

## **BLOOD MINERALS** **(The Criminalization of an Economic Sector in Eastern DRC)**

The reports of non-governmental organizations (NGO's)<sup>1</sup> as well as those of the panels of experts of the United Nations<sup>2</sup> are almost unanimous in demanding that the artisanal extraction of minerals in eastern DRC<sup>3</sup> be placed under strict supervision, if not totally boycotted by the western consumers of the finished products of the companies using these minerals.<sup>4</sup> The arguments put forward in these reports, that there is a close connection between the violence and suffering of the civilian population living in the mining zones in eastern DRC and the control exercised in these areas by different armed groups, are certainly valid.

During the years of the Congolese rebellion between 1996 and 2003 the Lusaka Accord of July 1999 allowed the different rebel groups that had divided the country between themselves to effectively constitute themselves as "States", with the right to maximize their profits in the territories under their control. The coltan boom between 1998 and 2001, or that of cassiterite in the years that followed, without a doubt constituted the nerve centre of the war for the different rebels groups.

The control of the mines such as those of Bisie in the territory of Walikale by the 85<sup>th</sup> Brigade of FARDC in collaboration with the FDLR between 2006 and February 2009 is a good example that more than amply shows how the armed men exploit the artisanal extraction of minerals. The mines have become a source of wealth, profiting the commissioned officers of both FARDC and other armed groups to the extent that it has become difficult to imagine how these armed men can ever be made to abandon such a lucrative industry, especially in the context of a bankrupt Congo where the State has ceased to exist in many parts of the Republic. The inaccessibility and isolation of mining zones such as Mwenga in South Kivu or Bisie in the territory of Walikale in North Kivu exacerbate this absence of the State.<sup>5</sup>

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<sup>1</sup> Global Witness, "Face a un fusil, que peut-on faire?", July 2009; The Enough Project, "Digging In: Recent Developments on Conflict Minerals", January 2010.

<sup>2</sup> Final Report of the Group of Experts on the DRC, S/2008/773, 10 December 2008.

<sup>3</sup> Center on International Cooperation, "Independent Oversight for mining in the Eastern Congo". A Proposal for a Third Party Monitoring & Enforcement Mechanism, Concept Note, January 2010.

<sup>4</sup> PRENDERGAST, John, "A light at the end of the tunnel in Congo", February 26, 2010. The author finds that one of the signs of hope in the extraction of minerals in eastern DRC is that western consumers of the finished products such as electrical appliances, mobile telephones and gold jewellery increasingly demand that these products be certified as having no connection with zones of conflict in the DRC.

<sup>5</sup> The absence of a Congolese state capable of imposing order and the rule of law is constantly deplored by all. This absence of a state that is truly Congolese has contributed to the emergence of a multitude of individuals and departments acting "on behalf of the state" who have privatized the duties of the state and are the source of all manner of inconvenience and illegal taxes.

## 1. Mineral Exports: A Major Source of Revenue for the Province.

However, beyond the possibility or even the impossibility of an international intervention to render the minerals of eastern DRC ‘clean’ for use, in other words conflict-free, it is important to emphasize that the criminalization of the mining industry underestimates the fact that more than two-thirds of the revenue of a province like North Kivu depends on mineral exports.

The dilemma becomes even greater when the mining industry is criminalized without offering an alternative to a possible boycott of these minerals. The paralyzing effect that this would have on the economy of the eastern DRC would be such that the civilian population that survives thanks to both the formal and informal trade made possible by, among others, the circulation of millions of US dollars generated by this same mining industry would suffer even more. The absence of this currency on the market would have dire consequences for the local economy as a whole, where the Congolese Franc has devalued at a very rapid rate, resulting in a steep rise in the cost of fuel and other basic necessities. This vicious circle has become a real trap that the international lobbyists calling for a boycott of minerals from the eastern DRC have to take into account. It would be irresponsible to simply call for a boycott without offering any concrete proposal for the injection of new life into the local economy, or some other alternative measures.

The following table, shows the importance of the mining industry to the local economy.

Statistics of registered official exports of cassiterite and coltan in North Kivu:

<b>Year</b>	<b>Cassiterite (in tonnes)</b>	<b>Coltan (in tonnes)</b>	<b>Value in USD/cassiterite and Coltan</b>
2003	938	26	815. 400
2004	4672	42	3. 821. 600
2005	3599	26	6. 774. 200
2006	2904	39	7. 190. 100
2007	10175	74	28. 098. 181,39
2008	13311	85	83. 240. 574,57
2009	10543	280	79. 514. 538,31

Source: North Kivu Division of Mines.

It is evident from this table that the measures put in place for a greater control of the minerals exported since February 2007, notably the recording of all exports before the closure of the border at 18:00, contributed to the increase in income from the exports.

In 2009, despite the impact of the global financial crisis and the opening of the border post ('La Corniche') between Goma and Gisenyi until midnight, in force since June 2009 for pedestrians and passenger cars but not for goods trucks and other heavy traffic, the record of exported minerals does not vary much from the report of the previous year (2008), as the table below shows.

Official exports of cassiterite in 2009 in North Kivu:

<u>Month</u>	<b>Cassiterite (in tonnes)</b>	<b>Generated State Revenues in USD<sup>6</sup></b>
January	733,4	156 170
February	719	153 104
March	1.009	214 856
April	799	170 139
May	790,4	168 308
June	963,8	205 231
July	665,5	141 711
August	910	193 775
September	1.002	213 366
October	1.174	249 991
November	898,6	191 348
December	878,7	187 110
<b>Total</b>	<b>10.543</b>	<b>2 245 109</b>

Source: North Kivu Division of Mines.

Upon seeing figures like these, all observers naturally ask why the Congolese government, which is after all the primary beneficiary of the mining industry, does not put any effort into decriminalizing it, thus ensuring that there is greater accountability and transparency from the point of the artisanal extraction of the minerals to the point of exit at the customs office OFIDA.

## **2. Attempts to render the minerals of Kivu conflict-free**

There are of course a number of initiatives that have been started in an effort to render the minerals of Kivu conflict-free. The most noteworthy is the project to assist in the creation and development of a system of recording and certification of mineral substances, a

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<sup>6</sup> These revenues concern the export taxation, common interest tax paid to the local administrative entities of the province (EAD), taxes paid to government agencies (CEEC, OCC, OGEFREM, OFIDA, CTCPM and the Supervising Commission). They don't include territorial tax, income tax, and export authorization tax estimated at \$ 63. 000.

system that was conceived in the context of German-Congolese co-operation. The Federal Bureau of Geo-Sciences and Natural Resources of the Federal Republic of Germany (BGR) represents the German party tasked with realizing the project. Their Congolese partners are the Ministry of Mines and its departments: CTCPM, CEEC, SAESSCAM, and CAMI. The BGR is known to have created a system of certification called the Certified Trading Chains (CTC) all along the production line, from the mining pits all the way to the end user or final consumer. It is this CTC system that the Germans, in collaboration with their Congolese partners, hope to make operational with two goals in view: on the one hand to improve transparency and accountability in the mining industry and, on the other hand, to see to it that the State's profits from mineral exports contribute to economic and social development as well as to the reduction of poverty.<sup>7</sup> Quite an undertaking!

A second initiative is that of ITRI (Tin Supply Chain Initiative), an English enterprise representing the interests of companies involved in the trade and processing of cassiterite in Europe, Asia and elsewhere in the world. The reports by some organizations such as Global Witness or the panel of experts of the United Nations denouncing the Congolese mining industry have succeeded in demanding that there be greater transparency on the part of European companies importing cassiterite originating from eastern DRC. In collaboration with the trading firms operating in eastern DRC, ITRI has, since July 2009, put in place a system of bringing better consistency and clarity to export documents and forms. It is a matter of ensuring that every trading firm is legally established, and that the awarding of export permits is done in accordance with current Congolese mining legislation. Above all, it ensures that the goods exported are not in any way linked to the activities of the armed groups. ITRI also intends to put in place a system that will account for trade in Congolese minerals from February 2010, starting from the mines themselves to the exporting firms, and all the way to the end user.<sup>8</sup>

Lastly, the World Bank and the Department for International Development (DFID), in partnership with a department of the Congolese Ministry of Mines (PROMINES) intend to improve the situation in the artisanal extraction of cassiterite through various means such as: increasing production and accessibility to the market; improving the working conditions of miners; reducing the impact of mining activities on the environment; ensuring that the profits from taxes contribute to the integration of mining into the formal economy; and improving the living conditions of the local population.<sup>9</sup> It is also important to note briefly the efforts of the Congolese government in collaboration with the United Nations Mission to Congo (MONUC), to create "Trading Centres" in order to have efficient control over the supply chain of minerals.

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<sup>7</sup> BGR, "Rapport du groupe de travail sur la certification de substances minérales, dites minerais de conflit (or, cassitérite, coltan et wolframite)", Kinshasa, 22 February 2010.

<sup>8</sup> ITRI, "Information note on progress with the ITRI Tin Supply Chain Initiative (iTSCi)", January 2010.

<sup>9</sup> ITRI, *op. cit.*, p.4.

All these initiatives, however, have to face a basic problem. The values which motivate the various national or international lobbyists, such as the inalienability of human rights (the civilian victims attributed to armed groups, the enslavement of miners and their inhuman working conditions, the impunity, and the absence of social dividends), the political climate (the management of natural resources, taking into account also the environmental as well as the social impact), and lastly the economic liberalization (the market, rather than the armed groups, regulating the trade), can hardly attempt to raise the level of responsibility of a Congolese state that is no longer seen to exist in many public sectors and areas of the country.<sup>10</sup> The question that arises is: Without a Congolese state capable of playing its role in controlling and running affairs, how can the minerals of Kivu be de-criminalized?

It is imperative that the various people and organizations of good will who are determined to ensure that the minerals of Kivu are 'clean' or conflict-free first work towards a definition of the basics necessary for the re-establishment of the Congolese state. Only when this is in place will the control of the mining industry be possible. The various initiatives will not be effective unless this basic condition is met.

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<sup>10</sup> The replacement of the 85<sup>th</sup> Brigade under Colonel Samy Matumo by the 212<sup>th</sup> Brigade commanded by Lieutenant Colonel Mboneza has convinced neither the national nor the international lobbyists who see behind this move a ploy to extend the power of the ex-CNDP rebels to the mining zones in which they were previously not present. Any military or police force that controls these mining zones unquestionably runs the risk of perpetuating the same evil practices. Unless, of course, the various lobbies have in mind a Congo without the Congolese. Which would be clearly absurd.