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TRADING CONFLICT FOR DEVELOPMENT

UTILISING THE TRADE IN MINERALS FROM EASTERN DR CONGO FOR DEVELOPMENT

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RESOURCE CONSULTING SERVICES

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LIST OF ACRONYMS

AM	Artisanal Mining
ASM	Artisanal and Small-Scale Mining
BGR	German Federal Institute for Geo-Science and Natural Resources
CAMI	Cadastre Minier
CASM	Communities and Small-Scale Mining Secretariat (World Bank)
CEEC	Centre d'Evaluation, d'Expertise et Certification des Substances Minérales Précieuses et Semi-Précieuses
CEPGL	Economic Community of the Great Lakes Countries
CNDP	Congrès National pour la Défense du Peuple
COMESA	Common Market for Eastern and Southern Africa
CSO	Civil Society Organization
DDR	Disarmament, Demobilisation and Reintegration
DFID	United Kingdom Department for International Development
DGI	Direction Générale des Impôts (DR Congo)
DGRAD	Direction Générale des RecettesAdministratives, Judiciaires, Domaniales et de Participation
DRC	Democratic Republic of the Congo
EAC	East African Community
EAD	Entités Administratives Décentralisées
EITI	Extractive Industries Transparency Initiative
FARDC	Forces Armées de la République Démocratiquedu Congo (Congolese National Army)
FDLR	Forces Démocratiques de Liberation du Rwanda
FEC	Federation of Congolese Enterprises
GoDRC	Government of the Democratic Republic of the Congo
GoR	Government of Rwanda
ICGLR	International Conference on the Great Lakes region
KPCS	The Kimberley Process Certification Scheme for Rough Diamonds
LSE	London School of Economics and Political Sciences
LME	London Metal Exchange
LSM	Large-Scale Industrial Mining
MINITERE	Ministry of Land, Environment, Forestry, Water and Mines, Rwanda
MONUC	United Nations Organisation Mission in the Democratic Republic of Congo
MPA	Metal Processing Association
MPC	Mining Processing Congo
NGO	Non-Governmental Organization
OECD	Organisation for Economic Co-operation and Development
OCC	Office Congolais de Contrôle
OFIDA	L'Office des Douanes et Accises
OGMR	Rwanda Geology and Mines Authority
PARECO	Alliance des Patriotes pour la Refondation du Congo
PPA	Partnership Programme Agreement (e.g. between donor and company)
REC	Regional Economic Commission
REDEMI	Régie d'Exploitation et de Développement des Mines/Mining Production and Development Board, Rwanda
RIEPA	Rwanda's Investment and Export Promotions Agency
SADC	Southern African Development Community
SAESSCAM	Service d'Assistance et d'Encadrement du Small-Scale Mining
SME	Small and Medium sized Enterprise
UN	United Nations
UN GoE	United Nations Group of Experts
USAID	United States Agency for International Development

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EXECUTIVE SUMMARY

The renewed outbreak of violence in North Kivu in the second half of 2008 saw the long running insecurity in Eastern DR Congo become the top global news story for two weeks as another humanitarian crisis unfolded before the world. The intense media scrutiny resulted in a plethora of stakeholders working to portray the conflict in ways that best fitted their own agendas; in particular, the region's mineral wealth was implicated as contributing in the violence.

This portrayal matches accounts that, since the 1990s, have explained the conflict in the DR Congo as a consequence of various actors trying to accumulate wealth, often through the exploitation of natural resources and control over informal trading activities[1]. The three 'T' metals(tantalum [coltan], tungsten [wolframite], and tin [cassiterite]), as well as gold, have all been portrayed as being at the root of conflict dynamics[2]. Yet, even if a rational economic profit motive goes far in explaining the behaviour of political and military elites, placing it at the centre of the analysis neglects the complexity of Eastern DR Congo's war economy and ignores a number of critical issues. It is therefore questionable as a solid base for developing adequate policies for engagement.

In recent years, debates on war economies have been balanced by the view that, where natural resources have formed the basis for war, they can also form the basis for development[3]. In many resource-rich countries, mineral resources are central to development both because they sustain livelihoods, and because they are the principal source of revenue for states to finance security, social services and infrastructure, and the principal source for investment in agriculture and other productive activities. This positive view of natural resources complements the vibrancy and resilience of Eastern DR Congo's mineral trade, which has managed to remain active and vital in sustaining up to one million livelihoods regionally through the most difficult political times. This report acknowledges that - - except for the growth periods of the 1960s and 1970s[4] - natural resources have historically brought little benefit to the Congolese people. However, it suggests these outcomes to be less microeconomic or trade issues, but the product of poor mineral governance as part of broader governance weakness.

As the economic rationale to conflicts has been dominant in analyses, the principal response offered by the international community has been advocacy and the application of economic 'sticks and carrots'. These have often taken the form of calls for mineral boycotts, targeted sanctions, or developing assurance systems designed to verify the origin of minerals. Based on the understanding of the militarisation of mineral production and trade as a reflection of governance weakness in Eastern DR Congo, this report proposes a different set of conclusions and recommendations with one aim: to harness the national and regional development potential of the trade in minerals from Eastern DR Congo through trade formalisation.

Drawing on thorough on-the-ground research and investigations conducted since March 2007, this report suggests that trade militarisation is a symptom of conflict rather than its cause, and therefore asks policy makers to address the real causes of insecurity in Eastern DR Congo. These are identified as the ubiquitous governance weaknesses, and the inability of the Congolese state to maintain the monopoly of violence. The report suggests that, instead of trying to 'stop' or 'interrupt' the minerals trade, formalising a large percentage of it would contribute to achieving long-term security. This is because stopping or interrupting approaches are not only impossible to successfully implement in the context of Eastern DR Congo; they also have severe retarding effects on regional development.

It is a huge challenge for policy makers and the private sector to turn Eastern DR Congo's mineral deposits into a sustainable mining sector that contributes to development. Achieving this requires a political process that will inspire the creation of political institutions that can transform incentive systems for economic actors. These institutions are currently structured in ways that weaken the state further as they allow for security around natural resource deposits to be negotiated locally[5]. While this practice can offer some

1 An explanation of this viewpoint is given in Keen, D. (1998), "The Economic functions of violence in civil wars", *Adeplphi Paper 320*, Oxford: Oxford University Press for the ISS

2 Global Witness, Control of mines by warring parties threatens peace efforts in eastern Congo, Press Release, 10/09/2008 http://www.globalwitness.org/media_library_detail.php/663/en/control_of_mines_by_warring_parties_threatens_peac

3 H.Sunman and N.Bates, *Trading for Peace*, DFID, 2007

4 Hesselbein, Gabi "The Rise and Decline of the Congolese State: an analytical narrative on state-making," Crisis States Research Centre Working Paper No : 21 (series 2), November 2007.

5 Garrett, Nicholas, Sergiou, Sylvia and Vlassenroot, Koen (2009) 'Negotiated peace for extortion: the case of Walikale territory in eastern DR Congo', Journal of Eastern African

short-term benefits, in all likelihood they reinforce a feedback loop of weak governance.

This report is grounded in reality and it recognises that, notwithstanding the need for engagement and the potential for development, there will not be a perfect solution for the challenges facing Eastern DR Congo in the short- to medium-term. However, notwithstanding the continuing governance weakness and high risks, there are enough positive trends to say that the moment is right to help promote trade and productive economic activity,

The report explains this stance in two core sections. The first considers the militarisation of the mineral trade in Eastern DR Congo. The second explores the dynamics of the regional minerals trade from Eastern DR Congo. A follow-up report for the Communities and Small-Scale Mining Secretariat at the World Bank considers issues beyond governance, trade and security sector reform for the trade to achieve its development potential. The present report presents a set of structured recommendations throughout on how to gradually formalise the trade, which remains the primary focus to achieve development through growth.

MILITARISATION OF THE MINERALS TRADE

Since many of the longer-term recommendations in this report require security to improve in order for them to become implementable, for this reason the report addresses the issue of trade militarisation first. Failure to establish a functioning national military force has recently been identified as one of the primary impediments to progress in the DR Congo by the UN Special Envoy of the Secretary General for peace in the Great Lakes region, Olusegun Obasango.[6] The DR Congo's inability to effectively control the monopoly of violence, coupled with the weakness in governance, have enabled a proliferation of spaces where various military groups have established alternative structures of governance that operationalise varying degrees of insecurity, including serious human rights abuses and war crimes. However, the level of human rights abuses committed by the military groups varies substantially, with some brigades regarded as providing meaningful security, rather than mere looting occupiers.[7] It is therefore important, where possible, to build on the discipline and systems that have emerged in these spaces to implement more rule-bound governance systems, instead of making their removal a first priority.

Both the Congolese National Army, the Forces Armées de la République Démocratique du Congo, (hereafter FARDC) in Ituri, North Kivu, Northern Katanga and Maniema and the Forces Démocratiques de Liberation du Rwanda (hereafter FDLR), predominantly in South Kivu and partly in North Kivu, are embedded in highly mineralised areas where they employ similar basic patterns of extortion to benefit from mineral production and trade. The FDLR obtains a significant proportion of its income from gold mining and trading, which makes it a special case in the complex security construct in Eastern DR Congo.[8] Extortion principally takes the form of mine workers and intermediate traders being obliged to pay 'taxes' on their production/trade volumes[9]. These taxes are placed at levels high enough to generate revenue, but low enough so as not to jeopardise the overall productivity and efficiency of extraction and trade. In that respect the patterns can best be understood as well functioning, albeit inequitably operating systems, as opposed to the 'mining at gunpoint' scenario as depicted in the movie 'Blood Diamond'. The taxation of the trade in minerals provides substantially different proportions of the total revenue bases of the military groups with some groups depending on it far more than others; informed estimates suggest that the Congrès National pour la Défense du Peuple (hereafter CNDP) earns up to 15% of its revenue from the mineral trade; the FDLR up to 75% (most of it from unquantifiable and uncontrollable gold mining and trade); and the FARDC's 85th brigade up to 95%[10].

The report discusses the various challenges the different military groups pose and considers actions for reducing military beneficiation. It suggests that reducing the FDLR's

Studies, 3:1,1 — 21

6 Comments made by Olusegun Obasanjo in official capacity, Panel Discussion on DR Congo and Great Lakes region, London School of Economics, March 18, 2009

7 Garrett, Nicholas, Sergiou, Sylvia and Vlassenroot, Koen (2009) 'Negotiated peace for extortion: the case of Walikale territory in eastern DR Congo', Journal of Eastern African Studies, 3:1,1 — 21

8 United Nations (2008). 'Final report of the Group of Experts on the Democratic Republic of the Congo'. United Nations Security Council. S/2008/773. Available at http://www.un.org/Docs/journal/asp/ws.asp?m=s/2008/773

9 In some mines the miners are both miners and combatants.

10 It is currently impossible to say with accuracy how much the different armed groups earn from the minerals trade, as the gold trade is almost entirely informal. The figures quoted here are 'informed guesses', which are based on 63 interviews the authors have undertaken, in which this question was discussed, as well as an understanding of the diversity of the revenue base of the armed groups, resulting from the author's research, as well as that by the UN Group of Experts, which highlights that armed groups do not exclusively rely on minerals to sustain themselves.

control of mineral production and trade will be particularly challenging, but must remain a central priority. The difficulty stems from the geographic dispersion of their activities compared to the other military groups and their activity in gold mining and trading, which is an easily concealable and transportable high value and low volume metal.

THE REGIONAL TRADE IN MINERALS

This report considers the structure and geography of the trade, as well as its scope and scale, including calculating volumes of production and trade and revenues to the Congolese state that derive from it. On considering the legality of the trade, the report notes that production and trade of the minerals are in fact 'a-legal' (see box 3 on page 25 for definitions),whereas it is the taxation of the trade by military groups that is 'illegal'. The trade tends to undergo gradual formalisation from mine to the export hubs, where the Congolese state collects its taxes. A significant proportion of the trade is formalised only at the point of export from regional capitals, such as Kigali or Bujumbura. Much of the trade operates in a shadow economy whose actors could well choose to formalise given the opportunity and correct incentives to do so.

The analysis of export data from the Kivu provinces suggests that under-declaration and smuggling remain a problem. However, an analysis of division of mine reports show that minimum receipts to the Congolese state were $6m USD between January 2007 and September 2008. Although some of this was due to an increase in international prices for tin, it is clearly a myth that the entire minerals trade in Eastern DR Congo is informal. Developing strategies to engage with the a-legal sphere could divert the up to 35% of undeclared trade into the formal sphere. Further cooperation with partner states could provide opportunities to build institutional capacity to induce a positive feedback loop of formalisation and good governance.

Inefficient and confusing border procedures incur significant costs for exporters and governments as well as provide opportunities for rent-seeking and incentives for smuggling. For businesses, border-related costs are both direct (e.g. related to supplying information to the relevant border authority), and indirect (e.g. owing to procedural delays, lost business opportunities, and uncertainty of how regulations will be applied). For governments, the cost of inefficiency includes incomplete revenue collection due to smuggling and under-declaration, as well as difficulties in effectively implementing trade policies.

With this in mind, the report considers a large part of the controversy over the exploitation and trade in DR Congo's minerals that has focussed on the role of neighbouring countries. The mineral sector of Rwanda is analysed to discern what types of cross-border economic strategies are emerging and how these can be built upon. Differences between Congolese and Rwandan statistics suggest that minerals continue to be traded between the DR Congo and Rwanda, which are either declared as transit goods then declared as Rwandan goods after processing, or un-taxed at the DR Congo border and declared in Rwanda. Recommendations are given on how to improve transparency in the trade between DR Congo and Rwanda to enable proper accountability and formalisation of activities.

As a deeper level of analysis the report considers regional development strategies, which highlight, why Rwanda, for example, has an inherent interest in stability in Eastern DR Congo:

- Rwanda would have a larger export market for its export products.
- Rwanda would be able to source imports from DR Congo more widely and cheaply.
- Rwanda would have a larger client base for its service sector that already provides financial, insurance, logistical, and extension services to economic operators in DR Congo.
- Rwanda is developing into a very good logistics base. Stability in DR Congo would mean higher transit volumes, which would translate into growth in the logistics sector.

Trade is a necessary catalyst for development in the Great Lakes region, whose countries are very interdependent. Investing in the creation of an economic and political environment that enables legitimate cross-border trade to flourish for both local and wider benefits pays dividends not just for the traders, but also for governments and communities throughout the region. The immediate dividend is economic, but the long-term reward may well be peaceful co-existence.

This process will require political will and a long-term commitment by all parties. In some cases it will not be a question of simply reforming systems, but of changing cultures. Generations of mismanagement and the arbitrary use of state power for personal or communal gain have left deep scars on Congolese society and a particular individualistic logic to economic and political relations. At the same time, most of the region's infrastructure has at one time or another been destroyed by war. In Eastern DR Congo even today, basic needs of reconstruction remain unmet, even though the steps needed to meet them are clear to see.

The overall strategy for trade reform as presented in this report is structured by the following objectives:

- Formalise and improve transparency of the trade, to generate more revenue for the Congolese state, and thus to lay the foundation for development through growth
- Reduce and eventually eliminate military beneficiation
- Create more productive and protected economic spaces for the nearly one million persons in the region who are dependent on the trade for their livelihood

The recommended activities and entry points are concerned with being realistic and are sequenced in a way to achieve the above objectives within the difficult context of weak governance structures and a contested monopoly of violence. All importantly they acknowledge that obtaining sufficient regulatory control over the upstream trading chain within DR Congo is impossible in the short run[11]. There is no ad hoc solution to Eastern DR Congo and incremental improvement will require maintained medium - to long-term commitment.

Principal recommendations are as follows:

Recommendation: Recognise and Prioritise the Principal Impediments to Trade Reform and Place Them at the Centre of Reform Initiatives

Firstly, stakeholders should identify and agree upon the principal impediments to mineral trade reform. The following issues are suggested as priorities, and form the basis for the recommendations that follow. In addition, these impediments and subsequent recommendations could form the basis for the discussions and resolutions of a dialogue proposed in Recommendation Two.

The mineral trade currently does not produce more widespread development benefits for reasons of:

- Governance weakness
- A contested monopoly of violence and resulting insecurity
- Dilapidated infrastructure
- Insufficient, costly and unreliable energy
- Operational difficulties of export regimes
- Lack of transparency
- Lack of sector development strategy, discouraging investment
- Severely damaged agricultural infrastructure
- Very limited access to finance

Recommendation: Convene an Independently Facilitated Forum and Dialogue

Overall, a strategy of inclusive engagement should be adopted to form a basic consensus from which further decisions and actions can be made. In order to achieve the highest level of legitimacy, it is necessary to ensure that discussion around the trade is not monopolised by any one stakeholder group. Therefore, as a second, fundamental entry point, an **independently facilitated, solutions- and action-oriented multi-stakeholder dialogue should commence.**

Dialogue is an essential primary step because as well as underpinning the long-term strategy of engagement, it grounds policy makers in the reality of what can and cannot be achieved, and ensures interventions are aligned with local stakeholders' priorities and perspectives. It is also fundamental to building trust. The idea of a minerals-specific stakeholder forum builds on the *Trading for Peace* forums that have so far encompassed a number of sectors.

Key parameters of the dialogue:

- A variety of stakeholders should be invited, including national governments, supply chain operators, military groups, the UN (including MONUC), constructive experts and advocacy groups, policy makers, regional economic and integration bodies.
- An independent African country or a regional trading bloc should house the dialogue.
- There should be an independent emeritus facilitator, ideally a well-respected African with a formidable track record.
- The independent facilitator should gather stakeholder viewpoints to provide a solid foundation from which to facilitate the dialogue, pose the right questions, form the

11 Garrett, Nicholas, Mitchell, Harrison, Levin, Estelle 'Regulating Reality – Reconfiguring Approaches to the Regulation of Trading Artisanally Mined Minerals'. *Artisanal Diamond Mining, Perspectives and Challenges*, Edited by Koen Vlassenroot and Steven Van Bockstael, 2008

basis for making decisions on consensus basis, and identify and engage with potential spoilers.

- The forum should appoint a multi-stakeholder committee to oversee the implementation of the recommendations made by the dialogue. The committee should be properly resourced.
- Donors should mobilise funds in advance of the meeting, if possible, to allow the committee to move swiftly in implementing the recommendations.
- The forum should initiate a widespread public awareness campaign on the actions chosen, and the benefits for local actors.
- Ensure that information is available and accessible to all relevant stakeholders.

Recommendation: Improve Governance Structures

It is critical to continue with governance reform, as the currently patchy and locally negotiated governance frameworks under which the mineral trade operates undermine the DR Congo's development process.

Recommendation: Build a Functioning National Army in the DR Congo

A top priority for policy makers should be to build a functioning national army based on a unified chain of command, which is both operationally effective and accountable. There should be a unified framework of foreign assistance to pursue a single approach to doctrine, training, provisioning and the establishment of an effective accountable payment structure to ensure soldiers receive living wages.

Recommendation: Reduce Military Beneficiation

Despite some similarities in operation between the military groups, a nuanced and contextual approach to reducing the military beneficiation from the trade in minerals from Eastern DR Congo is suggested. The report provides targeted recommendations for confronting specific military challenges, namely the security governance structure around the Bisie Mine, the FDLR, and the CNDP.

Recommendation: Frame Reforms in the Context of Regional Development

The trade in minerals has significant regional development implications and trade reform should thus be framed in the context of ongoing initiatives in regional integration. This can be done by Regional Economic Commissions (RECs), such as EAC, COMESA, and SADC, which should act as bridge builders between the member countries in terms of maximising mutual economic benefit.

- RECs should:
  - Develop a common position towards the regional trade of Congolese minerals.
  - Hold a rotating annual regional mineral trade forum to allow dialogue, trust building and mutual learning amongst all regional ministries and other relevant state bodies, i.e. customs, ministries etc.
  - In partnership with policy makers, encourage domestic mineral sector development strategy development and implementation, whilst aligning neighbouring countries' domestic resource mobilisation strategies to allow for symbiotic growth.
- Policy makers should seek the revival of the CEPGL as a host forum for future mineral trade discussion rounds of concern to Burundi, DR Congo, and Rwanda. Issues of particular concern are infrastructure, energy and export practices.

Recommendation: Encourage Formalisation through Transparency in Tax and Customs Declarations and by Addressing Operational Difficulties of Export Regimes.

- End user governments should require transparency from companies registered in their countries to have carried out careful verification as to the country of origin of their supplies, and the taxation compliance, particularly in the DR Congo.
- Regional governments should encourage and reward their domestic formal traders to publish their payments in line with the EITI standards.
- End user governments should provide assistance to the DR Congo in verifying tax payments made to the DR Congo.
- Regional governments should apply customs procedures that are simple, predictable and transparent. The end goal should be a one-stop export shop to ease exports and import formalities. As part of working towards that goal, the Great Lakes countries should consider joint customs posts.
- States should consider partnerships with outside capacity building contractors for state services, as has happened in Katanga province.
- The personnel of the state services should receive adequate training and wages so as to reduce their incentive to take advantage of rent-seeking opportunities.

BACKGROUND

This report was written by Nicholas Garrett and Harrison Mitchell, Co-Directors of the London and Cambridge-based research, investigations and consultancy firm Resource Consulting Services Limited (RCS). The United Kingdom's Department for International Development (DFID) commissioned the report under the Trading for Peace project. The report is based on field research carried out in the DR Congo, Rwanda, Uganda, and Tanzania between November 2008 and January 2009, commissioned by The London School of Economics and Political Sciences' Crisis States Research Centre (CSRC) and the Conflict Research Group of Ghent University. It has been complemented by follow-up desk research in February and March 2009.

This report expands on DFID, USAID and COMESA's Trading for Peace research project carried out in 2006/2007, whose aim was to "enhance the sustainable and equitable use of the DR Congo's natural resources in the interests of poverty reduction in DRCongo and stability in the region, through building a robust evidence base for policy".

This report provides a number of concrete entry points for policy makers to engage constructively with the trade in minerals from Eastern DR Congo with a view to formalise the trade. The entry points were developed of a wide evidence base and thorough multi-stakeholder consultation.

A follow-up report for the CASM Secretariat at the World Bank will elaborate RCS's field research findings and place emphasis on the regional mineral sector development strategies and the informal trade and their affect on mobilising the regional mineral sectors as a recovery mechanism.

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INTRODUCTION: FORMING A BASIS FOR ENGAGEMENT

The renewed outbreak of violence in North Kivu in the second half of 2008 saw the long running insecurity in Eastern DR Congo become the top global news story for two weeks as another humanitarian crisis unfolded before the world. The intense media scrutiny resulted in a plethora of stakeholders working to portray the conflict in ways that best fitted their own agendas; in particular, the region's mineral wealth was implicated as complicit in the violence.

This portrayal matches accounts that since the 1990s have explained conflict in the DR Congo as a consequence of various actors trying to accumulate wealth, often through the exploitation of natural resources and control over informal trading activities[12]. As part of these accounts, some observers have suggested that it is economic interests, which have primarily motivated the proliferation of combatant groups and protracted the conflict[13]. This argument places the conflict in the DR Congo in the class of other African conflicts where natural resources have shaped the power strategies of elites, and where the warring parties have increasingly operated based 'on the territorialisation of sovereignty around valuable resource areas and trading networks'.[14]

Yet, even if a rational economic profit motive goes far in explaining the behaviour of political and military elites, placing it at the centre of the analysis neglects the complexity of the war economy in Eastern DR Congo, ignores a number of critical issues and actors, and is questionable as a solid base for developing adequate policies for engagement:

- The insecurity in Eastern DR Congo is a **symptom** of broader governance failures and the inability of the Congolese state to control the monopoly of violence.
- War economies include all economic activities that are carried out in wartime and attention must thus also be given to shadow economies and coping or survival economies, which are causally interlinked. In addition, war economies are interlinked with the political, cultural and emotional economies of the conflict.[15] At play is not simply control over resources and territory, but also deep underlying tensions stemming from ethnic dimensions, past grievances, and ingrained cultural nuances, which are all significant contributing factors.
- War economy activities are not always as different as is suggested from economic activities developed in peacetime. In peacetime, competition over control of natural resources is a common facet of larger political strategies to escape control by the political centre, for example, or to support local power complexes. Moreover, the political economies that surround the extraction and trade in natural resources can produce powerful centrifugal forces that not only further fragment the state but also create 'multiple unstable, ungovernable spaces'.[16]
- War economies have the potential to persist in post-conflict contexts and in some cases are hardly affected by peace processes. Even if some adaptation is needed to reach new forms of accommodation with the political centre, mechanisms of exploitation that have been instituted during wartime can largely survive in peacetime conditions.[17]

Debates on war economies have evolved to acknowledge that where the exploitation and trade of natural resources can form the basis of war, they can also be the basis for development. This positive view of natural resources recognises the vibrancy and resilience of the DR Congo's trade, which has managed to remain active and vital in sustaining livelihoods even through the most difficult political times. This report acknowledges that natural resources have historically - except for the growth periods of the 1960s and 1970s[18] - brought little benefit to the Congolese people. However, this report considers these outcomes to be less economic or trade

12 An explanation of this viewpoint is given in Keen, D. (1998), "The Economic functions of violence in civil wars", *Adeplphi Paper 320*, Oxford: Oxford University Press for the ISS

13 An explanation of this viewpoint is given in Collier, P. and Hoeffler, A. (2004), "Greed and Grievance in Civil War"', *Oxford Economic Papers*, Vol. 56, No. 4, pp.563-595

14 Le Billon, Phillippe. "The Political Ecology of War: Natural Resources and Armed Conflicts." *Political Geography* 20, no. 5 (2001): 561-584.

15 Goodhand, Jonathan. "From War Economy to Peace Economy? Reconstruction and State Building in Afghanistan." *Journal of International Affairs* 58, no. 1 (2004): 155-175. In his analysis of the Bosnian war economy, Andreas makes a similar point and points at the need for a bottom up, clandestine political economy approach. Andreas, Peter. "The Clandestine Political Economy of War and Peace in Bosnia." *International Studies Quarterly* 48, no. 1 (2004):29-52.

16 Korf, Benedikt, and Hartmut Fünfgeld. "War and the Commons: Assessing the Changing Politics of Violence, Access and Entitlements in Sri Lanka." *Geoforum* 37, no.3 (2006): 391-403.

17 Cramer, Christopher, and Jonathan Goodhand. "Try Again, Fail Again, Fail Better? War, the State, and the 'Post-Conflict' Challenge in Afghanistan." *Development and Change* 33, no. 5 (2002), 885-909.

18 Hesselbein, Gabi "The Rise and Decline of the Congolese State: an analytical narrative on state-making," Crisis States Research Centre Working Paper No : 21 (series 2), November 2007.

issues, and more issues of bad mineral governance as part of broader weaknesses in governance. The fact remains that mineral resources will be central to the DR Congo's development, both because they sustain the livelihood of millions and because they are the principal source of revenue for the state to finance security, social services and infrastructure, and the principal source for investment in agriculture and other productive activities[19].

The challenges of turning Eastern DR Congo's mineral wealth into a sustainable sector that contributes to development are thus inextricable from a political process that inspires the creation of institutions that can transform incentive systems. For policy makers and the international private sector, this yields the challenge of how to engage with the natural resource trade, as there is a clear need for weighing up persistent military beneficiation with the fact that up to one million people are economically dependent upon this trade for their livelihood across the Great Lakes region. Currently the political support for the necessary transformation of incentive structures remains uncertain, as large sections of affected people have been sidelined into the 'coping economy' and considered largely irrelevant in terms of the development priorities of the GoDRC. The international private sector is also increasingly uneasy about negative advocacy against the trade, which may lead to a complete disassociation from DR Congo, rather than a selective engagement[20].

Viewing the militarisation of the production and trade in minerals as a reflection of governance weaknesses in Eastern DR Congo leads to proposing a different set of conclusions. Where fledgling democratic institutions find it difficult to assert themselves vis-à-vis entrenched interests, the full development potential of natural resources will not be realised so long as security around natural resource deposits is negotiated locally[21] or a transformation is attempted by applying economic sticks and carrots in the form of sanctions or similar[22]. While these practices can offer some positive outcomes, in all likelihood the state would be weakened further – continuing the negative feedback loop of governance weakness.

However, notwithstanding the continuing governance weakness and high risks, there are enough positive trends to say that the moment is right to help promote trade and productive economic activity, which remains the primary focus to achieve development through growth. A formal minerals sector would clearly represent a 'regional public good'[23], with the DR Congo potentially emerging as a positive economic contributor to the development trajectories of itself and its neighbouring countries in the medium to long term. In any such transformation there will always be losers. Those who have benefited from an absence of regulation, from the militarisation of economic activity, and from the opportunities of unauthorised rent-seeking, will potentially become spoilers and try to prevent change or find new ways around it[24]. There will also be others, much larger in number and all the way through from miner to local official to exporter, who have had to cope with or suffered from the informality of mining and the trade in minerals, simply because the formal systems have become so corrupted that they inhibit rather than facilitate mining and trade.[25]

Implementing a process of reform, which engages with stakeholders in the trade, is a promising way to transform the trade, a large portion of which can best be described as a shadow economy to a formal economy. Actors in a shadow economy include in particular those who profit from insecurity, but whose objective is not necessarily to cause or sustain insecurity and who may have an interest in stability and development, so long as they regard stability and development as compatible with their profit motive[26]. Incentivising the shadow economy to transfer their activities to the formal economy would help provide a local basis for formalising the 'coping economy' and contribute to both bottom-up reform

19 Gabi Hesselbein, "The Rise and Decline of the Congolese State: an analytical narrative on state-making," Crisis States Research Centre Working Paper No : 21 (series 2), November 2007.

20 Various interviews with industry stakeholders, Extractive Industries Week at the World Bank, March 2009

21 Garrett, Nicholas, Sergiou, Sylvia and Vlassenroot, Koen (2009) 'Negotiated peace for extortion: the case of Walikale territory in eastern DR Congo', Journal of Eastern African Studies, 3:1,1 — 21

22 Goodhand, Jonathan. "From War Economy to Peace Economy? Reconstruction and State Building in Afghanistan." *Journal of International Affairs* 58, no. 1 (2004): 155-175. A **war economy** includes both the production, mobilisation and allocation of economic resources to sustain a conflict and economic strategies of war aimed at the deliberate disempowerment of specific groups. A **shadow economy** comprises actors who profit from war, but whose objective is not necessarily to wage war, and who may have an interest in peace, so long as they regard peace as compatible with their profit motive. A **coping economy** comprises population groups whose economic decisions are motivated by the imperative to cope or survive, rather than to profit.

23 Goodhand, Jonathan. "From War Economy to Peace Economy? Reconstruction and State Building in Afghanistan." *Journal of International Affairs* 58, no. 1 (2004): 155-175.

24 Garrett, Nicholas, Sergiou, Sylvia and Vlassenroot, Koen (2009) 'Negotiated peace for extortion: the case of Walikale territory in eastern DR Congo', Journal of Eastern African Studies, 3:1,1 — 21

25 Sunman, H. and Bates, N., *Trading for Peace, DFID, 2007*

26 Goodhand, Jonathan. "From War Economy to Peace Economy? Reconstruction and State Building in Afghanistan." *Journal of International Affairs* 58, no. 1 (2004): 155-175.

of governance structures and opportunities for those structures to strengthen.

This task is not impossible. While understanding the extreme challenges that governance weakness presents to progress in the DR Congo, this report presents a series of practical steps towards mobilising mineral wealth to serve a positive process of development. These steps are informed by thorough on-the-ground research and investigations conducted over the past three years. The following paragraphs discuss the merits and pitfalls of the two principal options of engagement:

1. Stop or interrupt the trade
2. Reform the trade

STOP OR INTERRUPT THE TRADE

The international community has focussed much of its attention on exploring eliminating military beneficiation through a ban on - or a disruption in - the mineral trade from Eastern DR Congo. In theory such a ban or disruption would reduce the military groups' asset bases. By default, the argument goes, this would have an impact on their ability to continue their armed operations, and thus end the conflict and the human rights abuses that stem from it. There are many propositions as to how to stop or disrupt the trade, such as:

- An import ban on consumer goods containing materials sourced from the DR Congo
- Blanket commodity sanctions
- Targeted sanctions (companies / individuals)
- Mandatory mineral certification of origin schemes (by mine or country)
- Mandatory due diligence processes

While some of these approaches have historically worked elsewhere, in the context of Eastern DR Congo they all share a common flaw in underestimating the lack of effectiveness that external modifications of trading regimes are likely to have in solving the causes of military beneficiation. (Please refer to Box 4: Certifying over the Issue - Mandatory Assurance Systems on page 27 for an in-depth discussion of this issue). In simplified form the following bullet points highlight the predominant challenges of approaches to stop or disrupt the trade:

Outright ban (supply-side ban and commodity sanctions)

- An outright ban on the trade in minerals is likely to fail to achieve the objective because:
  - For geographical reasons (size/topography/porous borders) and commodity attributes (easy to transport/conceal) it will particularly be unable to stop the trade of gold, which is the principal revenue source for the main rebel group, the FDLR.
  - It ignores the diversity of the revenue bases of the military groups and the significant income substitution opportunities that exist.[27]
  - It creates direct incentives for further informalisation and criminalisation of the trade.
  - It deprives ALL stakeholders across the value chain of revenue and will thus have dire socio-economic consequences for local people.
  - It threatens regional wealth creation as it reduces the value of minerals of the remaining formal trade in other Congolese minerals and commodities.[28]
  - It undermines confidence in sourcing from the region generally, thus affecting the international competitiveness of neighbouring countries in exporting their own minerals.

Targeted sanctions

- Targeted sanctions on rebel commanders are already being considered, and this should be extended to known FDLR Diaspora in foreign (in particular European) countries (see further below).
- Wider application of these sanctions to individual traders may be effective if their political motivations can be positively identified, but are counter-productive for traders who are motivated by economic incentives (see further below).
- Targeted sanctions on traders who are motivated by economic incentives are likely to fail because:
  - Their implementation is largely dependent on proof, e.g. a paper trail or similar. Documentary evidence of trade is only likely to exist at the point of export from DR Congo, where exporters straddle the informal and

27 United Nations (2008). 'Final report of the Group of Experts on the Democratic Republic of the Congo'. United Nations Security Council. S/2008/773. Available at http://www.un.org/Docs/journal/asp/ws.asp?m=s/2008/773

28 Hilson, Gavin. 'Mining and rural development: The trajectory of diamond production in Ghana', *Artisanal Diamond Mining, Perspectives and Challenges*, Edited by Koen Vlassenroot and Steven Van Bockstael, 2008

formal economies, buying without documentation and exporting with it. Removing the official exporters from the equation is likely to further informalise and criminalise the trade and temporarily remove the only private sector element that has an economic interest in trade reform and currently at least partially contributes to the formal economy.
- Targeted sanctions imply that sanctions are restricted to an entity, such as a company, or a person. This limited scope of the sanctions means that in the context of Eastern DR Congo, once for example a trading company or a trader is sanctioned, it is highly likely that (often related) operators swiftly fill the void. In this regard the targeted sanctions mechanism is a reactive mechanism that by nature serves to punish and not to prevent. In a context where operators are replaceable it will thus fail to achieve the objective.

Mandatory Assurance Systems

Mandatory assurance systems may include legislation, monitoring and reporting systems, import bans, or mineral and point of origin due diligence processes or certification schemes. (Please refer to Box 4: Certifying over the Issue - Mandatory Assurance Systems on page 27)

- Mandatory assurance systems may not be able to provide a watertight guarantee and may indeed launder into the legitimate trade the 'dirty' material it is seeking to exclude. The schemes are:
  - Dependent on in-country participation of currently absent functioning public and private governance structures that can – and are willing to -offer functioning in-country control systems.
  - Dependent on a secure enough environment to allow for regular third party verification, such as mine audits. This is not necessarily given in Eastern DR Congo, given the security and infrastructure challenges the area faces.
  - Susceptible to co-optation by informal and/or criminal traders.

It follows that there is a high likelihood that while top-down attempts to stop or interrupt the trade in minerals may bring about some of the benefits alluded to above and in the box on mandatory assurance systems (Please refer to Box 4: on page 27) they would fail in achieving the objective of reducing military beneficiation from the trade on the one hand, and are likely to exacerbate insecurity of the civilian population on the other, as military groups substitute their income and/or mobilise networks to take advantage of a wider network of mining areas and export routes.

BOX 1: LOCAL POLICING OF THE TRADE

Between external mechanisms to stop or sanction the trade in minerals (above) and engaging with the sector (discussed below) is the possibility to achieve results in identifying problems in the trade in minerals that should be brought to the attention of the Congolese state and regional and international communities.

One promising option to further understand these constructs is to establish a well-resourced Congolese investigative unit that is partnered with specialised international crime units. Various local police documents seen by the authors suggest that there is considerable local investigative capacity and knowledge of the trade.

However, this approach encounters difficulties in the form of a lack of political will in higher levels of the administration, and the limited capacity in-country to prosecute based on investigative results. Given that economic interest networks often transcend the realms of the state, civil society and the private sector this is unlikely to change in the short- to medium-term.

ADDRESSING CAUSES AND REFORMING THE TRADE

Beyond stopping, disrupting, or completely disengaging from the trade in minerals from the Eastern DR Congo, exists the opportunity to develop an engagement strategy with the aim to mobilise the minerals of Eastern DR Congo for the development of the country and the Great Lakes and East African region. With this in mind, policy makers can focus on addressing the fundamental cause of insecurity in Eastern DR Congo, which is not the trade in minerals, but the inability of the Congolese state to maintain the monopoly of violence and the ubiquitous governance weakness. By concentrating on the causes of insecurity and not its symptoms, positive policy suggestions can be made both on mobilising the mineral trade for development and on the human rights situation.

The objectives for trade reform are to:

- Formalise and improve transparency of the trade, to generate more revenue for the Congolese state, and thus to lay the foundation for development through growth.
- Reduce and eventually eliminate military beneficiation.
- Create a more productive and protected economic space for the up to one million persons dependent on the trade for their livelihoods.

The proposed strategy to achieve these objectives differs from those discussed above in that it seeks an inclusive approach that is designed to work within the difficult context of fragile governance structures and a contested monopoly of violence. It acknowledges that obtaining sufficient regulatory control over the upstream trading chain within DR Congo is impossible in the short run[29].

The inclusivity of this approach is the basis to form a consensus, from which further decisions and actions can made. In order to achieve the highest level of legitimacy of this engagement, it is necessary to ensure that the discussion around the trade is not monopolised by any one stakeholder group. This report therefore recommends as a first, fundamental entry point, an independently facilitated, solutions- and action-oriented multi-stakeholder dialogue.

The following recommendations focus not only on the "what to do", but on the "how to do it". While the entry points are concerned with being realistic and practical, the recommendations assume maintained medium to long-term commitment. The recommendations below serve as a way to initiate the dialogue. The recommendations made at the end of the following chapters could form the basis for further discussion and resolutions in the dialogue.

Recommendation One: Recognise and Prioritise the Principal Impediments to Trade Reform and Place Them at the Centre of the Dialogue

The trade currently does not produce more widespread development benefits for reasons of:

- Weakness of governance
- Contested monopoly of violence and resulting insecurity
- Dilapidated infrastructure, which prevents cost- and time-efficient transport and allows for military beneficiation, and creates monopolistic and oligopolistic rural markets that work to the detriment of the most vulnerable stakeholders in commodity trading chains
- Insufficient, costly and unreliable energy which prevents value addition and minimises profits
- Operational difficulties of export regimes owing to corruption and inefficient export institutions which provide incentives to operate informally
- Lack of transparency
- Lack of sector development strategy in the DRCongo prevents investment and inhibits development
- Severely damaged agricultural infrastructure prevents viable livelihood alternatives
- Very limited access to finance on reasonable terms prevents more equitable trade

Recommendation Two: Convene an Independently Facilitated Forum and Dialogue

Dialogue is an essential first step because as well as underpinning the long-term strategy of engagement, including creating a more productive and protected economic space for vulnerable stakeholders, it grounds policy makers in the reality of what can and cannot be achieved and ensures interventions are aligned with local people's priorities and perspectives. It is also fundamental to building trust: discussions with the different stakeholders have shown that their incentive structures and positions are in reality not too far apart, however, hurt egos, rumour based advocacy, historical legacies, misinformation and general confusion about the

29 Garrett, Nicholas, Mitchell, Harrison, Levin, Estelle 'Regulating Reality – Reconfiguring Approaches to the Regulation of Trading Artisanally Mined Minerals'. *Artisanal Diamond Mining, Perspectives and Challenges*, Edited by Koen Vlassenroot and Steven Van Bockstael, Egmont Royal Institute for International Relations, 2008

position of the international community have sown considerable mistrust between the stakeholders.

The idea of a minerals-specific stakeholder forum builds on the *Trading for Peace* forums that have so far encompassed a number of sectors and have produced tangible results, such as cooperation between countries at border posts and cross-border dialogue on issues of trade both on the local, as well as on the political level.

Suggested stakeholders/observers to be invited to the forum are[30]:

- The Governments of Burundi, DR Congo, Rwanda, Tanzania and Uganda
- The private sector – including the Federation of Congolese Businesses (FEC), traders associations, négociants, and mid level international customers such as smelters and electronics manufacturers.
- Prominent traders regardless of their political affiliation
- The United Nations, including MONUC
- Constructive experts
- Constructive advocacy organisations
- Bi-lateral and multi-lateral donors
- International trading and governance bodies
- Mining companies interested in operating in Eastern DR Congo
- Mineral concession holders
- Representatives of regional integration bodies, e.g. COMESA, the ECA, SADC, and the ICGLR

An independent African country or a regional trading bloc should be selected to house the dialogue as not all stakeholder groups may be comfortable participating in the forum if it is held in any of the stakeholder countries. South Africa has experience hosting peace talks. COMESA has experience and the necessary infrastructure to host such a forum, given its co-organisation of previous *Trading for Peace* forums:

- The CEPGL and the ICGLR are currently unsuitable hosts because:
  i. The CEPGL severely lacks institutional capacity
  ii. The ICGLR's headquarters are located on the territory of one of the stakeholder countries
- Donor stakeholders should resist the temptation to have a northern organisation, such as the EU, host the forum so to ensure African ownership over and legitimacy of the process.

The UN Secretary General, as the representative of the international community, should appoint an independent emeritus facilitator, to facilitate the dialogue:

i. The facilitator should be a well-respected African with a formidable track record.
ii. The facilitator should be supported by an appropriate independent body not engaged in advocacy.

The independent facilitator should contact each stakeholder group and request a brief. This collection of viewpoints will be a solid foundation from which to facilitate the dialogue and convene the dialogue based on the following principles:

- Getting the right questions on the agenda
  iii. The independent facilitator and supporting body should play a key role in ensuring that the most important questions are aired and discussed.
- Form decisions on consensus basis
  iv. The independent facilitator and supporting body should ensure that decision-making processes are accepted as legitimate by all stakeholders. It is suggested that decisions be made on a consensus basis.
- Identify and engage with spoilers
  v. The independent facilitator and supporting body should identify both spoilers (and develop strategies to either co-opt, transform, or punish them) and the principal beneficiaries (and consider whether these are groups one wishes to engage with).

The forum should appoint a committee comprising stakeholder representatives to oversee the implementation of the recommendations made in the dialogue. The committee should be properly resourced to enable it to take the actions decided upon by the dialogue and to hold stakeholders accountable over their willing participation in the implementation phase.

Donors should mobilise funds in advance of the meeting, if possible, to allow the committee to move swiftly in implementing the recommendations.

The forum should initiate a widespread public awareness campaign on the actions chosen, and the benefits for local actors.

- Ensure that information is available and accessible to all relevant stakeholders.

30 It should be considered to invite the FARDC / military groups (excluding the FDLR), if this is compatible with the overall security sector reform strategy.

THE MILITARISATION OF THE MINERALS TRADE IN EASTERN DR CONGO

An in-depth political economy analysis of the conflict in the Kivus is beyond the scope of this report. Instead, the following sections briefly touch upon issues of immediate relevance to the trade in minerals in Eastern DR Congo.

Following the DR Congo's 2006 elections, little or no progress has been made in reconstructing a coherent and effective Congolese national army.[1]Not only is there no functioning chain of command, and a lack of doctrine, discipline and wages for soldiers, but the FARDC has now become a major *source* of insecurity, and neither their political nor military leaders are held to account. This situation, ultimately the responsibility of the GoDRC, has been allowed to continue even as OECD countries channel substantial foreign assistance to governance and development reforms in the DR Congo.[2]

Failure to establish a functioning national military force has recently been identified as one of the primary impediments to progress in the DR Congo by the UN Special Envoy of the Secretary General for peace in the Great Lakes region, Olusegun Obasango.[3] The inability to effectively maintain the monopoly of violence, coupled with the governance weakness of the DR Congo's institutions have enabled a proliferation of spaces where a host of military groups have established alternative structures of governance that operationalise varying degrees of insecurity, including serious human rights abuses and war crimes. Sporadic upsurges in fighting between groups and collaboration amongst government forces and these military groups have caused major humanitarian disasters in Eastern DR Congo, particularly towards the year-ends of 2006, 2007, and 2008.

Thus, many of the recommendations in this report on peace and state-building both in the DR Congo and regionally can only progress when security is such that it allows local populations to live together in peace. In many parts of North Kivu security has been negotiated by local authorities with military groups, including the FARDC, to create spaces where the population can continue basic economic and livelihood functions. While many of these areas remain zones of insecurity, zones of relative peace and security, where reconstruction and development can begin, are slowly expanding.

A joint Congolese-Rwandan military operation in early 2009 has led to a potential reconfiguration of the political economy of North Kivu and has achieved its principal objective of beginning to rebuild trust between Rwanda and the DR Congo, which in late 2008 were accused by a UN report of fighting a 'proxy war' in North Kivu[4].Yet, the hope for lasting peace expressed by the GoDRC and the GoR in the context of this operation may not immediately materialise, as the Rwandese FDLR rebel group – which is a major security threat both locally and for Rwanda – remains present in South Kivu. Intelligence reports suggest the FDLR is already reclaiming some of the positions in North Kivu it had lost during the joint military operation.[5].

Both the FARDC (operating in North Kivu, Northern Katanga and Maniema) and the FDLR (predominantly South Kivu) are embedded in highly mineralized areas where they employ similar patterns of extortion to benefit from mineral production and trade. The intensity of the violence associated with this extortion varies considerably[6]. While the 'blood diamond' scenario of a gun held to the head of an artisanal miner and forcing him/her to mine is largely absent, mine workers and intermediate traders are obliged to pay 'taxes' on their production/trade volume[7]. These taxes are placed at levels high enough to generate revenue, but low enough so as not to jeopardise the overall productivity and efficiency of extraction and trade. The military actors are thus best understood as parasites feeding off a trade that tries its best to function.

The following briefly discusses the different challenges the various armed groups pose for the development potential of the trade, while the later recommendations discuss how military beneficiation can be reduced.

1 Putzel, J., International Community Risks Prolonging Crisis in Eastern DRC, LSE Press Release, November 3rd 2008

2 ibid.

3 Comments made by Olusegun Obasanjo in official capacity, Panel Discussion on DR Congo and Great Lakes region, London School of Economics, March 18, 2009

4 United Nations (2008). 'Final report of the Group of Experts on the Democratic Republic of the Congo'. United Nations Security Council. S/2008/773. Available at http://www.un.org/Docs/journal/asp/ws.asp?m=s/2008/773

5 Information obtained from EU member state intelligence, 25 March 2009

6 Garrett, Nicholas. *Walikale. Artisanal Cassiterite Mining and Trade in North Kivu – Implications for Poverty Reduction and Security.* Washington D.C.: Communities and Small-Scale Mining, 2008.

7 In some mines the miners are both miners and combatants.

Artisanal mining of cassiterite in Bisie, North Kivu, DR Congo. © *Nicholas Garrett, 2008*

THE BISIE MINE

The Bisie cassiterite mine is a point[8] resource situated in Walikale territory in North Kivu. Only a few hectares large, it produces around 70% of the cassiterite exported from Goma and is home to a fluctuating number of 2,000+ artisanal mine workers, and their dependents which number around 10,000.[9] The Bisie mine is a significant revenue generator for the state in North Kivu, with tax revenues from the overall trade in cassiterite through Goma estimated at US$2m in 2007[10]. Up until early 2009, the FARDC's non-integrated 85th brigade led by Colonel Samy was in control of this highly prized asset[11]. A provincial level police intelligence report seen by the authors suggests the brigade earned as much as US$315,000 per month just from extortion at the end of 2006.

The 85th brigade had established a coercive governance structure around the Bisie mine – the intentional provision of security and institutionalization of a regulatory system and tax system. Violent incidents of rape and harassment by military personnel did occur, but irregularly, rather than as systematic means of intimidation[12]. Some of these incidents were immediately punished, which shows an interest in maintaining order[13]. Some of the brigade's violent behaviour could be explained as a method of selective violence;

8 A small, geographically defined resource rich area, i.e. not more than a few hectares

9 For an in-depth profile of the Bisie mine, please refer to Garrett, Nicholas. *Walikale. Artisanal Cassiterite Mining and Trade in North Kivu – Implications for Poverty Reduction and Security.* Washington D.C.: Communities and Small-Scale Mining, 2008.

10 Source FEC

11 Ibid.

12 See Garrett, Nicholas, Sergiou, Sylvia and Vlassenroot, Koen (2009) 'Negotiated peace for extortion: the case of Walikale territory in eastern DR Congo', Journal of Eastern African Studies, 3:1,1 — 21

13 Ibid.

as a means to guarantee compliance[14] and for the demonstration of power.[15]

The 85th brigade's security governance can be explained through geographic aspects and the concentration of mineral endowments on the strategy of armed groups.[16]The geographical typicality of the terrain easily permitted the 85th FARDC brigade to control and economically benefit from the Bisie mine. Moreover, it was rational for the 85th brigade to establish order and provide security in order to facilitate the miners' work. The relatively secure environment allowed for concentration on more productive work on the side of the miners and traders, instead of being permanently on guard against threats to their existence. The growing productivity led to a higher income in tax collection for the armed group.[17]

By trying to work around the presence of the brigade in the mine, the GoDRC had indirectly made it harder for itself to formalise the minerals sector in Walikale territory. Recent intelligence reports suggest a FARDC/ex-CNDP brigade has replaced the non-integrated 85th brigade as part of the Rwandese-Congolese joint military operation in North Kivu in early 2009.[18]

Soldier of the FARDC's non-integrated 85th brigade in Bisie, North Kivu, DR Congo
© *Nicholas Garrett, 2008*

THE FDLR AND OTHER DISPERSED MILITARY GROUPS

The FDLR and other dispersed military groups pose a more formidable challenge than the security governance structure around the Bisie mine, as they benefit from scattered, as opposed to point resources. The FDLR's principal revenue source is the taxation of gold mining and trade in South Kivu[19]. Other mining and trading operations, as well as extortion and Diaspora remittances provide other income opportunities. Prior to the Congolese–Rwandan military operation in North Kivu the group was also in control of cassiterite deposits in Southern Walikale, but at time of writing it is unclear how far the FDLR has reoccupied those mining areas following Rwanda's military withdrawal. One strategy mooted as having the potential to significantly weaken the FDLR is a complete removal of its control over the mineralised areas in North – and South Kivu, by having MONUC control both mining areas and transport routes. While in theory this is attractive, in fact, it is an unsustainable and logistically impossible proposition.

Indeed, the FDLR presents a potentially intractable set of problems for the following reasons:

1. **Negative incentives, such as stopping the group's control of mining and trade are logistically impossible**. The FDLR controls widely dispersed mineral deposits and the majority of its revenue comes from easily transportable and concealable gold, as opposed to bulky minerals. It is

14 Stathis N,. Kalyvas,. 2003. The Ontology of "Political Violence:" Action and Identity in Civil Wars. **Perspectives on Politics** 1:3, 475-494

15 Kalyvas, Warfare in Civil War; Eck and Hultman, 'One-Sided Violence'; Olsen, *Violence Against Civilians.*

16 Le Billon, Phillippe. "The Political Ecology of War: Natural Resources and Armed Conflicts." *Political Geography* 20, no. 5 (2001), p. 572

17 Chojnacki and Branovic, in 'Räume strategischer (Un-)Sicherheit' explain the emergence of security governance with geographic and economic opportunities and echo thereby Le Billon, *The Political Ecology of War.* See also: Bates, Greif, and Singh, *Organizing Violence.*

18 According to intelligence information that has been labelled 'reliable' by a number of sources, the brigade has since been redeployed to Hombo and has been replaced by a mixed FARDC/ex-CNDP brigade. For an in-depth analysis of the situation please refer to Garrett, Nicholas. *Walikale. Artisanal Cassiterite Mining and Trade in North Kivu – Implications for Poverty Reduction and Security.* Washington D.C.: Communities and Small-Scale Mining, 2008.

19 United Nations (2008). 'Final report of the Group of Experts on the Democratic Republic of the Congo'. United Nations Security Council. S/2008/773. Available at http://www.un.org/Docs/journal/asp/ws.asp?m=s/2008/773

logistically impossible for MONUC to control wide areas and the numerous transport footpaths, never mind searching people.

2. **Positive incentives could conceivably work in theory, but fail to take political motivations into account. They are not practicable and have no legitimacy in practice**. An approach that would provide incentives for the FDLR to formalise its mining operations and transform into a political movement could conceivably work in theory, assuming that the FDLR has an interest in peace, so long as their economic concerns can be serviced in peacetime. This rational economic approach faces the following challenges:

- The FDLR is not purely economically motivated.
- The approach would require organisational structures to work through. These are absent on the side of the highly fragmented FDLR and very weak on the side of the state.
- Any positive incentive approach would be interpreted by many stakeholders as legitimising the rebel group that has committed some of the worst human rights abuses prior to and since their arrival in 1994.

3. Regional military engagement is an option. However, **a regional military approach would have to be overwhelming in force, whilst minimising civilian casualties, preserving trust between participating countries, and yielding sustainable results.** Following the trust-building joint operation between the FARDC and the Rwandan Army in early 2009, a military solution to the challenge the FDLR poses seems more realistic than before. A regional military approach would frame the FDLR as a Rwandan and Congolese security problem. It would build on the joint operation between the FARDC and the Rwandan Army to map out a strategy for engagement with the FDLR, particularly in South Kivu. It is unclear whether the trust-building early 2009 joint military operation really was in terms of producing sustainable results in terms of pushing the FDLR out of the highly mineralised areas under its control in North Kivu. Intelligence reports suggest the FDLR is in the process of re-occupying many of its previously held positions. A military solution would therefore not only have to be overwhelming in force, whilst minimising civilian casualties, but also aware of the need to preserve trust between participating countries, and most importantly yield sustainable results.

THE CNDP

The CNDP had historically controlled a relatively non-mineralised territory with known artisanally exploitable deposits restricted to a few small coltan mines and the pyrochlore mine in Lueshe. The revenue base of the CNDP is highly diverse, with the contribution of minerals historically restricted to taxation from shipments that crossed CNDP territory for export through the Bunagana and Ishasa crossings. These exports had largely ceased when the GoDRC withdrew its administrative staff from the border post in September 2008 as larger exporters traditionally shipping through that route were aware of the fact that they would be seen as violating the UN sanctions regime when paying any charges or export duties to the CNDP administration.[20] The border is expected to operate under DR Congo administration following the signature of a peace agreement between the CNDP and the GoDRC, which stakeholders widely attribute to factors other than the stop in exports through Bunagana and Ishasa[21].Under the peace accords, the CNDP is expected to transform itself into a political movement[22].

Recommendation Three: Improve Governance Structures

It is critical to continue with governance reform, as the currently patchy and locally negotiated governance constructs under which the mineral trade operates undermine the DR Congo's development process and severely undermine the likelihood that the population will benefit from mineral wealth in any sustainable way. Governance weakness not only has adverse effects at the individual level, but also at the institutional level, whereby governments misuse revenues raised from taxes and other sources[23]. The weak governance surrounding natural resources exploitation in DR Congo also means that long-term damage to the environment and the resource base itself, especially for non-renewable minerals, is inevitable. Therefore, the need for sustained governance reform and the need to continue to work to improve governance structures cannot be overemphasised. The remaining recommendations are written with this overarching goal in mind.

20 http://www.reuters.com/article/homepageCrisis/idUSL3110903._CH_.2400

21 http://www.monuc.org/news.aspx?newsID=20270

22 http://www.monuc.org/news.aspx?newsID=20270

23 Collier, P. (2008), The Bottom Billion, Oxford University Press

Recommendation Four: Build a Functioning National Army

A top priority for the GoDRC, with assistance from the international community, should be to build a functioning national army based on a unified chain of command, which is both operationally effective and accountable. There should be a unified framework of foreign assistance to pursue one approach to doctrine, training and provisioning and the establishment of an effective and accountable payment structure to ensure soldiers receive living wages to feed themselves and their families.

Recommendation Five: Reduce Military Beneficiation

Despite the similarities in rent-seeking mechanisms the military groups apply, a nuanced and contextual approach to reducing the military beneficiation from the trade in minerals from Eastern DRCongo is appropriate for the following reasons:

i. While the artisanal mining operations are inequitable and hazardous, the level of human rights abuses committed by the military groups varies substantially. Some FARDC brigades in particular are regarded as (often privatised) security replacements operating in an area devoid of functioning state institutions, rather than mere looting occupiers. It is therefore important to –where possible – build on the discipline and systems that have emerged in these spaces, to implement more rule bound governance systems, instead of making their removal a first priority.

ii. The overall percentage of the taxation of the trade in minerals as part of the total revenue bases of the military groups varies substantially. More research is needed to determine the exact percentages, but informed guesses suggest that the CNDP earns up to 15% of its revenue from the mineral trade; the FDLR earns up to 75% of its revenue from the mineral trade; and the FARDC's non-integrated 85th brigade used to earn up to 95% of its revenue from mineral production and trade.

The Bisie Mine

In the short-term:

- Understand the fragmented incentive structures of the network members around the newly deployed brigade. Work with these incentives in the short-term with the aim of structuring security governance around Bisie to allow for swift production and trade reform.
- MONUC's mandate has recently been extended to include monitoring the trade in natural resources. As the Bisie mine is a clearly defined point resource MONUC should support the reform of the security governance structure around Bisie in three ways:
  - Deploy sufficient armed forces to help guard the Bisie mine in partnership with the FARDC
  - Guard the limited mineral transport hubs, which are the Punia - Ndjingala - Walikale road, and the Amisi and Kilambo airstrips
  - Patrol the limited area around the Bisie mine and Walikale town in partnership with the FARDC.

In the medium- to long-term:

- The priority is to secure the mine first and then the following actions should be undertaken:
  - Train and pay the FARDC soldiers regularly so as to achieve a higher chance of success for the new security system to function independently of MONUC assistance in the medium-term.
  - Employ a semi-industrialised exploitation strategy that both takes advantage of the rich deposits, and recognises that the mine has been artisanally exploited since 2002. This requires bringing in outside corporate actors who are open to using a combination of artisanal and industrial methods in cooperation with the local community. The company Kivu Resources has unsuccessfully tried this before through its subsidiary Mining and Processing Congo (MPC); however, this failure was due to a lack of security and insufficient capital endowment and professionalism, as opposed to a problem in the approach itself[24]. This approach must bear in mind the need for benefits to accrue to the local community; otherwise local support and goodwill will evaporate.
  - Following securing the mine, the title holder should be obliged to return to Bisie and be provided with an IFC backed investment guarantee facility in order to upgrade regular production, and work towards compliance with the IFC's Human Rights Impact Assess-

24 Garrett, Nicholas. *Walikale. Artisanal Cassiterite Mining and Trade in North Kivu – Implications for Poverty Reduction and Security.* Washington D.C.: Communities and Small-Scale Mining, 2008.

ment and the IFC's Performance Standard. Should the title holder be unable to return to the mine, the title holder should be replaced as a matter of priority, given the key role the Bisie mine plays in the overall context of the development of Eastern DR Congo and the region.

FDLR

Recommendations given in this section are focussed on the few areas where progress can truly be achieved:

- Countries hosting FDLR Diaspora, such as France and Germany, should exhaust all existing avenues and act firmly against those 'genocidaires' on their territories, who are sought by Rwanda and who are knowingly acting or have acted against the interest of peace, stability and development in Eastern DR Congo. This will reduce financial support to the FDLR through the limitation of remittance flows. It will also reduce the ability of the FDLR to organise political support.
- While this report is aware of the fact that "policing" approaches will not solve military beneficiation in Eastern DR Congo, where a company or individual is found to be trading with the FDLR - a group on the US State department terrorist list – the company or individual should be prosecuted with the full force of international law.
- Put in place an engagement strategy that specifically targets the FDLR commanders and senior officers, so as to weaken the military group's ability to organise and operate on the territory of the DR Congo.
- Put in place a joint Congolese-Rwandese military engagement strategy against the FDLR. This strategy would need to be overwhelming in force, whilst minimising civilian casualties, but also aware of the need to preserve trust between participating countries, and most importantly yielding sustainable results.
- Disrupt the FDLR control of **point** resources, where this is possible. This would require a mapping exercise of FDLR mines to determine whether there are in fact suitable point resources under their control and an assessment would be needed as to how logistically feasible these are to guard over the long term. This exercise should be undertaken with the knowledge that it will be impossible to disconnect the FDLR entirely from its revenue base, as discussed above.

CNDP

In the short-term:

- While a peace agreement between the CNDP and the GoDRC has been signed, the feasibility of enacting a plan for military integration of the FARDC and the CNDP remains unclear and will prove difficult unless there is progress in building a functioning national army (Recommendation Four). Policy makers should prioritise this area and accelerate CNDP DDR and integration into the FARDC.

Military beneficiation in Bisie, Eastern DR Congo. *© Mark Craemer, 2009*

THE TRADE IN MINERALS - FROM DR CONGO TO EAST AFRICA

The trade in minerals is one of the primary economic occupations in Eastern DR Congo and a common thread that draws together dozens of stakeholders in the Great Lakes region. This places it at the heart of the region's future development trajectory. The trading chain is highly complicated and involves local, national, regional and international actors including miners, mine support workers, porters, intermediate buyers, civil servants, security forces, transporters, assayers, urban day labourers, exporters, state officials, and mineral processors. Including the dependents of artisanal miners and traders, an estimated one million persons regionally live off the trade in minerals from Eastern DR Congo.[1]

The trade begins in remote mining sites in Ituri, Kasai Oriental, Maniema, (Northern) Katanga, North Kivu, Orientale, and South Kivu[2], where the minerals are often transported at first by foot, then by car or truck and finally by plane to the main export centres, such as Goma, Butembo, Bukavu, and Uvira. From here they are exported through Burundi, Kenya, Rwanda, Uganda, and/or Tanzania.

Gold, tin ore (hereafter cassiterite), tantalum (coltan), and tungsten (wolframite), are the primary export minerals. While gold is of significantly higher value and is also the principal rebel-traded mineral it is estimated that as much as 95% of Eastern DR Congo's artisanal gold production is traded informally[3]. The authors will investigate the gold trade in a follow-up publication and this section therefore focuses on the trade in the three Ts[4], which represent the bulk of the volume of the trade and which are exported via the following routes:

- Goma – Bunagana - Kampala – Mombasa/Dar es Salaam (N. Kivu-Uganda-Kenya/Tanzania)
- Goma – Gisenyi – Kigali – Mombasa/Dar es Salaam (N. Kivu-Rwanda-Kenya/Tanzania)
- Bukavu – Kigali – Mombasa/Dar es Salaam (S. Kivu-Rwanda-Kenya/Tanzania)
- Uvira – (Bujumbura) - Kigoma – Dar es Salaam (S. Kivu-Tanzania)

Exporters in the regional trading centres work with international brokers often based in Europe, who help link the trade from the Great Lakes region to the rest of the world, arranging transport from the Indian Ocean ports of Mombasa and Dar es Salaam, where the minerals are shipped to Europe and to multinational smelting companies in Malaysia,[5] Thailand, China, and India,[6]. Once processed, large quantities of tin are bought by solder manufacturers or electronics contract manufacturers, who turn the solder into usable components such as capacitors, and add them into electronic devices.[7]

BOX 2: DEFINING TRADE IN DEVELOPING ECONOMIES:

Illegal trade occurs when it is possible for agents to act legally but they choose not to. This can apply to both an illegal activity such as smuggling, and to trading in an illegal commodity, such as conflict diamonds.

A-legal trade occurs where it is not possible for the agent to act legally because the state either does not apply and/or does not enforce the law correctly. In practice this occurs where the law makes requirements of the agent, (e.g. artisanal miners cards), but does not put the necessary structures in place for agents to comply (e.g. provide the cards). An expanded definition of a-legal trade can also occur when the state has not made legal an activity that in itself is essentially an informal rather than illegal activity, and often benefits the state indirectly. An example of this is artisanal mining, which may be technically illegal, yet provides often the only viable livelihood option for many people, and also benefits the state that taxes the production at point of export.

Legal trade is licensed trade in a legal commodity compliant with all applicable laws.

Informal trade is trade unregulated by the institutions of society, in a legal and a social environment in which similar activities are regulated. A-legal trade is always informal.

Formal trade is trade regulated by the institutions of society, taxed and monitored by government, and its proceeds are included in that government's GDP.

1 For a detailed profile of the trade in natural resources in the Kivus refer to Tergera, A. and Johnson, D. (2007), Rules for Sale: Formal and Informal Cross Border Trade in Eastern DRC, Pole Institute. May 2007

2 For an in detail profile of artisanal mining, refer to Garrett, Nicholas. *Walikale. Artisanal Cassiterite Mining and Trade in North Kivu – Implications for Poverty Reduction and Security.* Washington D.C.: Communities and Small-Scale Mining, 2008.

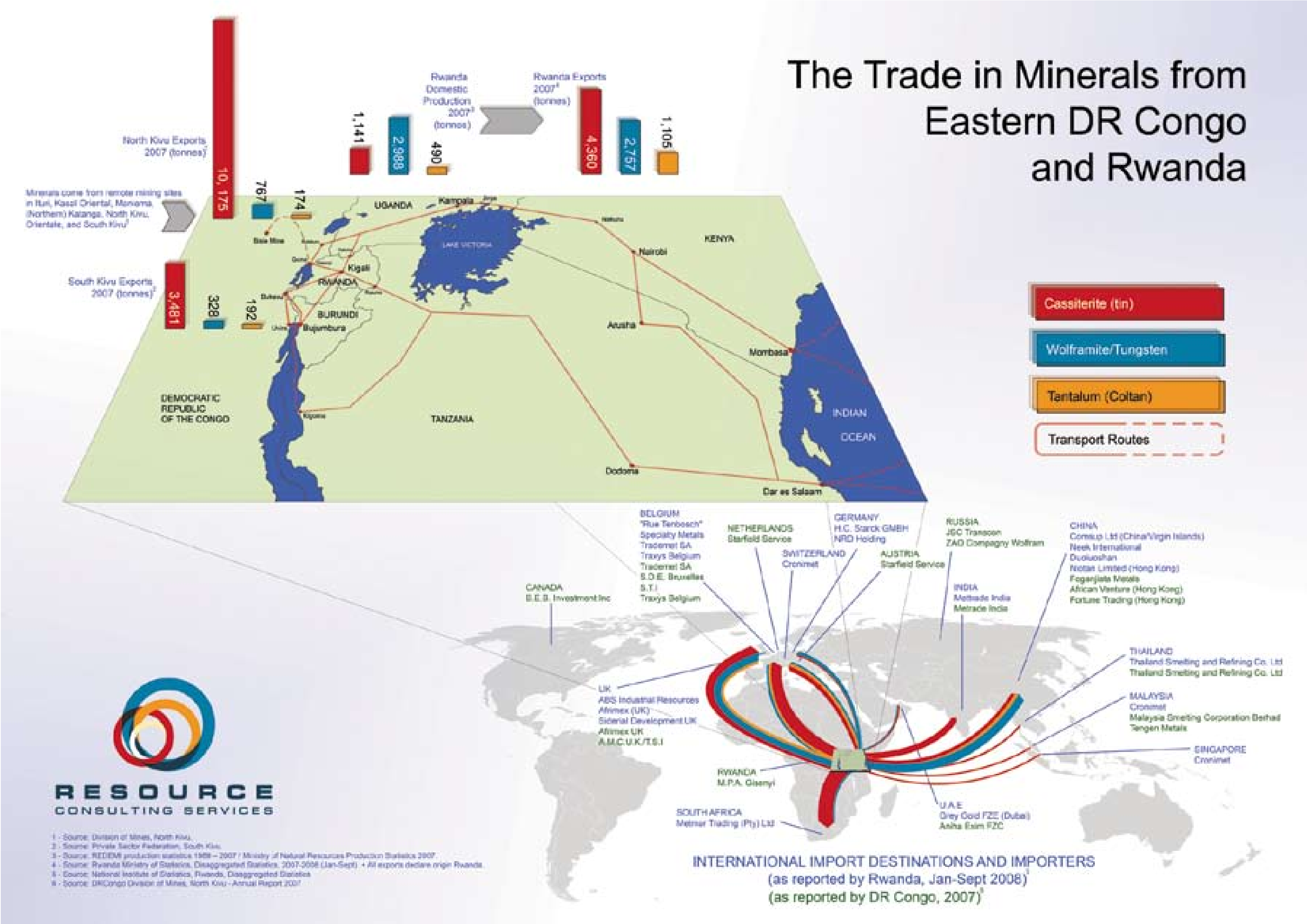
3 Numerous interviews by Nicholas Garrett, South Kivu Province, DRC, 2007 - 2009

4 The trade in gold, which is the principal earner of the FDLR, has an entirely different trade profile due to its high value to volume ratio. Gold is transported via Tanzania, but also by plane from Bujumbura, Kigali and Entebbe.

5 Garrett, N. and Mitchell, H., 'Electronics Groups Alarmed as Congo Rebels Take Over Tin Source', *Financial Times*, March 5, 2008

6 See 'Final report of the Group of Experts on the Democratic Republic of the Congo'. United Nations Security Council. S/2008/773. Available at http://www.un.org/Docs/journal/asp/ws.asp?m=s/2008/773 pp. 22-23.

7 Garrett, N. and Mitchell, H., Electronics Groups Alarmed as Congo Rebels Take Over Tin Source, Financial Times, March 5, 2008



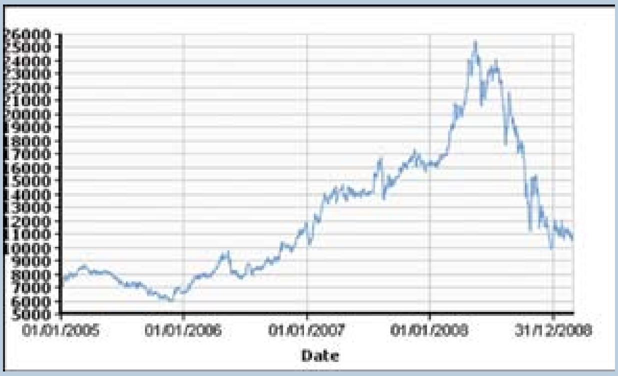
The Trade in Minerals from Eastern DR Congo and Rwanda
Cassiterite (tin)
Wolframite/Tungsten
Tantalum (Coltan)
Transport Routes
North Kivu Exports 2007 (tonnes)
10, 175
767
174
Minerals come from remote mining sites in Ituri, Kasai Oriental, Maniema, (Northern) Katanga, North Kivu, Orientale, and South Kivu
South Kivu Exports 2007 (tonnes)
3,481
328
192
Rwanda Domestic Production 2007 (tonnes)
1,141
2,988
490
Rwanda Exports 2007 (tonnes)
4,360
2,757
1,105
UGANDA
Kampala
KENYA
Nairobi
LAKE VICTORIA
Kigali
RWANDA
BURUNDI
Bujumbura
Arusha
Mombasa
DEMOCRATIC REPUBLIC OF THE CONGO
TANZANIA
INDIAN OCEAN
Dodoma
Dar es Salaam
BELGIUM
"Rue Tenbosch"
Specialty Metals
Traxys Belgium
S.T.I
NETHERLANDS
Starfield Service
GERMANY
H.C. Starck GMBH
NRD Holding
SWITZERLAND
Cronimet
AUSTRIA
Starfield Service
RUSSIA
JSC Transcon
ZAO Compagny Wolfram
CHINA
Neek International
Fogenjiate Metals
Fortune Trading (Hong Kong)
CANADA
INDIA
Metrade India
THAILAND
Thailand Smelting and Refining Co. Ltd
MALAYSIA
Cronimet
Malaysia Smelting Corporation Berhad
Tengen Metals
SINGAPORE
Cronimet
UK
ABS Industrial Resources
Afrimex (UK)
Sidenal Development UK
Afrimex UK
RWANDA
M.P.A. Gisenyi
SOUTH AFRICA
Metmar Trading (Pty) Ltd
U.A.E.
Grey Gold FZE (Dubai)
INTERNATIONAL IMPORT DESTINATIONS AND IMPORTERS
(as reported by Rwanda, Jan-Sept 2008)
(as reported by DR Congo, 2007)
RESOURCE
CONSULTING SERVICES

BOX 3: THE EFFECTS OF PRICE CHANGES ON LIVELIHOODS

The trade in minerals from the Eastern DR Congo is inextricably linked to the global economy, and the financial crisis and subsequent global recession have had a serious impact on mineral prices at the local level. The price of cassiterite on the London Metal Exchange, for example, has more than halved from nearly $26,000 USD in the second quarter of 2008 to $10,500 USD in the first quarter of 2009.

At first sight the drop in prices could reduce the opportunities for military groups to benefit from the trade, and thus have a positive impact on conflict dynamics. However, this is an uncertain outcome at best, as the military groups have the option to stabilise or increase their share in revenue through:

- diversification of their revenue sources away from minerals
- increased taxation on the existing trade,
- increased extortion from the civilian population,
- increased military production (i.e. soldiers mining themselves),
- occupation of currently non-militarised mining areas,
- stockpiling of minerals until prices improve.



Graph 1: Dramatic movements in the price in tin between 2007-2008, London Metal Exchange

In addition, at present projections, the overall price development is by no means certain to reach the price levels at which artisanal mining of the three 'T 'metals does not generate sufficient revenue to sustain livelihoods. The LME price graph above shows the price development of tin over the past four years, which show that current tin prices hover around the price levels of 2006 and 2007, at which point in time artisanal tin mining was already occurring on a significant scale.

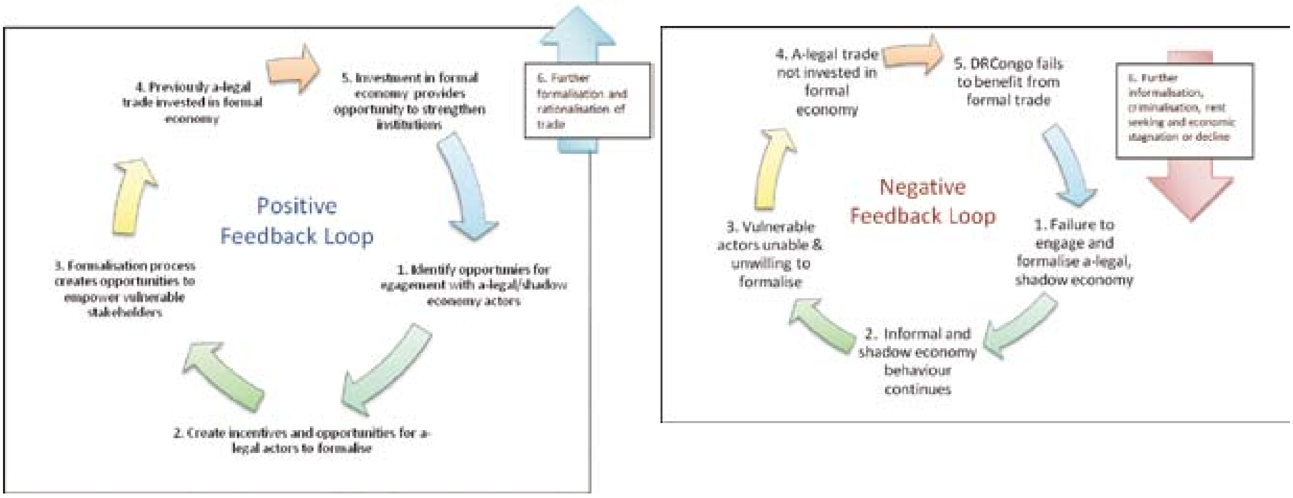
Additionally, while the price in cassiterite has declined, the price of coltan has increased since the closure of Talison Minerals' Wodgina mine in Western Australia, which accounted for up to 30% of the world output in 2008 . This price development implies that the production of the Great Lakes region will become more attractive for international buyers, which may offset some of the revenue lost through the dramatic cassiterite price correction.

Should price levels drop more severely, miners and other operators will try to find other means of sustaining their livelihood. These may include agriculture and trading, but could also include crime or joining an armed group. The less salubrious livelihood alternatives suggest that a slowdown in trade may have at best an unpredictable effect on mining communities in Eastern DR Congo, but more likely, a net negative effect on the security situation in Eastern DR Congo and the regional development opportunities.

ENGAGING WITH INFORMAL OPERATORS

As discussed in the preceding chapter, military groups in the Kivus benefit from the extraction and trade in minerals in a number of ways. It is this beneficiation coupled with the informality (i.e. lack of governance or oversight) of production and trade that has led some observers to describe the trade itself as illegal.[8] However, such a catch-all categorisation of the entire trade as illegal disregards important differences between a-legal and illegal, and informal and formal mineral trade. All importantly, the act of taxation of the trade by military groups is illegal, but this does not mean that the trade itself is illegal[9]. The box below provides definitions of the terms, which is necessary in order to accurately map states of activity within the mineral producing and trading spheres.
Misunderstanding, or in other words misclassification, of the above categories can lead to the application of inappropriate regulation and policies, and exacerbate a situation instead of improving it.[10] Significantly, policy makers can engage constructively with "a-legal" trade, whereas it is far more difficult to do so with "illegal" trade. In the case of Eastern DR Congo, a-legal trade and illegal activity exist concurrently: much of the minerals are extracted by artisanal miners operating a-legally, then subsequently illegally taxed by military groups at a local level. Yet, although some minerals are smuggled out of the country, much of the trade undergoes a process of formalisation in the regional export centres, where (again, some) is taxed by the Congolese government at point of export, thus contributing to the domestic revenue base. The partial formalisation of the a-legal trade suggests that much of the trade operates in a shadow economy, where actors may chose to formalise given the opportunity and correct incentives to do so.

Understanding much of the trade as an a-legal, shadow economy presents opportunities for engagement with a number of actors in the sector. This approach applies particularly to those most vulnerable to exploitation, such as artisanal miners and petty traders, but also those vulnerable to rent-seeking such as larger regional traders, who may wish to operate legitimately and disassociate themselves from both military beneficiation and rent seeking, so long as their profit motives can be served in peacetime. Formalisation through engaging with selected groups presents the most promising opportunity to mobilise the trade for development through growth.



Graph 2: Engaging with the Informal Sector/Shadow Economy - Positive and Negative Feedback Loops

8 Global Witness (2005), Undermining Peace, Global Witness

9 There are nuances to these definitions, as complicated as the trading chain itself, for example, if the trading parties are not operating in accordance with the law, then the trade would be illegal, providing that the law, in script and effect, makes legal trade possible.

10 Garrett, Nicholas, Mitchell, Harrison, Levin, Estelle 'Regulating Reality – Reconfiguring Approaches to the Regulation of Trading Artisanally Mined Minerals'. *Artisanal Diamond Mining, Perspectives and Challenges*, Edited by Koen Vlassenroot and Steven Van Bockstael, Egmont Royal Institute for International Relations, 2008

BOX 4: CERTIFYING OVER THE ISSUE - MANDATORY ASSURANCE SYSTEMS

One of the projects often suggested where conflict and natural resource exploitation intersect is the establishment of a certification scheme that seeks to verify origin of country[1]. The ICGLR, as well as other stakeholders, has expressed interest in developing such a scheme[2], and therefore it is worthwhile discussing the pros and cons.

The popularity of this idea is primarily due to the perceived success of the Kimberley Process Certification Scheme for Rough Diamonds (KPCS). The KPCS is widely held up as a model for certification schemes, due to the fact that its rise in the international community coincided with the disappearance of all but one of the 'conflict diamond' wars.

Yet, the scheme's successes have largely been in formalising the international trade in diamonds rather than establishing control over the extraction and trade in diamonds in producing countries susceptible to a 'conflict diamond' war. The effects of formalisation have been positive: increased export revenues for producing countries, some rationalisation of the sector, an increase in transparency in the diamond supply chain, and finally, enlarging the debate around diamonds to include issues pertaining to labour practices, the environment and human rights more broadly.

These achievements, which the KPCS contributed to as part of a broader push for accountability by civil society and some of the private sector in the diamond trade, are significant, and should not be diminished. However, as recent studies point out[3], the internal trade in diamonds in producer countries remains largely unmonitored, particularly in developing states[4]. In addition, the fact that a significant proportion of these diamonds are mined informally and then gradually formalised through the system of trade until the point of export essentially means that the KPCS certifies diamonds even when the true origin of the goods is unknown and unverified.

TABLE 1: EFFECTS OF A TOP DOWN MINERAL CERTIFICATION OF ORIGIN SCHEME

Likely	Unlikely
Increase transparency and traceability in the international trade	Eliminate avenues to launder 'conflict' or corruption minerals at sub-national level
Assist formalisation, including taxation, at export level	Assist formalisation at artisanal, small scale and other informal point of origin levels
Encourage legal or mostly legal actors to comply	Remove illegal actors/military groups from supply chain
Place greater scrutiny on downstream chain in minerals which may lead to more focus on upstream labour rights and environmental issues	Solve issues of human rights abuse, inequality, poverty, insecurity etc. upstream
Place significant burden on states to monitor, albeit with enhancement in technical expertise, and possibly create new opportunities for corruption, rent seeking and misclassification	Solve issues of corruption, rent seeking and deliberate misclassification in state institutions

This has implications worth considering for any attempt to certify minerals from the DR Congo. Cassiterite coming from Walikale/North Kivu, for example, is easily identifiable due to its red colour that stems from its high iron ore content. If anything, one could thus argue that cassiterite from Walikale, and the Bisie mine in particular, is a case for 'reverse

1 This analysis looks at certification of origin schemes, as opposed to ethical assurance schemes. Certifications of origin are usually mandatory, and embedded in national legislation, unlike other types of third party ethical assurance which use a multi-stakeholder process to govern the civil society institution undertaking the standard development and third party assurance. Assurance seeks to certify a portion of the chain, i.e. until such time as the mineral is fully processed. Cf. Levin, *Certified Trading Chains in Mineral Production: Towards Technical Assistance*, 4th September 2008. Hannover: BGR.

2 ICGLR (2006) *Regional Programme of Action for Economic Development and Regional Integration: Regional Mechanism for Certification of Natural Resources Proposal*, Project 3.2.2, August 2006. At http://www.icglr.org/.

3 Garrett, Nicholas, Mitchell, Harrison, Levin, Estelle 'Regulating Reality – Reconfiguring Approaches to the Regulation of Trading Artisanally Mined Minerals'. *Artisanal Diamond Mining, Perspectives and Challenges*, Edited by Koen Vlassenroot and Steven Van Bockstael, Egmont Royal Institute for International Relations, 2008

4 Global Witness, Making it Work, Loupe Holes in the Kimberley Process, Gateway for Conflict Diamonds, October 28, 2008

certification'. This would recognise the clear rent-seeking of the trade by the FARDC's 85th brigade up until the first quarter of 2009, for example.[5] With the red material certified as 'dirty' attempts could be made to prevent it reaching international markets, while certifying 'clean' sources from elsewhere. This 'reverse certification' builds on thinking led by the German government's more scientific, and thus costly, programme to certify the origin of stanniferous mineral ores based on their chemical composition[6].

Notwithstanding the difficulties in finding mineral sources in Eastern DR Congo insulated from rent-seeking, the example of the KPCS suggests that effective implementation is highly likely to be impossible to implement. This stems from the DR Congo's extremely limited capacity for overseeing and regulating the minerals sector in the difficult physical environment of the East and MONUC's already severely overstretched capacities in trying to fulfil its original mandate of protecting civilians. From a livelihood and conflict perspective it is worth pointing out that where KPCS sanctions have been imposed, such as in Cote d'Ivoire since 2005, their positive impact on armed conflict has been negligible, whilst the suspension of trade in mineral dependent areas has caused economic hardship elsewhere[7]. The KPCS example thus suggests that using trade measures to halt what is essentially a governance problem, of which insecurity is a symptom, misunderstands the fundamental dynamics of the issue.

The minerals trade is the backbone of Eastern DRCongo's formal and informal economy and seriously disrupting it would put up to one million livelihoods – and potentially lives – at risk. Even if 'reverse certification' could be imposed accurately, it would likely trigger a severe drop in all mineral prices, as the overall desirability of Congolese minerals – and possibly those from neighbouring countries - would be affected. Reverse certification would also remove an incentive for many operators in the mineral shadow economy to formalise. In conclusion, mandatory assurance systems, such as 'Certification of Origin' schemes can often have positive effects on trade, if the aim is to achieve transparency in already formal trade. However, they are unlikely to achieve the often stated goal of protecting supply chains from contamination by undesirable minerals, which is the context in which it is suggested in Eastern DR Congo.

The closure of the Bunagana crossing between DR Congo and Uganda in 2008 saw minerals shipped via Rwanda
© Harrison Mitchell, 2008

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5 Garrett, Nicholas. *Walikale. Artisanal Cassiterite Mining and Trade in North Kivu – Implications for Poverty Reduction and Security.* Washington D.C.: Communities and Small-Scale Mining, 2008.

6 Melcher, F., M. A. Sitnikova, T. Graupner, N. Martin, T. Oberthür, F. Henjes-Kunst, E. Gäbler, A. Gerdes, H. Brätz, D. W. Davis, and S. Dewaele (2008) 'Fingerprinting of conflict minerals: columbite-tantalite ("coltan") ores', *SGA News*, No. 23, June 2008. Society for Geology Applied to Mineral Deposits: Prague.

7 Hilson, Gavin. 'Mining and rural development: The trajectory of diamond production in Ghana', *Artisanal Diamond Mining, Perspectives and Challenges*, Edited by Koen Vlassenroot and Steven Van Bockstael, Egmont Institute for International Relations, 2008. Hilson describes the dramatic effect on the local population of a temporary suspension of the trade in diamonds from Ghana, suggested by the KPCS

MINERAL EXPORTS FROM THE KIVUS

The following paragraphs provide a statistical overview of the trade in minerals from Eastern DR Congo in order to determine both the official and unofficial trade values and volumes. This can help determine the configuration and varying degrees of a-legality and thus the opportunities for engaging with the shadow economy segment of the trade. Additionally, in the following sections, we compare the trade in minerals using data from DR Congo and Rwanda in an attempt to understand the regional dimensions of the trade and to discern how regional cooperation can bring about more developmentally tangible benefits from the trade.

Analysing statistical data on the trade in minerals from the DR Congo presents a number of challenges. First, the trade is clearly under-reported in the cases of Rwandan mineral imports and Congolese exports. Second, official reporting of statistics is often contradictory, which hints at institutional under-capacity and a confusion of mandates. It also suggests that the conclusions drawn from the data below should be understood as only a 'view' of the trade, rather than an authoritative depiction.

The analysis in this section emphasises the trade in cassiterite, which was the largest reported export commodity from North

BOX 5: ESTIMATING EXPORTS FROM EASTERN DR CONGO

The main cassiterite production area in North Kivu is Walikale, which is estimated to account for up to 70% of cassiterite exported from Goma[1]. The most important contributor is the Bisie mine. Minerals leave Walikale by plane and by truck for Goma and Bukavu.

The airport at Goma serves as a transit hub for minerals from all over Eastern DR Congo. In 2007, the Division of Mines in Goma recorded 2,381 tonnes of cassiterite arriving from other provinces at the airport, in addition to 6,675 tonnes from North Kivu. However, on a normal day, six planes, transporting two tons of around 50% tin-content grade cassiterite each, fly four rotations from the Kilambo airstrip in Walikale alone. This means 48 tons arrive in Goma per day from Walikale, which is 17,520 tonnes per year[2]. Flights operate seven days a week, if the weather permits. Factoring fluctuations in output, it is prudent to deduct 20% of that sum, which leaves 14,000 tonnes per year.

TABLE 3: ARRIVALS OF MINERALS AT GOMA AIRPORT IN 2007 BY PROVINCE

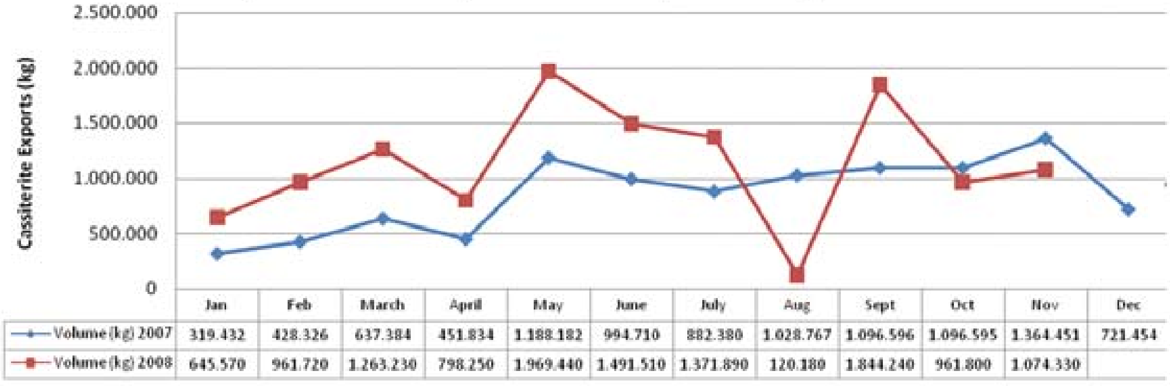
	Tonnes		Per cent per province	
	Cassiterite	Wolframite	Cassiterite	Wolframite
North Kivu	6675.3		73%	
Maniema	1638.5	156.1	18%	75%
Katanga	521.6		6%	
Orientale	221.7		2%	
Kasai-Oriental		52.1		25%

Deliveries by road fluctuate dramatically depending on the security situation and weather affected road conditions, but can add approximately 10% over the year. In addition, roughly 30% of cassiterite arriving in Goma comes from other parts of Eastern DRCongo, which would give a figure of just over 19,600 tonnes, calculated 40% from 14,000. Official exporters process the cassiterite up to an export grade of up to 65% tin content, with around 30% of weight lost in the process. This leaves a net volume of 13,700 tonnes of export grade cassiterite leaving from Goma. This compares with official exports of 10,175 tonnes of cassiterite in 2007, or an estimated under reporting from official figures of approximately 35%. Using average prices of value established in 2007, this suggests an estimated value of $37m, compared with the official export value of $27.6m.

1 Garrett, Nicholas. *Walikale. Artisanal Cassiterite Mining and Trade in North Kivu – Implications for Poverty Reduction and Security.* Washington D.C.: Communities and Small-Scale Mining, 2008.

2 Ibid.

Graph 3: Cassiterite Exports from Goma, North Kivu, 2007-2008



Source: Division of Mines, Goma

and South Kivu both in terms of volume and value in 2007-2008, primarily due to the significant rise in value. The equally dramatic fall in prices in the third and fourth quarters of 2008, coupled with renewed fighting in the final quarter of 2008, has led to a decline in exports (see graph 3 on page 30).

North Kivu Exports

TABLE 2: MINERAL EXPORTS FROM NORTH KIVU (GOMA AND BUTEMBO)				
	2,007			2008 (Jan to Nov)
	tonnes	USD	$/tonne	tonnes
Cassiterite	10,175	$27,566,421	$2,709	12,502
Wolframite	767	$2,881,995	$3,757	441
Coltan	74	$714,495	$9,629	56

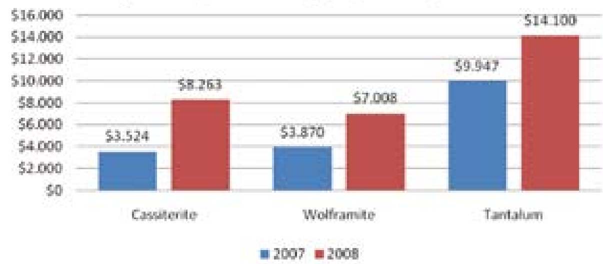
Source: Division of Mines, North Kivu. Exports from North Kivu include material leaving from both Goma and Butembo.

A month-by-month breakdown of cassiterite exports by volume in 2007 and 2008 suggests two main trends. First, given that exports correlate directly with production, the trade appears to be somewhat seasonal, with lower volumes produced during the rainy season. Second, reported volumes are consistently higher in 2008, apart from August 2008, which was due to an exporters' strike protesting against high export taxes. The rise in production volumes shows a relationship to the rise in international tin prices, which hit a high of around $25,000 per tonne in mid 2008.

South Kivu Exports

The following figures were provided by the Private Sector Federation representing the mineral exporters based in Bukavu[11]. Bukavu, like Goma, reported an upswing in mineral exports between 2007 and 2008. Most dramatic was the increase in price, which, as in North Kivu, drove the increase in export volumes. Note that the dollar per tonne price average in cassiterite in Bukvau in 2007 is $700 more, possibly reflecting higher costs or higher export grade, while the average $/tonne figures for wolframite and tantalum are similar. As in the case in Goma, some of Bukavu's exports originate in other provinces, including North Kivu.[12]

Graph 4: USD/tonne mineral prices, Bukvau, 2007-2008



Accumulative Mineral Exports from the Kivus

Export figures from North and South Kivu give totals for cassiterite of 13,656 tonnes in 2007, and 16,698 for 2008 (Jan to Nov). Adding an estimated December 2008 figure of 1/11 of the total values provides a figure of approximately 18,216 tonnes. Given average $/tonne values established by Bukavu's Private Sector Federation, this puts the value of the

11 The figures are lower than official figures obtained in Kinshasa. However, Kinshasa figures also do not match the figures reported in Goma, and so for the purposes of this document, two separate statistical data points were chosen rather than the centrally consolidated figures. All figures should be understood as approximate only.

12 The Division of Mines in North Kivu reported 185 tonnes of cassiterite and 65 tonnes of wolframite transferred from Goma to Bukavu in 2006.

TABLE 4: AGGREGATE EXPORTS FROM BUKAVU, SOUTH KIVU 2007-2008						
	2,007			2008 Jan to Nov		
	Tonnes	USD	$/tonne	Tonnes	USD	$/tonne
Cassiterite	3,481	$12,267,960	$3,524	4,196	$43,777,538*	$8,263*
Wolframite	328	$1,270,430	$3,870	157	$1,097,856	$7,008
Tantalum	192	$1,914,352	$9,947	295	$4,156,543	$14,100

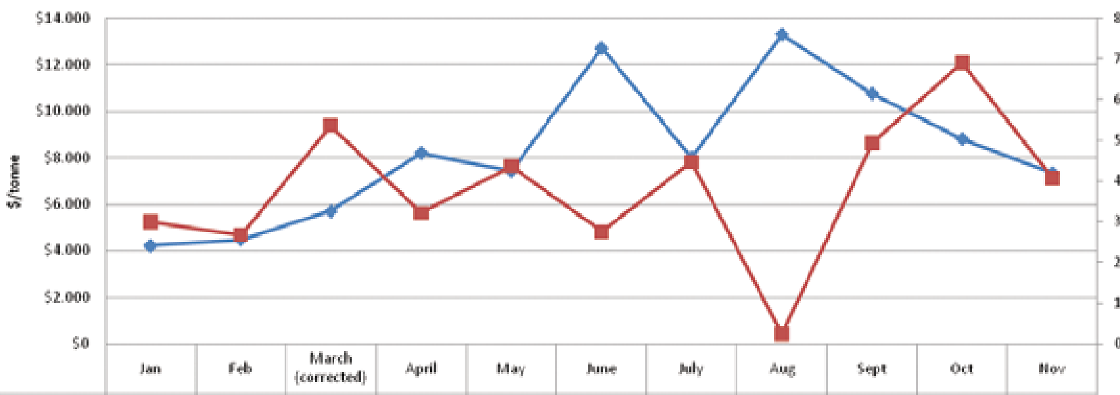
*Source: Private Sector Federation, South Kivu. *Average prices are corrected due to a March export of 216 tonnes from the Comptoir Panju to Thailand worth an average price of $55,037/tonne. Such a significant increase suggests misreporting. This figure was removed from the calculations to achieve averages.*

North and South Kivu Mineral Exports, in total 2007-2008, and plus the estimated underreported volume of 35%

TABLE 5: MINERAL EXPORTS FROM THE KIVUS, 2007-2008									
	2007				2008 (Jan-Nov + Dec estimated)				
	Bukavu	Goma	Total Kivus	plus 35% est.	Bukavu	Goma	Total Kivus	Total + Dec est.	plus 35% est.
Cassiterite	3,481	10,175	13,656	18,435	4,196	12,502	16,698	18,216	24,592
Wolframite	328	767	1,095	1,479	157	441	598	652	880
Tantalum	192	74	267	360	295	56	351	383	517

Sources: Division of Mines, North Kivu. Private Sector Federation Bukavu. Plus 35% estimation based on calculations on under reporting from Goma and are estimates only. Total + Dec est. Figure is based on 11 months of available data from Jan to Nov – actual figure might be lower due to the outbreak of violence.

Graph 5: Price fluctuations in cassiterite exports from Bukavu $/tonne, Jan-Nov 2008



	Jan	Feb	March (corrected)	April	May	June	July	Aug	Sept	Oct	Nov
$/tonne	$4.199	$4.463	$5.685	$8.200	$7.423	$12.721	$8.000	$13.310	$10.761	$8.807	$7.323
Volumes	299	267	536	321	437	275	446	23	494	691	407

Source: Private Sector Federation, Bukavu. March figures are corrected, due to a large export of 216 tonnes from the Comptoir Punju to Thailand worth an average price of $55,037/tonne. Such a significant increase suggests misreporting.

trade at just under $50m in 2007 and approximately $150m in 2008.

Using estimates based on transport volumes from the main mine in North Kivu, it is estimated that cassiterite exports from Goma have been under-reported by approximately 35%.

This estimate would suggest that up to 18,400 tonnes of cassiterite was exported in 2007, and 24,500 tonnes in 2008, with the respective estimated total export values of cassiterite of up to $65m and $200m (using average of $8,263/tonne from Bukavu). Including both wolframite and tantalum, the trade is potentially worth approximately $215m.

ESTIMATING MINIMUM RECEIPTS ACCRUING TO THE CONGOLESE STATE

Taxation on mineral exports from DR Congo involves a number of bodies, and is currently under review. Bodies that apply taxes include the Direction Générale des Impôts (DGI), Direction Générale des Recettes Administratives, Judiciaires, Domaniales et de Participation (DGRAD), L'Office des Douanes et Accises (OFIDA/customs), Entités Administratives Décentralisées (EAD/provincial tax) and a number of other agencies including the Centre d'Evaluation, d'Expertise et Certification des Substances Minérales Précieuses et Semi-Précieuses(CEEC).

The North Kivu Division of Mines Annual Report 2007 and an update provided in October 2008 provide a series of figures that calculate some of the revenues that accrue to some of the Congolese state institutions. The figures are incomplete and notably absent are amounts received by the central taxation department, the DGI. Nevertheless, the figures can provide an insight into the minimum amount received by Congolese national and regional bodies from the minerals trade from Eastern DR Congo.

North Kivu Receipts from Mineral Exports 2007[13]
DGRAD[14]: North Kivu: $26,461
(compared with $13,285 in 2006 – a 100% increase).
OFIDA: $1,553,140
EAD: $433,394,
(645% increase compared with $58,174 received in 2006)

MINIMUM RECEIPTS 2007: $2,012,995

As the partial receipts above are from all mineral exports including cassiterite, wolframite and tantalum, it is difficult to estimate the percentage the state receives compared with the value of all exports. However, an estimation based on the addition of total receipts for 2007 shows that $2m is 6.5% of the official export figures of $31.5m and 4.8% of the estimated export values based on a 35% increase. In terms of volume, this gives a tax value per tonne of $180/tonne at official export figures, compared with an average export value per tonne of $2,830.

North Kivu Receipts from Mineral Exports 2008
(1st – 3rd quarters)
DGRAD and OFIDA (Central Government): $2,984,072
EAD (Provincial Government): $754,910
OCC/CEEC and others, separate taxes: $623,120

MINIMUM RECEIPTS 2008:
$4,362,102 (3/4 of year – over 100% increase)

2008 saw a large increase in both the volumes and values of mineral exports. Using prices for cassiterite, wolframite and tantalum provided by the Private Sector Federation in Bukavu, we can calculate North Kivu's mineral exports values between January to September 2008 to be $90.4m (10,964 tonnes of minerals in total)[15]. Minimum receipts over the same period of $4.36m, as calculated above, suggest that minerals were taxed at approximately 4.8% in the first three quarters of 2008. However, per tonne the figure is $400/tonne compared with an average export value per tonne of minerals of $8,242, suggesting that the rise in value has had a positive impact upon tax receipts.

STEPS TOWARDS FORMALISATION OF A-LEGAL, SHADOW ECONOMY TRADE

The analysis of export data from the Kivus suggests that while under-declaration and smuggling remain a problem, the Congolese state does benefit from the export in the 3 T minerals, with a minimum of receipts from the trade of over $6million between 2007 and 2008. While this can be read as an achievement by the Congolese institutions, the above calculations suggest that the increase in 2008 revenues reflects the increase in international prices rather than an increase in relative tax revenues from 2007. Thus, there remains room for improvement and tax benefit maximisation. Developing a set of strategies for engagement with the a-legal sphere can attempt to divert the undeclared trade into the formal sphere. At the same time, co-operation with partner states can provide opportunities to build institutional capacity to induce a positive feedback loop for formalisation.

It is worthwhile questioning the benefit of increasing revenue for the Congolese state, in a context where historically

13 Original figures provided in DR Congolese Francs, exchange rate in 2007 of 500Fc/USD, in 2008 550Fc/USD.

14 Other declared receipts for 2007: Kinshasa: $54,422, South Kivu: $33,801, Maniema: $9,000. Ndimubanzi, E. (2007), *Annual Report 2007*, Division of Mines of North Kivu

15 Please note, these are approximate figures and may be much higher than actual figures if the exports from Bukavu in 2008 follow a similar pattern to 2007, where Bukavu exports for cassiterite were an average of $700 higher than Goma exports.

the equitable sub-national redistribution of wealth has not occurred. Yet the DR Congo is a country with a democratically elected government and broadening the revenue base is one avenue towards creating the financial basis to bring about incremental change in the institutions of the state and to endow these institutions with the necessary means to become a vehicle for the larger governance reform process. The sub-national redistribution of wealth is a discussion that is beyond the scope of this report, but interested readers should refer to the discussions around the EITI ++ initiative that is looking at the developmentally beneficial sub-national redistribution of state revenue.

Recommendation Six: Encourage Formalisation through Transparency in Tax and Customs Declarations

Entry Point: Understand the Limitations of Policing Approaches, and Work to Encourage Formalisation

Stakeholders should understand the limitations of policing approaches such as sanction regimes and certificate of origin requirements. Understanding much of the trade as a shadow economy that may well formalise given the opportunity allows policy makers to engage to encourage operators to move from a-legal activities to fully legal activities.

- Work with the Congolese state and other stakeholders such as the World Bank's Communities, Artisanal and Small-Scale Miners Secretariat to develop initiatives that help informal artisanal miners and traders to formalise and reap more benefit from their activities
- Work with trade associations to increase transparency in the trade
- Build on *Trading for Peace* workshops to foster, promote and regularise cross-border trading relationships

Entry point: Encourage and Reward Formal Traders to Publish their Payments in Line with the EITI Standards

The business case of the EITI is well established and should be applied to the trade in minerals from Eastern DR Congo. The publication of how much taxes and charges the exporters are paying will significantly improve the transparency of the value chain. The Association of Exporters in North Kivu has already indicated its willingness to cooperate with the implementation of the scheme.

- The implementation of the EITI should be extended to cover the formal exporters in the value chains of artisanally mined minerals[16]. This should be made a priority in the future elaborations on EITI implementation in the DRCongo.
- The associations of Goma- and Bukavu-based exporters should unilaterally decide to publish their payments to state services in line with the EITI reporting standards.
- Consider mechanisms that could provide or reimburse direct rewards such as expedited exports, or a small tax discount, for full disclosure of export payments and destinations.
- Appropriate systems of verification to prevent fraud of the system will have to be established to safeguard the integrity of the system.

Entry Point: With other governments, the Congolese Government should work ensure transparency in the exports and exporters of minerals

Ensuring sufficient transparency in the exports and exporters of minerals is the joint responsibility of the GoDRC and the private sector. The GoDRC should therefore:

- Work with the mineral exporters to ensure that all exports are fully declared
- In association with neighbouring governments, ensure that correct tax payments have been made by exporters
- Publish all fee and tax payments made to national bodies by the exporters

Entry point: Move Towards a Consolidated Tax Base on a Regional Level

As part of an aligned mineral sector reform strategy, the COMESA region, and Burundi, DRC, Rwanda Uganda, and Tanzania in particular, should make it mandatory for mineral trading houses to implement a verification process in order to ensure that traded material has been adequately taxed. Steps that should be considered are:

- Implement an information sharing mechanism that allows governments access to the same information on traders and the mineral trade across all countries.
- Verify mineral supplies: find out from which country the minerals originate, by whom they were exported, and how much tax was paid. This could be undertaken with the help of donor countries.

16 Garrett, N. (2007), *The EITI and ASM*, Extractive Industries Transparency Initiative

- Impound or refuse to buy minerals where the above information is not available, or where there are indications that incorrect or no taxes, charges, and fee contributions were paid. Carry out spot checks to verify the accuracy of suppliers' assurances.

- Federations and associations of traders and comptoirs and other trade bodies should adopt an explicit policy not to buy or handle minerals, which have not been appropriately taxed at the point of export/import. They should require their members to carry out the verification steps systematically, for every purchase and transaction, and to demonstrate precisely from which country their supplies originate. Trade federations and associations should set up independent third party mechanisms for monitoring and verifying whether their members are complying with these requirements.

Entry point: End-user Governments should Provide Assistance in Verifying Tax Payments

End user governments should require transparency from companies registered in their countries to have verified the country of origin of their supplies and the taxation compliance.

- Provide clear guidance to companies purchasing or trading in minerals from the Great Lakes region or intending to do so in the future.
- Insist that end user companies verify their entire chain of supply with a view to ensure the adequate tax contribution of their suppliers. This will support the formalisation of the international trade. Require companies to disclose their payments to government bodies for publication.
- Where there are indications that companies may be trading in untaxed commodities, end user governments

Artisanal Miners in Rwanda dig for Cassiterite. *© Nicholas Garrett, 2008* should carry out immediate detailed investigations. If credible information confirms their non-compliance, governments should officially advise the companies to cease trading and purchasing from those specific companies until the companies can demonstrate that they are paying taxes, charges and fees. In cases where complicity can be demonstrated, governments should initiate prosecutions or sanction companies and individuals.

Recommendation Seven: Address the Operational Difficulties of the Export Regimes

The operational difficulties of the DR Congo's export regime is first and foremost the responsibility of the GoDRC. Inefficient and confusing border procedures incur significant costs for exporters and the GoDRC, while also providing opportunities for rent-seeking and incentives for smuggling. For businesses, border-related costs are both direct, such as expenses related to supplying information to the relevant border authority, and indirect, such as those arising from procedural delays, lost business opportunities and lack of predictability in the regulations. For governments, the cost of inefficiency includes incomplete revenue collection due to smuggling and under-declaration, as well as difficulties in effectively implementing trade policies[17]. While this discussion is most relevant to the DR Congo, there remains considerable scope for improvement of the export regimes across the Great Lakes region.

Entry point: Apply Customs Procedures that are Simple, Predictable and Transparent; Consider Partnerships with Other States and Services

- The end goal should be a one-stop export shop to ease exports and import formalities. Whilst working towards that, the Great Lakes region should consider joint customs posts, which could:
  - Significantly reduce the waiting time taken at borders
  - Reduce smuggling opportunities
  - Allow for peer review of procedures and figures at the same time as decreasing capacity building costs (improving conditions of service, sensitisation, supervision and training of customs personnel).
- In addition, states should consider partnerships with outside capacity building contractors for state services. One reason why undervaluation and mis-declaration occurs is because the state services collude in it. In the short-term the various state services could be partnered with international capacity-building contractors, as has happened in Katanga province.
- The personnel of the state services should receive adequate training and wages so as to reduce their incentive to take advantage of rent-seeking opportunities, bearing in mind that as a result of the extended family support structure a mere increase in wages alone is unlikely to root out petty corruption.

17 Compare H. Sunman and N. Bates, *Trading for Peace*, DFID, 2007

BEYOND DR CONGO: TRADE IN THE GREAT LAKES

Adding Value: Processing of cassiterite at Phoenix Metals SARL in Karuruma, Rwanda. *© Nicholas Garrett, 2008*

A large part of the controversy over the exploitation and trade in DR Congo's minerals has focussed on the role of neighbouring countries. Indeed, the rich mineral deposits in Eastern DR Congo were used to finance both Rwanda's and Uganda's war efforts during the two recent Congolese wars.[1] However, today sees different strategies emerging.

Rwanda has aligned its domestic mineral sector development strategy with the larger development strategy of diversifying its economy. It focusses on service provision in the regional economies, its domestic mining sector and the mining sector of Eastern DR Congo. It also focusses on value-addition to its domestic production and exports from Eastern DR Congo. The implications of these two approaches suggest that an analysis of Rwanda's engagement with the trade in minerals is appropriate from at least two perspectives: first, recognition of the headway that the country has made in terms of developing its own mining sector is fitting. Second, stakeholders, and particularly the GoR, should seek to understand the challenges that the Rwanda-based mineral traders pose to the development of the DR Congo, Rwanda, and the region as a whole.

RWANDA'S DOMESTIC SUCCESS STORY

Rwanda's 'Vision 2020'[2] document presents both a vision for the nation to strive for, and a clear framework designed to advance development programmes for the country's social and economic progress. In the medium-term Rwanda aims to achieve significant third sector growth and become a service-based economy. Understanding this goal helps puts into perspective recent GoR actions, such as the mobilisation of the domestic mining sector and moves by GoR to improve relationships with neighbouring countries.

The assumption that Rwanda has no minerals in its own soil has contributed to a portrayal of the current insecurity in the Kivu provinces as a 'resource conflict'.[3] In fact, discoveries of cassiterite, tantalum, tungsten and gold in Rwanda date back to the 1930s. In the Rwanda National Innovation and Competitiveness (RNIC) Program, Rwanda's minerals industry stakeholders have set the aim to "generate US$106m in minerals industry export receipts in 2011, and cumulative receipts of US$387m over 2007-2011 for public sector investments of US$14m, through export revenue generation for the export-focussed metals and precious stones sectors, and import substitution for the domestically-focussed quarries sector."[4]In 2007 Rwanda's annual domestic cassiterite production was at 1,041 tonnes[5], which compares to official monthly exports of 1,138 tonnes from the Kivu provinces in the same year.

1 Various interviews with Ministry of Natural Resources staff, October – December 2008

2 http://www.enterprise-development.org/download.aspx?id=548

3 Stephanie Nolan, 'How rebels profit from blood and soil', Globe and Mail, October 29, 2008

4 'A new minerals industry strategy for Rwanda – Preparing for growth', cabinet paper, Government of Rwanda, Ministry of Land, Environment, Forestry, Water and Mines (MINITERE) (2006),

5 Source: Government of Rwanda: OGMR(2008), *Mineral Status of Rwanda*, OGMR

While Rwanda's current domestic production is small compared with that of the Kivu provinces, it nevertheless suggests that there is potential in the country. The sector has been a major export contributor and job creator for Rwanda, with around $81 million USD in export revenues recorded in 2008[6] and an estimated 35,000 mining sector jobs created[7]. Despite the global financial crisis, the industry and its secondary economies are expected to remain significant contributors to the growth and increased competitiveness of Rwanda[8].

In 2006 Rwanda's Investment and Export Promotions Agency (RIEPA)approved about $55million USD worth of mining projects.[9] The first fruits of Rwanda's domestic sector development strategy can best be seen in the wolfram (tungsten/wolframite) sector. It is difficult to compare historical data, so not too much should be read into the significant positive trend shown in table X below, which depicts a wolfram production increase of 3,341% since the inception of privatisation in 2005. It is clear from our research that a number of new private sector led ventures, such as Wolfram Bergbau, Pyramid International, Rwanda Allied Partners and Africa Primary Tungsten have generated production increases through investment in upgrading mining facilities.

TABLE 6: RWANDA DOMESTIC PRODUCTION OF WOLFRAMITE, CASSITERITE, TANTALUM AND GOLD: 1989, 1996, 2005,2007

	1989	1996	2005	2007
Wolframite (tonnes)	184	22	87	2,988
Cassiterite (tonnes)			215	1141
Tantalum (tonnes)			8	490
Gold (kg)				17

Source: REDEMI production statistics 1989 – 2007 / Ministry of Natural Resources Production Statistics 2007.As quoted in Freedman J.(2007). Pilot Project on Certification of Minerals Produced in Rwanda, BGR. Note: REDEMI production includes output at 8 concessions plus a small amount purchased by independent buyers from smaller, artisanal managed concessions.

The increase in output is a positive signal, but there remain different levels of investment, production, performance and social commitment among the investors. Therefore, if the full benefit of relying on private investors to help with fiscal receipts and social development is to be realised, intelligent regulation coupled with the right incentive structures will have to be considered priority areas.

Inspiring Investor Interest

Rwanda has worked hard to make its mining sector attractive to foreign investors. The success of this strategy is largely due to macro dynamics, such as political stability and predictability, as well as a willingness to continually improve. On the micromanagement level, three factors stand out:

The establishment of the Rwanda Investment and Export Promotion Agency (RIEPA)

RIEPA facilitates and assists the strengthening of the supporting industry institutions of the mining sector by solidifying the legal and regulatory framework, developing the Kigali Mining Campus, improve distribution channels, developing Rwanda's national brand and promoting Rwandan minerals' sector opportunities.

The mining company 'Pyramides' has stated that 'RIEPA is implementing its objectives successfully. Examples of incentives are tax exemptions to upgrade production and processing capacities and the voidance of import tax for mining machinery.'[10] The Association of Comptoirs in Goma sees RIEPA as a model that should be implemented in the DR Congo where, for example, tax breaks should occur when investing significantly into the mining sector.[11]

The establishment of the Rwanda Geology and Mines Authority (OGMR)

The OGMR focuses on the administration, regulation, support and promotion of the growth of the mining sector, as well as the coordination of the activities of all the various other parties involved in the execution of minerals industry activities.[12] The OGMR has a key role to play as the central coordinator for the industry, liaising with other government bodies involved in the minerals sector to facilitate a coordinated and effective approach towards sector development.

The new mining law

The new mining law is at parity with international standards and ensures predictability in the application of the law for investors. This law removes some of the direct regulatory obstacles such as the issuance of renewable four-year exploitation licenses, which deterred serious investors, as opposed

6 Reuters. Rwanda is set to triple mining revenues, available at http://www.mineweb.net/mineweb/view/mineweb/en/page504?oid=75696&sn=Detail, accessed 31/3/2009

7 Source Government of Rwanda: OGMR(2008), ***Mineral Status of Rwanda***, OGMR

8 Government of Rwanda, Ministry of Land, Environment, Forestry, Water and Mines (MINITERE) (2006), 'A new minerals industry strategy for Rwanda – Preparing for growth', cabinet paper, p.3, 2006

9 http://allafrica.com/stories/200805270740.html

10 Mahmound Saleem, Interview with Pyramides, Nicholas Garrett (23 October 2008).

11 John Kanyoni - Federation of Goma based Traders, Interview, Nicholas Garrett (24 October 2008).

12 Government of Rwanda, Ministry of Land, Environment, Forestry, Water and Mines (MINITERE) (2006), 'A new minerals industry strategy for Rwanda – Preparing for growth', cabinet paper 2006

to 30+-year exploitation licenses found in other countries. The four-year rule attracted companies that were interested in short-term profiteering, as opposed to responsible, long-term investors. The government's intention to direct the country's development is clearly recognisable, as the majority of contracts signed so far are performance-based, which reserve the government the right to review contracts if the company does not perform as agreed[13].

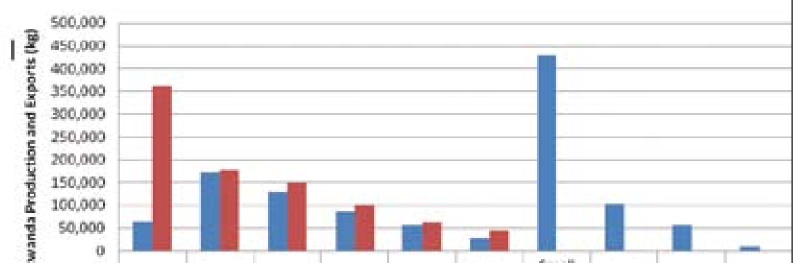
Rwanda's Domestic Production in Minerals

Rwanda's cassiterite grade is higher than in North Kivu's principal cassiterite production area Walikale. While typical export quality material requires a concentrate percentage of 60 - 65%, Rwanda's ore is often around 80% in quality[14]. This suggests that the production figure of 1,141 tonnes could conceivably be 'diluted' with other poorer quality material to an export volume of just over 1,300 tonnes.

One example of foreign direct investment is the acquisition of a controlling stake in the Rwanda-based company Natural Resources Development Rwanda (NRD) by the German company H.C.Starck[15]. H.C.Starck has thereby moved beyond just buying material, and is taking a direct interest in the natural resources sector in the Great Lakes region.[16]H.C.Starck was formerly a Bayer AG subsidiary before its sale in 2007 to the private equity houses of Advent International and the Carlyne Group[17]. It was named in a UN Panel of Experts report as allegedly buying material from Eagle Wings, a company allegedly collaborating with the RPA during the recent Congolese wars. However, this link was denied by H.C.Starck, and a subsequent UN Panel of Experts placed the company in the 'Resolved – No Further Action Required' category.[18]Natural Resources Development Rwanda (NRD) used to be one of H.C.Starck's main cassiterite suppliers in both 2007 and 2008, according to its Managing Director[19]. Rwanda's export statistics show that prior to investing in NRD, H.C.Starck bought a number of cassiterite shipments from NRD. The exports to H.C.Starck went to UK and Germany with the following details:

1. 22 tonnes shipped on 22/06/07 with a value of RWF 163.773.420,00 ($298.856,61)
2. 18.7 tonnes shipped on the 29/08/07 with a value of RWF 137.059.950,00 ($250.109,40)
3. 22 tonnes shipped on the 03/12/07 with a value of RWF 136.349.025,00 ($248.812,09)
4. 22 tonnes shipped on the 03/04/08 with a value of RWF 136.025.150,00 ($248.221,08)

H.C.Starck GMBH Total Imports are 84.7 tonnes, with a value of RWF 573.207.545,00 ($1.045.999,17). The comparatively high average price of US$12.40/kg in 2007 and US$11.12/kg in 2008 suggest that NRD is exporting high-grade ore.



	COPIM AR	Centrale Multi Services (CMS)	Munsad Minerals	REDEMI	NRD	Africa Primary Tungsten (APT)	Small Cooperatives + Mining Assocs	Irregular Small Miners 10%	Rwanda Metals	GMS
Production (Kg)	64,327	174,000	129,992	87,415	56,418	28,808	428,800	103,732	57,531	10,030
Exports (Kg)	362,362	178,488	150,257	102,011	62,749	45,273	0	0	0	0

Sources: Production Figures: Rwanda Ministry of Natural Resources , Mining and Geological Status Report, 2008. Export Figures: Rwanda Ministry of Statistics, Export Statistics, 2007

Graph 6: Rwandan Cassiterite Producers and Exporters, 2007

13 Interviews with mining sector stakeholders, Nicholas Garrett, Kigali, October 2008 – January 2009

14 Various interviews, Rwanda mining sector stakeholders, October 2008 – February 2009

15 Interview with NRD MD Gustav Roethe, interviewed by Nicholas Garrett (24 October 2008).

16 Interview with NRD MD Gustav Roethe, interviewed by Nicholas Garrett (24 October 2008).

17 http://www.hcstarck.com/index.php?news_id=20070202162815326895000000&bereich_id=633

18 S/2003/1027 (23 October 2003) Report of the Panel of Experts on Illegal Exploitation of Natural Resources.

19 Interview with NRD MD Gustav Roethe, Interviewed by Nicholas Garrett (24 October 2008).

TRADING IN CONGOLESE MINERALS: THE CHALLENGE OF RWANDA-BASEDTRADERS

Many of the larger mineral sector actors in Rwanda are predominantly foreign-owned trading houses. With most domestic larger scale mining projects still in the exploration stage, their trading operations currently remain larger in scale than the exploitation activities in the country. It follows that the contribution of locally sourced minerals to current exports is still relatively low, but current low transformation and processing rates also remain a challenge, with many minerals passing through Rwanda in transit, with limited local value addition.[20]

Goods passing through Rwanda in transit are not recorded in the country's import and export statistics; instead, a bill of transit is filed with the Rwanda Revenue Authority.[21] These transit goods largely come from the Congolese exporters with big consignments of pre-processed (up to 65% purity) cassiterite, who are responsible for the bulk of revenue the DR Congo receives from the minerals trade.

To queries over the import and export of minerals from Rwanda, the Rwanda Ministry for the Environment and Mines stated the following: some Congolese SME's sell small quantities of raw materials to Rwanda based traders (90% of them foreign owned), who process it together with minerals supplied by local (Rwandan) SMES. The raw material is at about 15% to 20% concentrate yet export requirements from Rwanda are 60 to 70%. The traders in Rwanda clean impurities to reach the markets requirements. If this is the case the re-export is recorded as Rwandan product since there is 40% value addition. It is possible that big volumes from Congo may have crossed as transit goods but Rwanda exports are mainly and purely Rwandan goods.[22]

All the interviews conducted by the authors on the DR Congo side claim that the minimum purity of entirely untreated material from DR Congo is 40% - 50%, which would translate into 30% volume loss when processed up to 65%[23]. The official exporters who export directly from DR Congo export at a rate between 60-70%, which means they have no incentive to export to Rwanda for value addition purposes and disaggregated import statistics from Rwanda provided to the authors show that it officially imported zero tonnes of cassiterite in 2007. The only recorded relevant imports of minerals by Rwanda-based traders 2007 was a November import from the DR Congo declared at the Gikondo (Kigali) 'border' of 10kg of Zirconium Ore, priced at $500, declared by 'Jasmine', and two imports at the Gisenyi border in January 2007 by SAKIRWA of 'other ores and slags' from the DR Congo with a net weight of 16.9 tonnes and a value of $3,519.

However, aggregate import data reported by Rwanda and other agencies does show total imports of 3,093 tonnes of Metal Industries (Industries métalliques) related products in 2007, and 4,217 tonnes in 2008 from all partners. While this catch-all category does not distinguish between countries or products, other data from international statistics providers suggest that Rwanda imported up to $2.6m of cassiterite in 2007 (see table 8).

TABLE 7: RWANDA IMPORTS OF "METAL INDUSTRIES" 2006-2008

2006		2007		2008 (Jan-Oct)	
Kg	USD	Kg	USD	Kg	USD
3,835,995	$2,989,358	3,092,938	$2,735,842	4,217,192	$5,893,253

Source: National Institute of Statistics, Rwanda

TABLE 8: RWANDA IMPORTS BY VALUE OF CASSITERITE FROM THE DR CONGO (HS CODE 2609)

	2005	2006	2007
USD	1,496,440.00	3,101,550.00	2,603,616.00

Source: http://www.wisertrade.org, data from UN Comtrade, US Census Bureau, Statistics Canada, Japan Customs, China Customs, Taiwan Customs, Eurostat.

Despite the unclear import declarations, annual disaggregated export statistics show that Rwanda based traders officially exported 4,382 tonnes of cassiterite; over 3,000 tonnes in excess of the domestic production of cassiterite of 1,141 tonnes or an estimated 'diluted' figure of 1,300 tonnes. Unless there is a mis-declaration in the disaggregated import statistics, these figures suggest that in 2007 Rwanda-based mineral trading houses processed and exported up to 3,000-3,375 tonnes of material sourced from Eastern DR Congo[24].

20 Adapted from Government of Rwanda, Ministry of Land, Environment, Forestry, Water and Mines (MINITERE) (2006), 'A new minerals industry strategy for Rwanda – Preparing for growth', cabinet paper

21 E-mail correspondence with Rwanda's Minister of State for the Environment and Mines, Vincent Karega, on April 3rd 2009

22 E-mail correspondence with Rwanda's Minister of State for the Environemnt and Mines, Vincent Karega, on April 3rd 2009

23 Various interviews with mining sector stakeholders in DR Congo 2007 - 2009

24 As above, export requires a concentration quality of at least 65%. 70% of North Kivu's cassiterite comes from Walikale territory, which has low grade quality, meaning that 25% of the material is lost during pre-processing. An assumption of 50% of cassiterite from Walikale, and 50% from elsewhere (which remains approximately the same volume) would give a figure of ½×3,000t×1.25=3,375tonnes.

If the Rwanda government is correct in asserting that the Rwanda based traders add value to raw material and not pre-processed material from DR Congo, the real volume of material sourced from DR Congo is actually 30% higher, i.e. up to 4000 tonnes (as approximately 30% would be lost in the processing). The average price of cassiterite exported from the country during this period gives a value of $21,270,000 for the production.

Minerals Supply Africa Ltd., is a processing and trading operation based in Kigali. Notices outside the plant advertise to potential sellers. *© Nicholas Garret, 2008*

Rwandan Exports by Trading Company

TABLE 9: RWANDAN BASED TRADING COMPANIES

	Rwanda Cassiterite Exports +					
	2007			2008 (Jan to Sept)		
	kg	USD	USD/kg	kg	USD	USD/kg
Africa Primary Tungsten SARL	45,273	$206,381	$4.56	125,900	$1,309,961	$10.40
Afriprom SARL	10,399	$65,748	$6.32	-	-	-
Albert Mupenzi	10,399	$65,748	$6.32	-	-	-
Centrale Multi Services	178,488	$1,185,370	$6.64	313,548	$2,992,077	$9.54
Copimar	341,730	$2,205,682	$6.45	320,986	$3,475,488	$10.83
ETS Munsad (or Damien MUNYARUGERERO)	150,257	$1,038,937	$6.91	350,585	$3,369,419	$9.61
Eurotrade International	67,066	$377,799	$5.63	22,039	$225,550	$10.23
Imperial Trading Company SARL	204,312	$1,493,624	$7.31	-	-	-
Metal Processing Association (MPA) *	2,156,357	$14,168,370	$6.57	1,079,078	$8,888,965	$8.24
Metrade Overseas	-	-	-	105,234	$1,051,457	$9.99
Minerals Supply Africa Ltd	-	-	-	429,539	$4,691,506	$10.92
Multiserve Consult SARL	32,280	$268,687	$8.32	19,568	$198,719	$10.16
NRD Rwanda Ltd	62,749	$777,905	$12.40	44,000	$489,471	$11.12
Phoenix Metal SARL	345,978	$2,378,688	$6.88	101,942	$859,349	$8.43
Redemi	102,011	$715,525	$7.01	12,227	$126,218	$10.32
Rwanda Metals	-	-	-	61,828	$1,186,783	$19.19
Sodem SARL	87,570	$668,887	$7.64	-	-	-
Trading Services Logistics	338,850	$2,562,116	$7.56	225,900	$2,569,341	$11.37
Valence Kalinda	227,188	$1,585,168	$6.98	162,333	$1,878,532	$11.57
TOTAL	4,360,907	$29,764,636	$7.09	3,374,707	$33,312,837	$10.80

*Source: Rwanda Ministry of Statistics, Disaggregated Statistics, 2007-2008 (Jan-Sept). + All exports declare origin Rwanda. Exchange rates: Original figures provided in RWF. Exchange to USD are based on interbank averages for the year. 2007: 562RWF/USD; 2008: 557/USD. * Figures from the Ministry of Mines Office in Goma show that MPA Gisenyi exported 1,068,000 kg of cassiterite from DR Congo to Rwanda in 2007*

BOX 6: CROSS BORDER REPORTING

The comparison of the 2007 mineral export figures from the Provincial Division of Mines in Goma with the official import statistics of Rwanda reveals a serious disconnect between the two countries' reporting of the export and import of minerals.

Transit goods are not reported in the import and export statistics of the country, [1] however, in 2007, Rwanda reported no imports of cassiterite from the DR Congo at all, despite cassiterite exports by Rwanda-based traders of approximately 3,000 tonnes in excess of its indigenous production. The same year, the Provincial Division of Mines in Goma officially reported that 1,068.8 tonnes of cassiterite were officially exported from Goma to Rwanda by the Kivu Resources subsidiary MPA Gisenyi. These imports are not reported in the Rwandan statistics. All other Congolese exports are reported in DR Congo as having worldwide destinations, which are: Belgium (7,660 tonnes), UK (521 tonnes), Austria (68 tonnes), Holland (24 tonnes), Hong Kong (187 tonnes), Thailand (190 tonnes), China (40 tonnes), Malaysia (308 tonnes), India (82 tonnes), and Russia (23 tonnes)[2].

The fact that there are no import declarations in Rwanda, even for items declared at the Congolese side, combined with the fact that in 2007,3,000 tonnes of cassiterite were exported by Rwanda-based traders in excess of its indigenous production, suggests two possibilities:

1. The material is taxed at the Congolese border, but declared as transit goods before undergoing processing and value addition in Rwanda and being exported as material of Rwandan origin.
2. The consignments are informally exported raw material from DR Congo that is declared as material of Rwandan origin before export from Rwanda[3].

From the information available to the researchers, it is not clear which one of these activities is taking place. Yet, the fact that Rwanda-based traders process and export over 3,000 tonnes of – potentially untaxed – cassiterite that in all likelihood originates from Eastern DR Congo, is a challenge the Rwandan state will have to tackle head on. A reluctance to do so will continue to provide opportunities for advocacy organisations and other stakeholders to label the entire mineral trade in the Great Lakes region illegal, which will naturally harm Rwanda's own domestic mineral sector development strategy.

1 Interview with Ministry of Natural Resources Representatives, Kigali, (Nicholas Garrett), December 2008

2 Ndimubanzi, E. (2007), Annual Report 2007, Division of Mines of North Kivu

3 A small percentage of this figure could also be unrecorded imports from Burundi and/or Southern Uganda, however the likelihood that it originates from DR Congo is exponentially higher, given the significantly higher production volumes originating from DR Congo.

TABLE 10: RWANDA EXPORTS OF WOLFRAM & TANTALUM 2007-2008

		2007			2008 (Jan-Sept)		
	Domestic production	tonnes	USD	$/tonne	tonnes	USD	$/tonne
Wolframite	2998 tonnes *	2757	$18,907,207	$6,858	1259	$9,417,248	$7,480
Tantalum	490 tonnes *	1105	$18,156,879	$16,432	706	$14,166,851	$20,066

*Source: National Institute of Statistics Rwanda, Disaggregated Export Data. * Source: REDEMI production statistics 1989 – 2007 / Ministry of Natural Resources Production Statistics 2007. As quoted in Freedman J. (2007). Pilot Project on Certification of Minerals Produced in Rwanda, BGR.*

NEIGHBOURLY RELATIONS

The researchers have not seen evidence that would support oft-voiced rumours that the GoR is actively backing or pursuing mining interests in Eastern DR Congo. The researchers make no claim to second guess the internal policy of the GoR, but it is worth noting that a pattern of heedless exploitation of DR Congo's minerals would appear to be inconsistent with the country's stated vision for developing its service oriented economy – which includes improving relations with its neighbours – and has been demonstrated by the recent cooperation between Rwanda and DR Congo.

From a development perspective Rwanda has an inherent interest in a stable Eastern DR Congo for a number of reasons:

- Rwanda would have a larger export market for its export products.
- Rwanda would be able to source imports from DR Congo more widely and cheaply.
- Rwanda's service sector already provides financial, insurance, and logistical, as well as extension services to economic operators in DR Congo. This will continue to generate foreign exchange so long as Rwanda keeps its competitive edge. Today regional mineral shipments are often paid into Rwandan bank accounts, as only 40% of official export value has to be retroceded to the DR Congo. This is due to lower bank charges and the availability of cash in Rwandan banks. Whatever money is needed for trading operations in DR Congo is often withdrawn from Rwandan banks and taken to DR Congo. This is why Rwanda's foreign exchange earnings from the minerals sector are so high. More investors in a stable Eastern DR Congo would at least in the short to medium run mean more customers for Rwandan banks, given that Eastern DR Congo's banking sector remains uncompetitive for the time being.
- Rwanda is already a very good logistics base, and by building up world-class infrastructure, it is attempting to increase its capacities further. Stability in DR Congo would mean higher transit volumes, which would translate into growth in the logistics sector. This process would be supported by the Rwandan economy's export orientation, which implies that it does not charge export duties.

The real challenge is to align Rwanda's value addition activities with the sector development strategy for the DR Congo. Presently the DR Congo is unable to add value to their products for lack of affordable and reliable energy, inadequate infrastructure, and insecurity, providing Rwanda with a significant head start to fill this gap in the regional market. So long as the correct payments have been made to the DR Congo, value addition processes on Rwandan territory are not in contravention of the law, and mirror common practices in other commodity trading chains around the world.

There are also a number of companies currently operating in Eastern DR Congo that have ties to Rwanda, whether owned or run by Rwandan nationals or based in or trading through Rwanda. Given the proximity to Eastern DR Congo it is perfectly natural that Rwandan nationals will be involved in business ventures across the border. There is nothing wrong per se with Rwandan companies operating in the DR Congo as long as they, along with all other companies, conduct their operations in accordance with the law.

As complicated as the relationship between Rwanda and the DR Congo is, their development trajectories are mutually dependent. Rwanda's economic progress depends largely on developing a highly diversified service sector to match the raw potential of its much larger neighbour. Therefore, for reasons of development as well as security, Rwanda has a significant interest in ensuring that DR Congo becomes a stable and prosperous country.

Recommendation Eight: Frame Reforms in the Context of Regional Development

The trade in minerals has significant regional development implications and trade reform should be framed in the context of ongoing initiatives in regional integration. This will most likely only work if each government involved begins to work with groups of its own private sector actors. It is in the domestic domain where governments can incentivise members of the shadow economy to become formal, which implies that those who did not work by rules in the past begin to adopt the rules as it is increasingly in their interest to do so. Rwanda's Mining Sector Development Strategy that is based on thorough private sector consultation, states for example "by virtue of its location at the heart of this mineral-rich region coupled with…stability [Rwanda] can act as an attractive gateway into the region. In addition to increasing local production, the country's successful fulfilment of the role of a hub requires necessary facilitation of imports to further increase overall export quantities through increasing imports. Through streamlining import-related activities and processes at the borders, and cultivating friendly relations with neighbouring countries."[25]

- Regional economic commissions (RECs), such as the EAC, COMESA, and SADC should develop a common stance toward the trade in minerals from Eastern DRCongo and seek common opportunities to help support and reform the trade before they eventually form a single REC.
- RECs should agree to hold a rotating annual, regional mineral trade forum that includes stakeholders from Burundi, DR Congo, Rwanda, Uganda and Tanzania. This would be an opportunity for dialogue amongst the regional ministries of natural resources and all other state bodies that have a stake in the mineral trade, i.e. customs, ministry of industry etc. Part of this dialogue would involve sharing lessons learned from domestic trade formalisation experiences.
- Policy makers and RECs should encourage domestic mineral sector development implementation, but should at the same time also coordinate the alignment of domestic resource mobilisation strategies between neighbouring countries to allow for symbiotic growth[26]. This is an ambitious task and underlying it should be an understanding of the sector development priorities of the regional countries. RECs should act as a bridge builder between the countries in terms of maximising mutual economic benefit between member countries.
- Donors should seek the revival of the CEPGL as a host forum for future mineral trade discussion rounds of concern to Burundi, DR Congo, and Rwanda. Issues of particular concern are infrastructure, energy and export practices.

Recommendation Nine: The Case for Transparency in the Regional Trade

The research above suggests that significant quantities of minerals continue to be traded between the DR Congo and Rwanda, which are either declared as transit goods then mis-declared as Rwandan goods in Rwanda, or un-taxed at the DR Congo border and declared in Rwanda as Rwandan goods.

25 Government of Rwanda, Ministry of Land, Environment, Forestry, Water and Mines (MINITERE) (2006), 'A new minerals industry strategy for Rwanda – Preparing for growth', cabinet paper

26 After WWII, France and Germany integrated their coal and steel industries through the European Coal and Steel Community, partly as a peace building exercise and partly in order to help interlink their economies further for mutual benefit.

Entry Point: Declaration and Publication of Imports from DR Congo and Exports to the World

In the interest of furthering its own development strategy the GoR should:

- Investigate the import declarations of minerals from the DR Congo.
- Make it a clearly stated policy to declare and publish all imports of minerals from the DR Congo, and disallow imports without the proper documentation to prove tax payments have been made in DR Congo.
- Work with the Congolese authorities to reduce smuggling across the border and ensure that trading companies do not buy untaxed goods. Ensure that trading companies based in Rwanda properly declare the country of origin of their input goods.
- Ensure that Congolese goods in transit are not subsequently (after processing) declared as Rwandan goods. There is nothing wrong with processing official imports, but these should then be labelled as imports and re-exports as part of a larger push toward transparency in and formalisation of the trade
- Prosecute Rwandan-based trading houses that process untaxed material from DR Congo
- Encourage publication of payments in line with the EITI.
- Make public and transparent all performance-based contracts in the mining sector
- Make transparent performance-based contracts in the mineral trading sector to ensure they are not a disincentive for traders to comply with the DR Congo's export taxation structure.

Entry Point: Rwanda's Holding Companies

A number of international stakeholders harbour considerable suspicion over holding companies operating in and/or out of Rwanda and their potential involvement in business activities in DR Congo, particularly in the mining sector. This is largely due to the perceived proximity of some holding companies to the GoR and the RPA. A number of holding companies in Rwanda such as Prime Holdings, Caldar Holdings, TriStar, and the Rwanda Investment Group have an opaque ownership structure and investment portfolio, which causes unnecessary mistrust in the politically charged context, where inadequate information generates a climate of suspicion of motives. The recent transfer of the Rwanda

Metals brand out of the TriStar portfolio to the Caldar Holdings portfolio is a case in point.

An atmosphere of suspicion is counterproductive to realising the region's mineral sector development potential, which should include transparency and cooperation at the core.

To serve its own interests Rwanda should:

- Make public and transparent the ownership and investment structure of the holding companies that operate in and/or out of Rwanda.

THE INTERNATIONAL BUYERS OF MINERALS FROM DR CONGO AND RWANDA

The previous chapter outlined how figures suggest that largely foreign-owned traders on the territory of DR Congo's neighbour Rwanda are exporting Congolese material as Rwandan material. Further analysis of Rwanda's disaggregated export statistics reveals that the minerals are traded all over the world with destinations from Asia to Europe to North America.

In 2008, Belgium, South Africa and the UK remain the largest declared destinations for minerals from Rwanda. Likewise, statistics from 2007, from both North Kivu and Rwanda, show that Belgium is the most significant importer of all, primarily due to the trading activities of Brussels based Trademet SA, Traxys Belgium and Goma-based SDE Bruxelles.

However, although some concentrates are sent directly to companies in Europe such as H.C.Starck in Germany and ABS Industrial Resources in the UK, much of the material is simply brokered by traders and forwarded to smelters buying on the open market. These buyers include those listed in table 11below, such as Malaysia Smelting Corporation Berhad and Thailand Smelting and Refining Co. Ltd.

For example, the Germany-based scrap metal trader Cronimet sent cassiterite to Malaysia, Switzerland and Singapore in 2008.[1] In addition, metal is reported as being sent to locations with no metal processing industries to speak of such as the Virgin Islands, by trader Comsup in 2008, and Cyprus, by Abinger Trading in 2007.

Minerals sent to tax havens such as the Virgin Islands and Cyprus suggest that some traders may be seeking to avoid tax by realising profits in low tax jurisdictions. Indeed, the price per tonne of $5,951 for 24 tonnes of cassiterite declared by Comsup in 2008 is just over half of the average price per tonne declared by other traders of $10,382.

A truck makes its way from Kigali to the border of DR Congo. *© Harrisson Mitchell, 2008*

1 http://www.cronimet.de/web/index.html

Recommendation 10: The Case for Transparency in the Global Trade

Global stakeholders in the trade in minerals from Eastern DR Congo should work to make the trade more transparent, thereby assisting the formalisation of the sector:

- Global purchasing and trading companies should ensure that minerals purchased from DR Congo's neighbours have been properly taxed in their country of origin.
- The companies should publish their payments to all governments in line with the EITI.
- End user governments' ministries of foreign affairs and trade, as well as their embassies in the DRCongo, should regularly publish the disaggregated statistics on imports of minerals from the Great Lakes region into their territories. Such data should be made available to the relevant local governments and the general public.

TABLE 11: INTERNATIONAL IMPORTERS AS REPORTED BY RWANDA 2008 (JAN-SEPT)

Company	Country of Destination	Cassiterite			Wolframite			Tantalum		
		tonnes	USD	$/tn	tonnes	USD	$/tn	tonnes	USD	$/tn
ABS Industrial Resources	UK	19	$168,623	$8,922	240	$1,797,836	$7,491	41	$1,410,193	$34,395
Afrimex (UK)	UK	407	$4,710,337	$11,585	23	$181,022	$7,871			
Comsup Ltd	China/V.Is	24	$144,598	$5,951	89.5	$587,545	$6,565			
Cronimet	Malaysia	24	$306,538	$12,772						
Cronimet	Switz.	263	$2,867,930	$10,925	23	$241,150	$10,485	121	$3,644,299	$30,118
Cronimet	Singapore	24	$277,877	$11,578						
Duoluoshan	China	17	$27,761	$1,682				2	$51,057	$25,529
Grey Gold FZE	UAE (Db)	62	$1,186,783	$19,204	6.6	$44,720	$6,776			
H.C.Starck GMBH	Germany	22	$244,210	$11,100	115	$863,953	$7,513			
Metmar Trading (Pty) Ltd	S. Africa	1,035	$8,561,078	$8,272	22	$176,986	$8,045			
Mettrade India	India	392	$3,587,833	$9,162						
Neek International	China	44	$327,887	$7,452						
Niotan Limited	Hong Kong	20	$198,719	$10,139	315	$2,257,507	$7,167	170	$5,718,433	$33,638
NRD Holding	Germany	22	$245,261	$11,148						
"Rue Tenbosch"	Belgium							9.6	$225,698	$23,510
Siderial Development	UK	79	$611,765	$7,783	147	$1,375,865	$9,360			
Siderial Development	China	45	$473,134	$10,444	52	$484,833	$9,324			
Specialty Metals	Belgium	8	$132,612	$16,172	83	$664,714	$8,009	33.7	$549,031	$16,292
Thailand Smelting and Refining Co. Ltd	Thailand	95	$1,094,563	$11,570						
Trademet SA	Belgium	672	$6,905,225	$10,276	114	$724,210	$6,353	64	$954,443	$14,913
Traxys Belgium	Belgium	108	$1,239,795	$11,512				20.5	$617,314	$30,113
TOTALS and AVERAGES		3,379	$33,312,530	$10,382	1230.1	$9,400,341	$8,036	461.8	$13,170,468	$26,063

Source: National Institute of Statistics, Rwanda, Disaggregated Statistics

TABLE 12: INT. IMPORTERS REPORTED BY N. KIVU, 2007

					International Importers as Reported by Rwanda 2007								
Company	Country of	Cass	Wolf	Tant.	Cassiterite			Wolframite			Tantalum		
		tonnes	tonnes	tonnes	tonnes	USD	$/tn	tonnes	USD	$/tn	tonnes	USD	$/tn
A.M.C.U.K	UK	138											
Abinger Trading	Thailand				22	$117,667	$5,473						
Abinger Trading	Cyprus				46	$260,132	$5,717				20	$274,395	$13,651
ABS Industrial Resources	UK							834	$5,350,925	$6,418	72	$1,689,184	$23,526
African Venture	H. Kong	187	89	61									
Afrimex (UK)	UK	383			681	$4,767,797	$7,005	23	$180,195	$7,835	37	$579,232	$15,571
AnihaExim FZC	UAE (Db)		21										
Foganjiata Metals Guandong	China	40											
Fortune Trading	Hong Kong												
GMBH POSTFACH	UK							23	$153,289	$6,665			
H.C. Starck GMBH	Germany				22	$242,614	$11,028	68	$414,430	$6,086			
H.C. Starck	UK				41	$535,291	$13,152	68	$441,322	$6,509			
Hong Kong New Power Trading	UK										20	$84,833	$4,263
'Johannesburg'	S. Africa			13									
JSC Transcon	Russia	23	20										
Malaysia Smelting Corporation Berthad	Malaysia	285											
Metmar Trading (Pty) Ltd	S. Africa				352	$2,608,034	$7,401						
Metmar Trading Pty Ltd	UK				110	$819,254	$7,441				14	$104,380	$7,619
Mettrade India	India	82											
MPA Gisenyi	Rwanda	1,069											
Mr Freddy Muylaert	Belgium							22	$181,807	$8,264			
Neek International	UK				1,694		$6,341						
Niotan Inc	USA				25	$221,766	$8,835				219	$4,530,604	$20,650
Niotan Limited	Hong Kong				386	$2,824,674	$7,318	1,266	$8,748,442	$6,909	378	$7,250,005	$19,185
Niotan Trading	Uganda										45	$846,820	$18,902
SDE Bruxelles	Belgium	2,974											
Siderial Development	UK				346	$2,378,688	$6,877	221	$1,628,930	$7,357			
Specialty Metals	Belgium				21	$147,125	$7,142	87	$680,980	$7,800	40	$750,130	$18,660
Starfield Service	Holland	24	75										
Starfield Service	Austria	68											
Trademet SA	Belgium	4,423	418		530	$3,616,932	$6,824	141	$1,126,768	$7,980	44	$361,834	$8,186
Traxys Belgium	Belgium	239			107	$630,698	$5,889				31	$1,025,442	$32,762
TOTALS and AVERAGES		9,934	623	74	4,381		$7,603	2,754		$7,182	921		$16,634

Source: National Institute of Statistics, Rwanda, disaggregated statistics, North Kivu Division of Mines

CONCLUSION

The conflict dynamics in Eastern DR Congo are more complex than a simple cause and effect connection between military groups and the trade in minerals. It is not so much the trade that causes insecurity, but a lack of security rooted in failing institutions and a dysfunctional army that enables military groups to then pose security problems to the trade, co-opt in part, and then benefit from the trade. Solving this issue requires a well-informed policy response. The authors hope this report brought an informed perspective to the confusion of viewpoints that recent surges in violence in Eastern DR Congo have generated, and suggests opportunities for engagement that can help guide the desire to act that currently inspires many observers. We also hope it filled a gap in understanding the way in which the mineral trade from Eastern DR Congo contributes or can contribute to regional development.

We have raised the need to address governance weakness and the contested monopoly of violence that results in insecurity that also affects many of the mining areas in this report. To realise the trade's full development potential policy makers will have to engage beyond governance and security sector reform[1]:

- Insufficient, costly and unreliable energy (prevents value addition)
- Dilapidated infrastructure (prevents cost and time efficient transport, allows for military beneficiation, and causes monopolistic/oligopolistic rural minerals market that work to the detriment of artisanal miners and communities)
- Operational difficulties of the export regimes (corruption/inefficient export institutions provide incentives to informalise)
- Lack of sector development strategy in the DRC (prevents investment/reduces development opportunities)
- Severely damaged agricultural infrastructure (prevents livelihood alternatives)
- Very limited access to finance (prevents equitable production)

The points of entry for engagement in this report have been premised on the understanding that the main challenge in Eastern DR Congo is the Congolese state's inability to bring order to its territory. This is rooted in historical legacies, but also in the fact that the state has no revenue base to strengthen its institutions and to build a functioning army, with its budget currently split between debt servicing, the payment of salaries, and war financing. The approach set out in this report thus seeks to generate extra revenue for the state by placing emphasis on the need for formalisation of the minerals trade, improving governance by strengthening state institutions, and building a functional army. Of course it is one thing to generate revenue with good intentions, and another to see this extra revenue put to good use in reality. Although proposals to work on these issues exist, it is beyond the scope of this report to have a thorough discussion in attending to these difficulties[2].

The report has explained why engaging with the mineral trade in Eastern DR Congo should be less about stopping or disrupting it, and more about figuring out how to separate the insecurity problems from the trade and formalise the trade. As lawmakers express a willingness to engage with the trade, with the United States (US) potentially introducing a bill aimed at companies to conduct due diligence on the supply chains of companies trading in the US, the recommendations of this report suggest that there are realistic other ways to positively engage with the trade in a conflict sensitive and developmentally beneficial manner.

While undertaking the research for this report the authors have seen a number of relatively secure enough spaces where engaging with various stakeholders could prove beneficial. There also exists expertise within some of the existing administrative structures, which presents opportunities to partner with these institutions to mutual benefit. In addition, it is apparent from numerous conversations with stakeholders across the Great Lakes region that much of what is called an 'illegal' or 'illicit' trade is in fact a trade operating as a shadow economy by actors working informally, who can be incentivised to formalise through a process of engagement,

1 The DFID, COMESA, USAID report Johnson, D., Trading for Peace – Phase 3 Report, DFID, 2009 focusses on reconstructing agriculture, improving access to finance, making timber trade sustainable, and addressing the regional energy deficit. A later report for the Communities and Small-Scale Mining Secretariat at the World Bank focuses on the above key areas, which have to be addressed.

2 One potential opportunity to place checks on this is by accelerating the implementation of the EITI ++ in the DR Congo to ensure more equitable subnational distribution of revenues.

which would further increase the revenues this trade already brings to the state.

Many stakeholders in the DR Congo and around the world are eager for positive change in the country. There is real opportunity to constructively engage with the trade in minerals to assist with positive reform. The cost of failure or the wrong approach cannot be underestimated; with up to one million people in the region dependent on the trade for their livelihood, the minerals trade represents the single biggest opportunity for development in the region.

Nevertheless, reform will not be easy, and there should be no naivety about the potential for vested interests to attempt to derail progress. Policy and decision makers and other stakeholders must thus work together to identify potential spoilers as early as possible, engage those that are willing, and isolate and marginalise the most recalcitrant. This process may have to go beyond trade reform and involve changing the culture of impunity and short-termism that transcends both communities and the state in Eastern DR Congo. This is a long reform process that requires above all political will; all importantly it is a reform process that can be achieved, albeit incrementally.

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