A decade of due diligence: an emerging regulatory regime to fight the trade in conflict minerals

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Introduction

The extractive industries – and especially artisanal and small-scale mining – are a considerable source of illicit revenue flows. The trade in tin, tungsten, tantalum and gold (3TG) in Eastern Democratic Republic of the Congo (DRC) has been singled out as a driver of the intractable conflicts in the region, earning them the moniker "conflict minerals". Armed groups operating in the region, so the story goes, finance their activities through the control or extralegal taxation of artisanal mining activities. If these actors were cut off from the proceeds of mineral trade, they would lose their financial means to wage war. Despite the numerous initiatives and an incipient regulatory regime aiming to tackle the issue of conflict minerals, the illicit trade of minerals in the region continues to a considerable extent.

The promotion of responsible supply chains has become a prominent goal of governments, advocacy groups, development cooperation and increasingly the private sector. One of the early efforts to promote supply chain sustainability – besides the movement on fair trade of agricultural products and textiles – is the creation of initiatives, the drafting of codes and ultimately the adoption of legislation to curb the illicit trade in conflict minerals. The issue was initially taken up by international civil society organisations, whose advocacy efforts resulted in the adoption of various sustainability initiatives and laws. Amongst the latest of these efforts is the EU Conflict Minerals Regulation, which – together with the equally notable conflict minerals provision of the Dodd-Frank Act in the US – bookends a decade of due diligence regulation.

Unlike the trafficking of drugs or humans, the flows of these minerals are illicit due not to the product itself but to the conditions under which it is produced. Related regulatory efforts are mostly initiated by and ad-

1 The article reflects exclusively the opinions of the authors and not those of the Federal Ministry of Economic Cooperation and Development (BMZ) or GIZ GmbH.

dressed to actors in the Global North, whereas they aim to tackle problems in the Global South where the harm occurs at the beginning of the supply chain. At the same time, Northern activists and policymakers have at least initially paid insufficient attention to the complexities of the conflicts they sought to resolve (Cuvelier, Vlassenroot and Olin 2014).

Regulatory activities aimed at curbing the illicit trade in conflict minerals are a result of a process of norm diffusion. The lessons learnt from various consecutive and complementary, sometimes superimposed approaches to achieve responsible mineral supply chains led to more sophisticated, inclusive means of regulation. There is an increasing interplay between different governance instruments, including binding laws, self-imposed codes of conduct and voluntary initiatives. Regulation is becoming more versatile. Traditional state-based approaches are being complemented by "civil regulation" and "smart mixes" intended to overcome the regulatory gaps resulting from global but fragmented supply chains. Numerous forms of regulation exist, running the gamut from norms, customs and loose codes of conduct to formal legislation adopted by home or host governments and implemented by a combination of these and business and civil society actors.

Minerals and conflict in Eastern DRC

Eastern DRC is rich in deposits of tin, tungsten and tantalum, which in addition to gold are essential for the production of modern electronic devices. In the region, most of these minerals are mined artisanally. This means that they are extracted using simple, labour-intensive methods. Artisanal and small-scale mining (ASM) is a predominantly informal activity, and basic standards regarding health, safety or the environment are mostly not adhered to. These shortcomings alone would warrant a drive towards more sustainable practices, particularly as the sector is an important source of income for large parts of the rural population. However, the ASM sector has gained prominence for another reason, namely for fuelling the war economy through the extraction and sale of conflict minerals.

The so-called resource curse, according to which countries abundant in natural resources suffer from bad governance, slow growth, authoritarianism and conflict, has long been a concern of academics, policymakers and civil society organisations. Natural resources are said to have played a role in starting, prolonging or financing violent conflict. On the one hand, natural resource wealth increases the potential benefits of and hence competition for the control of resource-rich territories. On the other hand,

grievances that result from the extraction of natural resources can cause conflict. The causes for the onset of civil conflict may be found in resource abundance directly as well as – indirectly – in economic underdevelopment or state weakness. Natural resources have also been linked to civil war more directly: rent-seeking arguments such as those made by Collier and Hoeffler (2004) look at natural resources as providing an incentive to initiate violent conflict or to finance fighting. The extraction of valuable minerals such as gold and diamonds has been blamed for the incidence, intensity or duration of violent conflict (Ross 2004a, 2004b; Le Billon 2000). The relative ease of extraction and low technological barriers, the high value and the remoteness of the deposits have contributed to financing violence in many parts of the world. Especially in the 1990s and 2000s, artisanally mined diamonds became notorious as "blood diamonds" in Angola, Sierra Leone and Liberia, but other minerals, including ores containing tin, tantalum or tungsten, as well as gold, also carry the label of conflict minerals.

Much to the chagrin of those researching conflicts in the DRC, the illegal extraction and trade of minerals often serve as a dominant explanation for violence in the DRC. Violence has been explained with fighting over the control of mine sites, the financing of the war effort through the proceeds from the exploitation of these resources and widespread violence against the civilian population, mainly to gain access to mineral-rich areas (Autesserre 2010: 65). Scholars of the region (e.g. Autesserre 2010; Cuvelier et al. 2014; Seay 2015) tend to argue, however, that the picture is more complex and conflicts in Eastern DRC are not solely determined by the presence of and the trade with 3TG minerals. The focus on natural resources rather than ethnic cleavages or grievances suffers, they claim, from reductionism and determinism. It does not do justice to the complex interplay of different actors, their motives and the levels at which they engage in violence (Ballentine and Sherman 2003).

The term conflict minerals is somewhat of a misnomer: while conflict is occurring in a mineral-rich region and minerals play a role in the conflict economy in Eastern DRC, it is an oversimplification to reduce the cause of conflict solely or predominantly to mineral wealth and related greed (Autesserre 2012; Seay 2015: 130). Autesserre highlights a few competing narratives about the conflicts in that region: they relate to the presence of (foreign) militias and armed groups, local tensions over land or disputes over charcoal and cattle. She notes that only about 8 percent of conflicts are over natural resources (Autesserre 2012: 211). Armed groups have considerable alternative sources of revenue. Besides mineral exploitation and trade, they acquire funding inter alia by setting up checkpoints, extrale-

gal taxation and protection rackets (Hoffmann, Vlassenroot and Marchais 2016) or by involvement in the timber or charcoal trade. While mineral resources do play a role in the violence, it should not be expected that those motivated by inequalities or other grievances simply lay down their arms if revenues are cut off. To reduce the conflicts in Eastern DRC to violence and human rights abuses resulting from mineral trade betrays a deterministic view of the situation (Radley and Vogel 2015). However, at least initially, this was precisely the narrative and approach chosen to promote a regulatory regime to curb the trade in conflict minerals.

Norm emergence and the power of activism

Legislation to promote "conflict-free" minerals and/or responsible supply chains did not emerge out of a vacuum. Rather, it is the result of a process of norm diffusion following three stages: norm emergence, a norm cascade which occurs after a critical mass of states has embraced the new norm and drives others to follow suit, and finally norm internalisation, i.e. the stage at which a norm is taken for granted (Finnemore and Sikkink 1998).

While it was up to states or international organisations to adopt legislation (albeit with the twist of elevating guidelines to law, see below), civil society acted as a "norm entrepreneur" (Finnemore and Sikkink 1998: 893). Civil society played a crucial role in the emergence of norms and the subsequent passage of regulation addressing the link between natural resources and conflict. The path towards the creation of the EU Conflict Minerals Regulation serves as an example of norm diffusion and was initiated by civil society: NGOs such as Global Witness documented the links between conflict and natural resource extraction in Eastern DRC (Global Witness 2009, 2010). The Enough Project, founded in 2007 by human rights advocate John Prendergast to support more robust peace processes in central Africa, served as an organisational platform and was instrumental in garnering attention for the issue amongst US policymakers and the public. In 2009, the project published a paper entitled "Can You Hear Congo Now? Cell Phones, Conflict Minerals, and the Worst Sexual Violence in the World" (Prendergast 2009), which established a narrative link between Western consumption on the one hand and mineral extraction and conflict including sexual violence in the Kivu Provinces on the other. It drew considerable attention to the issue, and lawmakers in the US addressed the matter in broader measures aimed at financial market reforms. Eventually, the idea to curb the illegal trade of conflict minerals

by means of supply chain due diligence spread globally and led to the adoption of the EU Regulation on conflict minerals.

While civil society actors are unable to impose norms, they inform and persuade others. They are the "socialising agents" of norms, providing information and documentation on what they perceive to be the most salient issues (Finnemore and Sikkink 1998: 895; 900; 902). In addition to pressuring companies from the outside, international NGOs such as Global Witness possess a considerable amount of expertise and credibility. Governments, international organisations and even companies often rely on their input to shape and implement strategies to improve governance in the extractive industries. NGOs aim at "changing consciousness and creating mechanisms of accountability" (Newell 2001a: 105). They work towards holding corporations accountable by creating awareness not just among the public but within relevant regulatory authorities directly. Florini and Simmons (2000: 11) point out that "civil society tries to shape […] norms in two ways: directly, by persuading policy makers and business leaders to change their minds [...] or indirectly, by altering the public's perception of what governments and businesses should be doing". Thus, NGOs create accountability either by proxy – through shaping states' and publics' demand for accountability – or directly in collaborating with businesses in order to shape and oversee their policies and actions (Oliviero and Simmons 2002). While NGOs and other non-state actors generally command a softer and more indirect form of power than that of states, they were nevertheless able to draw international attention to the issue by linking it to electronic consumer products. They were thereby paving the way for consumer pressure on manufacturers leading to changes in the perceptions of law- and policymakers. In general, activist pressure is most likely to yield results if the salience of the issue addressed resonates with the wider public and if the "brand value" and the company's reputation are at stake (Haufler 2001: 23). Meanwhile, NGOs and companies are increasingly cooperating in fostering responsible supply chains rather than resorting to naming and shaming, the NGOs' classical mode of exerting pressure.

Norms on natural resource governance were already in existence or themselves in the process of emerging in the early 2000s. The issues of better governance and transparency in the extractive industries (Gillies 2010), be it the pursuit of transparency or greater respect for the environment and human rights, had also been gaining international attention prior to the fight against conflict minerals. There were also international initiatives specifically related to the link between natural resources and conflict that helped pave the way for conflict minerals regulation and

due diligence. These are the Kimberley Process, which aims to reduce the trade of so-called "blood diamonds" (Haufler 2009), and the OECD Guidelines for Multinational Enterprises (OECD 2011), which aim to promote responsible business conduct (see below). So while the campaign to curb the trade in conflict minerals resulted in the showcase pieces of legislation of the Dodd-Frank Act and the EU Conflict Minerals Regulation, they do not stand alone. Though they may be amongst the first instances of hard law on conflict minerals (with the exception of the Kimberley Process) they are not the first regulatory efforts in a broad sense of the term. The norm entrepreneurs were able to use existing initiatives as a vehicle onto which the issue of combating the illicit trade in the DRC's minerals could be "grafted" (Price 2003: 584).

Approaches to conflict minerals regulation – towards a smart mix

There are many governance gaps in the extractive industries. States and international organisations largely fail to regulate multinational enterprises and global supply chains, and corporate social responsibility alone is inadequate to address the externalities associated with global supply chains. At first, states did not take the initiative in regulating the extractive industries. It was "civil regulation" in which civil society actors, alongside states (and private sector actors) promoted or implemented regulation (Newell 2001b: 908). For over a decade, governments, international organisations, the private sector and civil society organisations have been trying to master the challenge of complex conflicts in resource-rich regions. The rise to prominence of the issue of conflict minerals in the Global North led to a proliferation of regulation of the issue. The engagement of multiple actors with different interests, roles and preferences in the rulemaking process resulted in a patchwork of different regulations and initiatives.

In the extractive sector, which often operates in zones of weak governance, regulation often targets companies to limit corrupt practices or human rights abuses. Challenges of regulation tend to arise from the multinational character of large companies operating outside the jurisdiction of their headquarters in areas where the capacities of host governments are limited. In fragmented or long global supply chains, as in the case of 3TG in Eastern DRC, regulation is fraught with problems, as the minerals are produced in the largely informal ASM sector. Undesirable practices are common, and minerals pass through numerous hands before finding their way into consumer products. Regulation does not seek to address the

question of whether minerals are extracted "sustainably" but rather focuses on the illicit trade in those minerals that are said to fuel conflict.

Regulation is becoming more sophisticated and inclusive. Conventional regulation by individual states or international organisations and groups of states through mandatory rules often does not fit the physical realities of global supply chains. Newer types of regulation include different types of actors, such as private sector actors, their associations or civil society groups. They either establish and enforce regulatory schemes themselves or collaborate with states and international organisations to do so. Firms also collaborate with, and are regulated by, intergovernmental organisations, which cuts out the state as the intermediary, as is the case with the OECD Guidelines for Multinational Enterprises (Abbott and Snidal 2009: 506). This "civil regulation" constitutes a patchwork in which the state's role is mostly indirect (Newell 2001b).

The ways in which regulation is conceived, adopted and implemented are changing: first, regulatory efforts use market mechanisms to implement regulations. Second, regulation has become transnationally anchored rather than reliant on individual states for implementation. Third, it encompasses new actors. Whereas previously regulation was the domain of state agencies, private actors and civil society are increasingly important regulators, both in their own right and as groups that push those vested with traditional authority to adopt and implement regulation. Fourth, standard-setting is moving away from "command-and-control schemes" and is rather becoming a deliberative process that includes regulators, regulatees and third parties. It is dynamic, in the sense that softer forms of regulation (such as the OECD Guidance in the case of conflict minerals, see below) may eventually become enshrined in hard law (Vogel 2008: 265). Fifth, regulation is not only applying formal, legal sanctions but also relying on social pressure and learning to achieve its aims (Abbott and Snidal 2000; Schneiberg and Bartley 2008).

Regulation to promote responsible supply chains differs from conventional extractive industry regulation, where multinational companies with a large degree of control over extraction and other operations are the target of regulators. The regulatee (i.e. the importer or manufacturer in the Global North) is not directly involved in mineral extraction, and the buck of compliance is passed towards the beginning of the supply chain. Importers subject to reporting requirements under the Dodd-Frank Act or the EU Conflict Minerals Regulation are compelled to manage the externalities of their business decisions. Conflict minerals regulation enacted in the Global North often imposes certain due diligence obligations but stops short of holding companies that import 3TG accountable for human

rights abuses committed in the process of mineral extraction and trade. Emerging regulation is also a reflection of the notion that companies are responsible not only for the impact of their operations but also for the actions of those they do business with as well as of their wider stakeholders (Donaldson and Preston 1995). These newer forms of regulation are becoming more prominent: co-regulation, in which standards are developed by the private sector and governments only provide a sanction mechanism for non-compliance; self-regulation, in which the private sector alone sets standards and codes of conduct; and, finally, multi-stakeholder regulation, in which actors from different constituencies join to develop a regulatory framework (Haufler 2003).

Self-regulation originally referred to the adoption of industry standards but now also applies to the social and environmental domains (Haufler 2001) and comes in many varieties. Gunningham and Rees (1997) distinguish different forms, such as "social self-regulation", which is undertaken to limit the negative externalities of corporate behaviour, as opposed to "economic self-regulation", which maintains order in markets or facilitates them. Self-regulation also does not necessarily exclude governments: in "mandated self-regulation", the application of rules may be monitored and enforced by governments (Gunningham and Rees 1997: 365). Self-regulation might be in the interest of industry, simply to give the appearance of regulation and thus pre-empt more formal government regulation (Gunningham and Rees 1997: 370), but it can also serve to complement state regulation (Vogel 2008: 275). The inclusion of third parties such as NGOs improves the effectiveness of regulation (Nielsen and Parker 2008). Third parties may have enforcement capacity even if they are not endowed with formal authority. For self-regulation to be effective, there needs to be an overlap between public and private interests – e.g. in the case of minerals clean supply chains and reputational concerns – as well as oversight by governments, third parties or a combination thereof (Gunningham and Rees 1997: 406).

The United Nations Guiding Principles on Business and Human Rights recommend that states should consider a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights (United Nations 2011: 5). While the Guiding Principles imply business interaction with state governance, others more explicitly argue for non-state participation in supply chain governance. For example, Gunningham and Grabosky (1998) first mentioned a smart mix consisting of contributions from a variety of actors, levels of governance or institutional structures as well as optional private participation. More recently, van Erp et al. (2019: 50) defined smart mixes to consist of "various regulatory and

governance instruments, both public and private and both international and local, [combined] into sophisticated mixes of complementary instruments and actors, tailored to the specific needs of the situation". While the primary focus is on regulation in its various forms, accompanying measures that build required capacity are part of a smart mix. Among them are on-the-ground projects by multi-stakeholder partnerships as well as development cooperation strengthening governance institutions and oversight.

Conflict minerals regulation in the DRC

Conflict minerals regulation in and around the DRC and the wider Great Lakes Region illustrates the interplay of actors and governance approaches attempting to curb the trade with mineral resources in zones of conflict. The United Nations already started in 2001 to investigate the links between the trade in natural resources and conflicts and continued to do so for more than a decade. The UN Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo (United Nations 2001) proposed an embargo on Congolese minerals and targeted sanctions against those involved in the trade.

In 2006, the Heads of States of the International Conference on the Great Lakes Region (ICGLR) signed the Protocol against the Illegal Exploitation of Natural Resources, in which they committed to curbing the illegal exploitation of natural resources. This was followed by the 2010 launch of the Regional Initiative against the Illegal Exploitation of Natural Resources (RINR). The Regional Initiative has at its centre a Regional Certification Mechanism (RCM) which is intended to curb the illegal exploitation of and trade in the 3TG minerals. Only minerals extracted from mines certified as not benefiting armed groups and free from forced or child labour may be legally exported from the region.

In parallel, attention shifted towards due diligence. Companies in the Global North were held responsible for ensuring that their supply chains were free of minerals contributing to conflict (Geenen and Custers 2010). The issue was taken up by policymakers internationally: the G8 Summit Declaration of 2007 emphasised the role of natural resources for development and conflict. It also made reference to the OECD Guidelines for Multinational Enterprises and existing efforts to break the link between minerals and violence, such as the Kimberley Process. The G8 summit also saw the launch of initiatives for development cooperation. The Summit

Declaration called for the development of certification systems, which in turn led to the development of a standard on Certified Trading Chains by the German Federal Institute for Geosciences and Natural Resources (BGR) which was eventually adopted into Congolese law.

Between 2009 and 2011, the OECD, the then 11 member states of the International Conference on the Great Lakes Region as well as representatives from industry and civil society developed the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD 2013). This document would eventually become the core standard for conflict minerals due diligence. It has become the leading global due diligence standard often referred to by other initiatives and included in relevant pieces of legislation. The OECD Guidance, the recommendations of UN Security Council Resolution 1952 of 2010, as well as the RCM were incorporated into the national law of the DRC (Government of the DRC 2011, 2012a, 2012b). Besides being given formal legal status in the DRC, the Guidance gained further relevance with the adoption of the EU Conflict Minerals Regulation. The latter appropriated the OECD model and links binding law with voluntary standards in implementation, effectively creating a legal obligation to apply the OECD Guidance.

The OECD Guidance is not an isolated document, but the result of several initiatives and processes aimed at promoting responsible business conduct. The Guidelines for Multinational Enterprises were originally devised in 1976 and contain recommendations on responsible business conduct. They were revised in 2011 to include due diligence guidance, based on the UN Guiding Principles on Business and Human Rights and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (International Labour Organization 2006; Buhmann 2015).

The OECD Guidance stipulates that companies must take certain precautions to ensure that their supply chains do not include inhumane working conditions, forced labour, the worst forms of child labour or other serious human rights violations. The same applies to any direct or indirect support of non-state armed groups through the mining, transport, trade or export of minerals.

The Guidance contains recommendations for companies that source minerals from conflict-affected and high-risk areas on how to approach due diligence for responsible supply chains. The OECD five-step framework consists of 1) establishing a management system to engage with suppliers and facilitate transparency and reporting in the supply chain; 2) identifying and assessing supply chain risks in terms of human rights

abuses, direct or indirect support of armed actors or security forces as well as extralegal taxation, bribery or money laundering; 3) designing and implementing risk-mitigation strategies, with disengagement from suppliers as the last resort; 4) carrying out an independent third-party audit of the supply chain and 5) publicly reporting on the company's due diligence practice.

While the conflicts in the Great Lakes Region led the OECD to adopt the Guidance, its scope extends beyond the Great Lakes Region. The Guidance applies to "conflict-affected and high-risk areas" worldwide, and in its current third edition it applies to all minerals, not only the 3TG.

Besides legislation there are also private regulatory approaches aimed at tackling the issue of conflict minerals. In 2008, private sector actors founded the Conflict-Free Smelter Initiative, which has since become the Responsible Minerals Initiative. This was intended to certify the conflict-free nature of mineral supply chains via the smelters. The smelters and refiners were to instruct their producers and suppliers to promote and trade raw materials in compliance with the OECD Guidance. Likewise, the International Tin Research Institute (ITRI) created the ITRI Tin Supply Chain initiative iTSCi, a traceability and due diligence programme to ensure traded minerals are "conflict-free".

These self-regulatory efforts are not without problems: Global Witness (2010) noted that "a major tin industry 'traceability' scheme, which aims to trace minerals from the mine to the refinery, risks rubber-stamping conflict minerals coming from mines controlled by national military units". In 2014, a traceability system had only been put in place at about 40 mine sites out of a total of 900 in the South Kivu province. Prices had dropped for minerals sourced from these sites, not least because the cost of implementing the traceability schemes fell on producers (Radley and Vogel 2015). Also, fraud had become widespread, and there were many instances where "illegal material" was introduced at iTSCi sites to get tagged or where iTSCi tags were brought to non-iTSCi mines (Vogel and Raeymaekers 2016: 1113). The UN Group of Experts on the DRC also noted the initiative's shortcomings and "documented several breaches of the chain of custody for mineral trade in North Kivu Province as well as the ongoing sale of tags on the black market in the Democratic Republic of the Congo" (United Nations 2017: 2).

Ultimately, the creation of the RCM at the level of the ICGLR was a reaction to private-led initiatives. It meant to ensure that conflict minerals regulation did not rest exclusively with the private sector. In the RCM, mines are certified according to a traffic-light system, based on inspections by member state officials. Exports are allowed from those assigned green

status and provisionally from those assigned yellow status. (A blue status allowing exports from mines not yet visited was introduced in 2019.) Between 2017 and October 2020, IPIS (2020) counted 833 3TG mine sites in Eastern DRC, most of them for gold (570). While armed actors were observed in 362 of them, only 4 had been assigned the „red" status (i.e. exports from that mine were forbidden).

In 2009, a resolution to address the issue of conflict minerals was introduced in the US House of Representatives, but it never became law. However, provisions regarding conflict minerals in the DRC found their way into the Dodd-Frank Wall Street Reform and Consumer Protection Act in July 2010. Section 1502 of the Act stipulates that publicly traded companies must report whether they source 3TG minerals from the DRC and report on the steps taken to ensure that the minerals are "conflict-free". The Dodd-Frank Act was the first major piece of legislation to address the issue of conflict minerals. It became the tipping point for the emergence of minerals supply chain due diligence as a norm, prompting other countries to create corresponding legislation.

In the wake of the Dodd-Frank Act, there were a number of – sometimes abortive – bids to adopt conflict minerals or supply chain regulations at the national level. In 2014, the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (2014) launched a Chinese version of due diligence guidelines for responsible mineral supply chains for Chinese companies active in the minerals trade abroad. These guidelines were developed in consultation with the OECD, Global Witness as well as the European Commission. Whereas a Canadian bill that would have required companies to comply with the OECD Guidance failed in 2014, the French duty of vigilance law of 2017 requires companies to identify and prevent risks in their supply chains. The French law served as precedent for a number of human rights due diligence laws in other countries that are not limited to the extractive sector. In 2021, Norway and Germany adopted mandatory supply chain due diligence laws after years of negotiations. A Swiss initiative for responsible business was narrowly rejected in a national referendum in late 2020. The EU is also working on a directive on corporate due diligence and corporate accountability focusing on both human rights violations and environmental impacts. While these regulatory efforts have a wide and general scope for supply chain due diligence, other countries have adopted topic-specific laws in recent years. In 2017, the United Kingdom adopted its Modern Slavery Act, and the Netherlands passed its Child Labour Due Diligence Law in 2020.

In 2017, the EU adopted its Regulation on due diligence obligations for 3TG minerals originating from conflict-affected and high-risk areas. Three

years of intense debate within the EU institutions, mainly on whether or not the Regulation would mandate self-regulation, had preceded the agreement. The European Commission had originally, with the support of the European Council, proposed a system of voluntary self-regulation of importers of unprocessed minerals from these areas that included provisions for voluntary self-certification. However, the European Parliament (backed by many civil society organisations) regarded the Commission's voluntary approach as far too weak and ineffective. Instead, the Parliament proposed mandatory third-party audits of all EU smelters and refiners as well as obligatory due diligence and reporting requirements for importers and downstream companies. These amendments met strong resistance on the part of the Council and the Commission. Following an inter-institutional "trilogue" between Council, Commission and Parliament, a compromise was reached to adopt a binding regulation that, for the moment, does not include companies further downstream in the scope of the Regulation (van der Velde 2017). From 1 January 2021, EU importers of 3TG, excluding downstream firms that process minerals and produce final consumer products, have to carry out checks on their supply chain following a five-step framework based on the OECD Guidance. The process requires a management system (Art. 4), identification of risks as well as risk management (Art. 5), a third-party audit (Art. 6) and reporting (Art. 7).

The deliberations on the Regulation's design were informed by the lessons learnt from implementing the Dodd-Frank Act. The Act had negative economic effects in the DRC (see below). To some extent, these effects were caused by introducing the legislation without having created the required infrastructure for its implementation. By introducing a three-and-a-half-year transition period, the EU gave European companies and relevant states sufficient time to prepare for fulfilling the Regulation's requirements. The EU is also providing funds in support of small and medium-sized enterprises as well as ASM mining, thus trying to avoid the pitfalls of the preceding US legislation.

In its approach, the EU Regulation differs from the Dodd-Frank Act in that the latter uses financial markets as a lever, whereas the EU Regulation focuses on physical trade. The US Act – whose enforcement was suspended by the Trump administration – applies to all companies listed on US stock markets that import and/or use 3TG in certain quantities. A further notable difference is the geographic scope. Whereas the Dodd-Frank Act applies to minerals originating from the DRC and its neighbouring countries, the EU Regulation uses OECD terminology covering 3TG minerals from conflict-affected and high-risk areas, albeit without defining these precisely (Koch and Burlyuk 2020). The Commission published an indica-

tive list of these areas in December 2020 (RAND Europe n.d.). A further difference is that the EU Regulation applies only to companies that import or refine and smelt 3TG minerals (around 600–1000 importers, plus 500 smelters), whereas the Dodd-Frank Act is broader and applies to any US-listed company using these minerals.

The EU Regulation is an attempt to learn from past mistakes. Both the Regulation and the OECD Guidelines (as its core element) have been developed in consultation with the affected countries in the Global South. The legislation will be accompanied by measures of technical assistance to improve the modes of mineral extraction in producing countries. Part and parcel of the above-mentioned agreement on the legal nature (and some other features) of the Regulation was that the effectiveness of the Regulation will be evaluated in 2023. The question of whether or not EU downstream companies like end producers will also be subject to binding due diligence requirements will then be reopened. This will include thinking about possible sanctions by member states against companies violating their due diligence obligations. The evaluation might not only lead to an expansion of the Regulation to the entire supply chain (upstream and downstream). Given that the Regulation is seen to have important precedential value, it is conceivable that its scope will also expand to other minerals such as cobalt or copper and include other sustainability issues (such as wider human rights or environmental issues).

One of the accompanying measures to support effective implementation of the Regulation is the European Partnership for Responsible Minerals (EPRM). This multi-stakeholder partnership, founded in 2016, aims to create better social and economic conditions for miners and local mining communities. Its objective is "to increase the proportion of responsibly produced minerals from conflict-affected and high-risk areas (CAHRAs) and to support socially responsible extraction of minerals that contributes to local development" (EPRM n.d.). The EPRM's establishment was based on the assumption that the EU Conflict Minerals Regulation must be accompanied by an effective development policy if it is to have any substantive impact in the producing countries. Otherwise, there would be a risk that mining countries will be excluded from relevant value chains or that alternative business relationships will be entered into with buyers who circumvent the required standards. The EPRM funds projects for responsible sourcing of 3TG minerals from conflict-affected and high-risk areas worldwide. The partnership follows a three-pronged approach to reach its objectives. It supports work on ASM mine sites with a view to responsible production and supports miners in getting access to formal markets nationally and internationally. It also supports mid- and downstream

actors in improving their due diligence practices in sourcing responsibly, for example through the "Due Diligence Hub" online portal. Third, the EPRM works to improve linkages between responsible sourcing and production by strengthening alliances between different supply chain actors in order to facilitate trade from ASM sites in conflict-affected and high-risk areas worldwide. Projects are financed by a multi-donor fund following frequent calls for proposals. Like the EU Regulation itself, the EPRM will also be evaluated in 2023.

Much ado about nothing?

Whether or not regulation aimed at curbing the illicit trade in 3TG minerals has served its purpose is subject to considerable debate. The conflict in Eastern DRC involves complex issues such as land rights and citizenship. This made it too difficult to mount an effective advocacy campaign that could successfully attract the attention of and mobilise an audience of Western consumers and policymakers. Pressure groups oversimplified the Congo crises to make the issue resonate. They tied the minerals extracted in Eastern DRC to consumer electronics, which depend on 3TG for critical components such as capacitors and integrated circuits. The civil society campaign reduced the complexity of the situation to create a narrative that resonated with audiences in the Global North (Seay 2015). While activists in the Global North often take up grievances of local organisations and amplify them for their audiences to effect change in the Global South in a so-called "boomerang effect" (Keck and Sikkink 1998), the campaign appears to have been supply-side driven. Nonetheless, the campaign was so successful that it eventually led to the adoption of conflict minerals legislation in the US.

The rationale behind the campaign was that consumers could pressure companies to procure conflict-free minerals; companies would then be obliged to either not source the minerals from the DRC or conduct due diligence of their supply chains. This, in turn, would ensure that no minerals were traded whose extraction had benefited parties to conflicts. The desired effect was to cut off financing to armed groups and hence to impede them from committing human rights abuses (Prendergast 2009; Seay 2015: 120).

However, the passage of the Dodd-Frank Act is a lesson in unintended consequences. The Act was adopted in 2010, but the Securities and Exchange Commission (SEC) only finalised its rules for the implementation of reporting requirements under Section 1502 in 2012. In the interim,

the Congolese government had shut down artisanal 3TG mining activities in the Eastern provinces of Maniema, South Kivu and North Kivu. In addition to cutting off armed groups from potential revenue sources, the government's stated aim of the ban was to establish control of the informal mining sector and to fight fraud (Geenen 2012). At the same time, companies from the Electronic Industry Citizenship Coalition (EICC) responded to the uncertainty regarding the implementation of the Act by instituting a de facto embargo to halt sourcing from smelters that could not demonstrate that their minerals were "conflict-free".

Despite the mining ban, rebel groups continued mining activities in areas that were already under their control. They also made recourse to alternative sources of financing such as illegal logging. Mining also continued in areas under government control. The army and other government actors such as the mining police provided access or protection for miners – in exchange for payment. Yet overall, the ban led to a decline of gold production by 80 % (Geenen 2012). The blanket ban also affected mine sites with no involvement of armed groups at all.

The de facto embargo caused serious economic damage and had considerable impact on people's livelihoods. The focus on technical solutions such as traceability and formalisation of the Congolese ASM sector as a response to international regulation ignored this impact and worsened the situation for mining communities (Vogel and Raeymaekers 2016). ASM is a poverty-driven activity (Bryceson and Jønsson 2010; Hilson 2010) and is the only employment opportunity for hundreds of thousands of people in the DRC. Once established in the activity, artisanal miners face considerable exit barriers, i.e. cannot easily switch jobs, for instance because of indebtedness (Perks 2011). Those dependent on ASM don't always work in the extraction of minerals themselves, but are often petty traders or craftspeople conducting their business on and around mine sites. Following the ban, rates of school attendance declined, as parents could not afford school fees, and malnourishment increased. The mining ban severely limited purchasing power in the region (Geenen 2012). Moreover, there is evidence that the ban led to increased child mortality as a result of loss of income and access to healthcare (Parker, Foltz and Elsea 2016). Faced with unemployment, some miners moved into gold mining (which lends itself to smuggling much more readily than the 3T minerals) or even joined militant groups (Seay 2015).

Seay (2015) notes that there is no evidence that any armed group ceased operations because of the Dodd-Frank Act. In fact, the mining ban initially led to an increase in the militarisation of mining activities, as the Congolese army took control of mines in Walikale Territory immediately after

its announcement. Instead of enforcing the ban, soldiers made agreements with miners, who would then pay for protection and access to mine sites (Geenen 2012). Moreover, it was found that the ban and the Act were followed by a period of increased looting and violence against civilians and a shift of conflict to territories that were not subject to the Dodd-Frank provisions (Parker and Vadheim 2017; Stoop, Verpoorten and van der Windt 2018).

Without disputing these negative impacts, some analysts caution against exaggerating these unintended consequences (Koch and Kinsbergen 2018). They focus in particular on the de facto embargo that persisted beyond the self-imposed mining ban and was putatively the result of the importers' efforts to avoid scrutiny. While the adoption of the Dodd-Frank Act coincided with a reduction of tantalum and tin imports, trade rebounded after the SEC's publication of the final rules for implementation (Schütte 2019).

On the positive side, the Dodd-Frank Act served as a "wake-up call" for those involved in mining in Eastern DRC. It highlighted the need for reform in the sector and led to the creation of a number of certification and traceability initiatives on the ground. They aim at facilitating due diligence and intend to improve the livelihoods of those engaged in the production of minerals. The Act also helped change the position of manufacturers and other economic actors, who started considering responsible supply chains as an integral part of their social responsibility (Cuvelier et al. 2014).

While some success can be noted relating to curbing illegal trade in 3T minerals, there is little progress on gold. With its low weight-to-value ratio, it is more readily smuggled and has not been in the focus of regional cooperation. Gold continues to be illicitly traded across the borders between the DRC on one side and Ruanda and Uganda on the other, and from there onwards towards the United Arab Emirates and India (United Nations 2017; IMPACT 2020). While the illicit trade with conflict minerals continues at somewhat lower levels, there is a shift towards gold, for which the development of traceability and certification schemes is more challenging. Trade flows of gold are becoming increasingly illicit due to tax evasion rather than the financing of conflicts. To improve the situation, policymakers, the private sector and development practitioners have recently started to address the issue of gold smuggling – for instance through the publication of a supplement on gold by the OECD in 2012, the Canadian-funded Just Gold pilot project, a pilot implemented by the BGR and the Congolese ITOA initiative. To date, traceability schemes for gold are still in the pilot stage, and while ASM production in the DRC

is estimated at around 14–20 t, only 200–300 kg of exports are declared (Neumann et al. 2019).

Conclusion

Civil society pressure, corporate social responsibility and a susceptibility to consumer pressure, paired with expert reports addressing the "resource curse", provided fertile ground for various regulatory efforts and initiatives on conflict minerals. The creation of a considerable body of hard and soft law on the topic serves as a showcase example of norm emergence. It is also an important precedent towards broader responsible supply-chain governance. In industrialised countries, responsible supply chains are swiftly becoming a paradigm that goes beyond "conflict-free" minerals. The aim is to minimise and mitigate the negative effects of mining and to maximise the benefits for the mining countries and the affected populations. Responsible sourcing requires compliance with due diligence obligations along the entire supply chain to prevent human rights violations such as child labour or exploitation as well as unmitigated environmental damage.

Norm emergence must be understood as a process, not as an end. While the EU Conflict Minerals Regulation is a recent major effort to curb the trade in conflict minerals, more recent initiatives such as a European due diligence law are becoming broader in scope. There is a general shift in focus away from conflict towards sustainable and responsible supply chains involving a plethora of issues relating to human rights, the environment and governance. The scope of minerals considered has also broadened. While so far mainly the 3TG minerals have been subject to regulation, many other minerals mined artisanally and informally (e.g. cobalt) have meanwhile come under scrutiny. While they may not be linked to violent conflict per se, they are associated with child labour, modern slavery or environmental degradation – all issues of serious concern and high media attention.

The impact of existing regulation also remains to be determined: it is already difficult to disentangle the effects of the Dodd-Frank Act from changes in trade in minerals and the security situation in Eastern DRC, and the jury is certainly still out on the EU Regulation, given the starting date of its implementation in January 2021.

Regulatory policy in the Global North leaves dealing with policy outcomes largely to resource-rich countries in the Global South. Choking off trade in minerals mined under conditions of violence and serious human

rights abuses is one thing, improving the situation on mine sites another. Both the EU Conflict Minerals Regulation and the Dodd-Frank Act pass responsibility up the supply chain to actors involved in mineral extraction. This means that the costs of compliance are generally borne by suppliers in producing countries and might ultimately fall on the miners. Neither the Dodd-Frank Act, nor the EU Regulation mandates specific actions by the regulatees at the sites or areas of extraction. The OECD Guidance and, by extension, the EU Regulation focus on risk mitigation and corporate compliance. However, with European importers as the target group of the Regulation being physically absent from the region, the arm's length nature of the supply chains favours disengagement from high-risk sources rather than working towards the improvement of the situation in areas of extraction. On-the-ground work to improve the human rights situation in conflict-affected and high-risk areas as a reaction to regulatory changes is mostly left to local actors. This remains so in general, even though policy learning over the past decade brought with it more consultation with and support for governments in producing countries to match new regulation with on-the-ground support for implementation.

The regulatory objective to end conflict in the DRC and the wider region by curbing illegal or illicit trade in 3TG minerals has not been achieved. Although these minerals are linked to the conflicts, they are not the sole driver of Eastern DRC's conflicts, as the norm entrepreneurs had initially claimed. The focus should not lie on "conflict minerals" but rather follow the OECD diction of conflict-affected and high-risk areas globally. Risks exist far beyond Eastern DRC, and there is much to be improved in terms of the responsibility and sustainability of supply chains. Using an arbitrary definition of conflict minerals that at any rate have only tenuous links to the persistence of conflict in the region falls short of a smart approach.

These observations do not imply that the emerging regulatory regime to fight the illicit trade with conflict minerals was established in vain. Whether conflict exists or not, the supply chains must become (more) responsible. Both the Dodd-Frank Act and the EU Conflict Minerals Regulation are important precedents for many laws and initiatives to come that work towards responsible supply chains within the extractive sector and beyond. At the same time, the fight against the illegal trade in minerals from zones of conflict continues, though it remains far from clear whether existing frameworks are effective in tracing and certifying mineral shipments, let alone in pacifying Eastern DRC.

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References

Abbott, Kenneth/Snidal, Duncan (2000): "Hard and soft law in international governance". In: International Organization, 54, pp. 421–456.

Abbott, Kenneth/Snidal, Duncan (2009): "Strengthening international regulation through Transnational New Governance. Overcoming the orchestration deficit". In: Vanderbilt Journal of Transnational Law, 42, pp. 501–578.

Autesserre, Séverine (2010): The trouble with the Congo. Local violence and the failure of international peacebuilding. Cambridge: Cambridge University Press.

Autesserre, Séverine (2012): "Dangerous tales. Dominant narratives on the Congo and their unintended consequences". In: African Affairs, 111, 443, pp. 202–222.

Ballentine, Karen/Sherman, Jake (2003): "Introduction". In: Ballentine, Karen/Sherman, Jake (eds.): The political economy of armed conflict. Beyond greed and grievance. Boulder and London: Lynne Rienner, pp. 1–15.

Bryceson, Deborah Fahy/Jønsson, Jesper Bosse (2010): "Gold digging careers in rural East Africa. Small-scale miners' livelihood choices". In: World Development, 38, 3, pp. 379–392.

Buhmann, Karin (2015): "Business and human rights. Understanding the UN Guiding Principles from the perspective of transnational business governance interactions". In: Transnational Legal Theory, 6, 2, pp. 399–434.

China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (2014): "Guidelines for social responsibility in outbound mining investments". At: http://www.cccmc.org.cn/docs/2014-10/20141029161135692190.pdf (accessed 2 September 2021).

Collier, Paul/Hoeffler, Anke (2004): "Greed and grievance in civil war". In: Oxford Economic Papers, 56, 4, pp. 563–595.

Cuvelier, Jeroen/Van Bockstael, Steven/Vlassenroot, Koen/Iguma, Claude (2014): "Analyzing the impact of the Dodd-Frank Act on Congolese livelihoods". At: https://www.ssrc.org/publications/view/analyzing-the-impact-of-the-dodd-frank-act-on-congolese-livelihoods (accessed 2 September 2021).

Cuvelier, Jeroen/Vlassenroot, Koen/Olin, Nathaniel (2014): "Resources, conflict and governance: A critical review". In: The Extractive Industries and Society, 1, 2, pp. 340–350.

Donaldson, Thomas/Preston, Lee (1995): "The stakeholder theory of the corporation. Concepts, evidence, and implications". In: The Academy of Management Review, 20, 1, pp. 65–91.

EPRM (n.d.): "The European Partnership for Responsible Minerals". At: https://europeanpartnership-responsibleminerals.eu (accessed 8 November 2020).

Finnemore, Martha/Sikkink, Kathryn (1998): "International norm dynamics and political change". In: International Organization, 52, 4, pp. 887–917.

Florini, Ann/Simmons, P.J. (2000): "What the world needs now?". In: Florini, Ann (ed.): The third force. The rise of transnational civil society. Washington, D.C.: Carnegie Endowment for International Peace, pp. 1–15.

Geenen, Sara (2012): "A dangerous bet. The challenges of formalizing artisanal mining in the Democratic Republic of Congo". In: Resources Policy, 37, 3, pp. 322–330.

Geenen, Sara/Custers, Raf (2010): "Tiraillements autour du secteur minier de l'Est de la RDC". In: Marysse, Stefaan/Reyntjens, Filip/Vandeginste, Stef (eds.): L'Afrique des Grands Lacs. Annuaire 2009–2010. Paris: L'Harmattan, pp. 231–258.

Gillies, Alexandra (2010): "Reputational concerns and the emergence of oil sector transparency as an international norm". In: International Studies Quarterly, 54, 1, pp. 103–126.

Global Witness (2009): "Faced with a gun, what can you do?" War and the militarisation of mining in Eastern Congo. London: Global Witness.

Global Witness (2010): 'The hill belongs to them': The need for international action on Congo's conflict minerals trade. London: Global Witness.

Government of the DRC (2011): "Note circulaire n° 002/ CAB.MIN/ MINES/01/2011 du 6 septembre 2011 relative à l'Application obligatoire des directives et recommandations du Guide du Devoir de diligence de l'OCDE et de la résolution 1952 (2010) du Conseil de Sécurité de l'ONU dans le secteur minier Congolais". At: https://cdn.globalwitness.org/archive/files/library/note_circulaire_oecdguidelines_06092011.pdf (accessed 2 September 2021).

Government of the DRC (2012a): "Arrêté ministériel n° 0057/CAB.MIN/ MINES/01/2012 du 29 février 2012 portant mise en œuvre du mécanisme régional de certification de la Conférence Internationale sur la Région des Grands Lacs « CIRGL », en République Démocratique du Congo". At: https://www.mines-rdc.cd/fr/wp-content/uploads/documents/Arrete_0057_2012.pdf (accessed 2 September 2021).

Government of the DRC (2012b): "Arrêté ministériel n° 0058/CAB.MIN/ MINES/01/2012 du 29 février 2012 fixant les procédures de qualification et de validation des sites miniers des filières aurifère et stannifère dans les provinces du Katanga, du Maniema, du Nord Kivu, du Sud Kivu et de la Province Orientale". At: https://www.mines-rdc.cd/fr/wp-content/uploads/documents/Arrete_0058_2012.pdf (accessed 2 September 2021).

Gunningham, Neil/Grabosky, Peter (1998): Smart regulation. Designing environmental policy. Oxford: Oxford University Press.

Gunningham, Neil/Rees, Joseph (1997): "Industry self-regulation. An institutional perspective". In: Law & Policy, 19, 4, pp. 363–414.

Haufler, Virginia (2001): A public role for the private sector. Industry self-regulation in a global economy. Washington, D.C.: Carnegie Endowment for International Peace.

Haufler, Virginia (2003): "New forms of governance. Certification regimes as social regulations of the global market". In: Meidinger, Errol/Elliott, Christopher/Oesten, Gerhard (eds.): Social and political dimensions of forest certification. Remagen: Kessel, pp. 237–247.

Haufler, Virginia (2009): "The Kimberley Process certification scheme. An innovation in global governance and conflict prevention". In: Journal of Business Ethics, 89, pp. 403–416.

Hilson, Gavin (2010): "'Once a miner, always a miner': poverty and livelihood diversification in Akwatia, Ghana". In: Journal of Rural Studies, 26, 3, pp. 296–307.

Hoffmann, Kasper/Vlassenroot, Koen/Marchais, Gauthier (2016): "Taxation, stateness and armed groups. Public authority and resource extraction in Eastern Congo". In: Development and Change, 47, 6, pp. 1434–1456.

IMPACT (2020): "The intermediaries. Traders who threaten the Democratic Republic of Congo's efforts for conflict-free gold". At: https://impacttransform.org/wp-content/uploads/2020/09/The-Intermediaries_Sept-2020_EN-web.pdf (accessed 2 September 2021).

International Labour Organization (2006): "Tripartite declaration of principles concerning multinational enterprises and social policy". Fourth Edition. At: https://ilo.org/public/libdoc/ilo/2006/106B09_303_engl.pdf (accessed 27 September 2021).

IPIS (2020): "Artisanal mining in DR Congo – IPIS open data dashboard". At: https://ipisresearch-dashboard.shinyapps.io/open_data_app/ (accessed 2 September 2021).

Keck, Margaret/Sikkink, Kathryn (1998): Activists beyond borders. Ithaca and London: Cornell University Press.

Koch, Dirk-Jan/Burlyuk, Olga (2020): "Bounded policy learning? EU efforts to anticipate unintended consequences in conflict minerals legislation". In: Journal of European Public Policy, 27, 10, pp. 1441–1462.

Koch, Dirk-Jan/Kinsbergen, Sara (2018): "Exaggerating unintended effects? Competing narratives on the impact of conflict minerals regulation". In: Resources Policy, 57, pp. 255–263.

Le Billon, Philippe (2000): "The political ecology of transition in Cambodia 1989–1999. War, peace and forest exploitation". In: Development and Change, 31, 4, pp. 785–805.

Neumann, Martin/Barume, Bali/Ducellier, Benoît/Ombeni, Alain/Näher, Uwe/Schütte, Philip/von Baggehufwudt, Ulrike/Ruppen, Désirée/Weyns, Yannick (2019): Traceability in artisanal gold supply chains in the Democratic Republic of the Congo. Lessons learned from the Kampene gold pilot project. Hanover: Bundesanstalt für Geowissenschaften und Rohstoffe.

Newell, Peter (2001a): "Environmental NGOs, TNCs, and the question of governance". In: Stevis, Dimitris/Assetto, Valerie (eds.): The international political economy of the environment. Boulder and London: Lynne Rienner, pp. 85–107.

Newell, Peter (2001b): "Managing multinationals. The governance of investment for the environment". In: Journal of International Development, 13, pp. 907–919.

Nielsen, Vibeke/Parker, Christine (2008): "To what extent do third parties influence business compliance?". In: Journal of Law and Society, 35, 3, pp. 309–340.

OECD (2011): OECD Guidelines for Multinational Enterprises. 2011 Edition. Paris: OECD Publishing.

OECD (2013): OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. Second Edition. Paris: OECD Publishing.

Oliviero, Melanie/Simmons, Adele (2002): "Who's minding the store? Global civil society and corporate social responsibility". In: Glasius, Marlies/Kaldor, Mary/Anheier, Helmut (eds.): Global civil society 2002. Oxford: Oxford University Press, pp. 77–107.

Parker, Dominic/Foltz, Jeremy/Elsea, David (2016): "Unintended consequences of sanctions for human rights. Conflict minerals and infant mortality". In: The Journal of Law and Economics, 59, 4, pp. 731–774.

Parker, Dominic/Vadheim, Bryan (2017): "Resource cursed or policy cursed? US regulation of conflict minerals and violence in the Congo". In: Journal of the Association of Environmental and Resource Economists, 4, 1, pp. 1–49.

Perks, Rachel (2011): "'Can I Go?' – Exiting the artisanal mining sector in the Democratic Republic of Congo". In: Journal of International Development, 23, 8, pp. 1115–1127.

Prendergast, John (2009): "Can you hear Congo now? Cell phones, conflict minerals, and the worst sexual violence in the world". At: https://enoughproject.org/files/Can%20Your%20Hear%20Congo%20Now.pdf (accessed 29 September 2020).

Price, Richard (2003): "Transnational civil society and advocacy in world politics". In: World Politics, 55, 4, pp. 579–606.

Radley, Ben/Vogel, Christoph (2015): "Fighting windmills in Eastern Congo? The ambiguous impact of the 'conflict minerals' movement". In: The Extractive Industries and Society, 2, 3, pp. 406–410.

RAND Europe (n.d.): "Indicative, non-exhaustive list of conflict-affected and high-risk areas under Regulation (EU) 2017/821". At: https://www.cahraslist.net/cahras (accessed 7 September 2021).

Ross, Michael (2004a): "How do natural resources influence civil war? Evidence from thirteen cases". In: International Organization, 58, 1, pp. 35–67.

Ross, Michael (2004b): "What do we know about natural resources and civil war?". In: Journal of Peace Research, 41, 3, pp. 337–356.

Schneiberg, Marc/Bartley, Tim (2008): "Organizations, regulation, and economic behaviour. Regulatory dynamics and forms from the nineteenth to twenty-first century". In: Annual Review of Law and Social Science, 4, pp. 31–61.

Schütte, Philip (2019): "International mineral trade on the background of due diligence regulation. A case study of tantalum and tin supply chains from East and Central Africa". In: Resources Policy, 62, pp. 674–689.

Seay, Laura (2015): "Conflict Minerals in Congo. The consequences of oversimplification". In: de Waal, Alex (ed.): Advocacy in Conflict. Critical Perspectives on Transnational Activism. London: Zed Books, pp. 115–141.

Stoop, Nik/Verpoorten, Marijke/van der Windt, Peter (2018): "More legislation, more violence? The impact of Dodd-Frank in the DRC". In: PLoS ONE, 13, 8.

United Nations (2001): "Report of the Panel of Experts on the illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo". At: https://www.undocs.org/S/2001/357 (accessed 2 September 2021).

United Nations (2011): Guiding Principles on Business and Human Rights. New York and Geneva: United Nations.

United Nations (2017): "Final report of the Group of Experts on the Democratic Republic of the Congo". At: https://www.undocs.org/S/2017/672/Rev.1 (accessed 2 September 2021).

van der Velde, Steffen (2017): "The end of conflict minerals on the EU market?", ASSER Policy Brief No. 2017–01. At: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2930215 (accessed 7 September 2021).

van Erp, Judith/Faure, Michael/Liu, Jing/Karavias, Markos/Nollkaemper, André/Philipsen, Niels (2019): "Introduction. The concept of smart mixes for transboundary environmental harm". In: van Erp, Judith/Faure, Micheal/Nollkaemper, André/Philipsen, Niels (eds.): Smart mixes for transboundary environmental harm. Cambridge: Cambridge University Press, pp. 3–24.

Vogel, Christoph/Raeymaekers, Timothy (2016): "Terr(it)or(ies) of peace? The Congolese mining frontier and the fight against 'conflict minerals'". In: Antipode, 48, 4, pp. 1102–1121.

Vogel, David (2008): "Private global business regulation". In: Annual Review of Political Science, 11, pp. 261–282.