An outline of trade flows of legally and illegally extracted mineral resources from fragile states: The case of coltan in the Kivus, DRC

Introduction

The Democratic Republic of Congo (DRC) is a good example of the 'paradox of plenty' theory according to which countries and regions with an abundance of natural resources, especially non-renewable resources such as minerals and fuels, tend to have less economic growth and worse development outcomes than countries with fewer resources.

The DRC has an enormous amount of natural resources such as minerals (tin, coltan, diamond, copper, cobalt, uranium, zinc, gold and nickel), energy (oil, methane, gas and high potential hydraulic and solar energy), forests (timber and non wood products including medicinal plants and wildlife) and water. This makes the DRC one of the richest African countries in terms of natural resources.

Ever since the early years of colonisation under Belgian King Leopold II and up to the Constitution of the Third Republic, the people of Congo have suffered from the continuous draining of their natural resources and to top it all the situation has worsened over the last 15 years. Rising political instability and subsequent wars have dramatically reduced security, especially in the East, causing the death of more than 3,5 million people. Human rights violations and sexual abuse have reached record heights and the DRC has one of the highest levels of infant mortality in Africa.

Today, the Kivus' extraction sites are controlled totally or in parts by warlords, consolidated in their position by neighbouring countries and benefiting international companies all with little regard to human rights issues. Therefore, the following questions are raised: Would the situation be the same, should the Kivus not hold so much wealth in its underground? Does the international community have a responsibility in the upholding of human rights violations in this region? Can we, as consumers, do anything to avoid playing a role, albeit minuscule in this lucrative, yet deeply undermining business? The purpose of this paper is to try to understand the dynamics that allow illegally extracted natural resources to penetrate the international market and to suggests possible actions that can be taken to avoid fuelling conflict in Eastern DRC.

The Case of Coltan

Coltan is a mineral from which the precious metals columbium (Cb) and tantalum (Ta) are extracted. It was discovered in the Kivu region of the DRC in 1910 by the *Compagnie des Chemins de Fer du Congo Supérieur aux Grands Lacs Africains* while installing the Congo-Kongolo railway line. At first considered a mere by-product of cassiterite (the main ore of tin), coltan's other useful properties were discovered in the 1940s. The tantalum ore began to be used in the production of capacitors. Tantalum is twice as dense as steel and highly durable. One of its many properties is superconductivity and a high capacitance, which means that it can store and release an electrical charge.

Since then, its usage has shot up by leaps and bounds. Tantalum capacitors are now used in mobile phones, video cameras, laptops or pagers but also in the fabrication of chemical process equipment, heat exchangers and protection devices owing to its high corrosion resistance.

Market demand for tantalum rose steadily in the 1990s until a substantial surge in 2000 with a 38% increase during the previous year principally driven by the growth in the electronic sector. Prices peaked to as much as US$ 365 per pound of tantalum in November 2000. This caused a "coltan rush", which let to the violent expulsion of many farmers and their families from their land by rebel groups and ruthless businessmen[1]. But the peak was short-lived as tantalum prices dropped dramatically in 2001 while world

[1] United Nations Security Council, *Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo*, S/2001/357, 12 April 2001, 37, ¶ 177;

production was increasing and the global economy was slowing down (Fig. 1). In spite of this, tantalum's wide range of applications and the growing importance of emerging economies are expected to drive up future global demand.

The DRC is thought to hold the largest reserves of tantalum worldwide. An estimated 80% of the world's known coltan supply is in Africa, and 80% of this is believed to be located in the DRC[2]. Despite these large stocks, the DRC's tantalum production remains marginal as a result of poor governance and mainly artisanal extraction techniques.

Official figures on DRC's tantalum exports remain largely underestimated and field studies suggest that the amounts really exported are much larger than expected. For instance it is widely alleged that coltan is occasionally declared as or mixed with cassiterite whose export quantities are much larger. Witnesses have reported trucks loaded with minerals leaving the country at night when the border between Goma and Gisenyi is closed and no controls take place[3].

From State-owned Companies to Rebel-controlled Mining Pits

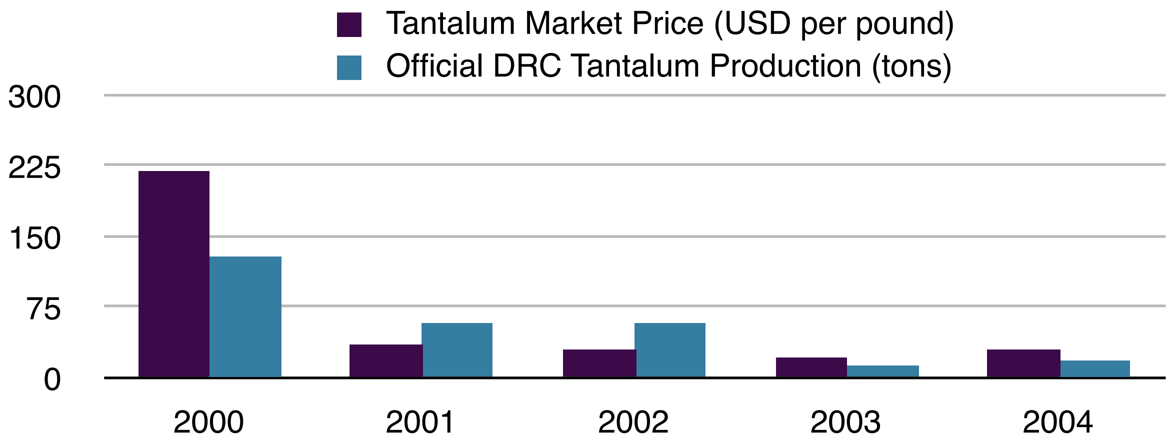
The "coltan belt" extends from Bunia to Goma, Bukavu and Kindu. Coltan is generally surface mined, mostly in abandoned tin mines where the coltan is believed to be of high quality and easily accessible.

From 1976, mining activities were essentially industrial-type and dominated by the state-owned *Société Minière et Industrielle de Kivu* (Sominki). However, the crisis that struck the Zairian economy and Mobutu's progressive loss of control over Eastern territories induced Sominki to close many of its extraction sites. Attracted by a growing market demand, artisanal miners appeared in 1983 and expanded as industrial exploitation slowed down; informal trade with neighbouring countries grew similarly in the 1980s and the 1990s.

1995 marked the end of state control over artisanal mining due to Belgium's withdrawal from Sominki and the collapse of the state in Eastern Zaire. In 1996, a group of rebels led by Laurent-Désiré Kabila, the Alliance of Democratic Forces for the Liberation of Congo-Zair (AFDL) overthrew Mobutu Sese Seko with the support of Angolan, Rwandan and Ugandan forces. It was reported that foreign companies started negotiating new mining deals with the rebels only a few weeks into the conflict[4].

In 1998, the rapid deterioration of the relationship between Kabila and its allies led to a second armed conflict opposing Rwandan and Ugandan forces on one side, and the Congolese forces backed by Angola, Namibia and Zimbabwe on the other[5]. Rwandan forces stretched over to Kivu and took control of Sominki's concessions and requisitioned a stock of 312 tons of coltan

Figure 1



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[2] Global Witness, *Same Old Story. A background study on natural resources in the Democratic Republic of Congo*, Washington, D.C., June 2004, p. 19;

[3] D. JOHNSON and A. TEGERA, Digging Deeper: How the DR Congo's mining policy is failing the country, A Pole Institute report, published in *Regards Croisés n°15*, Goma, December 2005, p.33;

[4] D. MONTAGUE, *Stolen Goods: Coltan and Conflict in the Democratic Republic of Congo*, SAIS Review, Volume XXII, no.1, Winter-Spring 2002, pp.103-104;

[5] United Nations Security Council, *Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo*, S/2001/357, 12 April 2001, 6, ¶ 24;

which were exported to Kigali. Subsequently, a number of Ugandan and Rwandan companies were created to facilitate the exploitation of minerals in Eastern DRC.

Indeed, the rebellion led by the *Rassemblement Congolais pour la Démocratie* (RCD), supported by Rwanda and Uganda, soon started to collect taxes on mineral exports, using the institutions inherited from the Mobutu era[6]. SONEX was founded in March 1999 in Kigali by RCD-Goma to serve as the financial arm of the organisation and to establish a framework for the transfer of minerals from rebel territories to Kigali[7].

During the civil war (1998-2003), illegal coltan was transported mainly by air through Kavumu airport in South Kivu to Kigali and Kampala before being sold on international markets (Fig. 3)[8]. As a result, coltan that has been listed as originating from Uganda and Rwanda is likely to have been mined in DRC.

Trade statistics show that while DRC coltan exports rose in 2000 during the coltan boom, they fell dramatically in 2001. At the same time, Rwandan coltan exports kept growing in 2001 and 2002. Given the nature of the Rwandan influence in Eastern Congo, the possibility that this coltan was in all probability Congolese cannot be ruled out.

Similarly, by comparing Uganda and Rwanda's budget allocation for their respective armed forces and these countries' actual expenditures, the 2001 U.N. Panel of Experts was able to establish a clear link between the exploitation of the Congolese mineral resources and the continuation of the conflict[9].

By then, industrial mining had almost completely disappeared and the production structure as we know it today had taken its final shape.

Supply Chain - Linking Rebel Groups to International Companies

During its field mission, the UN Group of Experts[10] identified the chain of stake-holders involved in coltan trade from the mines to the international market. The Group noticed that the *Forces Démocratiques de Libération du Rwanda* (FDLR) controls a vast majority of mines, both in North and South Kivu. However, the mineral trade involves a complex network of local traders, buying houses and foreign companies which has been summarised here-under for the purpose of this paper.

Mining regulations of the Democratic Republic of Congo make a distinction between local traders (*négociants*) who are licensed to buy in the field and to sell to any domestic exporting company and buying houses (*comptoirs*) which are only licensed to export. The Group also points out that local traders work closely with rebel groups to whom they have to pay taxes in order to pursue their business.

The minerals are then sold by the local traders to the buying houses. These buying houses claim that since they do not buy the minerals on the field they are unaware of their origins. However, this has been contradicted by local traders. They cite three reasons falsifying the claims of the buying houses:

1. The buying houses need to know the origin of the products as the ore content varies from one area to the next.
2. The buying houses are aware of the presence of armed groups, as their taxation often drives mineral prices higher.
3. Many buying houses have privileged relationships with local traders and even pre-finance their activities.

These assertions have been corroborated by the UN Group of Experts through the analysis of hundreds of official mineral transportation documents issued by Government authorities.

[6] International Peace Information Service, *Supporting the War Economy in the DRC: European Companies and the Coltan Trade*, 2002, p.11;

[7] United Nations Security Council, *Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo*, S/2001/357, 12 April 2001, p. 30

[8] Pole Institute, *The Coltan Phenomenon: How a rare mineral has changed the life of the population of war-torn North Kivu province in the east of the Democratic Republic of Congo*, 2002, p. 8;

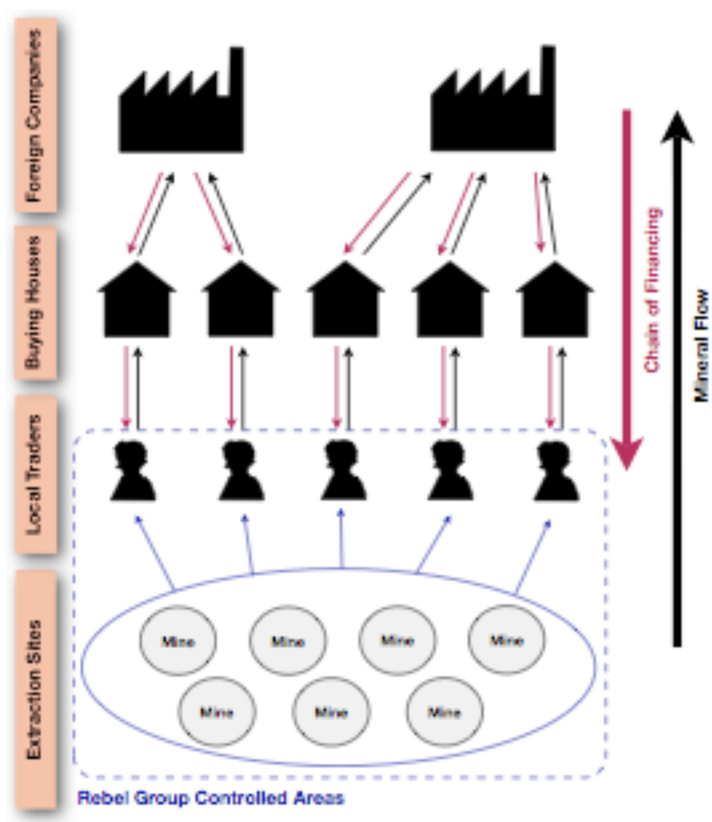
[9] *Id.,* 27, ¶ 109;

[10] United Nations Security Council, *Final report of the Group of Experts on the Democratic Republic of the Congo*, S/2008/773, 12 December 2008, p.20;

Many of these documents confirm that certain traders have purchased consistently from areas controlled by FDLR and have sent the product consistently to the same buying houses.

The Group was also able to establish a close link between foreign companies and buying houses. Various witnesses have admitted that some of the foreign companies pre-finance buying houses that, in turn, pre-finance local traders, acknowledging the existence of a chain of financing that flows from the foreign companies down to the rebel-controlled mining pits (Fig. 2).

Figure 2



The Case of the Bibatama Coltan Mine

The UN Group of Experts of the DRC went to Rubaya, a town near the Bibatama coltan mine. Although this mine had been the scene of several conflicts between FARDC, PARECO and CNDP, the mine was eventually left in the hands of the CNDP, directly supported by Kigali. Contacts in Rubaya explained that mining police loyal to CNDP was indeed monitoring production at the Bibatama mine.

Mr Edouard Mwangachuchu, a national senator who had been granted the licence to exploit the mine in 2001, explained that he had no choice but to accept CNDP presence and carry on working as he needs to pay $16.000 taxes to the government. According to Mwangachuchu, CNDP checkpoints cost him an extra $0,20 per kilogram of coltan before the mineral reaches his buying house called MH1.

However, CNDP control over the Bibatama mine is not limited to the installation of checkpoints as interviews with mining sources indicating that a land dispute between Edouard Mwangachuchu and Bayose Senkoke, a local businessman, has been settled with CNDP siding with Mr Senkoke. As a result, Mr Senkoke has been granted a CNDP issued “licence” to exploit part of the Bibatama concession. The minerals are sold to a CNDP sympathiser based in Goma, Damien Munyarugerero, whose buying house MUNSAD exports several tons of coltan per month.

The Group found out through official export documents that MUNSAD began exporting coltan in 2008. However, the purchaser, a Belgian company called Trademet has indicated that it has worked with and pre-financed MUNSAD for years.

In a Nutshell

Despite its plethora of natural resources the Democratic Republic of the Congo remains one of the poorest countries in the world. The damages left by Belgian colonisation, followed by Mobutu’s ‘kleptocratic’ regime have left the people empty-handed in favour of a handful of politicians and local and foreign businessmen.

1996 marked the end of Mobutu’s dictatorship but the beginning of political instability and large scale violence. Laurent-Désiré Kabila’s upheaval and the two subsequent wars have seen the entry of neighbouring countries such as Rwanda and Uganda in the strife, resulting in the death of more than 3,5 millions of innocent civilians.

Numerous studies have pointed out the importance of minerals in the continuation of conflict in Eastern DRC. Among them, the UN *Group of Experts on the Democratic Republic of the Congo* has even been able to identify the key actors, including international companies, involved in this deadly trade.

In spite of this well-documented evidence, the international community has not taken concrete actions to regulate trade from Eastern DRC.

Therefore, the international community must urgently set up a sound monitoring system that will allow manufacturers and consumers to be better informed about the provenance of the resources used in the goods they purchase.

Furthermore, legal mechanisms must be put in place in importing countries to ensure that the law of the country of extraction of these resources has not been breached. These mechanisms might include custom law, civil actions and criminal prosecutions that should take place in importing countries themselves offering a stable ground for peaceful development of the procedure.

The EU is a global trade actor. It is also a human rights promoter. Yet, many companies based in the EU have a role, direct or indirect in the continuation of armed conflicts and human rights abuses. Consumers themselves buy goods made of raw material partly extracted in the DRC by rebel groups. The EU has the capacity and resources to play a positive role in the struggle against the global system of impunity which is now a characteristic feature of international trade in natural resources.

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