



Natural resources at the heart of conflict

TAKING ACTION TO PRODUCE AMBITIOUS EUROPEAN
LEGISLATION

October 2014



What is the need for this report?

By sourcing natural resources from conflict-affected and high-risk areas, many companies could be funding armed groups responsible for terrible acts of violence. Such companies are contributing to the violence and harming peace and development. This situation is unacceptable. CCFD-Terre Solidaire has been working for over fifty years to defend human rights and promote development to help local people. It promotes peace and the regulation of globalized players in the economy. Motivated by the problem of “conflict resources”, with this report, CCFD-Terre Solidaire hopes to:

- **SHINE THE SPOTLIGHT on cases of human rights violations connected with natural resources in conflict-affected and high-risk areas that have been documented by our partners**

Because the situation in the Democratic Republic of the Congo has been on our front pages for over ten years, it sometimes tends to overshadow the fact that trade in and the exploitation of natural resources is also supporting violence in other conflict-affected areas in Latin America and Asia. Local people are exposed to inhuman and degrading treatment and are also the victims of violent repression and branded as criminals in connection with the implementation of numerous mining projects. On the basis of information passed to CCFD-Terre Solidaire by its Congolese, Burmese and Colombian partners, this report sheds light on human rights violations involving natural resources in conflict-affected and high-risk areas.

- **PUT FORWARD recommendations for an ambitious European Regulation on responsible sourcing of minerals from conflict-affected and high-risk areas**

Negotiations on this Regulation proposed by the European Commission will begin in November 2014.

It represents a great opportunity to develop European legislation to stop imports of minerals by European companies funding wars in conflict-affected and high-risk countries. At the moment the text is too weak to help break the link between natural resources, conflict and violation of human rights. An ambitious Regulation that meets the recommendations of civil society in the North and South is clearly necessary.

- **CONTINUE our advocacy on reining in the activities of multinationals in countries of the South**

More generally, conflict resources relate to multinationals’ responsibility for human rights and the need to rein in their activities. Too many of their activities, carried out directly or via business relationships, are actually synonymous with violence, plundering resources and infringement of rights in countries in the South. An ambitious Regulation on conflict resources would constitute a great step forward upon which to build national legislation that would guarantee that activities of multinationals in the South would genuinely contribute to development, respecting human rights and the rule of law. It needs to be made law that responsibility, based on “due diligence” for parent and subcontracting companies over their entire sphere of influence and applied to all areas of activity, becomes the key principle of this measure to protect human rights.

The passing of a French act on due diligence and an ambitious European Regulation on conflict resources are central planks of the CCFD-Terre Solidaire campaign, “Des multinationales hors-jeu” [Multinationals - yellow card] that recommends reining in the activities of French companies in the South so that they contribute to development while respecting human rights. This report forms part of that campaign.

What is the need for this report?	3
Executive Summary	5
Terminology	8

PART 1

Conflict resources: when exploitation and trade in natural resources contribute to violence	9
Natural resources at the heart of conflicts in many resource-rich countries	10
Local people, the main victims of conflicts fuelled by natural resources	13
A global problem that raises questions about European companies' responsibility	18

PART 2

Conflict resources: a principle and opportunities to take action	22
One principle for action: due diligence	23
A Proposal for a European Regulation on conflict resources that is totally inadequate	27
An opportunity to take action: demanding more ambitious European legislation ..	30

PART 3

Recommendations	33
------------------------------	-----------

Appendices	36
The following organizations contributed to this report	38

When trade in natural resources supports conflict

For the last sixty years, over 40% of civil conflicts have been connected with natural resources¹. Though they are not the primary cause of complex conflicts that are more commonly based on politics, territory or identity; these resources sustain violence in areas where the exploitation and trade in natural resource funds numerous armed groups guilty of appalling violence against local people. By procuring resources from conflict-affected and high-risk areas, companies lay themselves open to supporting conflict and damaging human rights, peace and development.

Conflict resources: a global problem

For over fifteen years, in the **East of the Democratic Republic of the Congo** (the provinces of Katanga, Maniema, and North and South Kivu) mining and trade in natural resources has been supporting a particularly brutal conflict that has caused around 3.5 million deaths². As a result of the extended period of political instability since the 90s, (a civil war which led to the collapse of the State of Zaire, the civil war in Burundi and genocide in Rwanda) numerous armed groups have prospered in the region. The wealth below the surface (particularly

tin, tantalum, tungsten and gold) has encouraged them to establish themselves in strategic areas of the country such as mines and along transport routes, and continue fighting. Miners and local people are the first victims of this competition for natural resources to support war directly and they find themselves held to ransom and exposed to continuous violence (massacre, plunder and forced labour). This capture of part of its resources by armed groups in fact deprives the Congolese government of a great deal of income and is contributing to destabilizing an already fragile state.

In a country historically affected by conflict relating to access to land, control over territory rich in mining and oil resources has been a key part of armed conflict **in Colombia** between paramilitaries, guerrillas and the government for fifty years. This devastating conflict has killed 218,000 (more than 80% were civilians) and has been the cause of some of the biggest forced displacements in the world³. Natural resources gradually became an important source of funding for armed groups, especially after 2000 when they saw their income from drugs drop as a result of American policy of combatting drug trafficking from Colombia⁴. In 2012 the Revolutionary Armed Forces of Colombia (FARC) drew almost 20% of their income from

¹ United Nations Environment Programme (UNEP), *From Conflict to Peacebuilding - the Role of Natural Resources and the Environment*, 2009.

² Figures from the International Rescue Committee (IRC) are a trustworthy estimate but are certainly less than the total number of victims of conflict in the DRC (figures only relate to the period 1998 - 2004) *When will the world pay attention?*, 2004.

³ Since the beginning of the conflict, between 4.7 and 5.7 million people have been forced to flee, abandoning their land. Sources for all these figures: Centro Nacional de Memoria Historica, *That's enough! Memories of war and dignity* 24 July 2013, <http://www.centrodememoriahistorica.gov.co/micrositios/informeGeneral/catedra.html>
See also: The UN Refugee Agency, UNHCR, March 2013, <http://www.unhcr.fr/pages/4aae621e24.html>

⁴ For example the "Colombia plan", heavily supported by the US and launched in Colombia in 2000. This plan denied traffickers access to airspace and included aerial spraying of illegal crops and the surrounding land, http://fr.wikipedia.org/wiki/Plan_Colombie

controlling the mining and illegal trade in gold¹. The development policy largely based on mining that the Colombian government has pursued since the 90s has increased pressure on these resource-rich areas which are coveted by armed groups, companies and the state. This policy has only served to increase militarization and develop continuous violence usually by branding local people as criminals for opposing the mining projects. 80% of the human rights violations recorded in the country in the last ten years took place in mining and oil drilling areas².

Burma/Myanmar is particularly rich in natural resources³ and is a country where a sizeable share of the income from mining is taken by the army which controls the mines, trading and exports. It is estimated that the exploitation of precious stones (jade, sapphires and rubies) alone, earned the generals \$750 million between 1964 and 2007⁴. Even today there is no avoiding the army as regards mining thanks to “state companies” that allow the army to take a share of the profits from mining. Behind a smokescreen of providing security for mines, the army has been guilty of human rights violations (forced labour, torture, land expropriation and massive expulsions) and violent suppression of resistance (pressure and arrests). In addition, natural

resources like jade and gold have been at the heart of the conflict between the central government and minorities such as the Kachin ethnic minority since the 60s. These resources have funded the armed independence groups and the Burmese army in turn. In Kachin state (like other mining areas where large minority groups are found), control of resources has also become a major strategic bargaining chip and is now one of the political demands of minorities hoping to achieve self-management of the natural resources of their lands.

One principle for action: due diligence

For over ten years there has been a growing movement in favour of making multinationals responsible for human rights and greater transparency in their supply chains. From simple voluntary initiatives to international standards and binding legislation these steps are all based on the same principle, due diligence. When applied to conflict resources, due diligence requires companies to be especially careful in their sourcing decisions and practices so that they do not support violence and become accomplices to the resulting serious human rights violations.

¹ Observatorio Internacional DDR - Ley de Justicia y Paz/CITpax-Colombia, *Actores armados ilegales y sector extractivo en Colombia*, 2012.

² Sindicato de trabajadores de la Empresa Nacional Minera Minercol (Sintraminercol), *La violación de los derechos humanos en el país está estrechamente ligada con el modelo económico existente en Colombia*, 2012, <http://www.pasc.ca/fr/node/3851>

³ Water and oil resources but also minerals like gold, copper, tungsten, iron, lead or even precious stones.

⁴ “Myanmar’s rubies; bloody colour, bloody business” *Reuters*, 4 October 2007, <http://www.paradisfj.info/spip.php?article1036>

An opportunity to take action: demanding an ambitious European Regulation on conflict resources

In March 2014 the European Commission put forward a **Proposal for a Regulation on responsible sourcing of minerals from conflict-affected and high-risk areas**¹. While the EU is to be congratulated on taking on such a subject, we can only deplore the highly inadequate nature of a text that falls below existing international standards and domestic legislation. The existing text is non-binding and excessively limited in scope and will not help break the link between natural resources and conflict.

France will play a key role in the European negotiations that start in November 2014. We would ask it to insist on an ambitious European Regulation that implements the following recommendations²:

- **The voluntary self-certification scheme needs to be replaced by a binding obligation** for companies covered by the Regulation to carry out and report publicly on their supply chain due diligence efforts.
- **The categories of companies targeted by the Regulation needs to be widened** beyond the limited number of primary importers to include end-user companies who first place component parts or finished products containing these materials onto the European market.
- **The range of resources covered by the Regulation needs to be extended** to cover all natural resources from conflict-affected and high-risk areas whose trade and exploitation could contribute to supporting violence and be linked to violation of human rights.



More comprehensive action: rein in the multinationals

The problem of conflict resources connects back more widely to the need to rein in the activities of multinationals in the South. Due diligence is a key principle of this Regulation and needs, therefore, to be translated into domestic law. While the French government needs to act at European level, it must also set an example at national level.

We therefore ask it **to support the scrutiny by the French parliament of the legislative proposals on due diligence for parent and subcontracting companies vis-à-vis their subsidiaries and subcontractors**³.

¹ COM/2014/0111 final – 2014/0059 (COD), *Proposal for a Regulation of the European Parliament and of the Council setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk areas*, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014PC0111>

² See part 3 of this report for a more detailed list of our and our partners' recommendations

³ On 6 November 2013 legislative proposals instituting due diligence for parent and subcontracting companies vis-à-vis their subsidiaries and subcontractors were tabled by the SRC and EELV groups (<http://www.assemblee-nationale.fr/14/pdf/propositions/pion1524.pdf>) followed on 13 February 2014 by the RRDP group and the GRD group on 29 April 2014.

Conflict resources: Natural resources (timber, minerals, water, oil, etc.), whose exploitation and trade could finance and foster conflicts, instability and human rights violations.

Conflict-affected and high-risk areas: Conflict-affected areas are identified by the presence of armed conflict, widespread violence or other risks of harm to people. Armed conflict may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars, etc. High-risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. Such areas are often characterised by widespread human rights abuses and violations of national or international law¹.

Ore: Rock containing sufficient quantities of useful minerals to justify mining and processing for industrial use.

3T: Tin, tantalum and tungsten found in cassiterite, coltan and wolframite. These three minerals support a number of armed conflicts across the world.

Due diligence: The obligation of companies to identify, prevent and compensate for infringements of human rights caused by their own activities or those of their subsidiaries, subcontractors or suppliers. Applied to conflict resources, companies are required to take steps to identify and prevent risks to ensure that they do not support violence in

sourcing natural resources from conflict-affected and high risk areas. Companies must also make their efforts public.

Supply chain: This refers to all activities, organizations, actors, technology, resources and services involved in moving natural resources (minerals for example) from the extraction site to their incorporation in a finished product for end customers.

Upstream companies (in the supply chain): Those companies involved in the buying, handling and processing of minerals into metals, from the extraction site to the smelter or refinery (inclusive).

Downstream companies (in the supply chain): From smelters and refiners to end use, these companies produce, assemble, market and distribute semi-finished and finished products to the consumer

Semi-finished products: Products made from materials and metals produced from minerals that are then used to make finished products. These can be products like metal tubes, plates or cladding

Finished products: Products ready for sale that can be used to meet consumers' and customers' needs. These can be products like components (eg electronic components such as mother boards, chips or integrated circuits), parts, but also finished products sold directly to customers like computers or telephones.

Fragile State: Relates to the limited ability of a state to carry out its essential roles and functions².

Acronyms

OECD: Organisation for Economic Cooperation and Development

UN : United Nations Organisation

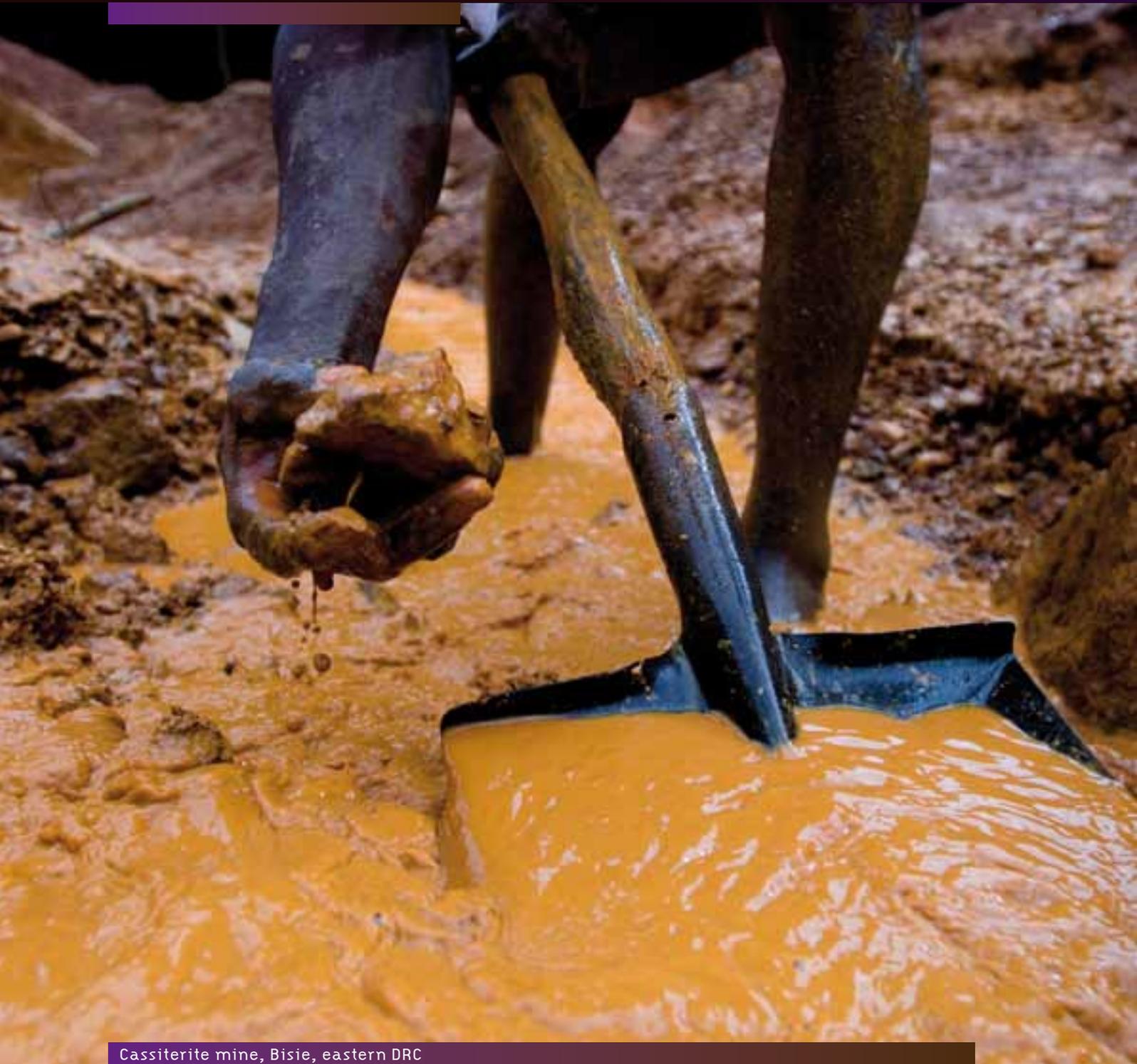
ICGLR: International Conference on the Great Lakes Region

ILO: International Labour Organisation

¹ OECD, *OECD due diligence Guidance for responsible supply chains of contact minerals from conflict-affected and high-risk areas*, 2nd edition, 2013, OECD Publishing, <http://www.oecd.org/corporate/mne/GuidanceEdition2.pdf>. Elsewhere in the report we will use the term *OECD Guidance* to designate this document.

² OECD, *Principles for Good International Engagement in Fragile States and Situations*, 2007.

Conflict resources: when exploitation and trade in natural resources contribute to violence



In many areas of the world affected by conflict, natural resources contribute to funding violent armed groups who are responsible for serious human rights violations.

Due to the rise in price of many minerals on the international market since 2000¹, they are increasingly lucrative. Control over the exploitation and sale of natural resources seems to have become a major strategic bargaining counter that induces these armed groups to hold on to territory and continue fighting.

In some places, the struggle for resources also involves the State and companies working on large extraction programmes who use these armed groups to provide “security” for the mines. This militarization leaves the local population exposed to continuous instability and violence involving serious violations

of human rights and fundamental freedoms. In these circumstances, trade in and exploitation of resources become obstacles to bringing peace and development to these areas.

By procuring natural resources from these conflict-affected and high-risk areas, downstream companies in the supply chain are likely to be funding armed bands and sustaining conflict. Many European companies are directly affected by this situation. They are therefore accomplices to violence against people in the country of extraction yet, with impunity, sell European consumers, mobiles, cars and phones made from conflict resources.

NATURAL RESOURCES AT THE HEART OF CONFLICTS IN MANY RESOURCE-RICH COUNTRIES

The “sinews of war”: natural resources as an income source for armed groups

In many areas affected by war and violence, natural resources can be used to fund belligerents, non-state armed groups or members of national armies.

Direct control of the exploitation (mines for example²) and trade (transport, sale and relations with intermediaries and exporters) in natural resources is one of the ways these armed groups fund themselves³. This supervision of all upstream operations in the supply chain is often quite open in inaccessible areas, long used to the presence of armed groups and where the state has little control⁴. In cases like Colombia, income from natural resources can also be generated from legal commercial or

exploitation companies closely tied to the armed groups. This is known as “legal criminal mining⁵”.

More commonly, armed group funding is based on indirect control of natural resources through illegal taxation in ore or cash imposed on miners (to get access to the mining sites) transporters (for the use of certain roads) or any other intermediary wishing to transport, buy and sell resources. **In the East of the Democratic Republic of the Congo (DRC)**, numerous armed groups have become the de facto administrators of the area, claiming to maintain order and protect the population in exchange for a system of illegal tax on ore imposed by force and threat (anyone refusing or attempting to avoid these illegal payments runs a very high risk of physical violence). This is particularly true in the Walikale area where various armed groups (these include the Mai-Mai, the Democratic forces for the liberation of Rwanda, FDLR, and the fighters of Nduma defence of Congo, NDC).

¹ For example, an ounce of gold traded at \$279 in 2000. In 2013 it was trading at \$1,650. Source - the World Bank 2013

² In Colombia, armed groups often buy the mining equipment out of money from drug trafficking. Observatorio Internacional DDR - Ley de Justicia y Paz/CITpax-Colombia, *Actores armados ilegales y sector extractivo en Colombia* [Illegal Armed Groups and the Extractive Sector in Colombia], p. 11.

³ For further information on how armed groups finance themselves, see *OECD Guidance*, p. 24.

⁴ This is particularly the case in the Eastern provinces of the DRC and isolated parts of Colombia (cf. the case of a tungsten mine controlled by FARC exposed in “How Colombian FARC Terrorists Mining Tungsten Are Linked to Your BMW Sedan”, *Bloomberg*, 8 August 2013, <http://www.bloomberg.com/news/2013-08-08/terrorist-tungsten-in-colombia-taints-global-phone-to-car-sales.html>)

⁵ Observatorio Internacional DDR - Ley de Justicia y Paz/CITpax-Colombia, *op. cit.*, 2012, p. 12.

They finance themselves through illegal taxation of cassiterite ore¹. In Walikale as elsewhere in the east of the country, violence is also perpetrated by certain soldiers of the country's regular army (Armed Forces of the DRC, FARDC) who are accused of participating in this highly lucrative minerals trade².

This security and protection business is also found **in Colombia**³. Using threats and pressure on artisanal miners and mining companies big and small, paramilitaries and guerrillas, having become "providers of security services", are managing to earn considerable sums from ore extraction and trade. In exchange for "protection" against violence from other groups and the promise to stay "inactive" (agreeing not to attack mining sites for example), the armed groups impose taxes; demanding a percentage of the resources extracted and extorting payment for mining permits that are illegal but nonetheless necessary for anyone operating in the area. In 2012, FARC (Revolutionary Armed Forces of Colombia) raised up to 20% of their income from control of the illegal mining and trade in gold. Both in Colombia and the DRC, armed groups also finance themselves through plundering and attacking mines and trade routes⁴.

A further stage in the violence: recourse to security forces

A further step in the militarization of areas in conflict that can be seen is the frequent use of public or private security forces to provide security for trading and mining natural resources. Instead of protecting workers and human rights in the mining areas, these armed groups play a central role in the traffic and illegal taxation of resources and are guilty of serious violence against local people.

In Burma, the army is an inescapable player in mining and is on site at many mines to "provide security" for the activities of the state companies in charge of extraction. These companies are organized by sector (Myanmar Oil and Gas Enterprise, MOGE, for oil and gas, Union of Myanmar Economic Holdings, UMEH, for minerals). No foreign company wishing to operate in Burma can avoid going through these state companies. Total was accused by several NGOs of financing the Burmese army through MOGE, through income from its operations in Burma⁵. Still today, these state companies are primarily controlled by the army (attached to the ministry of defence) or people close to them⁶. The army receives a percentage on the profits from exploitation (which can exceed 50%). The official political transition in 2011⁷ does not seem to have managed to reduce the army's stranglehold on Burmese political life and the economy, nor has it stopped the violence (torture, confiscation of land and wholesale expulsions) of which military-industrial companies have been guilty for almost 50 years.

In Colombia, companies are playing a key role in the militarization of the country. Many of them have in fact used armed groups such as paramilitaries, guerrillas or security companies (legal but often linked to armed groups) to provide "security" for their activities⁸. This collusion between armed groups and companies directly serves the expansion strategies of multinationals in resource-rich areas. Violence by armed groups chases away artisanal miners and silences any protest about mining from local communities⁹. The state actually actively supports this development, both locally (agreements regularly reached between the local police and companies) and nationally by including a security element in the policy of attracting foreign investors. In this context, we can quote the creation of a national directorate for infrastructure security and the deployment (systematic in the case of projects of "national interest") of army battalions (mining and energy battalions) for the security of the extractive companies¹⁰.

1 CERN-CENCO, *L'impact de l'exploitation minière sur l'économie et le social de Walikale* [The Economic and Social Impact of Mining in Walikale], December 2013, éditions du Secrétariat général de la CENCO. Group of Experts on the DRC, Final report of the Group of Experts on the DRC S/2014/42, 23 January 2014, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_42.pdf

2 Group of Experts on the DRC, *op. cit.*, 2014; CERN-CENCO, *op. cit.*, 2013. See also: IPIS International Alert, *The complexity of resource governance in a context of state fragility: the case of Eastern DRC*, 2010.

3 The reference work on how armed groups finance themselves through minerals in Colombia (and from which the information above is taken) is: Observatorio Internacional DDR - Ley de Justicia y Paz/CITpax-Colombia, *op. cit.*, 2012. See also: *Bloomberg*, *op. cit.*, 2013.

4 For Colombia: Observatorio Internacional DDR - Ley de Justicia y Paz/CITpax-Colombia, *op. cit.*, 2012. In Walikale (DRC), numerous attacks have been recorded in the Wanianga area (Omate, Angoa, Bisie, Kilanbo, Mubi, etc.) since 2009, CERN-CENCO, *op. cit.*, 2013.

5 Earth Rights International, *Energy Insecurity: How Total, Chevron, and PTTEP Contribute to Human Rights Violations, Financial Secrecy, and Nuclear Proliferation in Burma (Myanmar)*, 2010, <http://dg5vd3ocj3r4t.cloudfront.net/sites/default/files/documents/energy-insecurity-french-summary-and-recommendations.pdf>

6 By "people close to them" we mean cronies; businessmen close to the army acting as intermediaries between foreign companies and the authorities. In the case of the Letpadaung copper mine, the army receives 51% of the profits. Source: D. Dapice et N. Xuan Thanh, *Creating a Future: Using Natural Resources for New Federalism and Unity*, Harvard's Ash Center for Democratic Governance and Innovation, 2013.

7 The Burmese junta handed back power to the civil authorities in 2011.

8 Observatorio Internacional DDR - Ley de Justicia y Paz / CITpax-Colombia, *op. cit.*, 2012.

9 *Ibid.*, p. 19. See also: ILSA, *Minería del oro y conflictos sociales en Colombia; tendencias generales y análisis de caso*, 2014.

10 ILSA, *op. cit.*, 2014.

DRC

WHEN MINING COMPANIES KEEP THE VIOLENCE GOING



The Bisie mine

The Bisie mine is the largest cassiterite (tin ore) extraction site in the Walikale territory and is a typical example of the collusion between companies and armed groups. From 2005 the concession for the site was given to the Bangandula Mining Group (GMB) then to Mining and Processing Congo (MPC) in 2006. Subsequently both companies employed armed groups to “provide security for their activities” – the 85th non-reintegrated brigade, predominantly made up of Mai-Mai for GMB, and men from the National Congress for the Defence of the People (CNDP) for MPC^A. These groups developed an illegal trade in cassiterite based on extortion from the miners. Control of tin ore then became the reason behind clashes between armed groups who refused to leave the region and give up this lucrative business^B.

By financing armed groups, GMB and MPC have thus encouraged the heavy militarization of the area in addition to feeding the violence. Using armed men also allowed MPC to put pressure on artisanal miners on the site to make them flee^C. There was considerable tension between the miners and MPC which was accused of sabotaging attempts at talks and being involved in the recent arrest of members of civil society^D. Maintaining a climate of instability and permanent violence also allows MPC to avoid too much monitoring thus creating more favourable circumstances for illegal activities. MPC (since bought by Alphamin Resources Corp) stands accused of mining and selling ore without a mining permit and transporting the ore to Goma by helicopter even though the closure of the mine was demanded by the Ministry of mines in 2010^E.

Control of natural resources as a vector of conflict

Although they are not normally the prime cause of conflicts whose roots are essentially political, the control of natural resources progressively seems to be becoming a vector of conflict in many countries. It encourages armed groups to establish themselves in areas and becomes the reason for violent clashes between groups, companies and States, all determined to tap into the income from the exploitation and trade in natural resources. The result of this is a generalized militarization of whole areas and a permanent state of violence.

In the East of the Democratic Republic of the Congo, a politically and geopolitically-based war has also assumed the form of an economic war for the control of gold, tin, tungsten and tantalum. Some groups are accused of establishing themselves in the area since 1998 and perpetuating the conflict by hiding behind political demands¹. Fifteen years after the start of hostilities, control of mining sites is still a crucial factor, both for armed groups² and officers of government forces, some of whom refuse transfer to other parts of the country as mentioned above in connection with the Bisie mine. This establishment of large numbers of armed men in resource- rich areas leads to clashes between groups that impact local people who suffer insecurity and continuous violence. In Burma, control of the extraction and trade in jade

^A CERN-CENCO, *op. cit.*, 2013, p. 42, 105, 106 and 145.

^B Since 2010 there have been violent clashes between the Mai-Mai Sheka supported by the FDLR and soldiers of the ex CNDP and the FARDC. Source: IPIS International Alert, *The complexity of resource governance in a context of state fragility: the case of Eastern DRC*, 2010, p. 28.

^C It is estimated that in 2010 there were over 12,000 people on the site mainly miners and traders. CERN-CENCO, *op. cit.*, 2013, p. 105.

^D Study, Bureau d'études, d'observation et de coordination pour le développement du territoire de Walikale [Observation and Coordination Bureau for the Development of Walikale], *Tricherie entretenue par la société MPC* [Dishonesty by MPC], N/Réf: 19/BDWSG/TW-NK/2014, 22 August 2014; Memorandum from Walikale civil society to the administrator of Walikale territory regarding the arrest of members of Walikale civil society, 24 July 2014.

^E CERN-CENCO, *op. cit.*, 2013, p. 106. In their recent final report, the Group of Experts on the DRC indicate that cassiterite continues to be mined and traded from the Bisie mine (see paragraph 206), http://www.un.org/french/documents/view_doc.asp?symbol=S/2014/42

¹ UN Security Council, <http://www.un.org/News/fr-press/docs/2002/cs2382.doc.htm>
An observation repeated in several reports by the Group of Experts on the DRC since 2002: <http://www.un.org/french/sc/committees/1533/experts.shtml>

² An example would be the Mai-Mai groups (including armed forces led by warlords, traditional tribal chiefs, village chiefs and local political leaders) who claim to be combatting the presence of armed groups in mining areas but who, in turn, actively contribute to their militarization.

has been fuelling the conflict between the central government and the Kachin ethnic minority for fifty years (see box p. 29).

In Colombia, competition between State, companies and armed groups for the control of mining (gold, tungsten, tantalum, coal, etc.) and energy resources (oil) has exacerbated the armed conflict that has been afflicting the country for over fifty years and has contributed to an upsurge in conflict and acts of violence against the people. This situation has been exacerbated since the 90s by the Colombian economy being refocused on exploiting and exporting its resources and implementing a policy of national and regional development based on large-scale foreign mining projects¹. For over twenty years the Colombian government has imposed a legislative and regulatory framework that allows it to assert its authority over and ownership of natural resources while attracting foreign investors through widespread provision of permits particularly for “strategic mining areas” as defined by the government². Current estimates put 59% of Colombia under concessions to foreign extractive industries or for which permits are currently being requested³. There is therefore a struggle for control of these resources opposing the State, armed groups and companies resulting in increasing militarization of whole areas and violence.

LOCAL PEOPLE, THE MAIN VICTIMS OF CONFLICTS FUELLED BY NATURAL RESOURCES

Violence by armed groups and infringement of human rights

Local people are the first victims of violence by armed groups funding themselves through income from natural resources⁴.

Violence is primarily directed against people involved in the supply chain from resource extraction to export. In the Eastern provinces of the DRC, transporters, traders, miners (but also women and children working on related activities like crushing and washing ore) find themselves taxed and held to ransom by fear of the threat and actual use of force⁵. This violence is in addition to the very dangerous working conditions, especially for the miners who often are working with their bare hands in badly ventilated underground shafts and all for paltry pay, or even none at all⁶. This use of forced labour is also seen in major mining projects in Burma, despite Burmese commitments to the International Labour Organization to put an end to forced labour by 2015⁷.

People working in the mines and surrounding villages are also directly exposed to violence. **In the East of the DRC**, communities suffer from clashes between armed groups or involving the Congolese army. Local people are also the targets of particularly violent attacks and plundering (targeting ore but also food and supplies), which involve massacre, looting and abduction, especially of girls and women who are forced to become sexual slaves for the armed groups⁸. In the territory of Walikale, these raids often form part of reprisal strategies against

¹ Begun during the widespread privatization of the economy in the 90s, the policy of attracting foreign investors to the mining and energy sectors was reaffirmed in the following decade under the governments of Alvaro Uribe (2002-2010) and Juan Manuel Santos (elected in 2010). Source: ILSA, *op. cit.*, 2014.

² Non-renewable natural resources were defined as property of the state (1991 constitution) and mining as an activity of “social importance and public value” (law 685 of the 2001 mining code). Source: *Ibid.*

³ Figures relate to continental Colombia (islands excluded). Source: Contraloría General de la República (CGR), Estado de los Recursos Naturales y del Ambiente, 2011, p. 130-131.

⁴ Serious attacks against local people are mentioned on page 39 of the *OECD Guidance*.

⁵ Global Witness, *Faced with a gun, what can you do?*, 2009, https://www.globalwitness.org/sites/default/files/pdfs/report_en_final_0.pdf
See also the reports from the Group of Experts on the DRC: <http://www.un.org/french/sc/committees/1533/experts.shtml>

⁶ The use of forced labour and modern slavery in mines in the DRC is recorded in: Free the Slaves, *The Congo Report: Slavery in Conflict Minerals*, 2011, <http://freetheslaves.net/Document.Doc?id=243>

⁷ Info Birmanie, *Investir en Birmanie? Enjeux, recommandations et dispositifs pour un investissement responsable* [Investing in Burma? Considerations, Recommendations and Support for Responsible Investment], 2014, <http://www.info-birmanie.org/wp-content/uploads/2014/03/GUIDE-Investir-en-Birmanie-Info-Birmanie-mars-2014-Version-couleur.pdf>
The 1999 convention on the worst forms of child labour (ILO Convention 182) will only come into effect in December 2014 while ILO Convention 105 on the abolition of forced labour has still not been ratified by the DRC.

⁸ Global Witness, *op. cit.*, 2009. See also: the midterm report of the Group of Experts on the DRC, S/2013/433, 2013, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_433.pdf

villagers accused of treachery and collaboration with the police or enemy groups¹. There is also violence against children in the DRC. Some children are forced to work in the mines or related activities (carrying ore on foot or motorcycle) while others are recruited by rebel groups and become soldiers, porters, escorts or spies².

In Colombia, 10% of the population (about 4.7 million) is directly affected by a conflict which, over more than fifty years, has caused 218,000 deaths (81% of whom were civilians)³. Mining and energy-producing areas were particularly affected by violence and were where 80% of human rights violations and around 90% of crimes were carried out against indigenous communities and the country's Afro-Colombian population over the past ten years⁴. Civilians are regularly the first victims of clashes between the army, paramilitaries and guerrillas; suffering massacre, persecution and threats (from both armed groups and the security forces).

People are ignored, violently repressed and branded criminals

Violence fuelled by natural resources is also experienced through widespread repression and the outlawing of resistance movements. People are gagged and ignored, and find mining projects imposed on them by force in the name of the "national public interest" which often just happens to chime exactly with the interests of multinationals.

In Colombia, the interests of the local population seem to carry little weight when projects are declared to be of "national interest", a practice that allows the State to dispossess local communities of any

control over mining (see box). This is reminiscent of the Burmese situation where the authorities confiscate smallholders' land in the name of projects declared to be of "general interest". These projects are then imposed on communities without obtaining people's prior, informed consent and without the opportunity to go to court over unfair expropriation of land or pressure and violence from the army to force them to leave⁵. In both countries, the notions of "national" or "general" interest override the principle of consulting local people (particularly indigenous communities) on projects that could affect the lands they own, occupy or use traditionally. Free, prior and informed consultation and consent is a principle recognized in international law and is at the heart of the most progressive standards of Corporate Social Responsibility (CSR)⁶.

Local people are not consulted or listened to; they are regularly repressed if they oppose mining projects as shown by the violence over the copper mining project at Letpadaung **in Burma**. This mine is believed to be on the largest deposit in South East Asia⁷. Since 2010, people living around the mine who refused to leave the land that had been taken from them, were subjected to continuous violence by the authorities in the shape of harassment and constant surveillance. In addition, peaceful demonstrations were violently suppressed. In September 2012, hundreds of smallholders and monks were badly burned by smoke bombs containing phosphorous. Protesters were also arrested, tortured and some were tried and imprisoned. This repression of resistance is accompanied by widespread outlawing of leaders of unions, organizations and social movements protesting against mining projects. This situation can be seen in Colombia where 78% of crimes against trade unionists were committed in mining and oil drilling areas⁸.

¹ These raids have been very common since 2009 when operations by the Congolese army against various armed groups started. Source: CERN-CENCO, *op. cit.*, 2013, p. 111.

² Midterm report of the Group of Experts on the DRC, S/2014/428, June 2014, http://www.un.org/ga/search/view_doc.asp?symbol=S/2014/428

³ The Belgian Justice and Peace commission, *Vers la fin du conflit avec les FARC en Colombie* [Towards an End to Conflict with FARC in Colombia]?, 2013. From an interview by Ariel Fernando Ávila, www.justicepaix.be/?article681; Centro Nacional de Memoria Historica, *That's enough! Memories of war and dignity* 24 July 2013, <http://www.centrodememoriahistorica.gov.co/micrositios/informeGeneral/catedra.html>

According to these sources, the conflict is also the reason why 25,000 people have been reported missing and 27,000 taken hostage.

⁴ Contraloría General de la República, *Sector minier en Colombie : fondamentaux pour dépasser le modèle extractiviste* [Mining Sector in Colombia: Fundamentals for Going beyond the Extractivist Model], 2013, http://lasillavacia.com/sites/default/files/mineropedia/mineria_en_colombia.pdf

⁵ Info Birmanie, *Rapport de mission à Letpadaung* [Letpadaung Visit Report], December 2013. Under article 445 of the constitution, military personnel and government representatives receive immunity.

⁶ As regards international law: UN Declaration on the Rights of Indigenous Peoples, 2007, http://www.un.org/esa/socdev/unpfi/documents/DRIPS_en.pdf ILO Convention 169, http://www.ilo.org/dyn/normlex/fr/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID,P12100_LANG_CODE:312314,en:NO For CSR standards; the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. Further details are contained in the second part of this report.

⁷ Information on the repression at Letpadaung is based on the documentary produced by Info Birmanie, *Dans l'ombre de la montagne qui n'est plus* [In the Shadow of the Mountain that's no longer there], <https://www.youtube.com/watch?v=V2VePjYm3o> on Info Birmanie's visit report, *op. cit.*, 2013, and the analysis by Altsean, *Land confiscation in Burma: a threat to local communities and responsible investment* (updated version 25 March 2014).

⁸ Contraloría General de la República, *op. cit.*, 2013.

COLOMBIA PEOPLE'S RIGHTS AND OUTLAWING RESISTANCE



The case of the la Colosa mining project

Attracted by wealth lying below the ground, AngloGold acquired 30,000 hectares worth of concessions from the Colombian government in the district of Cajamarca (Suarez) to develop activities that included the giant gold mining project known as "la Colosa".

Despite the fact that they were directly affected by the socio-territorial impact of such a project, local communities were completely ignored as shown by the outcome of the popular consultation^A organized by the mayor of Piedras in 2013 to find out the views of his fellow citizens about the developing of mining in the district. Even though mining^B in the area was roundly opposed, the results of this consultation were set aside and declared invalid by the Ministry of mines. This was based on the recent definition of mining as an activity of "social importance and public value" that should, therefore, be managed by central government and not local authorities^C.

Not just ignored, the people and opponents of the la Colosa project were then branded as criminals. AngloGold, which was already infamous for its past record of human rights violations^D, was accused by civil society organizations of maintaining links with the local police and armed groups and being guilty of targeted murders of community and union leaders, arbitrary imprisonment and constant surveillance and persecution of committed citizens and militants^E. For example the army falsely accused social and union leaders of links with armed groups and kept up the pressure till these leaders were forced to leave Cajamarca district^F.

Natural resources and conflicts: what is the outlook for development?

The connection between natural resources and conflicts must also be viewed in terms of the impact on conditions for development that will genuinely benefit local people. By fuelling conflicts, the trade and exploitation of resources compromise local development efforts and set back the ability of communities to meet their own needs. What is the outlook for the future in areas traumatized by violence and turned upside down by unrestricted mining that undermines other development models and people's livelihoods?

Unremitting violence and pressure on land and resources often force people to abandon the land as happened in Colombia where between 4.7 and 5.7 million people are estimated to have been displaced since the beginning of the armed conflict. In the last ten years, 87% of displaced persons came from mining and oil drilling areas¹. **In Burma** there are now 498,000 internally displaced people² who have fled the fighting between independence groups and the Burmese army.

Where people do not flee, they live in a constant state of uncertainty that prevents planning for the future. Faced with repeated threats to confiscate their land, villagers threatened by the Letpadaung mining project are reluctant to cultivate their fields and this is highly damaging to food security for

^A It is important to understand the difference between consulting the people (articles 40 and 103 of the Constitution) and prior consultation (article 6 of the constitution and case law in the constitutional court). The first type of consultation relates to direct expression of popular sovereignty while the second is intended to guarantee the involvement of ethnic communities in decision making regarding mining projects (and makes reference to the consultation tool of ILO Convention 169 mentioned above). For further information on consultation mechanisms in Colombia see: J. Fierro Morales, ILSA, *Políticas mineras en Colombia*, 2012 and G. Amparo Rodríguez, *De la consulta previa al consentimiento libre, previo e informado a pueblos indígenas en Colombia*, 2014.

^B Out of 3,007 votes cast, 2,971 were against mining in the Piedras commune (it was also involved with the la Colosa mine). Sources: ILSA, *Minería del oro y conflictos sociales en Colombia; tendencias generales y análisis de caso*, 2014; Registraduría Nacional del Estado Civil, 2013.

^C Law 685 of the 2001 mining code. General interest projects are defined as those meeting criteria which include – priority production for international markets, generation of resources for the State and regions in which the mining takes place, creation of jobs in the areas concerned, contributing to developing Colombian industry etc Resolution 592 of 2013.

^D Davos, the prize for the worst company goes to AngloGold Ashanti, *Reuters*, 28 January 2011, <http://fr.reuters.com/article/idFRLDE70R2EH20110128>

^E Observatorio Internacional DDR - Ley de Justicia y Paz/CITpax-Colombia, *op. cit.*, 2012, p. 28. See also: Amnesty International, *Sindicalismo en Colombia Ò: Homicidios, detenciones arbitrarias y amenazas de muerte*, 2007; Campaign Colombia Solidarity, *La Colosa: A Death Foretold. Alternative report about the AngloGold Ashanti gold mining project in Colombia's municipality of Cajamarca (Tolima)*, London Mining Network, 2013.

^F ILSA, *op. cit.*, 2014.

¹ Sources: Centro Nacional de Memoria Histórica, *op. cit.*, 2013; UNHCR, March 2013, <http://www.unhcr.fr/pages/4aae621e24.html>
Sintramintercol, *La violación de los derechos humanos en el país está estrechamente ligada con el modelo económico existente en Colombia*, 2012, <http://www.pasc.ca/fr/node/3851>

² Internal Displacement Monitoring Centre, IDMC, 1 July 2014, <http://reliefweb.int/sites/reliefweb.int/files/resources/201407-ap-myanmar-overview-en.pdf>

everyone in the area¹. The violence and insecurity which characterize conflict-affected and high-risk areas seem to accentuate the abandonment of farming/animal husbandry in the rush to the mine that is commonly seen in resource-rich areas. This is also the case in the Walikale territory of the DRC where there has been widespread abandonment of farming/animal husbandry in an area of enormous agricultural potential².

Damage caused by many mining projects also results from compromising development in areas already undermined by conflict. Pollution of the soil, water and air (by the chemicals used for extraction) and monopolization of resources (especially water used to process ore) directly affect the livelihoods of local people and endanger their ability to provide for their own needs. This can be seen in Burmese villages close to the Letpadaung mine where soil pollution is making some agricultural land unusable and is the source of serious health problems for the people. The use of dynamite in copper mining is also fracturing village wells, thus compromising access to water resources for human consumption and irrigation³. **In Colombia**, the demands on water of the giant “la

Colosa” mining project are having a massive effect on the local economy and livelihoods of communities depending on water-intensive crops such as rice⁴. For 20 years the Colombian government has been providing “optimal” conditions for extractive companies by facilitating expropriation⁵, ignoring the principle of consulting local people (see the example of the La Colosa project) and granting concession in areas that had, until then, been protected or were of high environmental, social or cultural value⁶. This legislation directly threatens minority rights with regard to land tenure and development (indigenous reservations, collective rights of Afro-Colombian communities) as well as compromising the emergence of alternative forms of development such as smallholder reservations⁷.

Conflicts linked to resources also contribute to plundering the resources needed for development (see box) and weaken already fragile states. Maintaining conflicts through natural resources hinders the process of bringing peace and stability to the areas involved. It is estimated that the presence of natural resources doubled the risk of conflict breaking out again within five years⁸.

¹ In 2013, this happened in the Moe Gyoe Pyin area, resulting in a reduced harvest. Info Birmanie, *op. cit.*, 2013.

² CERN-CENCO, *op. cit.*, 2013.

³ Info Birmanie, *op. cit.*, 2013. Damage to people and the environment was also identified by the company working the site, <http://www.myanmaryangtse.com.mm/images/pdfs/ESIA%20OF%20LETPADAUNG%20PROJECT%20ON%20NOV%2021ST%20BY%20KNIGHT%20PIESOLD%202883%20PAGES.pdf>

⁴ La Colosa is behind the appropriation of water resources (161 water sources could disappear) and will also expose local people to a serious risk of cyanide pollution. ILSA, *op. cit.*, 2014.

⁵ The 2001 mining code makes it easier for companies with mining permits to expropriate local people if agreement with them cannot be reached, ILSA, *op. cit.*, 2014.

⁶ AngloGold has been given permission to mine (La Colosa project) in protected areas (central forest reserve). More generally, areas like Amazonia have been focal points for Colombia's development policy for over ten years. ILSA, *op. cit.*, 2014, p. 3 and 15.

⁷ Territory managed by smallholders based on a local, sustainable development model (focussed primarily on smallholder farming), the goal of smallholder reservations is to “encourage and stabilize smallholder economy, overcome the causes of social conflict affecting them and generally create conditions for building peace and social justice in such areas” (decree 1777 of 1996 and law 160 of 1994).

⁸ UNEP, *From Conflict to Peacebuilding – the Role of Natural Resources and the Environment*, 2009.

INCOME FROM NATURAL RESOURCES THAT DOES NOT CONTRIBUTE TO DEVELOPMENT

In many conflict-affected and high-risk countries, a significant share of the income from the exploitation and trade in natural resources is siphoned off by armed groups and companies, thus depriving States and their people of tax revenue vital for development.

In Burma, collusion between the army, businessmen and politicians makes it one of the least transparent countries in the world^A. Income from exploiting resources has largely been appropriated by the army for over fifty years and seems to have been spent on military procurement rather than improving health or education systems. The exploitation of precious stones alone (jade, sapphire, rubies) earned the generals \$750 million between 1964 and 2007^B. Even now, most sales of precious stones are undeclared and annual losses are put at several billion dollars just for jade^C. Illegal control of mines and mineral traffic in Eastern Congo deprives the Congolese government of hundreds of millions of dollars every year, thus contributing to destabilizing an already fragile state. In addition to resources siphoned off by armed groups, the policy of tax breaks applied to foreign companies since 2000 deprived the Colombian government of enormous amounts of revenue, estimated at \$8.8 billion between 2001 and 2010. Receiving over 80% of the income from mining, these companies seem to be unquestionably the big winners from Colombia's energy and mining boom over the last twenty years^D.

This huge loss of tax revenue for such countries directly compromises the provision of essential services (education, health, transport, etc.) and the implementation of policies to support key sectors like agriculture. In this context, natural resources are far from being the "drivers of development"^E and genuinely benefitting local people.

A Burma is one of the bottom 20 countries in Transparency International's 2013 Corruption Perceptions Index (157th out of 177) <http://cpi.transparency.org/cpi2013/results/>

B "Myanmar's rubies; bloody colour, bloody business" *Reuters*, 4 October 2007, <http://www.paradisfi.info/spip.php?article1036>

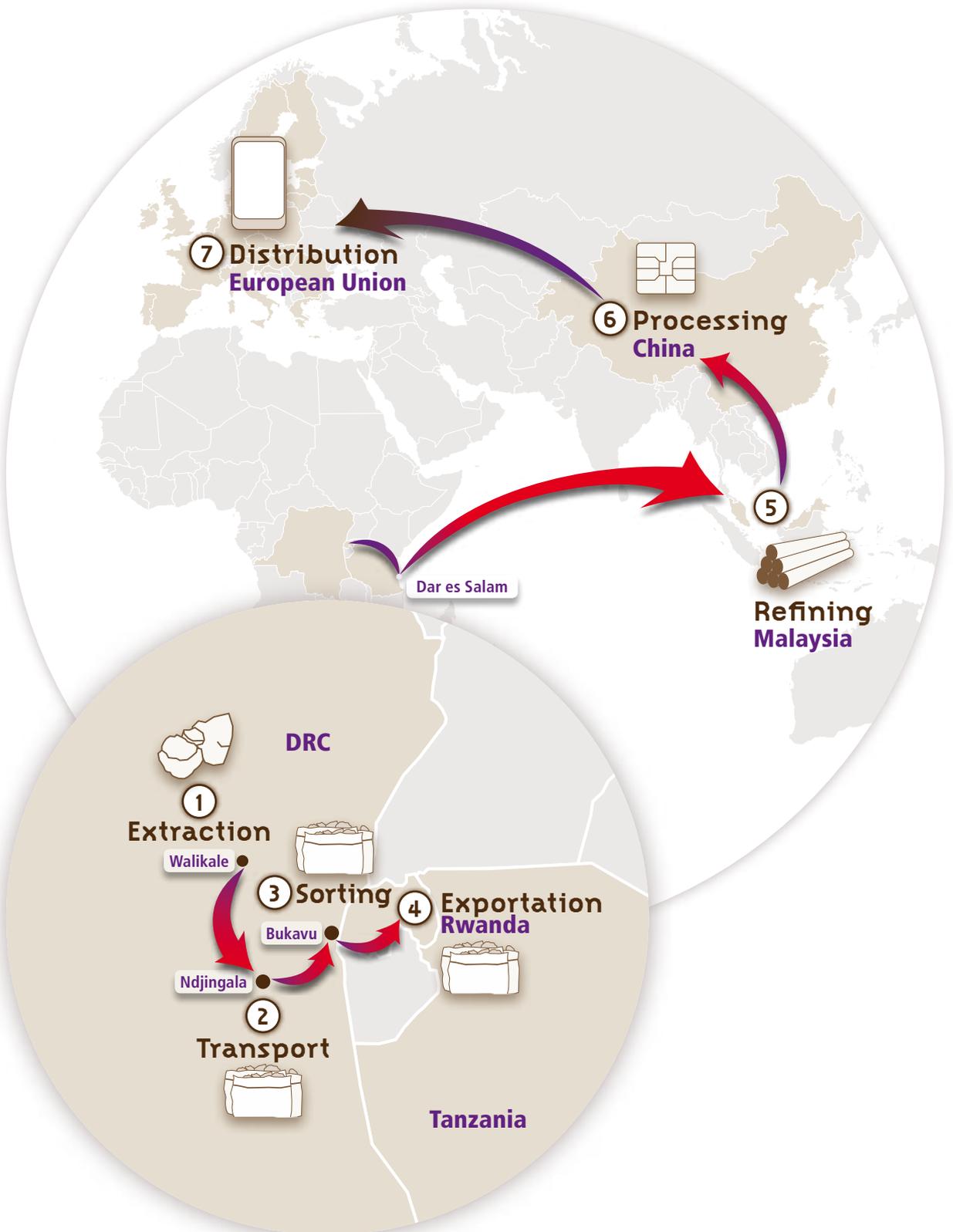
C "Myanmar old guard clings to \$8 billion jade empire", *Reuters*, 28 September 2013, <http://www.reuters.com/article/2013/09/29/us-myanmar-jade-specialreport-idUSBRE98S00H20130929>

D In 2009, companies received 83.7% of the income from mining as against 16.3% for the State. ILSA, *op. cit.*, 2014, p. 13. See also: C. Gonzalez Posso, *La renta minera y el plan de desarrollo 2010-2014*, INDEPAZ, 2011.

E Expression used by Colombia's President, Juan Manuel Santos, to describe the importance of mining and energy resources to his 2010-2014 development plan. ILSA, *op. cit.*, 2014.

A GLOBAL PROBLEM THAT RAISES QUESTIONS ABOUT EUROPEAN COMPANIES' RESPONSIBILITY

From the cassiterite mine to the mobile phone:
the global dimension of "conflict minerals"



1 Extraction



Mined in the East of the Democratic Republic of the Congo, Congolese cassiterite comes from legal mines but also from illegal mining sites particularly in Walikale territory such as the Bisie mine (see box p. 12). In the mining areas, **miners** are subject to illegal taxes in ore or money imposed through violence by **non-state armed groups, factions of the regular army and private armies**. The **mining companies** in the region are not always any more transparent about their supply chains because of certain practices that might be illegal (ignoring permits, using the black market to sell minerals, etc.).

2 Transport



Cassiterite is first carried **on men's backs** from the mines to the road where it passes into the hands of the **transporters** who take it by motorbike, car or lorry to transit points such as Ndjingala. At this staging post, minerals from various mines are likely to get mixed together and put into rough bags that only mention the name of the trader for whom they are intended. The minerals are then taken by road to major trade centres such as Goma and Bukavu, these routes are often subject to "transit fees" demanded by the **armed groups** who control the area. Until the Ministry of mines recently banned air transport, some of the minerals were even carried by air (Kilambo to Bukavu).

3 Sorting



Once it arrives at the trading centre of Bukavu, cassiterite is sorted by the **traders from the purchasing houses**. Many purchasing houses are not officially registered with the authorities and therefore operate illegally. The mining Code requires an expensive licence (\$500) and very often this puts the purchasing houses off. The same applies to transporters, only one in ten of whom is registered.

4 Export



Bukavu **export companies** buy the cassiterite to sell abroad. They need to be registered with the authorities and

demonstrate transparency, but limited monitoring capability and the falsification of certificates means that there is no certainty that the minerals leaving the country have not come from illegal mines and have not served to finance conflict.

While some of the cassiterite goes to Europe, the vast majority goes to its neighbour **Rwanda**. If the cassiterite follows the legal route, the Congolese government receives customs duty but borders are porous and the majority of the cassiterite is smuggled out and crosses the border illegally by road or river. The volume of this traffic is such that Rwanda officially exports three times more tin ore as it produces, while the trade balance of North Kivu is negative. Once in Rwanda, minerals are then labelled "Rwandan" and sent to "normal" markets to be exported and traded internationally. Once more this introduces confusion between "clean" minerals and those which have funded the conflict in the DRC.

Cassiterite is then taken to the port of **Dar es Salam** in Tanzania to be shipped to Asia.

5 Refining



Tin is extracted from the cassiterite in **smelters**, most of which are in Asia, to supply metal to companies making finished and semi-finished products.

6 Processing



Companies making finished and semi-finished products are often based in China where they transform tin to make electronic components (such as printed circuits) which they then use to manufacture mobile phones.

7 Distribution



Major European companies import these mobile phones made of "conflict minerals" and sell them on the European market. These companies are under no obligation to trace anything.

This is how minerals from conflict-affected areas get into goods that Europeans use on a daily basis.

SOURCES

- CERN-CENCO, *Impact de l'exploitation minière sur l'économie et le social de Walikale* [The Economic and Social Impact of Mining in Walikale], 2013, éditions du Secrétariat général de la CENCO.
- Raise Hope for Congo, *From Mine to Mobile Phone: The Conflict Minerals Supply Chain*, 2011.
- "Congo's Riches, Looted by Renegade Troops", *New York Times*, 15 November 2008.
- IPIS International Alert, *The complexity of resource governance in a context of state fragility: the case of Eastern DRC*, 2010.
- *Final report of the Group of Experts on the DRC*, S/2014/42, 23 January 2014, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_42.pdf

The responsibility of downstream companies in the supply chain: direct EU involvement

Conflict resources need to be understood as a global problem linked to complex supply chains quite often on the boundary between legality and illegality. Violence by armed groups, States failing in their obligation to protect their people, connivance by neighbouring countries and a lack of transparency amongst companies – everyone in the supply chain bears his share of responsibility.

Downstream companies in the supply chain, as heavy users of minerals, bear great responsibility with regard to “conflict minerals”. By procuring natural resources from conflict-affected and high-risk areas these companies might be indirectly funding armed groups and buying from people who commit serious breaches of human rights. They also run the risk of using resources which are not traceable throughout the supply chain¹.

With over 880,000 users of tantalum, tungsten gold and tin, the EU is particularly affected by this problem². These European companies, operating in twelve business sectors (see table below), are consequently highly exposed to the danger of

SECTORS AND EUROPEAN COMPANIES WITH PARTICULAR EXPOSURE TO CONFLICT MINERALS^A

Business sectors with exposure to conflict minerals	Leading European companies in these sectors
Vehicle manufacture Components and equipment, accessories, vehicles, engines, etc.	Audi AG, Fiat SPA, Michelin, Peugeot SA, Volkswagen AG, Renault SA, etc.
Defence and aerospace Components, aircraft, navigation, detection and research systems and equipment, etc.	BAE Systems PLC, Dassault Aviation, Latecoere, Saab AB-B, Safran SA, etc.
Information technology and communications Telecommunications, technological systems and equipment, software and IT services, IT equipment, etc.	Deutsche Telekom, France Telecom, Talktalk Tel, Vodafone Group, Alcatel-Lucent, Tomtom, Dassault Systèmes, Groupe Steria, Indra Systems, etc.
Healthcare services and medical equipment Medical supplies, machines and equipment, etc.	Biomerieux, Generale de Santé, Orpea, Elekta AB-B, Essilor Intl, etc.
Consumer electronics IT equipment, home automation, educational tablets and mixing desks, etc.	Ingenico, Lexibook, Neotion, RCF Group SPA, etc.
Diversified industrials Cutting-edge materials, technological security solutions (passport chips, recording equipment) semiconductor manufacture, etc.	Siemens AG-REG, Indus HLDG AG, Gemalto, Legrand SA, Micronas, Soitec, Infineon Tech, etc.

¹ For example, 98% of the gold produced in the DRC is smuggled before arriving on the international market. Source: Introduction to the report of the Group of Experts on the DRC, *op. cit.*, 23 January 2014.

² A joint communication from the European Commission on the Proposal for a Regulation on *Responsible sourcing of minerals originating in conflict-affected and high-risk areas, towards an integrated EU approach*, 5 March 2014, p. 6, http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152228.pdf

^A This table was produced from a list of 186 companies identified by SOMO in its paper *Conflict due diligence by European companies*, 2013 (http://somo.nl/publications-en/Publication_4003). The companies shown are listed on the main European stock exchanges and are considered leaders (being the highest earners) in sectors particularly exposed to conflict minerals because of their heavy use of gold, tin, tungsten and tantalum. This selection of sectors exposed to conflict minerals also overlaps with that produced for the impact assessment (external survey) for the European Commission's Regulation "Assessment of due diligence compliance cost, benefit and related effects on selected operators in relation to the responsible sourcing of selected minerals", 2014, p. 14, http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152230.pdf Other sectors could also have been included such as jewellery, building or the packaging industry.

supporting and funding violence in conflict-affected and high-risk areas.

For over fifteen years, NGOs have continued to warn the EU of the dangers inherent in European companies' mineral supply chains. Attested cases of large European companies funding armed groups regularly make the headlines. There was the recent case of Dutch and Italian companies singled out for sourcing coal from Colombian mines known to be

sites of persistent human rights violations in conflict-affected areas that have been under the control of armed groups for over forty years¹.

Even though European companies' responsibility is often involuntary, because of their suppliers' lack of transparency, this in no way lets them off the hook. They need to accept responsibility and act by making "good faith efforts" to put an end to supporting violence through their resource procurement².

BURMA

THE URGENT NEED FOR A EUROPEAN REGULATION ON CONFLICT RESOURCES



The lifting of trade barriers and sanctions in 2013^A and the readmission of Burma to the Generalized System of Preferences (GSP)^B by the European Union opened the way for a massive influx of Burmese natural resources onto the European market. This development went in tandem with various reforms by the Burmese government, following the political transition of 2011, aimed at attracting foreign investors including those from Europe. Far from encouraging responsible investment, the new legislation^C instead provided tax-breaks and facilitated illegal land expropriation by the army on behalf of foreign companies^D. It also granted discretion to the administration in charge of awarding licences to foreign investors^E (the Myanmar Investment Commission), an organization already infamous for its failure to consult and communicate with local communities^F. These reforms only served to ratify an already poor human rights situation as regards the exploitation and trade in natural resources in Burma.

Therefore in the absence of a European Regulation on conflict resources, European companies attracted by sourcing minerals from Burma could very well find themselves maintaining violence and being accomplices to serious human rights violations.

¹ SOMO, http://somo.nl/publications-en/Publication_3737, 2012, http://somo.nl/publications-en/Publication_4089, 2014

² OECD recommendation. *OECD Guidance*, 2013.

^A Economic and diplomatic sanctions against the Burmese junta had been in place since 1996. The only exception to this lifting of sanctions was arms, for which the embargo remains. See: Info Birmanie, "L'UE rouvre son marché à la Birmanie" [The EU re-opens its Market to Burma], 19 July 2013, <http://www.info-birmanie.org/lue-rouvre-son-marche-a-la-birmanie/>

^B A system giving certain developing countries preferential access to the European market.

^C This refers to the 2012 Foreign Investment Law, FIL), the two 2011 laws on special economic zones, the Special Economic Zones Law and the Dawei Economic Zone Law, the mining law which is currently being revised, the Farmland Bill of 2011 and the Vacant, Fallow and Virgin Lands management Law of 2012 as well as the Environmental Conservation Law of 2012. For further information on new Burmese legislation see OECD, *Investment Policy Reviews: Myanmar 2014*, 2014, <http://www.oecd.org/daf/inv/investment-policy/Myanmar-IPR-2014.pdf>

^D Tax breaks for the first five years of operation or even granting fifty year leases. Source: chapter XIV of the above-mentioned Foreign Investment Law. According to NGOs the Vacant, Fallow and Virgin Lands Management Law will confirm the expropriation of land. Altsean Burma, *op. cit.*, 2014.

^E OECD, *op. cit.*, 2014, p. 33.

^F Info Birmanie, *Investir en Birmanie? Enjeux, recommandations et dispositifs pour un investissement responsable*, [Investing in Burma? Considerations, Recommendations and Support for Responsible Investment], 2014.

Conflict resources: a principle and opportunities to take action



For over ten years, due diligence has been making headway as the key concept in regulating multinational companies so that their activities do not harm human rights, the environment and the rule of law.

This responsibility for companies is found in several international standards (the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises) and is gradually being incorporated into binding legislation. While it does not claim to end conflicts with multiple complex causes, due diligence nonetheless constitutes a valuable tool in permitting action “here” to stop procurement choices by companies further back in the supply chain supporting conflict and encouraging violence and consequent human rights violations “over there”. The Proposal for a European Regulation on responsible mineral sourcing produced by the

European Commission on 5 March 2014 is based on due diligence. Due to its weakness, this text unfortunately represents a clear retreat when compared with recent progress made towards greater transparency in supply chains. Since it is based on a voluntary self-certification mechanism, this Regulation is non-binding and only covers a small selection of natural resources (gold, tin tungsten and tantalum) and companies (just the primary importers). As it stands, such a text will not help sever the link between resources, armed conflict and related human rights violations. The French government needs to intervene in negotiations to demand a more ambitious Regulation.

ONE PRINCIPLE FOR ACTION: DUE DILIGENCE

Due diligence, the key principle in protecting human rights

Due diligence relates to the obligation on companies to identify, prevent and remedy any infringement of human rights caused by their activities or those of their subsidiaries, subcontractors or suppliers. They are required to seek to identify and prevent risks and account for their efforts publicly. Should there be a violation; the company is required to remedy any damage caused by its activities.

Since 2008 due diligence has been gradually formalized and defined by internationally recognized principles:

The UN “Protect Respect and Remedy”¹ framework is the international text which makes human rights due diligence an obligation for companies. This was presented to the UN Human

Rights Council in 2008. It is often known as the “Ruggie framework” after the Special Representative who produced it and it establishes the roles and responsibilities of companies and states in ensuring human rights are respected by the private sector². States are required to protect their people and ensure that companies in their territories or jurisdictions do not infringe human rights. For their part companies are obliged to respect all internationally recognized human rights and remedy any damage caused by their activities.

The Guiding Principles on Business and Human Rights³ were adopted by the UN Council of Human Rights in 2011 and provide guidelines for States and businesses for putting the “Protect, Respect and Remedy” framework into practice. These principles extend the notion of complicity to include “non-legal complicity⁴” making companies responsible for infringements caused by third parties that they benefit from. Negative effects on rights can thus be the result of companies’ own activities or

¹ J. Ruggie, *Protect, Respect and Remedy: a Framework for Business and Human Rights, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises*, 2008, <http://www.reports-and-materials.org/sites/default/files/reports-and-materials/Ruggie-report-7-Apr-2008.pdf>

² It sets out the provisions regarding respect for human rights contained in the International Bill of Human Rights and applies them to the link between companies and human rights (<http://www.un.org/fr/rights/overview/charter-hr.shtml>)

³ UN, *Guiding Principles on Business and Human Rights*, 2011, http://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_en.pdf

⁴ *Ibid.*, Guiding principle 17, p. 21-22.

the activities, products or services of its business relationships (such as suppliers or subcontractors). Finally, Guiding Principle 7 makes specific reference to the responsibility of States to ensure that companies operating in conflict-affected contexts avoid human rights violations.

In 2011 the Organization for Economic Cooperation and Development made the fifth amendment and revision of its **OECD Guidelines for Multinational Enterprises**, originally adopted in 1976¹. These guidelines are intended to promote responsible behaviour by companies by providing specific recommendations about how to conduct due diligence in the different risk categories, especially those related to the environment, taxation, corruption, employment, competition and consumer interests. The 2011 revised guidelines fully incorporate the UN's "Protect, Respect and Remedy" framework. They lay out human rights responsibilities particularly with regard to "business relationships"² and introduce National Contact Points (NCP) – procedures to implement these guidelines and settle disputes³.

Supply chain due diligence to face conflict resources

Due diligence in supply chains of natural resources from conflict-affected and high-risk areas

The UN Guiding Principles on Business and Human Rights point out the likelihood of infringing human rights in conflict-affected and high-risk areas:

"all business enterprises have the same responsibility to respect human rights wherever they operate. [...] Some operating environments, such as conflict-affected areas, may increase the risks of enterprises being complicit in gross human rights abuses committed by other actors (security forces, for example). [...] In complex contexts such as these, business enterprises should ensure that they do not exacerbate the situation"⁴.

FRENCH CIVIL SOCIETY TAKING ACTION TO INCORPORATE DUE DILIGENCE INTO LAW

Domestic laws have not kept pace with recent developments by multinationals and their activities, Recognition of the transnational nature of these groups only exists in the accounting and financial spheres. In law the principle of the legal autonomy of companies does not recognise the real existence of a group and hence its legal responsibility. This absence of responsibility of parent companies as regards the activities of their subsidiaries and subcontractors prevents effective application of human rights due diligence as defined in the UN's guiding principles. Access to justice for people whose rights are violated by multinationals therefore becomes extremely difficult and encourages a sense of impunity.

Civil society organizations have led numerous campaigns to ask for this situation to be remedied and have demanded greater legal responsibility for multinationals with regard to their activities. In response to this lobbying, between November 2013 and April 2014, four French parliamentary groups tabled legislative proposals in the National Assembly on due diligence by parent and subcontracting companies for their subsidiaries and subcontractors. These proposals must now be scrutinized by the French parliament. Mobilization keeps going!

¹ OECD, *OECD Guidelines for Multinational Enterprises*, 2011, <http://www.oecd.org/corporate/mne/48004323.pdf>

² "Business relationships are understood to include relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services". *Ibid.*, p. 15.

³ National Contact Points are platforms for promoting and making the OECD guidelines available to multinational companies and responding to issues relating to failure to respect the guidelines.

⁴ UN, *op. cit.*, 2011, p. 25-26.

In such areas, exploitation and trade in natural resources are liable to be controlled by armed groups responsible for serious violence against local people. By sourcing and using resources from these areas, companies lay themselves open to funding armed groups and sustaining violence. Given the particularly serious danger of violating human rights, companies should be even more vigilant. They have a responsibility to carry out **due diligence over their supply chains of natural resources from conflict-affected and high-risk areas**. As a result, companies must be especially careful in their supply choices and the suppliers they use, and

take steps to identify, prevent and mitigate risks. In 2011 the OECD produced special **Guidance on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas**¹. Based on detailed recommendations (see box), the purpose of this Guidance is to help all companies in the chain (from those doing the mining to end user companies) respect human rights and avoid supporting conflict by the way they source gold, tin, tantalum and tungsten. This Guidance was the basis of a simplified version adapted to the Great Lakes region produced jointly by the OECD and the International Conference on the Great Lakes Region (ICGLR)².

OECD RECOMMENDATIONS FOR RESPONSIBLE SUPPLY CHAINS OF MINERALS

Establish strong company management, controls and transparency systems

- Appoint staff to gather information on how the supply chain is structured and identify everyone who is successively in contact with the resources. This means for example identifying the original mine, purchasing agents and the different suppliers, etc.
- Inform suppliers of this transparency and traceability policy.

Identify and assess risks in the supply chain and any “red flags”

- For every step in the chain, identify the conflict-related risks (by checking on the security situation) and assess the extent to which traceability procedures are applied.

React and respond to identified risks

- Inform the company's senior management of the outcome of the risk assessment.
- Produce a risk management plan that sets out clearly the conditions required for continuing to do business with suppliers and those under which business will be suspended.

Carry out independent third-party audit to ensure companies have implemented due diligence

- The audit should be conducted in line with recognized standards of impartiality (no conflict of interest between the auditor and the company), competence (as set out in ISO19011) and statement of charges.

Report on supply chain due diligence

- Publish (eg on the company website) an annual report on the systems the company has applied to avoid using conflict resources.

¹ OECD, *OECD due diligence Guidance for responsible supply chains of contact minerals from conflict-affected and high-risk areas*, 2nd edition, 2013, OECD Publishing, <http://www.oecd.org/corporate/mne/GuidanceEdition2.pdf>

² OECD and ICGLR, *OECD due diligence Guidance: towards conflict-free mineral supply chains: How to boost your business and become certified under the ICGLR Certification Scheme* http://www.oecd.org/daf/inv/mne/EasytoUseGuide_English.pdf

From principle to legislation: ten years of international progress in conflict resources

For over ten years due diligence for supply chains of resources from conflict-affected and high-risk areas seems to be being applied as a key principle. It is now guiding States, companies and international organizations in implementing international agreements, domestic legislation and initiatives to sever the link between natural resources and conflict.

The 2003 **Kimberley Process Certification Scheme** established a certification process to prevent the trade and purchase on the world market of “conflict diamonds” that have funded the arming of violent rebel groups responsible for acts of violence against local people. The European Union implemented this scheme in Regulation 2368/2002.

In view of the widespread nature of the conflict in the DRC, and the extent to which armed groups finance themselves through natural resources, **the UN Security Council endorsed due diligence standards in 2010** for all companies, including European States, sourcing minerals from there so that their procurement does not support violence¹.

Section 1502 of the US Dodd-Frank Act (2010)² requires companies quoted on the US stock exchange who source tin, gold, tantalum and tungsten from the Great Lakes region to carry out due diligence in their mineral supply chain and provide detailed

reports to the Securities and Exchange Commission (SEC). This binding disclosure obligation identifies whether a company’s products contain minerals that have contributed to funding conflict in the DRC.

Since 2012, **Congolese³ and Rwandan law** requires companies operating in the gold, tantalum, tungsten and tin sectors in these countries to conduct due diligence that meets above-mentioned OECD criteria.

The **Regional Certification Mechanism (RCM) set up by the International Conference on the Great Lakes Region (ICGLR)**⁴ will create conflict-free supply chains for gold, tin, tungsten and tantalum from the Great Lakes. In line with OECD recommendations on due diligence, this mechanism is based on national and regional inspection procedures and labelling at mines, regional traceability and independent audits. At the moment, the RCM has been launched in Rwanda and the DRC.

Very often, at the instigation of professional or sector organizations, **private sector initiatives** are being set up like the iTSCi (ITRI Supply Chain Initiative). This is a program started by the tin industry to provide traceability for minerals from the mine to the processing company. It uses labelling, risk assessment and independent audits. Another of these “closed circuit” projects encouraging companies in the supply chain to work together to provide greater transparency is the CFSP (Conflict-Free Smelter Program). This system audits smelters and refineries to help companies and their suppliers know where the minerals they are using have come from.

¹ Security Council, Resolution 1952, 2010, <http://www.un.org/News/fr-press/docs/2010/CS10096.doc.htm> based on the guidelines in the report by the Group of Experts on the DRC 2010, UN S/2010/596, http://www.un.org/ga/search/view_doc.asp?symbol=S/2010/596

² Dodd-Frank Wall Street Reform and Consumer Protection Act, section 1502.

³ Ministerial order N.0057.CAB.MIN/MINES/01/2012, 29 February 2012, article 8.

⁴ Body composed of the twelve governments of the African Great Lakes region.

A PROPOSAL FOR A EUROPEAN REGULATION ON CONFLICT RESOURCES THAT IS TOTALLY INADEQUATE

The European Commission's Proposal for a Regulation

On 5 March 2014 the European Commission introduced a Proposal for a Regulation on responsible supply chains for minerals from conflict-affected and high-risk areas¹. While putting conflict resources on the European agenda is a step forward and a response to commitments the European Union has made over the last five years², the Proposal as it stands is much too weak to be effective.

The existing text is based on a **voluntary self-certification scheme for European importers of gold, tin, tantalum and tungsten, (as ore or metals) originating in conflict-affected and high-risk areas**. More specifically, this scheme would work as follows:

- European importers may self-certify themselves as “responsible importers”. Joining this certification scheme requires them to conduct due diligence in their mineral supply chains and report on this publicly (providing documentation) in accordance with the recommendations in the *OECD Guidance*.
- Member States carry out checks to ensure self-certified importers comply with their due diligence obligations on their supply chains and provide the European Commission each year with an updated list of importers in their country certified as responsible
- On the basis of this information, the European Commission will publish an annual list of European smelters and refiners who source minerals responsibly from conflict-affected and high-risk areas.

A joint communication on the Regulation suggested accompanying measures. These were mainly in the form of encouragement for European companies to adopt the voluntary self-certification scheme. The Commission is suggesting a path of favouring responsible importers in awarding European public procurement contracts. The accompanying measures go on to propose incorporating promotion of transparency and responsible mineral sourcing in cooperation programmes and strategic dialogue between the European Union and countries involved in extracting and processing (smelting and refining) minerals³.

“A neatly a gift-wrapped empty box⁴”

Being voluntary and limited in scope, the Proposal for a European Regulation seems to be highly inadequate. As it stands, such a text would neither contribute to restricting funding for armed groups nor develop responsible practices amongst European companies nor give European citizens a guarantee that the products they bought were conflict-free.

A voluntary non-binding Regulation

The main limitation for the European Commission's Proposal for a Regulation lies in the voluntary nature of the self-certification mechanism. The obligation to carry out due diligence on mineral supply chains would only apply to companies that had decided to accept it. Similarly a self-certified importer who failed to meet his due diligence would only have his certificate withdrawn whereas a binding Regulation would restrict access to the European market for companies which did not act responsibly.

By adopting a voluntary approach, the Commission is ignoring the request of the European Parliament in February 2014 for a binding text on conflict resources⁵. This decision is all the more incomprehensible given the known limitations of voluntary approaches. Non-binding tools to help companies improve transparency in their supply chains (the UN Guiding Principles and the OECD Guidance) have been available for over ten years. However the truth is

¹ COM/2014/0111 final – 2014/0059 (COD), *Proposal for a Regulation of the European Parliament and of the Council setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk areas*, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014PC0111>

² European Commission: *Tackling the challenges in commodity markets and on raw materials* COM (2011) 25 final, 2011, and Trade, growth and development COM (2012) 22 final, 2012.

³ Further details on the measures in the joint communication on the Proposal for a Regulation on responsible sourcing of minerals originating in conflict-affected and high risk areas, European Commission, *op. cit.*, 2014..

⁴ Judith Sargentini, MEP, (co-rapporteur of the European Parliament's February 2014 report on promoting development through responsible business practices) regarding the European Commission's Proposal for a Regulation.

⁵ European Parliament, *Report on promoting development through responsible business practices, including the role of extractive industries in developing countries*, 2013/2126(INI), 19 February 2014.

In its current version, the Commission's text would only affect 0.05% of European companies trading and using gold, tin, tungsten and tantalum.

that efforts at due diligence on supply chains are still largely of secondary importance for companies. According to a European Commission study, of the 330 companies surveyed, just 4% voluntarily do any public reporting that specifies how they identify and manage the risk of funding conflicts and human rights violations identified in their supply chains¹. In the absence of real legal pressure, most companies sourcing from conflict-affected and high-risk areas seem disinclined to

carry out and report on due diligence. What then is the value of a non-binding text that, in fact, merely replicates existing voluntary tools?

Finally, by choosing a non-binding Regulation, the European Commission is betting on a strategy based on damage to reputation. The prospect of having the media and the general public point the finger is supposed to be enough to incite companies to adopt the self-certification mechanism proposed in the Regulation². Voluntary regulation would ratify the existence of a two speed market made up of responsible companies and those that were not. The former would naturally reflect the cost of carrying out due diligence in the price of their products. If nothing else, should European citizens, already sorely tried by the financial crisis, thus have to pay the price for policy and bear European responsibility for conflict resources alone?

Too limited a Regulation

The European Commission's Proposal for a Regulation also appears totally inadequate because of its limited scope as regards both the companies and natural resources involved.

In its current version, the Commission's text would only affect 0.05% of European companies trading and using gold, tin, tungsten and tantalum³, or 419 companies broken down as follows, 19 smelters or

refiners, 300 traders and 100 component importers⁴. The European Commission explains this limited scope as a desire to target its action on a strategic layer of the supply chain, the primary importers. As the interface between mineral producing and mineral importing countries, these companies are supposed to have greater access to information allowing them to track minerals and have the capacity to impose transparency on players in the country of extraction. While the European Commission's analysis is valid and conforms to OECD recommendations⁵, it seems, on the other hand, detached from the current structure and operation of the European minerals market. As the figures above demonstrate, the European Union contains very few companies that directly import gold, tin, tantalum or tungsten as ore or metals. Most of the smelters and refineries, and the companies specializing in semi-finished and finished products are found in other parts of the world, especially Asian countries like China and Malaysia.

On the other hand, the presence of these minerals on the European market in finished products like electronic components and mobile phones is far greater. In 2013, the European Union imported 58 billion euros worth of mobile phones and laptops. 71% of these were products imported from China⁶. In 2011, European companies imported 40 million euros worth of electronic capacitors made from tantalum even though 17% of the tantalum used in China comes from Rwanda and the DRC⁷. These manufactured goods are then sold by numerous European companies but at present they would not be covered by the Proposal for a European Regulation. By leaving out a large number of companies directly exposed to conflict minerals, the existing text does not get to the heart of the problem. As it stands, would not create a sufficiently large "critical mass"⁸ of companies required to perform due diligence to move the European market towards greater transparency.

The excessively restricted nature of the Regulation also applies to the natural resources covered by the text. By concentrating exclusively on gold, tin, tantalum and tungsten, the Commission is excluding many other natural resources such as water, sand, oil or even agricultural land, all of which are directly

¹ European Commission, Impact assessment (external survey), *op. cit.*, 2013, p. 61.

² "EU drafts conflict minerals law, with opt-in clause," *Euractiv*, 5 March 2014, <http://www.euractiv.com/development-policy/europe-opts-weak-conflict-minera-news-533877>

³ Global Witness, *European companies able to reap rewards from deadly conflict mineral trade*, press release, 24 September 2014, <http://www.globalwitness.org/library/european-companies-able-reap-rewards-deadly-conflict-mineral-trade>
Percentage based on the figures in the European Commission's impact assessment mentioned above.

⁴ European Commission, Impact assessment (Commission staff working document), *op. cit.*, 2014, p. 19, http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152229.pdf

⁵ Supplement on 3T in the *OECD Guidance*.

⁶ UN Comtrade, [http://comtrade.un.org/Portable phones \(Code 851712\) / Laptops \(Code 847130\)](http://comtrade.un.org/Portable%20phones%20(Code%20851712)%20Laptops%20(Code%20847130))
See also Global Witness, *Statistical snapshot: The EU's role in the minerals trade*, <http://www.globalwitness.org/sites/default/files/Conflict/Statisticsfinal.pdf>

⁷ European Commission, Impact assessment (Commission staff working document), *op. cit.*, 2014, p. 20.

⁸ *Ibid.*, executive summary, p.5.

connected to perpetuating violence in many conflict-affected and high-risk countries¹. Conflict minerals are part of a much larger picture than just the four resources covered by the Regulation. Silver, nickel, lead, coal, copper (as in the case of the Letpadaung mine in Burma) as well as gem stones (covering precious, semi-precious and decorative stones) are no different. “Conflict diamonds” continue to fund

violent armed groups in many African countries, especially the Central African Republic where income from illegal exploitation and trade in diamonds allowed Sekela’s rebels (infamous for their violence against local people²) to finance their coup d’état in 2013. In Burma, precious stones like jade have been fuelling violence on a massive scale for over fifty years (see box).

BURMA

JADE AND CONFLICT IN KACHIN STATE^A



With an estimated annual output of 43.13 tonnes, Burma is the world’s top producer of jadeite jade, a rare and very high quality variety^B. 90% of Burmese jade is mined in Kachin state mainly from the many deposits in the Hpakant area^C. In these mines, the dreadful working conditions and widespread drug trafficking force many miners into drug addiction^D. Most of the production and trade in jade from the area is informal and has been fuelling violence in the area between the Kachin ethnic minority and the Burmese central government.

Control of the mines and roads in the area have successively funded the Kachin Independence Army (KIA) and the generals of the Burmese Junta, particularly during the 1994-2011 ceasefire. According to several NGOs, this period led to the plundering of the natural resources of Kachin state where the army actively encouraged the creation of large-scale mining projects and militarized the area massively^E. The open resumption of fighting turned Hpakant into a theatre of violent clashes causing a huge exodus of local people^F. The exploitation and trade in jade have thus fuelled a conflict whose roots were political and religious, relating to the non-recognition of Kachin identity and discrimination against this minority^G. In the 60s, control of jade became a strategic and political component in the claims of Kachin independence groups^H. Now, decentralized management of these resources by minorities appears to be a necessary condition for lasting peace^I.

¹ Examples and details, UNEP, *op. cit.*, 2009

² “In Central African Republic, Diamonds are Seleka rebels’ best friend”, *Huffingtonpost*, May 2013, www.huffingtonpost.com/2013/05/06/central-african-republic-diamondsrebels_n_3225410.html
Human Rights Watch, 2013, www.hrw.org/news/2013/05/10/centralafrican-republic-rampant-abusesafter-coup

^A The information in this box is mainly based on work by the Kachin Action Research Team (KART), *Natural Resources of Kachinland: Curse or Blessing to the people of Kachinland, analysis of the connection between jade mining and the ongoing conflict*, July 2014. See also: “Myanmar old guard clings to \$8 billion jade empire”, *Reuters*, 28 September 2013 <http://www.reuters.com/article/2013/09/29/us-myanmar-jade-specialreport-idUSBRE98S00H20130929>

^B D. Dapice and N. Xuan Thanh, *Creating a Future: Using Natural Resources for New Federalism and Unity*, Harvard’s Ash Center for Democratic Governance and Innovation, 2013.

^C Burmese Ministry of mines, http://www.mining.com.mm/Mines/mineral_resources.asp

^D “Myanmar suffers from the curse of the jade scorpion”, *Australian Financial Review*, 27 September 2013, <http://burmacampaign.org.uk/media/KachinHeroinEpidemic.pdf>

^E KART, *op. cit.*, 2014. Kachin Development Network Group KDNG, *Lessons from the Kachin ‘development’ experience*, 2012.

^F “Jade mines the focus of fighting in Hpakant”, *Myanmar Times*, 1 October 2012, <http://www.mmtimes.com/index.php/national-news/2005-jade-mines-the-focus-of-fighting-in-hpakant.html>
There are now 98,000 internally displaced people in Kachin state and the north of Shan state. IDMC report, *op. cit.*, 2014.

^G The 1974 and 2008 constitutions (still in effect) recognize neither the language nor the polytheistic religion of the Kachins. The Kachin minority has also been ignored politically (rejection of candidates for the 2010 and 2012 elections). Source: Info Birmanie.

^H A demand of the UNFC (United Nationalities Federal Council), a coordination group of over a dozen ethnic independence organizations in Burma, <http://www.mmpeacemonitor.org/stakeholders/unfc>

^I “Myanmar’s ethnic armies present a ceasefire draft”, *IRIN*, 7 November 2013, <http://www.irinnews.org/printreport.aspx?reportid=99065>

AN OPPORTUNITY TO TAKE ACTION: DEMANDING MORE AMBITIOUS EUROPEAN LEGISLATION

The EU needs an ambitious Regulation on conflict resources. The Regulation needs to be binding and be opened out to cover more companies and all natural resources.

Making a genuine commitment to human rights, peace and development

As the winner of the 2012 Nobel Peace Prize, the European Union cannot allow itself just to do the minimum when companies could be supporting conflict through irresponsible sourcing of minerals. Through its short term (unsafe security environment, massive displacement of people, etc.) and medium term effects (destruction of infrastructure and endangerment of communities' livelihoods etc.), conflict is directly eroding local development efforts and the impact of the EU's cooperation and development aid policies. Similarly, conflicts often

In 2013 the European Union was considered the 2^e biggest importer of mobiles and laptops in the world.

require the EU and its member states to allocate considerable sums to pay for peace-keeping forces and the deployment of armed forces to bring stability to affected areas. A binding European Regulation would create synergy between European foreign policy initiatives and would constitute a key element in a wider European strategy on peace and development in conflict-affected and high-risk areas.

The European Commission cannot ignore the growing trend over the last ten years towards greater transparency for supply chains and greater company responsibility for human rights. This is evident in the increasing recognition by European countries of the UN and OECD voluntary principles based on due diligence and their gradual incorporation into law. The current translation into domestic legislation by EU Member States of directives requiring European companies in the extractive and forestry sectors to demonstrate greater tax transparency¹ is also indicative of this trend. European citizens, shocked by tragedies such as the Rana Plaza collapse in 2013², are showing themselves to be increasingly aware of the provenance of goods in their daily lives and any infringements of human rights sully their production. Against this background, a bold signal would allow the EU and its Member States to show an example in areas as vital as sustainability of resources, transparency and companies' social, environmental and tax responsibility

An ambitious Regulation would have an influential, far-reaching snowball effect. With close to half a billion consumers³, the EU represents a sizeable market for many products, particularly those containing natural and mining resources. In 2013 the European Union was considered the second biggest importer of mobiles and laptops in the world⁴. More generally, the Europe represents 25% of the world market for tungsten, tin and tantalum⁵. The EU is home to a vast number of companies using and trading in these resources in raw or metal form, and semi-finished and finished products. For gold, tin, tantalum and tungsten alone they involve 880,000 companies⁶. The influence of the European Union could therefore drive the world market towards more responsible sourcing of natural resources. This is all the clearer when the world market is already taking on board American regulatory progress (Dodd-Frank Act) that is heading in the same direction. By imposing due diligence on its companies, the European Union would force intermediaries in supply chains to call their suppliers and subcontractors to account and would thus encourage other countries to develop regulations on transparency.

¹ European countries are currently in the process of incorporating the European Accountancy and Transparency Directives into domestic law 2013/34/UE. France is one of the first countries to integrate these directives into its legislation (effective autumn 2014).

² On 24 April 2013 a building collapsed that housed clothing workshops producing clothes for famous brands. This tragedy cost the lives of 1,138 Bangladeshi workers.

³ European Commission, Directorate General for Trade site, <http://ec.europa.eu/trade/policy/eu-position-in-world-trade/>

⁴ UN Comtrade, <http://comtrade.un.org/> Mobile phones (Code 851712)/ Laptops (Code 847130). See also Global Witness, *Statistical snapshot: The EU's role in the minerals trade*, <http://www.globalwitness.org/sites/default/files/Conflict/Statisticsfinal.pdf>

⁵ IPIS Insights, *The EU draft law on conflict minerals due diligence: a critical assessment from a business and human rights standpoint*, April 2014, http://www.ipisresearch.be/publications_detail.php?id=443

⁶ Joint Communication on the Regulation, European Commission, *op. cit.*, 2014, p. 6.

Positive impacts for European companies

An ambitious European Regulation on responsible mineral sourcing accused by its detractors of being anti-business and penalizing European companies but would, in fact, work in their favour.

An argument often put forward is the cost to companies of a binding Regulation. In this context it should not be forgotten that for strategic and commercial reasons, companies already ensure their supply chain is safe through their management and monitoring systems and already produce reports. As the OECD points out, the cost of gathering the information needed for risk assessment can often be massively reduced through cooperation within sectors (exchanging information on common suppliers or the security situation in mining areas for example) and using the tools available to companies as part of transparency and certification initiatives¹. Since due diligence is a risk-based approach, companies identifying no “red flags” in their supply chains would not, in any case, be required to carry out any further enquiries. Due diligence based on the OECD’s recommendations would therefore not seem to involve prohibitive costs², as the outcome of a European Commission survey showed. It estimated that the average cost of reporting on the mineral supply chain was 0.014% (for the initial set-up) then 0.011% (annually) of companies’ turnover³.

Furthermore, an ambitious European text would set up a regulatory framework applicable to all European companies exposed to conflict resources. This is not the case at present since only European companies listed on the US stock exchange are under any legal obligation, via section 1502 of the Dodd-Frank Act. Voluntary regulation would only increase the risk of creating a two speed market and distort competition between those companies obliged to carry out due diligence and those that were not.

An ambitious regulation would also have the merit of subjecting European companies to the same level of requirement as the US Act, thus reducing

the risk to their reputation (and attendant potential commercial disadvantage) currently run by European companies perceived by consumers, shareholders and investors not to care about the human rights impact of their activities. An ambitious text, on the other hand, would represent a bold signal to encourage companies to aim for more transparent and responsible supply practices and profit from the competitive advantage and return on investment offered by conflict-free products.

Such a Regulation would give long-term security to supply chains by providing sustainable access to resources at lower cost, which the existing continuation of conflict in areas of extraction does not permit⁴.

An effective Regulation within reach

An ambitious European Regulation appears relatively easy to put in place given the progress towards greater transparency in supply chains that has been recorded for more than ten years⁵. This constitutes a solid base for now putting forward ambitious, pragmatic European legislation informed by limitations and lessons drawn from other countries. In this context, the first results of implementing binding US legislation should help European decision makers (see box). Since they are complementary, initiatives by countries of extraction will encourage due diligence by European companies. Similarly, labelling mines in the Great Lakes region as part of the ICGLR Regional Certification Mechanism is intended to guide companies in a practical way towards more transparent supply chains. The European Union already possesses a valuable precedent regulating natural resources based on due diligence – the EU Timber Regulation (EUTR)⁶. This came into force

It estimated that the average cost of reporting on the mineral supply chain was **0.014%** (for the initial set-up) then **0.011%** (annually) of companies’ turnover.

¹ OECD Guidance, 2013.

² Global Witness, testimony to the US Congress, May 2013, <http://financialservices.house.gov/uploadedfiles/hhrq-113-ba19-wstate-spickles-20130521.pdf>
See also: Green Research, *The Costs and Benefits of Dodd-Frank Section 1502: A Company Level Perspective*, 2012, www.sec.gov/comments/s7-40-10/s74010-470.pdf

³ European Commission, Impact assessment (Commission staff working document), *op. cit.*, 2014, p. 5. Survey of 330 companies. Costs related to implementing the first stages of due diligence as recommended by the OECD.

⁴ Global Witness, *Implementing the conflict minerals provision, the cost of business as usual*, 2012, <http://www.globalwitness.org/library/implementing-conflict-minerals-provision-cost-business-usual>

⁵ This refers to the principles, legislation and initiatives covered at the beginning of the second part of this report.

⁶ European Parliament and European Council, *Regulation 995/2010* laying down the obligations of operators who place timber and timber products on the market, 20 October 2010, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:295:0023:0034:FR:PDF>

in 2013. It is a binding text requiring European companies importing and trading in timber products to conduct due diligence over their supply chains and bans the sale of illegally felled timber on the European

market. It would therefore seem worthwhile to follow the path blazed by the EUTR, while taking account of its main weaknesses¹, to produce as complete a Regulation as possible on minerals.

OPTING FOR BINDING LEGISLATION: A LOOK AT THE INITIAL RESULTS OF THE US ACT^A

It still seems too early to produce an exhaustive account of implementing section 1502 of the Dodd-Frank Act^B and assess in detail all of its socio-economic effects^C. That said, it still seems possible to identify encouraging elements regarding transparency and traceability in mineral supply chains from the DRC, especially tin, tungsten and tantalum^D.

Many companies subject to the legislation have started to put in place more transparent monitoring and risk management systems^E. The imposition of a binding framework also seems to have been decisive in encouraging the setting up of sectoral initiatives and many companies signing up to these measures. For example, Nokia, Hewlett Packard and Motorola Solutions have joined “Solutions for Hope”, a programme to install conflict-free supply chains for tantalum^F. In April 2014, 85 smelters and refineries had already been certified in the “Conflict-Free Smelter Program” with another 110 plants being assessed^G. Section 1502 of the Dodd-Frank Act seems to have had an effect on the domestic legislation of some of the Great Lakes countries as shown by the introduction of an obligation by the Congolese government on all companies operating in the gold, tantalum, tungsten and tin sectors in their country to undertake due diligence^H.

When it comes to negotiations on the European Regulation on responsible mineral sourcing, the American example ought to encourage European leaders to opt for binding legislation.

^A For further details on Dodd-Frank, see p. 26 of this report and EurAc, *European draft Regulation on responsible mineral sourcing, What lessons can be learned from the Democratic Republic of Congo?*, October 2014, <http://www.eurac-network.org/pdf/plaidoyers/eurac-position-lessons-drc-conflict-minerals-final.pdf>

^B Passed in 2010, this Act came into force on 31 January 2013, giving companies till 31 May 2014 to meet the detailed reporting requirements in full.

^C Studies are already showing that these effects tend to vary with the local context. Important factors are – how isolated the mining areas are and the degree of involvement of local mining communities in implementing the traceability initiatives. Source: K. Matthysen and A. Zaragoza Montejano, *Conflict Minerals’ initiatives in DR Congo: Perceptions of local mining communities*, IPIS/EurAc, 2013.

^D Initial effects seem to need to be viewed differently for gold than for 3T. Source: *Ibid.*

^E Global Witness, *Seeing the light, responsible sourcing from the DRC*, April 2014, <http://www.globalwitness.org/sites/default/files/Seeing%20the%20Light%20April%202014.pdf>

^F IPIS Insights, *op. cit.*, 2014.

^G For further information on these initiatives, see: Global Witness, *op. cit.*, April 2014.

^H *Ibid.*

¹ For example the EUTR does not require any independent audit or divulging of the outcome of diligence, which hinders assessment and monitoring procedures. Any Regulation on conflict resources would need to avoid these weaknesses. *Breaking the Links Between Natural Resources and Conflict*, September 2013, <http://www.globalwitness.org/sites/default/files/Conflict/Position%20paper.pdf>

Recommendations



Demonstration against the Letpadaung copper-mine project, Burma

Taking action “here”: our recommendations for a more ambitious European Regulation

Civil society from the North and South has been calling for a European Regulation on responsible sourcing of resources from conflict-affected and high-risk areas and it is now about to appear.

Although it could have been a great opportunity for the European Union to contribute to sever the link between natural resources and conflict, the Regulation put forward by the European Commission in March 2014 is

clearly inadequate. France will have a key role to play in European negotiations on this text. We would therefore ask it to speak up for an ambitious European Regulation by implementing the following recommendations.

- **The voluntary self-certification scheme needs to be replaced by a binding obligation** for companies covered by the Regulation to carry out and report publicly on their supply chain due diligence efforts, in line with the recommendations of the *OECD Guidance*.
- **The categories of companies targeted by the Regulation needs to be widened** beyond the limited number of primary importers to include end-user companies who first place component parts or finished products containing these materials onto the European market.
- **The range of resources covered by the Regulation needs to be extended** to cover all natural resources from conflict-affected and high-risk areas whose trade and exploitation could contribute to supporting violence and be linked to violation of human rights.
- **The articles regarding obligations for independent audits and public reporting need to be extended and clarified** so that this activity is carried out in line with the recommendations in the *OECD Guidance*.
- **The global geographical scope of the Regulation should be retained and clarified** by sticking closely to the OECD’s definition of “conflict-affected and high-risk areas”. A list of countries would, under no circumstances, be a suitable or satisfactory tool as it would stigmatize and be limited in scope.
- **Appropriate, proportionate sanctions need to be included** for companies infringing the Regulation, particularly those that decline to carry out due diligence or those that do not implement risk management measures and do not, as a last resort, sever business relationships despite early “red flags” identified in their supply chains.

Taking action “over there”: recommendations by our partners

As a global problem, conflict resources need solutions both upstream and downstream in the supply chain.

European legislation on responsible sourcing of natural resources therefore needs to operate in tandem with measures taken in countries where exploitation and trade in resources is maintaining conflicts.

In this context, CCFD-Terre Solidaire’s Burmese, Colombian and Congolese partners, who contributed to this report, are asking their respective governments to¹:

- **Implement measures to provide peace, security and protection of human rights** in resource-rich areas currently torn by conflict.
- **Take control of and regulate mining.**
- **Rethink the governance of natural resources** as regards both access and management so that local people, particularly those in mining areas, are involved.
- **Institute transparency and fair distribution of income from the exploitation of natural resources** – publish contracts between extractive companies and governments, country-by-country reporting, citizen and parliamentary control over use of tax breaks, etc.

Taking more comprehensive action: reining in the multinationals

The problem of conflict resources connects back more widely to the need to rein in the activities of multinationals in the South.

Either through their own operations or those of their business relationships, far too many companies are responsible for violence, environmental disasters and human rights violations.

International standards have been available for over ten years (the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises) and they are opening the way to making multinationals responsible for their actions. Due diligence for parent and subcontracting companies vis-à-vis their subsidiaries, subcontractors and suppliers is a central element of protecting human rights. Such a tool would encourage companies to be more careful and would give people who had suffered from the activities of multinationals, access to justice. It is therefore vital to make these principles binding and incorporate them into domestic law.

While the French government needs to act at European level, it must also set an example at national level. We therefore ask it **to support the scrutiny by the French parliament of legislative proposals on due diligence for parent and subcontracting companies vis-à-vis their subsidiaries and subcontractors**².

¹ For the specific recommendations to the Burmese, Colombian and Congolese governments from CCFD-Terre Solidaire’s partners, see the appropriate appendix, p. 36-37.

² On 6 November 2013 legislative proposals instituting due diligence for parent and subcontracting companies vis-à-vis their subsidiaries and subcontractors were tabled by the SRC and EELV groups (<http://www.assemblee-nationale.fr/14/pdf/propositions/pion1524.pdf>) followed on 13 February 2014 by the RRD group and the GRD group on 29 April 2014.

PARTNER'S SPECIFIC RECOMMENDATIONS TO THEIR RESPECTIVE GOVERNMENTS

Recommendations on... to the governments of...	BURMA
<p>Peace, security and protection of human rights</p>	<p>Establish conditions for lasting peace needed for any mining in Burma. In practice this requires:</p> <ul style="list-style-type: none"> • the withdrawal of the Burmese army from areas controlled by independent armed groups (at least to the areas established by cease-fires; • opening genuine political dialogue with representatives of ethnic groups; • the guarantee of a federal State. <p>Commit to recognizing international law and protecting human rights by signing the UN International Covenant on Civil and Political Rights and respecting commitments to the international community on political liberties (press, expression, protest, etc.).</p> <p>Guarantee access to justice for local people whose human rights have been infringed by mining companies.</p>
<p>Supervision and regulation of mining</p>	<p>Create a rigorous legal framework for the mining sector so that investment projects would have to:</p> <ul style="list-style-type: none"> • respect people's free, prior and informed consent and the Declaration on the Rights of Indigenous Peoples; • be preceded by political dialogue with all stakeholders in the project including representatives of ethnic groups in the areas involved; • be preceded by impact studies to evaluate the impact of the projects on the environment, human rights and health or any other socio-economic consequence.
<p>Access to land, management of natural resources and development policies, and regional development</p>	<p>Support the right of local people to ownership of their land and decentralized management of natural resources. This would require:</p> <ul style="list-style-type: none"> • amending article 37 of the 2008 Constitution that makes the State the final owner of all of the country's land and natural resources; • in time, setting up a federal State and a new constitution conferring on the various states the right to self-determination and self-governance; • developing a national land-use policy that includes establishing a land registry system and fair distribution of land. <p>Line with UNESCO standards protect the country's cultural heritage and historic infrastructure from mining projects.</p>
<p>Transparency and fair distribution of revenue from exploitation of natural resources</p>	<p>Demonstrate transparency and allow the Burmese people to control the use of revenue from mining and hold the government to account. This would require:</p> <ul style="list-style-type: none"> • publishing a transparency report by the beginning of 2016 on the income from mining, gas and oil, in line with Burma's admission in July 2014 as a candidate country to the EITI (the Extractive Industries Transparency Initiative); • transparency as regards the identity of the real owners of companies and the revenue share agreements between foreign companies, State enterprises and the government; • publication of calls for tender, the selection process and contracts made between the Burmese authorities and companies for the allocation of mining permits; • publication of country-by-country reporting for extractive companies.

CCFD-Terre Solidaire’s partners in this report, in consultation with local communities and organizations made specific proposals to their respective governments to help sever the link between natural resources and conflict. **Their recommendations were as follows:**

COLOMBIA	DEMOCRATIC REPUBLIC OF THE CONGO
<p>Stop the process of (para)militarizing mining areas operated by the government and the resulting human rights violations.</p> <p>Combat the general laxness in policy, security and environmental standards and institutions that is contributing to the plundering of land and resources in mineral-rich areas.</p>	<p>Work to open up conflict-affected mining areas by re-establishing the transport infrastructure. This would reduce the risk of regions finding themselves cut off and in the hands of armed groups so that, if there were a problem, the authorities would have easier access and could protect local people.</p> <p>Strengthen the presence of the state (particularly the administration and public services) in conflict-affected areas. This would require the process of decentralization to be speeded up.</p>
<p>Redefine the mining and natural resource exploitation policy. This requires implementing a stricter permit allocation regime for mining projects. Such a regime needs to:</p> <ul style="list-style-type: none"> • set environmental and social criteria. Prospecting and exploitation should not take place without prior acquisition of a social and environmental licence; • ensure that mining projects on lands occupied by ethnic minorities, smallholder and rural communities and displaced people or those exposed to the risk of displacement, obtain the free, prior and informed consent of the people. In this context the “prior consultation” guaranteed by the constitution must be strictly applied; • produce local diagnostics in areas affected by resource exploitation. 	<p>Put in place the urgent vital reforms needed in mining:</p> <ul style="list-style-type: none"> • complete the revision of the 2002 Mining Code; • require the Ministry of Mines to update the register of the mines registry office. <p>Improve the skills of public services so that they can:</p> <ul style="list-style-type: none"> • ensure that domestic laws and international standards (particularly regarding community consultation procedures) are strictly observed by extractive companies and action is taken against infringements; • ensure commitments by extractive industry to local communities that could be affected by their activities are respected. <p>Support local and regional initiatives to formalize the artisanal mining sector by encouraging miners to join approved mining cooperatives, the recognition and approval of artisanal mining sites and the creation of artisanal mining areas.</p>
<p>Review development and regional policies with regard to the limits to the extractivist model. This recasting of public policy needs to be done democratically, based on:</p> <ul style="list-style-type: none"> • dialogue at local, regional and national levels that includes all sectors and interested parties (researchers, companies, local people, international entities, etc.); • setting up local and regional forums for dialogue, consultation and decision making on regional development. Such forums will allow communities to express their points of view and concerns, and put forward counter proposals about resource development and management. <p>Protect sacred sites and areas of great cultural diversity related to the way of life of indigenous peoples, smallholders and the Afro-Colombian community.</p>	<p>Include local people in the management of natural resources and, more widely, in the choice of development for their area.</p> <p>Protect the interests of artisanal miners in the gradual switch from artisanal to industrial or semi industrial exploitation.</p>
<p>Provide greater transparency on how mining title deeds are allocated, especially in areas where rural, indigenous and Afro-Colombian communities live.</p> <p>Make transparency a priority at national and local level to combat corruption and tax evasion.</p>	<p>Reform the process for delivering mining title deeds to provide greater transparency and assess, through independent audit, the validity of deeds.</p> <p>Decentralise and strengthen public administration to:</p> <ul style="list-style-type: none"> • ensure the requirement to publish mining, oil and forestry contracts on line is respected; • ensure companies pay duties and taxes and take action against those who do not; • require companies to publish country-by-country reporting; • apply article 242 of the Mining Code regarding sharing income from mining amongst local entities; • permit the development of redistribution tools for the income from natural resources (such as participatory budgeting and development plans).

The following organizations contributed to this report

CCFD-Terre Solidaire

The Catholic committee against hunger and for development-Terre Solidaire is the premier development NGO in France. It received state recognition in 1984 and was given the Cause of National Importance in 1993 and has consultative status at the UN Economic and Social Council. For over 50 years CCFD-Terre Solidaire has worked to reduce hunger in the world via three modes of operation – international development projects run with local partners, raising awareness and understanding of development amongst the French public, and advocacy with French and European political and economic decision makers.

Info Birmanie / France

Info Birmanie was created in 1996 and is an information and advocacy centre whose main mission is to inform and raise awareness amongst French civil society and decision makers about the political, economic and social situation in Burma, in order to promote peace, democracy and human rights. In December 2013, Info Birmanie visited Letpadaung¹ where “Monitoring Copper Mining and Community Development” is raising awareness, training and organizing the 26 villages affected by copper mining.

CERN / Democratic Republic of the Congo

The Commission épiscopale pour les ressources naturelles (CERN) [Episcopal Commission on Natural Resources] is a body of the Conférence épiscopale

nationale du Congo (CENCO) [National Episcopal Conference of Congo]. It is a technical, investigative body charged with matters relating to the exploitation of natural resources. It operates by involving people and informing them about natural resources and their management and through advocacy in order to influence policy to support the interests of local people. In December 2013 CERN published a report on the link between natural resources and conflicts in the Walikale territory².

ILSA / Colombia

The Latin-American institute for alternative legal services supports a network of grass-roots alternative law services based on a critical view and use of the law. ILSA is involved in research, training, networking and advocacy. In connection with its work on the socio-territorial impact of conflict, in August 2014 it published an analysis of the connection between gold mining and conflict in Colombia³.

KART / Burma

The Kachin Action Research Team is a working group of nine local organizations in Kachin state – Humanity Institute, Myitkyina Student Union, JLH-Ram Hkye, Farmers Network, Shingnip Legal Aid Network Group, All Kachin Students and Youth Union, Kachin Women’s Association Thailand, Kachin Affairs Research and Discussion Group, and Kachin Women Union. KART published an analysis in July 2014 of the connection between the trade in jade and the conflict in Kachin state⁴.

¹ Info Birmanie, *Rapport de mission à Letpadaung* [Letpadaung Visit Report], December 2013.

² CERN-CENCO, *L’impact de l’exploitation minière sur l’économie et le social de Walikale* [The Economic and Social Impact of Mining in Walikale], December 2013.

³ ILSA, *Minería del oro y conflictos sociales en Colombia; tendencias generales y análisis de caso*, July 2014.

⁴ KART, *Natural Resources of Kachinland: Curse or Blessing to the people of Kachinland, analysis of the connection between jade mining and the ongoing conflict*, July 2014.

Produced by: CCFD-Terre Solidaire, 4, rue Jean-Lantier, 75001 Paris - Tel. (+33) 01 44 82 80 00

Editor: B. Pinaud

Editorial Coordination: C. Dorémus-Mège, M. Laurent

The following actively contributed to producing this report:

C. Dorémus-Mège, M. Laurent, M. Dupré, C. Birène, J. Louis-Servais, W. Prysthon, S. Pommeret, C. Contensou, ILSA (Colombie), Info Birmanie, le KART (Birmanie) et la CERN (RDC).

Production manager: E. Cauchois

English translation: P. Holland

Proofreading, editorial secretary: G. Vachet

Graphic design: C. Maddens

Photo credits: Cover + page 7: © Lucas Oleniuk, page 9: © Mark Craemer, page 22: © Federico Rios, page 33: © Burma Partnership

Reference : 8030114A



This report is published as part
of the “Des multinationales
hors-jeu” campaign



“Des multinationales hors-jeu”
[Multinationals - yellow card] is
a CCFD-Terre Solidaire campaign
to rein in the activities of French
multinationals in the South so that
they contribute to development and
respect human rights.

To follow us and find out
about the campaign, visit:
[ccfd-terresolidaire.org/
petition-horsjeu](https://ccfd-terresolidaire.org/petition-horsjeu)

Reference 8030114A

