



SASHA LEZHNEV/ENOUGH PROJECT

From Congress to Congo

Turning the Tide on Conflict Minerals, Closing Loopholes, and Empowering Miners

Fidel Bafilemba, Sasha Lezhnev, and Sarah Zingg Wimmer

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enough

The project to end genocide and crimes against humanity

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Editor's Note: *Economics remain at the heart of the renewed violence in eastern Congo that has displaced roughly 400,000 people. The latest instability has been caused by the Rwanda-backed M23 rebellion—an insurgency largely formed to protect Rwandan-linked military and political interests in the region, including control over mineral resources and land. M23 and its allied militias have established control over a number of strategic locations in the Kivu provinces of eastern Congo and threaten further insecurity and a massive smuggling operation. The rebellion has slowed the first exports of clean minerals from the Kivus but reforms are still going ahead in peaceful areas outside the crisis areas. The majority of research conducted for this publication was done in advance of the onset of the escalation in conflict, but the longer-term reforms highlighted here remain critical to the comprehensive peaceful solution to the conflict.*

ON THE COVER: Miners interviewed by Enough supported the Dodd-Frank legislation and related reforms as a way to increase security, free themselves from armed groups, and eventually increase their wages through transparency and development. Nyamurhale, South Kivu, eastern Congo.

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Executive summary

The tide on conflict minerals is starting to turn but more must be done to close loopholes that still allow smuggling. The most recent outbreak of violence in eastern Congo, spawned by the Rwanda-backed M23 rebellion, has economic interests at its core, as the rebels and their patrons are resolved to preserve their access to Congolese land and natural resources, including minerals. However, this masks noteworthy progress that companies and governments have made over the past 18 months to significantly diminish the ability of armed groups to generate income from conflict minerals.

An Enough Project investigation has found that the passage of the conflict minerals legislation within the Dodd-Frank Wall Street Reform law and new tech industry sourcing policies have helped lead to a 65 percent drop in armed groups' profits from the trade in tin, tantalum, and tungsten—the “3 Ts”—over the past two years.¹ In March 2012, prior to the M23 rebellion, this financial strain, coupled with military pressure from the Congolese army and United Nations, had diminished the Rwandan Hutu rebel group the Democratic Forces for the Liberation of Rwanda, or FDLR, to a quarter of its size of two years ago. However, with M23 now wreaking havoc in the region, gains made to demilitarize mines and eradicate armed groups such as the FDLR are at risk. Further, due to gaps in the implementation of the U.S. legislation—which continue to allow armed groups to smuggle 3 T minerals, in smaller amounts and gold in larger amounts—policymakers and industry leaders must redouble their efforts to close the loopholes through better monitoring. Otherwise, there is a risk that a river of smuggled conflict minerals could flow again to Rwanda, Uganda, Burundi, and on to global markets.

The passage of the U.S. law is also sparking landmark reforms by the Congolese government and electronics companies to rapidly build up the architecture for a legitimate, conflict-free mineral trade in Congo and the region. These reforms are supported by a new price structure in which traced conflict-free minerals are sold at a 70 percent markup over untraced minerals.² The reforms include:

- A new requirement from the Congolese government that all mineral exports are to be audited and traced to conflict-free mines. This policy was enforced by Congo's suspension in May 2012 of two Chinese companies for conflict trading.
- The first shipments of conflict-free materials being exported from 501 traceable mines in the areas bordering the war-torn Kivu region of eastern Congo.³
- Progress in armed groups pulling out of 3 T mines.
- The first-ever validation of mines to check for the presence of armed groups and child labor.
- The upcoming launch of a regional government initiative to regularly monitor mines for the presence of armed groups, with U.S. support.

Additionally, according to interviews conducted with over more than 100 miners in North and South Kivu, most miners view the transformation to a clean trade free of armed groups as a process to liberate themselves from the slave-like conditions under which they have worked for years. At the time of research, armed groups had decreased harassment of miners in most 3 T mines, and some gold mines, because of pressure from the Congolese army to demilitarize mining areas. Over the past year, many miners in the Kivus have also changed livelihood strategies. Many have moved to work in conflict-free mines in neighboring provinces or have taken up work in agriculture or small business enterprises; but, they need greater security and infusions of start-up capital to succeed. Nevertheless, as the M23 conflict prevents further responsible investment in the Kivus, some miners have seen their incomes decrease, which must be addressed with urgency.

In the short term, instability may increase, and greater pressure on Rwanda, M23, and the Congolese government will be needed to increase stability.⁴ However, if the systemic changes are to stick, programs aimed at improving livelihoods, closing loopholes, and mining reform must move ahead. This will begin to allow communities in eastern Congo to be freed of militia control and experience the benefits of a clean minerals trade and a diversified economy.

This report is based on interviews with 143 people in Congo and Rwanda from February to July 2012, including visits to five mining areas.⁵ The following recommendations are a result:

- **Pressure Rwanda to stop support to M23.** The U.S. and its international partners should demand Rwanda halt all support to the M23 rebellion, which represents a step backward in the fight against conflict minerals and armed violence. Rwanda should

also cooperate in efforts to create peace in the region, as well as ensure accountability for the mutineers. The U.S. and U.K. should vote against the World Bank's \$135 million in general budget support for Rwanda and place Rwandan officials named in the U.N. Group of Experts report for supporting M23 under financial and travel sanctions.

- **Speed up certification of conflict-free mines.** The U.S. should ensure that the independent monitoring mechanism of the International Conference on the Great Lakes Region, or ICGLR, is operational quickly and is able to sanction smugglers. A high-level U.S. official should chair a special session of the Public-Private Alliance on Responsible Minerals, or PPA, to harmonize traceability and audit initiatives to increase transparency, efficiency for businesses, and compliance with regional standards. Rwanda, or the tin industry traceability program, iTSCi, should publish the capacity of mines and their production data, proving whether exports are conflict-free.
- **Increase conflict-free sourcing.** Companies from the automotive, jewelry, and retail sectors should support Congolese conflict-free mining by joining the Public-Private Alliance and by beginning projects similar to the electronics industry's Solutions for Hope project to partner with suppliers sourcing from conflict-free mines in Congo.
- **Empower miners.** The U.S., European Union, or E.U., the World Bank, and companies in the minerals supply chain should, as a matter of urgency, establish a miners' empowerment fund to increase employment—especially in construction, micro-finance, and agriculture.
- **Increase mine security.** The U.S. and E.U. should support a significant increase in the number of Congolese mining police.

The following report examines the progress made by industry, government, and civil society working to reform the conflict minerals trade in eastern Congo, as well as the existing gaps and challenges they face. The first section focuses on progress and challenges regarding mine security, the development of a clean minerals trade, armed groups' profits, traceability, and independent monitoring. The second section focuses on the perceptions of reform within mining communities in the Kivu provinces and the need for additional support for livelihoods and economic development.

1. Reform for a clean minerals trade: Positive steps but loopholes must be closed

Three main categories of reform are underway that have decreased conflict minerals financing and increased the number of conflict-free mines: security at mines, trace-

ability, and independent monitoring and certification.⁶ However, each of these reforms still has loopholes and must go several steps further in order to get to fully conflict-free sourcing from the region.

Mine Security: From armed groups to police. By early 2012 newly trained civilian mining police were taking the place of armed groups at the largest 3 T mines in the Kivus. The FDLR and other armed groups had been driven out of most mining areas on order of Kinshasa, which felt political and commercial pressure to get control of the mining sector in the east. Mine demilitarization was starting in most major mining areas, from southern Masisi to Walikale to Nyabibwe.⁷ Local civil society activists told Enough, “Before, it was chaos, with everyone fighting each other over the minerals. Now we’ve seen the military pulling out. These guys are afraid of international pressure.”⁸ Since the M23 rebellion in April, armed groups have retaken control over some mining areas, though production is still low. Mai Mai Sheka or NDC, an armed group allied with M23, has begun minerals trading again in Walikale, the FDLR took over the Lukoma tin mine, and some army officers have installed relatives at mines.⁹ There is a risk that this could increase, as M23 could move more fully into North and South Kivu and begin more significant smuggling operations through Rwanda.

However, the overall trend of having fewer armed groups at mines represents incremental progress for two reasons. First, mine demilitarization gets the guns out of the mines and mining-adjacent communities, allowing people to go about their normal lives without major security risks. Some of this has reversed in recent months and could once again escalate but the overall trend remains. The U.N. reports that the Congolese army now mainly uses investment and export fraud to profit from the minerals trade but is preying less on communities.¹⁰ Enough spoke to miners who reported significantly lower intimidation by armed groups than in previous years but said harassment was still not at zero.

Second, armed groups only earn approximately 35 percent of their previous profits less from the 3 Ts trade, including smuggling profits. While armed groups and army units earn a larger percentage from smuggling than from trading through official channels, this still only represents a fraction of the overall funds they were able to generate from the 3 Ts in previous years because the overall volume of 3T minerals is so low. Consider the following:

- Production at 3 T mines is 65 percent to 80 percent of 2010 levels¹¹
- 3 Ts officially exported from Congo represent an estimated 35 percent of the overall trade,¹² and the price of these minerals is 25 percent to 35 percent of the 2010 price¹³
- 3 Ts smuggled from Congo represent an estimated 65 percent of the overall trade,¹⁴ and the amount generated by armed groups from smuggling these minerals is 150 percent of the 2010 price¹⁵
- The total profits received by armed groups from the minerals trade is an estimated 35 percent of 2010 levels.

Tin in particular has been difficult to smuggle, because the reddish tin ore found in North Kivu is physically different from the black tin found in Rwanda and is therefore difficult to pass off as Rwandan. Furthermore, tin is one-tenth the price of tantalum by volume, so it takes large trucks to smuggle, which are much more easily caught.

One indication of armed groups' frustration is the infighting among army officers and rebels – previous business partners – over the remains of the 3 Ts trade. During the demilitarization of Bisie mine, for example, four networks within the army and security services turned on each other over the lowered profits at the mine.¹⁶ When armed commanders fight over money, it weakens the structure and cohesion of insurgencies. Such financial fratricide led to the weakening of rebel insurgencies in Sierra Leone, where diamond profits had decreased.¹⁷

Going forward, mining police should be trained and deployed in much greater numbers, together with U.N. peacekeepers and a limited, monitored Congolese army presence around the perimeters of mines, to provide security but not harassment. Some 100 mining police have been trained thus far by the U.N. and a further 100 are to be trained with U.S. support in the coming months.¹⁸

However, this is not nearly a large enough presence for the mines – for example, only 14 police are deployed at one of the region's largest mines, Bisie, where roughly 4,000 miners work. If this miniscule ratio continues, Congo's army and rebels will occupy mines. Civil society groups also report that some mining police are facilitating smuggling with armed groups. Mining police must therefore be monitored through the monitoring mechanism described below.

Getting back to the mines: traceability, due diligence, and initial investments. Finding out what minerals are being exported from which mines is a key step to verifying that the minerals are conflict-free. Over the past 18 months, significant work has been done in this area of traceability. In 2011, Congo began to require exporters to follow due diligence guidelines and in 2012 the government adopted the ICGLR certification framework into law requiring all minerals to be traced from conflict-free mines.¹⁹ If minerals are found untraceable, they are to be banned for export. In a bold move, Congo enforced these protocols by suspending two Chinese exporters—TTT (CMM) and Huayei—in May 2012 for exporting untraceable minerals.²⁰

Other transparency steps are complementing this work. Four trading centers, or *centres de negoce*, have also been built in the Kivus to increase local traceability, although none have opened. The metals industry “bagging and tagging” system, called iTSCi, intended to trace minerals has begun work at 95 mines in Katanga Province and 406 mines in Rwanda; a contract was signed in April to start work in the Kivus and Maniema.²¹ A high-tech tagging system is also being piloted in Rwanda that uses barcode scanners and GPS, similar to FedEx tracking.²²

Conflict gold

While armed groups have begun to be disrupted by the decreased trade in the 3 Ts, gold is one of their last major lifelines. Production is booming, driven by a 150 percent price increase over the past five years and the ease of smuggling gold out of eastern Congo. The trade from the Kivus is worth an estimated \$300 million per year,²⁶ which has been controlled largely by General Bosco Ntaganda, now co-commander of the M23 rebellion. Nearly 100 percent of eastern Congo's gold is smuggled, with only 23 kilograms of gold officially exported from the Kivus thus far in 2012, despite an estimated four to eight tons going out unofficially.²⁷ The smuggling trade is primarily controlled by a small group of Congolese, Ugandan, and Burundian smugglers. They carry the gold by hand in briefcases to sell in Dubai, before it reaches U.S., European, and Asian markets via Switzerland and India.

In contrast to the 3 Ts, little reform has taken place on conflict gold. Mining companies and jewelers have begun initial audits, but conflict gold continues to flow out unchanged from the Kivus.²⁸ One change has been the industrial gold mine at Twangiza, South Kivu, where violence was rampant five years ago but is conflict-free today due to investment and control by Banro, a Canadian mining company.

As a local miner told Enough, "If you put pressure on gold, the mafia networks would disappear."²⁹ Going forward, jewelry and mining companies should invest in fair trade, transparent mines in the Kivus; the U.S. and U.N. should sanction known conflict gold traders and Congo and donor countries should register miners and formalize the trade.

In the Kivus, reforms are continuing in non-conflict areas. A closed-pipeline supply chain for tin, for example, is being finalized in Nyabibwe, though this must be closely monitored for armed groups.²³ The trade from the Kivus has increased to about one-third of pre-2011 levels, narrowing the gap between Katanga and the Kivus.²⁴ Local minerals businesses are also adopting clean supply chain policies and have launched a due diligence awareness program.²⁵

Local communities should be the beneficiaries of increased tracing and auditing. This has already started to be the case for conflict-free mining communities in Katanga and Rwanda where schools, roads, and health centers are being built, and miners are seeing increased wages.³⁰ Mineral production in non-conflict areas is rising rapidly, such as in North Katanga, where operators are tracing and using due diligence at 143 mines.³¹ Further, investment by Banro and tin investors is planned in Maniema, west of the Kivus.³² Through supply chain partnerships, six electronics companies – Motorola Solutions, Intel, HP, RIM, Foxconn, and Nokia – have also proven that it is possible to source clean minerals from Congo. These shipments are traceable from mine to product and have been audited for involvement by armed groups; however, pricing mechanisms should improve.³³ Tech company Kemet also initiated a conflict-free sourcing program. Moreover, the PPA is reviewing proposals to disburse the \$800,000 it currently has available for projects that enable traceable, validated supply chains from the region.³⁴ While all of these projects are positive steps forward, they must all also be transparent and credible.

The mine reforms must be expedited, however, in order to speed up the development of conflict-free mines. Acceleration of reforms cannot be limited to Katanga and Maniema.

Traceability work in the Kivus, though a challenge, must proceed faster. Costs must also be brought down, with the iTSCi system costing \$350 per ton compared with other systems that run near \$135 per ton.

Independent monitoring and certification: initial steps. Although there is still no independent monitoring system in place, several positive steps have been taken to develop third-party auditing and monitoring of the trade. First, a multi-stakeholder group made up of industry representatives, the Congolese government, donor countries, and civil society completed a validation of 46 mines in the Kivus in mid-2011. They checked for the presence of armed groups and child laborers. The report concluded that 41 percent, or 19 out of 46, mines in North and South Kivu were conflict-free.³⁵

The validation was a good initial step as the first-ever evaluation of mines in eastern Congo but it does not give a definitive answer regarding these mines. The methodology of the evaluation process must be improved; armed groups and children were often alerted to the group's visits and left in advance of the validators' arrival at the mines. Moreover, the eight-month publication delay meant that conditions at the mines had changed by the time of the report's release. Further, the full assessments of each mine should be made public so that potential investors and the public can know why a certain area is or is not categorized as conflict-free as well as evaluate the possible risks of each location. The current validation report only has a chart that ticks "yes," "no," or "improving" for the mines. Finally, validation should be extended to areas across the Kivus, as local civil society has argued. Germany is also piloting audits of mines in the region. Having conducted a series of audits in Rwanda, the German government is undertaking its first Congolese audit at Nyabibwe and planning 25 further mine audits over the coming six months.³⁶



The regional body ICGLR and Rwanda have also taken steps on monitoring but should go further. The ICGLR constituted its committee to review audits of mineral exporters but has not approved the final Independent Mineral Chain Auditor, or IMCA, designed to be an auditor general for certification. Moreover, Rwanda had five of its largest mineral producers audited in 2010 but the full reports of the audits have not been released. These should be made public. Rwanda then suspended five minerals companies and arrested four military generals in separate incidents related to minerals smuggling in early 2012.³⁷ Four blacklisted companies were found to have illegally tagged minerals and are currently serving a six-month ban from all activities. Burundi, Uganda, and Tanzania have taken few to no steps on traceability or monitoring, despite a long history of conflict gold smuggling.³⁸

Stopping smuggling through Rwanda

Although their profits from the 3 Ts are much lower than previously, armed groups in eastern Congo still generate some income by smuggling 3 Ts through Rwanda. Rwanda has taken steps on traceability, but loopholes remain in the iTSCI tracking system that allow conflict minerals to filter through.

The Enough Project spoke to eyewitnesses who recounted observing mineral smuggling rings in Numbi and Masisi run by ex-CNDP soldiers and an Ntaganda-controlled Rwanda-Congo border crossing. As a tantalum trader told us, “I have had no choice over the past two months but to connect with Bosco’s [Ntaganda] guys to help me smuggle coltan to Rwanda since the Chinese comptoirs were shut down.”⁴⁰ Rwanda’s minerals exports rose 62 percent from 2010 to 2011 compared with only a 22 percent rise in domestic

mining production, according to Rwanda’s own statistics.⁴¹ In particular, tin exports rose 65 percent over their six-year average, from 4,211 tons to 6,952 tons but domestic tin production rose only by 14 percent. Some of the increase may be explained by a sell-off after the lifting of Congo’s export ban in 2011 but those shipments were not tagged as being conflict-free.

The Rwandan traceability system has three major holes. First, neither Rwanda nor iTSCI publishes the capacity versus production of each of its mines (or at least the major mines). It is thus impossible to tell which mines are over-producing. Second, there is no transparent system to determine how many tags are issued to companies or cooperatives. A company with one mine, for example, could be given huge numbers of tags. Third, there is no independent monitoring of the system as yet.

These are positive steps but a more systematic, transparent approach to monitoring is needed. Regional governments, companies, and civil society, through the Public Private Alliance, should agree on and adopt a comprehensive minerals monitoring mechanism, which would improve upon the validation work of regional actors. The U.S. government has announced \$4.8 million to support monitoring and auditing but the arduous task of assessing what mines and trading routes are conflict-free will require more comprehensive support. Donors should pool to support the ICGLR’s Independent Mineral Chain Auditor, designed as a team of 20 to 30 monitors to conduct spot checks on mines and trading routes to ensure compliance with demilitarization.³⁹

Consolidation must also be addressed. Businesses are going through rounds of conflict-free audits from different organizations and are unsure of which one to trust. Some mines have been audited by the Congolese validation committee, the German BGR, and PACT within six months. As Edward, a local business owner, told Enough, “There is so much competition between the [German] BGR, ITRI, OECD... In the end, everyone is so confused, and this is costly for business. You need to consolidate. The U.S.... should help accredit auditors and establish the standards that will enable us to sell properly.”⁴² The Public Private Alliance, because it has the backing of a wide range of stakeholders, should convene the BGR and other validation and auditing groups and recommend consolidation. It should also support the ICGLR audit committee in establishing audit standards and encourage traceability initiatives to be compliant with ICGLR standards, particularly data transparency.

2. Miners and livelihoods: “I can manage while the reforms are happening... our conflict minerals... should be cleaned up.”

Most artisanal miners interviewed believe a conflict-free trade will provide them with security, livable wages, and credible health and safety standards. If international focus is kept on the region, a clean trade would also benefit mining communities through increased infrastructure and investment. This would constitute a dramatic change from the status quo. This is already starting to occur at conflict-free mines in Katanga Province and could be a possible model for similar initiatives in the Kivus.

Conflict minerals reforms are having an impact on miners at 3 T mines, but must go further. “Miners are not unemployed,” claimed the head of North Kivu’s minerals dealers’ association. Enough decided to go to several mines to verify this statement, which seemed to fly in the face of assertions from some academics and industry lobbyists. The Enough research team arrived at three main findings.

First, most miners were indeed working, either on farms, in small shops, or at conflict-free 3 T mines in Maniema or Katanga. Many miners had also switched to gold mining, which is still unregulated and where working conditions must improve. Second, many 3 T miners were earning less income than they were a year ago, but were operating in a more secure environment. Third, people from all across eastern Congo – miners, exporters, farmers, and civil society – supported the U.S. conflict minerals legislation and thought of conflict minerals reforms as a way to increase security, free themselves from the abuse and debt slavery that came with life at the mines under the armed groups, and eventually to increase their wages through transparency and development.

Miners were upset about this decreased income and desired outside investment as soon as possible but expressed a patience to deal with the situation because of the prospect of mining in an environment free of armed groups. As a former miner from Bisie told Enough, “We are not earning as much money as before, but we are hopeful, because we are no longer paying illegal taxes.”⁴³

Another miner explained:

*I can manage while the reforms are happening, even though my situation is not good now. The U.S. law is something good. It came to show us that our minerals are conflict minerals and should be cleaned up. It imposes traceability. No miner is against traceability. Everyone will get the most out of the business.*⁴⁴

Yet another miner told Enough, “We’re very thankful to the U.S. law, because it will put an end to the chaos in the mining sector. The armed groups are pulling out [of mines]. If they are kicked out, it will be total freedom for us.”⁴⁵ Other miners, civil society, and mining communities similarly reported that they supported the Dodd-Frank legislation

and the accompanying reforms as a way to improve their lives and the security situation in the region, despite the income problems they face today.⁴⁶

Two mining groups who had previously written public letters about how minerals transparency reforms were killing miners revealed that they were threatened by minerals dealers. “Thomas,” a miner, told Enough on condition of anonymity for fear for his personal safety:

Comptoirs (exporters) and negociants (traders) built their business on our backs, the miners. We were prisoners. They did business with the military powers. Then they forced us to write letters to the SEC to delay the Dodd-Frank law. If we took any position against them, our safety would be compromised. One comptoir threatened to kill me.⁴⁷

Increased security in mining areas, as of the time of the research, allowed people stability in their day to day lives and freedom to farm or go to school without fear of harassment. Robert, a former miner, told Enough in February, “Security has increased [in mines], because there are fewer armed groups. We are hopeful.”⁴⁸ The decrease in production forced many miners to seek alternative jobs in local shops or at NGOs. As Paulin, a local civil society leader said, “There has been a big increase in agriculture here recently. People are growing maize, peanuts, rice, and soya because the mineral activities have gone down. All our minds are on farming, and we can eat.”⁴⁹

Security has deteriorated in several areas since the M23 rebellion and will likely continue to worsen in the near term. Nevertheless, the long-term trend over the past 18 months, driven by systemic reforms, has been toward improved security in mining areas. Militias have not yet re-taken the majority of the mines and local businesses have opposed the rebellion because it will prevent investment.

Part of the renewed hope stems from the extremely poor working conditions at mines until now. These grave situations have been extensively documented in local and international reports. Armed groups forced miners to work, paying them poorly, if at all. Health and safety hazards have been extreme due to lack of proper equipment and risks of landslides. Children make up almost half of the population at mining sites.⁵⁰ A clean trade offers a chance to improve conditions in the sector but it will require further investment and commitment to workers, a fair price, and community livelihoods.

Mining communities need more urgent attention overall.⁵¹ First, faster reforms would enable miners to work at conflict-free mines with improved working conditions. Second, recognizing that mineral resources are finite, economic diversification and livelihood projects need greater investments and start-up capital to succeed. Donors should support livelihood projects that include microfinance and diversification such as farming, small business, infrastructure development, and construction. Many miners interviewed by Enough expressed that with small loans of \$100 to \$300, they could start up small businesses such as clothing and produce stores, transport agencies, and more. The \$20

million USAID fund for livelihoods run through the international NGO CARE and the recently announced \$6 million for livelihoods from Japan will be two important steps but an added push from companies and European countries is needed.⁵² Also, possible fair trade alliances on agriculture, for example fair trade coffee, should be considered.

Conclusion

With increased international attention, the minerals trade in eastern Congo and the surrounding region is slowly starting to be cleaned up. But the risks of increased instability fueled by the recent M23 rebellion and mounting tensions between Congo and Rwanda are high. Loopholes in monitoring, tracing, and smuggling of illicit minerals must be closed to fully stop the trade from the war zone. The U.S. legislation, due diligence guidelines, and supply chain action by leading electronics companies have been an important “stick,” compelling the supply chain to play by better rules of transparency. Now, if they want access to the global market, minerals suppliers must trace their products and be able to audit back to the mines, proving that the minerals are conflict-free. But the “carrot” is needed more than ever to finish the work of cutting off funding to armed groups and enabling a clean minerals trade that empowers miners and communities. This is just starting and miners have experienced decreased harassment at gunpoint. The past two years have proven that progress is possible even in the most difficult areas of Central Africa, although the recent power vacuum created by the M23 rebellion will likely cause increased instability in the immediate future. However, if the deeper, systemic reforms are to succeed over the long term, increased diplomacy, greater investment from companies, and a consolidated push to go conflict-free will be required. It is now the time to make that effort.

Annex 1: Methodology

Enough's fieldwork was primarily conducted over the course of four weeks, from February 1 to March 3, 2012 in six locations in North and South Kivu in the Democratic Republic of Congo and in three locations in Rwanda, with a total of 143 people. Follow-up interviews were conducted in Goma, Rutshuru, and Rwanda in June to July 2012.

The study utilized a purposive sampling approach; Enough researchers focused on mining, mining-adjacent, and commercial areas in order to evaluate the direct impact of Dodd-Frank on these communities. Within these selected interview areas, the Enough research team collected testimonies from a broad sampling of informants. Men and women of various ages, occupations, and social positions were interviewed. These included miners in both 3 T and gold mines, porters, mining traders, civil society representatives, women leaders, government officials, NGO workers, diplomats, U.N. officials, ex-combatants, military officers, and mining companies.

A qualitative, semi-structured approach to individual interviews and focus group discussions was utilized in order to collect data from a broad spectrum of informants. A list of questions was used as starting points but the research team allowed the conversation to develop organically. Several focus group discussions were also held with miners and minerals porters.

Interviews were conducted in the informant's preferred language. Enough conducted interviews in French, English, Kiswahili, and Kinyarwanda. When necessary, two members of the Enough research team conducted simultaneous translation from the primary language into English. All interviews were documented with field notes and/or video recordings.

Endnotes

- 1 See p. 4 for detailed explanation.
- 2 Interviews with minerals dealers, North and South Kivu, February 2012.
- 3 These are 95 mines in Katanga and 406 mines in Rwanda that operate with the iTSCI “bag and tag” traceability system run by the tin and tantalum industry associations. They are fully traceable to mine of origin, but they still must be certified by the International Conference on the Great Lakes Region, or ICGLR, to be categorized as conflict-free. H.E. Vincent Karega, “Progress in Mineral Traceability: The Rwandan Story” Presentation at ITRI Conference in South Africa, April 1, 2012, available at <http://itri.co.uk>; Presentation by Resolve to EICC-GeSI conference in Philadelphia, Pennsylvania on in-region sourcing initiatives, April 2012.
- 4 Enough Team, “Enough Commends U.S. State Department for Statement on Rwanda, Further Action Needed” Enough Project, July 5, 2012 available at <http://www.enoughproject.org/blogs/enough-commends-us-state-department-statement-rwanda-further-action-needed>; Aaron Hall, “Rwanda’s Long Shadow: U.S.-Rwandan Relations and a Path Forward in Eastern Congo” Enough Project, June 20, 2012, available at <http://www.enoughproject.org/publications/rwanda%E2%80%99s-long-shadow-us-rwandan-relations-and-path-forward-eastern-congo>
- 5 See Annex 1.
- 6 For further detail on the reforms, see Sasha Lezhnev, “A Window for Reform in Eastern Congo: November’s Election and Three Achievable Steps on Conflict Minerals” Enough Project, 2011, available at < <http://www.enoughproject.org/publications/window-reform-eastern-congo-november%E2%80%99s-elections-and-three-achievable-steps-conflict>
- 7 Enough interviews in North and South Kivu, February 2012. This was enforcement of the prohibition on involvement in mining in the Congolese military code.
- 8 Interview with two civil society activists, Mubi, Walikale, February 15, 2012.
- 9 U.N. Group of Experts Interim Report for 2012, para. 43. <http://www.un.org/sc/committees/1533/egroup.shtml>
- 10 As the U.N. Group of Experts states, “As a consequence of international and domestic opposition to their levying illegal taxes at mine sites and roadblocks, FARDC criminal networks are increasingly exercising commercial control over mineral trading chains through a combination of investments in mineral purchases, the protection of local mine operators and the facilitation of the transport and fraudulent export of minerals.” U.N. Group of Experts, 2011, para. 422. <http://www.un.org/sc/committees/1533/egroup.shtml>
- 11 According to interviews with the U.N. Group of Experts, miners from three mines, several minerals traders, and civil society groups, 2011-2012.
- 12 Based on North Kivu Division of Mines statistics, the average monthly export rate for tin in 2010 was 900 tons and for tantalum, 30 tons. The official monthly export rate in 2012 was 173 tons for tin and 0 for tantalum. Based on the evidence that mines are operating at 20 percent to 35 percent of 2010 capacity, approximately 142 tons of tin per month and 10.5 tons of tantalum per month were therefore smuggled out of Congo in 2012. Based on weighted percentages for their respective price values, the official rate represents approximately 30 percent of the currently traded volume. It is important to recall, however, that the overall volume is only 20 percent to 35 percent of the 2010 trade.
- 13 Interviews with minerals traders in Goma, Walikale, February and July 2012; North Kivu Divisions des Mines statistics from 2010 and 2012.
- 14 Based on North Kivu Division of Mines statistics, the average monthly export rate for tin in 2010 was 900 tons and for tantalum, 30 tons. The official monthly export rate in 2012 was 173 tons for tin and 0 for tantalum. Based on the evidence that mines are operating at 20 percent to 35 percent of 2010 capacity, approximately 142 tons of tin per month and 10.5 tons of tantalum per month were therefore smuggled out of Congo in 2012. Based on weighted percentages for their respective price values, the official rate represents approximately 30 percent of the currently traded volume. It is important to recall, however, that the overall volume is only 20 percent to 35 percent of the 2010 trade.
- 15 Black market markup, due to militarization of the smuggled trade. Evidence for this comes from the U.N. Group of Experts 2011 report, S/2011/738, para. 422. <http://www.un.org/sc/committees/1533/egroup.shtml>; interviews with minerals traders in Goma, Walikale, February 2012 and July 2012.
- 16 These were reportedly General Amisi’s Kinshasa network within the army, the 8th military region command, the Walikale army sector, and the intelligence officer network. Interviews with Walikale minerals expert and politician, February 17-18, 2012.
- 17 See, for example, Sasha Lezhnev, *Crafting Peace: Strategies to Deal with Warlords in Collapsing States* (Plymouth, UK: Lexington Books, 2006).
- 18 Interviews with Mining Police officers, Goma and Walikale, February 2012.
- 19 Jonny Hogg, “New Congo scheme targets conflict mineral exporters,” Reuters February 28, 2012, available at <http://www.reuters.com/article/2012/02/28/congo-democratic-mining-idUSL5E8DS6FU20120228>
- 20 These are TTT Mining and Huayei. These were suspended by the Congolese government on May 15, 2012.
- 21 See H.E. Vincent Karega, “Progress in Mineral Traceability: The Rwandan Story” Presentation at ITRI Conference in South Africa, April 1, 2012 available at <http://itri.co.uk>; interview with U.S. official, Washington, DC, May 29, 2012; In the case of the Kivus, this is a restart, as ITSCI was active in 2010 before President Kabila’s mining ban. ITRI cited that the restart “follow[ed] an evaluation of progress by Ministry experts who have reported improved transparency and statistics of production, and resulting tax revenues, as well as increased Government control and governance in the stanniferrous mineral sector in Katanga. Available at http://www.itri.co.uk/index.php?option=com_zoo&task=item&item_id=2374&Itemid=177
- 22 This is by the company Met Trak. See Shawn Blore and Ian Smillie. *Taming the Resource Curse: Implementing the ICGLR Certification Mechanism for Conflict-Prone Minerals*. Partnership Africa Canada, March 2011.
- 23 The U.N. Group of Experts cites that Congolese army Col. Biyoyo had extorted money from civilians at Nyabibwe in April 2012. “Considering recent turmoil in the mining areas of Rubaya, as well as Nyabibwe, the surrounding mines would need to be assessed again as soon as the security situation allows it” U.N. Group of Experts Interim Report, June 2012, paras. 145-6. <http://www.un.org/sc/committees/1533/egroup.shtml>
- 24 U.N. Group of Experts Interim Report for 2012, para. 141. <http://www.un.org/sc/committees/1533/egroup.shtml>
- 25 OECD, “Upstream Implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Cycle 2 Interim Progress Report on the Supplement on Tin, Tantalum, and Tungsten,” draft for discussion at the ICGLR-OECD-U.N. Group of Experts joint meeting, May 3-4 2012, Paris, France.

- 26 Approximately 4-8 tons of gold are smuggled out of the Kivus annually, based on industry and U.N. estimates. At current prices, the mean value for this trade is approximately \$300 million.
- 27 Industry estimates and UN Group of Experts, 2011 report. <http://www.un.org/sc/committees/1533/egroup.shtml>
- 28 This includes the World Gold Council and Responsible Jewellery Council. U.N. Group of Experts, 2012, Interim Report, 155.
- 29 Interview with mining cooperative leader, Goma, February 11, 2012.
- 30 For example, miners at the Solutions for Hope project are paid the London price for tantalum, which is reportedly higher than the previous, opaque price.
- 31 A militia called Mai Mai Gedeon was present in one area of northern Katanga, where the company MMR had concessions. In a positive step, the Provincial Government of Katanga suspended minerals exports from that particular area, until the problem was resolved. This does not appear to have affected production at other mines in the area, which undergo a bag and tag system. However, iTSCI, which runs the program, should make all production statistics public so that the public can be assured that the minerals are conflict-free.
- 32 On Maniema, see U.N. Group of Experts, 370. The project, funded by the U.S. Bureau of Democracy, Human Rights and Labor, is being run through the NGO PACT. The committees must ensure security for members and full transparency of reports, so that incidents can be publicly highlighted. This would ensure pressure on conflict actors.
- 33 For the results of the audit, see "Current Status" available at <http://solutions-network.org/site-solutionsforhope/current-status/>
- 34 The Request for Proposals is open for public comment until May 11, 2012 at <http://www.resolv.org/site-ppa/rfp/>
- 35 The checks were done in Masisi and Kabare, Mwenga, and Walungu.
- 36 The German/Congolese audits under the Certified Trading Chains rubric examined four factors: security; the presence of children in the site; the working conditions; and environmental standards. The Nyabibwe baseline audit, done by an independent third party, highlighted that "The work of the operating is in compliance. ... the Certification Working Group considered it useful to submit the following relevant observations: The observation made on ground indicates that there is lack of military and other armed groups, lack of children and women. Nyabibwe fulfills the requirements for certification of a site which extracts the minerals can be considered from a legal channels and clean; Lack of ITRI in this country is the only handicap for the marketing of products derived from this site for lack of labeling; We recommend that the Ministry of Mines, and BGR Promines necessary contacts and undertake in the near future with other organizations specializing in product labeling mining to compensate for this lack of ITRI on the ground; The production continues normally in this site but the stock of minerals extracted is not visible. Which suggests a massive fraud." http://mines-rdc.cd/fr/index.php?option=com_content&view=article&id=185
- 37 These were Fred Ibingira, Richard Rutatina, Wilson Gumisiriza and Dan Munyuza.
- 38 UN Group of Experts, 2011, 112. <http://www.un.org/sc/committees/1533/egroup.shtml>
- 39 For more detail, see Sasha Lezhnev, "Conflict Minerals in an Election Year," Enough Project <http://www.enough-project.org/publications/window-reform-eastern-congo-november%E2%80%99s-elections-and-three-achievable-steps-conflict>
- 40 Interview with second minerals trader, Goma, July 6, 2012.
- 41 National Bank of Rwanda, Annual report 2011, p. 42. Available at <http://www.bnr.rw/publications.aspx> Furthermore, the U.N. Group of Experts stated that "It remains unclear, however, how effectively the Rwandan mining authorities have been able to prevent the fraudulent importation of Congolese minerals into Rwandan mines, where they are then tagged as Rwandan." United Nations *Group of Experts on the Democratic Republic of the Congo: Final Report*. Rep. no. S/2011/738. United Nations, 2011
- 42 Interview with Edward, local business owner, Goma, February 12, 2012.
- 43 Interview with Robert, miner, Mubi, February 14, 2012.
- 44 Interview with Gabriel, gold and tin miner, Goma, February 11, 2012.
- 45 Interview with Juslain Kubuya, head of artisanal miners' association, Bisie mine. Njingala, February 14, 2012.
- 46 Some more statements are attached as an appendix.
- 47 Confidential interview with miner, eastern Congo, February 10, 2012.
- 48 Interview with Robert, miner, Mubi, February 14, 2012.
- 49 Interview with Paulin, civil society leader, Walikale, February 15, 2012.
- 50 See Free the Slaves, Zorba Leslie, Jody Sarich, and Karen Stauss. *The Congo Report: Slavery in Conflict*. Rep. Free the Slaves, June 2011. <<http://www.freetheslaves.net/Document.Doc?id=243>>..
- 51 "Numbi: Resources between potential and actual state deficiencies in Kalehe, South Kivu." Pole Institute, April 4, 2012. <http://www.pole-institute.org/site%20web/echos/echo166.htm>
- 52 The U.S.-supported program is set to cover three territories: Masisi and Beni in North Kivu and Walungu in South Kivu. More funds are needed to cover other important, more difficult accessible mining areas in Walikale and Lubero in North Kivu and in most of the territories in the South Kivu province. Interview with CARE, Goma, April 17, 2012.

Enough is a project of the Center for American Progress to end genocide and crimes against humanity. Founded in 2007, Enough focuses on the crises in Sudan, South Sudan, eastern Congo, and areas affected by the Lord's Resistance Army. Enough conducts intensive field research, develops practical policies to address these crises, and shares sensible tools to empower citizens and groups working for change. To learn more about Enough and what you can do to help, go to www.enoughproject.org.

