



# Conflict-Free Minerals: Why Formalization Efforts in Eastern DRC Should Be Reviewed

## Executive Summary

This policy brief critically reviews formalization efforts of artisanal and small-scale mining (ASM) in eastern Democratic Republic of the Congo (DRC), which have had ambiguous outcomes that will have counter-productive effects (such as conflict and corruption) on peace and security in the region. To negate such effects, international organizations (like the United Nations, the International Council on Mining and Metals, and the DRC government) should prevent top-down formalization efforts, ramp up anticorruption measures, and address causes of conflict wholesomely.

## Background

Eastern DRC is a volatile region marked by foreign invasions, internal rebellions, massive displacement, and human rights abuses. Numerous armed groups control significant swathes of territory and sustain themselves through illegal taxation, fishing, timber trafficking, racketeering, smuggling, and illegal mining in their 'territories'. The DRC has significant mineral resources such as tantalum, copper, tin, gold, and cobalt, worth over USD 24 trillion (Council on Foreign Relations, 2016). Between eight and 10 million people (10 – 13 per cent of the population) work in the mining sector (Vogel, 2014).

In recent years, several national and international initiatives (DRC Mining Code, increasing royalty rates on minerals, Dodd-Frank Section 1502, Kimberley Process Certification Scheme) to make DRC's artisanal mining more profitable, transparent, and prevent conflict minerals, have been launched (Diemel & Cuvelier, 2015). Eastern DRC has become a testing ground for such reform initiatives. For example, Artisanal Exploitation Zones (AEZ) were allocated to mining companies such as state-owned Gécamines and Katanga Mining Limited to govern artisanal mines. Additionally, the United States adopted the Dodd-Frank financial reform law Section 1502, that requires companies registered with the US Securities and Exchange Commission to disclose whether they mine DRC's minerals and whether those minerals are connected to conflict in any way (Wolfe, 2015). This expensive certification process is done on a mine-by-mine basis by the Regional Certification Mechanism of the intergovernmental International Conference on the Great Lakes Region.

In an open letter in September 2014, 70 academics, researchers, journalists, and advocates criticized Dodd-Frank Section 1502, arguing that groups pushing to stop conflict minerals are "contributing to, rather than alleviating, the very conflicts they set out to address" (Open Letter, 2014). They

argued that such a campaign “fundamentally misunderstands the relationship between minerals and conflict” (Open Letter, 2014). Formalization efforts such as these could compromise peace and security in DRC.

Among policymakers and governments there is a broad consensus that artisanal and small-scale mining (ASM) needs to be formalized (Geenen, 2012). This ethically-driven impetus is a result of consumer pressure following reports of human rights abuses, crushing poverty, and open conflict in the ASM area in eastern DRC. The results of such formalization efforts remain ambiguous.

## Key Findings

Cuvelier et al. (2014) have argued that debates on cyclical violent conflict in eastern DRC have orbited around the role of minerals in nurturing violent entrepreneurs.

Stakeholders, including academics and advocates, have argued that even though minerals perpetuate the conflict in eastern DRC, the minerals are not its cause. “National and regional political struggles over power and influence ... access to land and questions of citizenship and identity are just ... structural drivers of conflict” (Open Letter, September 2014). They argued that overly focusing on formalizing minerals blurs peacemaking efforts and might affect the local populace negatively.

Vogel, Musamba, and Radley (2018) demonstrate that formalization of eastern DRC’s resource markets through traceability and certification has had ambiguous outcomes that threaten an informal ASM sector already in jeopardy. The reasons why and how formalization efforts harm local artisanal miners and their families are diverse and context-specific. In eastern DRC, a push for traceability and certification aggravates an already pressing socio-economic position (Vogel, et al., 2018).

Based on fieldwork in the DRC, Wakenge (2018) argues that ongoing reforms aimed to sever the supposed linkages between the mining business and violent conflicts create new types of conflict, ‘reform conflicts’. In such conflicts, state authorities instrumentalize reform policy and redefine access to mining areas. Concern over conflict-free minerals tends to blur the nature and effects of reform conflicts, and without revealing and adequately addressing them, mining reforms will fail to improve the living conditions of people living in (ASM) areas (Wakenge, 2018).

Hilson and Potter (2005) posit that reforms in and of the mineral sector in sub-Saharan Africa have largely been top-down formalization efforts, externally driven, and biased in favour of large-scale extractive companies. This can lead to tensions between these companies and artisanal miners.

Geenen (2012) argues that top-down formalization policies do not address the broader socio-economic and political issues associated with ASM, such as conflict, informality, poverty, illegality, and state control.

Sikor and Lund (2009) argue that property and access are closely linked to power and authority. When reforms are being undertaken to grant AEZ entitlements to large mining corporations, artisanal miners are denied property rights. This serves as a basis for conflict.

Plateau (2004) found that mining reforms, to end violent conflict have created competition over property and access, as elites and authorities use reforms to gain access and ownership of AEZ entitlements. Lund (2006) argues that corruption, political networks and powerful alliances effectively undo and negotiate formal rules and regulations.

Echoing Plateau (2004) and Lund’s (2006) lines of thought, Global Witness, an anti-corruption NGO and human rights defender, revealed that Glencore-Xstrata, the world’s largest commodities trader, enriched a friend of DRC’s President Joseph Kabila, Dan Gertler, by tens of millions of dollars and structured deals to protect his interests as it gained control of one of Africa’s biggest copper mines, the Kamoto mine. Just five of these deals have resulted in the Congolese state losing out on some USD 1.4 billion, almost twice the country’s annual

spending on health and education combined (Global Witness, 2014).

A 2010 Business for Social Responsibility (BSR) report found that addressing the links between mineral sourcing and the conflict in the DRC requires an integrated, multi-stakeholder and multi-sector approach. Stronger authorities should be coupled with better border

controls, trade route monitoring, international tracking and tracing schemes, formalization of artisanal miners, and anticorruption efforts (BSR, 2010).

Zvarivadza and Nhleko (2018) posit that artisanal and small-scale mining is often done by uneducated and unregistered miners. Policies targeting these miners should be

disseminated in a comprehensible manner or they will fail. Zvarivadza and Nhleko (2018) further argue that a cooperative approach to devise sustainable, workable, and realistic ways to convert artisanal and small-scale miners into contributors to development should be developed and adopted by large-scale mining companies, the government, and civil society at large.

## Conclusion

Formalization efforts, as part of reforms in and of the mineral sector in eastern DRC, have had ambiguous outcomes and not necessarily reduced conflict. The efforts might put an already jeopardized economic sector under even more strain. Furthermore, even formalization efforts that have succeeded could create new sorts of

conflicts around issues of property, access, and ownership. Addressing the links between minerals and conflict effectively will entail integrated multi-stakeholder and multi-sector approaches to fight corruption, formalize and legislate mining, convert artisanal and small-scale miners into contributors to development.

## Recommendations

International organizations working to diminish the effects of minerals on conflict deterioration should:

- Focus on issues other than formalization efforts, such as access to land and questions of citizenship and identity, which are structural drivers of conflict.
- Prevent formalization efforts from damaging an economic sector already in jeopardy. Formalization efforts should protect local economies and livelihoods of miners.
- Adequately address reform conflicts.
- Adopt an integrated, multi-stakeholder and multi-sector approach to mining. Better border control, trade route monitoring, international tracking and tracing schemes, formalization of artisanal miners, and anticorruption efforts, should be encouraged.

The DRC government should:

- Prevent top-down formalization efforts by involving the local populace. As most artisanal miners are uneducated and unregistered, formalization should be done in a comprehensible manner.
- Intensify anticorruption efforts. Corruption creates unequal access to AEZ entitlements, causing contempt among civilians which might lead to conflict.
- Prevent elites and large-scale international mining cooperatives from using formalization reforms to private ends.

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