts on individuals from groups or populations that may be at heightened risk of vulnerability or marginalization. Tracking should be integrated into relevant internal reporting processes. Business enterprises might employ tools they already use in relation to other issues. This could include performance contracts and reviews as well as surveys and audits, using gender-disaggregated data where relevant. Operational-level grievance mechanisms can also provide important feedback on the effectiveness of the business enterprise’s human rights due diligence from those directly affected (see Principle 29).

21. In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders. Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them. In all instances, communications should:

- (a) Be of a form and frequency that reflect an enterprise’s human rights impacts and that are accessible to its intended audiences;
- (b) Provide information that is sufficient to evaluate the adequacy of an enterprise’s response to the particular human rights impact involved;
- (c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.

Commentary

The responsibility to respect human rights requires that business enterprises have in place policies and processes through which they can both know and show that they respect human rights in practice. Showing involves communication, providing

a measure of transparency and accountability to individuals or groups who may be impacted and to other relevant stakeholders, including investors. Communication can take a variety of forms, including in-person meetings, online dialogues, consultation with affected stakeholders, and formal public reports. Formal reporting is itself evolving, from traditional annual reports and corporate responsibility/sustainability reports, to include online updates and integrated financial and non-financial reports. Formal reporting by enterprises is expected where risks of severe human rights impacts exist, whether this is due to the nature of the business operations or operating contexts. The reporting should cover topics and indicators concerning how enterprises identify and address adverse impacts on human rights. Independent verification of human rights reporting can strengthen its content and credibility. Sector-specific indicators can provide helpful additional detail.

REMEDIATION

22. Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.

Commentary

Even with the best policies and practices, a business enterprise may cause or contribute to an adverse human rights impact that it has not foreseen or been able to prevent. Where a business enterprise identifies such a situation, whether through its human rights due diligence process or other means, its responsibility to respect human rights requires active engagement in remediation, by itself or in cooperation with other actors. Operational-level grievance mechanisms for those potentially impacted by the business enterprise's activities can be one effective means of enabling remediation when they meet certain core criteria, as set out in Principle 31. Where adverse impacts have occurred that the business enterprise has not caused or contributed to, but which are directly linked to its operations, products or services by a business relationship, the responsibility to respect human rights does not require that the enterprise itself provide for remediation, though it may take a role in doing so. Some situations, in particular where crimes are alleged, typically will require cooperation with judicial mechanisms. Further guidance on mechanisms through which remediation may be sought, including where allegations of adverse human rights impacts are contested, is included in chapter III on access to remedy.

ISSUES OF CONTEXT

23. In all contexts, business enterprises should:

- (a) Comply with all applicable laws and respect internationally recognized human rights, wherever they operate;
- (b) Seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements;
- (c) Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.

Commentary

Although particular country and local contexts may affect the human rights risks of an enterprise's activities and business relationships, all business enterprises have the same responsibility to respect human rights wherever they operate. Where the domestic context renders it impossible to meet this responsibility fully, busi-

ness enterprises are expected to respect the principles of internationally recognized human rights to the greatest extent possible in the circumstances, and to be able to demonstrate their efforts in this regard. Some operating environments, such as conflict-affected areas, may increase the risks of enterprises being complicit in gross human rights abuses committed by other actors (security forces, for example). Business enterprises should treat this risk as a legal compliance issue, given the expanding web of potential corporate legal liability arising from extraterritorial civil claims, and from the incorporation of the provisions of the Rome Statute of the International Criminal Court in jurisdictions that provide for corporate criminal responsibility. In addition, corporate directors, officers and employees may be subject to individual liability for acts that amount to gross human rights abuses. In complex contexts such as these, business enterprises should ensure that they do not exacerbate the situation. In assessing how best to respond, they will often be well advised to draw on not only expertise and cross-functional consultation within the enterprise, but also to consult externally with credible, independent experts, including from Governments, civil society, national human rights institutions and relevant multi-stakeholder initiatives.

24. Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response would make them irreparable.

Commentary

While business enterprises should address all their adverse human rights impacts, it may not always be possible to address them simultaneously. In the absence of specific legal guidance, if prioritization is necessary business enterprises should begin with those human rights impacts that would be most severe, recognizing that a delayed response may affect reparability. Severity is not an absolute concept in this context, but is relative to the other human rights impacts the business enterprise has identified

Endnotes

- 1 By quantity, the DRC is the 3rd largest diamond exporter in the world. By value, the DRC is the 11th largest diamond exporter in the world. Therefore, whether measured by value or production, the DRC remains a significant player on the international diamond market. According to the Mineral Commodities Summaries, annually published by the U.S. Department of the Interior, the DRC has since 2009 been ranked as the 5th or 6th largest gemstone diamond producer. <https://minerals.usgs.gov/minerals/pubs/mcs/>
- 2 International Labour Organization (ILO), “Mining and Quarrying”, ND. <http://www.ilo.org/ipec/areas/Miningandquarrying/lang--en/index.htm>, retrieved 4 November 2016.
- 3 UNICEF, Children’s Rights and the Mining Sector, March 2015. http://www.unicef.org/csr/files/UNICEF_REPORT_ON_CHILD_RIGHTS_AND_THE_MINING_SECTOR_APRIL_27.pdf.
- 4 World Diamond Council, “Diamond Facts”, ND. http://diamondfacts.org/index.php?option=com_content&view=article&id=3D129%26Itemid%3D167%26lang%3Den, retrieved 3 November 2016.
- 5 U.S. Department of Labor, 2015 Findings on the Worst Forms of Child Labor, September 2016. <https://www.dol.gov/sites/default/files/documents/ilab/reports/child-labor/findings/2015TDA.pdf>.
- 6 UNICEF, Children’s Rights and the Mining Sector, March 2015. http://www.unicef.org/csr/files/UNICEF_REPORT_ON_CHILD_RIGHTS_AND_THE_MINING_SECTOR_APRIL_27.pdf.
- 7 These rights are enshrined in the Convention on the Rights of the Child, which spells out every child’s right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life.
- 8 These principles are referred to as the Children’s Rights and Business Principles, and were jointly developed by the UN Global Compact, UNICEF and Save the Children in 2012. https://www.unglobalcompact.org/docs/issues_doc/human_rights/CRBP/Childrens_Rights_and_Business_Principles.pdf.
- 9 For example, UN Security Council Report S/2002/1146, 16 October 2002. <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/DRC%20S%202002%201146.pdf>; Amnesty International, Human Rights Violated in Congo Diamond Fields, 25 October 2002; Global Witness, A Rough Trade, 1 December 1998; Global Witness, Return of the Blood Diamond, 14 June 2010.
- 10 The interviews were conducted outside the towns of Tshikapa and Demba, and in Tshikapa (province capital of Kasai) and Kananga (province capital of Kasai Central).
- 11 See survey in Annex 2. The companies were offered the chance to respond in a face-to-face meeting, in writing or in a phone call. All the companies that failed to meet the initial deadline to respond were offered an extension.
- 12 See Annex 1.
- 13 While most diamond tools use synthetically produced diamonds, there is nevertheless considerable industrial use of natural diamonds.

- 14 Mineral Commodities Summaries 2013, <https://minerals.usgs.gov/minerals/pubs/mcs/2013/mcs2013.pdf>.
- 15 At the time, southwest Africa.
- 16 Up until the 1960s to 1970s. The only exceptions were Venezuela, Brazil and Liberia, which provided small volumes.
- 17 Smillie, I. *Diamonds*, 2014.
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- 20 World Diamond Council, “Diamond Facts”, ND.
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- 24 Global Witness, *Return of the Blood Diamond*, 2010.
- 25 Kimberley Process, “About”. <https://www.kimberleyprocess.com/en/about>, retrieved 2 November 2016.
- 26 “..in so far as they remain in effect, or in other similar UNSC resolutions which may be adopted in the future and recognized in the United Nations General Assembly (UNGA) Resolution 55/56, or in similar UNGA resolutions which may be adopted in the future.” Kimberley Process Certification Scheme, KPCS Core Document, ND. <https://www.kimberleyprocess.com/en/kpcs-core-document>.
- 27 Formally, member countries of the KP are called Participants.
- 28 Kimberley Process, “About”.
- 29 The KP does not have a coordinating administrative body. Instead, it appoints a chair on a one-year rotational basis, and has several working groups and committees that oversee day-to-day operations. The chair country’s main duty is to host two member meetings per year. Australia is the appointed chair for 2017. Kimberley Process, “Chair”. <https://www.kimberleyprocess.com/en/chair>, retrieved 2 November 2016. For a full list of participants, see Annex 5.
- 30 Through European Council Regulation 2368/2002, the EU has established a legislative instrument to guarantee that EU member states comply with the KPCS regulatory framework.
- 31 Kimberley Process, “About”.

- 32 The Civil Society Coalition is composed of 11 organisations, mostly from African producer countries. The coordinating organisation is Partnership Africa Canada (PAC).
- 33 Kimberley Process, “FAQ”. <https://www.kimberleyprocess.com/en/faq>, retrieved 2 November 2016. Swedwatch communication with Alan Martin, Partnership Africa Canada (PAC), 17 November 2016.
- 34 Kimberley Process, “About”.
- 35 Kimberley Process, KPCS Core Document, ND.
- 36 The Central African Republic (CAR) has been temporarily suspended from the KP. No exports and imports of rough diamonds are allowed until further notice. Kimberley Process, “KP Participants and Observers”, ND. <https://www.kimberleyprocess.com/node/49>, retrieved 1 November 2016.
- 37 Global Witness, Return of the Blood Diamond, 2010.
- 38 Global Witness, “Financing a Parallel Government?”, 11 June 2012. <https://www.globalwitness.org/sv/campaigns/conflict-diamonds/zimbabwe/financing-parallel-government/>. Global Witness, Return of the Blood Diamond, 2010.
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- 41 Global Witness, “Financing a Parallel Government?”, 11 June 2012.
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- 47 Kimberley Process, “Enforcement”. <https://www.kimberleyprocess.com/en/enforcement>, retrieved 5 November 2016.

- 48 Swedwatch interview with government representative from the CEEC, Kinshasa, 31 August 2016. The interviewee agreed to be quoted but requested to remain anonymous.
- 49 Smillie 2014. Swedwatch communication with Alan Martin, Director of Research at PAC, 22 November 2016. According to Martin, the consensus based decision-making system within the KP is a third important weakness as it not only prevents critical reforms, but also the ability of the KP to adeptly respond to emerging threats or crises.
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- 52 Trade associations, diamond manufacturers and retailers are also members of the World Diamond Council.
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- 56 Ibid.
- 57 The Corruption Perceptions Index is an annual ranking produced by Transparency International. Corruption is measured on a scale from 0 (high level of perceived corruption) to 100 (no perceived corruption). In 2015, 168 countries were included in the survey. It should be noted that three African diamond producers are ranked as less corrupt: Botswana (28), Namibia (45) and South Africa (61). Among the most corrupt are Angola (163), Zimbabwe (150) and the DRC (147). Transparency International, “Corruption Perceptions Index 2015”. <http://www.transparency.org/cpi2015>.
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- 67 Human Rights Watch, Democratic Republic of Congo: Ending Impunity for Sexual Violence, 20 June 2014. <https://www.hrw.org/news/2014/06/10/democratic-republic-congo-ending-impunity-sexual-violence>, retrieved 2 November 2016.
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- 71 Dr Denis Mukwege, panel on conflict minerals organised by the European Parliament, Stockholm, 13 October 2016.
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- 73 Mining, “Kimberley Process Chair Discusses Future with DRC Government”, 21 September 2016. <http://www.mining.com/web/kimberley-process-chair-discusses-future-with-drc-government/>, retrieved 4 November 2016.
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- 78 The DRC has an estimated 20 percent of the global total diamond reserves, second only to Australia.
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- 82 Around Demba, there are more than 500 active mine sites.
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- 84 Swedwatch interview with Albert Kyungu Muepu, CRONGD, 7 September 2016.
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- 96 Kimberley Process, “Artisanal and Alluvial Production (WGAAP)”, ND. <https://www.kimberleyprocess.com/en/artisanal-and-alluvial-production-wgaap>, retrieved 7 November 2016.
- 97 Mining, “Kimberley Process Chair Discusses Future with DRC Government”, 21 September 2016.

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- 100 Amnesty International, *Chains of Abuse*, 2015.
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- 114 COCOPEF, “Estude sur la situation des enfants et des femmes exploités dans les sites miniers du Kasai Occidental”, September 2014.

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- 128 Swedwatch interview with the Head of Provincial Division of Mines in Kasai Central, 31 August 2016.
- 129 Swedwatch interview with the Head of Ministry of Mining Department in Demba, 6 September 2016.

- 130 Swedwatch interview with the Provincial Minister of Mines in Kasai province, 3 September 2016.
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- 132 Smillie 2014.
- 133 To avoid exposing the information to potential security risks, Swedwatch decided to omit the name of the informant in this report, and the date of the interview.
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- 135 Swedwatch interview with Head of Mining Department in Demba, 6 September 2016.
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- 158 OECD, OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, third edition, 2016.
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- 160 This table has been adapted and condensed to only include issues relevant to the scope of this report. For the full version, see UNICEF, Children’s Rights and the Mining Sector, p. 41. http://www.unicef.org/csr/files/UNICEF_REPORT_ON_CHILD_RIGHTS_AND_THE_MINING_SECTOR_APRIL_27.pdf.
- 161 Government Offices of Sweden, Action Plan for Business and Human Rights, 2015. <http://www.government.se/contentassets/822dc47952124734b60daf1865e39343/action-plan-for-business-and-human-rights.pdf>. The action plan refers to the OECD guidance, and states: “Sweden has proposed sharper formulations in the draft regulation on responsible trade in minerals from conflict areas that is currently being discussed in the EU. In other words, we consider it should be mandatory for importers from particularly problematic countries to obtain certification.”
- 162 Swedwatch communication with Lena Carlsson, CEO, Smycken och klockor Branschorganisation i Sverige AB, 12 December 2016.
- 163 Swedwatch phone interview with Catharina Becker, CEO Smycka AB, 19 October 2016. Iduna, Annual Report 2015. <http://www.iduna.se/files/financial/Annual%20Report%202015.pdf>and
- 164 Swedwatch phone interview with board member Charlotta Rejneborg, 19 September 2016. The retraction was made by Rejneborg on 3 November 2016.
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- 166 Iduna also owns jewellery companies in Finland. “The group company in Finland consists of Kultajousi with 64 stores and Hallbergs Guld with three stores and a total of 350 employees.

Retail sales in Finland amount to approximately 400 million SEK/45 million Euros.” <http://www.iduna.se/>.

- 167 In communications with Tina Ivarsson, CSR Manager at Iduna Group, Swedwatch extended the deadline for submitting a reply, and in a next step asked Iduna to propose an even later date at its convenience. Iduna was also given the option to only reply to parts of the survey, as per its own preference. Despite these accommodations, Iduna ultimately chose not to participate.
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- 169 Smycka AB, “Om oss”. <https://www.smycka.se/omoss>, retrieved 2 November 2016.
- 170 Swedwatch phone interview with Catharina Becker, CEO Smycka AB, 19 October 2016.
- 171 Gemma AB website, “Corporate” (<http://www.gemmaab.se/corporate/>) and Swedwatch phone interview with Catharina Becker, CEO Smycka AB, 19 October 2016.
- 172 The main goal of the organisation, according to Gewers, is to ensure that the correct terminology is used within the industry when referring to different kinds of diamonds, i.e., correctly distinguishing between natural diamonds, synthetic diamonds and imitations. According to PAC, The World Jewellery Confederation’s corporate responsibility initiatives are not considered serious by civil society groups working in the extractive industry.
- 173 The company website (<http://www.ahrenbecks.se/2009/06/05/ny-hemsida/>) appears to only be accessible to registered members.
- 174 Engelbert Stockholm. <http://www.engelbertstockholm.com/sv/>.
- 175 Schalins ringar, “About us”. <https://schalins.com/en/about-us/>, retrieved 2 November 2016.
- 176 Emails sent to CEO Johan Redhe on 7 and 19 October, and voice message left on 26 October 2016.
- 177 On its website, Schalins ringar outlines that it sets requirements for its suppliers to be certified members of The Responsible Jewellery Council (RJC). The RJC is currently being reformed after having been heavily criticized in the past (see report More Shine than Substance, available at <https://www.earthworkSACTION.org/files/publications/More-Shine-Than-Substance-FINAL.pdf>). Schalins ringar’s requirement on its suppliers may be considered a positive effort, but due to the uncertain quality of the RJC, it is to date not possible to draw far-reaching conclusions about the effectiveness of Schalins ringar’s requirement. During Swedwatch’s review of the company website in November 2016, Swedwatch was not able to find references to due diligence processes or policies from a UNGP and OECD Guidance perspective which this report has used as a benchmark.
- 178 Smycka and Iduna appear to be the only exceptions, although details about the scope and quality of such policies and processes remain unclear.
- 179 See preceding footnote.
- 180 OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, Third Edition, 2016.
- 181 UN, Children’s Rights and Business Principles, 2012.

- 182 Kimberley Process, “List of Participants – Status 2016”. <https://www.kimberleyprocess.com/en/2016-kp-participants-list>
- 183 http://www.swedwatch.org/sites/default/files/tmp/80_kongo_enkelsidor.pdf.
- 184 http://www.swedwatch.org/sites/default/files/mineral_invest.pdf.
- 185 http://www.swedwatch.org/sites/default/files/Conflictminerals_report.pdf.
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