

The background image shows a construction site under a clear blue sky. In the center, a large, conical structure is being built with wooden scaffolding. Several workers wearing white hard hats and light-colored shirts are gathered around the structure. To the left, there is a piece of machinery with a large black wheel. The ground is covered with gravel and dirt. A red flag is visible in the distance.

**NYUMBA YAAKIBA sari**

**Labour and Human  
Resources  
Plan**

**AUGUST 2013**

Labour and Human Resources Plan  
For  
Nyumba Ya Akiba Cement Plant Project,  
Bas Congo Province of Democratic Republic of Congo

Prepared by  
Nyumba Ya Akiba sarl  
in association with  
SRK Consulting (South Africa) (Pty) Ltd

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# 1 Introduction

## 1.1 Background

NYUMBA YA AKIBA SARL (NYA), Concession RAFI, 1, Avenue Ngongo Lutete, Kinshasa - Combe, Democratic Republic of Congo (DRC), a joint venture between Lucky Cement Pakistan and Groupe Rawji DRC, proposes to construct a 3,000 tonnes per day clinker and 3,580 tonnes per day cement manufacturing facility, limestone quarry and associated facilities in Bas-Congo Province of DRC. , using indigenous limestone and clay as raw materials and imported coal as fuel.

An Environmental Impact Assessment (EIA) for the project including the limestone quarry and the cement plant was conducted by an accredited local consultant (OEMS) in December 2010 in accordance with the Congolese legislation. This EIA was approved by the local authorities in 2011 and the quarry operational permit granted.

Subsequently, an Environmental and Social Impacts Assessment (ESIA) for lender approval was performed in December 2012 by the Pakistani consulting firm Ectech, covering the cement plant, limestone quarry and some associated facilities but not covering the entire area of influence of the Project. These and other gaps relative to the required assessment framework to meet the requirements of international funders were identified via an independent environmental and social due diligence (ESDD) by ERM for the account of the lenders. In particular, gaps were identified relating to ecosystem services, cultural heritage, hydrology and biodiversity, as well as the project footprint covered under the previous ESIA.

NYA has therefore appointed SRK Consulting (SRK) to prepare an updated ESIA and Environmental and Social Management Plan (ESMP referred to as the EMMP in section 9) for the Nyumba Project (“the project”), in line with IFC Performance Standards and other requirements, including those of the African Development Bank (AfDB). The purpose of SRK’s updated ESIA and ESMP is to fulfil the outstanding requirements identified in ERM’s due diligence report, as well as comment received from AfDB. In addition to meeting the DRC legal requirements, the ESIA and ESMP must also meet international good practice standards.

This Labour and Human Resources Plan (LHRP) is one component of a series of management plans required to ensure that the potential project risks are managed through sustainable development opportunities and programs, thereby improving the security, human rights and well-being of the local populations and employees potentially affected by the proposed project both during and after project operation. As the ESMP is a living document and evolves over the lifespan of the proposed project, this plan will require ongoing refinement.

Other relevant plans forming part of the NYA ESIA/ ESMP are as follows:

- The Occupational Health and Safety Plan (OHSP) (See Appendix 12);
- The Community Health and Safety Plan (CHSP) (See Appendix 13);
- The Sustainable Development Plan (SDP) (See Appendix 19);
- The Emergency Preparedness and Response Plan (EPRP) (See Appendix 16); and
- The Influx Management Plan (IMP) still to be developed as a matter of urgency prior to construction to as to ensure effective management of stakeholder expectations.

## 1.2 Project location

The project site is located approximately 250 km west from Kinshasa and 100 km east from Matador in the vicinity of the N1 road to the north. The project will be developed on a green field site in the

surrounding area of the Kansu Village, Sangallo territory, Bas Congo province of DRC, located approximately 30 km west from Impose city.

The cement plant will be supplemented by limestone and clay mining through mining concessions located approximately 1.5 km north from the cement plant site. The project is situated in a greenfield location, although it is understood that a number of other new cement production plants are expected to be developed in the greater vicinity of the NYA project (See ESIA/ ESMP for further detail including regional locality map and proposed layout.).

## **2 Project description**

Please refer to Chapter 4 of the ESIA and ESMP for the project description.

## **3 Project context**

The project area is characterized by poverty, low levels of education, high unemployment rates and limited or poorly maintained infrastructure and services. Agriculture is the major source of income for the people of these villages, followed by small scale fisheries from the nearby rivers especially the Sanzikua River and charcoal production. Other sources of income include unskilled labour, and very limited skilled labour. Skilled labour includes electricians and mechanics from these villages, who work at Kimpese or Songololo.

Service delivery is very poor in the area. Villagers depend on water from Sanzikua and Yuku River for drinking, bathing and washing. Other services such as sanitation, electricity, roads, and communication networks are not available. In terms of social services, education and health seem to be the worst hit. There is only one school in Minkelo to cater for the learners from all the surrounding villages, and due to lack of proper roads and transport infrastructure, learners are required to walk long distances to get to school.

Similarly, there is only one Dispensary at Minkelo village, which is required to provide medication to all the surrounding villages. The services at this Dispensary are limited to common ailments such as fever, cough or headache. Anything further than this is referred to Kimpese Hospital, which is approximately 35km away from the project site. Targeted programs will need to be implemented to address infrastructure development in the area, particularly education and health.

Young entrants into the employment sector in DRC are likely to require substantial support owing to the major gap with regards numeracy and literacy, stemming from the under-resourced education systems. Furthermore, these young entrants lack experience in the mining or other formal employment sectors. Broad educational support is likely to be required for this group, requiring substantial (around 10 years) time investment. Appropriate areas of employment will most likely be in the form of apprenticeships where there is in-service targeted training to gain specific expertise.

Older potential employees (30-45) are likely to have a better level of education, particularly in the older end of this band and will often have operational, mining and mining equipment related experience. Employee-specific education may be required to fill gaps over a 1 to 3 year period relative to existing knowledge in line with skills required to operate new equipment and comply with best practices and procedures.

Potential employees older than 45 will often be formally educated and experienced in mining and mining related equipment and processes, but may require refreshing of skills and knowledge. They can play an important role as mentors and coaches to younger employees.

## 4 Governance framework

### 4.1 DRC legal framework

The context of operating in the DRC has been governed by the historical laws and guidelines that originated prior to the civil crisis of the 1990's. In some cases laws date back to the 1960's. The key guidelines that provide the ongoing legal framework for the management of human resources are embodied in the DRC Labour Code (the new Labour Code), which was introduced in October 2002 and is applicable to all employees and employers operating in the DRC. All laws and statutes under the current DRC government are understood to continue to be applicable and are considered as part of the framework.

#### 4.1.1 Labour and contract law

The key guideline for Labour and Contract Law continues to be the DRC Labour Code and DRC common law. There was a translation of the changes to the DRC Labour Code instituted on 9 August 1967. These changes which as part of the update of the legislation, and of the deregulation of work adjusted to current events, the 29th session of the National Labour Council adopted the bill enacting the new Labour Code – law number 016/2002 of 16 October 2002 enacting the creation, the organization and the functioning of the labour courts.

Major innovations were made to the old Labour Code attached to the Order number 67/310 of 9 August 1967, based on the customs and on international labour conventions which have been ratified (or not) by the current government of the DRC. The innovations of the Labour Code cover 16 titles, 51 chapters and 333 articles. Title IV of the Labour Code sets out the minimum requirements to be met by employers in relation to employees. Employment contracts are required to be in writing, and shall either be a fixed term contract or an open-ended contract. In absence of a written contract, the contract shall be presumed open-ended until evidence of the contrary in writing. Article 141 of the Labour Code grants employees a right to remunerated annual leave. The Labour Code further makes provision for an employment contract to be immediately terminated for gross misconduct.

#### 4.1.2 Laws relating to workplace organization and collective bargaining

Most of the laws pertaining to workplace organization and collective bargaining are contained within the DRC Labour Code as well within a list of decrees found in the document "*Modalités d'application*". Company policies with respect to the freedom of association and the right to organize, are guided by these laws.

The DRC has ratified ILO Conventions 87 and 98. The labour law (especially the Labour Code) permits workers to form and join trade unions without prior authorization. It also:

- Prohibits discrimination against unions.
- Allows unions the right to organize without interference and to bargain collectively.
- Requires employers to reinstate workers dismissed for union activities.
- Provides for the right to strike.

In practice, only a small proportion of DRC's workforce is organized, since the majority of workers are self-employed in the informal sector.

### 4.1.3 Immigration laws and localization

The Ministry of Labour and Immigration Administration Officers controls expatriate residence and work permits, with work permits needing to be applied for by foreign nationals. The DRC labour law promotes the hiring of nationals, with regulations favouring employment of a national workforce. Expatriates are governed by different legal requirements with respect to aspects including hiring conditions, residence permits and payment of income tax. The total percentage workforce of foreign paid workers allowed in a company operating in the DRC is fixed by law, and may not exceed 15% (Article 185 of the Labour Code).

A Ministerial Decree dated 26<sup>th</sup> October 2005 has fixed the maximum authorized percentage of foreign workers employed directly by a company, within the limits set out by the Labour Code, per sector and per category of workers (Arrêté Ministériel No12 CAB-MIN/TPS/112/2005, 26 October 2005).

## 4.2 International Standards and Guidelines

### 4.2.1 Conventions

The United Nations Guiding Principles on Business and Human Rights (UNGP) are a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. These were unanimously endorsed by the UNGP in 2011, thus becoming the first corporate human rights responsibility initiative to be endorsed by the United Nations (UN).

The International Labour Organization (ILO) is a specialized agency of the UN, the aims which are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues. The tripartite structure of the ILO balances workers, employers and governments influence in shaping labour policy and program.

DRC has ratified numerous Fundamental, Governance (Priority) and Technical ILO Conventions. Key relevant Conventions include:

- C081 - Labour Inspection Convention, 1947 (No. 81) [Governance (Priority) Convention]
- C144 - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) [Governance (Priority) Convention]
- C087 - Freedom of Association and Protection of the Right to Organize Convention (Fundamental Convention).

### 4.2.2 Equator Principles

Development financiers play a major role in the development and enforcement of international sustainable development standards through the conditioning of their loans. This is often through the Equator Principles, which have now been adopted by 72 financial institutions (Equator Principles website, May 2011). The Principles require observance of the International Finance Corporation (IFC) Performance Standards and the World Bank Group Environmental, Health and Safety (EHS) Guidelines when developing projects in non-high income Organization for Economic Co-operation and Development (OECD) countries.

The Equator Principles (EP) III is effective from 4 June 2013. The Principles require observance of the International Finance Corporation (IFC) Performance Standards (PS) and the World Bank Group Environmental, Health and Safety (EHS) Guidelines when developing projects in non-high income

OECD countries. Further to other ongoing principles, the EP III lays particular emphasis on energy management, transparency, as well as on human rights.

### 4.2.3 IFC Performance Standards

The IFC PSs cover the following:

- PS1: Social and Environmental Assessment and Management System;
- PS2: Labour and Working Conditions;
- PS3: Pollution Prevention and Abatement;
- PS4: Community Health, Safety and Security;
- PS5: Land Acquisition and Involuntary Resettlement;
- PS6: Biodiversity Conservation and Sustainable Natural Resource Management;
- PS7: Indigenous Peoples; and
- PS8: Cultural Heritage.

The IFC PS's particularly relevant to the LHRP are PS2: Labour and Working Conditions, and PS4: Community Health, Safety and Security. PS2 recognizes that the pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers. This PS is guided by international conventions and instruments, including those of the ILO and the UN. Objectives of PS2 are:

- To promote the fair treatment, non-discrimination, and equal opportunity of workers.
- To establish, maintain, and improve the worker-management relationship.
- To promote compliance with national employment and labour laws.
- To protect workers, including vulnerable categories of workers such as children, migrant workers, workers engaged by third parties, and workers in the clients supply chain.
- To promote safe and healthy working conditions, and the health of workers.
- To avoid the use of forced labour.

PS4 incorporates the objective of safeguarding of personnel and property in accordance with relevant human rights principles. The PS sets out several requirements for IFC clients, summarized in Table 4-1 below.

**Table 4-1: Requirements under PS 2**

Theme	Requirements
<b>Working Conditions and Relationships</b>	
Human Resources (HR) Policy	Client to adopt a HR policy that is consistent with this PS. Under the policy the client will inform employees of their rights. It will be clear, and will be made available at start of employment.
Working Relationship	Working conditions and terms of employment will be clearly documented and communicated to employees and contracted workers.
Working Conditions and Terms of Employment	If the client is party to a collective bargaining agreement, the terms of the agreement will be respected. Where not, working conditions and terms of employment will at least comply with national law.
Worker's Organizations	Where national law recognizes worker's rights to associate and bargain collectively, the client will comply with the national law. Where no law exists, or is restrictive, the client will enable alternative means of expression, including a vehicle for grievances.
Non-Discrimination and Equal Opportunity	The employment relationship will be based on the principle of equal opportunity and fair treatment, and will not discriminate in the contexts of hiring, compensation, working conditions, and terms of employment, access to training, promotion, termination, retirement and discipline.
Retrenchment	The client will develop a plan to mitigate the adverse impacts of retrenchment, if layoffs are expected to be significant.
Grievances	The client will provide a grievance mechanism for workers. The mechanism should be transparent and well understood, and should address concerns promptly at an appropriate level of management. The mechanism should not delay or impede other remedies available under law or in the context of existing arbitration procedures.
<b>Protecting the Workforce</b>	
Harmful Child Labour	The client will not employ children in a manner that is exploitative, harmful, hazardous, or which interferes with education. National laws will apply where applicable, but children under 18 will not be employed in dangerous work.
Forced Labour	The client will not employ forced labour, which includes non-voluntary work extracted under threat of force or penalty. This covers indentured and bonded labour.
<b>Occupational Health and Safety</b>	
Health and Safety	The client will provide a safe and healthy work environment, taking into account inherent risks and hazards. Steps will be taken to minimize accidents, injury and disease arising from, associated with or occurring in the course of work. In line with international best practice, the client will address identification of hazards, preventative and protective measures, training, documentation and reporting, and emergency response.
<b>Non-Employee Workers, Contract Labour and Supply Chain</b>	
Non-Employee Workers, Contract Labour and Supply Chain	The client will apply the requirements of PS 2 to non-employee workers directly contracted by the employee (except for provisions under HR Policy and Retrenchment). The client will use commercially reasonable means to ensure the appropriate performance of other contractors or intermediaries, and will address harmful child labour and forced labour where evident in the supply chain.

#### 4.2.4 Other requirements, standards and guidelines

Other requirements, standards and guidelines relevant to the proposed project include:

- OECD Guidelines for Multinational Enterprises;
- Voluntary Principles on Security and Human Rights developed by the International Council on Mining and Metals (ICMM);
- Extractive Industry Transparency Initiative;
- The United States of America Fair Labour Standards Act;
- The NASDAQ1 listed companies requirements for corporate governance;
- The Financial Times and London Stock Exchange (FTSE) index<sup>2</sup> standards including the FTSE4Good Index Series;
- The 2010 European Investment Bank (EIB) Environmental and Social Practices Handbook provides a series of Social Assessment Guidance Notes to cover Labour Standards;
- The 2007 AfDB/ ILO Integrated Framework Assessment Guide Assessing the Enabling Environment for Women in Growth Enterprises;
- The 2012 AfDB Guidebook Statistical Capacity Building Program II of the African Development Bank (AfDB) in consultation with its regional member countries based on country practices and experiences; and
- The 2012 African Development Report: Towards Green Growth in Africa.

### 4.3 NYA labour, HR and related policies

While the NYA corporate policy is still evolving, policy developed to date is presented in Appendix 10. The NYA policy recognises that ‘sustainability’ is a cross-functional issue that does not reside only with one person and that it should be integrated into the governance and decision making processes of the organization. Thus the “Sustainable Development” Manager responsibilities encompass the environment, communities and stakeholder engagement, health and safety, and the related provisions of labour (such as human rights, equal opportunity, child labour and skills development). Further detail on the planned corporate structure which will give effect to sustainability and related policies is provided in Section 5 below.

#### 4.3.1 NYA Draft Human Resources Policy

**Vision Statement:** The vision of Nyumba Ya Akiba (“NYA”) is to hire the right people, with the right skills, in the right jobs at the right time. NYA is committed to providing its employees with a safe and rewarding work environment and ensuring that its policies, programs and practices are designed to help its employees grow both personally and professionally.

**Policy Principles for hiring and recruitment:** As part of this commitment, NYA will:

- Consult with the neighbouring communities to optimise opportunities for local employment
- Recruit in a transparent and equitable manner

<sup>1</sup> Originally standing for National Association of Securities Dealers Automated Quotations’ is an American stock exchange.

<sup>2</sup> Share index of the 100 companies listed on the London Stock Exchange with the highest market capitalization. It is one of the most widely used indices and is seen as a gauge of business prosperity for businesses regulated by UK company law. The index is maintained by the FTSE Group, an independent company which is organised as a joint venture between the Financial Times and the London Stock Exchange.

- Select all employees for all positions (by function, not solely by work title) based on qualifications to best meet company business requirements, and in compliance with the labour legislation of the DRC.
- For unskilled and semi-skilled personnel, NYA will implement a hiring policy that will prioritize applicants in the following order:
  - Persons affected by project land-takings (i.e. having received compensation for physical or economic displacement)
  - Persons registered as residents of one of the villages/ hamlets in and/or close to the project area
  - In the event where the two above categories would not provide sufficient numbers of applicants for unskilled and semi-skilled positions, persons registered as residents in the province as per appropriate identification
  - Other persons, only in the event where the three above categories would not provide sufficient numbers of applicants for unskilled and semiskilled positions
- Recruit skilled and professional positions from amongst all Congolese nationals with prioritization according to local place of residence given in case of a tie on skills and ability. Final recruitment will however remain subject to NYA's operational requirements and people having the requisite ability to perform the work.

**Accountability and assurance:** This policy will be made binding on NYA and to all contractors and subcontractors working for NYA during the construction and operation phases, as long as they employ 10 or more workers at any given time for project work and their project-related activity is predominantly on project sites. These contractors will be contractually required to develop hiring, recruitment and training plans and procedures to satisfy the requirements of this policy, prior to contract finalization. NYA will monitor contractors' performance and compliance with the hiring policy.

#### 4.3.2 Human Rights Policy

Vision statement: Nyumba Ya Akiba ("NYA"), consistent with its Principles of Business Conduct, is dedicated to the recognition, protection and promotion of human rights in its business dealings. The company is committed to conducting business in a manner consistent with the Universal Declaration of Human Rights (UDHR), the laws and regulations of the Democratic Republic of Congo as well as applicable conditions and standards of funders. NYA will not tolerate human rights abuses at its operational sites. It further recognizes and respects human rights as they pertain to the company's our employees and their families, and the local communities around its areas of operation.

**Policy principles:** As part of this commitment, NYA and any affiliates will:

- Promote human rights through engagement with host governments, local communities, and its employees and contractors;
- Ensure that all employees treat everyone in and around its operations with dignity and respect;
- Fully cooperate with any responsible human rights investigation and support appropriate punishment for proven violations;
- Protect all employees who report suspected human rights violations;
- Provide appropriate cultural and human rights education, training and guidance to all relevant staff, including security personnel;

- Ensure fair treatment and work conditions for all employees, including rights to freedom of association and collective bargaining and prohibit forced; compulsory or child labour; and
- Implement policies and practices designed to eliminate harassment and unfair discrimination in all aspects of its activities.

**Accountability and assurance:** In terms of its human rights policy, NYA has undertaken to:

- Establish guidelines and procedures consistent with this corporate policy, the UDHR and Congolese legislation;
- Implement an effective program and management structure for compliance, promotion, education, training, reporting, and responding to human rights issues and ongoing assessment of these programs;
- Ensure compliance with this policy by all relevant personnel; and
- Ensure contractor and supplier companies abide by this policy or adopt similar guidelines and procedures designed to ensure compliance.

## 5 Human resourcing for NYA

### 5.1 Principles of the human resource management system

Staffing of the proposed project will require a diverse approach to ensure that appropriate staff is appointed during the different project phases (construction, operation, decommissioning/closure). This will be done in line with national and international principles and requirements as described in Section 4, as well as the other plans forming part of the ESMP.

Management of human resources will take place in line with IFC requirements outlined in Table 4-1 above, and the following components will be put in place and receive regular updates:

- An HR policy in terms of which the client will inform employees of their rights from the outset of their employment
- Procedures for effective management of human resources covering such aspects as hiring, compensation, working conditions, and terms of employment, access to training, promotion, termination, retirement and discipline
- Mechanisms, including a transparent and easily understandable grievance mechanism which gives effect to DRC legislation such as the right to associate with worker's organizations. The grievance mechanism for the project is described in Section 12 of the ESIA/ESMP.

Human resource planning is to be centred on developing sustainable business systems that integrate the needs and means of the organization, as well as the needs and capacity of project employees. These will need to take place within the context/constraints of conducting business in the DRC. Key deliverables from the perspective of human resources development would incorporate:

- A skills development plan that supports human resource planning of the business, to enable the project to be effectively implemented
- A recruitment policy that emphasizes recruitment of people from surrounding communities where feasible
- Community development programs that facilitate increasing the skills levels in the communities hosting the proposed project.

### 5.2 NYA management structure

The organograms in Figures 5-1 and 5-2 below provide information on the planned management structure of NYA. Sustainability management, covering environment, health and safety, community, as well as labour are outlined in black dashes. Direct and indirect reporting lines are shown as solid and dashed blue lines respectively. Section 9 of the ESIA/ ESMP provides responsibilities and accountabilities for staff.

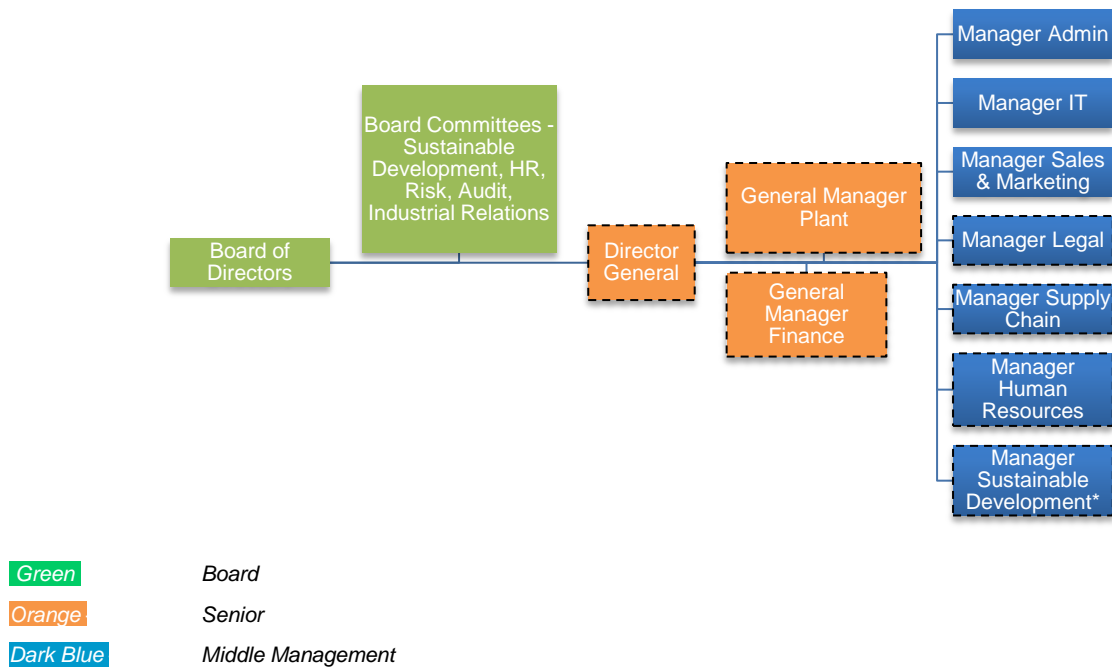


Figure 5-1: Organizational structure for NYA management

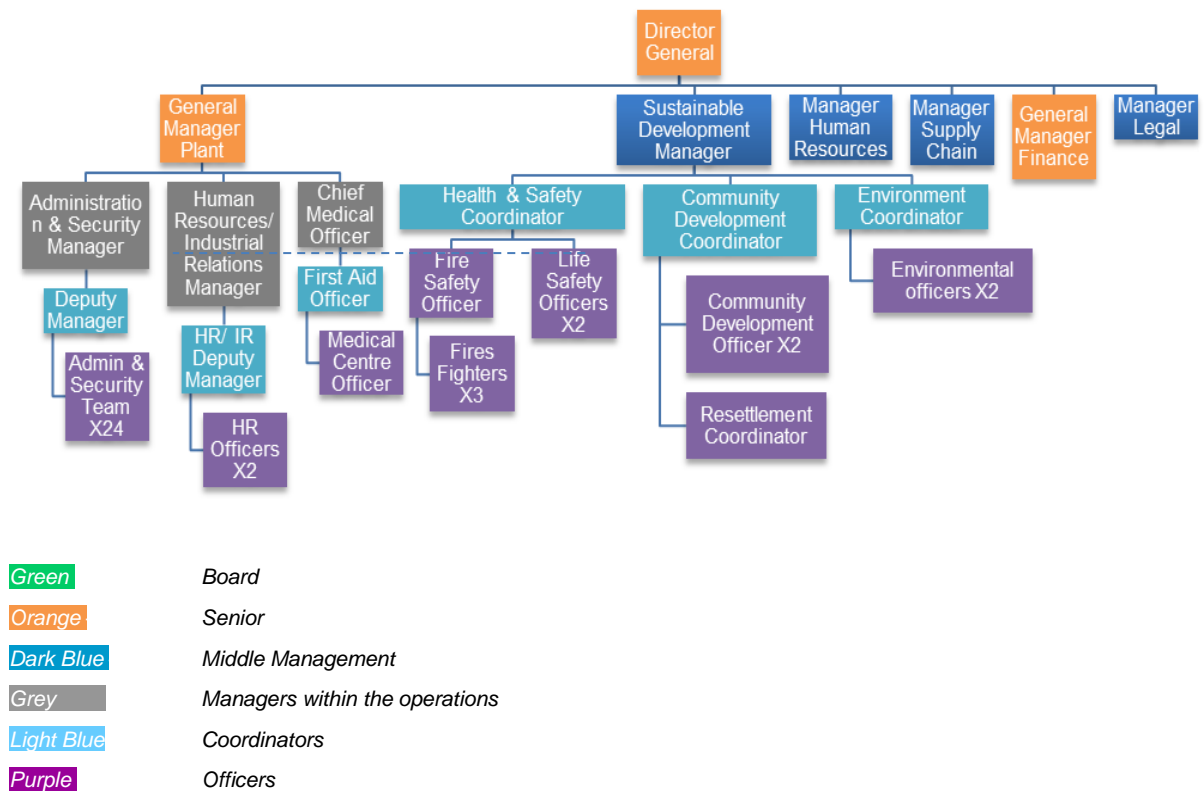


Figure 5-2: Organizational structure for NYA showing staff involved in sustainability management

### 5.3 General conditions of service

#### 5.3.1 Employment contracts

Employees of NYA and its contractors will have employment arrangements covered by an agreement which may be a collective or individual.

### 5.3.2 Workers' code of conduct

A Workers' Code of Conduct will be prepared by NYA for application by all contractors and subcontractors employing ten or more workers. This Code of Conduct will be drafted in a consultative manner and should cover aspects including:

- Interaction with communities, including cross-cultural awareness, basic politeness, mutual respect rules and basic principles of conflict management. Interaction with Government officials, including security forces
- Protection of community assets such as crops, livestock and structures
- Environmental protection
- Safe driving and other community safety issues
- Sexually transmitted disease (STD) prevention
- Rules to apply if damage or accidents occur

Awareness and training on the Code of Conduct will be given at induction (when a worker is hired) and through periodic refreshment sessions intended to address other issues such as safety. All workers will be expected to comply with the Code of Conduct. Foremen, superintendents and management will be responsible for overseeing workers placed under their supervision with respect to Code of Conduct compliance. Non-compliances will be reported and sanctions may be taken where needed.

The Code of Conduct will be publicly released (at camp gates, at work sites, at community information centres and other public places), and community members will be informed of avenues available to them to lodge complaints related with observed non-compliances with the Code of Conduct. It will be maintained during the operations phase, albeit in a modified form if necessary. The Code of Conduct will be appended to all work contracts signed by NYA as well as its contractors and subcontractors with workers.

### 5.3.3 Working hours

All working hours will be determined by the employment arrangements (collective agreements, contracts, employment agreements, employment policies, etc.) that govern the working relationship. Where hours of work are not clearly defined, the default hours of work will be the Labour Code or the employment standards legislation within the geographical location where the employee performs his/her duties.

### 5.3.4 Leave

All employment leave (for any reason) is determined by the employment arrangements (collective agreements, contracts, employment agreements, employment policies, etc.) that govern the working relationship. Where leave is not clearly defined, the default leave allowance will be the Labour Code or the employment standards legislation within the geographical location where the employee performs his/her duties.

### 5.3.5 Health care

Governed by the corporate policies of NYA, respect for good health is of importance to the business. Commitment to health care for its employees could include such benefits as:

- Comprehensive local and private health care coverage
- Local healthcare provisions for employees and their dependents (see also the SDP, the CHSP and the OHSP).

### **5.3.6 Workers' accommodation**

While much of the workforce will be hired locally, there will still be a need to bring in national workforce from other areas of the DRC, and to a limited extent, trans-country nationals from abroad. NYA will need to construct on-site accommodation in order to manage the lack of suitable alternatives in the local area to accommodate such numbers.

#### **Construction phase**

A construction camp with tented accommodation is planned will be developed to accommodate non-local employees and contractors during the construction phase. Shower and kitchen facilities will be developed, along with sanitation facilities which are linked to a package sewage treatment plant which will be used throughout all project phases. In addition, the exploration and construction camp will be serviced with water from the local river and should it be necessary, a borehole will be put in place. Power will be generated from an on-site generation plant. Once the permanent mine camp and workshops are complete, the activities associated with the temporary facilities will be moved to the new camp.

#### **Operational phase**

Two accommodation camps are proposed – one for more senior level employees (the “Officer Hostel” and another for the general workforce (the “Labour Hostel”). The hostels will be located close to each other, to the south west of the cement plant. As the hostels will be less than 1 km from the cement plant, employees will be able to walk to work and dedicated transportation is not proposed.

The company plans to construct bachelor accommodation (a housing colony) for approximately 250 officers and junior level staff and labour. The proposed layout of the accommodation is provided in Section 4 of the ESIA/ESMP, and includes 16 bachelor dormitories sleeping 16 persons each (totalling 256), toilet and shower facilities, lounges, four pantries and four laundries. The hostel will be connected to services infrastructure designed to accommodate at least the maximum number of inhabitants, including potable water and electricity supply, sewage and waste disposal services. Provision for canteen and kitchen facilities is made at the cement plant. National and international requirements for workers accommodation will be adhered to in the final design and construction of the accommodation facility, which is also designed in accordance with the minimum requirements of the IFC Guidance Note on Workers' Accommodation (IFC and EBRD, 2009).

No provision for female workers or family units has been made in the design of the labour accommodation hostel, and it is assumed that they will be accommodated elsewhere. If additional accommodation is required, this will be located at Kimpese Town, approximately 35 km from site.

### **5.3.7 Termination of employment**

No standard protocol will cover all circumstances of termination of employment, with most matters likely to be handled through employment contract termination clauses (including employment contracts, employment agreements and/or collective agreements). Where there are no employment arrangements dealing with termination, the statute and common law provisions of the jurisdiction of employment prevail. NYA is likely to seek labour counsel advice when dealing with situations of termination, so as to mitigate litigation risks, and to fairly and adequately bring employment closure for both parties.

## **5.4 Recruitment procedures**

### **5.4.1 Expectations and transparency**

Recruiting for the proposed project should be coordinated and performed within the human resources/ personnel department of the business. Corporate guidance is to be provided to the organization in the Corporate Recruitment procedure which will guide all recruitment undertaken. This should be in line with the proposed IMP.

### **5.4.2 Recruitment and selection**

Where appropriate and in line with the Recruitment Standard Operating Procedure, NYA may make use of agencies in the recruiting process. Standards and issues as set out in the Recruitment Procedure dealing with discrimination, selection criteria, selection methods / tests and other criteria will be adhered to throughout any recruitment process.

#### **Applicants for unskilled and semi-skilled labour**

The project's recruitment policy (section 4.3.1) will prioritize communities living in or near the Exploration License boundary. The following key messages will be delivered by NYA's community development officer to the village chiefs and community members:

- Some unskilled jobs will be available during the construction phase, which could amount to a few employment opportunities in each village/ hamlet.
- Unskilled jobs will be reserved to physically or economically displaced people as a first priority, and secondly to priority local residents, over the age of 16, both male and female, physically fit for the position offered.
- Skilled jobs will be open to qualified individuals meeting the position requirements regardless of residence. However where skills and ability are equal, preference will be given to local residents, beginning with those from the immediate project area and progressing outward.

#### **Applicants for skilled and professional positions**

The recruitment process for skilled and professional positions will be conducted differently. Employment offices will be opened and operated on a part-time basis for the duration of the construction period. Job vacancies will be made available electronically (by website) and will be posted in the NYA HR department, with eligible residents able will submit applications in direct response to these postings.

## **5.5 Remuneration and compensation procedures**

### **5.5.1 Remuneration**

Remuneration for all positions below senior management within the organization will be managed by the human resources department. Remuneration for NYA management will be recommended by the NYA Director General on a regular basis. Generic salary bands will be used and set to deliver competitive rewards relative to the marketplace. The salary bands will get reviewed for adjustment relative to cost of living, local inflation, economic drivers, collective bargaining agreements, as well as the recruiting marketplace in general. NYA may also use other means of remuneration covering incentives, performance recognition, motivation, personal development, potential recognition as it sees fit.

### **5.5.2 Retrenchment**

NYA will need to compile a plan to mitigate the adverse impacts of retrenchment on employees. When retrenching, NYA must comply with local and international retrenchment practices, i.e. consultation with employees and their organizations, notification to public authorities and information sharing with stakeholders. In addition, all payment accrued to the affected employees will need to be paid in a timely manner. To comply with national legislation, NYA must notify the employee of their intention to retrench in advance. In case of retrenchment, NYA will compensate affected workers based on the nature of the work performed by the employee(s), his/her/their seniority, qualifications and duration of service. The modality that describes what constitutes unlawful retrenchments is specified in Article 62 of the DRC Labour Code.

If retrenchment is inevitable, NYA will be required to notify the Union delegation of its intention to retrench no later than fifteen days prior the retrenchment date in writing (Article 78 of the Labour Code). During the notice period, the employee must be given one day a week which he/she can use to find alternative employment. NYA will be required to compensate the employee for the remuneration and benefits accrued to the employee.

According to Article 78 of the Labour Code, retrenchment should also be based on the nature of the work performed by the employee(s), his/her/their seniority, qualifications and duration of service. Workers that have been retrenched must be prioritized should NYA consider creating employment opportunities.

## **5.6 Training and development policy**

NYA recognizes that training and development of its people is a key aspect of its long term future. Eligibility for obtaining training will be specified in a manual to be developed covering Training and Development. Training of staff should be carried out through on-the-job training, supplemented where appropriate through off-the-job training, in areas including:

- Permit-to-work systems and technical aspects of mine operation;
- Environmental, health and safety management;
- Health and safety procedures;
- Community liaison;
- Personnel management;
- Financial management;
- Security management;
- Technical writing and training for the mining industry; and
- Basic education and training.

## **5.7 Dispute settlement procedures**

### **5.7.1 Cultural differences**

Cultural differences are likely to arise in the workplace given the range of nationalities working on the proposed project. These might result from dress codes, religious practices and customs such as food preparation, social values, family obligations and non-verbal behaviour. Training of staff to raise awareness, pre-empt misunderstandings and avoid discrimination should be carried out. Flexibility so as to accommodate cultural requirements will need to be incorporated into the proposed project's modus operandi.

### **5.7.2 Grievance mechanism and dispute resolution**

Dispute resolution mechanisms will be determined by the employment arrangements contained in documentation such as contracts, employment agreements and employment policies which govern

working relationships.

### **5.7.3 Informal resolution**

Informal resolutions are those that are reached in the workplace between manager and employee through discussion which arrives at a mutually agreeable solution.

### **5.7.4 Formal resolution**

Conflict and dispute resolution mechanisms documented are outlined in Section 4.6.2 above. The working relationship will be formally and clearly defined in the policies and procedures guiding employment.

## **5.8 Policy on rights of association and bargaining**

NYA will preserve its employee's right of association and collective bargaining, as prescribed by the various laws and statutes governing employment and labour practices in DRC. These are further entrenched through the IFC and Conventions of the ILO. This right will also be captured in the employment arrangements that govern the working relationship (see Table 4-1 and other subsections in Section 5).

## 6 Documents to consult

AfDB (2012). The 2012 African Development Report: Towards Green Growth in Africa.

AfDB (2012). Major Labour Force Statistical Guidebook: Part II: Analysis of labour force data. May 2012.

AfDB/ ILO (2007). Assessing the Enabling Environment for Women in Growth Enterprises: An AfDB/ILO Integrated Framework Assessment Guide. Geneva, 2007

IFC (2012). Performance Standards on Environmental and Social Sustainability, including the Guidance Notes. Published by the International Finance Corporation, 1 January, 2012.

ILO (2001). Guidelines on occupational safety and health management system: ILO-OSH 2001. Published by the International Labour Office, International Labour Organization, Geneva.

ILO (2013). Website of the International Labour Organization. <http://www.ilo.org/global/about-the-ilo/lang--en/index.htm>. Date accessed: 11/04/2013.

Yav & Associates (2013). Labour Law of the Democratic Republic of Congo [DRC]. <http://www.hg.org/attorney/yav-and-associates/articles.htm>. Date accessed: 7/03/2013.

ILO Conventions ratified in DRC:

- Governance (Priority) Conventions:
  - C081 - Labour Inspection Convention, 1947 (No. 81)
  - C144 - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
- Fundamental Conventions:
  - C029 - Forced Labour Convention, 1930 (No. 29)
  - C087 - Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
  - C098 - Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
  - C100 - Equal Remuneration Convention, 1951 (No. 100)
  - C105 - Abolition of Forced Labour Convention, 1957 (No. 105)
  - C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
  - C138 - Minimum Age Convention, 1973 (No. 138) Minimum age specified: 14 years
  - C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)
- Technical Conventions
  - C014 - Weekly Rest (Industry) Convention, 1921 (No. 14)
  - C017 - Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
  - C018 - Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)
  - C019 - Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
  - C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)
  - C042 - Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)
  - C050 - Recruiting of Indigenous Workers Convention, 1936 (No. 50)
  - C062 - Safety Provisions (Building) Convention, 1937 (No. 62)
  - C064 - Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64)
  - C088 - Employment Service Convention, 1948 (No. 88)
  - C089 - Night Work (Women) Convention (Revised), 1948 (No. 89)
  - C094 - Labour Clauses (Public Contracts) Convention, 1949 (No. 94)
  - C095 - Protection of Wages Convention, 1949 (No. 95)
  - C102 - Social Security (Minimum Standards) Convention, 1952 (No. 102) Has accepted Parts V, VII, IX and X
  - C116 - Final Articles Revision Convention, 1961 (No. 116)
  - C117 - Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)
  - C118 - Equality of Treatment (Social Security) Convention, 1962 (No. 118) Has accepted Branches (d), (e) and (g)
  - C119 - Guarding of Machinery Convention, 1963 (No. 119)

- C120 - Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
- C121 - Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)
- C135 - Workers' Representatives Convention, 1971 (No. 135)
- C150 - Labour Administration Convention, 1978 (No. 150)
- C158 – Termination of Employment Convention, 1982 (No.158)