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ARTISANAL MINING AND POST-CONFLICT RECONSTRUCTION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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SUMMARY

● For at least two decades mineral resources have been a curse rather than a blessing for the Democratic Republic of the Congo (DRC). Although the civil war formally ended in 2003, armed conflicts continue in the east of the country while the country as a while remains highly militarized. This has severe repercussions for mineral resource governance. The ability of armed groups to access resource revenues slows down and jeopardizes peacebuilding efforts. Meanwhile, artisanal miners, who extract up to 90 per cent of the minerals, are kept in poverty because of military extortion and other forms of labour exploitation.

Re-establishing civil control over militarized mining areas must be a first priority for the Congolese Government. But it should be immediately followed by efforts to formalize the commodity chain, from artisanal mining sites to international trading and processing companies. To date, attempts at formalization by the government and donors have focused on the export level. Little has been done to clarify and strengthen the rights of artisanal miners at the production level. Unless this is achieved, responsible business practice remains elusive.

I. Introduction

The mining sector in the Democratic Republic of the Congo (DRC) is increasingly regarded as the economic foundation for the country's post-conflict reconstruction. Yet the sector, which largely relies on artisanal mining, still plays a critical role in local and regional conflicts.[1] While much scholarly and donor attention has been focused on the role of mineral resource revenues in financing and sustaining rebel factions in the east of the country, resource–conflict linkages are more complex and more widespread than this. Both state security actors and non-state armed groups guard or infiltrate artisanal mining areas across the country. The various parties—which often work in association with or on behalf of local government officials, customary authorities or private companies—move around these areas, demanding illegitimate taxes and fees or confiscating minerals from miners and traders.

Profit margins of artisanal miners range from $1 to $5 per day, with estimated annual salaries ranging from $2500 in the diamond fields of Kasaï Occidental and Kasaï Oriental provinces and $2200 in the copper belt of Katanga Province to $800 in the cassiterite and coltan mines of Nord- and Sud-Kivu provinces.[2] This income represents just a fraction of the export value of the miners' production. Besides being underpaid, artisanal miners experience dangerous working conditions: people are buried alive as a result of collapsing mineshafts on an almost daily basis. Artisanal mining camps are often set up in remote areas that lack any public services, problems of drug and alcohol abuse are widespread and prevalence of HIV is high.[3] Despite these negative aspects, the lack of alternative employment draws hundreds of thousands of young men, women and even children to work in the mines.

[1] Artisan mining refers to the manual excavation of alluvial mineral deposits that requires minimal technology input.

[2] Berke, C. et al., *Les ressources naturelles en République démocratique du Congo: Un potentiel de développement?* [Natural resources in the Democratic Republic of the Congo: a potential for development?] (KfW Entwicklungsbank and Bundesanstalt für Geowissenschaften und Rohstoffe: Frankfurt am Main, Apr. 2007), p. 28.

[3] Kiabilwa, S. M. and Cimanga, F. M., *L'industrie du diamant en République démocratique du Congo: pour quel développement!* [The diamond industry in the Democratic Republic of the Congo: for what development!] (Southern Africa Resource Watch: Johannesburg, Oct. 2008).

The Congolese Government does little to defend the rights of artisanal miners. State mining authorities do not have the power and the means to stop illegal tax levying by soldiers. Meanwhile, almost all mineral-rich land is in the hands of private and state companies but, in many cases, they fail to industrially develop their concessions because of a combination of insecurity, poor infrastructure and a lack of investment capital. Instead, they buy minerals from artisanal miners, but without ameliorating their work conditions. The government has created very few mining zones where artisanal miners can work legally and the illegal nature of most artisanal mining in the DRC increases the miners' vulnerability to extortion and abuse.

Improving mineral resource governance is a daunting task for the Government of the DRC, the international community and Congolese civil society alike. In many cases reform efforts rely on the cooperation of the very state and private actors that are complicit in the illegal patterns of production, trade and revenue generation. There is a real need to organize and strengthen the tenure rights of artisanal miners in order for them to be able to better negotiate with and hold to account government, military and business players. Efforts to improve resource governance that are not sensitive to the imbalances of local power may benefit certain groups at the expense of others, thereby deepening grievances and precipitating rather than reducing conflict.

Improving mineral resource governance is a daunting task

This background paper provides an up-to-date analysis of the mining sector in the DRC, identifies security issues—including the funding of armed groups, the violation of human rights and the generation of local conflicts over access to mines and revenues—and suggests ways in which these issues can be addressed. Section II charts the decline and increased informality of the mining sector that started during the 1980s and accelerated as a result of the civil war. Section III looks at recent developments in the industrial and artisanal mining sectors since a new Mining Code came into force in 2002, including the effects of the worldwide economic slowdown since the end of 2008. Section IV focuses on the low- and high-intensity conflicts associated with the artisanal mining sector, with a focus on three regions: eastern, southern and central DRC. Section V discusses good governance and development interventions. Section VI contains brief conclusions.

II. Decline and informality in the Congolese mining sector

The DRC has large proportions of the global reserves of many minerals, including one-third of the world's cobalt and one-tenth of its copper, both of which are found in the southern province of Katanga. The DRC is Africa's largest diamond producer by volume, and second largest, after Angola, by export value.[4] Diamond mines are located in Kasaï Occidental and Kasaï Oriental provinces in central DRC and in the north-eastern province of Orientale, around the town Kisangani. Deposits of a number of rare metals are located in the eastern provinces of Nord-Kivu, Sud-Kivu and Maniema. The most important and profitable of these are columbite-tantalum (coltan), which was heavily exploited in the period 1998–2003, and cassiterite (tin

[4] Partnership Africa Canada (PAC), *Diamonds and Human Security: Annual Review 2008* (PAC: Ottawa, Oct. 2008), p. 2.

ore). While gold deposits are located throughout the eastern part of the country, the deposits that are most actively exploited lie in the Ituri district of Orientale Province, bordering Uganda.

Historically, the mining industry accounted for about 25 per cent of the DRC's gross domestic product (GDP) and tax revenues and about 75 per cent of its total export revenues.[5] The failed nationalization policies implemented by the government of President Mobuto Sese Seko in the late 1970s and a sharp fall of commodity prices in the 1980s led to a rapid decline in the industrial production of all minerals during the 1990s. Production reached an all time low during the civil wars of 1996–97 and 1998–2003. Since the formal end of the civil war in 2003, mineral production (mainly that of copper, cobalt and diamonds) has picked up again: it contributed 16 per cent to national GDP in 2006, compared with 7 per cent in 2001.[6]

The above figures measure only the decline of formal, industrial production in the Congolese mining sector; they do not measure changes in artisanal production. The majority of artisanal production is informal, which means that much of its output is not recorded and is smuggled out of the country. During the 1980s artisanal mining became ever more important for people's livelihoods as a result of the collapse of state mining enterprises and the formal economy as a whole. Many of the employees laid-off by state mining companies turned to artisanal mining. In 1982 the national mining law was deregulated, allowing minerals to be held, transported and sold by private actors. Indeed, President Mobutu's advice was 'debrouillez vous' ('fend for yourself'), encouraging people to live in contravention of the law.[7] While the government insisted that resource exports be routed through the port of Matadi in western DRC, in order to be taxed, traders in the east ignored this and smuggled their goods to Burundi, Rwanda, Uganda and Zambia.[8]

The civil wars accelerated artisanal mining further. While the majority of coltan, cassiterite and gold was mined in an artisanal manner before the war, copper and cobalt extraction came to rely mostly on artisanal mining as well (see table 1). The World Bank estimated in May 2008 that about 90 per cent of the DRC's mineral resource production relies on the artisanal mining sector, which employs between 500 000 and 2 million people, depending on the season and demand. With each miner having on average four or five dependants, the livelihoods of 2.5–9 million persons, out of a total population of 66 million, depend on artisanal mining.[9] Among the main mineral sectors, artisanal miners are divided among diamonds (65 per cent), copper and cobalt (20 per cent), gold (7.5 per cent) and cassiterite and coltan (7.5 per cent).[10]

[5] Rights and Accountability in Development (RAID), 'Key mining contracts in Katanga: the economic argument for renegotiation', Apr. 2007, <http://www.raid-uk.org/news/Economic_Rationale_Contracts_12APR07.htm>, p. 3.

[6] Resource Watch Institute, 'Democratic Republic of Congo: extractive industries', [n.d.], <http://www.revenuewatch.org/our-work/countries/drc-extractive.php>; and World Bank, 'Democratic Republic of Congo: country brief', Oct. 2008, <http://go.worldbank.org/VU4KGZ3JX0>.

[7] Bayart, J. F, Ellis, S. and Hibou, B., 'From kleptocracy to the felonious state?', eds J. F. Bayart, S. Ellis and B. Hibou, *The Criminalization of the State in Africa* (James Currey: Oxford, 1999), pp. 1–31.

[8] Vlassenroot, K. and Raeymaekers T., 'The politics of rebellion and intervention in Ituri: the emergence of a new political complex?', *African Affairs*, vol. 103, no. 412 (2004), pp. 385–412.

[9] World Bank, *Democratic Republic of the Congo: Growth with Governance in the Mining Sector* (World Bank: Washington, DC, May 2008), p. 56.

[10] Based on Berke et al. (note 2), p. 28.

Table 1. Recorded and unrecorded mineral production and exports in the Democratic Republic of the Congo

Mineral	Year	Volume of recorded exports	Estimated volume of actual exports	Value of recorded exports ($ million)	Estimated value of actual exports ($ million)	Artisanal production (%)
Cassiterite	2006	5 878 tonnes	16 870 tonnes	12	49	*100*
Cobalt	2005	25 100 tonnes	34 100 tonnes	390	743	*80*
Copper	2005	117 000 tonnes	223 000 tonnes			
Diamond	2006	28 540 000 carats	51 040 000 carats	642	1 092	*95*
Gold	2005	609 kilograms	9 000 kilograms	11	151	*100*

Sources: Recorded volume cassiterite, copper, cobalt, diamond, actual volume gold: Yager, T. R., 'The mineral industry of Congo (Kinshasa)', *US Geological Survey Minerals Yearbook: 2006* (United States Geological Survey: Reston, VA, Nov. 2008); Recorded volume gold, actual volume cassiterite, copper: Sunman, H. and Bates, N., *Trading for Peace: Achieving Security and Poverty Reduction through Trade in Natural Resources in the Great Lakes Area* (Department for International Development: London, Oct. 2007); Actual volume cobalt, diamond, artisanal production: Berke, C. et al., *Les ressources naturelles en République Démocratique du Congo: Un potentiel de développement?* [Natural resources in the Democratic Republic of Congo: a potential for Development?] (KfW Entwicklungsbank and Bundesanstalt für Geowissenschaften und Rohstoffe: Frankfurt am Main, Apr. 2007); Recorded value cobalt/copper: Global Witness, *Digging in Corruption: Fraud, Abuse and Exploitation in Katanga's Copper and Cobalt Mines* (London: Global Witness, 2006); Other export values: Author's calculations based on estimated export prices.

This process of informalizing the production and trade in minerals has severely damaged the government's revenue from taxes, including export taxes, surface rents and mine royalties. Not only is the government missing out on tax revenues from smuggled minerals, which account for roughly half of the total value of mineral exports (see table 1), it is also missing out on revenues from legitimate, recorded exports. The World Bank estimates that, based on a value of recorded mineral trade of about $500 million in 2005 and 2006 (excluding diamonds), the Congolese Government should receive at least 10 per cent, or $50 million, in tax revenues. In fact, the government reported tax revenues of only $26.7 million in 2005 and $11.7 million in 2006 from the entire mining sector (including diamonds).[11]

The World Bank estimates that the export value of mineral production will rise from $2 billion in 2008 to $3 billion in 2012. While this may be achievable, it remains questionable whether the Congolese Government will be able to increase the level of recorded exports and to levy export and other taxes for its tax revenues to reach the projected $200–400 million.[12]

III. Industrial and artisanal mining under a new mining regime

Under the guidance of the World Bank and the International Monetary Fund (IMF), the DRC enacted a new Mining Code in 2002.[13] The code and its accompanying mining regulations of 2003 provide the legal framework for acquiring rights to explore, exploit, process and trade minerals within and from the DRC. It also regulates the transfer of existing mining rights to joint ventures between private and state mining companies. The code dis-

[11] World Bank (note 9), p. 26.

[12] World Bank (note 9), p. 11.

[13] Loi no. 007/2002 du 11 juillet 2002 portant Code minier [Law no. 007/2002 of 11 July 2002 on the Mining Code], published in *Journal officiel de la Republic democratique du Congo*, 15 July 2002, also available at <http://www.glin.gov/view.action?glinID=151167>.

tinguishes between three categories of exploitation—industrial mining, semi-industrial or small-scale mining, and artisanal mining—which are subject to different tax regimes and permit systems.

Industrial mining

The 2002 Mining Code transformed the role of the state from that of an operator into that of a regulator, although the state retains an important interest in mineral production through state-owned mining companies. The largest share of exploitation permits (308 out of 471 as of May 2008) is still in the hands of state-owned companies, but some of these (33 as of May 2008) are subject to a partnership agreement by which exploitation rights are leased by a private company or transferred to a new joint venture between a private company and a state-owned company.[14] The majority of the mining rights transferred to private–state joint ventures belonged to the state copper and cobalt producer, Gécamines.[15] Nearly all exploration permits—4246 out of 4353 as of 2007—are in the hands of private enterprises that have no contractual agreement with any state-owned enterprise.[16] As of March 2008, only 10 of all exploration permits awarded to 642 mining companies had been converted to exploitation permits.[17] Some companies have used their mining rights to resell them at a profit or to raise their own share prices.[18]

The Mining Code aims to provide a clear legal framework that can attract investment by foreign mining companies to revive industrial mining. However, mining companies are not delivering on investment plans as a result of the global economic slowdown that began in late 2008 and led to decreasing world market prices for metals and diamonds. In December 2008 the IMF adjusted its projection of foreign direct investment in the DRC for 2009 from $2.5 billion to $800 million.[19] The slowdown in mining investment may be reversed by a $6 billion loan to the Congolese Government provided by a Chinese business consortium. Half of this sum is to be invested in infrastructure and half in exploiting copper and cobalt. Chinese partners have two-thirds of the interests in the copper and cobalt project.[20] These investments will take a number of years to generate actual output.

Major exploitation companies that together committed a total of $2.1 billion in capital investment in the mining sector in 2006 and 2007 are continuing or moving towards production. For example, by March 2009 two mining projects—Tenke Fungurume Mining and Kingamyambo Musonoi

[14] World Bank (note 9), p. 41.

[15] Gécamines usually retains a 12.5–17.5 % share in joint venture companies.

[16] World Bank (note 9), p. 17.

[17] 'Vers une revision du Code minier au Congo' [Towards a revision of the Mining Code in Congo], *African Mining Intelligence*, no. 176 (26 Mar. 2008).

[18] Mazalto, M., 'La réforme du secteur minier en République démocratique du Congo: enjeux de gouvernance et perspectives de reconstruction' [Mining sector reform in the Democratic Republic of the Congo: governance stakes and perspectives for reconstruction], *Afrique Contemporaine*, no. 227 (2008), pp. 53–80.

[19] 'What they said: Congo', Miningmx, 18 Dec. 2008, <http://www.miningmx.com/wts/914296.htm>.

[20] Cang, A., 'Chinese to fund massive DRC copper-cobalt project', Mineweb, 23 Apr. 2008, <http://www.mineweb.com/mineweb/view/mineweb/en/page36?oid=51593&sn=Detail>.

Tailings (KMT)—were fully operational.[21] However, they are the minority: a total of 45 mining companies, including such prominent examples as Anvil, Boss Mining and Chemaf, have reduced their activities, dismissing or suspending the contracts of over 4000 workers.[22] As a result, expected copper and cobalt outputs for 2009 have already dropped by 35 per cent and 50 per cent, respectively.[23]

Industrial diamond mining has followed the same trend. The main industrial mining company, Miba, which is 80 per cent state owned, ceased production in November 2008. It is unclear when diamond prices will recover enough to allow the company to resume operations. In terms of exploration, major foreign diamond-mining companies such as de Beers and Gem Diamonds have suspended their activities.[24] Investment in gold mining is not likely to be negatively affected by the current economic slowdown, as gold prices tend to increase rather than decrease in such periods. Indeed, foreign companies are moving towards industrial gold production in the Ituri district and Maniema and Sud-Kivu provinces.[25] Cassiterite and coltan prices have fallen less than those of diamonds, copper and cobalt. Nonetheless, prospects for industrial production remain limited because of instability in Nord- and Sud-Kivu provinces. In October 2008 the main potential investor, Kivu Resources, declared *force majeure* for its project at Bisie in Nord-Kivu because of military occupation.[26] Mining companies now tend to shift their attention to north Katanga and Maniema.

Artisanal mining

The 2002 Mining Code allows for the designation of artisanal mining zones (AMZs) in places where industrial exploitation is deemed to be unfeasible. In such zones, holders of an artisanal mining card can dig for minerals and sell their output to licensed brokers (*negociants*) and trading houses (*comptoirs*).[27] The code gives artisanal miners 60 days to evacuate an AMZ for which an industrial mining permit is granted, or 30 days to submit their own application for a small-scale mining permit.[28]

When allocating and transferring mineral rights after 2002, the Congolese Government did not take into account that artisanal miners were already exploiting many of the existing and new concession areas. It took until

[21] Cuvelier, J., *The Impact of the Global Financial Crisis on Mining in Katanga* (International Peace Information Service: Antwerp, 14 July 2009), p. 7.

[22] Katanga Province Ministry of Mines and Land, 'Evolution de la situation des entreprises minières au Katanga, Décembre 2008 à Février 2009' [Evolution of the situation of mining enterprises in Katanga, December 2008 to February 2009], Unpublished document.

[23] Shirley, B., 'Copper, cobalt mining operations halted in the DRC', *Mining Weekly*, 16 Jan. 2009; and Bavier, J., 'DRC cuts 3 month copper output target 30 to 40 percent, 2009 cobalt target 50 percent', Mineweb, 17 Dec. 2008, <http://www.mineweb.com/mineweb/view/mineweb/en/page36?oid=75240&sn=Detail>.

[24] 'Mwana may stop DRC exploration after BHP pulls out', *Mining Weekly*, 2 Dec. 2008; and 'De Beers freezes activity', *African Mining Intelligence*, no. 201 (15 Apr. 2009).

[25] Williams, L., 'Banro moves nearer to gold production with Twangiza pre-feasibility study', Mineweb, 8 July 2008, <http://www.mineweb.com:8080/mineweb/view/mineweb/en/page38/page66?oid=56298&sn=Detail>.

[26] 'Kivu Resources declares *force majeure* on DRC tin project', *Metal Bulletin*, 13 Oct. 2008.

[27] Loi portant Code minier (note 13), Title IV.

[28] Loi portant Code minier (note 13), Article 110.

March 2008 for 43 AMZs to be delimited countrywide.[29] Most artisanal mining takes place in areas where it has not been legalized, and it often occurs within existing industrial concessions. In Katanga, for instance, between 50 000 and 150 000 artisanal miners are estimated to enter exploitation concession areas each day.[30] While artisanal production remains mostly illegal, more of the trade in minerals is becoming legal. About 100 licences have been issued to *comptoirs* that specialize in either diamonds or precious metals, allowing them to buy from artisanal miners directly or through *negociants*.[31]

Because almost all mineral-rich lands have been awarded to companies in the form of concessions, in order to create new AMZs the government has to negotiate with the concession holder to cede part of its concession or wait until the concession expires. Alternatively, a concession can be suspended because of mismanagement or lack of development, or it can be reduced in size after renewal or when the licence is transformation from exploration into exploitation. According to one official of the Congolese Mining Registry, the current economic crisis has meant that the government has tended to prolong the duration of the first 4–5 year tranche of exploration concessions.[32]

The creation of AMZs is not the only way in which artisanal mining has become legitimate. On several occasions state-owned mining companies have authorized the presence of artisanal miners on their concessions.[33] In return, the company either receives a share of the production or puts in place a structure that permits it to buy the minerals though intermediary companies or cooperatives (see the Katanga case in section IV below). *Comptoirs* have also tried to formalize their relation with artisanal miners by obtaining small-scale mining permits. By 2007, 59 small-scale mining permits had been issued, none to artisanal miners, but some to *comptoirs*.[34] *Comptoirs* with mining permits are not likely to develop industrial processes; instead, they continue to rely on artisanal production.[35] Such supply arrangements between industrial or small-scale operators and artisanal miners blurs the distinction between the three categories of mineral exploitation created by the Mining Code.

[29] Congolese Ministry of Mines, 'Liste des zones d'exploitation artisanale: situation arrêtée au mois de mars 2008' [List of artisanal mining zones: situation of decrees in March 2008], Unpublished document.

[30] Netherlands Institute for Southern Africa (NIZA) and International Peace Information Service (IPIS), *The State vs. the People: Governance, Mining and the Transitional Regime in the Democratic Republic of Congo* (NIZA and IPIS: Amsterdam, 2006); and Custers, R., 'Congo: La contrebande de minerais se poursuit sans ralentir' [Congo: contraband of minerals carries forth without slowing down], Indymedia.be, 2 Mar. 2007, <http://www.indymedia.be/en/node/7576>.

[31] World Bank (note 9), p. 23.

[32] Lembo Bashizi, C., Congolese Mining Registry, Interview with the author, Kinshasa, 23 June 2009.

[33] Kwimi N'sel, G., Congolese Ministry of Mines, Interview with the author, Kinshasa, 24 June 2009.

[34] World Bank (note 9), p. 19; and Garrett, N., 'The Extractive Industries Transparency Initiative (EITI) and artisanal and small-scale mining (ASM): preliminary observations from the Democratic Republic of the Congo', Draft, EITI, 22 Oct. 2007, <http://www.resourceglobal.co.uk/index.php?option=com_docman&task=doc_details&gid=3&Itemid=41>, p. 25.

[35] The Mining Code presupposes that artisanal exploiters, *negociants* and *comptoirs* do not have mining permits. Loi portant Code minier (note 13), Article 109.

The effects of the global economic crisis on the artisanal mining sector are more difficult to put in figures than for the industrial sector. One measure is the number of *comptoirs* and small-scale processing companies that have gone out of business or have downsized their operations. In Katanga, 45 out of the 75 smelters stopped production between July and December 2008.[36] An unspecified number of *comptoirs* closed down in the main diamond-trading town of Mbuji-Mayi.[37] Cassiterite and coltan *comptoirs* in the towns of Bukavu and Goma continue to stay in business but some seem to deal in smaller volumes.[38] The level of unemployment among artisanal miners is hard to estimate but according to some the figure may be in the order of several hundred thousands.[39]

IV. Artisanal mining and security

The civil war affected mining areas differently across the DRC. Although rebel forces never occupied the south of Katanga Province or Kasaï Occidental and Kasaï Oriental provinces, they did control most parts of Orientale, Maniema, Nord-Kivu and Sud-Kivu provinces. The larger part of the rebel occupied land has reverted to the control of the new national army, the Forces armées de la République démocratique du Congo (FARDC, Armed Forces of the DRC), because the rebel groups and militia that were party to the 2003 Sun City Agreement accepted integration into the FARDC.[40]

This process of integration involves so-called *brassage* (intermingling): soldiers are trained and redeployed with soldiers from other factions away from their former positions. However, some units that accepted integration and now wear FARDC uniforms have refused or postponed full integration in order to avoid their units being broken up and the loss of the territories occupied during the civil war. These are referred to as non-integrated FARDC units.[41] Meanwhile, significant sections of former rebel and militia groups have refused integration altogether. The Congrès national pour la défense du people (CNDP, National Congress for the Defence of the People) and the Patriotes résistants Congolais (PARECO, Congolese Patriotic Resistance) accepted integration only in March 2009.[42] As a result, the Forces démocratiques de libération du Rwanda (FDLR, Democratic Forces for the

[36] Katanga Province Ministry of Mines and Land (note 22).

[37] 'Mbuji Mayi : les fêtes de fin d'année sur fond de crise financière' [Mbuji Mayi: end of year holidays with the financial crisis in the background], Radio Okapi, 26 Dec. 2008, <http://www.radiookapi.net/index.php?i=53&a=21564>.

[38] Custers, R., Cuvelier, J. and Verbruggen, D., 'Culprits or scapegoats? Revisiting the role of Belgian mineral traders in eastern DRC', International Peace Information Centre (IPIS), 13 May 2009, <http://www.ipisresearch.be/download.php?id=261>, p.14.

[39] 'Congo-Kinshasa: joblessness rises as global crisis hits mining', Inter Press Service, 12 Feb. 2009, <http://allafrica.com/stories/200902120486.html>.

[40] The Final Act of the Inter-Congolese Political Negotiations was signed on 2 Apr. 2003 at Sun City, South Africa. Its text is available at <http://www.reliefweb.int/rwarchive/rwb.nsf/db900sid/MHII-6B964R>.

[41] Coalition to Stop the Use of Child Soldiers, 'Democratic Republic of Congo: priorities for children associated with armed forces and groups', July 2007, <http://www.child-soldiers.org/document/get?id=1244>, p. 4.

[42] International Crisis Group (ICG), *Congo: Five Priorities for a Peacebuilding Strategy*, ICG Africa Report no. 150 (IGC: Brussels, 11 May 2009).

Liberation of Rwanda) is now the most important 'illegal armed group' that operates in the country.[43]

Whether fully integrated or not, or whether formerly belonging to a rebel group, militia or national army unit, FARDC soldiers are often underpaid and under limited command of the military leadership in Kinshasa and the provincial capitals. To a certain degree military leaders tolerate soldiers' involvement in the artisanal mining sector as it compensates for lack of payment and provisions for troops. The military justice system only sporadically arrests commanders accused of the systematic pillage and extortion of local communities. Although wartime units may be dislodged from mining areas as a result of the *brassage* process, newly integrated units often take their place.

The fact that resource revenues can sustain fighting capacities and enrich military parties threatens long-term stability

Meanwhile, the security arrangements on and around mining sites increasingly involve a number of other state security services—the National Police, the Mining Police, the National Intelligence Agency (Agence nationale de renseignements, ANR) and the Directorate-General for Migration (Direction générale des migrations, DGM). Furthermore, private or semi-private security companies may secure concession areas on behalf of mining companies. Finally, in areas where the state and companies are remote, traditional non-state authorities can establish control systems involving lightly armed personnel.

The security issues associated with artisanal mining are diverse and usually involve a combination of the above-mentioned state and non-state security actors. Although it should be recognized that these actors can perform positive, regulatory functions, they more often intimidate and use violence against civilians. In addition, the fact that resource revenues can sustain fighting capacities and enrich military parties threatens long-term stability. Parties may be able to return to war, refuse proper reintegration or clash directly over control of resource deposits. The involvement of armed elements may also aggravate non-violent local conflicts over rights and access to resources.

The following subsections provide a brief overview of the current security issues associated with artisanal mining in three areas of the DRC where different minerals are important: (*a*) eastern DRC, referring to Nord-Kivu, Sud-Kivu and Maniema provinces, the north of Katanga Province and the Ituri district of Orientale Province, where cassiterite, coltan and gold are the most important commodities; (*b*) southern DRC, referring to the south of Katanga Province, where copper and cobalt are most important; and (*c*) central DRC, referring to Kasaï Occidental and Kasaï Oriental provinces and parts of Orientale Province around Kisangani, where diamond fields are located.

Cassiterite, coltan and gold in eastern DRC

Many of the productive artisanal mining sites for cassiterite, coltan, gold and a number of other precious metals in eastern DRC remain highly militarized.

[43] While the UN does not define the term 'illegal armed groups', UN reports use this term to refer to foreign-armed groups operating in the DRC as well as Congolese rebel groups that have not accepted army integration.

Most commonly, soldiers of state and non-state factions physically control mining sites and access routes, and they levy taxes, payable in money and in kind, on production and on trade that passes through the area. However, their involvement can also be more elaborate. Individual soldiers and commanders 'own' mining pits and parcels of land, where to some degree they give supplies to and protect artisanal miners, in return for part, usually half, of their production. The FDLR even has a credit system whereby individual members borrow money from the group's central treasury to invest in all kinds of economic activity.[44] For example, according to one expert, in remote forest regions such as Maiko National Park in Nord-Kivu Province activities in newly discovered artisanal cassiterite and coltan mines have largely been pre-financed by FDLR agents.[45]

Armed groups usually sell minerals through independent traders and private trading companies. But the connection between traders and armed groups may be more intimate. Soldiers protect traders, while traders can get minerals past official controls on behalf of soldiers. For example, the FDLR in Kahuzi-Biega National Park uses civilian intermediaries to send minerals to Lulingu airstrip to sell to traders.[46] Soldiers may also put small trading companies in charge of the artisanal mining areas they control. For instance, according to a local official, in a newly discovered coltan mine in Kayebe, north Katanga, FARDC soldiers force the local mining population to sell to an unlicensed trading company while fending off other traders.[47] In addition to actively associating with traders, the military is at times also involved in organizing the transport of minerals. United Nations experts have found evidence that in February 2009 the FARDC requisitioned an aircraft from a private air cargo company to fly military goods into the mineral-rich Walikale territory, Nord-Kivu, and fly back to Goma with cassiterite.[48]

While different armed groups earn revenues from artisanal mining, it would be wrong to claim that ongoing violent conflicts in eastern DRC are fought over resources

While different armed groups earn revenues from artisanal mining, it would be wrong to claim that ongoing violent conflicts in eastern DRC are fought over resources. Instead of instigating conflict, access to resources is prolonging the violent conflict in two ways. First, the FDLR is able to avoid military defeat partly as a result of its access to mineral resources. Following FARDC operations against the FDLR that started in early 2009, mineral resources may become increasingly important for the FDLR's military survival. As a result of the operation, the FDLR is being pushed away from the eastern borders of the DRC into remote forest regions in the interior, where easy access to numerous relatively small resource deposits facilitates its hiding out.[49] Second, access to resources delays military reintegration, because military units do not want to give up

[44] Action pour la Paix et la Concorde and Life & Peace Institute, 'Analyse de context du territoire de Kalehe' [Analysis of the context of the Kalehe territory], Apr. 2009, <http://www.life-peace.org/default2.asp?xid=332>, p. 26.

[45] Wande Moju, L., Independent consultant, Interview with the author, Kinshasa, 20 June 2009.

[46] United Nations, Security Council, Final Report of the Group of Experts on the Democratic Republic of Congo, S/2008/773, 22 Dec. 2008, p. 22.

[47] Wande Kalenga, P., Mining and Geology Department of Tanganika District, Katanga, Interview with the author, Kalemie, 3 July 2009.

[48] United Nations, Security Council, Interim report of the Group of Experts on the Democratic Republic of Congo, S/2009/253, 18 May 2009, p. 15.

[49] United Nations (note 48), p. 12.

profitable positions acquired during the war. The best illustration of this is the non-integrated 85th FARDC brigade, composed of ex-Mai-Mai militia, which for several years controlled Bisie in Walikale, the most important cassiterite mine of the east. The 85th Brigade finally accepted full integration in early 2009, probably as a result of the advance of a newly formed FARDC brigade towards the area, under the command of a former CNDP commander.[50] The risk exists that military takeover of the mine by this brigade will delay the break-up of the CNDP units involved.

The mine at Bisie and smaller FDLR-controlled mines in Nord- and Sud-Kivu are often used to illustrate the intricate links between resources and violent conflict in eastern DRC. But similar situations can be cited from all over the region. For example, in north Katanga FARDC soldiers based in the town of Kongolo refuse to fully integrate because they do not want to lose access to the many coltan and gold mines in the area. In Orientale, Mai-Mai militia soldiers that were supposed to reintegrate in Kisangani have instead been demobilized. In response, the units that stayed behind resumed fighting the FARDC from their resource-rich strongholds on the fringes of Maiko National Park.[51] These cases show how, across eastern DRC, mineral resources enable soldiers to avoid demobilizing or reintegrating into the national army.

Copper and cobalt in southern DRC

In Katanga's copper belt the national army does not control any mining sites as it does in many areas in eastern DRC. The only exception is the uranium mine of Shinkolobwe, where mining has been forbidden since 2004 by presidential decree. The site is supposed to be sealed off from artisanal miners by the FARDC as well as Presidential Guards. However, soldiers let miners pass after payment and artisanal mining continued at least until July 2009. Across the copper belt, soldiers also perform roadside controls in order to check transporters' required documentation and to levy illegal taxes.[52] In addition, ordinary police and intelligence officers are often permanently present at artisanal mining sites. In a note communicated to all local authorities on 26 November 2008, the provincial governor forbade the presence of security services other than the Mining Police at mining sites and industrial installations and the surrounding public roads.[53] In many mining areas security services have ignored the note. Similarly, traditional authorities often remain present at sites to collect their taxes.

In recent years the main source of conflict in Katanga's copper and cobalt belt has been the gradual recovery of industrial mining. Thousands of artisanal miners have been removed from industrial concessions, often involv-

[50] Enough Project with the Grassroots Reconciliation Group, 'A comprehensive approach to Congo's conflict minerals', Strategy paper, 24 Apr. 2009, <http://www.enoughproject.org/publications/comprehensive-approach-conflict-minerals-strategy-paper>, p.12.

[51] Wande Muju (note 45).

[52] Spittaels, S. and Hilgert F., *Mapping Conflict Motives: Katanga, Update: May–September 2008* (International Peace Information Service: Antwerp, 5 Jan. 2009), p. 8.

[53] Province of Katanga, Note Circulaire no. 2631 sur les mesures d'encadrement des activités miniers pendant cette période de crise financière internationale [Circular Note no. 2631 on the measures of supervision of mining activities during this period of international financial crisis], Lubumbashi, 26 Nov. 2008.

ing the deployment of force either by Gécamines' own 'Industrial Guards' or regular police forces. The most recent major incident of this kind occurred in March 2008, when 32 mineworkers were reportedly injured and 1 died after the police opened fire on several hundred protesters in the town of Likasi.[54] Protests had arisen after the police had violently removed some miners from Kamatanda, which is an old Gécamines concession where about 2500 artisanal miners work. The police intervened after the provincial governor, Moïse Katumbi, had assured the miners that they would not need to leave until alternative sites had been identified. There are reports that in 2005 a Chinese company agreed with the national Minister of Mines to rehabilitate the site, but no activities have been undertaken to date.[55] Gécamines seems to be responsive to the provincial governor: according to an official of the artisanal miners cooperative Exploitants miniers artisanaux du Katanga (EMAK, Artisanal Miners Association of Katanga), the state company now allows EMAK to train miners, commercialize local production and find a private partner to better equip the site for artisanal production. In return, EMAK ensures that Gécamines receives 20 per cent of the local production, while the partner company takes another percentage depending on the size of its investment.[56]

In recent years the main source of conflict in Katanga's copper and cobalt belt has been the gradual recovery of industrial mining

In the course of 2008 forced evictions in south Katanga became less common, possibly as a result of low investment in industrial mining. In early 2009 reported protests and confrontations instead related to the buying and selling arrangements at artisanal mining sites such as Kamatanda. Here miners and *negociants* protested in January against a processing company, Vanger, that tried to obtain a buying monopoly through EMAK.[57] In April *negociants* and miners protested in Kolwezi to put pressure on Gécamines to pay about $10 million for minerals they had supplied to the company.[58] In Shamitumba AMZ physical confrontations occurred in May between the members of two rival mining cooperatives and their respective security services. The Katanga Provincial Ministry of Mines assigned the zone to the province's second largest cooperative, Coopérative minière Maadini Kwa Kilimo du Katanga (CMKK, Maadini Kwa Kilimo Mining Cooperative), obliging the members of the alternative cooperative Mining System Development to leave the site.[59] The latter's presence has, however, been defended by the government service tasked with training artisanal miners, the Service

[54] 'Katanga (RDC): violents heurts entre police et mineurs (ONU)' [Katanga (DRC): violent clashes between police and miners (UN)], Agence France-Presse, 7 Mar. 2008.

[55] 'China scoops up minerals, infrastructure contracts', *SouthScan*, vol. 20, no. 11 (3 June 2005).

[56] Mufankolo, K., Administrative Director of EMAK-C, Interview with the author, Lubumbashi, 29 June 2009.

[57] Mikombe, M., 'Plainte des negociants Kamatanda' [Complaint of Kamatanda brokers], *Gouvernance en Afrique,* 27 May 2009, <http://www.afrique-gouvernance.net/fishes/dph/fishe-dph-1239.html>.

[58] 'Kolwezi: creuseurs artisanaux et agents de MCK en colère' [Kolwez : artisnal diggers and MCK agents angry], Radio Okapi, 10 Apr. 2009, <http://www.radiookapi.net/index.php?i=53&a=22915>.

[59] Mumba Gama, B., Katanga Province Minister of Mines and Land, 'Votre présence à Shamitumba' [Your presence at Shamitumba], Letter no. CABIM/0165/MM/053/BMG/KAT/2009 to the Director-General of MIRUCO, 13 Mar. 2009.

d'Assistance et d'Encadrement du Small Scale Mining (SAESSCAM, Service for Assistance and Training of Small-Scale Mining).[60]

The above cases of protest and conflict do not involve the levels of violence that are often associated with forced evictions. However, as in the case of evictions, parties to these conflicts are tempted to call in the police or engage their own security services to enforce their claims, which risks resulting in physical intimidation and violence.

In recent years some progress has been made in Katanga's copper belt to accommodate artisanal miners in AMZs as well as on mining concessions. Together with Gécamines, provincial authorities have limited the negative impact of industrial mining on artisanal miners, which has reduced social upheaval. Although their security of tenure has improved somewhat, artisanal miners have limited opportunities to sell their produce and labour on a free market. The state mining company, artisanal miners' cooperatives and their economic partners try to form alliances to obtain a monopoly position. Meanwhile, miners often do not believe that cooperatives pay a fair price and see no benefits of associating with them. They prefer to sell to *negociants* of their own choice. Conflicts over who is allowed to buy from artisanal mining zones may intensify now that a number of processing companies have suspended their investments in industrial production and have turned to artisanal sites instead to obtain a steady supply of ores.

Diamonds in central DRC

As in Katanga, military parties have occupied neither artisanal nor industrial mines in the diamond-rich central provinces. However, state and non-state security providers guard diamond mines on behalf of formal companies with mining titles as well as the customary owners of individual mines.

The most visible conflict is that between Miba, the state diamond-mining company, and artisanal miners over the Polygone, the company's richest diamond concession, located in Kasaï Oriental. In 2007 a few thousand artisanal diamond miners entered the concession on a daily basis. This number has probably dropped because of the price cuts of 2008 and 2009, but, according to one expert, practices remained similar.[61] Miners first had to pay passing fees at two security belts—one erected by the police and one by the FARDC—before entering the concession that is patrolled by Miba security guards.[62] If caught by these guards, miners either ended up in prison or had to bribe the guards to let them go free. Armed bandits, called *suicidaires* (suicidals)—referring to their willingness to engage in violent combat—defended the artisanal miners. *Suicidaires* are believed to include former members of the armed forces and the police who have negotiated deals with

[60] Mulomba, J., SAESSCAM, Likasi Bureau, 'Gestion site minier Shamitumba' [Management of Shamitumba mining site], Letter no. 034/03/SAESSCAM ANT. KAT./BUR.LKS/2009 to the Katanga Province Minister of Mines and Land, 19 Mar. 2009.

[61] Lubamba, J.-B., Representative of the Réseau Ressources Naturelles [Natural Resources Network], Interview with the author, Kinshasa, 20 June 2009.

[62] Lubamba, J.-B., *Modern Day Slaves: The Living and Working Conditions of the Informal Diamond Diggers of the Town of Mbuji Mayi* (Nederlands Instituut voor Zuidelijk Afrika (NIZA)/Groundwork: 2007).

miners and other stakeholders to protect the illegal diamond market.[63] In recent years several miners have been shot and killed by crossfire during clashes between security guards and bandits.

Companies control a few industrial and semi-industrial concessions in Kasaï Occidental and Kasaï Oriental. Beyond these, diamond mining in the region is artisanal and governed by an alliance of local authorities. Kasai Oriental has a system of mining committees that are in charge of particular mining sites. They include representatives from local government administrations, police, military and the provincial council of diamond dealers.[64] Customary chiefs in the area of operation generally elect the president of a mining committee. Mining committees confiscate an estimated 15–20 per cent of the artisanal production, with an additional share going to the customary chief of the area.[65] In Orientale Province the management of diamond mining sites is in the hands of mining site administrators (*administrateurs de foyer minier*), which tend to be the customary owners of the land. These landowners do not have official mining concessions but rely on semi-formal authorizations granted by provincial or district mining authorities. The administrators employ people to register miners and *comptoirs*, levy taxes on transactions, and keep order. In addition, the Mining Police are often present to intervene in case of dispute.[66]

The parallel administrations governing diamond-mining sites mentioned above are not in the 2002 Mining Code. They establish a tight system of control to capture rents from artisanal diamond mining that can only be sustained with the involvement of security services. Forced labour and physical harassment in cases of diamond theft and disobedience are reoccurring phenomena.[67] This type of structural violence is not unique to diamond mines in the centre of the country but occurs in artisanal mining sites across the country that are guarded and controlled by various military and non-military security services.

V. International policy responses

International donors and national government agencies increasingly seek to directly target artisanal mining activities and economic operators that are active in the commodity chain, notably through (*a*) smart (or targeted) sanctions, (*b*) certification, (*c*) artisanal mining cooperatives and zones, (*d*) corporate social responsibility and (*e*) multi-stakeholder trade and anti-corruption forums. These efforts mark a shift away from the measures which dominated the mining policy debate until two or three years ago—national legal reform, contract reviews and commodity sanctions regimes—towards

63 United Nations Organization Mission in DR Congo (MONUC), 'Monthly human rights assessment: November 2007', Nov. 2007, <http://www.monuc.org/News.aspx?newsID=16497>.

64 Mazalto (note 18), p. 66.

65 Partnership Africa Canada (PAC) and Congolese National Center for Development Assistance and Popular Participation (CENADEP), *Diamond Industry Annual Review: Democratic Republic of Congo 2007* (PAC: Ottawa, Sep. 2007), pp. 4–5.

66 Wande Muju (note 45).

67 Congolese National Center for Development Assistance and Popular Participation (CENADEP), 'Rapport de l'atelier de formation sur la prévention des violences des droits humains dans les zones minières artisanale de la provence Orientale' [Training workshop report about the prevention of human rights violations in artisanal mining zones in Orientale province], May 2009.

more development-oriented, sub-national and commodity-focused forms of engagement. The forms of engagement and initiatives discussed below are not exhaustive, and projects, programmes and executing organizations may target different areas of engagement at the same time. Most of the initiatives are donor driven but seek stable partnerships with government institutions and civil society organizations.

Smart sanctions

Although no comprehensive multilateral commodity sanctions have been imposed on the DRC, the UN arms embargo first imposed in 2003 and subsequent Security Council resolutions do provide scope for targeting fraudulent economic operators.[68] Since 2003 three companies have been put on the UN sanctions list for providing assistance to illegal armed groups, in breach of UN resolutions 1493 and 1596, by acquiring gold from militia-occupied territories.[69] Asset freezes and travel bans have ended or reduced the operations of the targeted companies in the DRC.[70] However, individuals associated with these companies have been able to continue operations through other or newly established businesses.[71] UN Security Council Resolution 1857 of December 2008 may lead to the targeting of more trading companies. The resolution explicitly calls for sanctions against 'individuals or entities supporting the illegal armed groups in the eastern part of the Democratic Republic of the Congo through illicit trade of natural resources'.[72]

International donors and national government agencies increasingly seek to directly target artisanal mining activities and economic operators that are active in the commodity chain

To produce adequate evidence to impose sanctions on a company there needs to be an accurate and up-to-date map of illegal armed groups' territorial control, in combination with mine-specific registration of the origin of traded minerals. UN experts have encouraged donors to produce and publish such a map.[73] A challenge will be to track the dynamics of shifting and partial rebel control over mines. As regards the registration of the origin of traded minerals, the Congolese Government has called on the UN and international donors to fund a stabilization plan for the east that includes putting mining authorities on the ground in militarized areas.[74] This could allow for better registration and monitoring of traded minerals. As of July 2009 mining authorities were still awaiting the extra funds required to carry out the proposed activities.

[68] The arms embargo was imposed by UN Security Council Resolution 1493, 28 July 2003; it was most recently extended by UN Security Council Resolution 1857, 22 Dec. 2008.

[69] UN Security Council Resolution 1493 (note 68); and UN Security Council Resolution 1596, 18 Apr. 2005. The list of individuals and entities subject to the measures imposed by Resolution 1596 is available from the website of the UN Security Council committee on the DRC, <http://www.un.org/sc/committees/1533/>; at the time of writing, the most recent list was that of 3 Mar. 2009.

[70] United Nations, Security Council, Final report of the Group of Experts on the Democratic Republic of Congo pursuant to Security Council Resolution 1698 (2006), S/2007/423, 18 July 2007.

[71] United Nations (note 46).

[72] UN Security Council Resolution 1857 (note 68), para. 4(g).

[73] United Nations (note 46), p. 32.

[74] Custers, R., 'Het STAREC-plan van de Congolese regering: een voorlopige analyse' [The STAREC plan of the Congolese Government: a preliminary analysis], International Peace Information Service (IPIS), Aug. 2009, <http://www.ipisresearch.be/download.php?id=268>.

Certification

In addition to the 'Kimberly Process' certification scheme for diamonds, initiatives that aim to implement certification, traceability and legal verification mechanisms are underway for coltan (spearheaded by German development agencies) and copper and cobalt (spearheaded by Belgian development agencies).[75]

The type of certification to be implemented for these resources remains unclear. Two types of certification can be distinguished: mandatory and voluntary. Diamond certification is an example of mandatory certification by which all trade supposedly passes through legal, certified channels. The provenance of diamonds certified under the Kimberly Process is not verified in the field but relies on information provided by the licensed trading house that demands the certificate. However, evidence suggests that diamonds produced in illegal mines do enter legal export channels, implying that certified diamonds are not necessarily unconnected with a conflict.[76]

The Forest Stewardship Council (FSC) certification scheme is an example of voluntary certification. Operators do not need an FSC certificate to be able to export and trade goods on international markets. Producers voluntarily agree to apply for certification to demonstrate responsible business practice, which is verified by an independent auditor. Due to the high standards set by the FSC, only very few companies in Africa have been able to have their timber certified.[77]

To have a reasonably large impact, new certification schemes for metal resources need to be mandatory. Such a mandatory scheme would require large investments in strengthening the state control agencies and the independent monitoring of their operations.

Artisanal mining cooperatives and zones

Support for artisanal mining cooperatives is a key entry point for development agencies' engagement in the mining sector. Mining cooperatives can negotiate more favourable marketing arrangements on behalf of their members, advocate better working conditions and security provisions, and press for employment creation through investment in processing facilities. For example, the International Labour Organization (ILO) and the United Nations Development Programme (UNDP) are currently promoting the establishment of artisanal miners' cooperatives in the DRC.[78] The challenge will be to increase the credibility of cooperatives that often tend to represent

[75] Wagner, M., 'Certified trading chains in mineral production', German Federal Institute for Geosciences and Natural Resources (BGR), Oct. 2007, <http://www.transparency-extractive-sector-conference-2007.info/en/press.htm>; and Belgian Federal Ministry of Foreign Affairs, Taskforce MIRECA, 'Good governance and transparency in the mining sector: traceability of ore and financial flows in the copper and cobalt ore trade in the Democratic Republic of Congo', Executive summary, spring 2008, <http://www.gecoproject.org/?page=publications>.

[76] Kiabilwa and Cimanga (note 3).

[77] Barklund, Å. and Teketay, D., 'Forest certification: a potential tool to promote SFM in Africa', Royal Swedish Academy of Agriculture and Forestry, Sep. 2004, <http://www.ksla.se/sv/redirect_frameset.asp?p=690&time=153125>.

[78] Nyembo Mafuta, D., 'Note explicative de l'organisation en cooperative des acteurs du secteur minier artisanal' [Explanatory note about the cooperative organization of actors in the artisanal mining sector], International Labour Organization, Project ACT–Mines Katanga, 3 June 2009.

the interests of the buying and processing companies they associate with rather than those of artisanal miners.

The legalization of artisanal mining is an important condition that has to be met before donors can start to strengthen the rights of artisanal miners, for example, through supporting cooperatives. As mentioned above, 43 AMZs have been created, but many are poor in minerals, ill equipped and poorly serviced and therefore host only a limited number of artisanal miners. The World Bank intends to make 10 of these zones 'viable'.[79] The ILO and the UNDP currently engage in two zones. Increased donor involvement is needed to attend to the needs of artisanal miners in all of the newly created zones as well the many more (*c.* 150) that are requested by provincial governments across the country.

Corporate social responsibility

Two developments in corporate social responsibility are noteworthy. First, reports by UN expert panels have in recent years provided evidence of the complicity of private companies in allowing belligerent groups to profit from mining activities. A number of trading companies listed in the reports have pulled out of the DRC, while others have started to improve due diligence procedures.[80] Such procedures mean that companies disclose information about their suppliers and demonstrate that they do not buy from areas occupied by (illegal) armed groups. However, these procedures will remain difficult as long as there is no adequate system that registers production at every mining site and prevents the mixing of minerals with different origins. ITRI, an international association of tin producers and smelters, is investigating what reliable information is or can be made available from the Congolese cassiterite supply chain. It intends to develop information requirements for its members' immediate suppliers and their suppliers to report on.[81]

Second, international mining companies operating in Katanga's copper belt have in recent years, under the guidance of international development agencies, started to help improve the livelihoods of artisanal miners. The work of Pact, a United States-based capacity-building non-governmental organization (NGO), is notable in this respect. It brings together industrial mining companies and artisanal miners working near the town of Kolwezi in order to mediate conflict and appease artisanal miners through small-scale enterprise development, formal employment creation and alternative livelihood support in farming.[82] However, companies abruptly cut spending on these activities as a result of the economic slowdown of late 2008.

[79] World Bank (note 9), p. 85.

[80] Allen, K., 'UK firm ends Congo tin purchases', BBC News, 18 Sep. 2009, <http://news.bbc.co.uk/2/8264105.stm>; and Bavier, J., 'Traxys says will stop buying eastern Congo tin', Reuters, 4 May 2009, <http://www.alertnet.org/thenews/newsdesk/L4246479.htm>.

[81] ITRI, 'Progress report: towards a responsible cassiterite supply chain', 12 Feb. 2009, <http://www.itri.co.uk/POOLED/ARTICLES/BF_PARTART/VIEW.ASP?Q=BF_PARTART_310250>.

[82] Hayes, K. et al., *Researching Natural Resources and Trade Flows in the Great Lakes Region* (Pact: Washington, DC, June 2007).

Multi-stakeholder trade and anti-corruption forums

A good example of a multi-stakeholder forum is the Trading for Peace initiative, which is being developed by the British Department for International Development (DFID), the US Agency for International Development (USAID) and the Common Market for Eastern and Southern Africa (COMESA). After a period of detailed grassroots research, Trading for Peace now organizes trade forums in cross-border areas, uniting traders, officials and institutions, to discuss ways in which to increase the recorded and legal small-scale cross-border trade in natural resources and to reduce corruption.[83]

Trading for Peace resembles an earlier initiative implemented by USAID and the NGO Innovative Resource Management (IRM) along the Congo River, where it helped to establish local anti-corruption committees. These committees united traders, producers and civil administrators to put pressure on the soldiers to stop levying illegal taxes. Even though the project ended, almost half of the committees that have been set up are still functioning, demonstrating local demand.[84]

VI. Conclusions

Development agencies and NGOs are piloting several good governance and development initiatives in different areas in the Democratic Republic of the Congo that directly or indirectly aim to enhance the security and livelihoods of artisanal miners. Because of the precarious peace in many parts of the country, many of these interventions have not yet fully blossomed, making it difficult at this stage to assess their impact. Furthermore, the effects of these interventions are easily overturned by political and economic events such as resumed armed conflict and economic downturn.

Civilians will often call on state and non-state security services to protect their interests

The prospects for resource governance efforts contributing to peacebuilding depend much on arms control and reform of the Congolese security sector. At the same time, incomplete security sector reform and partial peace should not discourage initiatives from move forward. Efforts that engage artisanal miners, cooperatives, companies and civil authorities will help to re-establish civil control over militarized mining areas.

However, it must be realized that civil actors may still call on state and non-state security services to protect their interests. Authorities, companies and cooperatives try to control transactions between traders and artisanal miners, or exercise the exclusive right to buy from artisanal miners. But very often they have no legal right to minerals or any legal right they do have does not allow them to engage with the artisanal miners in the way in which they do. Because their involvement in the artisanal mining sector is not fully legal,

[83] Johnson, D. et al., *An Agenda of Reform—Trading for Peace: Achieving Security and Poverty Reduction through Trade in Natural Resources in the Great Lakes Region* (Department for International Development: London, Mar. 2009).

[84] Wande Moju, L., Mawisa Mukiele, F. and Kidima Mavinga, L., 'Aperçu de la Fédération nationale des comités de lutte anti-tracasseries' [Overview of the National Federation of Anti-corruption Committees], Congolese National Federation of Anti-corruption Committees (FN-CLAT), Oct. 2008.

it can be contested by the miners' themselves or by a rivals, explaining their perceived need for security services.

The formalization and regularization of the artisanal mining sector would diminish legal ambiguity and reduce the need to use security services to back up claims to resources. To date, government licensing efforts have only formalized the upper part of the commodity chain, legalizing actors that move goods to provincial capitals and out of the country. At the production level, official mining rights and customary rights overlap while user rights are not or insufficiently recognized.

The formalization and regularization of the artisanal mining sector would diminish legal ambiguity and reduce the need to use security services to back up claims to resources

The legal provision of AMZs is a step in the right direction to solving these problems, but the number established today does not accommodate enough miners. To increase the number of AMZs the Congolese Government could withdraw permits from companies that are not able or have no intention to execute the development plans submitted when their permits were granted. Furthermore, there should be a legal provision for companies to delimit part of their concessions for artisanal mining during a certain period of time and enter into a formalized supply agreement with artisanal miners.

Tenure security is an important step but on its own will not significantly improve the working and living conditions of artisanal miners. Outside investment by the government, donors and private partners will continue to be needed in order to equip and service mining sites. However, these parties should be prevented from claiming too large a share of production in return. Better organization and access to information will be crucial for miners to choose trading partners and agree on the price and terms under which they supply resources. Once artisanal miners are able to harness profits they will be more likely to invest in their own activities, adopt semi-industrial processes and consequently acquire small-scale mining permits.

The steps outlined above represent a more gradual and cooperative evolution from artisanal to industrial mining than the process envisioned by the government after the end of the civil war, in which it aimed to rapidly replace one by the other. Officials of different agencies within the Congolese Ministry of Mines are increasingly sensitive to the argument that the artisanal mining sector should be formalized and supported in order to help alleviate poverty and sustain economic growth. The argument is ever more relevant given the current economic downturn and its hampering of industrial investment.

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SIPRI BACKGROUND PAPER

ARTISANAL MINING AND POST-CONFLICT RECONSTRUCTION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

RUBEN DE KONING

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