

# **FRAMEWORK RESETTLEMENT ACTION PLAN**

**For The**

**KINGAMYAMBO MUSONOI TAILINGS PROJECT**

**KATANGA PROVINCE**

**DEMOCRATIC REPUBLIC OF CONGO**

**In partnership with:**

**SRK Consulting (Johannesburg, RSA)**

**Date: April 2008**

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### List of Abbreviations

AfDB	African Development Bank
CC	Compensation Committee
CDP	Community Development Plan
CHSP	Community Health and Safety Plan
DPEM	Department for the Protection of the Mining Environment
DRC	Democratic Republic of Congo
EA	Environmental Assessment
EITI	Extractive Industries Transparency Initiative
EPP	Emergency Preparedness Plan
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
FQM	First Quantum Minerals
FRAP	Framework Resettlement Action Plan
IFC	International Finance Corporation
KMT	Kingamyambo Musonoi Tailings
KTP	Kolwezi Tailings Project
LACC	Land Acquisition and Compensation Committee
LACP	Land Acquisition and Compensation Plan
M&E	Monitoring and Evaluation
NGO	Non Government Organisation
OD	Operational Directive
OP	Operational Policy
PAP	Project Affected Person
PCDP	Public Consultation and Disclosure Programme / Plan
PLC	Public Liaison Committee
PS	Performance Standard
RAP	Resettlement Action Plan
SAESSCAM	Service d'Assistance et d'Encadrement du Small Scale Mining
SRK	Steffen, Robertson and Kirsten
TSF	Tailings Storage Facility
WBG	World Bank Group

## **FRAMEWORK RESETTLEMENT ACTION PLAN**

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# **1 Background**

## **1.1 Context of the Framework Resettlement Action Plan**

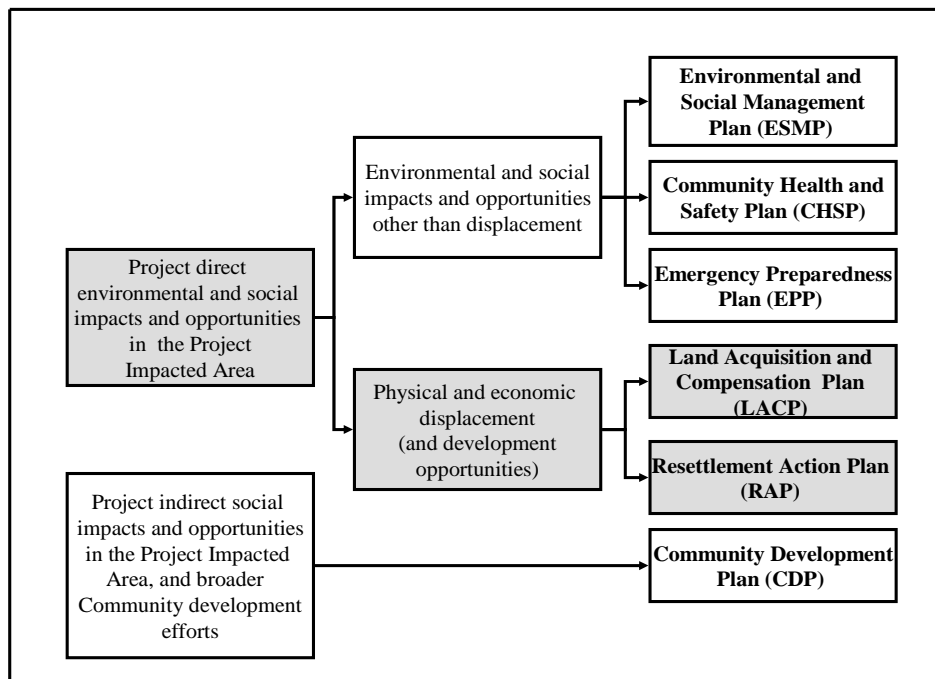
The Framework Resettlement Action Plan (FRAP) detailed in this document shows how Kingamyambo Musonoi Tailings (KMT) will compensate informal farmers, villagers and others who lose physical assets and access to income-producing land and resources through the development and operation of the Kolwezi Tailings Project (the Project). The FRAP has been prepared with reference to relevant DRC policy and legislation, the policies and safeguards of the World Bank Group (WBG), and the guidelines of the African Development Bank. The key frame of reference is the International Finance Corporation (IFC) Performance Standard on Land Acquisition and Involuntary Resettlement (PS5) (see Section 3.2.2).

IFC Performance Standard 5 requires the preparation of a Resettlement Action Plan (RAP) where physical displacement of people and communities is anticipated and/or where such displacement takes place on the basis of expropriation. The Kolwezi Tailings Project will require the resettlement of Samukonga village, a small settlement close to the proposed Tailings Storage Facility (TSF). The physical displacement will affect around 70 people. Economic displacement has already taken place, and more is anticipated. The proposed resettlement of Samukonga village is a consequence of changes to the project description made by First Quantum Minerals (FQM). Among the changes a larger TSF is planned, posing health and safety risks for the village.

Under the previous project description physical displacement was not anticipated. In this context a Land Acquisition and Compensation Plan (LACP) was prepared to guide land acquisition and compensation activities. The LACP has been the framework for all compensation to date. The LACP (and the forthcoming Samukonga Resettlement Action Plan<sup>1</sup> (RAP) are structured plans to address and resolve social impacts brought about by the construction and operation of the KMT project. Figure 1 shows the relationship between these plans and others with a social focus.

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<sup>1</sup> In preparation. See Section 1.2



**Figure 1: The LACP and the RAP in the context of other mitigation and development plans**

## 1.2 Relationship between the LACP and the Samukonga RAP

As indicated in Section 1.1, compensation for economic displacement has already taken place. A drilling programme for the installation of monitoring wells and sterilization holes was undertaken in the second half of 2004, resulting in minor crop destruction and loss of land (see sections 2.2.1 and 6). Compensation was undertaken under an Interim RAP (Appendix B1), which was negotiated with stakeholders. The Interim RAP gave the subsequent LACP a sound footing by building stakeholder awareness of the KMT approach to compensation, and by providing a rigorous pilot for compensation management and monitoring procedures.

An Interim RAP Amendment was prepared in 2005 in anticipation of the clearance of access corridors (Sections 2.2.1 and 6). The Interim RAP Amendment incorporated lessons from the implementation of the Interim RAP. The amendment and the lessons were taken up in the final LACP, which was completed in 2006.

Compensation under the full LACP has taken place since 2007 for economic displacement in the area set aside for the new plant and for housing (contractor and management). FQM has secured and fenced an area containing these facilities, and has compensated those displaced. Minor displacement and related compensation has accompanied other activities, and a major round of compensation is planned in the footprint of the new TSF.

A Resettlement Action Plan will have to be prepared in anticipation of the physical displacement of Samukonga Village. FQM's commitment to a full RAP process for Samukonga is recorded in this document, in a framework that is compliant with DRC laws and with international best practice. Ongoing compensation and support for economic displacement will continue under the rules and provisions of the LACP. Where LACP execution has not matched the standards required for a RAP, these gaps will be identified, and the alignment tasks will be described.

Two important areas of alignment relate to non-cash compensation and support and to monitoring:

- FQM has placed emphasis on cash compensation in its recent implementation of the LACP. Ways to address land replacement commitments and livelihood restoration are addressed in Sections 7.3 and 8.1.
- Limited monitoring has taken place under the LACP to date. An appropriate programme to address this gap is outlined in Section 10.4.

Against this background, this document is termed a Framework Resettlement Action Plan (FRAP). The FRAP incorporates the former LACP, with actions to update and align it, and the framework of the Samukonga RAP. Proposed actions to develop the full RAP for Samukonga are included in this FRAP (see especially Sections 6.4, 7.2.3, 7.3, 8.1 and 12.2).

Where the term FRAPS is used in this document, it includes both LACP and RAP.

### 1.3 Terminology

This document makes reference to the “Project Concession Area”, the “Project Affected Area” and the “Project Impacted Area”. It also addresses “Project-Affected Persons” (PAPs). For the sake of clarity, these terms are defined below:

- **Project Concession Area:** the area granted to Kingamyambo Musonoi Tailings (KMT) for its industrial operations.
- **Project-Affected Area** (*Zone Affectée par le Projet*): the area in which the Project will permanently take land. The project affected area comprises the footprint of the Project, described in more detail in Section 2 below. There is no settlement in the Project-Affected Area, but Samukonga Village is very close to the boundary of the TSF footprint.
- **Project-Impacted Area** (*Zone d'Impact du Projet*): the area in which broader environmental or socio-economic impacts might be experienced. This is seen to include traditional villages in and immediately outside the Project Concession Area, mine villages immediately outside the Project Concession Area, and the town of Kolwezi. Settlements in the Project-Impacted Area are more fully described in Section 5.2.1.
- **Project-Affected Person** (*Personnel Affectée par le Projet*): Any person who, as a result of the implementation of the Project, loses the right to own, use, or otherwise benefit from a built structure, land (residential, agricultural, or pasture), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily. PAPs include:
  - Physically Displaced Persons,
  - Economically Displaced Persons.

As noted in Sections 1.1 and 2.2.1 physical displacement is only anticipated at Samukonga village with an estimated 10 households and 70 residents. Hence by far the majority of PAPs will be Economically Displaced Persons.

## 2 Project Description and Potential Impacts

### 2.1 Description

Kolwezi, in the Katanga province of the Democratic Republic of Congo (DRC), is about 240km west of Lubumbashi, the provincial capital. A location map is shown in Figure 2.1, and the proposed site layout is shown in Figure 2.2. Mining of sulphide and oxide ores has been taking place in Kolwezi for over fifty years, primarily for copper and cobalt. As a result of these mining operations, over 110 million tonnes of ore have been processed and the oxide tailings deposited in two principal areas, the Kingamyambo Tailings Dam and the Musonoi River Tailings. The tailings have an average copper grade of 1.49% and 0.32% cobalt, levels at which economic recovery is possible.

Adastra Minerals Inc. (Adastra) proposed a Project to reprocess the tailings, and prepared the appropriate Definitive Feasibility Study (DFS) and Environmental and Social Impact Assessment (ESIA). In 2006, Adastra was acquired by First Quantum Minerals Ltd. Due to the take over of Adastra and further investigations and project optimization work conducted by FQM; the start date for the project was delayed from 2007 to 2008.

Kolwezi is a town of around 240,000 inhabitants. Gécamines, the state mining company, formerly employed much of the working age population. Gécamines has operated the mines in the area since 1967. The mines and processing plants formerly operated by Gécamines are currently run down, the tailings deposits are poorly maintained, and mining activity in the open pits has been sporadic. Several new mining ventures are seeking to revive former Gécamines mines.

The Project aims to reprocess tailings generated by past Gécamines operations, currently stored in unreclaimed tailing storage facilities, in order to extract residual copper and cobalt. The current working assumption for the Project life is around 20 years. The Project will include a new state-of-the-art facility to reprocess the tailings, a new TSF and the reclamation of the areas beneath the existing tailings storage areas to a final condition that will return the land to alternative uses. Two tailings deposits will be mined simultaneously to achieve the required grade and grain size distribution. These tailings are contained in the Kingamyambo Tailings Dam and in the valley of the Musonoi River.

The Kingamyambo Tailings Dam is a conventional paddock dam, the outer walls of which have been constructed from spigotted tailings. It contains 42.3 million tonnes of tailings and covers an area of 3 Km<sup>2</sup>. It reaches a height of 20m. No reclamation work has taken place on the dam surface, which is therefore exposed to wind and rain. It is badly eroded and a major source of dust in the area. The combination of a high main wall and sloping underlying topography allows a conventional hydraulic reclamation method to be utilized. The dam will be reclaimed in two main levels utilizing high pressure monitors operating from the top of the dam. This method provides for a safer working environment and improved control of reclaimed slimes density.

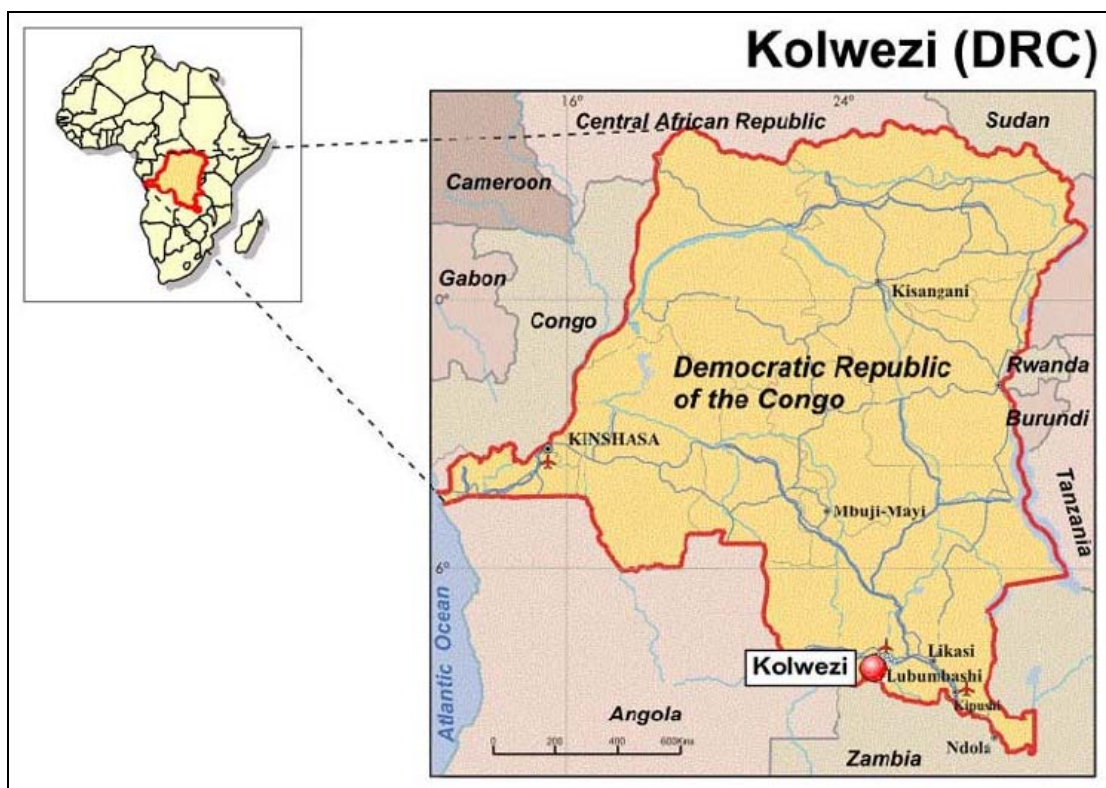
The Musonoi River Tailings have been deposited in the valley of the Musonoi River. The tailings comprise a low-lying area (through which the river still flows) of around 11 km in length and up to 2,5 km wide. At the downstream end, the tailings and the river are retained by the Kasobantu Dam, immediately upstream of which is a water body. A spillway decants high flows into the original course of the Musonoi as it flows northwards. Another spillway



leads via a specially constructed channel to Nzilo Lake, some 5km to the north- north east. Electricity is generated by turbines in the Nzilo dam wall.

Reclamation of the Musonoi dam will be by two principal techniques. Initially the tailings will be recovered by dredging, with hydraulic monitors replacing the dredges once the dredgeable portion has been exhausted after the first 4 years.

Once the dredgeable portion has been exhausted after approximately 4 years, the reclamation method will be changed to hydraulic monitoring once the water levels have been reduced. This will require the utilization of three transfer stations along the west side of the dam, with monitored slurry gravitating from the dam to the station. To enable complete recovery of the tailings, the Kasobantu dam will be partially drained and run off waters running into the Musonoi from the Kakifuluwe, Kanamwamwa and other tributaries diverted around the operating areas.



**Figure 2.1: Location of project in DRC**

The tailings resulting from this process will be deposited in a new TSF engineered to modern standards, close to the proposed plant site (see Figure 2.2). The project will eventually clean up the Musonoi River valley and will remove the existing Kingamyambo Tailings Dam, leaving a smaller footprint and a net environmental benefit. The proposed project layout is shown in Figure 2.2.

Project infrastructure will include a new TSF, a new process plant, senior management and construction worker housing, linear infrastructure (roads, pipelines, electrical transmission lines, water supply boreholes). The potential impacts of the development of this infrastructure are discussed in Section 2.2 below.

Figure 2.2

The KMT concession covers an area of approximately 6100 hectares and extends 13.75 km from north to south and up to 9 km from east to west. The original concession boundary has been modified by the Ministry of Mines to an area bounded by a grid system which includes other mining facilities such as waste rock dumps, part of another tailings dam, a zinc processing plant and parts of some larger settlements close to Kolwezi.

The original habitat of the area was Miombo woodland. This is a form of dry, open gallery woodland common to central and south-central Africa, and is the dominant habitat in the southern DRC. Today, the concession area consists mostly of degraded Miombo and land used for slash and burn and shifting agriculture, criss-crossed by paths, tracks and transmission lines. There are several dambo's, or seasonal wetlands, in the concession area, including two created by the damming of the confluence of the tributary streams with the Musonoi, which is full of tailings. There are tributary streams on both sides of the Musonoi valley.

Settlement in and around the concession area comprises Kolwezi Town, several dormitory villages built to serve the mines, and a number of small traditional villages (see Figure 2.2 and Section 5.2). Poverty is widespread, and many livelihood-related activities take place in the area. Among these the most important are small-scale informal agriculture and the collection of heterogenite (cobalt oxide) for sale through agents (*négociants*) to buyers (*Maisons*). The local importance of these activities is described in Section 5.2.2. .

## **2.2 Potential Impacts**

### **2.2.1 Project Components and Activities Giving Rise to Displacement**

#### *Drill Pads and Drill Access Roads*

An early drilling programme was undertaken in the second half of 2004. Some 26 holes were drilled in various parts of the Project Concession Area.

The drilling programme resulted in destruction of existing crops and some loss of land for monitoring boreholes. Compensation was undertaken under the Interim RAP. About 4 ha of crops were affected, and compensation was paid to 32 farmers. The relatively high number of compensatees is in part a reflection of the small size of the fields, and in part a result of the linear footprint of the access roads.

#### *Tailings Storage Facility*

The new TSF will be developed in phases. In Phase 1, around 50ha of land will be cleared, and at its full extent the dam will cover some 420ha. Topsoil stockpiles will occupy further land. The TDF comprises the single largest impact on land and crops. It will also affect access to surrounding fields since it will cover several existing footpaths.

Planning for compensation of farmers in the TSF footprint is already underway, guided by the provisions of the LACP. The resettlement of Samukonga Village has yet to be fully consulted and planned. This process will be undertaken (as discussed earlier) in the framework of a full Resettlement Action Plan.

### *Plant, Construction Camp and Management Housing*

A number of construction activities are already underway at site, particularly around the plant site. Most of this activity is early engineering work in preparation for the main construction phase which is scheduled to start at the beginning of the next dry season, i.e. March/April 2008.

The plant is to be located south-east of the new TSF. The plant site is compact at about 40 ha, but it is situated in a larger fenced and secured area that will also contain the proposed management and construction housing. The perimeter fence is 2,4 m high and has boom gates on the entry and exit roads. The plant site itself will also be enclosed with 2.4 meter high security fencing.

A temporary camp housing 600 construction workers will be established south of the plant, and a housing and recreational complex for senior staff will be built southeast and upwind of the processing facility. It will consist of 18 prefabricated units and a single quarter's wing.

The secured area is 389 ha in extent. Some 606 Project Affected Persons (PAPs) were compensated for loss of land and crops in this area in 2007 (including some compensation associated with drilling and roads). Public consultation in 2008 has revealed that the fenced area has impeded field access by some PAPs (Annexure F: Stakeholder Engagement Plan). This will be followed up in a special monitoring initiative described in Section 10.4.

### *Access Corridors: Roads*

The preparation of a road servitude serving the plant resulted in loss of land and crops in 2006, with 49 PAP receiving compensation. The corridor links the plant to the national road running east-west past Tshala, Tshamudende and Luilu Villages (see Figure 2.2). The route was selected to avoid steep topography, to provide sufficient stand-off from villages and to minimise stream crossings. The road cuts across existing paths in places. Health and safety issues are addressed in the Community Health and Safety Plan (Main Report, Volume 3, Annexure A). Possible loss of access will be monitored according to a procedure outlined in Section 10.4.

Other roads to be developed include the following:

- The aggregate quarry haul road.
- Access roads and pipeline maintenance to and from the Kingamyambo and Musonoi reclaim areas.
- Powerline and borefield maintenance tracks.
- A road from the plant to the tailings dam.

Some compensation has already taken place along the road linking the aggregate quarry and the plant (16 PAPs compensated in January 2008, and 7 up to the end of February 2008).

KMT plans to upgrade the existing road between Kolwezi and Solwezi in Zambia. The section between Kolwezi and the DRC border is some 60km in length. Potential impacts are not considered in this report, but an assessment will be undertaken, and a mitigation plan developed as required. If land acquisition and compensation are required, these will be managed and the general framework and rules outlined in this FRAP document.

### *Other Linear Infrastructure*

Other linear infrastructure likely to give rise to economic displacement includes a series of pipelines and powerlines. Among these are the following:

#### Pipelines:

- to take slurry from Kingamyambo and the Musonoi to the plant;
- to take neutralised retreated tailings to the new tailings dam;
- to take neutralised aqueous effluent to the outfall on the Luilu River;
- to take tailings decant pond water to the plant;
- to take tailings decant water via the return water dam to the Kingamyambo tailings reclamation area;
- From the wellfield to the tailings reclamation and plant sites.

#### Powerlines:

- from the substation to the plant site;
- to the tailings dam from the plant site;
- to the aggregate quarry from the plant site;
- to the tailings reclamation areas from the plant site;
- To the wellfield.

Approximate alignments of some of these linear routes are shown in Figure 2.2, but detailed survey has yet to peg final routes.

### *Interface with Artisanal Mining*

Artisanal mining in the Project Impacted Area takes place largely in waste rock dumps in the vicinity of UZK Village and around the Kingamyambo TSF. A key feature of artisanal mining is the important role it has come to play in livelihoods and household survival strategies (see Section 5.2.2). Possible impacts of Project activities are the following:

- Access across the Kingamyambo TSF will be restricted during operations, for safety reasons.
- Impacts on artisanal mining in proximate waste rock dumps are likely to be temporary, if they occur at all.

Overall, disruption of artisanal mining and associated activities in the Project Concession Area will be low, and in most cases transitory. KMT's approach to the management of artisanal mining and miners is presented in the Artisanal Mining Strategy (Annexure H).

### **Water Levels**

A loss of crops (market gardens) due to changing *dambo* and river water levels is possible when the treatment of the Musonoi tailings commences. If the impact materialises it will be accompanied by loss of income and livelihoods. These impacts (if they occur at all) will be more gradual than the economic displacement resulting from the development of infrastructure. The impacts are likely to appear in the latter half of the operational phase.

## 2.2.2 Alternatives and Mechanisms to Minimise Resettlement

Overall, the design of project infrastructure has sought to minimise impacts, and especially to minimise physical displacement. The more detailed design (of linear routes in particular) will be guided by the same principle.

# 3 Legal Framework

## 3.1 Relevant DRC Policy, Legislation, Regulations and Guidelines

### 3.1.1 Mining Code

The key DRC legislation pertaining to the FRAP is the Mining Code (Law No 007/2002 of July 11, 2002). The Code sets out in detail the way in which mining projects of any type may be undertaken. The Mining Code is supported by the Mining Regulations, which implement the provisions of the Code. The requirements for compensation are included in Title XI, Chapter II, Article 281 (see Box).

Article 281: Compensation for the occupants of the land.

Any occupation of land depriving the rightful holders of enjoyment of the surface rights, any modification rendering the land unfit for cultivation, shall cause the holder or lessee of the mining and/or quarry rights, at the request of the rightful owners of surface rights, and at their convenience, to pay fair compensation, corresponding either to the rent or the value of the land at the time of its occupation, plus 50%.

Land, as referred to in the above paragraph, means the ground on which the individuals have always carried out or are effectively carrying out any activity.

Amicable settlement of the dispute may be made by any legitimate method other than resorting to the courts, especially by compromise, settlement, arbitration or before an Officer of the Judiciary Police or an Officer of the Public Ministry.

In the absence of an amicable settlement between the parties within 3 months from the date on which the dispute arises, the compensation shall be determined by the competent court pursuant to the rules on judicial organisation and jurisdiction in force in the DRC.

However, the usual occupant of the land may, in agreement with the holder, continue to exercise his right to cultivate the land provided the work in the fields does not hinder the mining activities. The owner of the surface rights shall then no longer continue to construct buildings on it.

Lastly, simply passing through the land does not entitle to pay compensation if no damage results there from. The act of passing must take place with a view to best conserving the environment.

An important section of the Mining Code deals with restrictions on the occupation of land (Title XI, Chapter II: Holder's relations with the occupants of the land Article 279: Restrictions on the occupation of land). The provisions of the section are particularly relevant to the finalization of infrastructure routes and sites. When doing so, these requirements will be specifically considered. Information on the location of archaeological sites and cemeteries has been collected during the baseline studies and this will be also be used during the final planning exercise. The text of the Article is set out in the box below.

### **Article 279: Restrictions on the occupation of the land**

Except with the consent of the competent authorities, no person may occupy land:

- a) Reserved for the State;
- b) Containing archaeological remains or a national monument;
- c) Situated on or less than ninety metres from a dam or a building belonging to the State;
- d) Close to National Defence installations;
- e) Within an airport;
- f) Reserved for railway projects;
- g) Reserved for the planting of young trees or forest plantations;
- h) Situated less than ninety metres from the boundary of a village, a town, a municipality or a city;
- i) On a street, a road, a motorway;
- j) Within a national park.

Unless there is consent from the owner or legal occupant, no person may occupy land situated less than:

- a) One hundred and eighty metres from occupied, unoccupied or temporarily unoccupied houses or buildings;
- b) Forty five metres from land hoed and ploughed for farm cultivation;
- c) Ninety metres from a farm breeding cattle, having a reservoir, a dam or private water reserve.

The Governor of the Province, on the advice of the competent department of the Mines Authority may request the setting up of Perimeters of Protection of any dimension within which exploration and exploitation of mineral substances may be subject to certain conditions or may be prohibited, without the holder of the mining or quarry title being able to claim any compensation whatsoever. Said Perimeters are for the protection of buildings and built-up areas, water sources, roads, civil engineering and public utilities works, as in all other cases where it would be necessary in the general public interest.

Compensation representing the total expenses relating to the works or structures demolished or abandoned is however owed by the public entity concerned in the event the holder has to demolish or abandon works or structures duly erected by or commenced by him with a view to exploiting those Perimeters, prior to the setting up of said Perimeters.

Issues relating to Rights of Way are dealt with under Article 278 of the Mining Code and Articles 507 and 508 of the Mining Regulations. These articles address (see Box):

- The Rights of Way of exploitation or small-scale mining exploitation permit holders over Tailings Exploitation Perimeters.
- Conditions relating to Rights of Way in a Tailings Mining Licence Area.

Specific applications of the Articles will be dealt with as and when they arise (if at all), but in general the use by the local population of roads and tracks will be recognised, and alternative routes and crossing points incorporated into final designs. The Community Health and Safety Plan addresses questions of safety related to plant and infrastructure (Main Report, Annex B).

**Mining Code: Article 278: Rights of way**

The holder of an exploitation or small-scale mining exploitation permit has the right of way over the Tailings Exploitation Perimeter for the purpose of gaining access to his own Exploitation Perimeter.

Provided that they do not contravene the provisions of the present Code, the provisions of Articles 170 to 179 of Law No. 73-020 of July 20, 1973 relating to the general regime for assets, land and real estate and the regime concerning securities, shall apply in case of mining rights of way.

The holder of a Tailings Exploitation Permit is entitled to compensation if the right of way over the Perimeter of the Holder of an Exploitation Permit or Small-scale Mining Exploitation Permit causes him grave damage which translates into an additional burden on his mining activity.

The Mining Regulations set the terms and conditions for the creation of rights of way referred to in the present Article.

**Mining Regulations: Article 507: Right of Way on the Area of the Tailings Mining Licence**

The conditions and modes of the right of way on the area being the subject of the Tailings Mining Licence in favour of the Holder of the Mining Licence or Small Mining Licence on the area of which the mining area of the tailings is superimposed are the following:

- a) For existing rights of way, to continue using the roads, paths, ways as well as transport and communication infrastructures of any type in place at the time of the creation of the Tailings Mining Licence, until their use is being terminated;
- b) For the opening of new rights of way;
- c) Not to impede either existing or scheduled mining, processing, transforming, storing and transporting operations for the products of the operations of the Tailings Mining Licence Holder, or related infrastructures and installations;
- d) To indemnify the Holder of the Tailings Mining Licence for the market value of the section of his area that cannot be used due to the right of way.

If the beneficiary of the right of way and the Holder of the Tailings Mining Licence do not sign an agreement for the settlement of disputes, litigations arising from the right of way will be submitted beforehand to Mines Department conciliation from the date at which it is signed on failing to settle amicably.

If, within thirty days after failing to settle amicably, the Mines Department, having been referred the matter, does not find a solution through its mediation, the litigation is brought before the relevant jurisdictions of the National Territory.

A copy of the agreement concerning rights of way is transmitted to the Mines Department.

**Article 508: Tailings Mining Licence Holder Compensation**

The compensation to be allocated to the Tailings Mining Licence Holder is freely determined between himself and the beneficiary of the right of way.

The initiative for negotiating on the settlement of an amount or compensation incurs to the Mining Licence Holder or the Small Mining Licence Holder, depending on the case, who must send a letter addressed to the Tailings Mining Licence Holder mentioning:

- a) The will and necessity for enjoying the right of way;
- b) The nature and form of the right of way;
- c) The projected date for starting the works to implement the right of way;
- d) The amount to allocate to the Tailings Mining Licence Holder, if the need arises, if he deems that the right of way is likely to injure the interests of the latter as to his mining activity.



The Mining Licence Holder has two working days at his disposal to reply to the notification relating to the prejudicial character of the right of way and to the amount of the compensation.

On expiry of this period, the Tailings Mining Licence Holder is supposedly agreeing to the amount of the compensation proposed in the notification letter if he remains silent.

If the Tailings Mining Licence Holder replies within this time period, the parties have twenty-eight days at their disposal to agree on the amount of the compensation or to conclude their disagreement on the amount of the compensation.

A disagreement is concluded as soon as one of the parties notifies the other of its intention not to continue with the discussions on the amount of the compensation or in case of expiry of the time period of twenty-eight days above.

In case of disagreement, the indemnity is determined by judicial means if the mediation of the Mines Department has not resolved the dispute within fifteen working days.

It includes a clear explanation of its motivations and particularly the expected attitudes or actions of the addressee to remedy its causes.

### 3.1.2 Land Tenure Systems

All land in the Democratic Republic of Congo is vested in the State, and is formally controlled by the Cadastral Department. Use is granted by the State in terms of concessions. The KMT Concession consists of land formerly allocated to Gécamines for mining activities and KMT's authority over it represents a transfer of title from Gécamines.

Some land is managed by traditional leaders, and this role is officially recognized. *Chefs de Terre* allocate and authorize the use of small parcels of land, and may delegate this authority to *Chefs de Village* for smaller agricultural plots. They informally receive an annual fee from the people to whom land is allocated. For bigger areas *Chefs de Terre* may allocate, but a temporary authorization for use will have to be granted at a higher level. Authorization will also take place at a higher level.

In the Project Impacted Area, *Chef de Terre* Kamimbi plays the key role in allocation, with authorization through *Chef de Groupement* Kazembe. There is no legal restriction on women seeking access to land. The *Service Urbain de l'Urbanisme et Habitat* (Town Planning and Housing) controls and regulates urban land concessions.

### 3.1.3 Valuation Procedures and Compensation Rates

Valuation procedures and compensation rates have been set out by the *Département de l'Agriculture* and the *Inspection de l'Agriculture*. These are discussed in detail in Section 8.1.

## 3.2 World Bank and IFC Policies

### 3.2.1 Overarching Policies, Directives and Guidelines

Whilst seeking to comply with DRC legal requirements, the overarching frame of reference for the FRAP is the policies, directives and guidelines of the World Bank Group (WBG). In this context the International Finance Corporation (IFC) Performance Standards (PS) are the predominant benchmark, especially PS5, Land Acquisition and Involuntary Resettlement (see Section 3.2.2 below).

The IFC's Handbook for Preparing a Resettlement Action Plan (RAP) states, 'the IFC expects the project sponsor to compensate affected people for loss of physical assets, revenue, and income resulting from economic displacement or physical relocation whether these losses are temporary or permanent'. As compensation procedures are not addressed in detail in under the DRC Mining Code, Regulations or Annexes thereto, PS 5 and the IFC Handbook are used for detailed guidance. The handbook contains a number of definitions that are relevant to the FRAP process:

Term	Definition
Compensation	Payment in cash or in kind for an asset or a resource that is acquired or affected by a project at the time the asset needs to be replaced.
Economic displacement	Loss of income streams or means of livelihood resulting from land acquisition or obstructed access to resources (land, water or forest) resulting from the construction or operation of a project or its associated facilities.
Replacement cost	The rate of compensation for lost assets must be calculated at full replacement cost, that is, the market value of the asset plus transaction costs. With regard to land and structures, IFC defines "replacement costs" as follows: Agricultural land – the market value of land of equal productive use or potential located in the vicinity of the affected land, plus the cost of preparation to levels similar or better than those of the affected land, plus the cost of any registration and transfer taxes..... Sections are included dealing with land in urban areas and household and public structures. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken in to account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset.

### 3.2.2 IFC Performance Standards

The IFC Performance Standards on Social and Environmental Sustainability were adopted in 2006. The PS are applied by the IFC to manage project related social and environmental risks and impacts, yet also to enhance and promote development opportunities through selective private sector funding. Other financial institutions may also choose to apply the Performance Standards to their own projects in emerging markets. A key goal of the eight Performance Standards is to establish guidelines and standards that the client is to meet throughout the life of an investment by IFC.

Eight Performance Standards (PS) underpin the IFC's sustainability policy. These are:

- PS 1: Social and Environmental Assessment and Management System.
- PS 2: Labour and Working Conditions.
- PS 3: Pollution Prevention and Abatement.
- PS 4: Community Health and Safety.
- PS 5: Land Acquisition and Involuntary Resettlement.
- PS6: Conservation of Biodiversity and Sustainable Natural Resource Management.
- PS 7: Indigenous Peoples.
- PS 8: Cultural Heritage.

PS 5 is of particular relevance here. It addresses involuntary resettlement and builds on earlier World Bank Group policies and directives. As was the case under the earlier WB safeguards, PS 5 seeks to provide a framework for the responsible and transparent management of involuntary resettlement and economic displacement. In addition, it

strengthens and clarifies many areas. These include scenarios of involuntary resettlement, negotiated settlement (as opposed to expropriation), living conditions at resettlement sites, the loss of collective assets, cash compensation, entitlements, security of tenure and private sector responsibilities under government-managed resettlement.

An important change introduced in terms of PS 5 is the clarification of planning requirements for physical displacement and acquisition of land rights through eminent domain (expropriation) on the one hand, and for transactions that do not involve the physical displacement of people. In the former case a Resettlement Action Plan (RAP) is required. For the latter situation, the client is required to develop compensation procedures that meet the requirements of PS 5. A Land Acquisition and Compensation Plan (LACP) is the suggested planning instrument in this situation.

As explained in Section 1.1, KMT developed a LACP to guide compensation for economic displacement when project planning suggested that physical displacement would not take place. Revised planning now requires the resettlement of Samukonga Village, triggering a RAP.

### 3.3 African Development Bank Standards

The African Development Bank (AfDB) policy on involuntary resettlement is relatively new (2003)<sup>2</sup>. The primary goal of the policy is to ensure that people displaced by AfDB-funded projects are treated equitably, and that they share the benefits of such projects. In line with the overarching AfDB focus on poverty reduction, the policy moves beyond mitigation to the promotion of sustainable community and society.

Key principles and requirements of the policy are the following:

- A resettlement plan must be developed where physical displacement and loss of economic assets are unavoidable. The plan should ensure that displacement is minimised, and that resettlement is undertaken as part of a development programme (in line with the views of the WBG).
- Displaced persons and host communities should be meaningfully consulted early in the planning process, and involved in the implementation of the resettlement programme.
- Attention must be given to disadvantaged groups, including the impoverished, the landless, the elderly, women and children, and ethnic, religious and linguistic minorities.
- Attention must be given to the integration of resettlers into host communities, minimising the impacts on those communities.
- Displaced persons must be compensated for their losses at full replacement cost.
- The total cost of the project must include the full cost of all resettlement activities.

Two levels of resettlement plan are envisaged: a Full Resettlement Plan (FRP) where 200 or more people will experience resettlement effects (including economic displacement); and an

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<sup>2</sup> African Development Bank, 2003: Involuntary Resettlement Policy. Sustainable Development and Poverty Reduction Unit

Abbreviated Resettlement Plan (ARP) when less than 200 people will be subject to such effects.

## **4 Institutional Framework**

### **4.1 Compensation Committee**

A Compensation Committee (CC) was established to oversee compensation and subsequent monitoring under the Interim RAP (Appendix B1)<sup>3</sup>. The original LACP envisaged an extended committee, but the extension has not been implemented. Since 2007 compensation under the LACP has been guided by a Land Acquisition and Compensation Committee consisting of M Sylvain Spagnut (KMT), M Bernard Mwape (KMT), M Ilunga Mutabala (Department of Agriculture) and M Jean Pierre Mwabi (KMT).

For the purpose of the FRAP this core committee will be retained. Cadastre will be approached to nominate a new representative, and additional independent member will be identified and invited to participate. Selected non-government organisations (NGOs) and community-based organisations (CBOs) active in Kolwezi will be approached for nominees. Another option is to seek a nominee from the KMT Public Liaison Committee (PLC), but KMT wishes to retain a distinction between the work of the CC and that of the PLC.

KMT representation will be revised as necessary to reflect any changes in Health, Safety, Environment and Community (HSEC) management (see Section 4.2 below), whilst retaining some of the experience of the present CC. An Environmental Manager is to be recruited shortly. He/she will take operational responsibility for the FRAP, assisted by M Jean Pierre Mwabi, the current Community Liaison Officer. The Environmental Manager will report directly to the General Manager on matters relating to the FRAP.

### **4.2 Kingamyambo Musonoi Tailings**

At full operational capacity, KMT will employ around 750 people. The General Manager (GM) will take overall responsibility for all aspects of operation, and the remaining members of the senior management team will have line responsibilities. Senior management will comprise:

- General Manager (also overseeing administration departments).
- Chief Security Officer.
- Technical Manager.
- Environmental Manager.
- Finance Manager.
- Commercial Manager.
- Site and Liaison Services Manager.
- Resource Optimisation Manager
- Engineering Manager
- Statutory Compliance Officer

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<sup>3</sup> The committee comprised M Francois Colette (KMT), M Sylvain Spagnut (KMT), M Bernard Mwape (KMT), M Serge Mutunda (Cadastral Department), M Ilunga Mutabala (Department of Agriculture) and M Bulemi, an independent consultant.

Responsibility for social and environmental programmes will reside under the Environmental Manager, hence functions relating to the FRAP will be managed here. The Environmental Manager will be assisted by an Environmental and Social Superintendent and by Environmental and Social Officers (see Appendix B2).

Land acquisition, resettlement and compensation will be phased in line with project development phases. It is possible that events prompting displacement and compensation will continue into the operational phase, requiring the appropriate capacity in KMT and especially in the CC. Monitoring has already been undertaken under the Interim RAP (see Section 10 and Appendix B4), and will continue throughout the life of the mine.

### **4.3 Local Agencies and NGOs**

NGOs and CBOs (especially churches) are already important development agents in the Kolwezi District. There are many such organizations, and some networks (see Appendix B6). Since they are already active, NGOs and CBOs are potentially valuable implementing agents for development initiatives, especially at community and household level. In this context it is expected that some NGOs operating in Kolwezi and Katanga will become partners in development through the Community Development Plan. Selected NGOs will also play a role in assisting compensates to secure and sustain better livelihoods (in line with the developmental approach promoted by the WBG and the ADB).

Negotiations with PACT Congo have identified possible facilitative roles for this organisation, including initiatives to develop the potential of small-scale mining and to develop those currently engaged in artisanal mining. For inputs linked to improved agricultural practices, a local NGO currently promoting this type of activity may be contracted to assist affected farmers.

Community and traditional leaders have considerable influence in the communities they serve. They are therefore an important interface between the community-oriented initiatives and the communities themselves. The leaders also have a key role in the compensation process (see Sections 7.1 and 7.2) and in the allocation and development of land (see Section 8.2). Communities themselves have the potential to organize around development inputs, as has been shown in many of the villages in the Project Impacted Area.

## **5 Socio-Economic Studies**

### **5.1 Methodology**

#### **5.1.1 Overview**

The Social Assessment (SA) undertaken as part of the KMT Environmental and Social Impact Assessment (ESIA) included work designed to inform actions around economic displacement and compensation. This work was done in the second half of 2004. The key elements of the SA were the following:

- Assembly of official documentation dealing with social and economic issues in the Project Impacted Area. Key material includes annual reports prepared by the Office of the Mayor.

- Interviews with key informants in Kolwezi, covering areas such as the local economy, local and regional politics, labour and employment, agriculture, mining, land administration, municipal services, local government, traditional government, health, education, business, and non-government and community-based organizations (NGOs and CBOs).
- A household survey in five traditional villages and three “mine villages” in the Project Affected Area.
- A survey of businesses in the Central Business District of Kolwezi, including the nature, source and price of goods on offer.
- A survey of two local markets, including the nature, source and price of goods on offer.
- Focus group discussions with women (two meetings) and youth (one meeting) to determine the degree of integration and participation in local social and economic structures, and hopes and fears associated with the Project and the future of the Project Influenced Areas as a whole.

### 5.1.2 Household Survey in Affected Villages

The household survey covered seven settlements in the Project Impacted Area and one outside (selected as a control). The selection process sought a spread of interview sites, with an emphasis on settlements close to the Project Affected Areas. The sampling strategy sought the most complete coverage of households in the traditional villages closest to the Project Affected Area (Samukonga, Kipepa, Ndanzama, and Kamimbi). Sampling elsewhere sought to obtain indicative information. The distribution of household interviews is shown in the Table below.

**Table 5.1: Distribution of Household Interviews**

Community	Concession Area	Households	Interviews
Samukonga	In	10 <sup>4</sup>	6
Kipepa	In	10	7
Ndanzama	Out	18	4
Kamimbi	In	130	15
Mwilu	Out	70	14
Tshala	Out	1060	13
UZK	Partially in	408	17
Luilu	Out	2560	12
Total			<b>88</b>

The sample was stratified to some extent, to be as representative as possible of various groups in the selected communities. All interviews took place in the homes of the respondents, and were conducted by a local team of four interviewers. The interviewers were trained prior to the survey. Interviews were conducted between 14 and 23 September 2004.

The household questionnaire was designed using instruments successfully deployed elsewhere in francophone Africa. The questionnaire was designed to probe the following:

<sup>4</sup> Based on a recent KMT survey

- Household structure and information about the household head (gender, literacy, education).
- Activities (primary, secondary and tertiary) of household members.
- Contributions of monetary income and non-monetary activities to the overall survival strategies of households.
- Household expenses and the balance between incomes and expenditure.
- Household agricultural practices, including crops and trees, the location and size of parcels of land farmed, and tenure arrangements for these parcels of land.
- Livestock and poultry farming, and products derived there from.
- Household housing arrangements (type, size, condition, tenure).
- Access to public services, including potable water, sanitation, electricity, other sources of energy, education, health care, transport, markets, credit providers and government services.
- Quality of life and levels of poverty (qualitative indicators).
- Household health status, including major illnesses and deaths (during 2003).
- Vulnerable individuals in households (very young children, the aged and pregnant women).
- Community-based organizations and community participation therein.
- Visions of the future of the area, and key areas for development support.
- The questionnaire was translated into French, and was refined following piloting in the field.

## 5.2 Overview of Socio-Economic Research

### 5.2.1 Characteristics of Villages

The Project Impacted Area includes traditional villages inside and immediately outside the Project Concession Area, mine villages immediately outside the Project Concession Area, and the town of Kolwezi. The key characteristics of these settlements are as follows<sup>5</sup>:

- *Traditional Villages:* These are small settlements of between ten and one hundred households. Housing is modest and services limited. Traditional villages in the Project Impacted Area are Kamimbi (population 97), Kashala (population 60), Kipepa (population 31), Samukonga (population 78), Kanyembo (population 120), Kisangama (population 480), Ndanzama (population 120) and Samukinda (population 330).

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<sup>5</sup> The population figures presented below are estimates. In some cases estimates for 2004 have been updated using more recent information collected by PACT Congo. Figures for some of the mine villages and for Kolwezi proper were provided by the Office of the Mayor, and are for 2006. The reliability of these figures is unknown.

Kamimbi, Kashala, Kipepa and Samukonga are located within the KMT Concession Area.

- *Mine Villages:* These “villages” are sizeable enclaves built by Gécamines to house workers and officials. Housing is mostly modest but solid, and some services are present. Mine villages in the Project Impacted Area are Luilu Village (population 20 000) and UZK Village (population 3100). Tshala Village (population 7621) has most of the characteristics of a traditional village (including housing types and limited services). However it has its origin in an overflow from the mine settlements, and houses many people with an existing or former association with the mines. Tshamudende Village adjacent to Luilu Village has similar characteristics (population included in the Luilu estimate). UZK straddles the concession boundary. All other mine villages listed are outside the KMT Concession Area.
- *Kolwezi Proper:* The greater town of Kolwezi comprises two “communes” – Dilala and Manika (populations 94 717 and 154 081 respectively). It is the administrative and commercial hub of Kolwezi District, with numerous buildings housing government functions and non-government enterprises. There are several markets, hospitals, schools and clinics. The town has water and power, and some paved roads. Both power and water are intermittent, and many of the roads are in poor condition.

### 5.2.2 Livelihoods in Villages

#### *Overview*

Many residents in the Project Impacted Area have to deal with a depressed local economy and few opportunities for formal employment. Superimposed on this situation is a large rural (and to some extent urban) population that would have limited access to anything but basic employment under any circumstances, due to illiteracy, limited education and few marketable skills. The failure of Gécamines and various socio-political events have severely eroded jobs, but even in better times there would have been a substantial group finding livelihoods in a variety of subsistence activities.

Several new mining ventures are active in Kolwezi, and in the longer term these might provide significant employment. This will not match Gécamines at its peak, however. Further, whilst Kolwezi and the mine villages have a residue of skilled and semi-skilled labour from Gécamines, the traditional villages can offer little more than unskilled labour. Hence these may benefit least from the revival of mining employment in Kolwezi.

#### *Sources of Livelihood and Income*

In general, households in the surveyed communities have multiple sources of livelihood. This is in part a reflection of the presence of several potential income earners in many households (larger households would tend to have more income earners). It also has roots in the overall poverty of the rural areas surrounding Kolwezi, and in the depressed state of the economy of Kolwezi town. Against this background, the range of livelihood sources in the surveyed communities is as follows:

- *Traditional Villages (Kamimbi, Ndzanzama, Kipepa, and Samukonga):* Agriculture is by far the predominant source of livelihood in these communities. Agricultural products are sold to secure cash income, and are also produced for household consumption. The



most common crops are cassava, sweet potatoes and Irish potatoes. Other products sold (and consumed) are sugar cane, maize, fruit (e.g. mangoes), groundnuts, tomatoes and onions. Many households also raise and sell goats and chickens. Non-agricultural sources of livelihood are varied. These include the collection of mineral-bearing rocks such as heterogenite (“stone picking” or “hand picking”) and the production and sale of charcoal.

- *Mine Villages (Luilu, UZK, and Tshala):* It is significant that agriculture is also an important source of livelihood in the mine villages. This demonstrates the diversification of income earning activities in former mining communities following the failure of Gécamines. The range of products sold and consumed is similar to that characterizing the communities in traditional villages. A significant difference between the traditional villages and the mine villages is the relatively greater importance of “stone picking” and artisanal mining as a source of livelihood in the latter (especially in UZK). For many households these activities far outweigh other livelihood sources. Charcoal production and sale is common in the mine villages, but there is also a greater variety of non-agricultural income earning activities than in the traditional villages. These include knitwear, cooking and the sale of food, the production and sale of alcoholic beverages, the sale of fish, and the operation of services such as basic health care and sale of medicines. The wider range of activities may be a result, in part, of better access to markets in and around Kolwezi town. Some people in are salaried employees, and there are some who receive pensions.

### *Monetary and Non-Monetary Income*

The household survey made a distinction between monetary and non-monetary income. Non-monetary income is important because it measures production and activity that serves the household and the community without exchange of cash. Subsistence production and household consumption of food crops is accounted for under non-monetary income.

The average annual monetary and non-monetary income of sampled households is summarized in the table below:

**Table 5.2: Average Annual Household Income**

Community	Monetary Income		Non-Monetary Income	
	Congo Franc <sup>6</sup>	US Dollar <sup>7</sup>	Congo Franc	US Dollar
Kamimbi	386 158	772	231 399	463
Ndanzama	270 650	541	263 188	526
Kipepa	211 407	423	167 714	335
Samukonga	271 092	542	147 690	295
Luilu	592 915	1186	152 526	305
UZK	800 324	1601	188 973	378
Tshala	990 296	1981	280 875	561

In general, monetary incomes are higher in Tshala and the mine villages than in the traditional villages. However, even the highest average household income level is low in comparison with international norms. The highest average annual incomes are recoded in Tshala. Even here, with an average household size around 7.4, the per capita cash income for surveyed households is significantly less than one US Dollar per day (0.73). Combined monetary and non-monetary income among surveyed households in Tshala amounts to 0.94

<sup>6</sup> Unrounded averages

<sup>7</sup> Based on a conversion rate of 500 Congo Franc to 1 US Dollar

US Dollar per capita per day. An income less than one Dollar per day is generally accepted to define the poverty datum line.

Non-monetary incomes vary less than monetary incomes among the surveyed communities. The significance of the non-monetary income is that households in all of the selected villages and mine villages engage in activities directed to household and community consumption. In this context it is clear that most households in the survey sample grow food for subsistence and survival.

### *Livelihood Strategies and Land*

With few economic opportunities, the majority of households have had to pursue a spread of activities to secure their livelihoods. This is a risk management strategy which typically secures meager incomes, but which provides alternatives should one source fail. Within the household livelihood strategies, small scale non-intensive agriculture is almost ubiquitous. All but four households in the sample have access to fields (most secured through the *Chef de Terre*), and some have several fields (see Table 5.3 below).

**Table 5.3: Average Number of Fields per Household**

Settlement	Fields
Kamimbi	2.1
Ndanzama	3.3
Kipepa	2.1
Samukonga	2.0
Luilu	1.4
UZZ	1.2
Tshala	2.0

In general, households in the traditional villages and Tshala use more fields, but a key conclusion is that any activity that alienates fields in the vicinity of the sampled settlements has the potential to adversely affect livelihoods in most of them.

## **5.3 Local Land Tenure and Transfer Practices**

The DRC land tenure system is relatively well defined. The system and local practices underpinning the allocation and transfer of land for small-scale informal agriculture is particularly pertinent to the FRAP. In this case, allocation and transfer is in the hands of the *Chef de Groupement* (Chef Kazembe in the KMT Project Impacted Area) and the *Chefs de Terre*. Social research has shown that households from Project Impacted Area settlements (Section 5.2.1) often work land that is located at some distance from their homes (an average of 5km). Temporary shelters are sometimes constructed for use during the planting season.

In essence, land to replace fields lost in the clearing of project footprint areas will be allocated by the relevant *Chefs de Terre*, under the oversight of the *Chef de Groupement*. Chef de Groupement Kazembe<sup>8</sup> has made it clear that several *Chefs de Terre* may have to be involved in the process, allowing farmers a range of field location options, and expanding the potential host area. According to Chef Kazembe it is inappropriate to seek and secure

<sup>8</sup> The Chef Kazembe consulted in 2004-2006 died a year ago. He has been replaced by a new Chef de Groupement, The new chef has assumed the title Kazembe. For the purposes of the FRAP, all references to Chef Kazembe will be to the current Chef unless otherwise indicated.

blocks of replacement land. Negotiated *infill* is the preferred and locally appropriate allocation method (see Section 9.1 for a detailed description of the allocation process).

## 5.4 Social Organisation and Conflict

The traditional leadership system is essentially patriarchal. Traditional chiefs are generally (but not exclusively) men, and gender roles are sometimes very clearly defined. This distinction emerged clearly in the context of the SA when people in the traditional villages discussed the opportunities that might arise from KMT. The expressed priorities emphasized jobs for the men and broad development support for women. Women are empowered in some ways: they have access to land in their own right, and they are prominent in the organization and operation of NGOs and community-based organizations.

The modern and tribal elements of local government appear to link effectively. Traditional leaders retain community powerbases, reinforced by the right to allocate land, and the institutional system permits the coexistence of traditional and state structures. Both sets of structures lack resources, but an effective framework for local development is largely in place.

Kolwezi and its people have experienced several waves of political and social upheaval over the past three decades. Examples include:

- 1977-1978: Civil war in Shaba (Katanga). Pillage of Kolwezi in May 1978, and flooding of the mines.
- 1991: Pillage of Kolwezi by disaffected armed forces.
- 1996: Tribal tensions in Katanga (and Kolwezi) and forced eviction of residents of Kasai Province origin.

There is limited evidence of overt conflict in and around contemporary Kolwezi, apart from sporadic protests by disaffected artisanal miners. Some informants see widespread unemployment and poverty as a possible source of conflict, held in check by the “social calming” policy based on artisanal mining. In this context, some commentators have warned against actions that restrict access to artisanal mining opportunities. Overall, however, with political reforms and growing local investment, the climate for social stability and socio-economic development is much improved.

## 5.5 Vulnerable Groups

There are several vulnerable groups in the Project Impacted Area:

- *Children and Youth:* Many children and youth in the Projected Impacted Area do not attend school, or attend intermittently. Poverty is one of the drivers, with children often involved in income earning activities. In this context, the opening up of artisanal mining is both a benefit and a problem. It provides an alternative income source for households, but it also draws children and youth into a harsh and relatively uncontrolled working environment. NGOs and churches have expressed fears regarding the exploitation of children in this context, citing also the dangers of life in a “digging culture”. Apart from the immediate physical risks, one of the dangers identified is the spread of sexually transmitted diseases including HIV/AIDS. Abandoned and orphaned children are another vulnerable group. Some of these may also be involved in artisanal mining, and many become street children.

- *Women:* Among women, groups requiring particular support are single mothers, rural women and widows. In all three cases, the women often find themselves caring for a household whilst also seeking to provide a living for them.
- *Elderly:* The household survey reveals many elderly people living with their families (fathers, mothers, aunts and uncles). Supporting elderly dependents is certainly a challenge to poor households, but the old people mostly at risk are those without support.
- *Disabled and Chronically Ill:* Again, there are many examples of disabled and chronically ill people being supported by their families. Those at risk are mostly outside this support system.

Overall, the key institutions caring for vulnerable groups are families, NGOs and churches. The state has structures to provide support (for example *Affaires Social*), but these have very limited resources. The 2004 survey found two hospices (in Manika and Mutshatsha), and a small home for the elderly. There is no orphanage in Kolwezi.

## 5.6 Public Infrastructure and Social Services

Many social services are still available (water, energy, education, health care, communications), but most are under pressure from limited income. As a result the services are sometimes poor and unreliable. The rural villages have few formal services.

## 5.7 Cultural Sites

The destruction of graveyards and other sites of cultural significance is potentially significant due to the cultural importance of these sites and the rituals associated therewith. The impact of the disturbance or destruction of such sites is therefore an offence to cultural practices.

There are few cultural resource sites in the KMT concession – several graveyards and one ceremonial site and no significant archaeological resources. The construction of project infrastructure will not *directly* impact any sites, as far as the location of project infrastructure is presently specified. However, since some linear infrastructure has not been located, there are grave sites in the concession area which could potentially be disturbed by road and pipeline construction. During the operational phase, again there is uncertainty regarding the impact on grave sites: allegedly there is at least one grave (a Chief's grave) within the Musonoi tailings, but it will not be located until exposed during mining, if at all.

The sacred (ceremonial) site near the Muninga forest is known to be used for ceremonies prior to hunting; to converse with the spirits and bring good luck to hunting activities. Certain sections of the forest cannot be entered by people unless they are part of "*les delegations en provenance du chef de Terre Kamimbi*". This site lies between the new TSF and the plant site and there will be haul roads, pipelines etc. through this general area (although not through the forest itself) increasing the possibility of disturbance by project activities. Uncontrolled access to the area, by people who do not respect/understand the local traditions, could disturb the general cultural landscape starting from construction activities through the life of this operation. The probability of uncontrolled access is low due to KMT's control of the Concession Area.

A programme for the management of cultural resources is detailed in the Environmental and Social Management Plan (ESMP – Volume 3 of this document).

## 5.8 Samukonga Village

The 2004 household survey included Samukonga Village. A detailed census and inventory will be undertaken as part of the RAP (see Section 6.4). Combined with the 2004 survey, a recent update survey undertaken by PACT Congo (2007) and a preliminary asset inventory undertaken by KMT (2008) inform the following profile of Samukonga Village:

- The traditional leader of the village is *Chef de Village* Samukonga. The Chef has been in place for some time, and has participated in many of the ESIA consultations. He was nominated by other traditional leaders to represent this group on the KMT Public Liaison Committee.
- There are 10 extended households in the village, and 13 residential structures (one newly constructed). The population of the village is estimated at 78 people. The average size of households is seven.
- Subsistence agriculture is the dominant source of livelihood in the village. The main crops are cassava, sweet potatoes and Irish potatoes. Some small animals are raised for consumption and sale, including goats and chickens. Charcoal production is used to supplement income by some households.
- Households average two fields apiece. These are distributed around the village, with a few at some distance from it. The average distance to cultivated fields is 3km. Several of the fields are in the footprint of the new TSF. These will be identified and recorded in a detailed inventory prior to compensation.
- The village has no formal infrastructure. Households obtain water from an open hand-excavated well or from a river. Only two of the 13 houses have pit latrines. Many village residents report no access to educational and health care facilities. Those that do use such facilities find them mainly in Luilu and other villages.
- Residents of Samukonga Village have reported some noise disruption associated with KMT construction activities. They have also expressed uncertainty regarding the possible resettlement of the village, adding that they have not invested in crops as a result (PACT, 2007).
- The majority of household heads belong to community-based organizations. Among those reported are a health support group and a self-help group facilitating collective work.
- With no formal infrastructure the village has many development needs. The priorities identified by the community include a primary school, a dispensary, a safe and secure water supply and a community gathering place.

Many of these issues will be discussed in further consultations regarding the resettlement of the village (see Section 6.7.2).

## 6 Nature and Extent of Displacement

### 6.1 Area Affected

The full and exact extent of the Project Affected Area will only be known when all design decisions (including linear infrastructure) have been finalised and areas to be cleared have been accurately surveyed. A working estimate of the area affected is as follows (Table 6.1):

**Table 6.1: Estimated full extent of the Project Affected Area**

Footprint	Area
New TSF	420 ha
Secured site (including plant, management and construction worker housing)	389 ha
Linear infrastructure (estimate <sup>9</sup> )	109ha
Quarries and borrow pits (estimate)	10ha
<b>Total</b>	<b>928 ha</b>

Infrastructure is being developed in phases. This means that economic displacement will be incremental. Some land will be restored to community use in due course (for example the banks of the Musonoi River as the removal of tailings proceeds).

### 6.2 Households Affected

Detailed census and asset inventory information has been and will be collected as part of the compensation process for each phase of Project development. KMT's internal monitoring of compensation to date gives an indication of the number of PAPs affected by construction and other activities to date (Table 6.2).

**Table 6.2: Compensation per site and period**

Period	Site	PAPs Compensated	Assets lost
2004	Drillings in the concession	32	Fields, crops
2006	Rail – road route	49	Fields, crops
2007	Plant site, roads and drilling	606	Fields, crops
Jan 2008	Aggregate quarry road	16	Fields, crops
Feb 2008	Aggregate quarry road	7	Fields, crops

Based on this experience, it might be expected that a similar number of PAPs will be compensated in the TSF footprint. A number of these may have been compensated for field and crop loss elsewhere. It is expected that 10 PAPs (house owners) will be compensated for loss of physical structures in Samukonga (see Section 6.4 below).

### 6.3 Crop Loss

From the household survey and the implementation of the Interim RAP and LACP, it is evident that the predominant crop is cassava. Other important crops include cane, maize, groundnuts, tomatoes and onions. Many households have fruit trees close to their homesteads. There are also fruit trees in some of the Project Affected Areas. These are

<sup>9</sup> The area of land alienated by proposed linear infrastructure is determined by length and by the width of cleared land within the required servitude. The present plan provides for around 21.5 km of gravel roads outside the plant site. Pipe and powerline lengths are to be confirmed, as are all servitude widths. Assuming an average servitude width of 30m for road infrastructure, the area of land affected will be 69 ha. For the purposes of the affected area estimate, a further 30ha of land clearance is assumed for pipelines and powerlines.

identified and mapped individually as part of the valuation and compensation process (see Sections 7.1.2 and 7.2).

## 6.4 Loss of Other Assets

In Samukonga Village physical structures and gardens will be lost, in addition to fields in the TSF storage facility. Table 6.3 presents a summary of assets that will be lost when Samukonga Village is displaced. The figures are based on an inventory undertaken by KMT in March / April 2008. A detailed census will be undertaken to update the social research reported in Section 5 and to provide a base for compensation and livelihoods restoration. The inventory will be confirmed and if necessary updated at that time.

**Table 6.3: Samukonga village assets**

<b>Residential Structures: Mud bricks and thatched roofs (one corrugated iron roof)</b>			
<b>Less than 9 m<sup>2</sup></b>	<b>9-10.9 m<sup>2</sup></b>	<b>11 -12.9 m<sup>2</sup></b>	<b>13+ m<sup>2</sup></b>
<b>2</b>	<b>3</b>	<b>4</b>	<b>4</b>
<b>Fruit Trees</b>			
<b>Mango</b>	<b>Avocado</b>	<b>Banana</b>	<b>Other<sup>10</sup></b>
<b>11</b>	<b>6</b>	<b>4</b>	<b>3</b>

The houses are small, with mud floors and thatched roofs. One house has a corrugated iron roof. All walls are constructed of clay brick. Two dwellings have enclosures surrounding a basic pit latrine. The village contains 24 established fruit trees, with mango, avocado and banana trees predominant.

## 6.5 Eligibility

The LACP defined the categories of people who qualify for some form of compensation and displacement assistance under the plan. Those eligible under the provisions of the LACP are the following:

- PAPs who will be economically displaced by having to move their place of agricultural production or other income / livelihood generating activity as a result of the construction and operation of the mine or any associated infrastructure. People who have been identified and recorded will be regarded as eligible for compensation (see Section 7.1).
- PAPs who will lose land over which they have established ownership or rights of usufruct (rights of use) as a result of the construction and operation of the mine or any associated infrastructure. People who have been identified and recorded will be regarded as eligible for compensation (Section 7.1).
- PAPs for whom access to places of economic production and social and cultural activity is made more difficult or costly as a result of the construction and operation of the mine or any associated infrastructure. People who have been identified and recorded will be regarded as eligible for compensation (Section 7.1).
- People in host communities who experience economic displacement or access disadvantage as a result of accommodating replacement land allocated to those displaced

<sup>10</sup> Including citrus and papaya

by local *Chefs de Terre*. People identified and recorded will be regarded as eligible for compensation (Section 7.1).

This eligibility framework will remain in place under the FRAP. The FRAP includes Samukonga, where those eligible for compensation and assistance are the following:

- PAPs who will be physically displaced, and who will lose dwellings, other infrastructure and trees as a result of the displacement. People identified and recorded in the Samukonga census will be regarded as eligible (Section 7.1).
- People in host communities who experience economic displacement as a result of accommodating displaced residents of Samukonga village. People identified and recorded will be regarded as eligible for compensation (Section 7.1).

Mitigation will take a variety of forms, including cash compensation; replacement land, replacement housing (in the case of Samukonga), and livelihood restoration and development support in contexts such as improved agricultural practice, small business management and the promotion of environmental sustainability (see Sections 8.4 and 8.5). Table 6.3 summarises the entitlements outlined above.

**Table 6.3: Entitlement Matrix**

Category of PAP	Type of Loss	Cash Compensation	Alternative Land/Sites	Development Support
Farmers	Loss of livelihood / income	Compensation for crops, trees and field structures according to the processes and formulas presented in Sections 7.1 and 7.2		Livelihood restoration and development assistance provided through the LACP/FRAP or the CDP (Section 7.3)
	Loss of land / activity site		Replacement of land according to the processes presented in Sections 7.1.4, 7.2.2 and 8.	Land clearing and preparation by KMT in terms of the process described in Section 8.4
	Impairment of movement	Situation-specific compensation / remediation. Section 7.2.3	Situation-specific compensation / remediation. Section 7.2.3	
Displaced villagers	Loss of dwellings and other structures	Replacement of houses and a moving allowance based on the approach outlined in Sections 7.1.5 and 7.2.3		
	Loss of residential land		Replacement of land according to the processes presented in Sections 7.1.4, 7.2.2 and 8.	Land clearing and preparation by KMT in terms of the process described in Section 8.4
	Loss of livelihood/ income	Compensation for trees and garden crops according to the processes and formulas presented in Sections 8.1 and 8.2	Replacement of land according to the processes presented in Sections 7.1.4, 7.2.2 and 8.	Livelihood restoration and development assistance provided through the LACP/FRAP or the CDP (Section 7.3)
	Changes in access to fields, water, and services	Situation-specific compensation / remediation. Section 7.2.3		



Category of PAP	Type of Loss	Cash Compensation	Alternative Land/Sites	Development Support
Hosts	Loss of livelihood / income	Situation-specific compensation / remediation. Section 7.2.3		Livelihood restoration and development assistance provided through the LACP/FRAP or the CDP (Section 7.3)
	Loss of land / activity site		Replacement of land according to the processes presented in Sections 7.1.4, 7.2.2 and 8.	
Others	Loss of livelihood / income / land	Situation-specific compensation / remediation. Section 7.2.3	Situation-specific compensation / remediation. Section 7.2.3	

## 6.6 Objectives and Principles

The overall objective of the FRAP is to set out a clear framework and process for fair and transparent redress of displacement losses, including the mobilisation of appropriate opportunities to improve the livelihoods and living standards of those experiencing such losses. Key implementation principles are the following:

- Avoidance of resettlement wherever possible. As indicated in Section 1.1, this principle has informed the Project from the start.
- Fair compensation, at full replacement cost, prior to displacement. This principle will guide the compensation procedures described in Section 7.2.
- The pursuit of amicable and negotiated settlement regarding appropriate compensation and assistance. This will be pursued through processes described in Section 7.2.
- The promotion and facilitation of consultation and transparency through all phases of the FRAP. The principle will be implemented through processes described in Sections 7.1, 7.2, 8.1 and 8.3.
- Execution of the LACP as part of a development programme, seeking at least to restore livelihoods, and wherever possible to improve these and associated quality of life. Specific development initiatives will be pursued under the FRAP (see Section 7.3). KMT will also implement a Community Development Plan (CDP) which will extend development opportunities and resources to a broader group of beneficiaries in the Project Affected Area.
- The promotion of environmental integrity and sustainable development as a principle underpinning FRAP-linked development initiatives (see Section 7.3).
- The provision of specific assistance, as required, to vulnerable people and groups. The vulnerable will be identified during processes described in Section 8.5. They will also be specifically monitored (see Section 10.2).
- The implementation of structured, sustainable and responsive monitoring and evaluation of the LACP and those participating in it. Monitoring has already taken place for the Interim RAP (Appendix B4), and will be managed as indicated in Section 10.

- The inclusion of the LACP as an up-front project cost. Since the FRAP will be implemented in phases (see Section 6.8), it is not possible to cost it in detail at present. A KMT budgetary process will however ensure that appropriate resources are reserved for all aspects of FRAP implementation, and at the time needed (Section 13).

All of the implementation principles listed are in line with DRC laws, international best practice and lender requirements (Section 3).

## **6.7 Public Participation**

### **6.7.1 Prior to LACP Implementation**

It is a key principle of KMT that social issues are recognised early in the project cycle and taken into account in the siting, planning and design of facilities and installations. Public consultation has been integral to the ESIA process and has provided an opportunity for all people to identify opportunities and concerns associated with the proposed development. The primary objective of public consultation through the ESIA has been to provide a mechanism to improve the decision-making process whereby the public, technical specialists, the authorities and the developer work together to produce a better project through informed decisions than if they had worked independently.

The Public Consultation and Disclosure Programme pursued between 2004 and 2006 included meetings with traditional chiefs and villagers as well as with representatives of stakeholder groups and organisations. The first series of meetings at which the project was presented was held locally, regionally and nationally. There have been two levels of consultation at site, one directed at villages in the Project Concession Area which may be directly affected by the project through loss of land, and a programme of informing the population of the greater Kolwezi area and providing opportunities for feedback. In addition, a programme of informing and involving government authorities and political representatives has been undertaken, through a series of meetings. A meeting dealing specifically with compensation issues was with Chef de Groupement Kazembe on 15<sup>th</sup> July 2004 (see Section 7.2.1 for implications).

Stakeholders from a variety of sectors, geographical locations and/or interest groups have shown an interest in the Project, but the majority of these are the local inhabitants. All stakeholder details have been recorded and will be continuously updated. With no postal system, a poor telephone system with a limited distribution amongst key stakeholders, communication relies substantially on spoken messages, and the use of public notices broadcast over the local radio stations. An ongoing and up-to-date record of communication is an important requirement for public involvement, and is being administered by the KMT Community Liaison Officer and his staff.

Issues of loss of land and compensation were included in the 2004-2006 consultation process, to ensure that the adequacy and acceptability of the proposed approach to compensation were assessed, and that local concerns were addressed and incorporated into the plan. An overview of land, resettlement and compensation issues raised during the PCDP is presented in Table 6.4 below.

**Table 6.4: Resettlement -related Issues Raised During ESIA Consultation**

Category	Issue
Compensation	Effects of the project on local populations and the need for appropriate compensation
	The need for wide consultation around compensation, including both owners and chiefs
	The need for alternative land in compensation for lost fields. Replacement land is generally available.
	The need to determine appropriate compensation for fields lying fallow
	Methods to implement compensation processes
	Role of Chiefs in resettlement planning and implementation. Chiefs allocate land, are best placed to identify the owners/users
	Fear that once-off compensation will ignore the future value of crops
Artisanal Mining	The possibility of loss of access to the Project Concession Area by youths active in mining
	The relationship between KMT and artisanal miners in the concession area
	The possible economic displacement of artisanal miners in the Project Concession Area and options for compensation, including replacement jobs.

The mechanisms for meaningful event-specific participation of PAPs are discussed in more detail in Sections 7.1, 7.2, 8.1 and 9.1. These mechanisms have been applied to displacement and compensation under the Interim Rap and LACP to date, and will guide further participation. It should be noted, however, that a wider-ranging Public Liaison Committee (PLC) has been established. The role of the PLC is to provide a general forum for interaction between stakeholders in the Project Impacted Area and the management of KMT. In essence, the PLC will be a primary tool for the KMT external communication strategy. It is important not to confuse the roles of the PLC and those of FRAP communication structures, but the PLC will be a good place to assess the mood of the community at large regarding land and compensation issues.

### 6.7.2 Samukonga Consultation

Prior to the technical revision of the Project by FQM in 2006-2007, it was felt that the resettlement of Samukonga village could be avoided. Following the proposed extension of the new TSF, resettlement of the village is considered necessary. In preparation for more formal consultations leading to the consolidation of the Samukonga RAP, a series of informal discussions have taken place between the Samukonga leadership and community and FQM. The following interactions have taken place:

- Several meetings with Chef Samukonga and members of his community. The possibility of resettlement has been fully discussed and the move has been endorsed by the leadership and community, pending agreement on compensation and support arrangements. The Chef and the community have expressed a preference for cash compensation, but FQM will negotiate a more sustainable mix and cash, land and housing replacement and livelihoods restoration with them.
- Several meetings with *Chef de Terre* Chef Kamimbi to discuss the acceptability of the resettlement and to address mechanisms to secure replacement land. Chef Kamimbi supports the proposed resettlement, and has undertaken to facilitate access to new land for settlement and farming.

The framework and schedule for formal consultation in preparation of the full Samukonga RAP is presented in Section 12.2.

## 6.8 Approach to FRAP Sequence

### 6.8.1 Project and FRAP Steps

The FRAP has proceeded in a series of steps, in line with elements of Project construction and operation (see Project Description – Section 2.1). This phased approach will continue. The link between project and FRAP sequencing is shown in Table 6.5. The timing is indicative.

**Table 6.5: Link Between Project and FRAP Sequencing**

Project Activity	Timing	FRAP and LACP Activities
Monitoring and sterilisation drilling	Pre-construction (2004-2006)	Compensation under the Interim RAP. Compensation for lost crops. DONE
Construction of access corridors to plant site	Early construction (2006-2008)	Compensation planned under the Interim RAP amendment, and implemented under the LACP. Mainly compensation for crops and land. SOME COMPLETED
Construction of plant and associated linear infrastructure	Construction (2008-2009)	Compensation under the LACP. Mainly compensation for crops and land. Attention to access and right of way issues. ONGOING
Construction of new TSF	Construction and throughout operations (2008 to close of mine)	Compensation under the LACP. Mainly compensation for crops and land. Attention to access and right of way issues. TO COMMENCE SHORTLY
Construction of linear infrastructure for Musonoi operations	Construction (2008 - ). Timing to be confirmed	Compensation under the LACP. Mainly compensation for crops and land. Attention to access and right of way issues. PLANNED
Musonoi operations	Operations (2010 to close of mine)	Possible compensation to farmers on dambo's if water levels change. PLANNED
Exploitation of sub-surface rights	Nothing planned at present	To be formulated if and when necessary

### 6.8.2 Further development

Adastra Minerals had secured sub-surface exploration rights in the Project Concession Area. FQM is not planning exploration at this stage. If later exploitation of ore bodies other than the Kingamyambo and Musonoi tailings changes the conditions and assumptions underpinning the present FRAP, the necessary revisions will be undertaken.

### 6.8.3 Review Mechanism

Periodic review of the rationale and scope of the FRAP (including the LACP) will be undertaken, mainly to ascertain whether the plan and its implementation continue to meet DRC, WBG and other international standards. The review will be an element of the Monitoring and Evaluation Programme (Section 10).

## 7 Valuation of and Compensation for Losses

### 7.1 Valuation Method

The LACP has been guided by compensation rates determined by relevant DRC government structures. Rates established by *Inspection de l'Agriculture* in Kolwezi were obtained in

2004. These have formed the basis for compensation under the Interim RAP and under the LACP. *Inspection de l'Agriculture* is involved in the Compensation Committee, and will be consulted regularly to obtain updates. A cross-cutting review of all rates will be undertaken within the next quarter.

### 7.1.1 Lost and Damaged Crops

*Inspection de l'Agriculture* has determined rates for application to lost or damaged crops (applied here from 2004 onward). The calculation method is based on an evaluation of the number of work days needed for a peasant farmer to establish and maintain the crop. This method appears to meet the “replacement value” requirement as per IFC Performance Standard 5. Such calculations have been applied by *Inspection de l'Agriculture* to all non-perennial crops. In addition to the rate arrived at by this method, a 50% additional allowance is to be paid by the Project to the compensatee, in compliance with the DRC Mining Code (see Table 7.1).

**Table 7.1 : Compensation Rates for Non-Perennial Crops<sup>11</sup>**

Culture / Crop		USD/hectare	With Mining Code extra 50%
Riz paddy	Rice	300	450
Maïs	Maize	200	300
Arachide	Groundnut	200	300
Manioc	Cassava	345	517.5
Patate douce	Sweet potato	370	555
Pomme de terre	Irish potato	400	600
Haricot	Bean	500	750
Cultures maraîchères	Market garden crops	500	750

### 7.1.2 Fruit and Other Cultivated Trees

Compensation rates for fruit- and other cultivated trees have been made available to the Project by *Inspection de l'Agriculture* (see Appendix B3B). These too will be reviewed by the end of June 2008. The Department of Agriculture representative on the Compensation Committee advises of the application of the compensation on a case-by-case basis. This process will continue for further phases of compensation under the LACP and the Samukonga RAP.

### 7.1.3 Calculation of Compensation for Crops and Trees

The calculation of compensation has been and will continue to be done in a straightforward, transparent manner. While actual crop values will vary and some may have yet to be verified in the field, the formula will be roughly:

- Area of land cultivated or number of plants x crop value x 1.5

A particular holding might for example comprise cassava, two banana trees, a small area of maize and some chillies. The calculations would be made on the following basis:

<sup>11</sup> To be reviewed by the end of June 2008.

**Table 7.2 : Calculation of Compensation for Crops and Trees**

Crop	Area/number	Value	Multiplier	TOTAL
Cassava	60 m <sup>2</sup> , 60 plants	w	1.5	wX1.5
Bananas	5 m <sup>2</sup> , 2 plants	x	1.5	xX1.5
Maize	20m <sup>2</sup>	y	1.5	yX1.5
Chillies	2m <sup>2</sup>	z	1.5	zX1.5
<b>Total</b>	87 m <sup>2</sup>			

For each farmer, a spreadsheet of assets is developed from carefully designed questionnaires and recorded and maintained by KMT (see Appendix B3). This approach will continue for other compensation under LACP rules, and for the Samukonga RAP.

#### 7.1.4 Land

The Mining Code (Article 281) states that “Any occupation of land depriving the rightful holders of enjoyment of the surface rights, any modification rendering the land unfit for cultivation, shall cause the holder or lessee of the mining and/or quarry rights, at the request of the rightful owners of surface rights, and at their convenience, to pay fair compensation, corresponding either to the rent or the value of the land at the time of its occupation, plus 50%”.

Most of the affected land has been allocated through the traditional mechanisms described in Sections 3.1.2 and 5.3. Its value is difficult to determine in this context, since there is no commercial valuation. A small gratuity or tithe is typically paid to the relevant Chief to secure the use of allocated land. Against this background, the approach adopted for the Interim RAP and the LACP has been to seek to secure equivalent replacement land for displaced farmers, especially where the loss of land is long-term or permanent. The purpose of this strategy is to seek to ensure that long-term livelihoods will not be eroded, as might be the case with cash compensation.

#### 7.1.5 Residences and Other Infrastructure

There are no clear guidelines for other infrastructure (houses, outbuildings, irrigation infrastructure, temporary shelters etc.). KMT will replace all houses lost in Samukonga. These will be built of more robust materials than the typical mud bricks and thatched roofs. Options will be discussed with the Samukonga community during the preparation of the full RAP. In principle houses will have the same or increased floor area, and will be built on a concrete slab. Each house will have a pit latrine, and a community borehole will be installed to ensure safe and potable water. A gravel road providing access to the nearest existing road will be provided.

A resettlement assistance fee equal to 50% of the estimated replacement value of the original structure will be paid, in addition to in-kind relocation support. This will assist the relocatees, and will ensure compliance with DRC requirements. The formula to calculate the replacement value has yet to be developed, but it will take into account both materials and labour. A short survey in the traditional villages will secure current costs.

Where appropriate valuation of other forms of infrastructure will be undertaken with advice from government representatives on the LACC. Cash compensation will be accompanied by an additional 50%, as required in the DRC.

## 7.2 Compensation Method

### 7.2.1 Crops and Associated Infrastructure

It is essential that the Compensation procedure effectively identifies those farmers who are affected, locates the land precisely in geographic terms, is fair in terms of valuation of the crops, meets the requirements of local legislation and that the payment procedure is documented and receipt of the compensation awards is acknowledged by the individuals affected. Where loss of land will be permanent, assistance will be provided to find alternative land and to prepare it to a condition at least equal to the land that has been lost.

The Compensation Committee, together with village agricultural representatives, as appropriate, will carry out the procedures surrounding the assessment and calculation of compensation. KMT will be responsible for awarding compensation, monetary or otherwise, and for keeping accurate records of the methods of assessment, calculations and payments made.

Compensation has been awarded locally in the past by Gécamines. It appears that the communities most likely to be affected by the Project are not familiar with these procedures, probably as the traditional villages are further away from Kolwezi and are not in the mineralised areas. There are also customary arrangements which must be acknowledged in any compensation procedure developed for the Project.

Detailed discussions with *Chef de Groupement* Kazembe clarified the accepted customary arrangements. A meeting, held on 15<sup>th</sup> July 2004 at his village was attended by representatives of Department for the Protection of the Mining Environment (DPEM) as well as by KMT and SRK specialists and other village elders. The procedure described by Chef Kazembe is outlined below:

**Table 7.3: Customary Compensation Process**

- Chef Kazembe should be approached first, and he will indicate the villages likely to be affected.
- KMT should then go to Chef de Terre Kamimbi, who will refer the compensation team further to the villages affected.
- Each village has a representative in charge of agriculture and a record of who farms land in the area from other villages or from Kolwezi.
- The agricultural representative will then assist in valuing the crops, and a percentage is included in this value for the chief.
- Payments should be made to the individual farmers who should then pay the percentage to the chief, in lieu of the tithes paid on the crops at harvest time.

The obvious flaw in this system is the lack of a method for determining the geographical location of each field in relation to the planned activities.

The Gécamines approach (which has been used before in Kolwezi) is to work with representatives from the Cadastre and the Agricultural Department in Kolwezi, and to engage with affected farmers and their neighbours, assisted by these officials. The process is to delineate fields and to assess the likely amount of damage, and to agree the valuation figure later in a more formal setting. Once agreed, the payment is made.

From these two approaches a compensation methodology has been developed (below) that incorporates elements of both procedures, the customary route being essential to identify the farmers involved. The methodology has been tested under the Interim RAP, and has been applied with some modification under the LACP. Feedback suggests that it is largely effective; both from the perspective of the affected farmers and that of government and KMT (see Appendices 4 and 5).

- STEP 1: The CC will maintain and update a schedule of Project construction and operation activities relevant to the FRAP. When KMT or KMT management has set dates for land clearance or other impacts relevant to the LACP, the process outlined below will be initiated. Sufficient lead time for thorough consultation and a fair and transparent process will be allowed. The scale of the compensation process will determine the time needed, but as a rule of thumb at least 30 days will be allowed.
- STEP 2: The CC will meet with *Chef de Groupement* Kazembe and *Chef de Terre* Kamimbi to inform them of the proposed process and to allow for any comments to be incorporated.
- STEP 3: A Project Team mandated by the CC will then go with the CC Cadastre and Agriculture representatives and representatives of the two Chiefs to look at the area where farms will be affected by Project activities.
- STEP 4: The representatives of the Chiefs, with a member of the Project Team, (probably the Community Liaison Officer) will then contact all the agricultural representatives in each of the villages to establish who has been given land in the affected area by the village chiefs. They will obtain a list of all the people who will be affected.
- STEP 5: KMT Social Assistants (who will be specifically trained in these procedures), under the oversight of the CC will then take this list to the villages concerned and go with the potentially affected people to verify exactly which piece of land they farm in the field. The social assistants will be assisted by the *notables* and persons in charge of agriculture at village level to reach the affected persons and collect the data.
- STEP 6: Full details of the affected farmers will be collected by the assistants who will use a questionnaire for taking down the particulars of the affected people (see Appendix B3). The assistants will be trained in how to use the questionnaire involving techniques of interviewing and record taking. The questionnaire will collect information such as the geographical co-ordinates of the fields, the size, types and areas/number of plants of different crops, their age and harvest date, farming practices such as irrigation, fertilisation etc and a photographic record of the field and its owner. This process will also be used to record land which is currently fallow, as compensation for the use of the land will in most cases be settled through land replacement (see Sections 7.2.2 and 8).
- STEP 7: The data collected by the assistants will be used together with calculations to be done by the CC and KMT's officials to ascertain the size and extent of the land involved for each affected person. The compensation calculation will be determined by a mandated Compensation Sub-Committee of the CC<sup>12</sup>, taking into account that crops

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<sup>12</sup> The Sub-Committee will be structured to ensure appropriate representation and to avoid possible conflicts of interest. In the case of compensation for crops, the Sub-Committee should include representatives of Cadastre, Agriculture and



such as cassava have different values depending on when they were planted. A crop which has been in the ground for a period of three years has more value than a crop which has been in the ground for one or two years. The representative of the Agricultural Department will assess these values. The Compensation Sub-Committee will make adjustments for inflation as necessary.

- **STEP 8:** The Social Assistants will return to the affected farmers with the calculation of compensation and will explain the basis on which it has been calculated for each field/farmer. The affected farmers will be given an opportunity to discuss the proposed compensation, and concerns will be noted. Major issues will be referred back to the CC for discussion and resolution.
- **STEP 9:** Actual payment of compensation will be made by the KMT representatives of the CC team, with independent witnesses. Signatures and/or finger prints will be required on receipt of the money and a photographic record of the recipient and the transaction will be made. Payment will be effected no more than 10 days after the compensation is agreed with affected farmers.
- **STEP 10:** Farmers will be allowed to harvest/salvage crops prior to work beginning. They will be informed of the time available when they receive their compensation.
- **STEP 11:** Preparation and construction (or other FRAP-relevant activities) can begin.

### 7.2.2 Land

The compensation procedure for agricultural land will combine the identification and information collection process outlined in Steps 2-6 above and the allocation process detailed in Section 8 below. Any compensation over and above payment for crops and the allocation of alternative land (for example compensation for irrigation works or temporary shelters) will be discussed and resolved by the Compensation Sub-Committee (in Step 7).

### 7.2.3 Infrastructural and Other Compensation

The loss of houses and other residential infrastructure (in the case of Samukonga village) will be compensated by the replacement of the structures, and the provision of appropriate land for gardens and other household activities. The new site will be provided with a borehole and an access road. Chef Kamimbi and his nominated representatives will be invited to discussions with KMT and the CC to refine the standards and design criteria for the resettlement site and the housing. The CC will inform Chefs Kazembe and Kamimbi of the results of these deliberations.

Compensation activities related to crops and land have predominated under the Interim RAP and the LACP, and will continue to do so under the FRAP. However, as also shown, there are other areas where Project-related displacement impacts will have to be addressed. These include changes to field access as a result of the construction of infrastructure, and possible changes to water levels in dambo's. In all of these contexts compensation procedures are less defined (officially) and in most cases are potentially more complex.

In general, the LACC will anticipate and identify potential impacts in these areas, in relation to the construction and operation schedule they will maintain. Where discussions with communities have to be initiated, this will be done through the mechanisms outlined in Section 7.2.1. The CC will discuss and activate compensation processes as required in each situation. All resettlement and compensation will apply, but particular attention will be given to the finding of alternatives and the negotiation of amicable and transparent solutions. Anticipated approaches are the following:

- Access. Provision of crossing points where roads and paths are intersected by Project linear infrastructure, and the promotion of safety awareness in communities (with the assistance of the Community Health and Safety Plan). Provision of alternative routes where necessary to circumvent new infrastructure.
- Dambo water level changes (if they occur). Compensation for lost crops (and irrigation infrastructure, if any). Possible provision of alternative land.

None of the approaches outlined above are definitive at this stage. The further development of the approaches will be guided by the CC, informed by the need for full consultation and transparency.

## **7.3 Livelihood Restoration and Developmental Measures**

### **7.3.1 Context**

The WBG and the ADB are clear that economic and physical displacement planning should provide opportunities for the further development of affected people and communities where possible. The FRAP principles include specific reference to the execution of the plans as part of a development programme, seeking at least to restore livelihoods, and wherever possible to improve these and associated quality of life. Livelihood restoration, supplementary support and development measures will be mobilised in two contexts:

- Within the FRAP and dedicated to recipients of FRAP compensation and assistance.
- As part of the Community Development Plan (see Section 1.1). The CDP extends development support and facilitation to a broader group of stakeholders.

### **7.3.2 FRAP Initiatives**

It is intended that KMT will form partnerships with suitable local NGOs (such as Eco Dev or ARDERI (*Association Regionale Pour le Developpement Rural Integre*)), and with appropriate international NGOs such as PACT Congo to assist with the delivery of a livelihood restoration technical assistance programme. The programme will focus substantially on agricultural support and development, in recognition of the importance of agriculture in the livelihoods of PAPs.

The livelihood restoration and support programme will be made available to displaced farmers who will be moving to new fields. These farmers will include primary relocatees displaced from Project footprint areas, and hosts (where applicable) who lose land and crops in the resettlement area.

Among other things the programme will seek to guide participants in farming techniques which reduce the reliance on slash and burn shifting agriculture, and which allow the land to be used for longer than the current 3 year cropping rotation followed by a fallow period. The assistance will focus on methods of retaining and adding fertility, such as composting, mulching and green manures, without the necessity for large inputs of inorganic fertilizer. The programme will also include the provision of improved seeds and tools and is likely to be ongoing.

Samukonga village will be offered a civic management and development programme, which will include:

- Advice on the management of the resettlement village, including maintenance of houses and infrastructure;
- Advice on the establishment of productive gardens, with a starter pack of seeds;
- Environmental management guidelines, including the protection of the water source, the management of pit latrines and the management of waste;
- Advice on the establishment of a Village Development Committee.

The latter might be a capacity building initiative extended to all impacted villages under the Community Development Programme.

### 7.3.3 CDP Initiatives

A preliminary list of CDP projects is attached in Appendix B7. The CDP is independent of the FRAP, and will not be used to dilute responsibilities and undertakings under the latter. There are however potentially complimentary initiatives that might further benefit LACP compensates. These include:

- Tree nursery planting.
- Small orchard development.
- Animal husbandry for meat production.
- Vegetable production.

The management of the CDP-based Foundation may have to consult with representatives of the CC on occasion, to ensure that FRAP beneficiaries are not doubly advantaged.

## 8 Measures for Replacement of Land

### 8.1 Site Selection and Acquisition Process

Affected farmers who lose the use of land permanently will be assisted to find alternative land. Informed by the departments of Cadastre and Agriculture and by *Chef de Groupement* Kazembe, it is noted that it is not possible (or desirable) to source land on a consolidated or block basis. This is so because land holdings are fragmented, and parcels for allocation will have to be found in the interstices.

It was noted that farmers are accustomed to finding their own solutions in this context, often securing land in more than one location, or at a distance from their place of residence (confirmed by the household survey – average distance to fields is 5km). Replacement land might have to be explored within and beyond the jurisdiction of *Chef de Terre* Kamimbi.

Based on the observations above and the locally-rooted compensation process (see Section 8.2) a site selection and acquisition methodology has been developed. The steps are listed below:

- STEPS 1-6: As per compensation method outlined in Section 7.2.1. As an extension of Step 3, a mandated Land Acquisition Team, involving a representative of Chef de Groupement Kazembe will inform other *Chefs de Terre* of the proposed process, and of the likely extent of replacement land required. This task will only be mobilised if it seems that sufficient land will not be found in the area of jurisdiction of *Chef de Terre* Kamimbi. The *Chefs* will be asked to indicate their willingness to make land available to farmers who have lost land through Project activities.
- STEP 7: The data collected by the assistants will confirm the extent of the land involved for each affected person. The Land Acquisition Team will prepare a land acquisition protocol indicating land required by individual affected farmers. The protocol will also indicate the participating *Chefs de Terre* and any conditions and payments attached to securing land in the areas under their control. The payments should be aligned with those normally expected in the customary land transfer process.
- STEP 8: The Social Assistants will return to the affected farmers with the acquisition protocol, and will explain the basis on which it has been calculated for each field/farmer. The affected farmers will be given an opportunity to comment, and to indicate their preferences regarding the preferred location of replacement land. The preferences will be conveyed to the appropriate *Chefs de Terre*, and individual farmers will then negotiate land in areas suitable to them.
- STEP 9: Payment for replacement land will be made to farmers at the same time as crop compensation payments, and according to the same payment process. These payments will have been determined in Step 7.

The process will allow farmers to find their own land, as is accustomed local practice. It is however necessary to ensure that all farmers qualifying for replacement land indeed secure an equivalent or larger site, in an acceptable location.

It is particularly important to be sure that vulnerable households are not prejudiced. KMT will establish a robust mechanism for tracking all farmers whose land is affected (see Section 9). Where it is clear that the farmers have not found replacement land, additional assistance will be provided.

The compensation process outlined in Section 7.2 has been tested and refined through the implementation of the Interim RAP and the LACP. The acquisition process is based on consultation and is carefully aligned with customary land transfer methods. It has not been fully implemented under LACP procedures administered by FQM / KMT since 2007. In most cases PAPs have been compensated in cash for crops and left to secure their own replacement land. A special monitoring programme will identify people who have been compensated under this arrangement, and will address any hardship and disadvantage revealed (see Section 10.4).

The selection of a site for the resettled Samukonga village will follow a different process. In consultation with the CC, Chef Kamimbi has identified a possible site west of the plant and closer to Luilu village, where some Samukonga residents use health and schooling facilities. Samukonga residents have expressed in-principle support for the proposed site. The selection will have to satisfy relevant legal and customary requirements before it is confirmed. The CC will undertake the necessary investigations and consultations.

## **8.2 Legal and Equity Issues**

The acquisition process is in compliance with DRC land management and transfer systems and requirements. It is entirely within the jurisdiction of the *Chef de Groupement* and the participating *Chefs de Terre* to make the transfers envisaged.

## **8.3 Integration in Host Areas**

In general, host area integration should not be a problem. This is so because farmers securing replacement land will be dissipated over a variety of host areas. These will be areas selected by the farmers themselves, and in most cases are likely to be in locations where the farmers have some relationship with the presiding *Chef de Terre*. Monitoring will track possible integration problems (Section 1), and the LACC will address emerging issues. The grievance mechanism also gives farmers and hosts an opportunity to table issues and concerns (see Section 9).

## **8.4 On-Site Assistance**

Once alternative land has been allocated in conjunction with the customary authorities, it will be cleared by workers hired by KMT to a standard at least equal to that of the plot which has been lost, at an appropriate time (e.g. prior to the optimum planting time). Other support will be provided in terms of the support and development initiatives described in Section 7.3.

## **8.5 Specific Assistance to Vulnerable People**

Vulnerable people (defined in Section 5.5) are particularly at risk when separated from existing resources. In many cases they might not have the physical capacity or the social networks that will enable them to re-establish at a new location. The FRAP will seek to identify individuals and households at risk at identification stage (Step 6 – Section 7.2.1), and will monitor them closely during and after the resettlement process. Specific assistance will be provided if needed.

# **9 Grievance Management**

## **9.1 Procedure**

Despite best efforts with regard to the public consultation and community relations, there will be times when the project sponsor and stakeholders disagree. Affected persons will be informed of their rights to raise grievances via FRAP information sharing initiatives and when any of the processes described in Sections 7 and 8 are implemented.

Mechanisms have been put in place to ensure that grievances are recorded and considered fairly and appropriately. These include:

- A register of grievances which is held by the Community Liaison Officer in the KMT Project office. When the full KMT management structure is in place, grievances will be managed under the overall supervision of the Environmental Manager.
- Receipt of grievances will be acknowledged as soon as possible, by letter or verbal means. This will be through the Environmental Manager and the Environmental and Social Superintendent in future.
- The grievance will be reviewed by the CC and appropriate action will be implemented. The preferred course of action will be discussed with the person bringing the grievance. Wherever possible, grievances will be resolved at this level.
- Relevant details of grievances, with outcomes, will be made available to the affected parties.

The proposed Public Liaison Committee (Section 7.3.2) will provide the FRAP/LACC with a broad sounding board for opinion around resettlement issues. Unresolved grievances and disputes will be referred to a credible and independent person of body for arbitration. Other RAP processes in the DRC have made use of senior church officials, or other respected civil society figures.

## **9.2 Response under Interim RAP and LACP**

The proposed grievance procedure and system was established to address possible disputes flowing from the Interim RAP. Recipients of compensation were informed about the procedure, but no submissions were received. Interim RAP monitoring suggests a promising level of satisfaction among compensatees (Appendix B4).

Few grievances have been recorded under recent LACP implementation either. This may be a consequence of general satisfaction, or (more likely) a lack of awareness of the procedure and its application. As part of the development of the Samukonga RAP the grievance procedure will be reviewed, and if necessary a process to entrench a more robust structure will be established.

# **10 Monitoring and Evaluation**

## **10.1 Monitoring vs. Evaluation**

Monitoring is typically a continuous process which accompanies the implementation of a programme or plan. It is usually an internal process undertaken against the background of a work plan and / or defined indicators.

In general monitoring assists with determining:

- Progress with activities – what has been done and what has not been done.
- The nature and causes of problems and the options for the solution of problems.

- The effectiveness of the human and financial resources deployed for the implementation of the project / programme.
- Whether the project / programme is producing the required results.

Whilst monitoring focuses on the process of implementation, evaluation typically concentrates on wider issues of alignment with standards, legal requirements and undertakings, and best practice. Monitoring assists programme management. Evaluation informs key stakeholders, including regulatory agencies and investors.

## 10.2 Monitoring Arrangements

### 10.2.1 Management and Process

#### *Objectives*

The primary objective of the FRAP Monitoring Programme is to ensure that the Plan is fully implemented, and that compensates and their households derive maximum benefit from the agreed compensation and associated development support. Further objectives are the following:

- To guide further interactions with affected persons and communities.
- To learn lessons that might be fed back into FRAP implementation.
- To build a base of goodwill and trust between KMT and affected persons / communities.
- To secure early warning of problems and potential conflicts.
- To establish a base for compliance reporting to the DRC government, the IFC and other stakeholders.

#### *Components*

- The LACP monitoring programme has two components:
- *Activity and Resource Monitoring:* captures LACP activities and resources dedicated to these.
- *Impact Monitoring:* assesses the impacts of economic displacement and of compensation and support mobilized through the RAP.

#### *Activity and Resource Monitoring*

Activity and resource monitoring will generate typical management information. It will track project activities triggering FRAP responses, details of compensation paid and land secured, details of support and development initiatives and the resources applied to these, and overall expenditure against cost centres and budget. It will also record the consultations and meetings held, the kind of information provided to stakeholders, people consulted, the method and place of the consultation sessions, concerns raised and details of the grievance mechanism. This monitoring will be undertaken by the FRAP secretariat (see Section 11.2).

### *Impact Monitoring*

Impact monitoring will address / evaluate the following:

- The use of compensation payments by farmers and their households.
- Implications for households where compensation is not used sustainably.
- Access to alternative land, and possible problems associated with physical access.
- Action taken to ensure long-term replacement of lost crops (e.g. replanting).
- Unanticipated problems with compensation, access or planting.
- Possible friction between compensatees and their households / communities.
- Possible friction with host communities.
- Evidence of opportunistic invasion by people seeking access to future compensation.
- Difficulties faced by vulnerable groups.

Impact monitoring among affected farmers and resettled households will be based on regular sample surveys (half yearly following resettlement events – for two years; thereafter annually), using a random sample (perhaps 20%). Interviews will be undertaken individually. The interviews will be semi-structured, where specific open-ended questions are asked and responses recorded. Interviews will be undertaken in an appropriate local language, and by a skilled interviewer. The Community Liaison Officer will oversee the survey process.

### *Reporting*

Bi-monthly reports will be produced. The management version (for the use of management and the CC) will document all activity and resource monitoring. A public summary will highlight the public consultation process, and will provide details of compensation and land acquisition.

## **10.3 Evaluation**

Periodic review/auditing of the FRAP will be undertaken, preferably by a neutral external party. The first evaluation will take place six months after the start of construction, and will be undertaken every six months during construction, and for the first two years of operation. Thereafter, evaluations will follow a longer cycle.

Issues to be addressed by evaluation include the following:

- The effectiveness and frequency of consultation during FRAP implementation.
- The coverage and transparency of FRAP documentation.
- The robustness and fairness of compensation processes.



- The effectiveness of acquisition and transfer processes.
- The effectiveness, accessibility and sustainability of support and development initiatives.
- The accessibility and responsiveness of the grievance procedure and of grievance processing.
- The adequacy and accessibility of databases and record keeping.

## **10.4 Monitoring and Action Plan to Align Past LACP Implementation with FRAP Standards**

As noted in Section 1.2 elements of recent LACP execution have not matched the standards required for a RAP. In this context two areas requiring alignment are the following:

- FQM has placed emphasis on cash compensation in its recent implementation of the LACP, Land replacement and livelihood restoration activities have not been actively pursued.
- Limited monitoring has taken place under the LACP.

Against this background, KMT will prioritize the development of a full monitoring schedule, and the management arrangements necessary for implementation.

A special monitoring initiative will be launched to track the progress of PAPs who have received cash compensation and who have moved off their land. The purpose of the monitoring will be to determine whether the monitored PAPs have experienced difficulties in securing replacement land, and whether their livelihoods have been compromised.

The monitoring will be based on a 20% sample initially, to determine the nature and extent of problems, if any. Based on the findings, a mitigation programme will be developed, in consultation with the CC. Potential elements of the programme are:

- Assistance through the land acquisition process (described in Section 8.1) to secure access to land.
- Access to the proposed livelihoods restoration programme (described in Section 7.3).

# **11 Organisational Responsibilities**

## **11.1 Compensation Committee**

The CC is the body responsible for the oversight and implementation of the LACP (see Section 4.1 for composition). The CC can establish Task Teams and Sub-Committees as required for defined tasks. These groups must be specifically mandated by the CC, with a clear brief and reporting structure. Possible Sub-Committees and Task Teams are the following:

- Compensation Sub-Committee (Section 8.2.1).
- Land Acquisition Task Team (Section 9.1).
- Field Team (section 8.2.1).

CC members might also consider the allocation of portfolios, ensuring clear management and reporting lines. Monitoring could be one of the portfolios. The CC will receive operational support from KMT (see 11.2).

## **11.2 KMT Management and Support Roles**

Internally, overall responsibility for the LACP will reside with the Environmental Manager (see Section 4.2 and Appendix B2). The Environmental Manager will report to the GM. Operational responsibility will rest with the Environmental and Social Superintendent. In the interim, management will remain as for the current LACP (Sections 4.1 and 4.2).

KMT will support the CC in various ways:

- Provision of a secretariat function (logistics, record keeping, reporting).
- Financial management (budgets, operational management, financial reporting).
- Internal audit.
- External audit.
- Financial and audit information will be disclosed as part of the reporting process (Section 10.2.1).

## **11.3 Capacity Development**

Capacity development may include the development of capacity in planning, fund raising, management, communication, project implementation and monitoring. In the context of the FRAP, capacity building might take place in the following contexts:

- Capacity development for the CC (systems, procedures).
- Capacity development in agencies serving on the CC (Cadastre and Agriculture). For the purposes of the CC, capacity development will be confined to inputs that will make the contribution of these agencies more effective. Other capacity development support might be considered under the CDP (see Main Report, Annex E)
- Capacity development in FRAP service providers. Local NGOs are likely to assist with support programmes for displaced farmers (Section 8.3.2). Targeted capacity development might be necessary to enable the NGOs to perform the roles envisaged.

## **12 Implementation Schedule**

### **12.1 Ongoing Implementation**

The LACP implementation schedule will be linked to the Project stages outlined in Section 6.8.1. The Compensation Committee will develop a detailed schedule which will be reviewed regularly in consultation with KMT management.

### **12.2 Schedule for Consolidation and Completion of the Samukonga RAP**

Following the decision to resettle Samukonga Village, and preparatory work undertaken in this regard, a full resettlement plan will be developed, based on the following tentative schedule:

- Preparation of a RAP planning and implementation action plan (mid-May 2008).
- Preparation and implementation of a formal consultation programme, including consultations with officials such as the Territory Administrator (start end of May 2008, ongoing).
- Execution of a detailed census and inventory (end of May 2008).
- Revision and finalisation of entitlement, compensation and support arrangements (with appropriate consultation) (mid-June 2008).
- Confirmation of resettlement site (mid-June 2008).
- Preparation of resettlement site (mid-July 2008).
- Implementation of resettlement (end July 2008).

## **13 Budget Procedure and Cost Centres**

Since detailed inventories and compensation costing are undertaken in a phased manner matching project phases, an overall budget for the FRAP has not been determined. However, close to USD 100 000 had been spent on compensation up to the end of February 2008. Around USD 45 000 has been set aside for the TSF resettlement. The budget for the Samukonga resettlement will be prepared as part of the detailed RAP.

The FRAP budget and budgeting process is guided by the following principles:

- FRAP will be included up-front in the project implementation budget.
- FRAP operational budgeting will be a standing process in KMT's overall budgeting process.
- The FRAP budget will be ring-fenced to ensure transparency and reporting. Against this background, it may be divided into cost centres as follows:

- Secretariat.
- CC.
- Compensation and Land Acquisition.
- Support and Development.
- Monitoring.
- Evaluation.

# **Appendix B1: Interim RAP**

## **INTERIM RESETTLEMENT ACTION PLAN**

### **For The**

### **KOLWEZI TAILINGS PROJECT KATANGA PROVINCE DEMOCRATIC REPUBLIC OF CONGO**

## **1 Introduction**

### **1.1 Background**

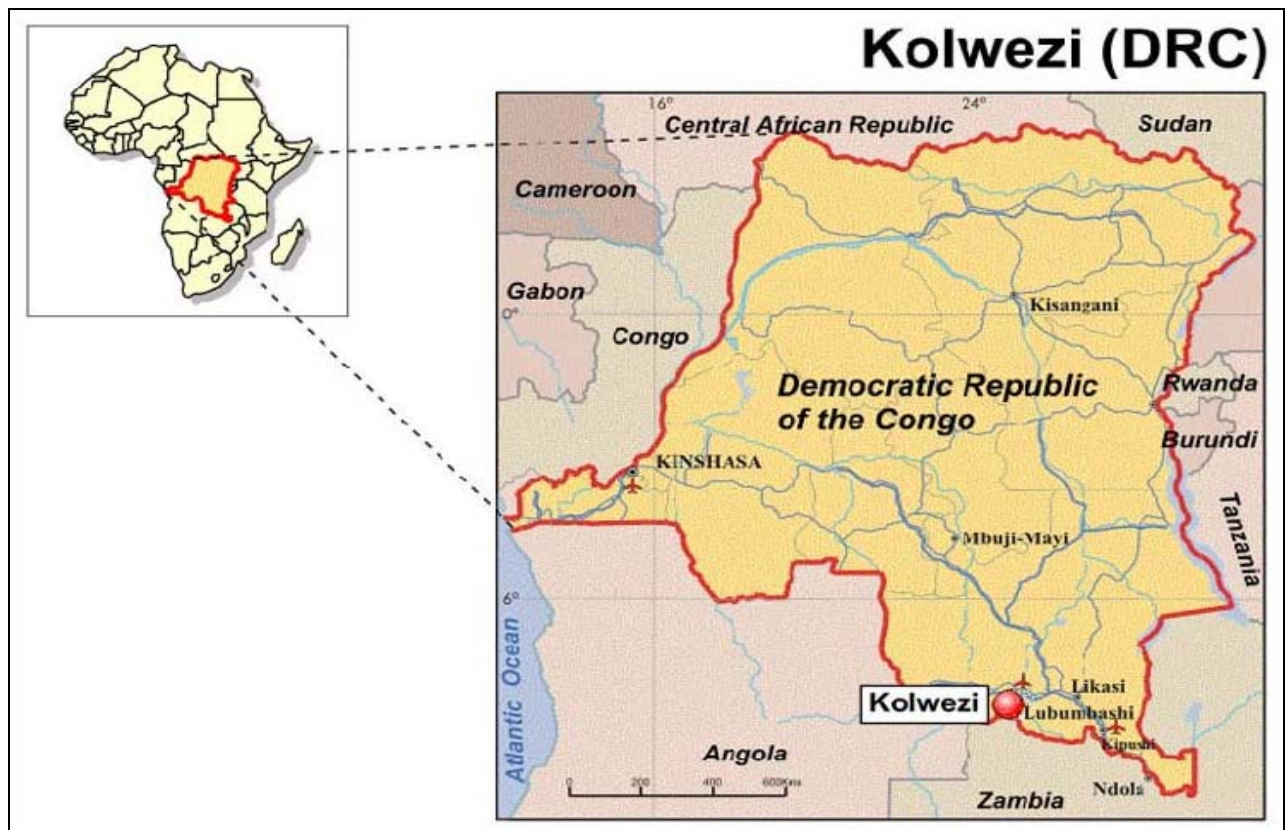
Kolwezi, in the Katanga province of the Democratic Republic of Congo (DRC), is about 240km west of Lubumbashi, the provincial capital. A location map is shown in Figure 1.1, and the proposed site layout is shown in Figure 2.1. Mining of sulphide and oxide ores has been taking place in Kolwezi for over fifty years, primarily for copper and cobalt. As a result of these mining operations, over 110 million tonnes of ore have been processed and the oxide tailings deposited in two principal areas, the Kingamyambo TSF and the Musonoi River Tailings. The tailings have an average copper grade of 1.49% and 0.32% cobalt, levels at which economic recovery is possible. Kolwezi is a town of around 200,000, with much of the working age population formerly employed by Gécamines, the state mining company, which has operated the mines in the area since 1967. The mine and processing plant are currently run down, the tailings deposits are poorly maintained, and mining activity of the open pit is sporadic.

### **1.2 Project Description**

The Kolwezi Tailings Project (“The Project”) aims to reprocess tailings generated by past Gécamines operations, currently stored in unreclaimed tailing storage facilities, in order to extract residual copper and cobalt. The current working assumption for the Project life is around 38 years. The Project will include a new state-of-the-art facility to reprocess the tailings, a new TSF and the reclamation of the areas beneath the existing tailings storage areas to a final condition that will return the land to alternative uses.

The Kingamyambo TSF is a conventional paddock dam, the outer walls of which have been constructed from spigotted tailings, which contains 42.3 million tonnes of tailings and reaches a height of 20m. No reclamation work has taken place on the dam surface, which is therefore exposed to wind and rain and is badly eroded and a major source of dust in the area.

The Musonoi River Tailings have been deposited in the valley of the Musonoi River and comprise a low-lying area, through which the river still flows, of around 11 km in length and up to 1 km wide. At the far end, the tailings and the river are retained by the Kasobantu Dam, immediately upstream of which is a water body. A spillway decants high flows into the original course of the Musonoi as it flows northwards, over an escarpment. Another spillway leads via a specially constructed channel to Nzilo Lake, some 5km to the north-north-east, on which there is a Hydro Electric Power Station.



**Figure 1.1: Location of project in DRC**

### **1.3 New Project Facilities and Main Project Features**

The proposed Project involves the extraction of the oxide tailings using high pressure monitors in a series of paddocks. The proposed process flow sheet will extract copper and cobalt using sulphuric acid leaching followed by solvent extraction and electro-winning. The tailings resulting from this process will be deposited in a dam engineered to modern standards, close to the proposed plant site. The project will eventually clean up the Musonoi River valley and will remove the existing Kingamyambo TSF, leaving a smaller footprint and a net environmental benefit. The proposed project layout is shown in Figure 2.1.

#### **Existing Conditions**

The concession covers an area of approximately 6100 hectares and extends 13.75 km from north to south and up to 9 km from east to west. The original concession boundary has been modified by the Ministry of Mines to an area bounded by a grid system which includes other mining facilities such as waste rock dumps, part of another TSF, a zinc processing plant and parts of some larger settlements close to Kolwezi.

Figure 2.1

The original habitat of the area was Miombo woodland. This is a form of dry, open gallery woodland common to central and south-central Africa, and is the dominant habitat in the southern DRC. Today, the concession area consists mostly of degraded Miombo and land used for slash and burn and shifting agriculture, criss-crossed by paths and tracks and transmission lines. There are several dambo's, or seasonal wetlands, in the concession area, including two created by the damming of the confluence of the tributary streams with the Musonoi, which is full of tailings. There are tributary streams on both sides of the Musonoi valley.

### **Current activities**

Following an environmental audit of the site, the Environmental and Social Impact Assessment process has begun, including a widespread Public Involvement programme, which has included meetings with traditional chiefs and villagers as well as representatives of groups and organisations in Kolwezi, Lubumbashi and Kinshasa. A number of activities are on going, such as monitoring of water courses in terms of quality and water levels, and specialist studies for flora and fauna, air quality, noise, archaeology etc. A drilling programme will also be undertaken shortly which has the following purposes: to install groundwater monitoring wells, to carry out test work on the groundwater to assess its suitability for supply for the project and also to drill sterilisation holes on the proposed foot print of the plant site, new TSF and the railway spur and main access route. The drilling programme will result in destruction of existing crops and some loss of land for monitoring boreholes. This means that a compensation framework and process is established to enable fair, transparent compensation to be paid to affected farmers and occupiers of the land. The details of this framework are set out in the Sections below. The Framework documents the basis for calculation of compensation, the mechanisms by which this will be achieved, and methods of delivering the compensation. Full compensation for loss of land will be dealt with later in the project cycle and documented in the Resettlement Action Plan; this Interim plan deals with the loss of crops and temporary loss of land which will be effected by the drilling programme.

## **2 Regulations and Requirements**

### **2.1 General**

A key component of the project feasibility study is the Environmental and Social Impact Assessment (ESIA). Public consultation is integral to the ESIA process and provides an opportunity for all people to identify opportunities and concerns associated with the proposed development. The primary objective of public consultation is to provide a mechanism to improve the decision making process whereby the public, technical specialists, the authorities and the developer work together to produce a better project through informed decisions than if they had worked independently. The issue of loss of land has been included in this consultation process, so that the adequacy and acceptability of the proposed compensation process is assessed, and local concerns are addressed and incorporated into the plan.

### **2.2 Legislation of the DRC**

The key DRC legislation pertaining to the Kolwezi project is the Mining Code (Law No 007/2002 of July 11, 2002). This Code sets out in detail, the way in which mining projects of any type may be undertaken. The Mining Code is supported by the Mining Regulations, which implement the provisions of the present Code. The requirements for compensation are included in Title XI, Chapter II, and Article 281.



**Article 281: Compensation for the occupants of the land.**

Any occupation of land depriving the rightful holders of enjoyment of the surface rights, any modification rendering the land unfit for cultivation, shall cause the holder or lessee of the mining and/or quarry rights, at the request of the rightful owners of surface rights, and at their convenience, to pay fair compensation, corresponding either to the rent or the value of the land at the time of its occupation, plus 50%.

Land, as referred to in the above paragraph, means the ground on which the individuals have always carried out or are effectively carrying out any activity.

Amicable settlement of the dispute may be made by any legitimate method other than resorting to the courts, especially by compromise, settlement, arbitration or before an Officer of the Judiciary Police or an Officer of the Public Ministry.

In the absence of an amicable settlement between the parties within 3 months from the date on which the dispute arises, the compensation shall be determined by the competent court pursuant to the rules on judicial organization and jurisdiction in force in the DRC.

However, the usual occupant of the land may, in agreement with the holder, continue to exercise his right to cultivate the land provided the work in the fields does not hinder the mining activities. The owner of the surface rights shall then no longer continue to construct buildings on it.

Lastly, simply passing through the land does not entitle to pay compensation if no damage results there from. The act of passing must take place with a view to best conserving the environment.

**2.3 World Bank Group Environmental and Social Safeguard Policies**

In the absence of detailed environmental and social requirements in the DRC legislation, KMT policy is to adopt and implement those of the World Bank Group (WBG) for the Kolwezi project. The WBG, of which the International Finance Corporation (IFC) forms the private sector arm, has a number of policies, guidelines and procedures relating to environmental assessment, community involvement and public consultation. The key documents are OD 4.30 on Involuntary Resettlement, and the IFC Handbook for Preparing a Resettlement Action Plan.

**2.4 Requirements Relevant to Compensation**

The Handbook for Preparing a Resettlement Action Plan (RAP) states, 'IFC expects the project sponsor to compensate affected people for loss of physical assets, revenue, and income resulting from economic displacement or physical relocation whether these losses are temporary or permanent'. As compensation procedures are not addressed in detail under the Mining Code, Regulations or Annexes thereto, KMT will be establishing a method for delivering compensation. This will involve collaboration with a variety of local government departments and traditional structures to deliver the compensation process.

The IFC Handbook contains a number of definitions that are relevant to this process:

<b>Term</b>	<b>Definition</b>
Compensation	Payment in cash or in kind for an asset or a resource that is acquired or affected by a project at the time the asset needs to be replaced.
Economic displacement	Loss of income streams or means of livelihood resulting from land acquisition or obstructed access to resources (land, water or forest) resulting from the construction or operation of a project or its associated facilities.
Replacement cost	<p>The rate of compensation for lost assets must be calculated at full replacement cost, that is, the market value of the asset plus transaction costs. With regard to land and structures, IFC defines “replacement costs” as follows:</p> <ul style="list-style-type: none"> <li>• Agricultural land – the market value of land of equal productive use or potential located in the vicinity of the affected land, plus the cost of preparation to levels similar or better than those of the affected land, plus the cost of any registration and transfer taxes.....(sections on Land in urban areas and Household and public structures)</li> </ul> <p>In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken in to account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset.</p>

### 3. Administrative framework of affected areas

The mine site is located close to the town of Kolwezi, where there are six townships run by Gécamines and a number of villages administered by Chiefs. The Mayor of Kolwezi has overall control over the local governments of Kolwezi and these villages. In particular, it should be noted that there are a few small settlements within the Project area, which are likely to be most affected by the project due to their proximity to new facilities.

The two main areas of impact will be the plant site and the new tailings facility. In addition, the route of transport corridors including the railway line and main access route to the plant, pipelines, power cables and maintenance tracks will be affected. As well as loss of land in these areas, some dislocation of populations from the land which they are farming will occur, but may be mitigated by installing crossing points.

It should be noted that land is state-owned and formally controlled by the Cadastral Department, but the traditional chief allocates land to families for agriculture and presides over traditional rites. The KMT Concession consists of land formerly allocated to Gécamines for mining activities and KMT's authority over it represents a transfer of title from Gécamines.

A list of villages in the area is included as Table 1, and their indicative locations can be seen on Figure 3.1. All of these villages other than the UZK staff village and Cite UZK are under the jurisdiction of Chef de Groupement Kazembe and Chef de Terre Kamimbi.

A meeting has been held with Chef de Groupement Kazembe (15<sup>th</sup> July 2004) at which compensation was discussed. Chef Kazembe outlined the method by which individuals farming particular areas can be identified via the Chef de Terre and agricultural

representatives in each village. These representatives also have details of individuals living in Kolwezi who farm land near each village. Meetings have also been held with the villagers in the concession and with the farmers who may be affected by the project in the near future or at a later date. Queries raised at these meetings are specifically addressed in the methods and mechanisms of managing the compensation process. The notes of the meeting are included as Annex A. A Register of meetings held, the minutes of the meetings and a list of those attending is being kept by SRK, KMT and at the project office in Kolwezi.

**Table 1 Villages in the vicinity of the Concession area.**

<b>Villages within concession boundary</b>	<b>Samukonga Kashala Kipepa</b>
<b>Villages bisected by concession boundary</b>	<b>Cité UZK Kamimbi Samukinda Kisangama</b>
<b>Villages outside concession boundary</b>	<b>Tshala Tshamudende Luilu Kisangama UZK staff village Ndanzama Kanyembo</b>

**Figure 3.1**

## **4 Identification of Stakeholders**

### **4.1 Overview**

It is a key principle of KMT that social issues are recognised early in the project cycle and taken into account in the siting, planning and design of facilities and installations. This means that meaningful consultation between KMT and the relevant stakeholders such as local authorities, NGOs and affected parties is taking place and that their views are taken into account.

It is important to note that there are two levels of consultation at site, one directed at those villages in the concession area which may be directly affected by the project through loss of land, and also a programme of informing the population of the greater Kolwezi area and providing opportunities for feedback. Many of the villages listed above and also residents of Kolwezi make use of land in the area of the plant site and TSF for subsistence agriculture. The farmers would not be expected to rely on their fields for income. Stakeholders are drawn from these groups as well as more widely, for example NGOs. In addition, a programme of informing and involving government authorities and political representatives is being undertaken, through a series of meetings.

The identification and registration of I&APs will be ongoing for the duration of the study, although the first series of meetings at which the project was presented has been held locally, regionally and nationally. Stakeholders from a variety of sectors, geographical locations (local, provincial, and national, international) and/or interest groups have shown an interest in the Kolwezi project, but the majority of these are the local inhabitants. All stakeholder details are being recorded and updated as and when information is distributed to or received from stakeholders and include a means of contacting those stakeholders. With no postal system, a poor telephone system with a limited distribution amongst key stakeholders, this relies largely on spoken messages, and the use of public notices broadcast over the local radio stations. An ongoing and up-to-date record of communication is an important requirement for public involvement, and is being administered by the SRK and the KMT Community Liaison Officer and his staff.

### **4.2 Affected communities**

Stakeholders, who will be affected by the project through loss of crops and land, are being identified separately and consulted in a more detailed and robust process. These individuals have also been invited to participate in the main consultation process, and meetings have already been held with them.

## **5 Activities resulting in loss of land due to activities informing the DFS and ESIA**

The issue of loss of land and reallocation of fields and payment of compensation will form the major part of the main Resettlement Action Plan, however an interim plan is necessary to document the methods to be used to manage damage caused by the construction of access roads and drilling pads for the purpose of installing groundwater monitoring boreholes and undertaking sterilisation drilling. This will be primarily in the area of the proposed plant site, TSF and railway spur from the line running west of Kolwezi towards Luilu. Groundwater monitoring boreholes will be drilled in various locations downstream of existing and planned facilities, such as the zinc plant. Many of the planned locations can be reached by existing tracks and roads, but some of these will require widening to allow

access by the drill rig, and some loss of crops will be inevitable. Each drill pad will require an area of around 400m<sup>2</sup> (20m x 20m) for equipment to be set up and drilling carried out. There are two different categories of loss:

*Sterilisation holes:* Access roads and drill pads for each of 17 to 20 holes over the TSF site (6 to 8), plant site (4 to 5) and railway spur (7). No further access to these holes will be required and the land will remain undisturbed until the Construction period begins, which will be in late 2005 or 2006 at the earliest, depending on project approvals and financing. The loss of crops and use of the land will be immediate and temporary.

However, as the main crop is cassava, which is planted and then left for 2 or 3 years before being harvested, it is unlikely that further cassava crops can be grown in these areas before construction begins. Other crops with a shorter growing season may continue to be grown, such as sugarcane, beans, peppers and ground nuts, or other crops as agreed by KMT. Compensation for permanent loss of land will be paid to these farmers once the land is required for project use during the construction and operational phases. In the case of the planned phased development of the TSF, this may not be for many years.

*Groundwater monitoring boreholes:* Access roads and drill pads will be required to each of these 7 holes, and this access will be maintained for the purposes of monitoring from when the holes are complete for the duration of the project and beyond. It should be noted that there are fields only in the vicinity of 3 or 4 of these 7 holes. The loss of crops and use of the land at these 3 or 4 holes will be immediate and permanent.

### **Compensation Procedures**

It is essential that the Compensation procedures effectively identify those farmers who are affected, locates the land precisely in geographic terms, is fair in terms of valuation of the crops, meets the requirements of local legislation and that the payment procedure is documented and receipt of the compensation awards is acknowledged by the individuals affected. Where loss of land will be permanent, assistance must be provided to find alternative land and to prepare it to a condition at least equal to that which has been lost.

The procedures surrounding the assessment and calculation of compensation will be carried out by a team consisting of KMT personnel, representatives of the Department of Agriculture, the Cadastral Department in Kolwezi, and village agricultural representatives as appropriate. KMT will be responsible for awarding compensation, monetary or otherwise, and for keeping accurate records of the methods of assessment, calculations and payments made.

Compensation has been awarded locally in the past by Gécamines, so a methodology has been established, but it appears that the communities most likely to be affected by this project are not familiar with these procedures, probably as the villages are further away from Kolwezi and not in the mineralised areas. There are also customary arrangements which must be acknowledged in any procedure developed for the Kolwezi tailings project. These were described in a meeting with Chef de groupement Kazembe on Thursday 15<sup>th</sup> July 2004, at his village. Representatives of Department for the Protection of the Mining Environment (DPEM) were present as well as KMT and SRK and other village elders. The procedure he described is outlined below:

Chef Kazembe should be approached first, and he will indicate the villages likely to be affected. KMT should then go to Chef de Terre Kamimbi, who will refer the compensation team further to the villages affected. Each village has a representative in charge of agriculture and a record of who farms land in the area from other villages or from Kolwezi. The agricultural representative will then assist in valuing the crops, and a percentage is included in this value for the chief. Payments are made to the individual farmers who should then pay the percentage to the chief, in lieu of the tithes paid on the crops at harvest time.

The obvious flaw in this system is the lack of a method of determining the geographical location of each field in relation to the planned activities. In discussion with the farmers and chiefs during various meetings it is clear that the payment of tithes to the chief is a well established system. Comments such as ‘The people feed us so we must look after the people,’ from the chiefs and the reverse, ‘The Chief looks after us so we must feed him’, were common, and his involvement was emphasised in many meetings.

The Gécamines approach proposed (which has been used before in Kolwezi) is to use a representative from the Cadastre, a representative from the Agricultural department in Kolwezi, and KMT personnel along with the farmers affected, and their neighbours. The field will be delineated and the amount of damage assessed, and later in a more formal setting the valuation figure is agreed and the payment made.

From these two approaches a methodology has been developed (below) that incorporates elements of both procedures, the customary route being essential to identify the farmers involved.

#### **Preliminary Compensation Procedures for the development of roads and drill pads for monitoring boreholes and sterilisation drilling**

- The Compensation team will consist of M Francois Colette (KMT), M Sylvain Spagnut (KMT), M. Mwape (KMT), the Chef du Cadastre, the Agricultural representative and M Bulemi, an independent consultant.
- The Compensation team will meet with Chief Kazembe (Chef de Groupement) and Chief Kamimbi (Chef de Terre) and Kazembe’s agronomist to inform them of the proposed process and allow for any comments to be incorporated (Suggested time: Day 1 morning)

The project team will then go with the Chef de Cadastre and Kazembe’s agronomist to look at the area where the farms will be affected by roads, boreholes and sterilization drilling. (Day 1 afternoon).

Kazembe’s agronomist with a member of the project team, probably M. Mwape, will then contact all the agricultural representatives in each of the villages to establish who has been given land in the affected area by the village chiefs. They will obtain a list of all the people who will be affected (Days 2-4).

The KMT social assistants (who will be specifically trained in these procedures during Days 2 – 4) will then take this list to the villages concerned and go with the potentially affected people to verify exactly which piece of land they farm in the field (Days 5 - 10). Field

assistants will be assisted by the notables and persons in charge of agriculture at village level to reach the affected persons and collect the data.

Full details of the affected farmers will be collected by the assistants who will use a questionnaire (see Annex B) for taking down the particulars of all the affected people. The field assistants will be trained in how to use the questionnaire involving techniques of interviewing and record taking. The questionnaire will collect information such as the geographical co-ordinates of the fields, the size, types and areas/number of plants of different crops, their age and harvest date, farming practices such as irrigation, fertilization etc and a photographic record of the field and its owner. This process will also be used to record land which is currently fallow, as compensation for the use of the land will in most cases be settled separately once the main Resettlement Action Plan has been completed.

- The data collected by the assistants will be used together with calculations to be done by the Cadastre Department and KMT's officials to ascertain the size and extent of the land involved for each affected person. The compensation calculation will be determined by the Compensation team, taking into account that crops have different values. These values are set by the Agricultural department in Kolwezi and details are included below and in Annex C. (Days 10 -11).
- The field assistants will return to the affected farmers with the calculation of compensation and will explain the basis on which it has been calculated for each field/farmer. (Days 12-15).
- Actual payment of compensation will be made by the KMT representatives of the Compensation team with independent witnesses. Signatures and/or finger prints will be required on receipt of the money and a photo record of the recipient and the transaction will be made.
- Farmers will be allowed to harvest/salvage crops prior to work beginning; some will have more time than others due to the length of time taken to carry out the drilling programme. They will be informed of this at the time they receive their compensation.

Preparation of the roads and destruction of the fields by the drilling crew can begin.

Those farmers whose land will be affected by the monitoring boreholes, to which access will be required for the duration of the study period and beyond, will be assisted separately by the SRK/KMT personnel, in discussion with the village chiefs and agronomists, to find alternative land. As the chiefs and their assistants are nominally in charge of this allocation, it is essential that they are involved in this process.

### **Crop Values**

The crop values have been set by the Department of Agriculture based on the work involved in clearing the land, planting, tending and harvesting the crop. The example of cassava is given below, as it is the most common crop:



### Costs of developing a field of manioc (cassava)

Activity	Rates	Unit cost (USD)	Total cost (USD)
1 Clearing work <i>-Abattage de la futaie et désouchage</i>	200 man days/ha	0.5	100
2 Agricultural and cultivation work			
-manual labour	3.4 man months/ha	30	102
-harrowing /levelling	1.7 man months/ha	30	51
propagation	25 Man days/ha	0.5	12.5
3 Maintenance work			
1 <sup>st</sup> weeding	20 man days/ha	0.5	10
2 <sup>nd</sup> weeding	20 man days/ha	0.5	10
4 'Harvesting' cuttings <i>Intrant agricoles boutures</i>	3000m/ha X2	0.01	60
<b>TOTAL</b>			<b>345.5</b>

Other crops will be compensated at the following rates, also established by the Department of Agriculture in Kolwezi. Rates for tree crops are provided in Annex C

Crop	USD/ha
Rice	300
Maize	200
Groundnut	200
Sweet potato	370
Potato	400
Beans	500
Market Garden crops	500

### Basis for calculations

The calculation of compensation will be done in a straightforward, transparent manner. While actual crop values vary and have been established by the Agricultural Department, the formula will be roughly:

Area of land cultivated or number of plants x crop value x 1.5

A particular holding might for example comprise cassava, 2 banana trees, and a small area of maize. The calculations would be made on the following basis:

Crop	Area/number	Crop Value/Ha	Multiplier	TOTAL
Cassava	600m <sup>2</sup>	\$345	1.5	\$31.05
Bananas	2 trees	\$2.7/tree	1.5	\$8.1
Maize	200m <sup>2</sup>	\$200	1.5	\$6
<b>Total</b>	800 m <sup>2</sup>			<b>\$45.15</b>

Additional calculations will be made for areas which are irrigated or have structures on them. For each farmer, a spreadsheet of assets will be developed from the questionnaires and these will be recorded and maintained by KMT for future reference in full compensation planning, and for recording follow-up and other details.

## 6 Timetable

The estimated times for the various stages of the Compensation process are indicated above, but the overall programme for the compensation process prior to drilling commencing is set out below.

19th Aug: Interim RAP completed and reviewed by all

Aug – Sept: Details of fields, farmers etc collected and recorded

29<sup>th</sup> September: Compensation framework to be approved by KMT Board

30<sup>th</sup> September onwards: Compensation paid to farmers first to be affected by drill rig access, monitoring boreholes (2 weeks, assume 30 farmers)

Week commencing 27<sup>th</sup> September: Driller on site and ready to drill

Monitoring holes will be drilled first as these results are required as priority.

The three monitoring holes which do not require compensation will be drilled first followed by the 4 which require compensation. This is expected to take 2 weeks.

11<sup>th</sup> October: Drilling will be undertaken at the plant site. This is expected to take 9 days.

19<sup>th</sup> October: Compensation paid to farmers at the TSF site (3.5 weeks, assume 70 farmers)

Thereafter drilling at the TSF site will be undertaken. This is expected to take 60 days.

## 7 Grievance Mechanism

Despite the best efforts with regard to the public consultation and community relations, inevitably there will be times that the project sponsor and stakeholders disagree. Farmers will be informed of their rights to raise grievances by the field assistants who collect the data on crops etc. Mechanisms will be put in place which ensure that grievances are recorded and considered fairly and appropriately. These may include:

A register of grievances to be held at the Community Liaison Officer's office or the KMT Project office;

Receipt of grievances will be acknowledged as soon as possible, by letter or verbal means;

The grievance will be reviewed by the Compensation team and appropriate action taken or implemented;

Relevant details of grievances, with outcomes, will be made available to the public.

In time, a Public Liaison Committee (PLC) will be developed, to include individuals and representatives of the local population, village chiefs, NGO representatives and appropriate local government officials. The PLC will be responsible for:

- Addressing issues that cannot be settled by KMT directly;
- Developing policy guidelines;
- Mediating any resettlement disputes and assisting in their resolution;
- Monitoring community participation and public involvement;
- Providing input to the foundation of a Not-For-Profit foundation for sustainable community development issues in nearby communities.

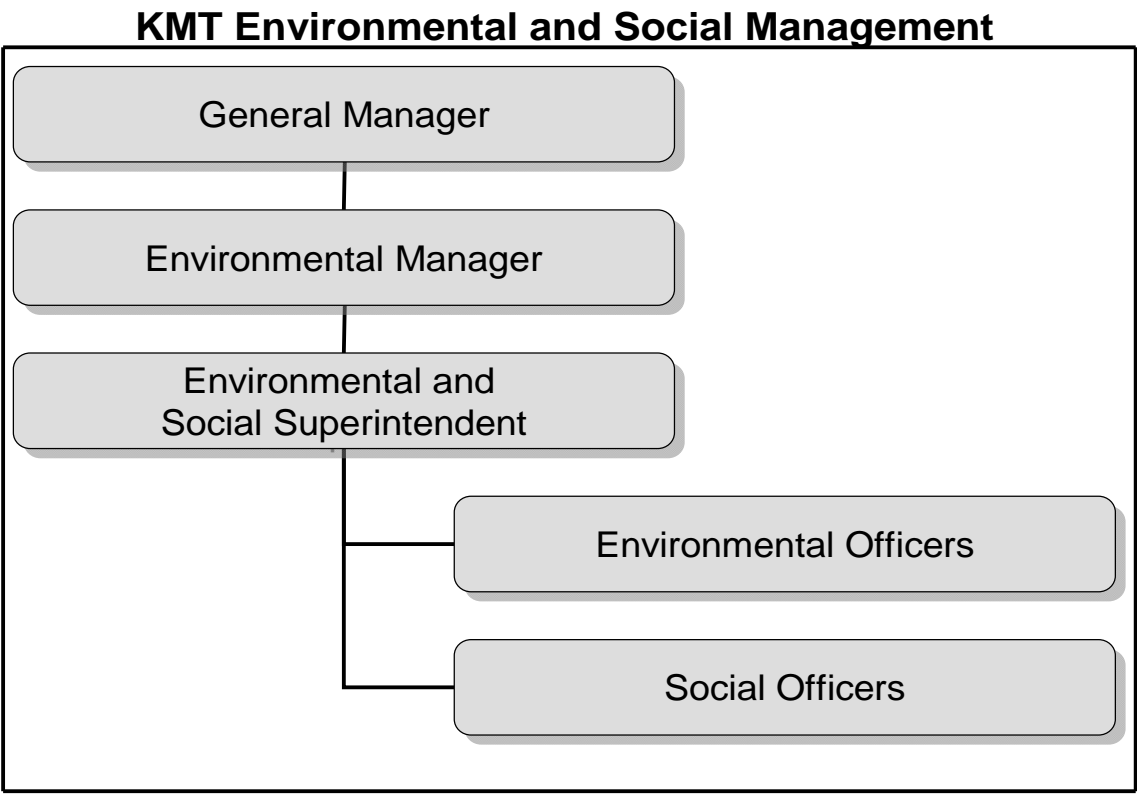
## **8 Reporting**

Both the compensation process and the basis or calculation of the payments will be recorded and reported. The details of the process will be made public through the availability of this document on the Adastra website and locally through the KMT office in Kolwezi.

Over the next 2 years or until construction begins, those farmers who have received compensation will be monitored by the KMT community representatives to ensure that they are not disadvantaged by their payment and have been able to provide for their families either by buying food or by growing crops elsewhere.

The Monthly reports which will be produced will document the consultations and meetings held, the kind of information provided to stakeholders, people consulted, method and place of the consultation sessions, concerns raised and details of the grievance mechanism. Details will also be included of compensation meetings held. These reports will be made available to all stakeholders, and over time will provide a detailed record of the public consultation process throughout the ESIA process and during project construction and early operation.

Appendix B2: Proposed Organisation of the HSEC Function



## Appendix B3: Recording Details of Affected Farmers

Date		Claim/Registration Number	
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### Farmer's Details

Name	
Identity number	
Contact details	
Relationship to head of household	

### Land Use Information

Type	Unit	Number	Date when planted	Expected harvest date
<b>Annual Crops</b>				
Cassava	/ha			
Sugar cane	/leg			
Vegetables	/m <sup>2</sup>			
<b>Trees</b>				
	/tree			
	/tree			
	/tree			
	/tree			
<b>Fallow land</b>				
Fallow land	/m <sup>2</sup>			
<b>Infrastructure</b>				
Irrigation pipes	/m			
Fencing	/m			
<b>Cultural Sites</b>				
Graves	/grave			
Ceremonial	/site			

**3. Demographic Information**

Gender	Male	Female	
How old are you?			
Where do you live?			
How long does it take to get from your home to your field?			
What mode of transport do you use to get to and from your home and field?	Walk	Bicycle	Other (Specify)
Can you read?	Yes	No	
Can you write?	Yes	No	
How many people are there in your household?			
Do you have other fields elsewhere?	No	Yes (how many)	
What proportion is this area to be lost of your total land?			
Where are your other fields?			
How long has your household been farming this land?			
How often do members of your household visit this field?	/day	/week	/month
Where did your household farm before? How much longer would you be able to farm this land for (years/crops)?			
What is your highest level of education?			
Are you employed?	Full time	Seasonal	No
Do you water your crops?	No	Yes (how often)	
Where do you get water for the crops?			
What do you do with the produce from these crops?	Eat%	Sell %	Trade %
What sources of income and food does the household have?	Livestock %	Hunting %	Fishing %
	Employment %	Mining %	Gathering %
	Other % (Specify)		
Who helps tend this land?	Name	Age	Gender
Do you use fertilisers on your field?	No	Yes (specify what)	
Do you use pest/disease controls on your crops?	No	Yes (specify what)	

#### 4. Mapping

Indicate the following on the base map:

- Farmer's land
- GPS coordinates
- Size of land
- Names of people farming neighboring lands
- Neighboring land that is fallow
- GPS coordinates of graves and/or ceremonial sites
- Proximity of paths

**Base map of affected area (including GPS co-ordinates)**



5. Demarcate farmer's land on the ground
6. Give farmer proof of enumeration (i.e. identity card with reference number)
7. Photograph farmer holding identity card
8. Photograph farmer's land
9. Inform farmer of remaining stages in the compensation process
10. Inform farmer about grievance procedure

Interviewer's Name\_\_\_\_\_

Interviewer's Signature\_\_\_\_\_

**ANNEX B****FRAIS A PAYER POUR LES DEGATS****CAUSES AU CULTURES**

Tels que décidés par le Département de l'Agriculture

CULTURES	AGE DES PLANTES	\$	TARIF D'APPLICATION
1. PALMIERS A HUILE			
a) palmeraie naturelle entretenus	en production jeune	2,7 0,45	par arbre et par âge par arbre et par âge
b) plantation en formation régulière	en rapport 5 A 20 ans non en rapport en pépinière en germoir	5,4 2,7 0,54 0,36	par arbre et pae âge par arbre et par âge par arbre et par âge par arbre et par âge
2. COCOTIER	en production 7 A 20 ans non en rapport	2,7 0,54	par arbre et par âge par arbre et par âge
3. CACAOYER	en production de 5 à 20 ans non en rapport en pépinière germoir	5,4 2,7 0,54 0,36	par arbre et pae âge par arbre et par âge par arbre et par âge par arbre et par âge
4. CAFEIER	en production de 5 à 20 ans non en rapport en pépinière germoir	5,4 2,7 0,54 0,36	par arbre et pae âge par arbre et par âge par arbre et par âge par arbre et par âge
5.HEVEA	en production non en rapport en pépinière	5,4 2,7 0,54	par arbre et pae âge par arbre et par âge par arbre et par âge
SAFOUTIER	en production de 5 à 20 ans non en rapport en pépinière	5,4 2,7 0,54	par arbre et pae âge par arbre et par âge par arbre et par âge
7.AGRUMES			
Citronier	en production de 5 à 20 ans non en rapport moins de 5 ans	5,4 2,7	par arbre et pae âge par arbre et par âge
Mandarinier	en pépinière	0,54	par arbre et par âge
8. BANANIER	en production non en rapport moins de 1 an	2,7 1,08	par arbre et par âge par arbre et par âge
9. AVOCATIER	en production de 5 à 20 ans non en rapport moin de 5 ans en pépinière	5,4 2,7 0,54	par arbre et pae âge par arbre et par âge par arbre et par âge
10. MANGUIER	en production de 5 à 20 ans non en rapport moins de 5 ans en pépinière	5,4 2,7 0,54	par arbre et pae âge par arbre et par âge par arbre et par âge



11. CŒUR DE BŒUF	en production de 5 à	5,4	par arbre et par âge	par arbre et par âge
	15 ans			
	non en rapport moins de	2,7		
	1 an			
12. PAPAYER	en production	2,7	par arbre et par âge	par arbre et par âge
	non en rapport moins	0,54		
	1 an			
13. COLATIER	en production de 5 à	2,7		par arbre et par âge
	20 ans			
	non en rapport moins de	1,08		
	5 ans			
14. ANANAS	en production	0,27		par arbre et par âge
	non en rapport moins de	0,03		par arbre et par âge
	1 an			
15. MANGOUSTANIER	en production	1,08		par arbre et par âge
	non en rapport	0,27		
16. THEIER	en maturité	5,4	par arbre et par âge	par arbre et par âge
	jeune	1,08		
CANNE A SUCRE	en maturité	400/Ha		
TABAC/Ha	jeune	400/Ha		
CULTURE				
VIVRIERES/Ha				
Riz paddy	en maturité	300/Ha		
Maïs		200/Ha		
Arachide		200/Ha		
Manioc		345/Ha		
Patate douce		370/Ha		
Pomme de terre		400/Ha		
Haricot		300/Ha		
CULTURE		500/Ha		
MARAICHÈRE				
RES/Ha				
20. PISCICULTURE/Ha		250/Ha		
N.B. Ces frais sont susceptibles de modification.				
INSPECTION URBAINE DE				
L'AGRICULTURE, PÊCHE ET ÉLEVAGE				
KOLWEZI		BIANGULA KABENA		

## Appendix B4: Interim RAP Monitoring

The following feedback from farmers involved in the Interim RAP is based on monitoring undertaken in January 2005.

INTERVIEWS DONE ON 28/01/2005 WITH FARMERS CONCERNED BY THE COMPENSATION

9 INTERVIEWS WERE DONE: 4 women and 5 men.

### 1) MAKENA MUKANA

- A) What have you done to replace the crops you lost to drilling access roads or drill pads?  
I have found another land somewhere else.
- B) Did the loss of the crops cause you and your household any inconvenience in the short term?  
The crops were not mature to be harvested.
- C) How has the compensation payment helped you and your household?  
I bought some sheets to roof my house.
- D) Have you found a replacement for the piece of land you lost? If there have been problems what are they?  
Yes, I have found another land. There was no problem.
- E) If another road or drill pad affected your crops and/or land, would you be satisfied with the same compensation process as before? If not, what would you change?  
Yes. Nothing.
- F) How did your household and community react to the compensation payment made to you? Has the payment caused any problems in the community relationships? What are the problems?  
With joy. There was no problem.
- G) Have you or your community had any problems with people taking land and planting crops so that they can get compensation?  
The other farmers wanted also to be paid in compensation.
- H) Have you brought any problems to the attention of KMT management? How did you do this, and what has been the response?  
Yes, for other farmers who were not compensated, I personally went to the office.
- I) Do you know how to present grievances (if any)?  
No.

### 2) TSHINYEMBA KASONGO

- A) What have you done to replace the crops you lost to drilling access roads or drill pads?  
I bought another land.
- B) Did the loss of the crops cause you and your household any inconvenience in the short term?  
No.
- C) How has the compensation payment helped you and your household?  
I acquired another land and bought seeds for this year.
- D) Have you found a replacement for the piece of land you lost? If there have been problems what are they?  
Yes. The distance from my home.

- E) If another road or drill pad affected your crops and/or land, would you be satisfied with the same compensation process as before? If not, what would you change?  
No. I would rather like to be employed by the company in compensation of field.
- F) How did your household and community react to the compensation payment made to you? Has the payment caused any problems in the community relationships? What are the problems?  
With joy. There was no problem with the community.
- G) Have you or your community had any problems with people taking land and planting crops so that they can get compensation?  
No.
- H) Have you brought any problems to the attention of KMT management? How did you do this, and what has been the response?  
No.
- I) Do you know how to present grievances (if any)?  
Yes.

## 3)

**MUJINGA KAMWENGO**

- A) What have you done to replace the crops you lost to drilling access roads or drill pads?  
I have found another land somewhere else.
- B) Did the loss of the crops cause you and your house hold any inconvenience in the short term?  
No.
- C) How has the compensation payment helped you and your household?  
I shared with the members of my family and I also bought some food.
- D) Have you found a replacement for the piece of land you lost? If there have been problems what are they?  
No.
- E) If another road or drill pad affected your crops and/or land, would you be satisfied with the same compensation process as before? If not, what would you change?  
No. . I wish they pay more than what was paid: 300.000cdf/ha
- F) How did your household and community react to the compensation payment made to you? Has the payment caused any problems in the community relationships? What are the problems?  
With joy. There was no problem.
- G) Have you or your community had any problems with people taking land and planting crops so that they can get compensation?  
They were jealous saying that we will travel by plane
- H) Have you brought any problems to the attention of KMT management? How did you do this, and what has been the response?  
No.
- I) Do you know how to present grievances (if any)?  
Yes.

## 4)

**SANTANI**

- A) What have you done to replace the crops you lost to drilling access roads or drill pads?  
I have done nothing.
- B) Did the loss of the crops cause you and your house hold any inconvenience in the short term?  
Yes, lack of land for my new farming

- C) How has the compensation payment helped you and your household?  
I paid the school fees for my four children.
- D) Have you found a replacement for the piece of land you lost? If there have been problems what are they?  
No, by lack of money.
- E) If another road or drill pad affected your crops and/or land, would you be satisfied with the same compensation process as before? If not, what would you change?  
Yes.
- F) How did your household and community react to the compensation payment made to you? Has the payment caused any problems in the community relationships? What are the problems?  
No.
- G) Have you or your community had any problems with people taking land and planting crops so that they can get compensation?  
The was no problem.
- H) Have you brought any problems to the attention of KMT management? How did you do this, and what has been the response?  
No.
- I) Do you know how to present grievances (if any)?  
Yes.

## 5)

**MAMIE WA MARIATA**

- A) What have you done to replace the crops you lost to drilling access roads or drill pads?  
I have done nothing.
- B) Did the loss of the crops cause you and your house hold any inconvenience in the short term?  
Yes, anxieties.
- C) How has the compensation payment helped you and your household?  
It helped me to pay my medical fees.
- D) Have you found a replacement for the piece of land you lost? If there have been problems what are they?  
No. I could not go far from home because of my health problems.
- E) If another road or drill pad affected your crops and/or land, would you be satisfied with the same compensation process as before? If not, what would you change?  
No. I wish they pay more than what was paid : 120.000cdf/ha
- F) How did your household and community react to the compensation payment made to you? Has the payment caused any problems in the community relationships? What are the problems?  
Many problems because I did not share with the others.
- G) Have you or your community had any problems with people taking land and planting crops so that they can get compensation?  
No.
- H) Have you brought any problems to the attention of KMT management? How did you do this, and what has been the response?  
No.
- I) Do you know how to present grievances (if any)?  
Yes.

6)

**MUNUNGA MUKAZA**

- A) What have you done to replace the crops you lost to drilling access roads or drill pads?  
I have found another land somewhere else.
- B) Did the loss of the crops cause you and your house hold any inconvenience in the short term?  
No.
- C) How has the compensation payment helped you and your household?  
I bought some sheets to build a house for my parents.
- D) Have you found a replacement for the piece of land you lost? If there have been problems what are they?  
Yes, I had no problem to find another land. It was only a problem of payment.
- E) If another road or drill pad affected your crops and/or land, would you be satisfied with the same compensation process as before? If not, what would you change?  
No. I wish they pay more than what was paid.
- F) How did your household and community react to the compensation payment made to you? Has the payment caused any problems in the community relationships? What are the problems?  
I had some problems with my wife who thought I hid part of the money that I was paid.
- G) Have you or your community had any problems with people taking land and planting crops so that they can get compensation?  
No.
- H) Have you brought any problems to the attention of KMT management? How did you do this, and what has been the response?  
No.
- I) Do you know how to present grievances (if any)?  
Yes.

7)

**KASANG FRANCINE**

- A) What have you done to replace the crops you lost to drilling access roads or drill pads?  
I have found another land somewhere else.
- B) Did the loss of the crops cause you and your house hold any inconvenience in the short term?  
Yes. My family thought I received a lot of money that I refused to share with them.
- C) How has the compensation payment helped you and your household?  
I bought a new land and cassava cuttings and seeds for the new land.
- D) Have you found a replacement for the piece of land you lost? If there have been problems what are they?  
Yes, I had no problem to find another land. I PAID 2000 CDF for 0.5 ha.
- E) If another road or drill pad affected your crops and/or land, would you be satisfied with the same compensation process as before? If not, what would you change?  
Yes.
- F) How did your household and community react to the compensation payment made to you? Has the payment caused any problems in the community relationships? What are the problems?  
With joy, except that some members of the family wanted me to share money with them.

- G) Have you or your community had any problems with people taking land and planting crops so that they can get compensation?  
Other people were jealous and did not want to share with us as in the past.
- H) Have you brought any problems to the attention of KMT management? How did you do this, and what has been the response?

No.

- I) Do you know how to present grievances (if any)?

No.

8)

**NDONDI MUKE**

- A) What have you done to replace the crops you lost to drilling access roads or drill pads?
- B) Did the loss of the crops cause you and your house hold any inconvenience in the short term?

Nothing.

No.

- C) How has the compensation payment helped you and your household?  
It helped me pay my debts, the school fees for my three children and the clothes for all the family.
- D) Have you found a replacement for the piece of land you lost? If there have been problems what are they?

No effort was done to find a new land.

- E) If another road or drill pad affected your crops and/or land, would you be satisfied with the same compensation process as before? If not, what would you change?  
No. I wish they could pay more, for example 300.000 cdf/ha of cassava.
- F) How did your household and community react to the compensation payment made to you? Has the payment caused any problems in the community relationships? What are the problems?

With joy, but the money was not enough.

- G) Have you or your community had any problems with people taking land and planting crops so that they can get compensation?
- H) Have you brought any problems to the attention of KMT management? How did you do this, and what has been the response?

No.

No.

- I) Do you know how to present grievances (if any)?

Yes.

9)

**MUFUKA MBUYI**

- A) What have you done to replace the crops you lost to drilling access roads or drill pads?
- B) Did the loss of the crops cause you and your house hold any inconvenience in the short term?

I bought another land somewhere else.

- C) How has the compensation payment helped you and your household?  
It helped me to cultivate a maize field on a good land.
- D) Have you found a replacement for the piece of land you lost? If there have been problems what are they?

Yes, the problem to find a good land.

- E) If another road or drill pad affected your crops and/or land, would you be satisfied with the same compensation process as before? If not, what would you change? Yes.
- F) How did your household and community react to the compensation payment made to you? Has the payment caused any problems in the community relationships? What are the problems? With joy, apart from the fact of losing the land near our home.
- G) Have you or your community had any problems with people taking land and planting crops so that they can get compensation? No.
- H) Have you brought any problems to the attention of KMT management? How did you do this, and what has been the response? No.
- I) Do you know how to present grievances (if any)? No.

BERNARD MWAPE

## Appendix B5: Minutes of Meetings

### Minutes of meeting with the inhabitants of Kolwezi who have fields in the concession area

**Venue:** KMT offices in Avenue Lumuba, Kolwezi  
**Date:** 23 July 2004  
**Time:** 10h40

#### Distribution:

*\* The presentation was given initially by Mme. Chileshe in French and later by Mr Mwape in Swahili. Questions were handled by Mr Mwape in Swahili.*

#### Objective of Meeting

General objectives:

- To inform all stakeholders about the Kolwezi Tailings Project, the associated ESIA and the Public Consultation Process (PCP)
- To solicit all stakeholders comments, concerns, views and issues as regards the Kolwezi tailings Project, the ESIA and the PCP
- To keep a full record of all meetings

Specific objectives:

- Determine where people farming land in concession area live
- What cultural practices and historical sites will be affected by the project
- Land tenure issues to be established
- A number of questions were developed to assist in the development of the interim PCDP, these are attached in Appendix A.

#### Attendees

#### Introductions and Welcome

JC welcomed everyone to the meeting (after establishing who had arrived to obtain jobs and explaining to these people that there were no jobs on offer at this stage and explaining the programme of the ESIA) and asked for a show of hands as to where their farms were situated:

Samukonga – 4

Kamimbi – 8 attendees (grow cassava and sugarcane)

Samukinda – 10 (cassava, ground nuts and green beans)

Kasole – 1 (en route to Nzilo)

#### Project Description

Juliana Chileshe started the explanation of KMT, the proposed project and the ESIA process. Mr Bernard Mwape assisted with the presentation in Swahili as requested by the attendees.



using machinery there will be less jobs for the people?

If the project will be taking place towards the end of next year will they be able to continue farming their fields now?

Will land that is not being cultivated at the moment also be considered for compensation.

If we have sugarcane and mangoes on our lands can we carry on with our farming activities now?

At Tshala village an organisation called Sumika is working there for Gecamines. What will happen to such activities in the areas that will be disturbed?

RS then queried whether they would be able to assist us in understanding how their farming activities work by answering a few questions.

Land tenure – if you are living in Kolwezi how do you obtain a piece of land for farming.

JC queried whether they had any papers to prove that they owned the lands they were farming?

during operations.

BM replied that we would be going into more detail on this issue once all the project information had been discussed.

RS explained that regarding the issues of compensation there are two phases to the project. The first phase involves the development of drilling roads so that the areas where the new surface infrastructure (such as the plant, TSF, railway line etc.) is going to be developed can be tested to ensure that there are no valuable minerals that could be mined. These areas, which are a very small portion of the concession area, will involve an immediate temporary loss of fields. The second phase involves the deposition of tailings and the actual development of infrastructure which will only start towards the end of 2005 or beginning of 2006 and involves a permanent loss of fields. It needs to be clarified that only a small area of fields will be disturbed and not all fields in the concession area. There will be a special study undertaken to determine exactly who will lose their fields and compensation for the crops will be determined in consultation with the person who farms the land, the Department of Agriculture and the Cadastral Department. The compensation determined will be fair.

RS explained that there would be a specialist study to determine exactly whose lands would be disturbed by the drilling roads.

Gecamines is involved in the proposed Kolwezi Tailings Project: they are a partner in the company KMT and will have to decide what happens to these activities if they are on land that will be disturbed.

They replied that they would be happy to assist with our questions.

It was replied that they go to the chief of the village where they wish to obtain a piece of land and he gives them land in hectares. They are required to pay him according to the number of hectares they have received. It was mentioned that 6000 DRC francs. At the time of harvesting their crops they then need to contribute a tenth or a 20<sup>th</sup> of their harvest to the village chief.

They replied that they did not have papers to prove their ownership.

It was queried whether the chef de Terre was involved in allocating land.

If land is to be lost close to a particular village i.e. Samukonga then who does the project team need to contact?

If the land is sold do they need to pay the chief some money from the sale?

If the land that is going to be lost has crops growing on it will the project consult with the owner or the chief?

Will an empty field that has nothing growing on it also have a value of this land is lost?

The attendees said that they had been told someone was going around making a list of the people in the concession area.

The concession area on the map was clearly pointed out and it was clarified that a small portion of the concession area would be affected by the construction of new infrastructure.

Land availability – we queried whether in the areas that they farmed there was land

ownership.

One man replied that he has been in Kamimbi's area for a long time and Kamimbi is not responsible for allocating land. Another person answered that he also lives at Kamimbi and he has 4 fields which were given to him by Kamimbi and he didn't have to pay anything. He argued that Kamimbi is responsible for giving land but the rest of the attendees all disagreed with him and it seemed that he was the only person of this opinion. One of the attendees added that if the land was bought from the chief of the village. The person who had bought it then owned the land and could sell it to another person if he so pleased. An additional comment was made that if someone owned even 15 ha of land they could also sell this to someone else. A man who comes from Kashala added that sometimes they don't have to buy the land but they can give the chief a gift in exchange for the land he has given. Some of the others disagreed and answered that even if a gift was given to the village chief in exchange for the land they still had to pay something for it. However the price varies between 3000 and 6000 per hectare depending on the chief approached and the quality of the land etc.

First they need to contact the owner of the land and then they need to contact the village chief but they don't need to contact any other chiefs. It was added by someone else that once someone has obtained a piece of land they are responsible for all activities that take place on this land.

The chief needs to be informed that the land is being given to someone else but he does not receive any financial benefits from this change in ownership.

BM – the owner of the land will be directly consulted regarding this loss of land.

RS explained that a decision will be taken, in consultation with the agricultural Department, the Cadastral Department and the owner of the field as to the value of the crop at the different stages of their growing period. i.e. a 1-year old crop will be assigned a certain value and a 2-year old crop a different value etc.

BM replied that KMT had not been conducting such activities.

They replied that there is land available.

It was added that the land may remain empty for 1-3 years with no farming activities taking place.

It was queried how often they burn their fields

It was stated that we know that there are agriculturalists in each village could we approach the agriculturalist in each village to assist us in establishing who owns which lands.

When asked what proof they had of the ownership of their lands they replied that the chief has given them the land and he knows which land is owned by whom.

The general answer was every 2 years.

It was replied that the chiefs, agronomist and the owner all need to be approached to establish who owned which lands.

*Minutes taken by: Rowena Smuts*

**Record of Meeting: KMT Compensation Committee**

**Date/Time:** Tuesday 26 July, 2005, 10h00-12h00  
**Venue:** KMT Office, Kolwezi  
**Present:** Ilunga Mutabala – Agriculture  
Serge Mutunda – Topographe du Cadastre  
Stephane Jadin – KMT  
Clement Mpambu – KMT  
Sylvain Spagnut – KMT  
Bernard Mwape – KMT  
Kate Harcourt – Environmental Advisor (KMT)  
Tim Hart – Social Specialist (SRK)

**Purpose of the Meeting**

To evaluate compensation processes and management to date (under the Interim RAP), and to discuss the implications of land clearance for road and rail access to the plant site (under an Amendment to the Interim RAP).

**Items for Discussion**

Lessons from the previous compensation process.  
Robustness of the process for further phases of compensation.  
Initiation of new a compensation process for the railway line and road.  
Land-for-land and development support for farmers.

**Lessons**

It was agreed that the compensation process under the Interim RAP had gone well. The view of all Committee members present was that no major changes are needed.

The composition of the Compensation Committee was seen to be appropriate. It was proposed that Chiefs might be represented on the Committee in future phases of compensation.

It was agreed that flexibility had been possible when determining routes for drilling access roads. This had permitted route adjustments to limit the loss of fields and crops. The railway route (in particular) does not permit such flexibility.

A grievance procedure and database has been established in accordance with IFC guidelines. The monitoring questionnaire administered early in 2005 showed that respondents are aware of the grievance procedure. No complaints have been received.

It was agreed that the monitoring had been useful. A concern is the finding that some compensates had not sought (or found) alternative land. This may simply imply that they had sufficient land for their needs. A question addressing the *proportion* of individual land lost through project activities is to be included in a revised questionnaire (see Interim RAP Amendment).

It was noted that there had been no re-occupation of drill sites or access roads. It was agreed that this is a positive situation, indicating that the communities will respect agreements regarding the clearance of project-related land.

## **Robustness of the Process**

It was noted that RAP processes should not change across project phases, unless major problems require such changes (IFC RAP Guideline). Hence it is important to ensure that the elements of the process (consultation, census, inventory, identification of alternative land, compensation process, development assistance) are robust and acceptable.

Based on the earlier discussion, activities under the Interim RAP had proved sound. Monitoring had shown that 80% of compensates were happy with the process. The remaining 20% had indicated that they want jobs. The Interim RAP Amendment goes further than the Interim RAP, however, in that it addresses replacement land and assistance to affected farmers. These will also be addressed in the full RAP.

## **The New Cycle of Compensation**

Under the Interim RAP, around 4ha of crops were affected, in a total area of approximately 10ha. The area affected by land clearance for the railway line and road remains to be confirmed, but might be around 150ha. Assuming a cultivated to total land ratio of 0.4:1, road and rail construction might impact 60ha of crops. The number of compensates is unknown at present, but it was agreed that compensation under the RAP Amendment will be more complex and time-consuming than the first round of compensation.

Against this background, and assuming the consultation and identification process used earlier, the meeting concluded that compensation under the RAP Amendment could take much longer if additional resources are not deployed (both in KMT and in the participating government departments (Cadastre and Agriculture)). Careful planning and scheduling is required (see conclusion).

It was noted that portions of the rail and road routes are outside the concession. Hence permission will have to be obtained. This must be considered in scheduling the RAP implementation.

In overview, the meeting concluded:

The new cycle of compensation will test the resources of both KMT and the participating departments.

Three linked processes are involved; securing permission to traverse non-concession land, defining and pegging the exact extent and location of the road and rail routes, and implementation of the RAP Amendment. It was agreed that progress with the first and second processes would trigger the third.

The issue of compensation for fallow land was discussed. The Agriculture representative advised that compensation for fallow land is not necessary, since the farmers do not own the land. It was noted that the IFC requires that livelihoods are *at least* restored (*and preferably improved*). Hence affected farmers should have access to sufficient fallow land elsewhere (see discussion below).

## **Replacing Land**

The meeting discussed ways to secure replacement land. Informed by Cadastre and Agriculture, it was noted that it would be difficult to *ensure* that compensates obtain replacement land. This is so because land might be obtained from at least three Chefs de Terre, in a number of different locations, and farmers are likely to want to find their own solutions in this context.

It was concluded that it is inappropriate and impractical to identify specific replacement land as part of the RAP Amendment process. With this in mind it is necessary to take precautionary steps to ensure that vulnerable households are not prejudiced. These steps include:

Consultation with the relevant chiefs to ensure that they understand and support the RAP process, and that they will allocate land in sufficient quantity and in appropriate locations<sup>13</sup>.

Monitoring of compensates (especially those identified as losing a significant proportion of the land used by them).

### **Way Ahead**

In considering the way ahead it was agreed that:

Careful planning and scheduling are critical. KMT management and field staff should initiate planning as soon as possible.

As part of the planning, KMT should consider building an extended compensation support team to assist with the various phases of RAP implementation, including post-construction monitoring and grievance management.

Consultation with KSE is required to clarify the required width of the area to be cleared for the road and the railway line.

The compensation process should not be delayed until the conclusion of all formalities (e.g. final written approval for rail and road routes outside the Concession Area). An appropriate trigger point should be identified (e.g. verbal confirmation of approval, finalisation of route survey and pegging for an appropriate proportion of a route).

A rolling programme of compensation should be considered, proceeding in manageable steps with payment at each step. Before clearance begins, it is important to ensure that compensation arrangements are agreed with chiefs and affected farmers, and that an inventory is undertaken and recorded. Hence coordination of the compensation and construction processes is needed. This coordination is particularly important bearing in mind that clearance and construction programmes will be less time-flexible than they were for the drilling access roads and drill pads.

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<sup>13</sup> A possible approach is to issue each farmer losing fallow and cultivated land with a voucher quantifying the replacement land required. Negotiations with chiefs might include an agreement to honour the vouchers (not discussed at the meeting).

## Appendix B6: NGOs Active in Kolwezi

Numerous Non Government Organisations operate in the Project Impacted Area. The NGOs are both international (e.g. World Vision, PACT Congo) and local. There are several organizations seeking to coordinate NGO activities, among them the CRONGD network. The NGO activities are wide-ranging, including agricultural support, health care support, microcredit, family support, environmental advocacy and support to vulnerable groups (elderly, orphans and abandoned children, AIDS victims).

Name	Activities	Focus Area	Size
World Vision	Nutrition Animal breeding Technical assistance to farming Support to immunization Support to health institutions Basic medicines Wellbeing of children Micro credit	DRC	Information required
World Food Programme	Emergency food supply	DRC	Information required
UNICEF	International Medical supplies Establishment schools and clinics Counselling conflict victims Polio immunisation	DRC	Information required
PACT Congo	International Capacity building local organizations Separated and abandoned children Market approaches to livelihoods	Katanga Province, including Kolwezi District	Work through a network of partner NGOs. About 10 PACT staff
BDD. <i>Bureau Diocesain Pour Développement</i>	Multisectoral. Coordinating. Oversees the CRONGD network in Kolwezi. Participated in the World Bank funded Gécamines restructuring programme	Kolwezi diocese area (60 km radius)	7 staff
Eco-Dev. <i>Action Pour l'Eco-Développement</i>	Women, families and children Civic education Cleaning the environment	Kolwezi, Kazembe, Musonoi	7 staff 30 volunteers
PCI-Rayon. <i>Prise en Charge Intégrale Rayon</i>	Health care AIDS victims	Manika	Information required
ARDERI. <i>Association Régionale Pour le Développement Rural Intégré</i>	Rural development Providing water in villages	information required	Information required
BDOM. <i>Bureau Diocésain Pour les Services Médicaux</i>	Providing medicines to parish pharmacies	Diocese of Kolwezi	Information required
Maison WENGI	Orphans Street children	Unknown	Information required
Maison BUMI	Support to children	Information required	Information required
<i>Jeunes Pour le Bien Etre Commun</i>	Youth Improving quality of life	Kasulo	30 members
ABC. <i>Associés Pour Bien Commun</i>	Food production Improving quality of life	Kolwezi	30 members
IDK. <i>Initiatives Pour le Développement</i>	Food production Improving quality of life	Kasulo	30members
COOPAGRIS. <i>Coopérative Agricole de Solidarité</i>	Agriculture Food production Improving quality of life	Kolwezi	20 members
<i>Centre des Personnes</i>	Handicapped persons	Kolwezi	45 members

Name	Activities	Focus Area	Size
<i>Handicapées</i>	Fund raising activities		
<i>Association des Femmes Congolaises Pour le Développement Agricole</i>	Women in agriculture Food production Improving quality of life	Kolwezi	20 members
<i>Union des Cultivateurs de Kasulo</i>	Food production Improving quality of life	Kasulo	25 members
<i>Associations Feminines (II)</i>	Women Fund raising activities for members – savings clubs	UZK, Luilu, Tshala	Collectively – 220 members
Atelier Rapide de Couture	Clothing Improving quality of life	Kolwezi	10 members
Association AFIA	Household agricultural assistance Medicine (cough syrup) Literacy	Kolwezi, Kasulo, Katembe	18 members
AMKO (mostly former Gécamines employees)	Wood processing Rearing goats and chickens Fish farming Health services Centre for women (making clothes) Heterogenite mining	Kolwezi and villages	97 members
ASEMIR. <i>Association pour la Scolarisation des Enfants au Milieu Rural</i> (former Gécamines employees)	Heterogenite mining Assistance to children affected by war	Kolwezi and surrounds	Information required
SODICOM (former Gécamines employees)	Further information required	Kolwezi and surrounds	Information required
SATA. <i>Service Agricole et Transport Association</i> (former Gécamines employees)	Further information required	Kolwezi and surrounds	Information required
SATEERA (former Gécamines employees)	Technical support (e.g. motor mechanics)	Kolwezi and surrounds	Information required
URK Network. GAPAD, AMKO, MAISHA	Further information required	Kolwezi and surrounds	Information required

Note: This table is based on contacts with NGO informants in the Kolwezi District. The list is not necessarily complete and some NGO details were not available at the time of the survey.

The extensive community of NGOs is in part a symptom of the difficulties faced by communities in a depressed economic and social environment. In many situations, the NGOs are filling gaps left by poorly resourced state institutions. For the most part the NGOs themselves are not rich, but they are potentially a vehicle for the facilitation of socio-economic development in future.



## Appendix B7: Possible Development Initiatives under the CDP

Initiative identified	Details	Revenue source
<b>Policy Commitments</b>		
Awareness and preparedness for emergencies at local level (APELL)	To ensure communities are aware of possible emergencies that may arise and are equipped to deal with them	Operational cost
Scholarship scheme	To be initiated in the first year of production, in a mining related subject	CDP
Community Nursing, health education programme including infant vaccinations	To encourage good practice in infant and child nutrition, hygiene, malaria, family planning and HIV/AIDS	CDP
Medical centre for employees and immediate families	For the treatment of routine illnesses and minor accidents	Operational cost
Training programmes for employees, e.g. literacy, numeracy, languages, IT skills	A voluntary 'night school' to encourage employees to advance their general education	Operational cost
<b>Mitigation measures</b>		
Local economic planning with e.g. FEC	To encourage the development of appropriate local businesses that are not dependent on mining	Foundation
Small traders interest group	To encourage the involvement of smaller businessmen in the overall economic growth predicted to occur	Foundation
Local development planning with Office of the Mayor	To ensure that royalty payments allocated to Kolwezi district are spent wisely on a series of prioritised infrastructure improvements. To provide a 2 year, 5 year and 10 year plan for the development of the town	CDP
<b>'Foundation' type projects:</b>		
<b>Agricultural projects</b>		
Improved agricultural practices programme	As demand for land increases due to its use by the project, it may become necessary to use it more intensively but without expensive chemical inputs. <sup>1</sup>	LACP, but can extend to CDP to benefit other farmers in the concession. In association with PACT Congo
Development of tree nursery and planting programme	To ensure supply of fuel wood, wood for building, protect remaining woodland and provide trees for rehabilitation programmes and eventual closure.	CDP/Foundation
Small orchard development	Planting fruit trees can provide alternative/additional income for women. <sup>2</sup>	Foundation
Bee-keeping, honey production	Low input, high value product, can be carried out by women <sup>3</sup>	Foundation
Animal husbandry for meat production	Chickens and goat could be sold locally to fulfill mine requirements or increased demand	Foundation
Fish farming	To supply local demand. Most fish is brought in from Lake Nzilo and has the potential to be contaminated	Foundation
Small dairy unit	To supply local demand. All dairy produce currently brought in from abroad.	Foundation
Vegetable production	Locally sourced goods to supply increased demand from workers and families and for the mine requirements	Foundation
<b>Small Mining Projects</b>		
Artisanal mining transformation	Cooperation with EITI, PACT Congo, SAESSCAM to assist artisanal miners to	Foundation

	organise, ensure safer working conditions, or to find alternative work	
<b>Craft and Artisan Projects</b>		
Supply and repair of overalls for mine use	Locally sourced goods	Operational cost
Traditional craft items	For sale to visitors, export to Lubumbashi, corporate gifts for KMT	Foundation
Basketry	For sale to visitors, export to Lubumbashi, corporate gifts for KMT	Foundation