



CONTROLLING CONFLICT RESOURCES IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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INTRODUCTION

The competition between armed groups for control of minerals, notably gold and cassiterite (the ore from which tin is obtained), has been a major factor in the conflict in the east of the Democratic Republic of the Congo (DRC). Although the root causes of the conflict are more complex than a struggle over natural resources—involving (inter-ethnic) conflict over land, citizenship and local political power—the self-financing nature of war helps rebels to survive. In addition, rent seeking by regular soldiers and commanders undermines the building of a unified and disciplined army and thwarts economic reconstruction. Unless mining authorities re-establish administrative control over mines, and the abuse of public office for private gain is reduced, the DRC's minerals will continue to fuel conflict.

Over the past few years, the international community has shifted its approach to 'conflict resources'. Instead of simply calling for international trade restrictions and sanctions against individuals and businesses that trade natural resources with armed groups, it now supports more national trade-formalization efforts. Since early 2009 a variety of stakeholders

have tabled a number of concrete, complementary proposals to these ends. These include United Nations-supported secure trading centres, industry-led due-diligence schemes, donor-led certification schemes and government blacklists of certain mining sites. These efforts aim to achieve what sanctions have not: the gradual marginalization of armed groups in the mining sector, without discouraging trade altogether.

The formalization of the mineral trade is an attractive alternative to ineffective sanctions, but many challenges remain. Apart from technical issues regarding project design, the feasibility of proposed activities can also be questioned. Critical factors that can defer or reduce the effectiveness of trade-formalization initiatives include the Congolese Government's slow progress in security sector reform (SSR), the lack of political will to demilitarize mining areas, and the government's challenging of the UN presence.

By examining these factors, this Policy Brief aims to bring a sense of realism to the long wish list of recommendations and proposed activities. This may help national and international stakeholders not only to better coordinate and sequence their mineral trade-formalization initiatives, but also

SUMMARY

● The political economy of mining in the Democratic Republic of the Congo (DRC) is central to sustaining the conflict in the east of the country. Transforming it is a priority in order to alleviate the conflict and suffering that it fuels. In an attempt to ensure that conflict minerals—minerals sourced from militia-controlled mines—do not enter the legal supply chain, industrial actors, the Congolese Government and outside donors have established schemes to trace minerals such as cassiterite and coltan back to the mines of origin.

However, there are still a number of problems that must be overcome before mineral traceability schemes can have an effect on a larger scale. Mines that are considered 'conflict free' need to be completely demilitarized, which means removing both rebels and regular soldiers. Unfortunately, there is little political will to address these issues. The government wants to keep a large army, which continues to prey on local resource-based economies. Fearing that army commanders will drop out of the army integration process, it declines to hold its military to account.

The United Nations and other donors may not be in a position to force the government to undertake the reforms they see as necessary, but can and must use their support for army reform and demobilization to enable the demilitarization of mines. This will be critical for the successful implementation of traceability schemes.



to identify potential synergies that support security sector governance programmes. After looking at the consequences of recent military operations to control mining areas in eastern DRC, this Policy Brief analyses the different attempts to formalize and regularize trade and highlights the importance of SSR. The conclusions provide concrete policy recommendations.

THE PROBLEM: MILITARY OPERATIONS AND CONTROL OF MINES AND TRADE

The control of mines by rebel groups is a key element in the financing of the violence that characterizes eastern DRC. Recent military attempts to neutralize rebel groups—including the exiled Rwandan group *Forces démocratiques de libération du Rwanda* (FDLR, Democratic Forces for the Liberation of Rwanda) and the Congolese group *Congrès national pour la défense du peuple* (CNDP, National Congress for the Defence of the People)—have done little to reduce their control of mines and may even have extended their grip.

Mines changing hands

In March 2009, the CNDP, under the leadership of Bosco Ntaganda, and an alliance of Mai Mai militias (known as PARECO) agreed to integrate into the Congolese national army, the FARDC (*Forces armées de la République démocratique du Congo*, Armed Forces of the DRC). Following their integration, and under cover of two military operations against the FDLR—operations *Umoja Wetu* ('Our unity' in Swahili) and *Kimia II*—the ex-CNDP units quickly moved into the resource-rich territories of Walikale in Nord-Kivu and Kalehe in Sud-Kivu. In these areas, both far beyond the areas in which the CNDP had operated previously, they often

dislodged FDLR and Mai Mai units from control of mining sites.

In Bisie, Nord-Kivu, for example, the centre of cassiterite production in the DRC, ex-CNDP units dislodged former Mai Mai militia. Access to the mines in Bisie can be considered to be the government's reward for the CNDP's acceptance of army integration. While some Mai Mai also accepted army integration, most of the dislodged units pulled back into more remote areas.

The violence continuing

In several areas of eastern DRC, the shift of the local power balance sparked retaliatory attacks by the FDLR and renegade Mai Mai on their former host communities and on the mining sites and trading points that they had previously controlled. Similarly, reports of human rights abuses committed by various FARDC units, not exclusively ex-CNDP, involved in military operations continued unabated.

The most recent military campaign, Operation *Amani Leo* ('Peace today') of January 2010, has not brought any significant improvement to troop discipline. Furthermore, progress in neutralizing the FDLR in recent military operations appears slow.¹ Thus, although the position of the FDLR and renegade Mai Mai militia has somewhat weakened as a result of their access to the most lucrative mines being cut off, natural resources continue to fuel conflict. Smaller deposits, notably of gold, provide good alternatives for rebels and militia displaced from larger mines and trading centres.

Meanwhile, the control of mines and trading routes by ex-CNDP and ex-PARECO units of the FARDC

¹ International Crisis Group, 'DR Congo conflict history', Feb. 2010, <<http://www.crisisgroup.org/en/key-issues/research-resources/conflict-histories/dr-congo.aspx>>.



provides a disincentive to break these units up and put them under central command. For some former warlords, both from the above groups and others that integrated earlier, the FARDC uniform enables them to extend and legitimize their economic activities, for instance by requisitioning aircraft for mineral transport and by obtaining mineral trading licences.²

A SOLUTION: MINERAL TRADE FORMALIZATION, REGULARIZATION AND TRACEABILITY

Although the intricate link between natural resources and conflict in the DRC became clear in the late 1990s, the UN Security Council has not imposed any embargo on commodity exports from the country. This has been because of the difficulty of implementation, the risk that local resource-dependent economies will be crushed and a degree of self-interest by those countries with a trade interest in the DRC's resources. The United States is the only country preparing a unilateral ban on imports of conflict minerals from the DRC. The effective implementation of such a ban relies on the ability to trace minerals back to the supposedly 'conflict free' mine of origin.

New traceability schemes

The first traceability system implemented in the DRC was the Kimberly Process Certification Scheme for diamonds, in which the country has participated since it was established, in 2002. The system

² United Nations, Security Council, Interim report of the Group of Experts on the Democratic Republic of the Congo, S/2009/253, 18 May 2009, para. 70; and United Nations, Security Council, Final report of the Group of Experts on the Democratic Republic of the Congo, S/2009/603, 23 Nov. 2009, para. 144.

has never been implemented to the extent that the exact mine of origin is specified on export certificates, let alone verified.

However, diamond exports ceased to finance conflict in the DRC simply because the central provinces, where most of the country's diamonds are located, were liberated from rebel control by the time the scheme was implemented.

Since the beginning of 2009, options for the certification of precious metals from zones of enduring conflict in eastern DRC have started to be explored. An initiative by German donors aims to certify a number of 'legitimate' cassiterite and coltan mining sites and establish a system to trace exported minerals back to these sites using their physical characteristics.³ This is a rather long-term process that may still take at least two years to come into full effect.

An initiative with potential for immediate effect is an industry-led traceability, or due diligence, scheme.⁴ The scheme involves cassiterite smelters that are members of ITRI—an international body representing the tin industry—and their suppliers. It was proposed as a response to the 'naming and shaming' of ITRI member companies in UN Group of Experts (GOE) reports in 2008, as a result of which two dominant international buyers ceased operations in the DRC in

The effective implementation of a ban on conflict minerals relies on the ability to trace minerals back to the mine of origin

³ German Federal Institute for Geosciences and Natural Resources, 'Certified trading chains in mineral production: project outline and status', Hanover, May 2010 <http://www.bgr.bund.de/cln_109/nn_335066/sid_037A66F501D0FB90B6671040AC2D356/EN/Themen/Min__rohstoffe/Downloads/CTC-update-Mai2010.html>.

⁴ ITRI, 'ITRI Tin Supply Chain Initiative', Discussion paper, Oct. 2009, <http://www.itri.co.uk/SITE/UPLOAD/Document/iTSCi_Final_Version_2_English__2.10.09.pdf>.



mid-2009. In collaboration with Congolese mining authorities, the initiative is currently running two pilots where consignments of ore are sealed, labelled and traced until their export. Once these sites generate sufficient verified material, the companies that ceased operations are likely to resume buying.⁵

Identifying and policing legitimate sources

A major obstacle for implementing the due diligence scheme is the lack of clarity about which mines are acceptable to buy from and which are not. The industry has asked the UN Security Council, the GOE and the Congolese Government

for guidance on purchasing behaviour. However, the UN Security Council lacks the capacity to provide

this guidance itself and it has not mandated the GOE to do so. Donors, united in the Task Force on Illegal Exploitation and Trade of Natural Resources in the Great Lakes Region, agree that the responsibility lies with the Congolese Government.

At an international conference in January 2010 the Congolese Ministry of Mines committed itself to producing a list of mines grouped into three categories: non-militarized, FARDC-controlled and rebel- or militia-controlled.⁶ By July 2010 a list had yet to be published, and it remains unclear what the buying advice would be for FARDC-controlled mines, where similar levels of abusive rent seeking

and human rights violations occur as in rebel- or militia-controlled mines. Clearly, in order to have a reasonable number of acceptable mines from which to buy, demilitarization is required.

The demilitarization of some of the main cassiterite mines is supposed to be advanced with the establishment of three trading centres (*centres de négoce*) in Nord-Kivu with security provided by the UN Organization Mission in the DRC (MONUC). Two other centres are planned in Sud-Kivu for gold. The UN and other donors fund these centres in the context of the government's broader, multi-sector Stabilisation and Reconstruction Plan for Eastern DRC (STAREC). In the centres, mining authorities are deployed to tax and register consignments of traded minerals in order to increase legal revenues and facilitate traceability. In addition, UN-trained Mining Police—20 police officers spread over these five centres—are deployed to provide security.⁷ It is unlikely that these officers are able to extend security to mining areas in the vicinity, given their small number and the fact that three of the five centres, including the one for Bisie, are located more than 30 kilometres from the mines.

Further security support is expected from Rapid Intervention Police units trained by MONUC and financed by the German Government. These units are to be deployed, among others, in zones around trading centres that are freed of the FDLR during military operations.⁸ While police forces may be able to take control of some of these areas, dislodging FARDC units from nearby mines will prove more

In order to have a reasonable number of acceptable mines from which to buy, demilitarization is required

⁵ Amalgamated Metal Corporation, 'Thaisarco suspends tin ore purchases from the Congo', Press release, 18 Sep. 2009.

⁶ Congolese Ministry of Mines, 'Meeting of the Democratic Republic of Congo with the International Task Force on Illegal Exploitation and Trade of Natural Resources in the Great Lakes', Kinshasa, 21–22 Jan 2010.

⁷ United Nations Development Programme (UNDP), Multi-Donor Trust Fund Office, 'Centres Négoce Est' [Trading centres east], Project fact sheet, <<http://mdtf.undp.org/factsheet/project/00074614>>.

⁸ UNDP (note 7).



difficult. According to an official at the Ministry of Mines, unspecified higher government authorities denied a request made by the mining minister for a police deployment in Bisie itself.⁹

Since the full demilitarization of major mining areas is unlikely to be accomplished in the near future, the resumption of buying from such mines can only be certified as ‘acceptable’ once appropriate action is taken against the FARDC commanders controlling the mines and their business accomplices. In recent months, UN and other experts have recommended the establishment of a monitoring team, consisting of Congolese authorities, MONUC and the UN GOE. It would inspect mineral shipments, investigate cases of abuse of military and police powers in connection with exploitation of natural resources, and forward evidence of alleged perpetrators to justice authorities—potentially including a specialized tribunal created to handle such cases.¹⁰ These recommendations have not yet translated into any concrete proposals.

The above policing options are intended to offer a more effective alternative to UN financial and travel restrictions imposed on individuals and businesses for their assistance to illegal armed groups, in breach of the arms embargo.¹¹ Since the UN Sanctions Committee imposed these restrictions on three gold traders in 2007, no UN member state has submitted the names of further individuals or entities and so no new restrictions have been imposed. This is despite the fact

that in 2007 and 2008 the GOE had submitted confidential lists to the UN Security Council for designation under the sanction regime. These lists reportedly featured a number of mineral traders purchasing from territories controlled by the FDLR, as well as ex-CNDP commanders involved in mineral trade and their business accomplices.¹²

AN UNCERTAIN FACTOR: SECURITY SECTOR REFORM

Improving and reforming governance of the Congolese security sector—including the army, police and justice system—is crucial to reducing the burden of the military on the local economy in general and on mining areas in particular. Overall progress in these domains has been limited over the past few years and there is no indication that the action that has been taken is conceived in a way that would promote demilitarization of mines. On the contrary, in most resource-rich areas in eastern DRC army integration goes hand in hand with ongoing military occupation of mines. Police officers who are deployed at mining sites do not fully replace military units, while notorious commanders involved in illicit resource trade or taxation are not arrested or summoned to the military courts.

The Congolese Government is reluctant to take firm action particularly against ex-CNDP units and Mai Mai militia that have accepted integration into the FARDC, fearing that this could lead to these former rebels defecting again, which would jeopardize the limited military successes in 2010 in fighting the FDLR. In addition, the government turns a blind eye to soldiers preying on civilian populations because it

⁹ Mabolia, P., Special Advisor, Congolese Ministry of Mines, Interview with the author, Kinshasa, 23 Jan. 2010.

¹⁰ United Nations, S/2009/603 (note 2), para. 378.

¹¹ UN Security Council resolutions 1493, 28 July 2003; and 1596, 3 May 2005.

¹² ‘The UN looks for the exit’, *Africa Confidential*, vol. 51, no. 2 (22 Jan 2010), p. 4.



is unable to pay regular and decent wages. This is due to the large number of soldiers, the lack of proper registration and the embezzlement of soldiers' salaries by higher military officials.

While some improvements have recently been made by the European Union to register soldiers and set up a transparent payment structure, the Congolese Government does not appear willing to downsize the armed forces. In early 2010, three years after initial plans had been discussed, the Congolese Ministry of Defence officially presented a plan to international donors to restructure the FARDC, maintaining a force of 145 000 military personnel.¹³ This is a significant reduction from the 240 000 on the payroll in 2004, but is still more than twice the number mentioned in the initial plan and recommended by many observers.¹⁴ The total estimated cost for keeping such a large army is enormous—\$3.7 billion for the first three-year phase¹⁵—and cannot be met by the government, even with generous donor support. As a result, underpayment continues to provoke soldiers to live off the local economy.

International donors have an important role to play in professionalizing and reducing the size of the FARDC. Unfortunately, training efforts are fragmented, with different donors developing separate programmes for only a limited number of battalions. So far none of these support programmes insist on downsizing battalions or removing them from the mines. The only international actor that could coordinate activities and set stringent

conditions on overall support is MONUC, through the UN Security and Stabilization Support Strategy (UNSSSS). However, the role of MONUC is under pressure. In early 2010, the Congolese Government made clear that it wishes the force to drawdown and to withdraw by mid-2011.¹⁶ Until that time, the government does not want the peacekeeping force to assume a lead role in security sector reform; instead, it wants MONUC to restrict its role to police training.

An alternative pathway for the international community to stimulate a reduction in the size of the Congolese armed forces is to make reintegration into society a more attractive option than integration into the army. However, due to an interruption in financial support for the national programme for demobilization, disarmament and reintegration (DDR) in 2007–2008 and renewed hostilities in eastern DRC in the same period, army integration has become the preferred option for the majority of the remaining non- or poorly integrated soldiers. As a result, World Bank funds for DDR were largely unspent and have been transferred to STAREC.¹⁷ It is unclear whether these funds will be used to draw soldiers out of the army or to process old caseloads of demobilized soldiers that have not yet received any reintegration package.

CONCLUSIONS: BACK TO THE MINES

Interventions that block certain forms of trade and facilitate others are unlikely to fully break the link

¹³ International Crisis Group (ICG), 'Congo: a stalled democratic agenda', ICG Africa Briefing no. 73, 8 Apr. 2010.

¹⁴ International Crisis Group (ICG), *Security Sector Reform in the Congo*, Africa Report no. 104 (ICG: Brussels, 13 Feb 2006).

¹⁵ International Crisis Group (note 14).

¹⁶ Smith, D., 'UN begins talks on withdrawal from Congo', *The Guardian*, 7 Mar. 2010.

¹⁷ World Bank, 'DDR in the Democratic Republic of Congo, program update', Sep. 2009, <http://www.mdrp.org/PDFs/DRC_Program_Update.pdf>.



between mineral resources and conflict in eastern DRC. Recent military campaigns demonstrate that dislodging rebel groups from control of cassiterite mines is unlikely to significantly damage their fighting capacities. Rebel groups, notably the FDLR, have been able to resist superior force and have survived by finding new sources of funding. The integration of many former Congolese rebels and militia into the national army has legitimized their previously illegal involvement in the minerals trade, allowing minerals from the areas under their control to enter markets legally. In other words, both foreign and Congolese armed groups have shown that they can adapt to and survive a crackdown—whether military or legal—on their operations.

However, this does not mean that traceability initiatives are futile. Promoting trade that is legal and comes from a non-militarized mine helps to generate official state revenues and, under certain conditions, it can make it harder for soldiers and their business associates to sell their minerals. The necessary conditions are that the system captures a significant proportion of exports and that buyers involved in the scheme offer better prices than buyers not involved in the scheme. These conditions can be met by the new due diligence scheme in eastern DRC. Only a small number of international traders buy minerals from mines in the region, and a majority of them are involved in the scheme, either as exporter or domestic supplier. These participants currently capture the larger share of recorded exports, and so demonstrate that they can trade competitively within the scheme.

The critical question is determining the level of military control over selected mines that trading companies can accept. Most

companies will argue that buying from FARDC-controlled mines should not open them up to sanctions; however, to avoid reputation damage, they will want complete or progressive demilitarization of the mines from which they obtain minerals to be demonstrated before recognizing any eventual state-issued legal certification as truly ‘conflict free’. Since companies cannot solely be responsible for achieving demilitarization, they rely on the Congolese Government and international donors to undertake concerted on-the-ground efforts that re-establish civil administration in mine locations and dislodge or transform both state and non-state security forces here. Until this happens, the trade in minerals will remain a factor fuelling conflict in the region.

First steps towards demilitarized mines

As a first step, the United Nations, donors, the Congolese Government and mineral traders should attempt to concentrate traceability initiatives on the same pilot sites. At Bisie, coordination has begun between the ITRI’s due diligence scheme, the German certification scheme and the UN trading centre scheme. Negotiations now taking place in Kinshasa should move to the mining site in order to include local stakeholders, such as mining cooperatives, state and customary authorities, and security forces. Similar coordination could be undertaken in other pilot sites. These sites need not be in Nord- and Sud-Kivu provinces; they could also include mines in neighbouring North Katanga and Maniema,

The meaningful implementation of traceability initiatives requires a simultaneous effort to demilitarize mines and police the trade in minerals

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which are more demilitarized and therefore could provide important lessons in terms of re-establishing mining authorities to undertake the necessary registration functions.

Once a dozen or so major cassiterite mining sites are identified as pilot sites for traceability initiatives, the next step will be for donors to make demilitarization of selected mines part of SSR and DDR support programmes. For instance, donor assistance for police forces in eastern DRC could be made conditional on their replacing armed forces controlling mines. Alternatively, military units that currently control mining sites could be targeted to enrol in new police forces or any other public service unit. The UNSSSS offers opportunities to pilot this approach as it refers to the 'recycling' of FARDC forces into the public service as a means to reduce the size of battalions.¹⁸ Additionally, part of World Bank funds for DDR could be targeted at soldiers controlling selected mining sites. If well coordinated, such troop demobilization or transformation provisions could be integrated into the above-mentioned negotiation processes at mine locations.

Aligning resource governance and security sector reform

The stabilization and development of the DRC requires that the demilitarization of mineral mines goes beyond the soldiers controlling mines to target the beneficiaries at higher political and military levels, as well as their business associates. The limited impact of UN sanctions

means that stronger domestic law enforcement is required. The problem is that many beneficiaries are or work through licensed operators. In other words, the legality of trade is no benchmark to measure the extent to which it fuels conflict. This makes it necessary, when making a case against suspect individuals, to draw on a broader range of laws than the mining law alone. In the absence of a specialized tribunal, the capacity of Congolese courts to prosecute such individuals must be strengthened, perhaps through collaboration between military and civil courts, the UN Group of Experts, and MONUC that would begin with corroborating evidence against people listed in confidential annexes to UN expert reports.

In summary, the meaningful implementation of traceability initiatives requires a simultaneous effort to demilitarize mines and police the trade in minerals in order to detach critical actors in the conflict from the entire commodity chain. Security sector reform programmes should be designed to have a positive spin-off effect on mining sector development. Conversely, traceability initiatives should be sensitive to and be negotiated with local security forces. Ideally, traceability initiatives and demobilization options would be negotiated simultaneously at the local level. Both STAREC and UNSSSS provide the framework for aligning and integrating natural resource governance and security sector and justice reform, but this needs to be explicitly articulated and earmarked for funding in order to result in concrete action on the ground.

¹⁸ United Nations Peacebuilding Fund, 'Priority plan for the Democratic Republic of Congo (DRC)', [n.d.], <<http://www.unpbf.org/docs/DRC-Priority-Plan.pdf>>.