



ADDRESSING THE 'CONFLICT MINERALS' CRISIS IN THE GREAT LAKES REGION

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INTRODUCTION

The year 2011 heralded the convergence of various initiatives seeking to curtail the financing of conflict in the Great Lakes region through the illegal exploitation of minerals. The combined effect of seeking to comply with the various processes has had significant implications at the national, regional and international levels by altering the dynamics of mineral exploitation in the region in both positive and negative ways. The positive impact has been in the area of the immense contribution of the initiatives to increased awareness of the role of illegally exploited minerals in financing conflict in the region and the need for various stakeholders to exercise responsibility in the sourcing and trading of minerals so as not to inadvertently fuel insecurity. On the flip side, however, this increased awareness has led to the labelling of minerals from the region, particularly gold, tin, tantalum and tungsten, as potential conflict minerals.¹

While this has been important in boosting efforts at minimising conflict financing through the exploitation of minerals, the 'conflict mineral' label associated with the region has led to interrupted demand for minerals from the Great Lakes, the closure of some businesses dealing with the purchase and export of minerals, the loss of employment and a reduction in income within the local economy, and ultimately threatens to negatively reinforce the crisis created by the various conflicts in the region if nothing is done to stem the trend of unintended consequences.

Against this background, this policy brief aims at providing a framework for responding to the unintended consequences of existing initiatives in the Great Lakes region. It details the areas of immediate impact of these initiatives, their overall impact on the trends of insecurity

in the region and ways of addressing the issues in the short to medium term.

INVENTORY OF EXISTING RESPONSES AND CONSEQUENCES

Significant national efforts to address the link between conflict and minerals have included the imposition of a six-month ban on mining activities in Maniema, South Kivu and North Kivu by the government of the Democratic Republic of Congo (DRC) to curb the link between illegal mineral exploitation and the financing of armed groups. In February 2012 the DRC government also indicated that it would block exports of the four minerals mentioned above unless certified as conflict free, a threat that culminated in the suspension of two exporting companies (TTT Mining trading as CMM and Huaying) in May 2012² for failing to comply with supply chain traceability demands.³ In Rwanda, the government issued regulations to prohibit untagged minerals, excluding sealed minerals, transiting through the country.⁴ Regionally, the International Conference on the Great Lakes Region (ICGLR)⁵ is implementing the Regional Initiative against the Illegal Exploitation of Natural Resources (RINR) and making notable progress towards a regional certification mechanism and database.⁶

At the international level, key initiatives include the due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas drawn up by the Organisation for Economic Co-operation and Development (OECD) and endorsed by the ICGLR in the Lusaka Declaration of 15 December 2010. Along similar lines, the ICGLR has also adopted the United Nations (UN) due diligence guidelines dealing with minerals from the eastern DRC. While the OECD and UN guidelines are voluntary, section 1502 of the US Dodd-Frank Act passed

in July 2010 has legal implications for US-listed companies that source minerals from the DRC and neighbouring countries. While the Act does not prevent companies from sourcing minerals from the region, it requires a disclosure report to establish supply chain due diligence.

The emergence of these initiatives has indeed raised awareness of the linkage between conflict and minerals, resulting in mine inspections and the creation of a variety of traceability and certification mechanisms to deter trade in illegally exploited minerals in the region. The regional initiative (the RINR) categorises mine sites as red, yellow and green, where red indicates the incidence of conflict and human rights violations, yellow flags a mine for re-inspection in three months, while green certifies it as a conflict-free site.

Two main traceability and chain-of-custody processes under way are those of the International Tin Research Institute (ITRI) and the German Federal Geoscience and Natural Resource Bureau (BGR). The ITRI Tin Supply-Chain Initiative (ITSCI) involves the tagging and recording of mineral ores from sites, while the BGR uses traceability standards under the Certified Trading Chains system. The ICGLR's RINR supports the use of either of these systems, while also incorporating the due diligence guidelines of the UN and OECD. To add credibility to the process, the RINR has also introduced a regional certificate to replace national certificates, together with an independent third-party audit obligation.

UNDERLYING CHALLENGES TO RESPONSES

The implementation of these initiatives has, however, faced difficulties due to pre-existing regional challenges and the practical demands of operationalising associated processes. Difficulties that pre-date the initiatives include limited infrastructure and accessibility to mining locations, a largely artisanal mining sector with considerable administrative and policing challenges, and – most notably – the insecurity situation in the eastern DRC.

At the heart of the link between conflict and minerals in the Great Lakes region is the intractable conflict in the east of the DRC, which is currently home to local and foreign armed groups that use proceeds from the sale of minerals to finance the conflict. Efforts to secure the eastern DRC have been hampered by the recent army mutiny in North Kivu that has seen the emergence of a renewed rebellion and new alliances. The shifting insecurity dynamics and their regional implications will further increase the vulnerability of the region to

continued conflict and its related effects, such as the illegal exploitation and trafficking of minerals.

Understanding the primary drivers of this conflict and the underlying regional vulnerabilities is important to effectively deal with the nexus of conflict and minerals without exacerbating conflict in the region. The root causes of this conflict include historical injustices regarding migration and the rights of transboundary nationalities; conflict over the use of, access to and ownership of natural resources; a weak state presence; and a lack of adequate infrastructural and economic development. These factors have increased the vulnerability of the region to insecurity arising from its occupation by local and foreign illegal armed groups and their illegal operations, as well as criminal networks trafficking arms and natural resources. This confluence of drivers and vulnerabilities predisposes the region to the illegal exploitation and trafficking of minerals by various actors. Within this context, efforts to comply with the different initiatives addressing the link between conflict and minerals have already led to negative unintended consequences for the region's socioeconomy and security. This in no way negates the value of these initiatives, but does raise critical issues that need to be mitigated to prevent the exacerbation of conflict in the region.

UNINTENDED CONSEQUENCES OF RESPONSES

The economy has been the first casualty of the implementation of these processes. For importers of minerals from the region, the pressure to comply with due diligence and supply-chain traceability standards has resulted in some opting out of sourcing from the Great Lakes region. For instance, in April 2011 the Electronics Industry Citizenship Coalition required member refiners and smelters to attain a conflict-free smelter status, which led to some opting not to purchase minerals from the region.⁷ As a result, local mineral exporters in the DRC, Burundi and Uganda found that they were unable to find a market for their untagged minerals and this subsequently led to some exporters shutting down operations and laying off staff.⁸ The DRC government's closure of two export companies active in North Kivu will affect the local economy, given that the mineral trade accounts for about 90 per cent of export earnings and as much as 50 per cent of provincial revenues.⁹

The declining demand for regional minerals and closure of non-compliant exporters have resulted in job losses, which in turn have had a ripple effect on local economies, resulting in reduced consumer purchasing power and

provincial tax revenues while limiting access by individuals to the delivery of paid services such as education and health. Exacerbating the poverty levels of the already vulnerable population will intensify their socioeconomic disenfranchisement and possibly increase the incidence of urban crime.

The economic downturn will further negatively affect the security situation. Due to the demands for compliance with conflict-free standards and a refusal to accept untagged minerals, producers from affected provinces have had to seek alternative routes to export minerals, thereby causing an increase in unrecorded trade and fraud.¹⁰ These changing dynamics will be a threat to security by increasing the illegal trafficking of minerals across the region, thus perpetuating the conflict economy and subsequently enhancing insecurity. As a result of the void created by the withdrawal of legitimate businesses, there is also the likelihood of the emergence of new actors who are willing to participate in the trade in uncertified minerals without regard for the links between these minerals and conflict.

CONCLUSION AND RECOMMENDATIONS

Whereas the existing guidelines and standards seek to address the illegal exploitation of minerals in the Great Lakes region, if care is not taken their implementation modalities are capable of actually contributing in the short term to the very ills they seek to address. This is because there is the tendency to derail trade in legitimate minerals from the region by causing a de facto embargo on the region's mineral trade and/or a resurgence of illegal trading activities as a result of the emergence of actors who will capitalise on the void created by the withdrawal of legitimate businesses. In order to mitigate these consequences, the following policy recommendations should be considered:

- The various stakeholders concerned with the implementation of existing mechanisms should focus on priority areas so as to comprehensively address the link between conflict and minerals in the Great Lakes region. Apart from a clear understanding of the negative role of conflict minerals, there should be a conscious attempt to ensure that this understanding is reflected in the institutionalisation processes and policies in the various countries in the region.
- This should be complemented by the provision of robust regional and national support for the implementation of existing mechanisms. The crucial means by which this could be done is through

addressing existing capacity, and logistical and financial gaps that impede the smooth implementation of the various mechanisms. States affected by the crisis and regional organisations could address these gaps through the introduction of a regional minerals levy to support regional mechanisms for preventing illegal exploitation and the negative role of resources in the security trends in the region.

- There is an urgent need for the region's mining sector to be reformed. Given the artisanal nature of mining in the region, several individual stakeholders with low levels of education dominate various levels of the supply chain. This makes it difficult for them to fully appreciate and understand the links between conflict and minerals, and the need for urgently delinking the two so as to break the virtual cycle associated with minerals and conflict. It is therefore crucial for the sector to be reformed at two important levels. The first level should take the form of the education of existing actors by civil society actors with the aim of increasing their awareness of the ills of the relationship between illegally exploited natural resources and insecurity in the region. The second level of reform could also involve the introduction of bigger industrial players with more structured means of exploiting and marketing natural resources. Apart from cutting down on the smuggling of minerals and enhancing government oversight capacity, this will also make it easy for regional and international processes to hold such actors accountable for the maintenance of particular standards in the exploitation of natural resources and the fulfilment of social responsibilities in the various states.
- The fourth area of policy action relates to the urgent need for beefing up regional oversight. Although some regional frameworks exist under the ICGLR, regional governments will need to support the training of those charged with overseeing compliance with mineral supply chain requirements. This calls for providing the funds needed to hire, train and deploy these agents to the numerous mining sites and giving them the power needed to operate effectively. As part of the regional oversight process, a regional 'name and shame list' should be institutionalised to identify individuals and companies known not to be abiding by agreed standards.
- In the medium to long term, it is essential that countries and regional mechanisms address the primary drivers of conflict and underlying

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vulnerabilities in the region. This will help deal with the conflict, which is the main, complex issue underlying the crisis in the region. Among other things, addressing these primary drivers of conflict will involve strengthening governance structures and enhancing state presence beyond the capitals of the states in the region. It will also involve facilitating effective administrative capacities in the mining sector, pursuing the demilitarisation of the mines, and securing eastern DRC through the elimination of threats from illegal armed groups and the prioritisation of economic development.

- It is also necessary to promote socioeconomic development through the introduction of value addition processes to maximise benefits from mineral exploitation and trade. The diversification of livelihoods will enhance economic growth, and the cornerstone for doing this will be the promotion of education and relevant training.
- Lastly, enhancing regional relations and cooperation is essential to ensuring a concerted effort to address the link between conflict and minerals, while putting in place the necessary frameworks to benefit the legal exploitation of and trade in minerals in the Great Lakes region.

NOTES

¹ The term ‘conflict minerals’ is as per section 1502 of the US Dodd-Frank Act, and US-listed companies sourcing these minerals from the region are required to establish that they are DRC ‘conflict free’.

² ITRI (International Tin Research Institute), DR Congo suspends exporters, 21 May 2012, http://www.itri.co.uk/index.php?option=com_zoo&task=item&item_id=2436&Itemid=177 (accessed 8 June 2012).

³ Reuters, New Congo scheme targets conflict mineral exports, <http://af.reuters.com/article/topNews/idAFJ0E81R07W20120228> (accessed 1 March 2012).

⁴ UNSC (UN Security Council), *Final report of the Group of Experts on the DRC*, 29 November 2011, <http://www.un.org/sc/committees/1533/egroup.shtml> (accessed 20 January 2012).

⁵ The ICGLR is an intergovernmental organisation of 11 states in the Great Lakes region comprising Angola, Burundi, the Central African Republic, the Republic of Congo, the DRC, Kenya, Uganda, Rwanda, Sudan, Tanzania and Zambia.

⁶ See <https://icglr.org/spip.php?article94> (accessed 14 June 2012).

⁷ UNSC, *Final report of the Group of Experts on the DRC*.

⁸ Ibid.

⁹ ITRI, DR Congo suspends exporters.

¹⁰ UNSC, *Final report of the Group of Experts on the DRC*.