



REGIONAL BRIEFING	Francophone Africa
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**Business & human rights in Francophone Africa –
Regional briefing**

March 2014

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Executive summary:

Business in Francophone Africa: A vector for inclusive development or a party to abuse?

The private sector is expanding in Francophone Africa at unprecedented rates. Companies have the opportunity to contribute to alleviating poverty, disease, and other ills in this region, among the poorest in the world. But much of this opportunity is being squandered by business models that seek to maximise companies' short-term gains while ignoring the costs of their operations to communities and workers. There are examples of companies taking steps to respect human rights, and work toward inclusive development, but too often companies ignore the rights of workers and communities.

Business & Human Rights Resource Centre seeks responses from companies to concerns raised by civil society. The overwhelming majority – 85% – of concerns in Francophone Africa that we have sought responses to involve the extractive industries. The greatest change we have seen has come from agriculture and food & beverage companies. Between 2005-11, we only obtained a single response from a company in this sector to civil society concerns. In the last two years, the rate has skyrocketed, with 13 such cases in 2012-13. This reflects, in part, huge acquisitions of land for oil palm, sugar, biofuels and other crops, often without the consent of communities involved and in the context of growing food insecurity across the continent.

Key concerns

Conflict: While “conflict minerals” in Democratic Republic of Congo (DRC) and “blood diamonds” in Central African Republic and other countries have grabbed headlines, companies have also been implicated in conflict and security incidents elsewhere. The briefing includes incidents in which companies such as Anvil Mining and Danzer Group have been accused of contributing to civil war, local conflicts and abuses by the military and armed groups in DRC, Guinea and elsewhere. Many firms have resisted transparency about how their supply chains contribute to conflict. The briefing reviews this issue, as well as regulations on conflict minerals in USA, and related but weaker legislation just proposed by the European Commission. (All cases cited in this Executive Summary are described in greater detail, with links to further information and to companies' complete responses, below in the full briefing.)

Local impacts: Environment & health, land acquisitions & displacement, poverty & development: Extractive industries typically have a notoriously large environmental and health footprint. For example, the briefing cites long-standing accusations against Areva over pollution from its uranium mines in Niger. French scientists have found dangerously high levels of radiation in areas where Areva operates, although Areva criticised the methodology of these reports. Toxic waste dumping is also a threat; the briefing describes how Trafigura had to pay over US\$240 million to settle claims that its oil slops were dumped in Abidjan, and that the waste killed over a dozen people and sickened thousands, although Trafigura strongly denied responsibility, or that its waste caused the reported illnesses and deaths.

Huge acquisitions of land by agribusiness threaten food security and other basic rights of rural people. In Cameroon, community groups allege that an oil palm project by Herakles Farms (based in USA) would displace thousands without adequate compensation, and that local activists have been persecuted for opposing the project. Herakles has responded that its plantation would not displace any existing villages or farms, and that it has engaged in sustained dialogue with affected communities.

The briefing reviews impacts of mining, oil & gas, dam-building, logging and tourism projects on poverty and development in nearby communities, including in Cameroon, DRC, Republic of Congo and other countries. In Senegal, for example, NGOs and community leaders in Sabodala have opposed a mining project by Teranga Gold over concerns about impacts on their subsistence.

Tax avoidance, equity in contracts, revenue transparency: As Kofi Annan and others have stated, tax avoidance by companies robs government of vast sums, so that they cannot meet their populations' basic needs. A government report leaked in January 2014 estimated that the DRC Government is owed US\$3.7 billion in unpaid customs duties and fines due from mining firms. Several governments, notably Guinea and Niger, are taking steps to review mining contracts, in some cases seeking more equitable sharing of revenues between the company and the government.

Labour: Workers' rights & child labour: Workers throughout the region frequently cite precarious work including lack of health and safety protections, beatings and violence by managers, and denials of trade union rights. The briefing cites examples from Sosucam in Cameroon, Chinese companies in DRC, Rusal in Guinea, CNLC in Chad and other companies and countries, with companies' responses.

Poverty forces children to work throughout the region, mostly in the informal sector, but often producing goods that supply multinational firms. In particular, widespread child labour on cocoa plantations in Côte d'Ivoire and Ghana often includes physical and sexual harassment, restrictions on freedom of movement, and hazardous work. Among multinationals, Hershey is cited by children's and labour rights advocates as particularly lagging on action to tackle child labour, although it has taken some steps toward sourcing cocoa from farms certified as free of child labour and working with suppliers to tackle the issue.

Positive examples

The briefing cites positive examples that must be built on and replicated. Some show how the fundamental business model of companies operating in Francophone Africa can be improved, such as the Mali Biocarburant biofuels project, which gives local farmers an equity stake, includes food crops, and protects farmers' land rights. Others could transform major economic and social rights issues that plague Africa, such as the mPedigree initiative, in which IT and pharmaceutical firms have joined with governments to allow African consumers to easily distinguish authentic drugs from dangerous counterfeits.

Legal, regulatory & policy developments

All companies operating in the region need to be aware of active human rights lawsuits against companies, both in the region and in companies' home countries, and of civil society's demands for accountability when companies are involved in abuses. Failure to avoid implication in human rights abuses can expose companies to serious litigation risks. In addition to the lawsuits against Trafigura mentioned above, the briefing profiles on-going lawsuits including claims against Danzer Group over alleged involvement in violence by the military in DRC; against Archer Daniels Midland, Cargill and Nestlé over child labour in Côte d'Ivoire; and against Areva over health and safety of workers in Niger.

The briefing also highlights international and regional developments such as the African Commission on Human and Peoples' Rights Working Group on Extractive Industries, Environment and Human Rights Violations, and the stalled effort by ECOWAS to develop a regional mining code. Finally it reviews national legal and policy developments such as Guinea's revision of mining contracts, and provisions for good natural resource management in Niger's 2010 constitution.

Conclusions

Fundamental changes are needed to the business models of extractive, agricultural and food & beverage firms operating in the region. The rapidly growing information and communication technology sector also needs to guard against involvement in abuses. The briefing makes practical recommendations to companies to move in the right direction – including conducting human rights impact assessments and joining and implementing the Voluntary Principles on Security and Human Rights. It also includes recommendations to African and foreign governments, intergovernmental organizations, and civil society. The needed progress will require engagement by all stakeholders – most particularly, by active civil society on the ground, raising awareness of companies' impacts and pushing constructively for change. We look forward to working with our existing and future partners in Francophone Africa for improvement in the conduct and impacts of business in the region.

1. Introduction

Local and multinational companies have a vital role to play in Africa's development. But the big questions remain unanswered, about how they will help deliver on rising standards of living for all, while respecting people's rights. This briefing reflects Business & Human Rights Resource Centre's work in Francophone Africa in recent years, highlighting civil society's concerns about cases where companies are implicated in human rights abuses. It focuses on the major business sectors in the region: mining, oil & gas, agribusiness; business sectors that source from Francophone Africa such as technology and food & beverage, and contractors to the extractive industries such as construction firms; and the growing information & communications technology (ICT) sector. It also features examples where companies are making a real effort to improve. However, we have found too much evidence that many companies do not pay their fair share of taxes, contribute to conflict with impunity, harm local communities rather than helping them develop, and do not respect the most basic labour rights in mines and on farms. Taken together, these cases strongly suggest that the problem is not with isolated actors but with the fundamental business model that many companies bring to the region. Without basic changes to the way they do business and

interact with society, companies will be viewed as part of the problems of human rights abuses and underdevelopment, rather than part of the solution.

We seek responses from companies to concerns of civil society, if the company has not yet responded. This encourages business to publicly address human rights issues, and provides the public both the allegations and the company's comments in full. In some cases this process leads to dialogue between the company and stakeholders, and has even helped to bring about resolution of some issues. In all cases it has increased transparency. Many cases where we sought responses from companies in Francophone Africa are included in this briefing. The overwhelming majority – 85% – of concerns in Francophone Africa that we have sought responses to involve the extractive industries, primarily the mining sector and also oil & gas firms.

The greatest change we have seen has come from agriculture and food & beverage companies. Between 2005-11, we only obtained a single response from a company in this sector to civil society concerns. In the last two years, the rate has skyrocketed, with 13 such cases in 2012-13. This reflects, in part, huge acquisitions of land for oil palm, sugar, biofuels and other crops, often without the consent of communities involved and in the context of growing food insecurity across the continent. All company responses that we have sought relating to Francophone Africa are available in the [Annex](#).

This briefing highlights reports from recent years, from a range of sources. The briefing refers to Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Comoros, Côte d'Ivoire, Democratic Republic of Congo (DRC), Djibouti, Gabon, Guinea, Madagascar, Mali, Mauritania, Mauritius, Niger, Republic of Congo, Rwanda, Senegal, Seychelles and Togo. Our work on Francophone Africa is primarily carried out by our Francophone Africa Researcher & Representative, Dr. Aliou Diouf (based in Dakar), who is the primary author of this briefing.

Certain quotations in this briefing in English are translated from the French by the Resource Centre. This is not a comprehensive overview. It flags some major and emblematic issues, cases, developments and trends. For more detail see the Africa section of our [website](#).

2. Key concerns

Civil society concerns in many Francophone African countries relate to natural resources, including minerals, oil and gas: Their exploitation can contribute to social and economic development, but can lead to human rights abuses. Impacts by companies, including in the forestry and agricultural sectors, on resources such as land, food and water has caused conflict within local communities, or contributed to violent conflict. Other concerns mentioned below include abuses of workers' rights; child labour, especially on cocoa farms and in artisanal mines; and dumping of toxic waste from developed countries. In recent years, many of these concerns have been raised about the impacts in Africa of companies headquartered in China and other emerging economies as they have become among the largest investors in Africa.

2.1 Conflict zones & security issues

In conflict zones, where impunity is rife and governance is weak or non-existent, companies have been implicated in severe abuses including killings, torture and rapes. Outside conflict zones, companies' guards, private security companies and government forces have been accused of serious abuses against local residents and others who criticise companies.

a. "Conflict minerals" in companies' supply chains: According to the UN, since 1998 nearly 5.5 million civilians have died in the conflict in DRC, partly financed by mining wealth. A [2010 report](#) by the [United Nations Group of Experts on DRC](#) explained how armed groups responsible for mass rapes and killings support themselves in part through international trade in minerals. A December 2010 Global Witness [report](#) highlighted the role of the Congolese army in the conflict minerals trade. A [September 2011 video by the Guardian \(UK\)](#) highlighted rape, forced labour and other abuses by militias exploiting minerals.

In May 2012, [Global Witness underlined that renewed fighting](#) in eastern DRC highlighted "the urgent need to end conflict minerals trade." Recent reports by the Group of Experts have noted that the DRC Government's due diligence requirements helped limit contributions of tin and tantalum revenues to conflict in some parts of eastern DRC, during some periods. However, in January 2014, [the Group of Experts stated](#), "armed groups and FARDC [the DRC national army] continue to control many mining sites and to profit from mining and the minerals trade. During 2013, minerals – particularly tin, tungsten and tantalum – continued to be smuggled" out of eastern DRC.

Enough Project [grades the largest electronics companies](#) according to the actions they have taken to exclude conflict minerals from their products. The Netherlands-based NGO SOMO assessed how the world's 10 largest automobile firms addressed possible conflict minerals in their supply chains in a February 2010 [report](#). We invited the 10 to respond to SOMO's allegations; [responses and non-responses are here](#).

For policy measures to address conflict minerals, and actions by some companies and business groups to oppose or support these measures, see section 4.2 below.

b. Killings & other abuses involving companies and security forces in DRC

1) Yalisika incident (2011): On 3 May 2011, dozens of DRC police officers and soldiers [attacked the community of Yalisika in Equateur Province, where people had protested against logging by Siforco](#). Siforco was then part of Danzer Group (headquartered in Switzerland); it has since been sold to Groupe Blattner Elwyn (headquartered in DRC). The protesters were angry that Siforco reportedly had not met its commitments to build a school and health clinic. The armed forces, allegedly responding to a call from Siforco to quell the protests, reportedly beat many villagers, including one who died of his injuries, raped several women and girls, destroyed villagers' property and arrested several people. They reportedly used Siforco and/or Danzer vehicles and a company driver to reach Yalisika and take away the detainees. In response, [Danzer stated \[in French\]](#) that the incident was outside its control, called it "unacceptable", claimed it had provided medical care to victims of the attack, and said it would have rejected the security forces access to its vehicles if it had known how the vehicles would be used. The incident is the subject of an on-going criminal complaint in Germany against a senior Danzer manager and a pending legal proceeding in DRC – see below, Section 4.1.

2) Killing on TFM concession (2012): In August 2012, Centre for Justice & Reconciliation (CJR) and other NGOs based in Katanga Province, DRC, stated that [a nearby resident had been beaten on 31 July by guards \[in French\]](#) of the security company Delta Protection (headquartered in DRC) while crossing the concession of Tenke Fungurume Mining (TFM, operated and part-owned by Freeport-McMoran [headquartered in USA], with minority shareholdings by Lundin Mining and Gécamines), and later died from his injuries. We invited the companies to respond. [TFM responded \[in French\]](#) that the victim had been injured when stopped while trying to steal property, that TFM was cooperating with a government inquiry, and that certain staff responsible for security had resigned or been fired. [Delta Protection responded \[in French\]](#), accusing the victim of theft and denying responsibility. His family [filed a complaint \[in French\]](#) against TFM and Delta Protection with the local prosecutor in September 2012; the case is pending although CJR has indicated to us that it lacks the resources to continue litigating the case.

3) Anvil Mining case: Anvil Mining (headquartered in Canada, now owned by China Minmetals), mines copper and silver in Katanga Province. In 2004, the FARDC (DRC national army) attacked rebels in Kilwa, near Anvil's site, with FARDC soldiers reportedly carrying out [summary executions, arbitrary detention, torture and other abuses against civilians](#). Witnesses stated that Anvil supplied planes and automobiles to the FARDC during the incident. A [report on the incident by MONUC \(United Nations peacekeeping mission in DRC\)](#) stated that the company admitted to having provided transportation for the troops. For judicial and other proceedings against Anvil and its employees, see below, section 4.1.

c. Conflict diamonds in Central African Republic: Well before overthrow of the CAR government by rebellion in March 2013, a report by [International Crisis Group in 2010 identified diamonds as funding the nascent conflict](#) and urged the Kimberley Process on conflict diamonds to take steps to "ensure exporting companies do not trade diamonds mined or sold by rebel groups". The Kimberley Process only [suspended CAR in May 2013](#); although this move shut CAR's diamonds out of internationally certified "conflict-free" markets, a [UN panel reported in November 2013](#) that Liberia-based diamond brokers were trading diamonds trafficked from CAR.

d. Zogota incident in Guinea: [Soldiers killed at least five people in August 2012](#) in the village of Zogota, whose residents had protested their lack of employment opportunities at a nearby Vale mine; to date no one has been held accountable for the killings, according to the Guinean NGO Mêmes Droits Pour Tous.

e. Crisis in Côte d'Ivoire (2010-11): During the conflict in Côte d'Ivoire in late 2010 and early 2011, T, President-elect [Alassane Ouattara banned cocoa exports \[in French\]](#), and the EU [prohibited \[in French\]](#) European ships from docking in Ivorian ports, to keep cocoa revenues from [helping Gbagbo hold onto power through force \[in French\]](#). Multinationals active in the cocoa trade, including Olam (headquartered in

Singapore), [agreed to respect Ouattara's ban](#), even though Gbagbo's administration had rejected it. Following Gbagbo's capture and Ouattara's inauguration, the ban was lifted.

According to the [Christian Science Monitor](#), smugglers continued to trade in diamonds from Côte d'Ivoire during the conflict, despite UN Security Council sanctions on Ivorian diamonds. [Global Witness stated](#) that the Kimberley Process "failed to deal with the trade in conflict diamonds from Côte d'Ivoire".

2.2 Environment & health

a. Extractive industries

1) Oil in Chad & Gabon: A major study for the French Development Agency (AFD - Agence française de développement), published in 2012, [reviewed environmental and health issues related to China National Petroleum Corporation's Rôniér project in Chad](#), and how CNPC addresses them. It concluded that CNPC has a sophisticated system for management of environmental and health risks, but that this system is susceptible to political and economic pressures including the tight timetable for completion. It also raised concerns about transparency and communication with affected communities and other external stakeholders. We invited CNPC to respond; its response is [here](#) (only available in Chinese). In August 2013, the Government of Chad [suspended CNPC's operations](#) citing a spill of thousands of barrels of crude, little or no equipment to remediate the spill, and unsafe conditions for its workers.

In 2010, [the Government of Gabon found Addax Petroleum, a subsidiary of Sinopec \(headquartered in China\), responsible for pollution of the Obangué River \[French\]](#). According to the Gabonese authorities and local NGOs including Croissance Saine Environnement, chemical waste by-products from oil drilling dumped by the company seeped into the Obangué River, the principal water source for nearby communities. Croissance Saine Environnement has informed us that, although the government won a case against Addax in court over this incident, the area is still polluted and people who were harmed have not been compensated.

2) Uranium mining in Niger & Gabon: The French nuclear energy company Areva, which mines uranium in Niger, has long been accused by NGOs of pollution in parts of Niger where its subsidiaries, Somaïr and Cominak, operate. In May 2010 Greenpeace published a [report](#) based on a study it had conducted with a French laboratory specialised in nuclear issues and Niger-based NGOs including Aghir in'Man. It reported dangerously high levels of radiation in areas where Areva operates, causing a serious risk to human health. In a [statement](#) Areva criticised Greenpeace's "lack of transparency" and asserted that the report's interpretations of its data were "un-founded". Greenpeace noted that following its initial report, [Areva took some steps](#) to address the radiation. In January 2014 [Al Jazeera reported](#) that many near the mines continue to suffer from sicknesses due to dispersal of radioactive dust from mining operations. [Areva responded to Al Jazeera in detail](#).

A [July 2012 article in Pambazuka](#) highlighted the environmental impacts of Areva's now-closed Mounana mine in Gabon as well as its operations in Niger. [Areva responded](#) by defending its overall social impact and environmental practices.

Areva agreed with NGOs including Sherpa in 2009 to establish "observatories" in Gabon and Niger to study the impacts of uranium mining on current and former workers, protect the health of nearby residents, provide improved health care to former workers, and eventually compensate them for any harms suffered. In December 2012, Sherpa [withdrew from the initiative](#), saying that new management at Areva had reduced them to a public relations exercise. With local NGOs, Sherpa denounced Areva for failing to compensate a single African worker for workplace-related illness, out of over 600 screened by the observatories during several years. Areva insisted that its judgments were based on medical science, and said it will continue with the operation of the observatories.

3) Mining in DRC: An April 2012 [report by the Swiss Catholic Lenten Fund and Bread for All](#), working with local NGOs in DRC, stated that a processing plant in Lulu owned by Glencore (headquartered in Switzerland) discharged sulphuric acid into a nearby river, polluting an important water source for nearby people. In response Glencore sent us a [statement](#) that it had remediated the problems at the Lulu plant. Similar incidents elsewhere in Katanga Province have led to local farms closing due to pollution, and rivers becoming uninhabitable for fish that residents rely on for food. Some local citizens and NGOs [have brought lawsuits against the companies \[in French\]](#), but the lawsuits are moving slowly and have not yet led to any remedy for the plaintiffs.

4) Oil in Djibouti: See lawsuit referred to below, section 4.1.f.

b. Toxic waste dumping: The problem of dumping in Africa of toxic waste from Europe and North America dates back at least to the 1980s, according to [this report \[French\]](#) by Centre Europe-Tiers Monde (Europe-Third World Centre).

1) Trafigura in Côte d'Ivoire: On 19 August 2006, hazardous oil slops from the *Probo Koala*, a ship chartered by the Netherlands-registered trading firm Trafigura, were dumped in several open-air sites around Abidjan. Following the dumping, people living near the discharge sites complained of symptoms including nausea, diarrhea, vomiting, breathlessness, headaches, skin damage, etc. According to Ivorian authorities, [at least 15 people died](#), and [over 100,000 were sickened](#), following exposure to the waste. [Trafigura has strongly denied its responsibility in the incident](#), asserting that there was [no link](#) between the waste dumped and the deaths and other serious symptoms. (For judicial proceedings that resulted from this incident, see section 4.1 below.)

2) Electronic waste: Companies from developed countries also dump remains of electronic products, known as "e-waste", in Africa. These contain components and chemical products that are dangerous to human health if discarded in the open, or improperly recycled. [Industrialised countries ship thousands of tonnes](#) of old computers, printers and scanners to Africa each year. While some are sent as donations to be used in Africa, [up to 80% of those that are "donated" are reportedly non-functioning or obsolete \[in French\]](#). This issue poses serious public health risks because [most African countries do not have adequate recycling facilities](#), according to Basel Action Network. In addition to imported e-waste, [the UN reports a growing risk \[In French\]](#) from the disposal of electronics used in West Africa.

Certain initiatives aim to address the problem, such as a [joint project \[in French\]](#) by the Global Digital Solidarity Fund, EMPA (a Swiss scientific research institute), and HP (headquartered in USA). The project seeks to improve disposal of e-waste in Senegal and other countries.

For further details on the problem of waste dumping in Africa, see:

- ["Afrique de l'ouest - Les pays européens «exportent» leurs déchets électroniques"](#), Slate Afrique, 27 Feb 2012 [re Benin, Côte d'Ivoire & other countries]
- ["Sénégal : déchets électroniques et informatiques en Afrique de l'Ouest"](#), Laurent Correau, Radio France Internationale, 15 Jul 2010 [re Benin, Mali, Senegal]
- ["Toxic colonialism: The human rights implications of illicit trade of toxic waste in Africa"](#), Lassana Koné, Consultancy Africa Intelligence, 14 Jul 2010

2.3 Large-scale acquisition of lands

In an accelerating scramble for arable land in Africa, multinational agribusinesses are acquiring rights to vast expanses to grow food and biofuel crops, which many observers have criticised as "land grabs". A 2009 [study \[in French\]](#) prepared for the Food and Agriculture Organization warned that these acquisitions pose risks for the poor in rural communities. The following examples demonstrate some specific cases and concerns. A [September 2011 Oxfam study](#) stated that some land acquisitions are "leading to conflict, hunger and human rights abuses", citing Mali and Senegal, among other countries.

a. Cameroon: In 2012, [a report by the Cameroonian NGO Centre for Environment & Development \(CED\)](#) raised concerns that a 60,000 hectare (148,000 acre) oil palm plantation to be operated by SG Sustainable Oils Cameroon, a subsidiary of US-based Herakles Capital, would displace thousands of small-scale subsistence farmers without adequate compensation or alternate employment. We obtained a [response](#) from the company, which said that CED and another local NGO had misstated the project's impacts, exaggerated local opposition, and mischaracterised the outcome of a court case in Cameroon seeking to stop the project. CED and other NGOs produced a [film about the project's impact](#); [Herakles Capital's CEO responded](#) to the film and other criticisms. The Government of Cameroon ordered the company to halt operations in May 2013, saying it had not obtained necessary permits, later [lifted the order](#), then issued revised permits in late 2013 authorising Herakles to farm an area less than one-third the size of the original concession, but there have been questions about the project's future following the death of Herakles Farms' CEO. Local NGOs say the reduced project size does not address their concerns about harms to local communities. In January 2014, [18 Cameroonian and international NGOs wrote \[in French\]](#) to the UN Special Rapporteurs on right to food and on freedom of association, and the UN Independent Expert on human rights and environment, to urge an inquiry into persecution and harassment by the government of local NGOs who have raised concerns about Herakles's impacts.

b. Benin: [According to the farmers' NGO Synergie Paysanne \[in French\]](#), the Italian company Green Waves has purchased 200,000 hectares (about 494,000 acres) of arable land, while the British company Agritec has acquired 32,000 hectares (about 79,000 acres); Chinese, Libyan and Nigerian investment groups have also made significant, though smaller, acquisitions. [Synergie Paysanne raised concerns \[in French\]](#) that certain of these land acquisitions could harm national food security, the health of nearby populations and the environment. Civil society groups have also denounced the [lack of transparency \[in French\]](#) in the land transactions.

c. Madagascar: In one of the largest of these land transactions, Daewoo Logistics (headquartered in South Korea) [was allocated 1.3 million hectares \(about 3.2 million acres\) of land](#) by the Madagascar Government in 2008 for the production of palm oil and corn; according to the [Financial Times](#), this represented half of the arable land in the country. For its part, Daewoo [committed to building infrastructure and to creating tens of thousands of jobs \[in French\]](#). Farmers' organizations and other NGOs organised to oppose the project over issues such as depriving small farmers of their land. Following political crises in Madagascar, [a new administration in October 2010 cancelled the project](#),

d. Mali: 100,000 hectares (about 247,000 acres) were leased for 50 years to the Libyan company Malibya for rice cultivation. The displaced farmers and the Coordination nationale des organisations paysannes (National Coordination of Farmers' Organizations) [claimed \[in French\]](#) the project had destroyed orchards and vegetable plots, and criticised the government's guarantee to the company of "the amount of water needed, without restriction". The farmers attempted to retake the land, but the Malian Government has prevented this. The company and its supporters [say displaced farmers have been properly compensated \[in French\]](#) .

In contrast, see the project described in Section 3.2.d below, regarding a "good practice" biofuel project in Mali.

For further details on this issue, see:

- ["Gestion du foncier : L'accapement des terres menace la sécurité alimentaire en Afrique"](#), Le Soleil (Senegal), 5 Nov 2013
- ["Land Grabs Leave Africa Thirsty" \[PDF\]](#), Oakland Institute, Dec 2011
- ["World Bank land grab report comment: Biofuels cause land grabs"](#), Friends of the Earth International, 8 Sep 2010

2.4 Lack of transparency & equity in revenues paid to govts., and tax avoidance

a. Tax avoidance: Among others, the [Africa Progress Panel](#), composed of African, European and North American leaders, and its Chair, [Kofi Annan](#), have argued that tax avoidance by oil & gas firms and other companies robs Africa of vast sums, preventing governments from meeting their populations' basic needs. In October 2012, for example, the Platform for Promotion & Defense of Economic, Social & Cultural Rights in DRC reported that an audit by accounting firm BDO suggested that Tenke Fungurume Mining was [hiding its books, and overvaluing investments](#) in order to minimise its tax bill – and that TFM's original auditor, Ernst & Young, was complicit in these irregularities. We invited the companies to respond; TFM denied the accusations but Ernst & Young did not respond. A government report leaked in January 2014 estimated that the [DRC Government is owed US\\$3.7 billion in unpaid customs duties and fines](#) due from mining firms operating in Katanga Province, although some of the companies named and some provincial officials questioned its accuracy.

b. Transparency of revenues & contracts: To increase accountability, including for economic & social rights, civil society has urged companies and governments to disclose oil contracts, companies' payments to governments, and how revenues are used. Some governments and companies have joined the [Extractive Industries Transparency Initiative](#) (EITI) and committed to disclosure. Countries that fail to meet EITI standards, such as DR Congo and Gabon, have been suspended or removed from EITI. In some EITI countries, civil society has nonetheless criticised governments, such as [Cameroon](#) and [Republic of Congo](#), for producing minimal reports that they say do not fulfil the requirements of the initiative – or fail to explain wide gaps between what companies say they pay and revenues reported by government. Secrecy of contracts between companies and governments prevents scrutiny of revenue-sharing and of clauses that can shield companies from improved labour, environmental and other protections if those changes increase their costs – e.g., in [Chad and Cameroon](#).

c. Concerns over equity in natural resource contracts: Both the Africa Progress Panel in its [first report](#) and the [international NGO coalition Social Watch](#) have stressed the need for greater equity in relationships between natural resource firms and the countries where they operate. This issue has been the subject of renegotiations of existing mining, oil and gas contracts, including Niger's on-going renegotiations with Areva. In Areva's current contract, [Reuters reports](#), "Areva's mines pay no export duties on uranium, no taxes on materials and equipment used in mining operations, and a royalty of just 5.5 percent on the uranium they produce." [Local and international NGOs support Niger's efforts \[in French\]](#) to seek a deal from Areva more favourable to the government, so it will have greater revenues for social development. [Areva claims \[in French\]](#) that Niger receives great benefit from uranium mining through the government's shareholding in mining operations with Areva, through jobs with Areva's units, and through social development projects by Areva. Other countries have also reviewed natural resource contracts, to ensure they were entered into legally and provide an equitable sharing of revenues between the government and the company – notably Guinea. (See section 4.3.d. below.)

2.5 Impacts on poverty, development & livelihoods

While companies may bring local development and jobs, their impacts on social and economic rights can also be negative.

a. Failure of oil funds to be used to alleviate poverty and meet social needs: Extraction of rich oil reserves in Africa has overwhelmingly failed to alleviate poverty and underdevelopment at the national or local level. [Gabon, Republic of Congo \(in French\)](#) and other countries have licensed extraction of massive oil reserves. But most people remain in deep poverty; their rights to health, water, food, education and other basic needs are not met, despite the countries' oil wealth. Gabon and Equatorial Guinea are especially striking: high oil production and record prices should help meet basic needs for their small populations, but do not. Experts have also decried the failure of [oil revenues in Republic of Congo \(in French\)](#) to improve human development. During the 2011-12 food crises in the Sahel, experts suggested redirecting oil revenues in Chad, Mauritania and Niger to [create "stabilisation funds" to combat hunger](#); the suggestion went unheeded.

b. Local impacts on poverty, right to food, housing

1) Dam-building in Cameroon: A [January 2014 report by Cameroon Network of Human Rights Organizations](#) raised concerns about respect for human rights by companies involved in major projects in Cameroon, especially the impacts of the Lom Pangar dam project on rights to food, education, adequate standards of living and health. It found failures in provision of adequate compensation as well as insufficient measures to inform and consult with affected populations, and to treat complaints by those harmed by the projects. We invited the principal companies involved to respond: China International Water & Electric, and engineering firm Coyne & Bellier responded, but Electricity Development Corporation of Cameroon did not.

2) Mining in southern DRC: A 2011 [report by Action Contre l'Impunité pour les Droits de l'Homme \(ACIDH\) and SOMO](#) raised concerns that mining companies in Katanga Province were displacing people and destroying homes without providing adequate compensation or decent alternate housing, and harming people's livelihoods through pollution. The report referred to impacts of:

- Tenke Fungurume Mining (TFM, joint venture of Freeport-McMoRan, Lundin Mining and Gécamines),
- Boss Mining (part of ENRC, headquartered in Kazakhstan),
- Ruashi Mining (part of Jinchuan Group, headquartered in China),
- Chemaf (part of Shalina Resources, headquartered in United Arab Emirates) and
- Compagnie Minière du Sud Katanga (CMSK - joint venture of George Forrest International [headquartered in Belgium] & Gécamines, which is owned by the DRC Government).

[Boss Mining, Ruashi Mining and Chemaf responded directly to ACIDH \[some responses in French\]](#). We invited the other companies to respond; [Freeport-McMoRan responded on behalf of TFM](#) and [George Forrest International responded on behalf of CMSK \[in French\]](#). While many of those affected have been resettled, the NGOs do not consider the issues of housing and compensation resolved.

ACIDH, Fédération internationale des droits de l'homme (FIDH) and other NGOs filed a [complaint in Belgium against George Forrest International in April 2012, under the OECD Guidelines for Multinational](#)

[Enterprises \[in French\]](#), regarding the alleged destruction of homes by CMSK. The Belgian OECD National Contact Point (NCP) negotiated with George Forrest to carry out community work to improve access to health and water but the Belgian NCP did not seek compensation from the company for those who lost their homes; [FIDH said in 2013](#) that the NCP had failed the victims.

Southern Africa Resource Watch (SARW) has also [raised the issue of the lack of available farmland or jobs for artisanal miners \[in French\]](#) from communities surrounding the TFM concession. [TFM responded \[in French\]](#) to SARW with figures about the economic development that it brings to the area and defended its record of consultations with neighbouring communities.

3) Oil in eastern DRC: Local communities and officials in eastern DRC, as well as local and international NGOs, [oppose oil exploration and drilling in Virunga National Park \[in French\]](#), primarily over concerns about pollution decimating fish stocks in Lake Albert that locals rely on for subsistence, lack of adequate consultation of local communities, and [alleged use of government security forces by Soco International \(headquartered in UK\) to intimidate opponents](#). Soco, which holds the main rights to drill in the park, [responded](#) that it had not yet undertaken exploration, had carried out a social and environmental impact assessment, and had widely consulted local stakeholders. Citing these and other environmental and human rights concerns, international NGO [WWF filed a complaint](#) before the UK Government alleging violations of the OECD Guidelines for Multinational Enterprises. The [UK Government accepted the complaint](#) in February 2014; Soco's response to the complaint is [here](#).

4) Logging in Cameroon, DRC & Rep. of Congo: A documentary film by Friends of the Earth's France and Cameroon member organizations, ["Déforestation durable" \[in French\]](#) ("Sustainable deforestation"), highlights impacts on communities in Cameroon and Republic of Congo of forestry firms like Pallisco (headquartered in Cameroon) after the company has extracted the most valuable wood and departed, leaving closed schools and health clinics and forests with little or no remaining commercial value. The film includes comments by Pallisco. A [2011 film by Global Witness](#) raised similar concerns about World Bank-financed logging projects in DRC.

5) Mining in Senegal: In Senegal, NGOs and community leaders in Sabodala have [opposed a second mine proposed by Teranga Gold \(headquartered in Canada\) \[in French\]](#) on the basis that the land proposed is the last remaining area for local people to graze their herds, and "this is the site from which we obtain our subsistence." The company stated that it would take necessary steps to address the communities' concerns, but [opposition to the project continues \[in French\]](#).

6) Tourism in Comoros, Madagascar, Mauritius, Seychelles: Tourism development also presents threats to local people's livelihoods as well as opportunities for development. In countries such as Comoros, Madagascar, Mauritius and Seychelles, as well as on Réunion, concerns have been raised that [coastal resorts degrade the marine environment, threatening the livelihoods and food security](#) of local people who rely on fishing, and sometimes completely block their access to the coast.

2.5 Workers' rights

a. Cameroon: In 2012, workers' protests over unhealthy working and living conditions against Sosucam, a subsidiary of French agribusiness firm Somdiaa, escalated into riots when police fired on protesters. [Union leaders were detained and subsequently fired \[in French\]](#), although they stated there was no evidence linking them to the violence. [Somdiaa insisted \[in French\]](#) that those fired were involved in the riots. Four of the unionists were not reinstated.

In 2011, a Cameroonian employee of China Road & Bridge Corporation [filed a complaint \[in French\]](#) against the company for "assault and physical violence". The Prefect of Ocean Department, South Region, initiated an investigation into working conditions at the company.

b. DRC: The [April 2012 report](#) (mentioned above in section 2.1.a) by Swiss NGOs working with Congolese groups raised concerns that Glencore was buying copper from an artisanal mine located on a Glencore concession, and that this mine had no safety provisions, frequent fatal accidents and "appalling hygiene conditions caus[ing] numerous illnesses." In [its response](#) to this report and a related BBC programme, Glencore denied purchasing any copper from the artisanal miners.

In 2010, according to a [report \[in French\]](#) by Association africaine de défense des droits de l'homme (ASADHO), several Congolese employees of CREC (China Railway Engineering Corporation) accused the company of denial of the right to unionise, failure to provide protective gear and other violations of labour

rights. CREC did not respond to media inquiries about the allegations; the Chinese Ambassador to DRC [questioned the credibility of the report \[in French\]](#), asking why it only targeted Chinese companies while, he said, companies from other countries acted in a similar manner. He urged the expansion of ASADHO's inquiry to other companies.

In 2009, Chinese mining companies in Katanga were criticised in a [report](#) by Rights & Accountability in Development and two Congolese NGOs, ACIDH and PADHOLIK. According to the report, "security guards have assaulted workers and beatings are common. In some cases workers have sustained serious injuries." The report alleged that Congolese employees worked in unsafe conditions and were discriminated against by Chinese managers. The report also said the companies purchased minerals "mined with the use of child labour". We repeatedly attempted to contact the companies mentioned in the report to seek responses to these allegations, but we were not able to reach them.

c. Guinea: Rusal's huge Friguia alumina refinery has been shuttered for nearly two years following a bitter fight between the company and the factory union. [A strike by the union, ruled illegal by a labour tribunal, led to suspension of operations in early 2012](#), lock-out of workers by Rusal and non-payment of most wages since the strike began – although Rusal has made some payments to locked-out workers. Some unionists then occupied the plant and attempted to mothball it; Rusal states that they threatened expatriate employees and damaged plant machinery, and that expatriate workers were forced to flee. Rusal has kept the plant offline since, despite the union's eventual accession to Rusal's demands and agreement to suspend workers' right to strike. Suspended workers and their families told us how this has devastated the town of Fria, which depended entirely on the thousands of wage-earners at the plant and its contractors, although Rusal has provided some voluntary relief, including some food aid. At this point, the suspended workers told us, they have only two main demands: First, for Rusal to make a [payment of half of back-wages \[in French\]](#) that it committed to in January 2014. And second, for it to resolve their long-term contractual status – they are currently locked out with contracts suspended – if Rusal will not reopen the plant, even by formally firing them if necessary so that they can receive mandated unemployment or retirement benefits, and some can move on to other jobs. Rusal, for its part, told us that the plant is not economic but that it is seeking technological improvements that would make it profitable. It noted that its actions since the strike was called were validated by a labour court decision. It did not address the issue of whether its demand for a moratorium on strikes was consistent with international labour rights standards. A more complete recent response by Rusal to workers' concerns is [here](#).

d. Chad: CNLC, a subsidiary of China National Petroleum Corporation, [laid off \[in French\]](#) several local employees in Chad in 2011, claiming economic necessity. The employees claimed they were laid off because they had gone on strike to protest unpaid salaries. They initiated legal action against the company, arguing that their dismissal due to the strike action was illegal; the case is still pending.

e. Niger: The family of a French national who had worked for an Areva subsidiary in Niger and subsequently died of lung cancer alleged in a lawsuit in France that his illness was due to unhealthy working conditions. See section 4.1.e below for further details about the lawsuit.

2.6 Child labour

a. Cocoa farming: Numerous reports have documented child labour, including hazardous working conditions and trafficked children, in cocoa production, especially in Côte d'Ivoire and Ghana.

The cocoa industry agreed to the Harkin-Engel Protocol in 2001, which envisaged a scheme to verify the elimination of the worst forms of child labour from cocoa production. The Responsible Cocoa initiative, led by industry groups, has established a system of "public certification" that [it defines](#) as "a transparent, credible...process that reports, on a country-to-country basis, the incidence of the worst forms of child labor...and forced adult labor...in a producing country's cocoa sector...and on progress in reducing this incidence". The NGO Equal Exchange [has criticised this "public certification" scheme](#) for abandoning the Protocol's goal of, in Equal Exchange's words, "establishing a substantive certification process to identify which cocoa was or was not produced with forced child labor", and "distort[ing]...the concept of product certification". The Payson Center for International Development at Tulane University, in its [final report](#) for the US Department of Labor on child labour on cocoa farms, broadly agreed with Equal Exchange: "[the] model, definitions and subsequent action of industry's 'certification' to date fall short of the Protocol's vision of implementing 'credible'... certification standards." [Previous reports by the Payson Center](#) found that most children surveyed had experienced the worst forms of child labour, including physical and sexual harassment and restrictions of freedom of movement; nearly all performed hazardous work including spraying pesticides and using machetes.

In light of the lack of progress, a coalition of NGOs including Berne Declaration, the Burkina Faso labour confederation (Condéderation Syndicale Burkinabé) and International Labor Rights Forum [have campaigned to push the cocoa industry to take stronger action \[in French\]](#) to fight child labour in its supply chain. [According to ILRF](#), Hershey (headquartered in USA) “has lagged behind all of its competitors and has refused to agree” to “programs to trace [its] cocoa to the farm or cooperative.” [In response to ILRF, Hershey stated](#) that it “is working with its network of farmers to improve living and working conditions on the cocoa farms.” [Hershey has committed](#) to sourcing some cocoa from farms certified by Rainforest Alliance, where children under 15 are not allowed to work, and to “invest[ing] \$10 million by 2017 to reduce child labor and improve cocoa supply in West Africa”. [ILRF welcomed these steps](#), but continues to push Hershey “to ensure a better price for cocoa farmers so they can stop depending on forced child labour.” [A lawsuit in US court by Hershey investors](#) against the company, seeking to force Hershey to disclose its records of buying from farms that may use child labour, was dismissed in September 2013.

[An audit by the Fair Labor Association, commissioned by Nestlé \(headquartered in Switzerland\) and released in June 2012](#), also found “numerous” violations of Nestlé’s rules on child labour in its supply chain in Côte d’Ivoire. [Nestlé responded](#) that “child labor in our cocoa supply goes against everything we stand for. No company sourcing cocoa from Cote d’Ivoire can guarantee that it doesn’t happen, but what we can promise is that tackling child labor is a top priority...” The audit was reportedly the first to map a chocolate maker’s cocoa supply chain; Nestlé states that it is now using it to [address the conditions that contribute to abusive child labour](#).

b. Mining: The use of child labour is a recurrent problem in artisanal gold mines in Africa, especially in Burkina Faso, DRC and Mali. A December 2011 [Human Rights Watch report](#) found that at least 20,000 children work in Malian artisanal gold mines under dangerous conditions. Human Rights Watch [responded to government denials](#) of the problem in 2013 and urged the government to take action. Children similarly work in dangerous conditions in artisanal gold mines in Burkina Faso, including exposure to [violence, sexual abuse, HIV/AIDS, and a range of diseases related to the use of toxic substances like mercury \[in French\]](#). No mechanisms currently exist to ensure that gold sold on international markets does not come from mines that use child labour.

In some cases companies are directly tied to child labour; for example, an April 2012 [BBC investigation reported finding child labour on a mine in DRC owned by Glencore](#). Glencore responded that it was not currently operating the mine, that the miners on the land using child labour had taken it over without the company’s permission, and that it did not buy copper currently produced there. The BBC report cited evidence that Glencore and its local partners smelted copper from the mine. Glencore’s full response is [here](#).

3. Positive examples

In addition to instances in the previous sections where companies have taken affirmative steps to address concerns about their human rights impacts, the following are some examples of instances where companies have taken positive steps in relation to human rights in Francophone Africa. This section is not comprehensive; we welcome information about other positive initiatives.

3.1 Health

a. HIV/AIDS, malaria & tuberculosis: Industrial Promotion Services (IPS) group (headquartered in Kenya), which operates in Burkina Faso, Côte d’Ivoire, Mali, Senegal and other countries, [runs a programme of testing and prevention \[in French\]](#) against HIV/AIDS, malaria and tuberculosis in its member companies.

As part of a global initiative, [Pfizer \(headquartered in USA\) has committed](#) US\$15 million to malaria treatment in Senegal, Ghana and Kenya, over a five-year period. Through the Clinton Global Initiative, Pfizer will work with African governments and the World Health Organization.

b. Health and technology: HP, Zain (headquartered in Kuwait), Orange (headquartered in France), various pharmaceutical firms and African governments have joined to found the NGO [mPedigree \[in French\]](#), with the support of Ashoka, World Economic Forum and TED. mPedigree allows African consumers to verify the authenticity of drugs by text message, helping fight the dangers of counterfeit drugs. The system is [operating in Cameroon, Niger and other countries \[in French\]](#); it is expanding to other countries, including [Rwanda and Senegal \[in French\]](#).

c. Coordination of health initiatives & rural health care: [Bouygues, CFAO \(Compagnie Française de l'Afrique Occidentale\) and la Fondation Sanofi Espoir](#) (all headquartered in France) joined AMREF (African Medical and Research Foundation) Flying Doctors to create the “Club Santé Afrique”, which aims to bring together health programmes by NGOs, foundations, companies and governments to bring about “better top-level coordination, and more effective programmes on the ground.” The programme is initially focussing on improving access to health care in rural areas through telemedicine and mobile clinics.

3.2 Socioeconomic development

a. Nestlé agricultural research & development centre: Nestlé’s research and development centre in Côte d'Ivoire aims to [contribute to the fight against hunger and malnutrition \[in French\]](#) throughout the continent. Its partnerships with national research institutes aim to develop, for example, production of cocoa in Côte d'Ivoire, and food crops in Mali, Niger and Senegal.

b. Biofuel project in Mali: In contrast to many other biofuels projects, a project by Mali Biocarburant to produce biodiesel from jatropha was described as “best practice” in a [2010 report \(see fourth case study\)](#) by the Center for Human Rights and Global Justice at New York University Law School. The report commends the involvement of local farmers’ cooperatives, which have an equity stake; the inclusion of food crops; and the protection of farmers’ land rights.

c. “Fair trade” diamonds from Central African Republic: Representatives of the diamond industry, NGOs and the US State Department are exploring ways to bring certified [“fair trade”, artisanally mined diamonds to market from Central African Republic and other countries.](#)

d. Sonatel CSR programme & reporting: The Senegalese telecommunications firm Sonatel is one of the only companies based in the region to publish an annual CSR report using the Global Reporting Initiative framework. Sonatel is particularly active in the areas of health and education. For example, it has an active programme on education and fighting illiteracy, and has a [joint project with the Ministry of Education \[in French\]](#) to introduce information and communications technologies to schools.

e. Teranga Gold’s community development framework: Teranga Gold has recently [committed to a 25-year programme \[in French\]](#) of community development in the area of its mines in Senegal that focuses on needs identified by the communities to develop the local economy apart from mining – as well as addressing core needs of the area in food security, health and education.

3.3 Education

[Microsoft \(headquartered in USA\) has worked to create \[in French\]](#) “IT tools adapted to development and microfinance, to fight against poverty [and] reinforce girls’ education...” in Francophone Africa. It also has launched the US\$75 million 4Afrika initiative to support education aiming [to help develop the local IT sector in Côte d'Ivoire and other countries \[in French\]](#).

In Senegal, AXA (headquartered in France) supports the government’s [Project “Seneclit” \[in French\]](#), in partnership with the Global Digital Solidarity Fund and others, to narrow the digital divide.

3.4 Access to water

Natural resource companies can take steps to address the issue of heavy water use in their operations, especially in arid and semi-arid regions. For example, in DRC, [Tenke Fungurume Mining received a prize from the global business coalition GBCHealth](#) for its programmes to improve access to water. Other company initiatives to improve access to water include the [Children’s Safe Drinking Water Program by Procter & Gamble \(headquartered in USA\), in Rwanda](#), which operates [in partnership with World Vision.](#)

3.5 On-going initiatives for promotion of corporate social responsibility (CSR)

Major regional events focussing on corporate social responsibility have been initiated in recent years, such as the [Senegal CSR Forum](#); the fifth annual of these forums took place in November 2013. [Institut RSE Afrique](#) (CSR Institute for Africa) conducts regular events, including an annual “International Forum for CSR Pioneers in Africa”. In addition, the [International Mining Expo \(“Salon International des Mines”\)](#), which takes place biannually in Dakar, provides a venue where NGOs can have direct dialogue with mining firms – although NGOs do not have a formal role in presenting at this event.

3.6 Fair treatment of migrant workers

In Mauritius, many migrant workers labour in the textile industry. The Institute for Human Rights and Business convened international buyers, local factories, business organizations, government agencies and NGOs in Mauritius in 2011 [to identify good practices by companies, governments and others to avoid abuses of migrant workers](#) including debt bondage and restrictions on freedom of movement.

3.7 “Conflict minerals”

See section 4.2.d for positive initiatives by some companies and business groups to address the issue of conflict minerals.

4. Legal, regulatory & policy developments

4.1 Lawsuits

Unlike in Anglophone Africa, where there are increasing numbers of lawsuits against companies on human rights issues, within Francophone Africa there are very few such cases. The following cases are relevant to the region but most are lawsuits brought in the courts of countries in other regions of the world.

a. Lawsuits against Trafigura over toxic waste dumping in Côte d’Ivoire: Trafigura faced multiple lawsuits following the dumping of waste in Abidjan from the ship it had chartered, the *Probo Koala*, in 2006, and the deaths and illnesses allegedly caused (see section 2.1.b above). The company settled legal action by the Côte d’Ivoire Government, in February 2007, agreeing to pay the government over US\$190 million in exchange for release of all claims against Trafigura. Trafigura also faced civil claims in the UK by a group of alleged victims of the dumping. In September 2009, Trafigura and the victims reached a settlement of the UK claims – the company reportedly agreed to pay each of 30,000 plaintiffs an estimated US\$1500.

However the International Federation for Human Rights (FIDH) and its Ivorian members, Ligue Ivoirienne des Droits de l’Homme and Mouvement Ivoirien des Droits Humains, [reported in April 2011 \[French\]](#) that they could not determine “how many of the victims have received their settlement funds...nor if all of the funds have been paid out.” The report concluded, “the implementation of the indemnification of victims in this settlement has cruelly lacked organization and transparency.” Martyn Day, a UK lawyer for the victims, [said in October 2011](#) that an Ivorian group claiming to represent some of the victims had misappropriated over US\$8 million of the UK settlement funds. As of May 2012, the disbursement of the settlement funds is [reportedly still incomplete \[in French\]](#).

Regarding the Trafigura settlement with the Côte d’Ivoire Government, in August 2011 [Amnesty International stated](#) that “the government compensation process was never completed and questions remain over how much of the US\$195 million the victims actually received.” In 2011 [some victims protested \[in French\]](#) the government’s failure to pay out the compensation; [6000 victims say they have still not received compensation \[in French\]](#).

In 2010 in the Netherlands, where Trafigura is registered, the Amsterdam district court [ruled](#) that the company had concealed the toxicity of the waste, and imposed a fine of €1 million for illegally exporting the waste. [The ruling was appealed both by the company and by the prosecutor, who sought an increase in the fine.](#) The court also convicted a Trafigura employee and the captain of the *Probo Koala* for their roles in the affair. The Dutch Public Prosecutor did not prosecute the company for the actual impacts of the dumping in Côte d’Ivoire because the prosecutor concluded that it lacked the authority to pursue Trafigura for a crime committed in Africa. Greenpeace appealed this decision, but in 2011 the court of appeals at The Hague [upheld](#) the prosecutor’s decision. In 2012, [Trafigura agreed to pay €1.3 million](#) to settle all litigation by the Dutch Government, including €67,000 to stop further action against Trafigura’s chairman Claude Dauphin.

For further information, see the [complete profile](#) of these lawsuits, on the Business & Human Rights Resource Centre website.

b. Lawsuits against Anvil Mining re army massacre in DRC: In October 2006, a DRC military tribunal [initiated a criminal prosecution](#) against three employees of Anvil Mining, as well as nine members of the DRC armed forces, for complicity in war crimes in Kilwa (see section 2.2 above). In June 2007, all of the

accused were [acquitted](#). Following the acquittal, [DRC and international NGOs said that the trial “failed to deliver justice to the victims of the Kilwa incident”](#) because it “failed to conform to international standards for a fair trial”.

The victims’ families [filed a class action suit in Canada in November 2010](#) against Anvil Mining. They accuse the company of having supplied to the DRC armed forces logistical support that allowed the army to commit abuses against the civilian population. The plaintiffs are supported by two DRC NGOs, ASADHO and ACIDH, as well as by Canadian and international NGOs. The Québec Superior Court made a [preliminary ruling](#) that it had jurisdiction to hear the case, but the Québec Court of Appeal [overturned that ruling and dismissed the case](#) in January 2012. The Canadian Supreme Court, [rejected the plaintiffs’ appeal](#) of the dismissal in November 2012 (further case information [here](#)).

For further information, see the [complete profile](#) of these lawsuits, on the Business & Human Rights Resource Centre website.

c. Lawsuit against Nestlé, Cargill, Archer Daniels Midland re child labour: In 2005, with the assistance of the NGO Global Exchange, three Malians [filed a complaint](#) against Nestlé, Cargill and Archer Daniels Midland before a US court. The plaintiffs claimed that they had been trafficked from Mali and forced to work in Côte d’Ivoire, on cocoa plantations. They stated that they had lived and worked in inhumane conditions and had been assaulted by plantation guards. They accused the companies of having aided, encouraged or failed to prevent torture, forced labour and forced child labour, of which they said they were victims. In 2010, the court [dismissed the case](#), ruling that the legal responsibility of companies for violations of the rights in question was not sufficiently well established and universal in international law, but the dismissal was [reversed in December 2013](#). For further information, see the [complete profile](#) of this lawsuit on the Business & Human Rights Resource Centre website.

d. Lawsuits against Siforco & Danzer Group re military attack on Yalisika, DRC: In 2011, lawyers for residents of Yalisika, in Equateur Province, DRC, [filed a complaint against Siforco](#), a forest products firm that was then a subsidiary of Danzer Group. The plaintiffs, [now represented by DRC lawyers affiliated with Avocats sans Frontières](#) (ASF, or Lawyers Without Borders), allege that Siforco played a role in attacks on Yalisika in May 2011 (see section 2.1.b above). Investigations were conducted in 2013 by the DRC Military Prosecutor’s office, on a joint team with the participation of the UN. Lawyers for the plaintiffs indicate that the investigation has concluded and the case has been sent to magistrates for judgment. In April 2013, two European NGOs filed a criminal complaint in Germany against a senior manager of Danzer Group, alleging complicity in the attacks on Yalisika. Danzer and Siforco deny the accusations, insisting that the abuses happened outside their control and responsibility. The case is under investigation in Germany. For further information, see the [complete profile](#) of this lawsuit on the Business & Human Rights Resource Centre website.

e. Lawsuit against Areva over death of a former worker allegedly due to uranium exposure: Serge Venel, a French national, worked for Cominak, a subsidiary of Areva, in Niger from 1978-85, then died of lung cancer in 2009. His family [sued the company in France](#), alleging that the company was at fault in his death. Areva responded that it was not legally responsible for its subsidiary’s actions. The French tribunal [ruled against Areva](#), but on appeal the [Paris Court of Appeal sided with Areva and shielded it from its subsidiary’s liabilities](#). Other cases by cancer victims formerly employed by Areva are pending in France.

f. Lawsuit against oil companies over pollution in Djibouti: In November 2011, a [Djibouti court ordered Total to pay €204 million and Oil Libya to pay €102 million](#) over a 1997 pipeline spill that it found had endangered human life.

g. Lawsuit over displacement, environmental impacts due to palm oil plantation in Cameroon: Local residents filed lawsuits in Cameroon over the impacts of SG Sustainable Oils Cameroon on their communities (see above, Section 2.3.c).

h. Lawsuit by workers in Chad against CNLC alleging dismissal over strike: Former workers of CNLC (part of China National Petroleum Corporation) sued the company claiming they were dismissed because of a strike over unpaid salaries (see above, Section 2.5.c).

4.2 International & regional initiatives

a. UN Guiding Principles, UN Working Group, UN Forum

In 2011, the United Nations Human Rights Council endorsed the [Guiding Principles on Business and Human Rights](#) and established a Working Group on business & human rights. Its five members include Michael Addo of Ghana, a professor of human rights law at University of Exeter. The Working Group is currently planning a regional forum on business & human rights in Africa.

The Working Group organises an annual [UN Forum on Business and Human Rights](#) in Geneva. At the second annual forum, in December 2013, [a panel focused on dissemination and implementation of the UN Guiding Principles in Africa](#). Panellists who gave a briefing on key regional trends were Joseph Kibugu of Business & Human Rights Resource Centre; Lazare Ki-Zerbo of Organisation Internationale de la Francophonie; and Pierre Sané of the UN Global Compact Human Rights Working Group (former Secretary General of Amnesty International). Samuel Nguiffo of Centre for Environment & Development in Cameroon presented on two panels: one on [“Land and environmental rights defenders in danger”](#) ([video here](#)), and one on [“Integrating human rights in international investment”](#).

Our portal on the Working Group, including submissions to the Working Group by stakeholders in Africa and elsewhere, and information on how to make submissions, is [here](#).

b. African Commission on Human and Peoples’ Rights – Extractive Industries Working Group: The African Commission’s [Working Group on Extractive Industries, Environment and Human Rights Violations](#) includes Commissioners Pacifique Manirakiza of Burundi (who chairs the Working Group), and Zainabo Sylvie Kayitesi of Rwanda. The Working Group’s expert members include human rights advocates from Chad, Cameroon and Togo. It is gathering data on issues such as current relevant legislation in African countries, and NGOs’ activities on business & human rights in Africa. The Working Group has held several meetings with NGOs, most recently in May 2013. Commissioner Manirakiza’s most recent report of his activities as Chair is [here](#) (scroll down to Part 2). It is currently planning a research mission to DRC. NGOs interested in engaging with and supporting the Working Group have organised an [online group](#) to coordinate their efforts.

c. ECOWAS “Directive on the Harmonization of Guiding Principles and Policies in the Mining Sector”: The [“Directive on the Harmonization of Guiding Principles and Policies in the Mining Sector”](#) of the Economic Community of West African States (ECOWAS) was adopted in April 2009 by the member states, which include Benin, Burkina Faso, Cote d’Ivoire, Guinea, Mali, Niger, Senegal and Togo. The directive aims for greater transparency in the management of natural resource revenues, and better consideration of local populations’ interests and environmental protection. In 2013 [regional NGOs \[in French\]](#) and [Oxfam America](#) lamented delays in finalising a common regional mining code based on the directive. Oxfam said the regional code “is desperately needed to protect the rights of communities to express their free, prior and informed consent when facing mining companies,” while regional NGOs said governments had gradually shut them out of the development of the regional code. The regional code is slated to be finalised in July 2014, but the history of its development suggests further delays are likely.

d. Certification of minerals from DRC: In order to prevent minerals from continuing to stoke the DRC conflict, the UN Security Council endorsed [due diligence guidelines](#) in 2010 for companies to avoid conflict minerals in their supply chains. Various efforts have been launched to guarantee the minerals’ traceability and to guide companies’ reporting on conflict minerals due diligence, including by the [OECD](#), the [tin industry group ITRI](#), and a [joint initiative by Global e-Sustainability Initiative and Electronics Industry Citizenship Coalition](#). Background on these efforts is available [here](#).

The member states of the International Conference on the Great Lakes Region (ICGLR) adopted the [“Lusaka Declaration to Fight Illegal Exploitation of Natural Resources in the Great Lakes Region”](#) in 2010, which covers the whole Great Lakes region including Burundi, DRC and Rwanda, and includes a [certification mechanism](#). [Partnership Africa Canada](#), with the Swiss Government and the ICGLR, published a report in March 2011 with recommendations for implementation of the ICGLR certification scheme. Enough Project made [recommendations for steps necessary get “conflict minerals certification back on track”](#) in November 2013. [Rwanda began certifying minerals](#) under the ICGLR mechanism in the same month.

Among companies, Motorola Solutions, AVX, DRC-based mining firm MH Internationale, and Global Advanced Metals have joined with Enough Project to [mine, refine and use tantalum in a certified conflict-free chain](#) that other electronics firms also plan to use. Intel recently became the first company to announce that it was [producing conflict-free technology products](#). And Apple has begun [publishing a list of over 160 smelters in its supply chain](#), noting which may source from conflict zones and which are certified not to.

4.3 National laws, regulations & policy initiatives

a. US and European provisions on DRC conflict minerals: The US financial sector reform law adopted in July 2010, known as the Dodd-Frank Act, includes an important provision regarding [trade in “conflict minerals” from DRC](#). This provision requires companies registered on US stock exchanges that use minerals from DRC to report annually to the Securities and Exchange Commission (SEC) the measures they take to ensure that revenues from minerals they purchase do not support armed groups in DRC. The SEC adopted implementing regulations in 2012. Global Witness, Enough Project and other NGOs [welcomed the regulations but expressed disappointment](#) over the SEC’s decision to allow companies to state that the origin of their minerals is “indeterminable” for 2-4 years from the regulations’ effective date of 2014. [The US Chamber of Commerce and other business organizations have sued the SEC](#) over the rule, claiming it will be too costly. A US court [upheld the regulations](#) in July 2013, but the groups have [appealed](#). ([Global Witness challenged industry estimates](#) of implementation costs, while pointing out the costs to people in DRC of the status quo.) [The Automotive Industry Action Group, in contrast, commended the SEC](#) for issuing the rules.

[Global Witness raised concerns](#) in May 2012 that electronics companies that publicly stated that they supported efforts to rid their supply chains of conflict minerals also were members of business organizations that lobbied against robust regulations by the SEC to implement the Dodd-Frank Act. Global Witness and others later urged a number of companies to “break from the US Chamber [of Commerce] on conflict minerals.” Business & Human Rights Resource Centre invited the business organizations and companies named to respond to these concerns; their responses and non-responses are [here](#). We also invited a number of members of US business organizations to respond to criticism of the business organizations’ lawsuit against the SEC. Their responses and non-responses are [here](#).

In August 2011, freelance journalist David Aronson, writing in *the New York Times*, [claimed](#) that the law has already had “unintended and devastating consequences” and “has brought about a de facto embargo” on minerals from the region. [Enough Project, Global Witness](#) and other NGOs responded that the law will help keep minerals from fueling violence, and has already had positive impact on the ground in eastern DRC. An [August 2012 Global Witness report](#) evaluated a range of factors affecting mining communities in eastern DRC, and found that the communities themselves rated insecurity as the main reason for sustained or increased poverty.

In Europe, the EU undertook a [public consultation](#) and impact assessment of a possible regulation on conflict minerals in 2013. In September 2013, [59 NGOs from DRC and other countries called on the EU](#) “to pass a strong law to prevent European businesses fuelling conflict and human rights abuses through their purchases of natural resources.” On 5 March 2014, the [European Commission announced a proposal](#) for a voluntary “system of self-certification for importers of tin, tantalum, tungsten and gold.” The [voluntary character of the proposal has been criticised](#) by former UN Special Representative on business & human rights John Ruggie, human rights NGOs, and others.

b. Provisions in Niger’s new constitution addressing natural resource management: Following the 2010 referendum, Niger adopted a new [constitution \[in French\]](#) that prominently addresses environmental concerns and extractive industry management (articles 35-37, 148-153). The constitution specifically states that the mining, oil and gas sectors should be “oriented toward...development needs”, specifying investment of natural resource revenues in “priority areas” including health and education. It requires transparency in natural resource exploitation, including publication of revenues disaggregated by company, and consideration of “the interests of present and future generations.” Nigerian civil society had pressed for the inclusion of provisions such as these in the new Constitution. NGOs in Niger invoke these provisions to argue for greater transparency, and for the priority application of natural resource revenues to development needs. But they say that these provisions of the Constitution are not yet effectively implemented.

c. Revision of mining code and contracts in Guinea: The mining code in Guinea was last [revised in April 2013 \[in French\]](#), although implementing regulations have not yet been adopted; civil society leaders deplored the slow pace of implementation when we met with them in February 2014. The national Publish What You Pay Coalition, other NGOs and local officials [adopted a declaration in January 2014 \[in French\]](#) urging the adoption of regulations that would, among other things, provide for local development in mining communities, compensate displaced landowners, and require the disaggregation of mineral revenues by site, not just by company, and independent verification of amounts that companies report having mined. The government has also appointed a [Technical Review Committee for the revision of mining contracts \[in](#)

[French](#)], particularly those entered into illegally or that are particularly unfavourable to the government. The committee reached [its first conclusion on revision of a major mining contract in February](#), regarding the Simandou iron concession to BSG Resources (part of Beny Steinmetz Group, based in Israel), which is believed to be the largest untapped iron deposit in the world. Its recommendations are confidential until the company has a chance to respond; however, based on comments by President Alpha Condé and others that the contract was entered into illegally, observers expect the committee to recommend cancelling the contract.

d. Two presidential decrees in Senegal for better distribution of mining revenues: In 2010, the President of Senegal [signed two decrees](#) creating two endowments funded by mining revenues. One fund is to rehabilitate mining sites at the end of a mine's life, based on the principles of "polluter pays". The other will better share mining revenues with local communities, to support their socioeconomic development. Senegalese civil society welcomed these decrees, but [remained dissatisfied \[in French\]](#) because they provide no role for NGOs in the management of these funds. Instead, the funds are entirely managed by local and national authorities and mining companies themselves, raising concerns about transparency and accountability.

e. National human rights institutions: The Network of African National Human Rights Institutions is increasingly active on [business impacts](#). It has created a [supplement for African NHRIs](#) to a global guidebook on business & human rights for NHRIs published in 2013. It has commissioned a [mapping survey](#) of African NHRIs' activities on business issues, which includes a case study on Cameroon. Certain commissions in the region have informed us that they plan to increase their work on business impacts. We maintain contact with the NHRIs in Francophone Africa: Benin, Burkina Faso, Burundi, Cameroon, Chad, Comoros, Côte d'Ivoire, Djibouti, DRC, Gabon, Guinea, Madagascar, Mali, Mauritania, Mauritius, Niger, Republic of Congo, Rwanda, Senegal and Togo, with the aim of highlighting and supporting their work on the private sector.

5. Conclusions, recommendations & looking ahead

5.1 Conclusions & recommendations

As this briefing shows, four key sectors operating in Francophone Africa urgently need to tackle their business model. The mining and oil & gas sectors have been widely reported to fuel conflict, harm local communities through their environmental impacts, and mistreat workers. More fundamentally, their business model relies on extracting the highest value while minimising costs, including spending on protections for nearby residents, and revenues shared with local communities and national governments. This must change. Agricultural firms are finding that their model of acquiring land without regard to the rights of those already inhabiting and using it causes huge risks for their operations and investments. And food and beverage companies sourcing from the region have seen the risks to their reputations of disregarding labour issues, including child labour, in their supply chains. The information and communications technology (ICT) sector is at a different stage of development in Africa. It has shown how improved technology can benefit education, health and economic development generally. However, it must avoid the [complicity in abuses that it has been accused of in Asia, the Middle East and USA](#), including involvement in abusive surveillance and online censorship. This sector now has the opportunity to have a strong business model with human rights at its core, protecting its users and ensuring its respect for human rights.

Recommendations

Companies should:

- Adopt and implement a human rights policy based on internationally accepted principles
- Commission independent human rights impact assessments, take findings into account in planning and implementing projects
- Commit to seeking free, prior and informed consent of communities affected by projects
- With workers, local communities and civil society, develop grievance systems that are accessible to workers and residents, comply with international human rights, and provide effective remedies
- Take steps to follow decisions of the African Commission on Human and Peoples' Rights (ACHPR) and other regional bodies such as the ECOWAS Court of Justice, even if they are not directly binding on companies
- Adopt and implement policies on local employment and sourcing from local suppliers

- Undertake projects in partnership with civil society and government to support progressive realisation of economic and social rights
- Pay a fair share of taxes
- Join the Extractive Industries Transparency Initiative (EITI); disclose payments to & contracts with governments, including non-members of EITI; commission and publish independent audits of quantities of minerals extracted

Companies and governments should:

- Cooperate with the ACHPR Working Group on Extractive Industries, Environment & Human Rights Violations
- Join and implement the Voluntary Principles on Security & Human Rights

African governments should:

- Draft, adopt and implement National Action Plans to apply the UN Guiding Principles on Business and Human Rights
- Adopt and enforce laws, in line with African and international human rights principles, to protect human rights, workers' rights and the environment, and protect advocates for victims of abuse
- Require companies to meet high performance standards on local employment and sourcing.
- Ensure that communities affected by natural resource companies receive fair benefit from government revenues
- Join EITI and fully implement its requirements
- Avoid treaties or agreements with companies that shield firms from compliance with improved protection of human rights, workers and the environment
- Ensure tax and royalty agreements with companies maximise revenues for social needs through open auctions and similar transparent processes
- Ensure that judicial and administrative procedures provide effective, timely remedies that are accessible to workers and to communities affected by companies

Foreign governments and intergovernmental organizations should:

- Link incentives in aid, trade and investment to respect for and protection of human rights in the business sector
- Foster the development of civil society as a constructive and independent monitor
- In the case of governments in "home" countries where multinationals are based, take steps to ensure access to remedies for victims of abuse involving these companies, if adequate remedies are not available in the countries where the companies operate

Civil society should:

- Seek to increase its capacity to monitor and document companies' impacts
- Consider increasing linkages between different types of organizations (e.g., between environmental and human rights NGOs, and trade unions), between NGOs across Africa, and between local NGOs in Africa and international NGOs, where doing so could increase pressure on levers of influence on companies' behaviour
- Inform the African Commission on Human and Peoples' Rights, the UN Working Group on business & human rights, and other intergovernmental bodies, of gaps in protection from human rights abuses involving business

5.2 The Resource Centre's plans for the region

The Resource Centre's priorities for Francophone Africa include:

- **Transparency** – pursuing, collecting and disseminating to a global audience information about company conduct, positive and negative – including:
 - to ensure that companies based in emerging economies such as Brazil, China, India, Russia and South Africa receive as much attention as other multinationals; and
 - to give greater visibility to impacts in countries that do not ordinarily receive sufficient international attention, such as Gabon, Guinea, Madagascar, Mali, Mauritania, Niger and Republic of Congo

- **Accountability** – seeking responses from companies to NGOs’ concerns, drawing attention to companies’ responses or failure to respond, and inviting NGOs to issue rejoinder, until issues on the ground are addressed; and promoting access to remedies for victims of abuse;
- **Empowerment** –
 - working with local NGOs to better understand their concerns;
 - drawing attention to threats to those working for corporate accountability, to help protect them;
 - alerting African stakeholders to the activities of the UN Working Group and the Africa Commission Working Group on Extractive Industries, to the UN Forum on Business & Human Rights, and demystifying how they can participate;
 - providing resources to companies, governments, and all stakeholders so that they can work to improve companies’ conduct and impacts.

About the Resource Centre

Business & Human Rights Resource Centre is an independent non-profit organization that brings information on companies’ human rights impacts (positive and negative) to a global audience. It provides the leading information hub on business & human rights: www.business-humanrights.org. The website tracks reports about the human rights impacts (positive & negative) of over 5000 companies in over 180 countries, and provides guidance tools and resources for all those working in this field. Our researchers are based in Brazil, Colombia, Hong Kong, India, Kenya, Lebanon, Senegal, South Africa, Thailand, UK, Ukraine and USA – soon also in Japan. Other than our Francophone Africa Researcher Aliou Diouf, our other researchers based in Africa are Joseph Kibugu (Eastern Africa Researcher, based in Nairobi) and Nokukhanya (Khanya) Mncwabe (Anglophone Southern & Western Africa Researcher, based in Cape Town). Mary Robinson, former UN High Commissioner for Human Rights and President of Ireland, is Chair of the Centre’s International Advisory Network. The Centre does not accept funding from companies or company foundations, in order to maintain its independence and to prevent any possible perception of a conflict of interest.

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Please do not hesitate to get in touch with any questions or suggestions of material for our website. Our Francophone Africa Researcher, Dr. Aliou Diouf, can be reached by email at diouf@business-humanrights.org, tel. +221 33 835 9874.

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