

## DOCTOR OF PHILOSOPHY

**Conflict coltan**

**local and international dynamics in the Democratic Republic of Congo**

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Conflict Coltan:  
Local and International Dynamics in  
the Democratic Republic of Congo

Miho Taka

2011

A thesis submitted in partial fulfilment of the  
University's requirements for the Degree of  
Doctor of Philosophy

Coventry University



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## **Abstract**

This research analyses the role of multi-stakeholder partnerships in enhancing governance to promote sustainable peace and security. It uses a case study of coltan exploitation and armed conflict in the eastern Democratic Republic of Congo (DRC), where the two wars between 1996 and 2003 and the ongoing conflict have led to the 'world's worst humanitarian crisis'. The current body of knowledge on conflict analyses, particularly 'resource curse' theory, emphasises the natural resource endowment and weak governance as the main factors contributing to the DRC conflict, and has been influential in policy formulation.

The case study is supported by the collection and analysis of qualitative data from multiple sources using different methods including literature reviews, interviews and observations. In so doing, the research seeks to examine how multi-stakeholder partnerships can help to enhance governance and promote sustainable peace and security, with a focus on the role of the multi-stakeholder partnerships in curtailing revenues for the belligerents from coltan production and trade in the eastern DRC.

The analysis of the conflicts and coltan exploitation revealed the intricate multi-layered nature of the conflicts in the DRC and their complex causalities. The examination of the multi-stakeholder partnerships relevant to coltan exploitation in the DRC identified a number of constraints for their implementation and concerns about adverse effects from the implementation, largely owing to the externally driven agenda of the partnerships, which neglects the local perspectives.

Through the arguments presented in this thesis, the research contributes to knowledge in three broad areas: it contributes to ongoing academic discussions on conflict analyses, in particular the resource curse hypothesis and the economic agendas of civil war; it provides empirical analysis and data on the coltan industry and partnership initiatives in relation to armed conflicts in the eastern DRC; and it highlights the need to re-assess the concept of participatory governance as one of the key approaches to improving governance.

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January 2011



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## List of Abbreviations

ACRAL	<i>l'Association des Creuseurs Miniers Artisansaux de Lulingu</i>
ADF	Allied Democratic Forces
ADP	<i>Alliance Démocratiques des Peuples</i> (Democratic Alliance of Peoples)
AFDL/ADFL	<i>Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre</i> (Alliance of Democratic Forces for the Liberation of Congo-Zaire)
ALIR	<i>Armée de Libération du Rwanda</i> (Army for the Liberation of Rwanda)
AMC	Amalgamated Metals Corporation
AMF	American Mineral Fields
ASM	Artisanal and Small-Scale Mining
BDK	Bundu dia Kongo
BGR	Bundesanstalt für Geowissenschaften und Rohstoffe (Federal Institute for Geosciences and Natural Resources)
BMZ	Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (Federal Ministry for Economic Cooperation and Development)
CAP	Common Agricultural Policy
CASM	Communities and Small-Scale Mining
CEEC	<i>Centre d'Evaluation, d'Expertise et de Certification</i> (Centre for Evaluation, Expert Analysis and Certification)
CENADEP	Centre National d'Appui au Développement et à la Participation Populaire
CNDP	<i>Congrès national pour la défense du peuple</i> (National Congress for the Defence of the People)
CNS	<i>Conférence Nationale Souveraine</i> (Sovereign National Conference)
CSPD	<i>Comité de Suivi du Processus de Durban</i>
CSR	Corporate Social Responsibility
CTC	Certified Trading Chains
DDR	Disarmament, Demobilisation and Reintegration
DFGF-E	Dian Fossey Gorilla Fund Europe (DFGF-E)
DFID	Department for International Development
DSCRIP	<i>Document de la Stratégie de Croissance et de Réduction de la Pauvreté</i> (Document of Poverty Reduction Strategy Paper)
EICC	Electronic Industry Citizenship Coalition
EITI	Extractive Industries Transparency Initiative
E-TASC	Electronics – Tool for Accountable Supply Chains, developed by a joint working group of GeSI and EICC
ex-FAR	former <i>Forces Armées Rwandaises</i> (Rwandese Armed Forces)
FAC	<i>Forces Armées Congolaises</i> : Congolese Armed Forces
FAR	<i>Forces Armées Rwandaises</i> (Rwandese Armed Forces)
FARDC	<i>Forces Armées de la République Démocratique du Congo</i> (Armed Forces of the Democratic Republic of Congo)
FAZ	<i>Forces Armées Zairoises</i> (Zairian Armed Forces)
FDD	<i>Forces pour la Défense de la Démocratie</i> (Forces for the Defense of Democracy)

## List of Abbreviations

FDLR	<i>Forces Démocratiques de Libération du Rwanda</i> (the Democratic Forces for the Liberation of Rwanda)
FFI	Fauna & Flora International
FLC	Front de Libération du Congo: Merger of MLC and RCD-ML
FRF	<i>Forces Républicaines Fédéralistes</i> (Federalistic Republican Forces)
GDP	Gross Domestic Product
Gécamines	<i>Générale des carriers et des mines</i>
GeSI	Global e-Sustainability Initiative
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit GmbH (German Technical Corporation)
ICCN	<i>Institut Congolais pour la Conservation de la Nature</i>
ICD	Inter-Congolese Dialogue
ICG	International Crisis Group
ICGLR	International Conference on Great Lakes Region
ICMM	International Council on Mining and Metals
IFC	International Finance Corporation
ILO	International Labour Office
IMF	International Monetary Fund
INICA	Initiative for Central Africa
IPIS	International Peace Information Service
IRC	International Rescue Committee
IRIN	Integrated Regional Information Networks
IPIS	International Peace Information Service
ITRI	International Tin Research Institute
iTSCi	ITRI (International Tin Research Institute) Tin Supply Chain Initiative
ITU	International Telecommunications Union
LRA	Lord's Resistance Army
KBNP	Kahuzi Biéga National Park
KPCS	Kimberley Process Certification Scheme
Magrivi	<i>Mutuelle des Agriculteurs et Eleveurs du Virunga</i> (Farmers and Livestock Raisers Cooperative of Virunga)
MDGs	Millennium Development Goals
MIBA	<i>Société Minière de Bakwanga</i> (Mining Company of Bakwanga)
MLC	Mouvement de Libération Congolais (Congolese Liberation Movement)
MONUC	<i>Mission de l'Organisation des Nations Unies en République Démocratique du Congo</i> (United Nations Organisation Mission in the Democratic Republic of the Congo)
MPA	Metal Processing Association
MPC	Mining Processing Congo
MPLA	<i>Movimento Popular de Libertação de Angola - Partido do Trabalho</i>
NCP	National Contact Point
NEPAD	New Partnership for Africa's Development
NNMS	Ningxia Non-ferrous Metals Smeltery
NRD	Natural Resources Development Rwanda Ltd
OECD	Organisation for Economic Co-operation and Development
OKIMO	<i>Office des Mines de Kilo-Moto</i>

## List of Abbreviations

OGMR	Rwanda Geology and Mines Authority
PAC	Partnership Africa Canada
PALIR	<i>Peuple Armé pour la Libération du Rwanda</i> (Party for the Liberation of Rwanda)
PARECO	<i>Patriotes Résistant Congolais</i> (Coalition of Congolese Patriotic Resistance)
PPP	Public Private Partnership
PRSPs	Poverty Reduction Strategy Papers
RAID	Rights and Accountability in Development
RCD	Rassemblement Congolais pour la Démocratie (Rally for Congolese Democracy)
RCD-Goma	Rassemblement Congolais pour la Démocratie-Goma (Rally for Congolese Democracy-Goma)
RCD-ML	Rassemblement Congolais pour la Démocratie – Mouvement de Libération (Rally for Congolese Democracy – Liberation Movement)
RECs	Regional Economic Communities
RMMC	Refractory Metals Mining Company
RPA	Rwandan Patriotic Army
RPF	Rwandan Patriotic Front
SADC	Southern African Development Community
SAESSCAM	Service d'Assistance et d'Encadrement du Small Scale Mining (Technical Assistance and Training Service for Small-Scale Mining)
SAKIMA	<i>Société Aurifère de Kivu et Maniema</i>
SOMICO	<i>Société Minière du Congo</i>
SOMIGL	<i>Société Minière des Grands Lacs</i> (Great Lakes Mining Company)
SOMIKIVU	<i>Société Minière du Kivu</i>
SOMINKI	<i>Société Minière et Industrielle du Kivu</i>
THAISARCO	Thailand Smelting and Refining Company
TUC	Trade Union Congress
UMHK	<i>Union Minière du Haut-Katanga</i>
UNCED	UN Conference on Environment and Development
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNEP	United Nations Environment Programme
UNHCR	United Nations High Commissioner for Refugees
UNITA	<i>Uniao Nacional para a Independência Total de Angola</i>
UNRISD	United Nations Research Institute for Social Development
UNSC	United Nations Security Council
UPDF	Uganda People's Defence Force
WBCSD	World Business Council for Sustainable Development

Map of the DRC

## **Map of the DRC**

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# Conflict Coltan: Local and International Dynamics in the Democratic Republic of Congo

## **Foreword**

I lived and worked in Kigali, the capital of Rwanda, as Country Director of an NGO from 2001 to 2005. There I worked with local associations, collaborating with them in the implementation of their initiatives while I managed the Rwanda office. I had access to very limited resources, working with no backing from local staff and no vehicle at my disposal, a rather unusual thing for an international NGO. My work therefore put me in close daily contact and interaction with locals as well as foreigners of all kinds, through whom I could follow events on the ground unsheltered.

Rwanda was still suffering from the major destruction entailed by the 1994 genocide. The majority of the population was living in severe poverty; resources, facilities and services were seriously limited and only a handful of viable industries were in operation. Yet there was visible affluence and wealth in the country. And every time I went to the bank, I had the opportunity to observe a few people there carrying bags full of USD100 notes. I also encountered business people who were flying in and out of Rwanda, not revealing the nature of their business; a few, however, did tell me that they made regular business trips to Goma, the provincial capital of North Kivu in the Democratic Republic of Congo (DRC), just across the border from Rwanda. I did not know what kind of business opportunities existed in Goma at a time when the DRC was at war.

I soon crossed the border to Goma myself: when the Nyiragongo volcano erupted on 17 January 2002, causing a population displacement there, I joined an emergency relief operation to assist the displaced. This volcanic region, well known for its mountain gorillas, is stunningly beautiful, fertile and rich in minerals but I noted that the majority of the population living there was very poor and deprived. I was struck by the arresting gap between the absolute poverty and great wealth of the region and made an assumption that this wealth was somehow linked with the ongoing conflict in the DRC.

My assumption was reinforced by some business men I met in Kigali. One day I was approached by a few executives holding business cards representing a company lodged in a makeshift office; they expressed their keen interest in accessing the market in Japan (my country of origin) in order to sell minerals, specifically coltan. This was when I heard the name coltan (columbo-tantalite) for the first time and when the price of coltan had collapsed (during 2001) after a short-lived boom period. I was told by a few local people that Rwanda produced such minerals and that Rwanda used to be a larger place, including some parts of the DRC and other neighbouring countries. I also came across an individual who claimed to be an ex-Russian airman who was flying an aircraft carrying commodities in and out of the eastern DRC. He was overtly racist and sexist and was very open about a clandestine and lucrative trade in minerals, including diamonds and coltan. He recommended trading in diamonds because of the level of profits it generated and the relative ease with which the required certifications of origin could be illegitimately obtained.

On reflection, I was alarmed at being approached by those individuals because of their probable links with the Rwandan army, the security forces and similar agencies. The tension in Rwandan society, both visible and invisible, was intense at the time. There was an overwhelming presence of many soldiers, self-defence forces, members of private security forces and of the police throughout the country. There was also a rumour that the intelligence was operating undercover to control the activities of foreigners as well as locals, and

that all our communication was bugged. The rumour was probably partly true but the most important factor was the existing tension, which could create rumours and mobilise people very efficiently.

I developed a keen interest in how this enormous wealth can in fact contribute to such massive poverty and violence, and how mineral-using industries, such as in Japan, could engage in business to overturn the vicious link. My interest has grown, especially because the suffering of the Congolese people has been largely neglected year after year; concrete efforts and responses are lacking, despite increased awareness and knowledge of the link, provided by several investigations, reports and campaigns. In addition, the forest in the DRC, as one of the earth's lungs, is vital in our efforts to urgently address climate change. For this reason, I decided to conduct this piece of research as a consumer of mineral resources originating from the DRC, with a feeling of hope that we can fulfil our responsibility to much greater degree and be able to engage for the betterment of the Congolese people.



## **Chapter One: Introduction**

### 1.1. Introducing the research background

This thesis is a result of my journey of enquiries which took place between 2007 and 2010. It describes how minerals, extracted from a developing country with abundant natural resources, contribute to our modern life based on high technology, yet at the same time impact negatively on the producing country. How can we reconcile this conspicuous disparity? Two widely held views are that a rich endowment of natural resources combined with weak governance leads to violent conflict and poverty, the 'resource curse' theory, and that multi-stakeholder partnerships, such as certification schemes, can have positive impacts leading to improved security and development. I dispute these views, or at least believe they are simplistic and probably misleading. I present a detailed analysis on coltan exploitation in the eastern DRC to argue that complex political issues – local, regional and international – are core to conflict and poverty in the eastern DRC. The analysis is based on specific case studies of the informal artisanal coltan mining and trade, coltan supply chains and coltan certification schemes. Partnerships and certification will make little positive contribution as long as these political issues are not addressed, not least because widespread corruption allows evasion of all regulation as well-established networks, including politico-military elites, are deeply involved in the mineral trade.

This section introduces the background to my research, an overview of the DRC, its mining sector and the impact of the prolonged conflict since 1996, and the theoretical background that forms the research. The following section clarifies the research aims and questions, and how the achievements of those may contribute to knowledge. The third section provides the structure of the thesis. A chronology of the conflict is provided as Annex 1.

The DRC<sup>1</sup> covers an area of more than 2 million square kilometres and borders nine countries, namely Angola, Burundi, Central African Republic, Republic of Congo, Rwanda, Sudan, Tanzania, Uganda and Zambia (CIA 2010). The population is estimated to be over 70 million (ibid.). The country is enormously rich in natural resources, including cobalt, copper, niobium, tantalum, petroleum, diamonds, gold, silver, zinc, manganese, cassiterite, uranium, coal, hydropower and timber (ibid.). The area holds over 1,100 different mineral substances, mainly in four regions, namely Katanga, the two Kasais, Northeast Congo and Kivu-Maniema (World Bank 2008a). Amongst them, the Katanga Copper Belt contains the second richest copper reserves in the world, estimated to be 70 million metric tonnes, the largest known cobalt reserves in the world, estimated to be 5 million metric tonnes, and three percent of the world zinc reserves, estimated to be 6 million metric tonnes (ibid.). The country also possesses the world's largest known diamond reserves in terms of carats, 25 percent or around 150 million carats, and world-class gold deposits (ibid.). While many regions have not had detailed explorations, unknown mineralisation is considered to exist in other regions as well.

The mining sector in the DRC has been the main sector of the economy throughout history and accounted for 70 to 80 percent of export earnings and about 8 percent of GDP (ibid.). The sector's contribution to the formal economy largely decreased in the past, owing to the decline in commodity prices, mismanagement of state-owned enterprises and the significant expansion of the artisanal mining sector and informal economy, following the collapse of state institutions. About 90 percent of the minerals are considered as being produced by the artisanal mining sector (ibid.). The World Bank anticipated in 2008 that the gross value of mining production would grow to range between USD2 billion and USD2.7 billion annually, contributing to between 20 and 25 percent of the country's GDP (World Bank 2008a). The global financial crisis, however, severely affected most of the potential

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<sup>1</sup> In this thesis, both country names, Zaïre and the Democratic Republic of Congo (DRC), are used to describe the current state of the Democratic Republic of Congo (DRC). The appellation, Zaïre, is more specifically used to refer to events or phenomenon that took place at a time when the country was called Zaïre.

transmission mechanisms within the DRC economy and the GDP declined from 6.2 percent in 2008 to 2.7 percent in 2009 (Kalala with Cassimon 2010).

During the wars between 1996 and 2003, the country's natural resources were significantly plundered, which prompted the UN Security Council to instruct the eminent investigation by the UN Panel of Experts on 'The Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo' (UNSC 2001a; 2001b; 2002a; 2002b). The measurement of ability to provide security, protection of property, basic public services and key infrastructure scored the DRC in the position of the world's 6<sup>th</sup> failed state amongst 50 other failed states (Foreign Policy 2008) and the regulatory environment for business and investment of the country is marked 178<sup>th</sup> out of 178 states (World Bank 2007a).

The country's predicament is frequently depicted as the 'world's worst humanitarian crisis' by UN agencies and it was ranked 168<sup>th</sup> out of 177 countries in the 2007/2008 Human Development Index (UNDP 2008). An estimated 5.4 million people have died since 1998, and 45,000 people continue to die every month, as a result of the conflicts and humanitarian crisis, according to a major mortality survey conducted by the International Rescue Committee in 2007 (IRC 2008). Most of these deaths were largely owing to the lack of access to basic health care, sanitation, adequate nutrition and infrastructure, especially by being displaced (Caritas Australia 2008). The number of internally displaced persons (IDPs) has been estimated to be 1.15 million, and 300,000 people have been refugees in neighbouring states (UNHCR 2008). The recurrent and continuous displacement of the population is termed 'pendulum displacement' by aid workers.<sup>2</sup> Similarly, sexual violence has also been widespread (UNHCR 2008) and more than 8,000 women were raped in 2009.<sup>3</sup> This pervasiveness of rape in the DRC made the UN's Special Representative on Sexual Violence in Conflict, Margot Wallstrom, call

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<sup>2</sup> IRIN (2007a) 'DRC: 'Pendulum displacement' in the Kivus', IRIN news on 1 August 2007, available from: [www.irinnews.org/PrintReport.aspx?ReportID=73524](http://www.irinnews.org/PrintReport.aspx?ReportID=73524) [Accessed 13 July 2009].

<sup>3</sup> BBC (2010a) 'UN official calls DR Congo "rape capital of the world"', *BBC News*, 28 April 2010, available from: <http://news.bbc.co.uk/1/hi/world/africa/8650112.stm> [Accessed 22 July 2010].

the DRC the 'rape capital of the world'.<sup>4</sup> Furthermore, several UN Mission in Congo (MONUC) personnel have been accused of sexually abusing girls in the DRC<sup>5</sup> and trading their arms with rebel groups in exchange for minerals from the DRC (Escobales 2008).

Given the natural resource endowment and severe socio-economic conditions, the DRC was considered to be cursed by its natural resource abundance throughout its history. The two wars between 1996 and 2003 reinforced this view and prompted responses. The resource curse literature draws on the analysis of econometric studies which examined whether natural resource dependence affects economic performance and political development adversely in resource-abundant countries. As the literature accumulated analytical evidence to establish those recurring tendencies, it has expanded to look into the correlation between natural resource abundance and civil war.

This emergent field of knowledge is based on the evaluation of two broad variables – rebel greed and grievance. The greed hypothesis asserts that the greed of rebel groups in a country with weak governance and natural resource abundance, especially valuable, point source and lootable resources, leads to civil war. Political grievance within a given society is treated as a dichotomy with greed and is largely rejected by the econometric studies. While horizontal inequality and/or the weakening of the social contract in a given society is considered to be critical to trigger an armed conflict within the school of political science, it is criticised by some economists for being too political and lacking systematic analysis. The econometric studies are, however, overly reductionist in trying to establish the correlation through statistical studies while facing technical issues, and fail to identify the causality and explain the pathways leading to the violent conflict.

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<sup>4</sup> BBC (2010a) 'UN official calls DR Congo "rape capital of the world"', *BBC News*, 28 April 2010, available from: <http://news.bbc.co.uk/1/hi/world/africa/8650112.stm> [Accessed 22 July 2010].

<sup>5</sup> IRIN (2006) 'DEMOCRATIC REPUBLIC OF CONGO (DRC): MONUC troops among the worst sex offenders', 28 August 2006, available from: [www.irinnews.org/report.aspx?reportid=60476](http://www.irinnews.org/report.aspx?reportid=60476) [Accessed 10 September 2009].

The dichotomy between greed and grievance can also be seen as a reflection of the variance between quantitative and qualitative studies. These different approaches need to complement each other to enhance the analytical rigour and understanding of the research subject, and to include analysis of social and political elements in specific contexts and external political economic environments. Whilst there has been an effort to consider how greed and grievance interact and transform into war economies over time, the greed hypothesis has been over-emphasised and applied to formulate policy responses to armed conflicts with a resource aspect as mentioned earlier. The policy responses so far, therefore, have focused on sanction regimes to prevent armed groups accessing natural resource revenues, to complement weak governance in a given country. It is not surprising that sanction-based regimes have proved ineffective in ending armed conflict, having failed to take into account the involvement of external actors, including neighbouring states and private companies, and various other issues, which shape the conditions conducive to armed violence, particularly political grievance within the society.

The policy responses to armed conflicts associated with natural resources have, therefore, become increasingly global, multi-stakeholder and participatory, and are often manifested in a framework of co-regulation or partnership with the aim of overcoming the shortcomings of the country-based approach and the problem of weak governance in resource-producing countries. It also reflects the concerns of various stakeholders. The minerals originated from conflict areas are labelled 'conflict minerals' and raise urgent concerns for the international community, reputational risks and supply chain management issues for the electronics and ICT industries, and ethical issues for conscientious consumers. It is crucial to address the issues of 'conflict minerals', especially because the demand for these critical minerals continues to grow. There is, therefore, a great expectation for this new approach to enhance governance through increased transparency and accountability for natural resource trade, thereby ending or preventing armed conflict. This piece of research is crucial in examining the efficacy of such approach in the case of the eastern DRC where the mineral resources are considered to drive and perpetuate the armed conflicts.

## 1.2. Research questions, aim and objectives

The two wars in the DRC between 1996 and 2003 are often portrayed as a case of contemporary conflicts which emerged during the post-Cold War period and accelerated globalisation and market liberalisation. As such, the conflict in the DRC displayed the weakened state capacity to employ organised violence against the rebels and warfare, which targeted the civilian population and was financed by the state's rich natural resources, minerals in particular, through the global market.

Despite the official end of the conflict in 2003 and the post-conflict reconstruction efforts, armed struggles continue in the eastern DRC. The continuation of the conflict suggests the limitations of the current peace process based on an inclusive power-sharing arrangement and reconstruction instruments relying largely on economic growth through good governance and private sector development, manifested in the Poverty Reduction Strategy Paper (PRSP). However, the self-financing aspect of the conflict has drawn significant attention from the international, academic and business communities. Resource curse theory has been highly influential in drawing attention to the rebel greed hypothesis, which attributes the protracted conflict to economic motivations and opportunity, rather than seeing grievance as the driver of the conflict; and the studies on war economy have explained how the adaptive networked structures, through their link to the global market, can finance and sustain the conflict.

Faced with the limited success of the reconstruction efforts and other instruments such as sanctions, as well as the weak capacity of the post-conflict government in preventing conflict and addressing the war economy, multi-stakeholder partnerships are increasingly expected to enhance governance of mineral production and trade in the eastern DRC in order to promote sustainable peace and security. More specifically, the multi-stakeholder partnerships aspire to prevent the belligerents accessing the revenues derived from mineral resources. While multi-stakeholder

partnerships, as a new form of global governance, are expected to improve governance through more inclusive, transparent and accountable processes with higher stakeholder participation, there is a lack of empirical evidence and critical analysis of the process and impact of multi-stakeholder partnerships, especially in post-conflict/conflict situations. In addition, there is no evidence to support that curtailing financial resources derived from mineral resources for the belligerents will end or prevent the conflict in the absence of concrete analysis of the conflict motivations. Therefore, the main objective of this research is:

*To examine how multi-stakeholder partnerships can help in enhancing governance to promote sustainable peace and security and why. The thesis focuses specifically on the role of the multi-stakeholder partnerships in curtailing revenues for the belligerents from coltan production and trade in the eastern DRC.*

More specifically, the research aims to answer the following questions:

- 1) What are the background and other causes of the conflict in the DRC, and how have they been influencing the trajectory of the conflict and been addressed? This question is chosen because the greed hypothesis and the studies on war economy have drawn attention to the economic agenda and function of the conflict in the DRC, and overshadowed other existing and unresolved issues which have been driving and sustaining the conflict. As such, reducing the finance of the conflict through multi-stakeholder partnerships may not produce the intended outcomes.
- 2) How does coltan production and trade finance and drive the conflicts in the eastern DRC? The multi-stakeholder partnerships to delink coltan production and trade from the conflict are based on the view that the conflict is driven and financed by the revenues from coltan; however, the analysis of the conflict motivations is limited. Therefore, the research seeks to examine the current knowledge on the link between the conflict and coltan: how the coltan market and industry are

structured and linked to the DRC conflict, how coltan is produced and traded in the DRC, and the involvement of the armed groups in coltan production and trade.

- 3) What are the perspectives of various stakeholders within the coltan supply chains on: whether revenues from coltan drive and finance the conflict; whether it is possible to identify 'conflict coltan'; the idea to halt purchase of 'conflict coltan'; the issues and challenges relating to coltan production and trade; and how best to address these issues and challenges? These questions are being asked to identify different views within the coltan supply chains to help evaluate to what extent the multi-stakeholder partnerships include these views in their strategies.
- 4) What are the multi-stakeholder partnerships that have relevance to the coltan mining and trade in the DRC? What are the backgrounds, objectives and scopes, types, and progresses of the multi-stakeholder partnerships? Are the multi-stakeholder partnerships as inclusive, participatory, transparent and accountable as they have been promoted to be? What are the opportunities and challenges of the multi-stakeholder partnerships? Can the multi-stakeholder partnerships strengthen governance, limit the finance for the belligerents and improve people's lives in the eastern DRC?

I have found little evidence to support the arguments, put forward by some advocates, that multi-stakeholder partnerships are effective in the complex and protracted conflict environment of the eastern DRC. In order to focus my research I adopted the following hypotheses:

1. *Multi-stakeholder partnerships have not significantly improved governance in the region*
2. *Multi-stakeholder partnerships have not demonstrated any positive impact in conflict prevention or conflict resolution*
3. *Multi-stakeholder partnerships are inherently inadequate to address deep-rooted violent conflicts which have underlying political causes*

By addressing the above questions, the thesis tests the hypotheses and illustrates challenges the multi-stakeholder partnerships face in designing and implementing instruments in the conflict-affected country. It will also verify the



limitations of the multi-stakeholder partnerships in ending and preventing the conflict without taking into account other underlying issues affecting the conflict which are largely overlooked by the greed hypothesis and the studies on war economy. Hence, this research envisages its contribution to knowledge through three broad areas as set out below.

Firstly, the arguments presented in this thesis will contribute to the ongoing academic discussions on conflict analyses, the resource curse hypothesis and the economic agendas of civil war in particular. The findings of this research will help crystallise the view about the limitations of country-based reductionist approaches and their over-emphasis on the economic dimensions of armed conflict. However, my own analysis of the nexus between coltan exploitation and armed conflict in the eastern DRC has uncovered some of the more complex causalities of the conflicts, which traverse local, regional and international levels and which are critically lacking in most studies available to date.

Secondly, this research will offer empirical analysis and data on the coltan industry and partnership initiatives in relation to armed conflicts in the eastern DRC. In so doing, it will demonstrate how the global demand for resources such as coltan impacts on the place of supply and how the partnership initiatives, which aspire for more inclusive and accountable governance, are almost exclusively driven by the demand side through their neglect of perspectives and needs associated with the upstream supplier communities, which tend to clash in fundamental ways with those of the demand side.

By examining the multi-stakeholder partnership cases relevant to coltan exploitation in the eastern DRC, I will seek to elucidate a critical theoretical contradiction in the application of multi-stakeholder partnerships with the aim of addressing one of the key problems in situations marked by weak governance and protracted violent conflicts, due to the difficult task of involving the main stakeholders, a necessary step within participatory governance processes. I will also highlight some of the risks associated with efforts to implement a 'conflict mineral' approach in the DRC coltan industry.

In short, I will provide insights into policies on the conflict minerals' agenda that are highly relevant for academics, humanitarian agencies, governments, industries and consumers, especially at a time when demand for minerals such as coltan is ever increasing.

The thesis will therefore highlight the need to re-assess the concept of participatory governance as one of the key approaches to improving governance, which is its third contribution to knowledge.

### 1.3. Structure of the thesis

This thesis includes a total of eight chapters. Chapter Two reviews the literature in seven areas: contemporary conflicts; resource curse; war economy; informal economy; artisanal mining; post-conflict reconstruction; and partnerships. It provides the current body of knowledge on resource-related aspects of contemporary conflict to contextualise the research subject and identify the research gaps.

Chapter Three explains the methodology used to answer the research questions. A detailed table of research questions and methods used to address the research questions and a list of interviews are also provided.

Chapter Four provides an overview of the nature and trajectory of the conflict in the DRC between 1996 and 2008, with a focus on the Kivu provinces in the east and their relationship with Rwanda. It starts with a brief review of the history of the DRC prior to the outbreak of the conflict and explains the negative context that prevailed then in the country, marked by a significant national economic decline, an apparent institutional collapse and a loss of political legitimacy for the leadership. It also identifies some of the underlying parameters that have significant regional value, namely the questions of ethnicity, citizenship and land. Through an examination of the two wars that the eastern DRC has experienced in its contemporary history, the peace processes related to them and the ongoing conflict, this chapter aims to demonstrate the rather complex multi-layered nature of those conflicts and

their embeddedness in local, national and regional contexts. And, in the context of a closer examination of the DRC conflict, the chapter also tries to re-assess a number of conflict analyses previously reviewed as part of Chapter Two.

In Chapter Five, there is an analysis of the relationship between the exploitation of coltan and the conflict in the eastern DRC (and its continuation), which is not tackled in earlier parts. The chapter thus opens with a brief review of the literature so far devoted to coltan exploitation and the situation of war in the country, which displays a marked bias in favour of the economic factors behind conflicts (as motivation and function), although this scholarship offers a rather limited scope with regard to the specific analysis of conflict motivation. The chapter proceeds with an explanation of a number of core issues dealing with artisanal coltan mining and, in so doing, looks at the applications of and markets for coltan, its background, the inadequate legislative environment and the negative impacts associated with artisanal coltan mining. This chapter also includes an examination of the complex coltan trade chains and some details about how they change over time. On the basis of these analyses, there is an attempt to demonstrate that, within the DRC, the exploitation of minerals in general and coltan in particular does contribute to financing the activities of armed groups there. In contrast, there is also an attempt to highlight the fact that political grievance and security, identified as part of these analyses (and of earlier discussions), tend to influence the coltan exploitation and conflict as well as the context in which the informal coltan extraction and trade take place.

Chapter Six provides a number of useful perspectives and initiatives from within the coltan supply chains to give a voice to the array of views and concerns expressed on both sides: demand and supply. At the outset, the chapter introduces an emerging 'conflict mineral' approach based on the key notion that minerals drive armed conflict (already debated within Chapters Two and Five). While the 'conflict mineral' agenda has forced coltan-using companies to apply a human rights due diligence approach in their supply chains, the said agenda has posed a fundamental question as to what, in

concrete terms, constitutes a 'conflict mineral' within the complex coltan supply chains. Furthermore, one discrepancy must be noted: local stakeholders from the upstream supply chains find themselves under increasing pressure while trying to secure a livelihood and ensuring their survival and safety; their predicament thus contrasts with that of the demand side, which faces the challenges of securing conflict-free coltan. As a result, they tend to view the 'conflict minerals' approach as being devoid of practicality within their local context and want to draw attention to many other issues affecting the state of coltan extraction and trade.

Chapter Seven makes an overall assessment of the situation through an evaluation of the presumed efficacy of multi-stakeholder partnerships in curtailing revenues benefitting belligerents from coltan production and trade in the eastern DRC. It sets to scrutinise seven multi-stakeholder partnerships, including one local initiative, three coltan certification schemes and three standards-setting initiatives. Through their presentation, the chapter discloses a series of obstacles that such initiatives have encountered and points to some potentially adverse effects that their implementation tends to have on local communities, these partnerships being, in the main, externally driven, not inclusive enough of local perspectives, and not very mindful of people's lived reality on the ground. Drawing on my analysis of the relations between coltan exploitation and conflicts within the eastern DRC and assessment of the efficacy of the multi-stakeholder partnerships, the chapter fulfils the overall aim of the research in analysing how multi-stakeholder partnerships can help in improving governance and fostering a culture of sustainable peace and security in the DRC.

Chapter Eight sums up the findings gathered in the preceding chapters and draws conclusions for the overall thesis. This final chapter also offers a broader insight into policies linked to conflict minerals issues and an overview of key contributions to knowledge in the main areas covered by the thesis and with regard to the most significant questions raised in it. In addition, a few suggestions for future research have also been included as a way of moving things forward.

## Chapter Two: Literature review

This chapter reviews the relevant literature on resource-related aspects of contemporary armed conflict in order to locate the research subject and contextualise the research questions. The first three sections cover contemporary conflicts, resource curse and war economy to review the studies pertinent to the analysis of resource-related conflict, followed by two sections on informal economy and artisanal mining to provide views on the structures behind the conflict. The sixth section examines the literature on post-conflict reconstruction to elucidate the limitations of the current practices of reconstruction in addressing the economic aspects of the conflict. The last section looks at partnerships as a new type of global governance to fill the governance gap, as partnerships are expected to be able to deal with the economic function of the conflict, as opposed to sanctions and reconstruction instruments.

### 2.1. Contemporary conflicts

There was an increase in the number of armed conflicts after the end of the Cold War, particularly in Eastern Europe and Africa (Soeters 2005; Kaldor 2007), while some scholars, such as Cramer (2006b), argue that the number decreased during the 1990s.<sup>6</sup> These contemporary armed conflicts have been largely distinguished from the previous inter-state wars by conflict analysts, and are often called civil wars. They are differentiated in terms of scope, being intrastate rather than interstate; they involve combatants who are non-state actors instead of government actors, methods which target civilians instead of combatants, and finance from external sources rather than internal sources. In addition, they appear to have regional and global dimensions. This section first introduces two key concepts which attempt to encapsulate the characteristics of these contemporary conflicts. It then looks at various definitions and categorisations of civil wars, the most common label for contemporary conflicts, as well as the limitations of these definitions to explain

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<sup>6</sup> Fearon and Laitin (2003) and Fearon (2004) contend that there has been an increase of the number of armed conflicts, which is due to a continuing steady accumulation of civil wars since the end of the Second World War.

the complex nature of the contemporary conflicts. Lastly, it discusses the different approaches taken to explain the contemporary conflicts, including economists' analyses to be reviewed in the next section.

Based on the different characteristics of the contemporary conflicts, Kaldor (2007) coined the term 'new war' for these conflicts. In essence, new wars are described as being 'internal or civil wars or else as "low-intensity conflicts"' and while most of them 'are localized, they involve a myriad of transnational connections so that the distinction between internal and external, between aggression (attacks from abroad) and repression (attacks from inside the country), or even between local and global, are difficult to sustain' (ibid.: 2). The new wars, therefore, 'involve a blurring of the distinctions between war, organised crime, and large-scale violation of human rights' (ibid.: 2).

The new wars need to be located within a specific context in which both the end of the Cold War and globalisation have taken place (ibid.). The end of the Cold War is seen by many as having contributed to the occurrence of the new wars because of the collapse of the old superpowers' support and that of socialist ideologies, the availability of surplus arms and the breakdown of totalitarian empires. The process of globalisation that unfolded during the 1980s and 1990s has, for its part, also helped intensify global interconnectedness in terms of political, economic, military and cultural ties, thereby eroding the autonomy of the state which Strange (1996) describes as 'the retreat of the state'. This process has greatly contributed to shaping the character of contemporary conflicts, more particularly through the decline of the monopoly of organised violence, whether occurring from above through the transnationalisation of military force or from below through privatisation (Kaldor 2007). Hence, the new wars demonstrate some key aspects such as the privatisation of violence, which resulted from the decreased state revenues, the increasing spread of organised crime, the emerging force of paramilitary groups, and the decline of political legitimacy. However, it remains a difficult task to distinguish between private and public, state and non-state, formal and informal, economic and political motivations and factors, a situation best described by Duffield (2000) as being 'post-modern'.

The particular context above has largely been attributed to the distinct characters of the new wars with regard to their goals, modes of warfare and finance (Kaldor 2007). For instance, some scholars consider that the goals of such conflicts may be linked to questions of identity politics rather than to geopolitical or ideological motivations. Others, however, argue that the conflicts express a revival of 'ancient hatreds' (ibid.), freed by the end of the Cold War during which tribal, ethnic and national rivalries were suppressed by strong regimes. The latter view has been criticised for being too simplistic and for failing to address 'a matrix of interlocking historical, social, economic and cultural factors' (Alley 2004: 213). Nonetheless, a new wave of identity politics appears to be both a local and global, and national and transnational phenomenon, which tends to employ the new electronic media for efficient political mobilisation.

As for the mode of warfare adopted by these new wars, there seems to be a propensity for the use of political control rather than military confrontation to control territory (Kaldor 2007). The aim is to destabilise a territory with the spread of fear and hatred among different warring parties while targeting civilians to that effect. This pushes huge numbers of people to flee and become refugees or internally displaced persons. As a consequence, gross and systematic human rights abuses are experienced by civilians, the main casualties in armed conflict situations, and their fate has become a major concern for the international community (UNSC 2006).

Finance for the new wars is largely decentralised and tends to rely significantly on a wide range of external resources, including looting, hostage-taking, the black market, remittances from the diaspora, taxation, support from neighbouring countries and informal trade (Kaldor 2007). Belligerents continue to engage in violence to legitimate and sustain this war economy, which is linked to the global economy (Keen 1998; 2000; 2008; Berdal and Malone 2000; Duffield 2000; 2001; Ballentine and Sherman 2003; Ballentine 2004; Studdard 2004). Therefore these wars can perpetuate (Keen 1998; 2000; Dietrich 2000; Duffield 2000; 2001; Alley 2004; Salehyan 2008) and

have the potential to recur (Alley 2004). Kaldor (2007) highlights the growing illegitimacy of these wars as a crucial feature that urgently requires a multinational political response. Duffield (2001: 14) points out that 'market deregulation has deepened all forms of parallel and trans-border trade and allowed warring parties to forge local-global networks and shadow economies as a means of asset realisation and self-provisioning'. The new wars therefore can be perceived 'as a form of non-territorial *network war* that works through and around states' (ibid.).

Another concept, 'resource wars', is also used by scholars in discussing contemporary conflicts, it is used by Klare (2001; 2002) in particular. It was initially used to report on the fears that the US used to perceive towards the ex-Soviet Union over its access to Middle Eastern oil and Africa's minerals; it is therefore not a new concept, nor has it been specifically created to describe contemporary warfare (Le Billon 2004). Klare (2001; 2002) argues that the ideological rivalry that characterised the Cold War era has changed into an economic competition within contemporary international relations. Resource wars are derived from the concern to secure supplies of natural resources such as oil, timber, minerals and water, as the demand for these resources has recently increased in considerable proportions. He therefore rejects the role played by ideological politics as the underlying logic behind conflicts, and contends that it is the scarcity of critical natural resources that drives the conflicts and will increase the number of localised conflicts over access to those vital resources.

Renner (2002: 6) supports the above view as he observes that 'about a quarter of the roughly 50 wars and armed conflicts active in 2001 have a strong resource dimension – in the sense that legal or illegal resource exploitation helped trigger or exacerbate violent conflict or financed its continuation.' However, such an over-emphasis on the resource dimension of wars has been challenged because it overlooks other critical factors such as the geography of resources, which also seems to play a role in determining conflicts (Le Billon 2004; 2005; 2008).



Despite the distinct characteristics of the contemporary conflicts discussed above, the contemporary conflicts are largely described as civil wars. While there is a vast body of research on civil wars, civil war itself has not constituted an independent area of study but has been studied in numerous disciplines, including economics, development studies, area studies, international relations, conflict resolution, anthropology and environmental studies. Consequently, there is no set of agreed definitions on the concept of civil war and no consensus has been formed on the number of civil wars (King 1997; Sambanis 2004; Human Security Centre 2005; Hanlon and Yanacopulos 2006). Arguably, to establish what a civil war is or is not becomes 'more a matter of political perceptions than objective realities' (King 1997: 18). Nevertheless, it is generally agreed that around 200 wars have taken place since the end of the Second World War and a steady increase in the number of violent conflicts was witnessed during the Cold War period (Hanlon and Yanacopulos 2006).

Without agreed definitions of civil war, a number of terms have been used to describe organised armed conflict occurring within the boundaries of particular states, including civil war, internal conflict, intrastate conflict, insurgencies, coups, revolutions, terrorism, small wars, limited wars and low-intensity conflicts. There seem to be no apparent criteria available to differentiate between these terms or to help establish the starting and concluding points of unfolding conflicts (King 1997; Alley 2004; Sambanis 2004). In reality, many wars do not have a clear-cut starting or concluding point (King 1997; Alley 2004); such events are often long and protracted, lasting an average duration of 53 months (Alley 2004). As negotiated settlements tend to end in failure, it is often military victory that puts a more conclusive end to these bloody events (King 1997).

Despite the ongoing difficulty of identifying armed conflicts, a few operational definitions were established to help develop statistical datasets. Most statistical studies thus rely on datasets of civil war defined as a conflict over government or territory attaining the threshold of at least 1,000 battle-related

deaths per year for civil war and 25 battle-related deaths per year for low-intensity internal armed conflict (Salehyan 2008).

One dataset (PRIO 2010)<sup>7</sup> classifies conflicts into two groups: conflicts that have the minimum of 25 battle-related deaths per year and wars that have the minimum of 1,000 battle-related deaths per year. It also sets conflicts into four major groups: interstate conflict, intrastate conflict (more commonly known as civil war), extrastate conflict, which is 'a conflict between a state and a non-state group outside of the state's own territory', and internationalised conflict, which is a kind of 'intrastate conflict in which the government, the opposition, or both, receive military support from another government/s, and where foreign troops actively participate in the conflict' (Human Security Centre 2005: 20).

Fearon (2004: 278) uses the following criteria<sup>8</sup> to list civil wars: '(1) They involved fighting between agents of (or claimants to) a state and organized, non-state groups who sought either to take control of a government, take power in a region, or use violence to change government policies. (2) The conflict killed at least 1,000 people over its course, with a yearly average of at least 100. (3) At least 100 were killed on both sides (including civilians attacked by rebels)', excluding massacres.

The above criteria were elaborated from another prominent dataset, namely the Correlates of War (COW) Project at the University of Michigan.<sup>9</sup> The COW dataset was established as early as 1963 and is considered to be one of the best quality datasets available in the area of political science (Cramer 2006a). While the COW dataset was used in most greed hypothesis studies, it counts only wars resulting in an average of 1,000 battle-related deaths per year.

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<sup>7</sup> This dataset represents a collaborative project between Uppsala Conflict Data Program (UCDP) based at the Department of Peace and Conflict Research, Uppsala University and the Centre for the Study of Civil War at the Peace Research Institute Oslo (PRIO), is available from [www.prio.no/CSCW/Datasets/Armed-Conflict/UCDP-PRIO/](http://www.prio.no/CSCW/Datasets/Armed-Conflict/UCDP-PRIO/).

<sup>8</sup> This criteria has been built on other criteria used by, for instance, the Correlates of War Project and Fearon and Laitin (2003).

<sup>9</sup> COW (2010) 'COW Intra-State War Data, 1816-1997 (v3.0)', The Correlates of War Project (COW), [www.correlatesofwar.org/cow2%20data/WarData/IntraState/Intra-State%20War%20Format%20\(V%203-0\).htm](http://www.correlatesofwar.org/cow2%20data/WarData/IntraState/Intra-State%20War%20Format%20(V%203-0).htm) accessed on 7/5/2010.

The classifications used to compile datasets and the resulting scope related to existing datasets have been centres of contention, although researchers have insisted on the need for different research designs to use different datasets (Sambanis 2004; Cramer 2006a). For one critic, these datasets arguably 'have no official standing, are often incommensurate, are unavoidably inaccurate and ignore key measures of violent conflict' (Mack 2002: 515). The operational definitions of civil war articulate a number of considerations in three main areas. Firstly, 'the borders around the set of civil wars might be artificial, porous, or fuzzy' (Cramer 2006a: 166), an evident fact within many contemporary armed conflicts. Of course, not all wars fit neatly into any particular definitional category, a typical example being the wars in the DRC during the 1990s and the 2000s and which constituted at the same time 'a *civil or intrastate war*, a series of *localised conflicts* (e.g. in the eastern Kivu districts, a calamity sustained, and perhaps partly caused, by specific market linkages to the world economy) and a *regional international war* stoked by interventions by Rwanda, Uganda, Angola and Zimbabwe' (ibid.).

Secondly, in conjunction with this first characteristic, many civil wars and intrastate conflicts of the post-Cold War period share a common feature: their global or regional connections (King 1997; Alley 2004; Salehyan 2008). Whilst definitions of civil war focus primarily on domestic origins, civil wars being largely shaped by domestic elements in pursuit of political goals, they usually also have international dimensions (Alley 2004). This is due to many negative externalities entailed by such conflicts in terms of resulting refugee flows, economic disruptions in neighbouring states and interventions by these neighbour states wanting to influence the outcome of civil wars according to their preferences (Salehyan 2008). There is a growing body of literature dealing with the issue of foreign intervention with the aim of analysing the causes, processes and outcomes of civil wars. There is, however, one element that is often overlooked in such studies: the issue of indirect hostilities unleashed through the use of proxies and the provision of safe havens or sanctuaries as a measure of intervention. This, despite the fact that, since 1945, more than half of all known rebel groups have carried out

operations outside their countries with the type of support they receive significantly increasing tensions by generating security externality for neighbour states (ibid.). In addition, a quantitative analysis of militarised interstate disputes that took place since 1945 found a link between the provision of rebel sanctuaries across borders and other types of foreign support on the one hand and the incidence of the very same conflict with new international dimensions on the other. According to Salehyan (2008: 55–56), ‘transnational rebels in neighboring states raise the probability of international conflict’, especially if neighbour states lack the capacity to expel foreign rebels from their territory, and disputes arisen over domestic politics often develop into international wars. This is well demonstrated in how ethnic conflicts transformed into international conflicts, ‘particularly if transnational kinship ties are present’ (ibid.).

It has also been noted that the classifications briefly reviewed above do not take into consideration deaths of civilians occurring outside the battlefield or those resulting from the indirect effects of the conflicts, hence, do not include some of the conflicts (Cramer 2006a). For example, the scores of innocent civilians, who did not put up resistance and were massacred during the 1994 genocide in Rwanda, were not included in those counts (Mack 2002; Cramer 2006a). Furthermore, the particular reality of war experienced by many civilians as agents or victims must also be pointed out. Because, often enough, there are civilians who become more actively involved in events of unconventional armed violence launched by specific groups to either challenge an existing state or to separate from it and, as such, ‘risk overt targeting by protecting and harbouring combatants, operating inside borders and without sanctuaries to which they can withdraw’ (Alley 2004: 2).

In addition to the definitions and categorisations above, Kalyvas (2007; 2009) and Kalyvas and Balcells (2010) identify three categories of civil war in terms of the means of fighting. They are: irregular (or guerrilla) war, ‘in which the strategically weaker side refuses to match the stronger side’s expectations in terms of the conventionally accepted basic rule of warfare’ such as ambush; conventional civil war, which ‘requires a commonly shared perception of a

balance of power between the two sides, in the sense that they are both willing to face each other conventionally, across clearly defined frontlines'; and symmetric non-conventional war, which is 'often described as 'primitive' or 'criminal' war, and entails irregular armies on both sides in a pattern resembling pre-modern war' with the capacity of the state weakened to the level of the rebels (Kalyvas 2007: para. 17–19). An important finding from this classification is that conventional and symmetric non-conventional wars are more dominant than irregular war, contrary to popular perception (Kalyvas 2007; 2009; Kalyvas and Balcells 2010). The symmetric non-conventional war clearly demonstrates a distinct feature of the contemporary conflict which does not fit in the dichotomy between the irregular and conventional wars. It is not irregular because there is no asymmetry between state and rebels, nor is it conventional as both sides have only low-tech military capacity. It displays weakness on both sides as states are unable to establish an organised military against ill-equipped rebels (Kalyvas and Balcells 2010).

The analysis of civil war, which has increased since the mid-1990s, broadly comprises three different approaches and results in different explanations (Kalyvas 2007; 2009). Development economists attempt to identify factors that are critical to the experience of civil wars through econometric methods and have highlighted the impact of natural resources, whereas international relations academics have largely stressed ethnic antagonism and comparative politics and sociology scholars have focused on the role of the state capacity in civil wars. The following section looks at the conflict analysis focusing on the role of natural resources, often referred to as the resource curse hypothesis, as it has been the most influential hypothesis for the DRC conflict.

## 2.2. Resource curse hypothesis

The review of the resource curse hypothesis in this section involves an attempt to evaluate its validity as well as its implications for policy formulation as it has set up ways of responding to conflict, although the resulting policy responses were not without problems and limitations. In so doing, the review

helps us to understand the hypotheses behind a number of investigations carried out on the link between minerals and conflict in the eastern DRC (Chapter Four) and various initiatives created to respond to the protracted conflicts in the eastern DRC (Chapters Five and Six).

The resource curse view is a highly influential thesis (Rosser 2006; Murshed and Tadjoeeddin 2007) which suggests that countries with natural resource abundance tend to experience poor economic performance, demonstrating what is called 'the paradox of plenty' (Karl 1997). First used within such a perspective by Richard Auty in 1993 (Stevens 2003), its meaning extended to suggest that such countries are also likely to experience low levels of democracy and governance and subsequently civil war. The idea that natural resource abundance could lead to negative development outcomes was perceived to be rather radical until the late 1980s; before then natural resource endowment was generally considered to be advantageous to developing countries for economic growth and development (Rosser 2006).

There has since been a growing body of literature on the idea of resource curse or the adverse effects of natural resource abundance. As a result, natural resource abundance is now widely considered to have a negative impact on a country's economic, social and political development. In Africa, countries that are highly dependent on oil and mineral exports appear to have stagnant economic growth, lower living standards, and face more prevalent corruption and violence than those without rich natural resources (Pegg 2003). Evidence suggests that the World Bank's support for liberalisation, privatisation and capacity building to develop a conducive environment for investment in resource-rich countries over the last two decades have not led to poverty alleviation in sub-Saharan Africa as expected (ibid.).<sup>10</sup>

The literature on the resource curse hypothesis consists of three broad sub-literatures dealing with: (1) the correlation between natural resource

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<sup>10</sup> A more recent study by Pegg (2006) also confirms that the mining-led poverty alleviation promoted by the World Bank has not produced the intended objectices.

abundance and economic performance; (2) the correlation between natural resource abundance and political development; and (3) the correlation between natural resource abundance and civil wars (ibid.), which implies that the social impact of natural resource abundance and the relationship between social and economic processes was largely overlooked (Ross 2007). The sub-literature relating to civil wars is, however, a rather recent development which emerged during the late 1990s, that is, well after the hypothesis about the resource curse had been established (Rosser 2006).

The overall observations drawn from the sizeable set of empirical studies related to the resource curse have demonstrated three key issues.

Firstly, the fundamental problem that lies within these empirical studies is that their approach is overly reductionist, narrowly focusing on the task of establishing the correlation in question (Rosser 2006). This kind of approach created a great deal of debate, which concentrated on some of the conceptual and technical issues raised by the empirical studies and thus failed to deal adequately with issues of causality and the various processes involved. Major disagreements emerged about the best way to measure resource abundance: on the basis of the ratio of countries' natural resource exports to GDP, the ratio of countries' natural resource exports to total exports or resource rents (Lederman and Maloney 2006; Rosser 2006). Also, the databases gathered about different variables including civil war and types of natural resources have not been without contention.

Secondly, these findings cannot be conclusive enough as there are indeed many examples of natural resource-rich countries that seem to have avoided a curse (Stevens 2003; Rosser 2006); the theory lacks robustness in the sense that it seems unable to explain the disparity in question. The findings merely confirm the presence of a recurring tendency rather than that of an iron law, failing therefore to identify any causal relationships linking natural resources to negative outcomes or pathways (Stevens 2003; Rosser 2006; Arellano-Yanguas 2008). There does not seem to be, therefore, any clear-cut

consensus as to whether there is indeed such a thing as a resource curse (Lederman and Maloney 2006).

Thirdly, the above two issues suggest a serious lack of analysis of the specific contexts that affect how natural resource wealth produces negative outcomes in each country (Arellano-Yanguas 2008). Hence, there is a need for a more analytical engagement with the wide range of social and political variables as well as some of the external political economic environments that contribute to shaping development outcomes (Rosser 2006). Moreover, cross-country analyses available to date, based on national statistical data, have also failed to consider critical social, economic and political contexts at a sub-national level as they constitute increasingly important factors in the ongoing decentralisation processes taking place within developing countries (Arellano-Yanguas 2008). In addition, the extent to which economic activity in many African countries functions outside the visible official mechanisms (Heller 2006) would also help to discredit some of the analyses that are more heavily dependent on official figures about GDP and exports, and would thus obscure any real development outcomes.

Bearing in mind these key points above, this section first aims to review the sub-set of literature on the correlation between natural resource abundance and civil wars, known in other terms as the greed hypothesis of civil war. The review identifies a few key aspects that characterise these econometric studies such as resource dependency, types of resource and civil war onset and duration. It then discusses a few critiques of those studies that have focused on their more technical issues and, to a lesser degree, on their analytical limitations and weaknesses in explaining causation. A subsequent sub-section will review other research that has examined some of the more political aspects of civil war, such as governance and inequalities, to help explain the causality mechanisms of civil war. These studies have been criticised for using rather politicised perspectives and for lacking sufficient and systematic analyses (Collier 2007). The third sub-section discusses how the prominent resource curse hypothesis has influenced the policy responses for resource-related conflicts and the implications of such policy instruments.



### 2.2.1. Greed hypothesis

A growing awareness of the close link between natural resources and armed conflict triggered some interesting research and investigations. Numerous studies, carried out with the aim of analysing any correlation between natural resources and civil war, were largely inspired by one key statistical study presented by Collier and Hoeffler (1998). In a nutshell, these studies suggest the following main trends in conflict: it is a dependence on natural resource export rather than abundance of natural resources itself which is associated with civil war; natural resource wealth influences the duration of civil war rather than the onset of civil war; and natural resources, which are geographically concentrated and easy to capture, are more likely to prolong civil war duration. In these studies, various variables were used to analyse the many correlations between civil war onset, duration and intensity, types of conflict such as secessionist or rebellion and types of commodity, as well as locations and productions of commodities. These studies, largely statistical in scope, have prompted debates about some of the more technical questions raised as well as about their analytical limitations in explaining issues of causality.

#### *Civil war onset*

In 1998, Collier and Hoeffler presented their first study on the correlation between natural resource abundance and propensity for civil war and have since made further progress by developing better datasets. They selected 98 countries and a range of 27 civil war cases as subjects of analysis. Using a measurement of natural resource abundance as the share of primary commodity exports in GDP, they found that increased natural resources do heighten the propensity for civil war (Collier and Hoeffler 1998). Further studies carried out with improved datasets also confirmed that there is indeed a significant relation between natural resource abundance and the outbreak of civil war (Collier 2000; Collier and Hoeffler 2000; Collier and Hoeffler 2004). In a study on natural resource abundant countries covering the period between

1960 and 1995, Collier (2000) found that dependence on primary commodity exports increases the likelihood of civil war by four times at least by comparison with the situation of countries with no primary commodity exports in GDP. He concludes that a combination of factors significantly increases the propensity for civil war: the presence of large primary commodity exports; a general low level of education among the population; a society with larger proportions of younger men; and a situation of economic decline. Collier and Hoeffler (2004) identify the factor of opportunity as having some explanatory power with regard to the occurrence of civil war.

The studies reviewed above all suggest that it is natural resource dependence rather than natural resource abundance that influences the onset of civil war. However, it seems that no concrete link exists between the onset of civil war and natural resource abundance in cases where natural resource abundance is measured as the portion of natural resource stock per capita (De Soysa 2000). Other studies that attempted to test the correlation in question using modified and/or different measures did not find a specific connection between resource wealth and civil war. For example, Collier and Hoeffler (2005), who used a rent-based measure of natural resource abundance to test the correlation, were presented with a curvilinear relationship and concluded that the correlation was insignificant. Similarly, after controlling a minor sampling frame, other studies (Fearon and Laitin 2003; Fearon 2005), could not establish concrete links between a situation of natural resource dependence and the onset of civil war. Fearon (2005) has suggested that the supposed relation may be supported by the high proportion of oil products among primary commodity exports, since oil seems to influence the likelihood of civil war. Moreover, the evidence available does not support the idea of a link between civil war and natural resources as broadly categorised (Ross 2004a). This confirms the outcome of a more recent study which, on the basis of new data, concludes that the use of a broad categorisation of natural resources does not show strong evidence for any particular correlation between those resources and the outbreak of civil war (De Soysa and Neumayer 2007).

### *Civil war duration*

In contrast to the above argument about a rather weak correlation between natural resource wealth and the onset of civil war, natural resource abundance appears to contribute to the prolonging of civil wars once they break out, according to a body of statistical research. There is a curvilinear relation (Collier and Hoeffler 1998) or a relation with longer wars (Le Billon 2001b; 2005; Ross 2004a). One study (Ross 2003b) suggests that lootable resources are more likely to protract non-separatist conflicts while non-lootable resources tend to decrease the incidence of non-separatist conflicts. More precisely, it is contraband resources such as opium, diamonds or coca that can be used as a major finance by rebel groups and thereby prolong civil wars (Fearon 2004; Ross 2006), a finding confirmed by Ross (2006) using both a literature review and a statistical study. Other studies indeed found correlations with diamonds (Ross 2004a), more precisely, secondary diamonds or alluvial diamonds that are lootable as opposed to primary diamonds such as Kimberlite diamonds (Lujala *et al.* 2005).

There are, however, many conflicting views among the research findings. For instance, Humphreys (2005) found that natural resource conflicts tend to be shorter, and diamonds and oil end conflict quickly.

Overall, the above findings suggest that particular types of natural resources are strongly associated with the duration of civil war. They tend to be the more lootable and contraband kind of resources, because they are easier for rebel groups to appropriate and use to finance violence, although this latter view is far from conclusive (Le Billon 2008). A number of possible explanations as to how natural resource wealth serves to protract civil war have been put forward, among them is the idea that the availability of natural resource wealth enables the weaker side in a conflict to finance violence and sustain itself through looting (Ballentine 2003; Ross 2004b; Le Billon 2005) or through selling future exploitation rights known as 'booty futures' that they want to control (Ross 2004a; 2004b) while receiving 'advance payments' (Le Billon 2005: 44). In the case of separatist conflicts, governments tend to disregard peace agreements which are meant to provide fiscal autonomy (Fearon 2004; Ross 2004b).

Moreover, combatants may not be motivated enough to follow peace agreements (Ballentine 2003; Fearon 2004), though one study achieved mixed results as evidence for such a view (Ross 2004b). Several observers highlight the fact that a protracted conflict may have the effect of altering initial motives, with financial rewards becoming gradually more important than political objectives (Le Billon 2005), thereby contributing to the creation of 'war economies' (Keen 1998; 2000; 2008; Berdal and Malone 2000; Duffield 2000; 2001; Ballentine and Sherman 2003; Ballentine 2004; Studdard 2004), an issue to be discussed in a later section (2.4.).

### *Civil war intensity*

There is, however, less focus in the specialised literature on the correlation between natural resource wealth and civil war intensity. Whilst some observers suggest that the availability of natural resources increases the number of battle-related deaths during civil wars due to fighting over resource-rich territories amongst belligerents and harsh countermeasures by governments against any challenges, only insignificant evidence was found for this claim (Ross 2004b). One study (Ballentine 2003) even showed that natural resource abundance reduced the number of casualties during civil war, at least in some cases. The low intensity of civil war can be explained by collusion between combatants for resource extraction (Keen 1998; Ballentine 2003; Ross 2004b), or 'a "comfortable settlement" in which opposing parties can secure mutually beneficial deals to produce and market resources' (Le Billon 2005: 48). This is likely to happen, especially when there is 'the impossibility of any one side securing a full monopoly over lootable resources' (Ballentine 2003: 269).

### *Types of conflict*

Evidently, there are various types of civil war, although conflict over government or territory that involves 1,000 battle-related deaths per year represents the measure by which civil war is codified in most statistical

studies. Some studies have attempted to analyse correlations with different types of civil war, such as secessionist or rebellion.

There are two prominent findings with regard to types of conflict.

Firstly, separatist conflict is associated with non-lootable natural resources, whereas rebellion is linked with lootable natural resources. Lootability of resources is determined by 'whether it can be easily appropriated by individuals or small groups of unskilled workers' (Ross 2003b: 47). Non-lootable resources have negative implications for separatist conflicts (Ross 2003b; 2008), which last longer because the resources can be a source of grievance or a source of finance if they are obstructable (Ross 2003b). Moreover, there are some common aspects in resource-related separatist conflicts: the existence of a distinct identity prior to conflict; a widespread perception that the wealth is being misappropriated by the central government; and the bearing by the local population of costs incurred by the extraction process (Ross 2003a). Whereas lootable resources do not influence separatist conflicts because they create fewer grievances, they are more likely to influence the incidence of non-separatist conflicts, which tend to be more complicated and thus last longer because they are marked by 'greater fragmentation and shifting alliances among the armies that control the resource' (Ross 2003b: 67). In the case of the 'new wars', lootable resources can finance non-separatist conflicts through a number of mechanisms including direct looting and sale of resources, the sale of future exploitation rights or 'booty futures' as well as extortion and kidnapping (Ross 2003a).

Secondly, it seems that point source or diffuse resources found in different geographical locations, that is to say, at a distance from centres of power or the capital, may be contributing factors triggering different types of conflict (Le Billion 2001a; 2001b; 2005). While point source resources are exploited in concentrated areas by a small number of capital-intensive operators, such as oil and deep-shaft mineral exploitation, and generally benefit governments, diffuse resources, such as alluvial gems and minerals, timber and agricultural products, which are exploited over wide geographical areas by numerous

small-scale operators without the use of industrial modes of production, are accessed by various actors, which thereby facilitates informal operations (Le Billion 2005). At the same time, distant resources are more difficult than proximate resources for the government to control, in part owing to 'their location in remote territories along porous borders, or within the territory of a political opposition group' (ibid.: 35). As a result, a few contrasting features marking the geography of resources need to be noted. For instance, point resources that are located close to the capital are more associated with state control, while point source resources that are distant from the capital are more likely to influence separatist conflicts; diffuse resources that are distant from the capital are more likely to be linked to conflicts characterised by warlordism while diffuse resources that are close to the capital are associated with rebellions and rioting (Le Billion 2001a; 2001b; 2005).

In addition, a study of the problem of ethnic division and of political systems in civil wars found that the relationship between natural resource dependence and ethnic conflict was insignificant, while the association with more ideologically based and/or revolutionary wars was robust (Reynal-Querol 2002). Also, a study that examined a sample of 107 countries during the period between 1960 and 1999 with the aim of assessing the relationship between oil dependence and regime durability concluded that oil wealth tends to be associated with lower risks of civil war and anti-state protest (Smith 2004).

### *Types of resource*

There are also many other studies that have tried to identify how particular types of resource and commodity influence the incidence of civil war. In a broad sense, distinctions are made between abundant non-renewable resources with a high market value and scarce renewable resources with lower value. However, the 'scarce resource wars' hypothesis does not appear to be robust (Le Billion 2001a; De Soysa 2000; 2002; Theisen 2008). A recent study (Theisen 2008) replicated earlier work in examining associations that may exist between population density, soil degradation, deforestation, water

scarcity and civil war; however, no conclusive significant evidence was found. Nevertheless, according to this particular study, a high level of land degradation tends to be robustly associated with the risk of civil war, while renewable resources may be related to low intensity conflicts. There is also a possibility that a country can be abundant in non-renewable resources and at the same time experience depletion of renewable resources (Renner 2002). Given the weak relationship between renewable resources and civil war, the literature has focused on the effect of non-renewable resources (excluding timber).

A number of studies have tried to identify the way lootable resources become linked to civil war and their findings overlap with those aforementioned studies that discuss the effect of resources on different types of conflict. For instance, a study (Ross 2003b) that examined a set of twelve cases of civil war and three cases of minor conflicts during the period between 1990 and 2000, did not find any major variations in the occurrence of civil war in relation to four main categories of natural resources after improving the data on income per capita: oil and gas; minerals; food crops; and non-food crops. However, a significant positive link was established with drugs and diamonds. This result, therefore, supports the view that it is lootable resources, rather than point source resources, which increase the likelihood of civil war. Le Billon (2001a; 2005) contends that point source resources, as opposed to diffuse resources, are easier to appropriate owing to their geographical concentration while explaining the correlation between mineral resource wealth and civil war (De Soysa 2000); such logic also seems to allude to the lootability of these resources. Nevertheless, one study found that rather than the mere availability of lootable resources, other factors do play a role in the incidence of civil war through influencing the capacity of rulers to maintain political stability in lootable resource-rich countries; they include the availability of non-lootable resources, the taxability of resources and patterns of state spending (Snyder and Bhavnani 2005). In addition, notwithstanding the importance of available lootable or point source resources, other issues must be considered including the economic structure and its impact on social relations. For

instance, a high degree of dependency on agricultural production may also be related to the incidence of civil war (Humphreys 2005).

In terms of the importance given by scholars to particular types of commodity, both oil and diamonds appear to have attracted the most interest. The connection between oil wealth and the incidence of civil war is strongly supported by a number of studies (De Soysa 2002; Fearon and Laitin 2003; Fearon 2005; Ross 2006; 2007; 2008; De Soysa and Neumayer 2007), though there are many contrasting views about their role. De Soysa (2002) found that the likelihood of civil war in oil-exporting countries is double that of other countries. A recent study (De Soysa and Neumayer 2007) found that the connection between oil wealth and civil war is relevant only for low-intensity conflicts that have 25 or fewer battle-related deaths per year rather than the common threshold of 1,000 deaths per year. However, other studies found that oil wealth reduces the incidence of civil war (Smith 2004) or that the correlation between oil wealth and civil war is relatively weak (Humphreys 2005). These contrasting results are derived from different methods and data used in the studies in question (Ross 2006; De Soysa and Neumayer 2007). In this respect, the measures used for oil resources have been rejected as weak and incomplete (Lujala *et al.* 2007). Other elements may equally influence any link. For instance, the time period is an important factor since the link would be more significant today than it would have been at earlier junctures (Ross 2006; De Soysa and Neumayer 2007). The capacity of states appears to be a crucial factor in averting conflict (Humphreys 2005) since oil wealth seems to weaken the capacity of states, thereby lending itself to armed conflict (Fearon and Laitin 2003; Fearon 2005; De Soysa and Neumayer 2007), which highlights the political outcomes as part of the resource curse theory.

The link between armed conflicts and diamonds appears to be even more unsettled and inconclusive. A few statistical studies (Humphreys 2005; Lujala *et al.* 2005) have established that countries with diamond wealth are more likely to experience civil war than countries without. However, other statistical studies did not find correlations between diamonds in general and civil war



onset (Ross 2006). These differences may arise from the lack of reliable data on the production and location of diamonds (Gilmore *et al.* 2005), the use of different time periods, the correlation being stronger today than in the past (Lujala *et al.* 2005; Ross 2006) and the different types of diamond considered. Alluvial diamonds that are easily extracted without the use of much skill or many resources are strongly connected to civil war, as opposed to Kimberlite diamonds that require capital-intensive processes for extraction (Lujala *et al.* 2005). Again, some studies seem to contradict this finding: alluvial diamonds are said to induce peace rather than conflict (Snyder and Bhavnani 2005) and have weaker correlations with civil war onset than Kimberlite diamonds (Ross 2006). However, it should be noted that a relatively limited number of violent conflicts have taken place in diamond-producing countries, a fact that should render the statistical studies about them less robust (Ross 2006; Le Billon 2008).

#### *Validity of the correlation*

The above statistical studies, while producing mixed results, have demonstrated tendencies in the sense that certain types of natural resources do influence the incidence and duration of civil war. The highly influential greed hypothesis, established on the basis of empirical testing, has nonetheless been challenged for being both arbitrary and unconvincing. Concern was thus expressed about the lack of analytical input within the theory in question, mainly over some of the technical issues raised – a weakness that can undermine the validity of the presumed link between resources and wars, leading to flawed causations. With regard to the technical issues which were problematic, they dealt with the adequacy of both the data and the proxies.

Firstly, the small number of civil war cases, a rather infrequent event, raises an immediate analytical concern over the validity of statistical analysis as it becomes more sensitive to the minor changes within the data (Ross 2006). This problem has become crucial within the trend of statistical studies that analyse the effects of natural resources on civil wars from the post-Cold War

era. While the effect that the availability of resources such as oil (Ross 2006) and diamonds (Lujala *et al.* 2005) tends to have on the likely possibility of an outbreak of conflict appears to be certain in the post-Cold War by comparison with earlier periods, the relatively small number of such conflicts undermines the validity of the statistical studies conducted, a problem that is not shared by the 'new wars' thesis that emphasises the role played by resources.

Secondly, the quality of the data used by these econometrical studies has largely been contested by scholars such as Humphreys (2005), who found the data on natural resource wealth to be of low quality. As a result, other researchers in more recent work have started developing more carefully designed qualitative and comparative studies (e.g. Snyder 2006) as well as improved datasets, more specifically on diamonds (Gilmore *et al.* 2005), on oil (Lujala *et al.* 2007) and on natural resource rents (De Soysa and Neumayer 2007).

The data on civil wars is also problematic with respect to key questions such as how to codify civil wars and identify their beginning and ending, given the absence of an agreed definition of civil war as mentioned earlier (2.1.). The civil war datasets used by Collier and Hoeffler were rejected for being 'biased in a way that overstates the impact of primary commodities' (Ross 2004a: 342), a point of criticism confirmed by another set of studies that used different coding rules and, as a result, found no necessary correlation existing between natural resource dependence and the onset of civil wars (Ross 2004a; Sambanis 2004). Moreover, the commonly used operational definition of civil war as a conflict over government or territory, which relies on the use of a threshold of 1,000 battle-related deaths per year, does not represent a well-defined concept of a civil war. Such narrow definitions of civil war fail to take into account the many forms and dynamics that violence takes and which are carried out around and through the exploitation and regulation of resources as well as the relation with the broader context, including the global trade chain and the peripheralisation of the extraction site (Le Billon 2008).

More importantly, the fact that many such studies rely on official statistics or datasets available in the public domain severely undermines the credibility of their findings, owing to the problematic aspect of accessibility and reliability of statistical datasets drawn from countries already affected by conflict (Cramer 2002; MacGinty 2004). In addition, the reliability of statistics has definitely become an issue to be addressed, given the extensive informal economy within the countries studied (Mwanasali 2000).

Thirdly, these studies have inevitably used proxies in carrying out empirical testing. The question that arises in this respect is about these proxies and whether they measure what they set out to measure. However, the proxies used do not seem, according to some critics, to be 'conceptually or substantially equivalent to the thing they are meant to represent' (Cramer 2002: 1850). Therefore, there is an inconsistent use of proxies that are conceptually and empirically vague, a situation which Cramer translates as 'an instance of the more general problem of the empirical weakness, arbitrary prioritization of particular variables, and manipulation of technique over and above the search for "truth" in econometrics' (ibid.: 1854).

### *Causality*

Despite their numerous analytical limitations, these macro-quantitative studies remain useful in helping to identify some general trends (Salehyan 2008), while the resulting probabilistic theories may also have some value even if they present many cases of exception (Mack 2002). Their aim is not to describe any causal relationships as part of the findings (Salehyan 2008), a task which requires more detailed explanations provided by the use of case studies in order to complement the more probabilistic arguments (Mack 2002). Nonetheless, these statistical studies still propose a set of causalities to support the idea of a link between war and resources, although these were criticised as being essentially flawed and unconvincing (Cramer 2002; Cater 2003) as well as overly reductionist (Cramer 2002; 2006b). The prominent causal argument that natural resources cause violence has been consistently opposed. For instance, one contrasting argument was put forward by Ross

(2004b; 2006), who argues that the increasing instability that a country faces due to the onset of a conflict may lead its non-extractive industries, such as manufacturing and services, to relocate into safer areas while the extractive industries remain owing to their specific nature. In this case, the proportion of primary commodity exports to GDP, a commonly used measure of resource abundance, increases considerably. Consequently, it may be concluded that it is the reality of conflict that forces the factor of resource dependency into the link in question.

Despite any critique of existing work on causality, the greed hypothesis, stating that availability of natural resources does influence the incidence of civil war with rebel groups benefitting from economic motivations and opportunity provided by the lootability of such resources, remains a key part of the prevalent causality thesis. However, considering associations of the term lootability with rational actor perspectives (Rosser 2006), the motivation behind looting is assumed to be purely economic whilst factors explaining the complex dynamics at play in conflict situations and the various rationales for looting tend to be neglected. MacGinty (2004: 866–868) makes distinctions between several types of looting: *economic* looting to gain profit; *symbolic* looting to obtain non-material advantages; *strategic* looting as ‘part of a wider politico-military project’; and *selective* looting for target selection. Regardless of such attempts at more specification, there has been a general tendency amongst researchers to rely heavily on the notion of lootability narrowly defined in economic terms alone without adequately exploring or clearly conceptualising the concept; therefore the hypothesis put forward is fundamentally weakened (ibid.).

Given the feeble argument given to explain the perceived linear correlation, some scholars have proposed a few other explanations. For instance, Ross (2004b) argues that resource wealth and incidence of civil war are not linked by a single mechanism as there may be a third variable at stake (Ross 2004a) or even a variety of mechanisms (Ross 2004b). The leading argument has outlined the role of governance as the most crucial variable in explaining the causal relation between conflict and natural resource wealth (De Soysa 2000;

Cater 2003; Fearon and Laitin 2003; Ross 2003a; Fearon 2005; Humphreys 2005; De Soysa and Neumayer 2007). This view is based on a state-centric theory which contends that natural resource dependence leads to a weak and unaccountable government which tends, as a result, to create in turn particular conditions conducive for the incidence of civil war (De Soysa 2000; Fearon and Laitin 2003; Ross 2003a; Fearon 2005; De Soysa and Neumayer 2007),<sup>11</sup> such as the trend for corruption to be found in patrimonial regimes (Le Billon 2003a), a view already tested by a number of academic studies. For example, Snyder (2006) found that high-value lootable resources can be associated with political order, through the institutions of extraction and the degree of control rulers have over the resource revenues created by these institutions. In examining how rebel leaders in sub-Saharan Africa motivate followers to fight, Herbst (2000) found that most rebel leaders use economic incentives as well as political indoctrination, ethnic mobilisation and coercion; he also suggests that the viability and form of a rebel movement may be established in relation to the capacity of the state as it faces such internal challenges. This led him to the conclusion that 'rebellions motivated by

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<sup>11</sup> State-centric perspectives suggest that weak state institutions, supported by resource rents, impact adversely on economic development and democracy. Whilst how resource rents weaken state capacity can be explained by a combination of cognitive, historic-structuralist, and institutional theories, the most predominant approach has been theories of rentier state (Ross 1999). Cognitive theories suggest that in countries endowed with natural resource abundance, the behaviour of political elites becomes altered in both rational and irrational ways, affecting on the type of governance practiced in these regions, and the best known rational behaviour model of political elites is rent-seeking, that is to say, resource rents being relatively easy to capture and as a result lead to bribes, distortions in public policies and a shift of labour to public favour seeking (Leite and Weidmann 1999; Torvik 2002). By contrast, a historic-structuralist perspective advocates that natural resource abundance negatively affects the level of democracy of a country because it hampers the social and cultural changes that help to foster democratisation, and focuses analytically on the role of social forces in shaping developmental outcomes. A number of scholars applying the historic-structuralist perspective assume that natural resource abundance leads to a formation of the powerful business class and/or middle class wanting to exercise power to influence government policies for its own interests (Ross 1999), and hinders a modernisation effect, whereby 'the failure of the population to move into industrial and service sector jobs renders them less likely to push for democracy' (Ross 2001: 357). With regard to rentier state theories, a rentier state is 'characterized by a high dependence on external rents produced by a few economic actors', and rents are 'typically generated from the exploitation of natural resources, not from production (labor), investment (interest), or management of risk (profit). Rentier states tend to be autonomous, because states with large natural resource endowments are 'more detached and less accountable thus they do not levy taxes' (Jensen and Wantchekon 2004: 3). There are a number of scholars, who support the rentier theories and explain the low levels of democracy or authoritarian regimes with the theories (Karl 1997; 2007; Ross 2001; Luong 2004; Alayli 2005). For more discussions on rentier states, see for example: Mahdavy 1970; Garaibeh 1987; Luciani 1987; and Chaudhry 1994.

coercion and looting are on the rise because *states* have become weaker', which was not the case for former colonial states, who had overwhelming physical control (ibid.: 286).

Numerous other variables and views on causation were presented by another group of scholars, among them the following explanations are the most notable. Theisen (2008) sees poverty and dysfunctional institutions as the real motivation behind the outbreak of conflict. Similarly, Ross (2003a) explains that complex sets of events, including poverty, ethnic or religious grievances and unstable government may influence the incidence of civil war. Auty (2004: 30) identifies a two-stage process to explain causation. The early stage is based on 'the staple trap model of resource-driven economic development to explain growth collapses in resource-abundant countries, which appear to be a necessary pre-condition for civil strife'. This process is further facilitated by a second stage in which 'two basic properties of natural resources related to civil strife, namely the pattern of socio-economic linkages produced by the commodity and the mobility ... of the resource rent' play a role. One study, which focused on the causal mechanisms behind thirteen recent civil war cases (Ross 2004b), found that more than one key mechanism appears to link resource wealth to a subsequent outbreak of conflict: resource wealth may increase the danger that a foreign state would intervene on behalf of a nascent rebel movement; the sale of 'booty futures' may either initiate or prolong a conflict; and the state may engage in pre-emptive repression. In a later study, Ross (2008) highlights an important contradiction: the mineral-based inequality trap represented by violent conflict is initially due to the problem of mineral-based inequality and prevents investment to enhance mineral resource dependence. Ross also identifies a set of tractable structural factors as additional problems that lead to war, namely poverty, mountainous terrains, peripheries, prior regional identities, political institutions and types of mineral in terms of their lootability. Furthermore, in an effort to analyse the effects of mineral wealth on vertical and horizontal inequality, Ross (2007) found that the link between vertical inequality and mineral wealth cannot be clearly established, due in part to absence of data on income inequality within

mineral-rich countries, while the effect of horizontal inequality on violent conflict, particularly on secessionist conflict, has been identified.

There appears to be a need for a micro-level analysis of conflict and violence,<sup>12</sup> including an examination of the role played by various social forces not reduced to ethnic and religious terms (Rosser 2006) and for the use of fine-grained information not limited to the structural determinants of conflict alone, so that a more systematic look at a variety of other factors is allowed, among them, 'the geographic spread of civil war, the variation in the incidence of civil war over time, and the characteristics of civil war violence' (Weinstein 2007: 366). As a matter of illustration, the findings of an ethnographical study of rebel movements in Uganda, Mozambique and Peru (Weinstein 2007) is worth mentioning; it set out to examine the behaviour of rebel groups and their members through interpretations of stories and testimonies produced by various individuals involved in conflict about themselves and their reasons for joining or staying out of fighting groups. This study has thus revealed that the nature and availability of resource endowments seem to have considerable effect on behavioural patterns displayed by both individuals and movements. For instance, rebellious bands enjoying easier access to finance through exploitation of resources and/or through external support appear more likely to use indiscriminate violence, while rebellious groups that tend to rely on social rather than economic endowments resort to a more selective use of violence and seek to appeal to civilians for their support. However, in a case study on Sierra Leone (Humphreys and Weinstein 2008), the findings did not suggest the presence of a deterministic link between resource endowments and individuals' motivation to enrol in fighting. According to the authors of the study, various other factors explain why particular individuals joined in fighting; these reasons included 'an individual's relative social and economic position, the costs and benefits of joining, and the social pressures that emanate from friends and community members' (ibid.: 452).

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<sup>12</sup> Whilst there is a new emerging body of work on micro-level analyses of violent violence, 'micro-level empirical evidence on the relationship between violent conflict and poverty has been scarce and at times contradictory', largely owing to the absence of sufficient data (Justino 2007: 1).

### 2.2.2. Grievance hypothesis

There are several other statistical studies that have attempted to test the correlation between civil war onset and grievance in terms of vertical inequality (Collier 2000; Collier and Hoeffler 2002; 2004). The most eminent model proxied grievance on the basis of a series of measurements, including that of economic stagnation through a calculation of GDP growth prior to civil strife, of repression through an assessment of political rights indices, of inequality through the use of the Gini coefficient and, last but not least, of ethnic tension assessed by the ethno-linguistic fractionalisation index. And the measure of grievance produced by these proxies did not appear sufficient enough to increase the risk of civil war (Collier 2000). But these objective proxies were criticised for being inadequate tools (Mack 2002), although some other proxies, such as the average levels of schooling in the case of individual fighters as well as the general ratio of young men within the total population, used in the statistical studies to establish the greed hypothesis are seen to be more firmly related to grievance sources (Ballentine and Sherman 2003; Cramer 2006a). However, Collier (2007) still rejects grievance as a source of civil war since it is a feature shared by all societies and does not necessarily lead to armed violence. His view has been strongly criticised by other scholars as it appears to demonstrate 'the long colonial tradition of dismissing rebellion as criminal' and illegitimate violent protest (Duffield 2001; Keen 2008: 29). For Ross (2007), it is important to bear in mind the fact that the lack of data on income inequality within mineral-rich countries makes it quite difficult to assess with any robustness the correlation between vertical inequality and mineral wealth.

In contrast to the studies just referred to above, there is another trend within statistical studies that supports the grievance hypothesis. Luckham *et al.* (2001) found that poverty and inequality remain key factors within sources of conflict. According to Ross (2004b; 2008), mineral-based inequality can trigger violent conflict and horizontal inequality arising between mineral-rich and mineral-poor areas can lead to secessionist conflict (Ross 2007). There is



also a claim that natural resource exploitation induces various types of grievance including 'insufficiently compensated land expropriation, environmental degradation, inadequate job opportunities, and labour migration' (Rosser 2006: 17).

Critiques levelled against these econometric studies find the selection of proxies for grievance 'dubious' (Keen 2008). Moreover, while some of the statistical studies attempted to measure grievance by the means of objective proxies, they have not directly measured 'the emotions ... that may affect the propensity of people to resort to violence' (Mack 2002: 522). According to one particular study on factors motivating individuals to take part in violent conflict (Humphreys and Weinstein 2008), issues related to the belligerents' various experiences and emotions may constitute a crucial source of violence through the critical impact they have on them as they develop 'a sense of having been *humiliated*' (Keen 2008: 50). Furthermore, this sense of having been humiliated is critical 'not only in explaining important dynamics deepening violence during civil war, but also in explaining the patterns of violence that emerge in the aftermath of a war' (ibid.: 69).

Proponents of the greed hypothesis, economists for the large part, have been critical of the grievance hypothesis, rejecting it for being politicised and lacking systematic analysis (Collier 2007). Nevertheless, there is a long-standing body of knowledge within the discipline of political science that argues in favour of the grievance factor and its active role in these terms: grievance derived from relative deprivation fuels internal conflict, in which identity serves to help group formulation to assume collective action (Cater 2003; Murshed and Tadjoeeddin 2007). While some researchers attribute civil war to state failure due to declining legitimacy and weak capacity of governments (Cater 2003) or a weakening of social contract<sup>13</sup> (Addison and Murshed 2006;

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<sup>13</sup> According to Addison and Murshed (2006: 137), a social contract is 'the set of rules, formal and informal, that guide the behaviour of citizens, entrepreneurs and governments and allow conflict to be expressed and resolved peacefully rather than violently', and is not 'purely internal affairs, but can have strong international dimensions, both in cause and effect'. In this argument, greed or grievance is not sufficient to initiate such large-scale violence but a failure of the social contract, which is 'similar to the weak state capacity, and by implication poor institutional quality' should be considered (Murshed and Tadjoeeddin 2007: 25).

Murshed and Tadjoeeddin 2007), it is the concept of horizontal inequality advanced by Stewart (2000; 2003) that has been increasingly influential within the grievance literature during the last decade<sup>14</sup> (Cater 2003; Murshed and Tadjoeeddin 2007). The concept of horizontal inequality relates to 'the existence of severe inequalities between culturally defined groups' and includes multidimensional effects, whether political, economic or social. By contrast, vertical inequality 'lines individuals or households up vertically and measures inequality over the range of individuals' (Stewart 2003: 3).

The concept presents some potential for the task of differentiating between aspects of group mobilisation in the context of rebellion (Cater 2003), yet it remains inadequate in measuring such inequalities due to the absence of a theoretical agreement on what metric should be used for measurement and what groups should be targeted by the study (e.g. ethnic, linguistic, tribal or religious) and to the dearth of data on the other hand (Murshed and Tadjoeeddin 2007). Nonetheless, this tentative hypothesis appears to have offered a more positive method, well illustrated through an analysis of conflict undertaken within nine case studies. The extensive research found that there is indeed 'an interaction between economic, political and cultural factors (normally historically formed) being enhanced by sharp group differentiation in political participation, economic assets and income and social access and well-being' behind most of conflicts (Stewart 2000: 260). Murshed and Tadjoeeddin (2007) also confirm that, despite rather scarce data, horizontal inequality is correlated to the onset of civil war in a cross-section of countries.

Two other key theoretical views on grievance relate to concerns over deprivation and polarisation (Murshed and Tadjoeeddin 2007). Relative deprivation articulates perceptions based on 'the disparity between aspirations and achievements' suggested to constitute 'the micro-foundation for conflict' (ibid.: 16), while polarisation emerges 'when two groups exhibit

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<sup>14</sup> An approach developed at the United Nations University WIDER, Helsinki, proposes that civil war occurs when there is horizontal inequality and a breakdown of social contract (Hanlon and Yanacopulos 2006).

great inter-group heterogeneity combined with intra-group homogeneity', overlapping with the concept of horizontal inequality (ibid.: 17).

### 2.2.3. Implications for policy

The analysis of the causes, duration, intensity and dynamics of civil war reviewed in the preceding sub-sections has contributed to the development of the resource curse discourse and has served in shaping policies and forging a range of instruments required in attempts to end and prevent resource-related armed conflicts. Many policy responses have thus largely relied on the resource curse hypothesis. The most relevant to the resource-related conflicts, such as the DRC conflict, is the view that says economic motivations and opportunity provided by the abundance of natural resources and weak governance influence the incidence of civil war. Therefore, most of these responses have been focusing on curtailing resource revenues for belligerents (Ballentine 2004).

The reason behind the policy dependence on the rebel greed hypothesis can be that policymakers 'have neither the time nor the expertise to choose between competing explanations themselves' whilst there remain fundamental disagreements amongst academics over the causes of civil war (Mack 2002: 515). Also the limited interdisciplinary and interdepartmental collaboration within both the academic and policy communities hinders the formulation of policies to respond to the growing consensus around the idea that civil war is caused by interrelationships between development, governance and security. As the economic dimensions of civil war have been generally acknowledged, it appears that there is a policy bias focusing on the greed hypothesis (Le Billon 2008). Although Collier (2007) claims that the greed hypothesis is based on statistical studies and is less politicised, thus allowing its findings to reach the policy world, Le Billon (2008) argues that oversimplified interpretations of resource wars have created the policy bias and the consequent mixed results (Cater 2003). Ballentine (2004) argues that, without addressing the operational challenges of transforming war economies which

sustain conflict, brutal predation, corruption and criminal activities would continue even after the official settlement of conflict.

Those policies, largely developed with the aim of terminating resource-related armed conflicts, concentrate on the task of curtailing finances linked to rebels by proposing the following key types of instrument: (1) capturing resource areas away from rebel forces, which may work as a quick fix but often fails to bring about a stable peace; (2) sharing revenues between belligerents, a condition which is often part of conflict settlements but rarely helps to create a stable peace; and (3) imposing economic sanctions, a tradition with a poor overall record in terms of its implementation over the past fifteen years, although it does seem to contribute to a lasting peace (Le Billon 2005).

Le Billon and Nicholls (2007) conducted a study to examine the outcomes of these three sets of instruments based on a sample of around twenty-six conflict cases that erupted over a period between 1989 and 2006. The findings showed that military intervention and revenue sharing appear to have been implemented more successfully than economic sanctions, while economic sanctions and sharing agreements seem more likely to lead to a lasting peace than military interventions alone. The findings have also shown how economic sanctions and military interventions often have an adverse impact on the general population and how revenue sharing raises an ethical dilemma with the possibility of it being perceived as a reward for violence and an attempt at buying peace. This last point in particular has critical value in negotiations over conflict settlements, as the action of granting control over resource-rich areas or allocating revenue shares, businesses and government positions, projected as positive incentives, is not without danger as it may provoke new conflicts in the future (Tull and Mehler 2005; Le Billon and Nicholls 2007; De Koning 2008).

Furthermore, these different instruments seem to correlate with particular types of resource (Le Billon and Nicholls 2007). Conflicts related mainly to illegal lootable resources tend to be addressed more efficiently by revenue sharing arrangements whilst conflicts relating to narcotics pose a real

challenge since 'sharing arrangements are rarely an official option for governments and even less so for conflict responding countries' (ibid.: 629). Also, military interventions may be able to address the problem of non-lootable resources while economic sanctions can be effective in dealing with legal lootable resources (ibid.).

Sanctions are imposed by a number of bodies, including the UN Security Council, regional associations of states or individual governments, business associations and NGOs; they 'seek to prohibit the import of resources under the control of the sanctioned party, an alternative being restricting investment for, or export of production technology to, the sanctioned party' (ibid.: 616). Notably, there has been a considerable increase in the number of UN sanctions implemented and a rise in their effectiveness since the late 1990s (ibid.). The present section focuses on the UN sanctions regimes. The UN Security Council 'may impose restrictions on economic relations by UN members with targeted countries or groups' under Article 41 of the UN Charter (Le Billon 2005: 58).

Because comprehensive sanctions have often proved to be counterproductive as well as inefficient, owing largely to their insufficient enforcement, an increasing number of targeted or smart sanctions have been employed since the early 1990s with the aim of maximising their effect whilst reducing their negative impact on the general population (Carter 2003; Le Billon and Nicholls 2007). Targeted sanctions are favoured within UN circles as they do help to maintain 'the institution's public stance of impartiality or incurring the risks and costs associated with alternative forms of intervention' (Carter 2003: 38) such as controversial military interventions (Le Billon 2008).

In addition, the creation of the UN Panel of Experts by the UN Security Council may be seen as an innovative effort to enhance the effectiveness of the sanctions through monitoring and investigation of commodity-related sanction-busting and illicit economic activities (Ballentine 2004; Le Billon 2005; Le Billon and Nicholls 2007). The UN Panel of Experts plays this crucial role by 'naming and shaming' sanction-busters and ensuring the

implementation of the sanctions by imposing secondary sanctions on sanction-busting states (Le Billon 2005; Le Billon and Nicholls 2007), although secondary sanctions do not generally represent the preferred option (Le Billon 2005).

Overall, sanctions are not effective in the short term and enforcement by national authorities continues to be weak (Le Billon 2005). There have been a few cases though when the finance resources of targeted groups were effectively curtailed (Le Billon and Nicholls 2007), thereby altering their military balance (Ballentine 2004; Le Billon 2005) and contributing to the ending of conflict (Ballentine 2004; Le Billon 2005). On the whole, sanctions regimes have also had some unintended adverse effects: by raising additional regulatory burdens, they have encouraged sanction-busting (Le Billon 2005) and, more importantly, they often had a negative impact on the livelihood of the general population (Ballentine 2004; Le Billon 2005). However, sanctions on extractive industries are seen as justified on the basis of a general assumption that extractive industries hardly constitute a major source of employment for the local population (Le Billon 2005). It must also be pointed out that sanctions regimes often fail to change the behaviour and/or incentives of targeted groups (Ballentine 2004; Le Billon 2005; Le Billon and Nicholls 2007).

The UN Panel of Experts is equipped with the resources to carry out detailed investigations without being impeded by 'diplomatic protocol', as independent experts are, although their work is not without its difficulties due to the fact that they 'do not work under cover and rely on voluntary testimonies' (Le Billon 2005: 61–62), which has produced mixed results. Often their work is hindered by problems such as issues of partiality and ambiguity in their mandates, the standards of evidence, and procedures for listing and delisting sanction targets (RAID 2004; Ballentine 2004), as well as inadequate communication and coordination between panels (Ballentine 2004). Besides, the 'naming and shaming' strategy has proved to be effective in improving compliance, mainly of those with reputational risk, and empowering civil society to be able to hold governments and companies accountable

(Ballentine 2004; Le Billon 2005). This means that it is a limited tool for those without reputational risk or necessity to obtain legitimacy (Ballentine 2004) as it has no enforcement mechanisms (Nitzschke 2003). Whilst 'naming people without shame' is seen as useless (Le Billon 2005: 62), in light of the continued sanction-busting (Nitzschke 2003) the International Criminal Court have, 'for the most part, abandoned the idea of prosecuting the business accomplices of war criminals, in part due to corporate pressure' (Le Billon 2005: 73) and the judicial prosecution of sanction-busters, especially on the supply side, remains nascent (Cater 2003; Le Billon 2005).

Improved efficiency allowed by the creation of the UN Panel of Experts and advent of targeted sanctions meant that the effectiveness of the sanctions regimes in terminating conflicts has been over-emphasised, in contrast to the impact left by the much criticised and controversial military operations (Le Billon 2005). This is despite the fact that the sanctions regimes remain 'marked by vested commercial interests and widespread abuses' (Le Billon 2008: 364).

However, the fundamental problem with the sanctions regimes lies in their bias, which is their tendency to curtail financial resources for rebel groups, based on their belief in the rebel greed hypothesis. Thereby, this attitude criminalises rebel groups, dismisses any legitimate grievances they may have (Ballentine and Nitzschke 2003; Cater 2003) and, at the same time, legitimates state actors because of considerations about state sovereignty (Ballentine 2004), despite their part in the conflict (Ballentine and Nitzschke 2003; Ballentine 2004). In other words, sanctions regimes imposed the end of 'any pretense of impartiality', implicitly call for the military defeat of the rebels by the government, remove diplomatic channels for negotiated solution (Ballentine and Nitzschke 2003; Cater 2003) and lead to 'de facto UN involvement in fighting wars, rather than solving them peacefully' (Cater 2003: 40). Sanctions regimes, therefore, have to be understood as 'a highly coercive and partisan policy instrument' in conflict resolution (Ballentine and Nitzschke 2003: 16).

In addition, shifting military balance in favour of states through sanctions regimes does not fundamentally change the war economies established during the conflict, particularly with the involvement of neighbouring countries, criminal networks and business actors, but can in fact strengthen the war economies (Nitzschke 2003; Studdard 2004), through which the general population may be even more adversely affected (Ballentine and Nitzschke 2003).

Policy responses shaped by the greed rebel hypothesis, which propose limiting finance for rebel groups as a solution, raise a number of issues as indicated in the above discussion. Their lack of appropriateness is clearly evident in the frequent recurrence of conflicts noted even after successful interventions (Le Billon and Nicholls 2007). It is generally understood that resource revenues can be used to finance armed conflicts; however, policies which aim at limiting those resource revenues would have some effect only in cases when their availability had motivated the belligerents' actions (Ballentine 2004; Le Billon and Nicholls 2007; Wennmann 2007).

With this in mind, a new approach aiming to deal with post-conflict settings suggests the need to implement better resource governance<sup>15</sup> through sectoral reforms. The aim is 'to address the resource curse and to reduce grievances, conflicts, and violence ... vulnerability and risk' (Le Billon 2008: 363). However, sectoral reforms have often helped strengthen central authorities and re-enforce foreign industrial mining companies, thereby driving out artisanal mining as an undesirable undertaking, regardless of the negative impact that industrial mining has on local livelihoods and at the expense of whole communities (De Koning 2008; Le Billon 2008).

Given the inadequacy of these largely state-centred policy responses in addressing the nature of war economies and the extent to which they involve a wide range of national, regional and global actors, new proposals have been increasingly employed as policy tools in resolving some of the problems

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<sup>15</sup> For example, see Franke *et al.* (2007) and Schure (2007).



posed by war economies (Ballentine 2004; De Koning 2008). These policies include voluntary self-regulation and co-regulation through partnerships to impede the trade in what are often called conflict commodities. However, self-/co-regulations have many limitations, which include the risk of confusion and fatigue from an overwhelming number of existing codes and regulations, the absence of monitoring and enforcement as well as rather incomplete and incoherent standards, owing, in large part, to the difficulty in distinguishing in clear terms between legitimate and ethical activities on the one hand and illegitimate, unethical and unacceptable activities on the other (Ballentine 2004). These weaknesses may indeed provide smokescreens for continuing illegal and predatory activities (Ballentine and Nitzschke 2003; Ballentine 2004; Le Billon 2005), ironically by emphasising the economic dimension of war and neglecting political grievances amongst belligerents (Keen 2000; De Koning 2008).

The growth of self-/co-regulations, despite their limitations above, is also supported by the view that weak governance or governance failure, in addition to natural resource dependence, produces enabling structures that trigger armed conflicts, and improving resource governance is increasingly considered to be a key to address resource-related conflicts (Ballentine 2004; Le Billon 2005; OSAA 2006; EADI 2008).<sup>16</sup> As the governance deficit exists at local, regional and global levels (Ballentine 2004), 'broader engagement by external actors, more transparent and accountable management of resource sectors, and the imposition of specific measures for tackling the role of resource revenue in fuelling war' is necessary (Le Billon 2005: 52). However, Ballentine (2004) underlines the fact that there is 'as yet no normative consensus ... as to which activities should be regulated and in what ways' in states where there is no effective regulation in place but they face complicated issues of sovereignty, which renders the conduct of sovereign agents more obscure. She therefore asserts that the action of what should be

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<sup>16</sup> For instance, Bonn International Center for Conversion (BICC) analysed the role of governance with regard to resource revenues, in order to test the hypothesis that a high resource governance, defined as 'the way in which governments regulate and manage the use of natural resources and revenues deriving from those resources and the redistribution of costs resources', leads to increased stability and long-lasting peace, with a correlation found between two variables (EADI 2008).

an effective and impartial multilateral form of global governance is required in order to address the problem with such technical and political complexity, increasingly framed as participatory governance<sup>17</sup> which is discussed later (section 6.1.).

### 2.3. War economy

The preceding section on the resource curse hypothesis has crystallised one basic dichotomy, which is that of greed and grievance, and foregrounded the importance of this dual hypothesis in the debate on civil war incidence and its causes. In addition to the analytical shortcomings carried by each hypothesis and the subject of much criticism, this is also an oversimplified either/or explanation about the motivation for war which has been widely contested (Cater 2003). For instance, Cramer (2006a: 166) describes in explicit terms the problem of using classification in scientific analysis: 'most classification systems impose artificial discontinuities onto a reality that is more of a continuum.' This is exemplified in the coding rules for civil war, as detailed in the first section (2.1.). Furthermore, most economic analysis 'tends to assume selfish behaviour' to be rational without examining what selfishness entails (Keen 2008: 30). Thus, the almost exclusive focus on 'rebel greed' neglects wider societal problems and external factors through the process of 'othering'; thereby 'the most fundamental problems are said to lie with an abusive "other"', precluding in this way the responsibility of the West (ibid.: 25).

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<sup>17</sup> Schneider (1999: 522-523) coined the term, participatory governance (PG), because of the lack of operational relevance he perceived in the concept of 'good governance' in its totality within policy debate and analysis relating to the poverty reduction strategies during the 1990s. Participatory governance embraces information and agency as crucial aspects for governance that were missing in the conventional definition of governance: 'the execution of authority and control in a society in relation to the management of its resources for social and economic development'. Therefore, its aim is to improve outcome 'by introducing maximum transparency and sharing of information in a process that includes all stakeholders ... and leads to joint decision making wherever feasible' since 'information is asymmetric, unevenly shared among different levels' in practice. Participatory governance processes increase the ownership and commitment to the outcomes by participants, therefore, 'the chances of sustainability of the results of the process are enhanced'. In other words, participatory governance 'represents a paradigm shift based on the trilogy of empowerment, accountability and capacity building which constitutes the interdependent building blocks of participatory governance'.

Keen (1998; 2000; 2008) argues that it is necessary to depart from such an oversimplified dichotomy on the role of greed and grievance and examine how they both interact in order to understand why a civil war happens and why it persists. While the economic function of violence<sup>18</sup> is crucial in sustaining wars, as there may be 'more to war than winning', he insists that grievance in contemporary conflicts is a continually important factor (Keen 2000: 26). Hence, grievance and political goals of rebellion do not disappear even after they are transformed or compromised to an extent as a war proceeds (Keen 2008). Cramer (2006b: 195) argues that '[t]he means of paying for war should not be conflated with the causes of war' as 'where there's a will there's a way'. It is also necessary to understand the role of individual parts in relation to the whole, as systems thinking suggests (Capra 1997).

The important departure from the overly flawed and insular greed and grievance hypotheses has also transpired in a number of other attempts made to take thinking beyond greed and grievance, hence the emphasis on the economic agendas or economic functions in civil wars, or on war economies. These new systems, which emerge from the process of civil war, often persist even after formal settlements of conflict and have a huge impact on post-conflict societies (Keen 1998; 2000; 2008; Berdal and Malone 2000; Duffield 2000; 2001; Ballentine and Sherman 2003; Nitzschke 2003; Ballentine 2004; Studdard 2004). There has been therefore a growing number of studies conducted on the war economies, as discussed in this section.

According to Kaldor (2007: 95), conventional war economies entail 'a system which is centralized, totalizing and autarchic' with '[t]he main aim of the war effort' being 'to maximize the use of force so as to engage and defeat the enemy in battle'. By contrast, new war economies are rather globalised and tend to rely heavily on control of local assets and external support rather than domestic production (Duffield 2000; Kaldor 2007). Keen (2008) insists on including all economic activities taking place during an armed conflict as part of the war economy. Profits may arise from pillage, protection money and

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<sup>18</sup> There are three immediate functions of violence: economic, security and psychology (Keen 2000; 2008).

ransoms as well as from attempts at controlling trade, exploiting labour and gaining access to land or appropriating aid. Salaries and corrupt benefits accruing to military personnel are also important in this respect in addition to remittances received from allied diaspora communities. Therefore, new war economies present a crucial characteristic feature: they are adaptive networked structures connected to global markets (Duffield 2000) and, as such, can change over time (Keen 1998; Cater 2003); the violence they exercise yields 'different functions at different points throughout the duration of the conflict' (Cater 2003: 28). As a result, it is not possible to analyse these processes through the use of static models (*ibid.*).

As the new war thesis claims, new war economies need to be situated in the context of the post-Cold War era and an accelerating globalisation (Keen 2008). The end of the Cold War meant that external support and sponsorships were no longer available; this pushed warring parties to seek their own financial resourcing (Dietrich 2000; Duffield 2000; Cramer 2006b) and to realise it through wider economic networks provided by globalisation (Duffield 2000). Hence, market liberalisation in the globalised world has facilitated all forms of trans-border activity, including informal and illicit activities as part of most of these war economies, to an extent that the realisation of local assets and of all forms of basic supplies has come to depend on external markets (Duffield 2000; Ballentine and Sherman 2003). As a result, war economies have become so well integrated into the existing social relations that their relations and structures have become similar to those of more conventional global economies and of peace economies within the region concerned.

One particular programme, the Program on Economic Agendas in Civil Wars (EACW),<sup>19</sup> which was run between 2000 and 2004, conducted extensive research with the aim of achieving 'a systematic understanding of the economic dimensions of contemporary civil wars' to contribute to conflict prevention and formulation of resolution policy (Ballentine 2004: 1). The

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<sup>19</sup> The programme was hosted at the then International Peace Academy and is now based at the International Peace Institute. See [www.ipinst.org/topic/1/14.html](http://www.ipinst.org/topic/1/14.html).

programme led to the publication of several papers and one book<sup>20</sup> which dealt with a review of civil wars in a number of developing countries, including some resource-rich ones and re-affirmed the fact that motivations for strife in resource-abundant countries tend to include, to varying degrees, a combination of greed and grievance rather any single set of causes (Ballentine 2003).

The study thus rejects the notion of resource wars and states that economic considerations tend not to constitute the primary cause behind most armed conflicts, although it is not an easy task in research to distinguish economic reasons from other factors; this is mainly due to methodological difficulties faced within the studies themselves but also the nature of the subject itself because of 'the fluid nature of conflict dynamics over time' (Ballentine 2004: 4). However, an interaction of economic motivations with various other factors that include 'socioeconomic and political grievances, interethnic disputes, and security dilemmas' appears to facilitate the outbreak of warfare (Ballentine 2003: 260). In the process, it seems that access to economic resources can provide an enabling opportunity structure, allowing the financing of warfare, as it also tends to influence the duration, intensity and character of conflict (ibid.). As a result, economic agendas appear to be 'consequential to the character and duration of civil war and complicate efforts at conflict resolution' (Ballentine 2004: 4).

The impact that different types of resources have on the dynamics of civil war has also been confirmed by the study. For instance, more lootable resources are often associated with rebellions and tend to weaken battle discipline and benefit wider actors, thereby increasing the number of peace spoilers and the risk of secondary conflicts over resources (Ballentine 2004). More importantly, they do not greatly impact on the political goals of the belligerents, despite the fact that access to lucrative lootable resources may present them with opportunities for resource predation and the concomitant risk of carrying out

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<sup>20</sup> Ballentine and Sherman (2003) *The Political Economy of Armed Conflict: Beyond Greed & Grievance*, Boulder: Lynne Rienner.

more systematic forms of criminality (ibid.). By contrast, non-lootable resources are more likely to cause conflicts of the separatist kind (ibid.).

The study in question has also verified the correlation between dependence on primary commodity exports and the incidence of civil war. As most civil wars occur in developing countries, there appear to be a number of variables that shape the opportunity structure to trigger civil wars, including weak governance, military, economic and political weakness in states, corruption, prevalent informal and shadow economies, undeveloped manufacturing sectors, the nature of existing social and kinship bonds and the presence of regional allies (ibid.). Rebellions are likely to occur 'at moments when the legitimacy and military capacity of the state [becomes] severely diminished by a combination of external shocks and internal corruption and decay, thereby [contributing] to both grievance and opportunity for rebellion' (ibid.: 4).

The research carried out by the EACW has also recommended that war economies be situated within the internal opportunity structure examined above as well as within the broader political economy, which also counts for 'inadequate global regulation of commodity and financial markets' in liberalised international trade and commerce (Ballentine 2004: 3). And, as stated in the earlier section on contemporary conflicts (2.1.), the fact that war economies are assisted by regional and global linkages makes it difficult to categorise them as being intra-state, internal or civil wars (King 1997; Alley 2004; Salehyan 2008). These war economies also tend to involve numerous actors, among them various war profiteers and peace spoilers who contribute to transforming strife into protracted conflicts by multiplying the points of conflict (Ballentine and Nitzschke 2003; Ballentine 2004). Some of the regional economic dimensions thus involve negative externalities and interventions by neighbouring states (Salehyan 2008). The study confirms that 'the most entrenched conflict economies are those that are embedded in regional conflict formations ... Taking advantage of traditional informal trade and commercial networks and the absence of state control in peripheral borderlands, combatants have established elaborate systems of cross-border trade in arms, men, and resources', due to the fact that 'insecurity and

shadow economic activities thrive in marginalized borderlands, creating havens for peace spoilers' (Ballentine 2004: 6). This is a crucial dimension of conflicts developing within regional settings and involving the availability of sanctuaries for the use of rebels, a point further confirmed by the later work of Salehyan (2008).<sup>21</sup>

The more state-centric approaches have thus put forward a number of explanations as to how the existence of internal opportunity structures induce civil war and war economies and how they become developed. It seems that internal opportunity structures are largely shaped by the effect of weak governance and state weakness (Ballentine and Nitzschke 2003; Ballentine 2004) or state failure, defined as 'a declining state capacity or desire to provide public goods and an increasing erosion of legitimacy' (Cater 2003: 41).

For instance, Reno (1998; 2000) has shown how a systematic diversion of state economic resources through patronage networks can lead to the creation of a 'shadow state'. And, in such a shadow state, rulers bound 'potential rivals to them in exchange for largesse without the need to create strong bureaucracies they feared would heighten independent tendencies among elites' (Reno 1998: 2), a much feared consequence. However, the end of the Cold War sponsorships and the advent of liberalisation reform have reduced the amount of resources available to rulers, leading to the fragmentation of shadow states and the rise of warlords; in other words, a favourable opportunity structure to armed conflict emerges. Moreover, national militaries, having lost their old patronage networks and in need of continued financing, come to be identified with an increasing trend of 'military commercialism' (Dietrich 2000). More specifically, they become 'effectively a third tier of privatised security, whereby a ruler of a stronger African state deploys the national military to a neighbouring country, supporting either the sovereign or the rebels, in exchange for access to profits' (Dietrich 2000). This new trend 'brings external resources under the control of the deploying country's patrimonial network, allowing for redistribution to protect the

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<sup>21</sup> See the section 2.1. Contemporary armed conflicts.

domestic regime', whilst it also increases warlordism, decreases high risk military activity, prolongs the conflict and complicates entry/exit strategies for the belligerent groups (ibid.).

However, the state-centric approaches have generally presented a number of limitations, namely the great emphasis laid on natural resource abundance within a given state at the expense of a more thorough examination of the effects left by both globalisation and market liberalisation (Keen 2000; Duffield 2000; Cater 2003), which have contributed to the erosion of authority or retreat of the state (Strange 1996). Indeed, these effects and the role of foreign states have not been systematically analysed (Keen 2000; 2008; Duffield 2000). A case study of Sierra Leone (Keen 2008: 47) illustrates this point. An examination of its policies of liberalisation, promoted by the IMF and subjected to considerable US influence as well as interventions from other states, contributed to fuelling the conflict from various sides: 'by encouraging inflation, drastic devaluation, and the creation of private oligopolies when state enterprises were privatized, by reducing key state services (which fuelled grievances), by fuelling corruption as real state salaries were cut, by taking attention away from soldiers' abuses under the military government.' Other factors relate to the huge vested interests held by the five UN permanent member countries and their arms manufacturing industries, their roles in supplying arms and loose banking regulations for money laundering amongst other offences also created such effects (ibid.).

Cramer (2006b: 198) confirms the above view and states that 'much of the violence in the world may represent the consequences of and reactions to the failures and choices of government policies, including those policies of wholesale liberalisation and deregulation encouraged by international financial institutions'. It is therefore an essential task to analyse how those 'policies aimed at privatization, foreign direct investment, and deregulated markets may have debilitating effects on peacebuilding' in war-affected states (Studdard 2004: 2), which will be discussed in the later section on post-conflict reconstruction (2.6.).



## 2.4. Informal economy

The preceding two sections have reviewed the literature on resource curse hypothesis and war economies, which have been prominent in explaining the case of the DRC. That is to say, economic motivations and opportunity provided by the availability of natural resources as well as the internal structures and external links to the global market motivate and sustain the armed conflict. In case of the DRC, the internal opportunity structures are embedded largely in artisanal extraction and trade in minerals, which take place within the informal economy and are often linked to war economies. In order to contextualise the discussion on the nexus between the armed conflicts and coltan production and trade in the eastern DRC in this thesis, this section briefly examines the study on informal economy and the subsequent section reviews the study on artisanal mining.

Economic activity which is not accounted for by governments is described using different terms, including informal, shadow, hidden, black, underground, clandestine, illegal and parallel, implying 'conscious efforts to avoid official detection' (Fleming *et al.* 2000: 387). This thesis uses the term 'informal economy' for consistency. The informal economy includes hugely diverse economic activities, which can be illicit, legal with or without an illicit component, or merely unregulated. Its significant impact on the formal economy and observed expansion around the world are widely acknowledged,<sup>22</sup> and a vast literature on the informal economy exists to analyse the underlying causes and impacts, to theorise the activity, and to identify methods to measure the scale. However, the informal economy is diverse and nuanced and develops constantly to adjust to changing circumstances (Schneider 2002). There are no agreements on the definition or a theory of informal economy, and no methods to estimate the scale of these activities or how these activities affect the wider economy.<sup>23</sup>

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<sup>22</sup> See for example, Schneider (2002) and UNRISD (2010).

<sup>23</sup> See for example, de Soto (1989); Thomas (1992); Loayza (1997); Schneider and Enste (2000) ; and Schneider (2002).

Fleming *et al.* (2000) identified that there have been two approaches to try to define the informal economy, namely the definitional approach, which views the informal economy as unrecorded economic activity, and the behavioural approach, which frames the informal economy in terms of behavioural characteristics. For example, Schneider (2002: 3) defines the informal economy as the economic activity which 'includes unreported income from the production of legal goods and services, either from monetary or barter transactions – hence all economic activities which would generally be taxable were they reported to the state (tax) authorities'. According to his definition, the informal economy does not include criminal activities, which are irregular by nature. Fleming *et al.* (2000) agrees with the exclusion of crime as it has no regulated counterpart against which it can be compared.

In reference to the DRC, MacGaffey (1991: 12), in her anthropological study on the Congolese informal economy, which she termed 'real economy', she defined the informal economy as 'economic activities that are unmeasured, unrecorded and, in varying degrees, illegal' as they are outside state regulation. These economic activities are carried out openly, with illegal implications, and overlap with the official economy in various ways; hence, actors often participate in both formal and informal transactions and commodities move between the two economies, even within a single transaction.

The lack of a clear definition of the informal economy and reliable statistics makes it difficult to measure the sector, and has promoted numerous studies on how best to measure the scale of informal economy and attempts to measure the size of the informal economy. While qualitative approaches, including participant observation, interviews and surveys, are considered to be useful as a starting point for research and developing contextual data (de Soto 1989), Fleming *et al.* (2000) argue that these data do not provide a broader understanding of the size of the informal economy. According to a recent study on the size of the informal economy in 110 developing, transition and OECD countries by Schneider (2002), the average size of the informal economy, as a percentage of official Gross National Income (GNI) in 2000, is

estimated to be 41% in developing countries, 38% in transition countries and 18% in OECD countries. The informal economy therefore appears to exist in all economic systems.

Most analyses of drivers for the informal economy point out inappropriate or inefficient economic policies in the country. For instance, oppressive, burdensome or complex tax and regulatory regimes are believed to make people seek informal economies (Loayza 1997; Fleming *et al.* 2000; Schneider and Enste 2000; Schneider 2002). Also, there exists another view that links the growth of the informal economy with globalisation and economic liberalisation, which have increased subcontracts to decrease costs (UNRISD 2010).

However, these views are not sufficient to account for the existence and scale of the informal economy in the DRC. In order to explain the context in which the informal economy has been so significant in the DRC, the distinct nature of the DRC state needs to be highlighted. While the DRC state is often regarded as weak and corrupt, the state under Mobutu promoted 'informalisation and privatisation of public and economic life' through a 'fend-for-yourself' attitude (Vlassenroot and Raeymaekers 2008: 49). The economic crisis and conflict have eventually given a rise to 'a more commodified, indirect form of statehood that drives the middle ground between formal and informal, state and non-state spheres of authority and regulation' (*ibid.*: 51). Similarly, Trefon (2009) describes the DRC state as an 'ambiguous, arbitrary and hybrid' state, in which negotiation is the means of operation at all levels. The informal economy in the DRC, hence, needs to be explained in the context of the informality of the state itself.

The informal economy is considered to produce both positive and negative impacts. De Soto (1989) contends that the informal economy may be simply more efficient than the existing official economy, although it may appear to be undesirable as it is given terms such as 'shadow' and 'hidden' and some activities are illicit. It is widely acknowledged that the informal economy can provide a survival mechanism to the population (MacGaffey 1991; Fleming *et*

*al.* 2000). The informal economy can also facilitate the transition to market economies (Fleming *et al.* 2000) and compensate the official economy by offering a functional distribution system for both marketing and trading in commodities (MacGaffey 1991; Fleming *et al.* 2000). The study on the DRC's informal economy indicates that the informal economy can facilitate development through providing employment, goods and services to improve people's lives and can enable social mobilisation with few resources and little technology (MacGaffey 1991). The same study also suggests that the informal economy represents local solutions to local problems and returns the state resources to society through different paths, as some of the public services are provided by the informal economy in terms of provision of health care, building hospitals, dispensaries and schools, and road maintenance where the state is not able to offer such provision (Vwakyankazi 1991).

In contrast to those positive aspects above, the informal economy diminishes the size of tax revenue, which weakens the capacity of the state to provide public goods, resulting in reduced incentives to pay tax and a further expansion of the informal economy (MacGaffey 1991; Vwakyankazi 1991; Fleming *et al.* 2000). While how the informal economy influences growth and development is contentious, there is a strong argument that the informal economy prevents economic development rather than promoting it (de Soto 1989) and undermines macroeconomic stability as the state is less able to manage the economy and maintain the rule of law (Fleming *et al.* 2000). The informal economy can also be exploitative and repressive, and widen the gap between rich and poor (MacGaffey 1991),<sup>24</sup> since it does not distribute resources fairly amongst actors or offer equal opportunities to participants, especially in the absence of legal protection (MacGaffey 1991; Kisangani 1998). Even though some public services are offered in the informal economy, these public services are more expensive and irregular, hence resulting in uneven development (MacGaffey 1991).

## 2.5. Artisanal mining

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<sup>24</sup> ILO (1999b) reveals that working conditions in the informal economy are oppressive and unsafe.

Artisanal and small-scale mining is widely viewed as an important activity in many developing countries; the International Labour Office estimated in 1998 that the sector provides employment to almost 13 million people in 55 countries and livelihood for 80–100 million people globally (ILO 1999a). Moreover, the number of people who engage in artisanal and small-scale mining is increasing. There has been growing research on and policy engagement with the sector since the significant economic impact of the sector in developing countries was first highlighted in an UN report in 1972<sup>25</sup> (Hilson 2009).<sup>26</sup>

Owing to the diversity of activities and various criteria used to classify it, there is no universally agreed definition of artisanal and small-scale mining (Hentschel *et al.* 2002; 2003; UNECA 2002; Hilson 2003; Centre for Development Studies 2004; CASM 2009). The terms artisanal mining and small-scale mining are often used interchangeably and this thesis uses artisanal mining for consistency. The sector is broadly understood as ‘the most rudimentary branches of the mining sector’ (Hilson 2003: xxi) and most artisanal mining is carried out informally.<sup>27</sup> Artisanal mining can be legal or illegal and formal or informal with different scales; it is associated with labour intensive and hazardous conditions derived from a lack of long-term planning and use of rudimentary techniques (Hinton *et al.* 2003a).

Initially, artisanal mining was considered to be driven by entrepreneurship; however, it is increasingly perceived as poverty-driven activity for the last two decades, based on the growth of the sector amongst vulnerable groups in developing countries, sub-Saharan Africa in particular (Hilson 2009). The growing research on artisanal mining mainly examines the underlying causes

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<sup>25</sup> UN (1972) *Small-Scale Mining in the Developing Countries*, New York: Department of Economic and Social Affairs, United Nations.

<sup>26</sup> Examples include Hentschel *et al.* (2002 ; 2003) and UNECA (2002).

<sup>27</sup> For example, approximately 90% of gold miners in Africa operate without a licence (ILO 1999a). Carson *et al.* (2005) estimate more than 85% of gold miners in Ghana work without a licence. Dondeyne *et al.* (2009) quote 85-90% of gold produced by artisanal miners in Mozambique remains in the informal economy.

of the existence and impact of artisanal mining in various regions as well as evaluating the responses to improve the impact.

The significant economic contribution brought about by artisanal mining includes employment opportunities for the population and foreign exchange earnings for the state. As artisanal mining provides a vital livelihood for the population and low barriers to entry, especially in rural areas where there are no alternative livelihoods, it is considered to have the potential to reduce poverty by donors such as the DFID, ILO, UN and World Bank. Kambani (2000) contends that appropriate policies and measures, based on the understanding of the particular needs of the sector, are necessary for the sector to be able to enhance those positive impacts.

In contrast to its economic potential, artisanal mining creates considerable adverse impact on socio-economic and environmental situations, and the measures taken to address the negative impact of the artisanal mining have been the focus of numerous studies conducted by scholars and donors. Examples of the issues studied include pollution, land degradation,<sup>28</sup> health and safety, HIV/AIDS, child labour,<sup>29</sup> land conflict, migration, and social problems including drugs, alcohol and prostitution. Amongst these issues, pollution and health damage derived from mercury used for metal amalgamation have been studied extensively.<sup>30</sup> These studies highlight the problem of inappropriate measures applied to this largely informal sector, in which poverty-stricken artisanal miners use rudimentary techniques (Hinton *et al.* 2003a; Hilson 2006; Hilson and Pardie 2006; Hilson *et al.* 2007; Spiegel 2009b). Whilst this problem is largely attributed to inappropriate regulations and the degree of informality of the sector, Hinton *et al.* (2003b; 2003c) suggest a gender-sensitive approach to improve the conditions within the artisanal mining sector because an estimated 30% of artisanal miners in the world are women who tend to play different roles from men in mining activities.

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<sup>28</sup> See for example, Hilson 2002 ; Kambani 2003.

<sup>29</sup> See for exaple, Hilson 2008.

<sup>30</sup> See for example Hinton *et al.* 2003a; Hilson 2006; Hilson and Pardie 2006; Hilson *et al.* 2007; Veiga *et al.* 2006 ; Spiegel 2009b.

In order to yield the economic potential of artisanal mining for poverty reduction and to address the hazardous impacts mentioned above, formalisation of the artisanal mining sector has been the focus of much discussion. Several studies analysed the implementation of policy instruments, such as licensing of artisanal mining, demarcating land with mineral prospects and improving the technologies used, and revealed the difficulty of formalising the artisanal mining sector. They point out the inadequacy of those policies applied to effectively formalise the artisanal mining, and explain some underlying causes, discussed below, to show the inappropriateness of the formalisation instruments.

Firstly of all, many studies point out a lack of understanding of the dynamics of the artisanal mining sector. There is a need to enhance the understanding of the socio-economic dynamics of the sector (Dondeyne *et al.* 2009), supported by geographical data and anthropological data with a focus on demographic structure (Hilson and Maponga 2004) as well as migration patterns in the mining sector (Nyame *et al.* 2009). There are suggestions such as creating census data (Hilson 2005) and including all stakeholders in developing better resource policies (Spiegel 2009a). Without adequate data, the importance of the livelihood provided by artisanal mining has been underestimated by donors (Tschakert 2009).

As a consequence of the lack of sufficient information shown above, the provisions for the artisanal mining sector have been inappropriate, including the selection of demarcated land for artisanal mining, industrial services for artisanal mining (Hilson and Potter 2003; Hilson and Maponga 2004), and necessary capital for the artisanal miners to transform to more sustainable mining (Siegel and Veiga 2009).

Moreover, Banchirigah (2006) explains that the reluctance of artisanal miners to be regulated is owing to the excessive bureaucratic procedures and the lack of other employment opportunities. Banchirigah (2006) and Hilson and Yakovleva (2007) highlight an important contradiction between the formalisation of artisanal mining and reforms such as structural adjustment

programmes and national mining sector reform programmes. Through the privatisation of state-owned mining companies and the promotion of foreign-owned large industrial mining projects, these reforms neglect the needs of the local populations and reduce employment opportunities, hence encouraging informal artisanal mining rather than formalising the sector.

## 2.6. Post-conflict reconstruction

States emerging from armed conflict are subject to reconstruction efforts with the support of the donor community. A growing number of actors are involved in the post-conflict reconstruction and have established special programmes and units for their initiatives since the observed arrival of contemporary armed conflict in the 1990s, such as the Conflict Prevention and Reconstruction Unit by the World Bank,<sup>31</sup> the Bureau for Conflict Prevention and Recovery by the United Nations Development Programme (UNDP) and the Conflict and Humanitarian Affairs Department by the UK Department for International Development (DFID). There is a vast literature covering the theories and practices of post-conflict reconstruction and nation-building of a state emerging from armed conflict, often described as weak, fragile, failed or collapsed as the state is perceived to be unable or unwilling to have authority over its territory and population, to provide basic public goods, and to enforce law and order.<sup>32</sup> This section succinctly reviews the literature on post-conflict reconstruction with a focus on the reconstruction instruments in Africa and highlights the shortcomings of these instruments. By doing so, it highlights the limitations of the post-conflict reconstruction instruments in transforming the structures that sustain the armed conflict in the DRC, such as war economies created around the existing informal economy and artisanal mining sector.

The complex interface between security and development, based on the fact that most of the poorest twenty states have gone through armed conflict

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<sup>31</sup> See for example, Boyce (2004) on the role of the international financial institutions, including the World Bank and the International Monetary Fund (IMF).

<sup>32</sup> There are extensive literature and discussions of state failure. See for example, Rotberg (2003); Fukuyama (2004); Kreijen (2004); Cammack *et al.* (2006); Dijohn (2008); Hesselbein (2008); Stewart and Brown (2008); Harris *et al.* (2009).



(intra-state) in the post-Cold War era, has been shaping the theories and practices of post-conflict reconstruction (Evans with Coyle and Curran 2003; Neethling 2005; Colliers 2006). The contemporary post-conflict reconstruction has, therefore, become integrated with peacebuilding approaches, comprising programmes in broad areas of security, governance, justice and economic development (Tschirgi 2003).

Terms such as post-conflict reconstruction, nation/state-building, peacekeeping and peacebuilding are often used to describe those integrated peacebuilding approaches by international and national actors to build and reconstruct a state emerging from armed conflict. The African Post-Conflict Reconstruction Framework, developed by the New Partnership for Africa's Development (NEPAD), defines post-conflict reconstruction as 'a complex system that provides for simultaneous short-, medium- and long-term programmes to prevent disputes from escalating, to avoid a relapse into violent conflict, and to build and consolidate sustainable peace by '[addressing] the root causes of a conflict and [laying] the foundations for social justice and sustainable peace' (NEPAD 2005: iv).

Generally, the post-conflict reconstruction period starts when hostilities end, which is manifested by a ceasefire agreement or peace agreement. The post-conflict reconstruction programmes 'proceed through three broad phases, namely the emergency phase, the transition phase and the development phase', while there are no clear boundaries between these three phases (NEPAD 2005: iv).

Identical to the aforementioned four broad programmes on security, governance, justice and economic development of the integrated peacebuilding approaches, the African Post-Conflict Reconstruction Framework comprises four dimensions: security; political transition, governance and participation; socio-economic development; and human rights, justice and reconciliation (NEPAD 2005). In addition, the framework includes coordination, management and resource mobilisation as the fifth dimension, based on the understanding that improved coherence achieved

through coordination is crucial for multidimensional and multilateral post-conflict reconstruction instruments to be efficient (ibid.). As there is no consensus on the system of coordination, the framework contends that a clearly articulated overall strategy at country level, which is linked to a monitoring and evaluation system, is necessary (ibid.).

Despite the integrated approaches embraced in the post-conflict reconstruction instruments, the extensive literature on post-conflict reconstruction has revealed that those efforts are failing or are producing mixed results at best. The analysis of failures of the post-conflict reconstruction instruments, particularly in Africa, highlights various issues and challenges to successful post-conflict reconstruction. The difficulty in reconstructing those states or rebuilding peace can be largely attributed to the nature of contemporary conflict and its impacts (Luckham 2007), discussed in the previous section on the contemporary armed conflicts. As the contemporary conflict is a result of a weakened or collapsed state to varying degrees, the political, social and economic factors contributing to and sustaining the conflict remain and create the new political reality, often leading to the continuation of violence even after ceasefire. Thus, Luckham (2007) and Thompson and Bell (2007) argue that post-conflict reconstruction cannot merely reconstruct the pre-conflict state as it is likely to result in another conflict.

There is also a fundamental problem with the post-conflict construction efforts by international actors. By examining the role of international actors in their efforts to rebuild states after war through macroeconomic stability and economic expansion, Luckham (2007) contends that interventions by Western countries to stabilise developing countries are based on their concerns over the global security and agendas for the expansion of global markets. In other words, these interventions aim at 'directly transforming political and administrative institutions under the rubric of good governance, so as to ensure a supportive institutional framework for market-based development' (Luckham 2007: 14), rather than addressing the needs of those post-conflict states. Studdard (2004) suggests that those policies based on minimal states,

which aim at privatisation, foreign direct investment and deregulated markets, may have adverse effects on peacebuilding. A study that examined the role of finance in conflict and reconstruction (Addison *et al.* 2001) also identifies the propensity that financial liberalisation during reconstruction fosters economic instability and thereby endangers peace.

Another useful explanation for the failures of the post-conflict reconstruction efforts in Africa is given by Englebert and Tull (2008). They assert that international efforts for post-conflict reconstruction are based on three flawed assumptions that: 'Western state institutions can be successfully transferred to Africa', leading to a 'one-size-fits-all approach' resisted by African governments; donors and African leaders share the diagnosis of failure and the objectives of reconstruction, while African elites 'seek to maximize the benefits accruing to them from these policies, as well as from ongoing political instability'; and 'donors will be able to harness the material, military, and symbolic resources necessary for long-term state reconstruction in Africa' although donors do not have political will 'to sustain the long-term costly efforts' and are perceived to be driven by their own agendas in African societies (*ibid.*: 110–111). Moreover, Hesselbein *et al.* (2006) argues that the idea of state-making being best pursued through modern liberal democracy is not appropriate in Africa, and introducing political competition can threaten fragile stability in post-conflict states.

The above views reflect the donor-driven nature of the post-conflict reconstruction efforts and the lack of local ownership has been brought to attention by some studies such as NEPAD (2005), Colliers (2006) and Englebert and Tull (2008). The donor-driven approach of the post-conflict reconstruction instruments partly emanates from the means of engagement between donors and recipient countries of aid, i.e. the Poverty Reduction Strategy Papers (PRSPs). A case study of Sierra Leone by Obwona and Guloba (2009) criticises the use of the PRSPs as the single comprehensive means of engagement for post-conflict countries through which governments express their strategies for growth and poverty reduction. It points out institutional challenges that post-conflict countries face in developing and

implementing an effective PRSP, including weak institutions, limited capacity, lack of adequate data, lack of public participation in the process, and hence lack of ownership of the PRSP process. Furthermore, while donors may prioritise funding of consumption/social service sectors, post-conflict countries may need to prioritise investing in productive sectors and conflict prevention and peacebuilding needs.

Similarly, Marysse *et al.* (2006) examined aid flows in the Great Lakes Region and identified that aid selectivity through the PRSP, as a new modality of conditionality by donors, largely depends on the performance of governments in specific areas of good governance, such as control of corruption and rule of law.<sup>33</sup> This criterion is based on the assumption that these areas of governance can ensure aid effectiveness. However, it shelves other areas of governance such as 'voice and accountability', which are crucial to sustainable peace.

Moreover, there are a number of potential negative effects of aid on post-conflict countries. For example, aid may make a future crisis more likely by removing the pressure to develop internal revenue (Hesselbein *et al.* 2006) and can encourage similar rent-seeking attitudes to natural resource dependence, hence leading to violent conflict (Boyce 2007). Contrary to the above view by Marysse *et al.* (2006), Doig and Tisne (2009) assert that rapid and comprehensive reconstruction instruments through aid have not given sufficient importance to corruption and will institutionalise the corruption, thereby damaging public confidence in governments.

The above examinations of the theories and practices of the post-conflict reconstruction expose the shortcomings of these instruments in addressing the political, economic and social structures which can reactivate violent conflict, such as in the DRC. Identical to other post-conflict countries, the DRC developed its PRSP, *Document de la Stratégie de Croissance et de Réduction de la Pauvreté* (DSCR), based on a donor-funded participatory

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<sup>33</sup> This study demonstrates that Rwanda has been an aid darling and the DRC and Burundi have been aid orphans.

poverty diagnosis, and presented it to the donor community in July 2006. The DSCRIP includes five pillars: good governance and consolidation of peace through strengthened institutions; macroeconomic performance and economic growth through economic diversification and private sector development; provision of social services and reduction of vulnerability; improvement to health care including fighting HIV/AIDS; and support for communities (IMF 2010). Decentralisation is also promoted in order to enhance transparency and share revenues derived from provincial resources.

These reconstruction instruments, based on economic growth and poverty reduction through privatisation, foreign direct investment and market deregulation, clearly demonstrate deficiencies in transforming the political, economic and social structures, war economy, informal economy and governance, and insecurity that are all interconnected.<sup>34</sup> According to a comparative analysis of Nicaragua and Mozambique (Bruck *et al.* 2000), the legacy of a war economy hinders the economic growth of the post-conflict countries as some factors, including the damaged commercial networks, the loss of trust and the weakening of market institutions, are not included in the post-conflict instruments. The war economy is interconnected to the informal economy which reduces the revenues of the state and hence weakens the state capacity to deliver basic public goods, as the previous section on the informal economy discussed. Hesselbein *et al.* (2006) reiterates this view by stating that the informal economy undermines the very existence of the state and prevents the re-establishment of basic state functions during the post-conflict reconstruction period.

Thompson and Bell (2007) also assert that the presence of the informal economy, combined with the parallel systems of formal and informal governance in the DRC, hinders broad-based growth and leaves a large proportion of the population outside decision-making processes. These

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<sup>34</sup> Madlala-Routedge and Liebenberg (2004) suggest addressing war economies and starting other development related programmes before the official end of conflict, in order to make reconstruction programmes more efficient under the label of 'developmental peacekeeping'. Also, Galtung and Tisné (2009) put forward community-driven accountability. The community-driven accountability can exploit the social accountability system existing within post-conflict countries in order to involve the population in democratic transformation.

existing multiple authorities within the DRC may resist the government-defined policy reforms through aid (ibid.). The resistance to change within the post-conflict society has been underlined by other scholars as well. According to Cramer and Goodhand (2002) and Nitzschke (2003), the actors who benefitted from accumulation through violence and social relations during the conflict tend to resist central interference and control, which may lead to violence. Similarly, Englebert and Tull (2008) explain the resistance to change of African governments by the existence of informal political institutions which may be dysfunctional but are useful for local elites.

The continuing presence of multiple authorities also poses a challenge to decentralisation processes, while many donor agencies have placed a strong emphasis on decentralisation as part of their post-war reconstruction efforts. While Beswick (2009) suggests an approach recognising multiple sovereignties or focusing on decentralisation is appropriate in the DRC based on the presence of warlords and the influence of their supporters in the eastern DRC, Jackson (2005) illustrates the challenges associated with the establishment of local governance systems in Sierra Leone. These challenges are linked to the traditional chief system which controlled land and mineral extraction.<sup>35</sup> He highlights the need to analyse the complex interaction between the traditional chiefs, modern local government and the illegal commodity trade. Kaiser (2008) also highlights the practical difficulties of decentralisation as well as allocating accountability to reduce corruption.

Given the above limitations of the post-conflict reconstruction framework in addressing the war economy, security sector reform faces challenges including resource manipulation, weapon proliferation and the diverse contexts of wartorn societies, despite becoming more comprehensive (Cooper and Pugh 2002). Thompson and Bell (2007) argue that, without transforming the structures of the war economies, demobilised soldiers would be integrated into the same context that triggered the conflict in the first place. An analysis

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<sup>35</sup> Similar views are expressed by Vaillan (2006) and Thompson and Bell (2007) with regard to the DRC.

of the security sector reform in the DRC (Marriage 2007) explains that the demobilisation programmes in the DRC have failed to provide sustainable incentives to combatants and to address underlying insecurity, without adequate understanding of the processes of the informalisation of politics and the economy, the exercise of power through violence, and the multiple crises people are facing in the society. There is also an observed difference between donors' objectives and domestic needs and perceptions for the security sector reform (Boshoff *et al.* 2010; Roue and Willems 2010). Moreover, Roue and Willems (2010) point out the lack of follow-up after demobilisation, broken promises of assistance, and the inability of the national security forces to deal with the continuing insecurity.

These reconstruction reforms appear to assume that pursuing economic growth for poverty reduction through private sector investment encouraged by good governance will automatically integrate existing large-scale informal economies and eliminate war economies. However, evidence shows that, without addressing the existing structures of informal economy and governance, based on the divides within which the war economy continues to function, the reforms not only fail to achieve broad-based economic growth but also fail to prevent the relapse of armed conflict. There is a growing expectation for partnerships, as a new type of global governance, to fill the governance gap in weak governance situations, and hence to help delink mineral production and trade from armed conflict in the DRC war economy. The following section provides a concise literature review on partnerships and an overview of multi-stakeholder partnerships.

## 2.7. Partnerships

Over the past two decades, partnerships between business and government, multilateral organisations and civil society have mushroomed, as partnerships are seen as a more effective and efficient mechanism to address complex issues, such as sustainable development, climate change and human security (Hemmati 2002; Reed and Reed 2009). While there is a growing number of writing on partnerships in wide fields such as public-private or social

partnerships and inter-organisational collaboration (Murphy and Bendell 1999), they are often policy and practice oriented. Theoretical work on partnerships has been incredibly limited since it is difficult to theorise the concept as partnerships are highly diverse owing to their context specific nature (*ibid.*). Given the diversity, the concept has become considerably flexible and lacks even an agreed definition (Findlay-Brooks *et al.* 2007). The following presents one of the most commonly quoted definitions on partnerships:

Partnerships are defined as voluntary and collaborative relationships between various parties, both State and non-State, in which all participants agree to work together to achieve a common purpose or undertake a specific task and to share risks and responsibilities, resources and benefits (UN 2005: para. 8).

The literature on partnerships is, nonetheless, rooted in two main broad fields of governance and development with an overlap, as governance ‘goes beyond the discussion of public management to a more fundamental question of how the processes of democracy (citizen involvement, decision-making procedures and administrative functions) can be adapted to ... resolve the complex public issues’ (Lovan *et al.* 2004: xv) such as development.

Studies that frame partnerships as a form and/or process to advance governance seek to appraise whether partnerships fill governance gaps. Broadly speaking, there are studies in two areas. Firstly, there are studies that look into accountability and governance in development partnerships. They include a study by AccountAbility<sup>36</sup> (Litovsky and MacGillivray 2007), which identifies the weak evidence that development partnerships are more accountable, owing to the difficulty in evaluation and the lack of understanding in how to create ‘collaborative governance’ effectively. AccountAbility elaborated the findings in a further study (Rochlin *et al.* 2008). The Friedrich-

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<sup>36</sup> AccountAbility is a global think tank and consultancy working in the areas of corporate responsibility and sustainable development. See more details in [www.accountability.org/](http://www.accountability.org/).



Ebert-Stiftung<sup>37</sup> study examined global partnerships between the UN and private actors as a paradigm shift in international politics, and pointed out the challenge for a 'democratic multilateralism' (Martens 2007). In addition, much of the literature on corporate social responsibility (CSR) treats the partnership paradigm as a strategy or management tool for corporate citizenship in order to pursue sustainable development goals (Warhurst 2001; Rajak 2006). Whilst a business case for partnerships is supported, Bendell (2001) and Rajak (2006) observe the inherent power imbalance within partnerships when employed in developing countries.

Secondly, there are studies that examine partnerships as a new form of global governance to remedy the democratic governance deficit resulting from unfettered and unaccountable economic globalisation (Bendell 2000). While governance lacks an exact definition, it is 'about processes of making decisions ... is concerned with processes focusing on the distribution of public responsibility across multiple stakeholders' (Lovan *et al.* 2004: xvi) that partnerships are designed for. This represents a paradigm shift in governance and Bendell (2000: 245) perceives that 'the place of politics' has departed from 'the concept of state sovereignty and government' and expanded to include non-state actors as agents. Similarly, Dodds (2005) observes a change from representative democracy to participatory democracy for more democratic governance. Hemmati (2002: 2) frames this new paradigm as 'multi-stakeholder processes', which 'describes *processes which aim to bring together all major stakeholders* in a new form of communication, decision-finding (and possibly decision-making) on a particular issue'. Schneider (1999: 523) coined the term 'participatory governance', that is to say 'by introducing maximum transparency and sharing of information in a process that includes all stakeholders ... [which] leads to joint decision making wherever possible'.

The new form of global governance is also meeting the demand from NGOs equipped with consumer politics (Bendell 2000) and the Southern governments and citizens (Reed and Reed 2009) to regulate corporate

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<sup>37</sup> This is a German non-profit institution working on the principles of social democracy.

practice, particularly in conflict zones (Le Billon 2003b; Böge *et al.* 2006). In the light of regulating business through the new governance paradigm, there has been a discourse on the efficacy of self-regulation as opposed to mandatory regulation and a shift towards co-regulation (Utting 2005; Böge *et al.* 2006). Le Billon (2003b) examined the efficacy of regulatory and voluntary instruments in the trade of conflict resources. Others discussed the shift from self-regulation to social control (Utting 2005), or 'civil regulation' with civil society as the agent (Bendell 2000). Critics of self-regulation and voluntary approaches argue that they are driven by the interests of business (Reed and Reed 2009) and they are not efficient in a context characterised by weak governance and limited law enforcement since they need to be supported by home country regulation (ECCJ 2009).

Other studies that focus on partnerships in the broad development arena are numerous, and attempt to verify whether partnerships fulfil expectations after being hailed a new approach to overcome market failure (World Economic Forum 2005) and the previous single-sector approach (Findlay-Brooks *et al.* 2007). For example, Schneider (1999) examined a paradigm shift to participatory governance based on empowerment, accountability and capacity building in poverty reduction. Based on the analysis of development partnerships, namely the New Partnership for Africa's Development (NEPAD) and Poverty Reduction Strategy Papers (PRSPs), Abrahamsen (2004) views development partnerships as a form of advanced liberal rule with the clear commitment to the self-government and agency of recipient states. Rein *et al.* (2005) examined development partnerships in southern Africa and call for more research on partnership models. The World Economic Forum (2005) advocates for development partnerships within the private sector by presenting their potential and the business case for them. Reed and Reed (2009) examined business engagement in development partnerships based on the degree of stakeholder influence or social control.

Overall, the literature on partnerships embraces the notion of a paradigm shift in governance towards more inclusive, transparent and accountable processes with higher stakeholder participation. There is, however, a

perceived lack of empirical evidence to validate the outcomes of participatory governance as a new form of governance and critical analyses of its impact (Rein *et al.* 2005; Litovski and MacGillivray 2007; Rochlin *et al.* 2008), to which this thesis attempts to contribute.

### *An overview of multi-stakeholder partnerships*

A crucial event that triggered the endorsement and expansion of partnerships was the UN Conference on Environment and Development (UNCED) in Rio de Janeiro in 1992; commonly referred to as the Earth Summit,<sup>38</sup> it illuminated scores of interconnected global issues and the role of NGOs (Murphy and Bendell 1997; UNED Forum c2001). The idea of multi-stakeholder processes was developed during the follow-up process of the Earth Summit (Martens 2007), and was supported in other crucial international summits, including the 2002 World Summit for Sustainable Development in Johannesburg (Rein *et al.* 2005; Reed and Reed 2009) and the G8 Summit in 2008.

The number and application of multi-stakeholder partnerships have grown significantly to echo the support and expectation referred to above. Reflecting the diversity of the partnerships, various terms are used interchangeably to describe these partnerships, including collaboration, alliance, cooperation, multi-stakeholder partnership, multi-sector partnership, cross-sector partnership, tri-sector partnership, inter-sectoral partnership, social partnership, strategic alliance, and public private partnership (PPP). In addition to the above definition by Hemmati (2002: 2), multi-stakeholder processes are:

based on democratic principles of transparency and participation, and aim to develop partnerships and strengthened networks among stakeholders ... They can comprise dialogues on policy or grow to include consensus-building, decision-making and implementation of practical solutions ... [they] are not a universal tool or a panacea for all

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<sup>38</sup> See more information in UNCED (1997).

kinds of issues, problems and situations. They are akin to a new species in the eco-system of decision finding and governance structure and processes (ibid. 2–3).

The rest of this section outlines drivers, expectations and issues of partnerships, drawing on the general research over the past decade on partnerships, though 'context' is critical in partnerships (Rein *et al.* 2005). Partnership participants are chiefly seeking added value through working together (Rein *et al.* 2005). Other incentives include: finance (Acutt *et al.* 2001; Hemmati 2002; Rein *et al.* 2005; Findlay-Brooks *et al.* 2007); skills sharing (Acutt *et al.* 2001; Findlay-Brooks *et al.* 2007); networking (Acutt *et al.* 2001); protecting reputation and brand (World Economic Forum 2005; Findlay-Brooks *et al.* 2007); implementing CSR activities (World Economic Forum 2005; Jack 2007); building trust with shareholders (Jack 2007); use of influence and economic power of partner (Findlay-Brooks *et al.* 2007); and gaining legitimacy (Rajak 2006; Findlay-Brooks *et al.* 2007).

Partnerships are expected to achieve in three broad areas. Firstly, they drive innovation (Rein *et al.* 2005; World Economic Forum 2005; Rochlin *et al.* 2008). Secondly, they can improve governance and accountability (Dodds 2005; World Economic Forum 2005; Rochlin *et al.* 2008) through including voices of marginalised or disadvantaged groups, who do not usually have opportunities to express their needs or problems (Rein *et al.* 2005). Thirdly, they can tackle complex issues more effectively and efficiently through supplementing skills and resources (Acutt *et al.* 2001; World Economic Forum 2005; Findlay-Brooks *et al.* 2007), especially where there is a limitation in government capacity or resource (Rein *et al.* 2005).

A number of challenges and issues of the partnerships at an operational level and more fundamental level are revealed by several studies. At an operational level, there are issues of: additional costs and the difficulty of setting up and sustaining a partnership (Acutt *et al.* 2001; Rein *et al.* 2005; World Economic Forum 2005; Findlay-Brooks *et al.* 2007); sluggish progress caused by lack of trust and understanding amongst partners and inefficient communication; lack

of skills and capacities (World Economic Forum 2005); hidden agendas that are different from the objectives of the partnership (Rajak 2006; Findlay-Brooks *et al.* 2007); and evaluating the outcomes of the partnership (Findlay-Brooks *et al.* 2007).

The key issues of the partnerships are accountability and governance (Findlay-Brooks *et al.* 2007), contrary to the claim that partnerships improve accountability and governance. Accountability will not be improved when there is an existing unaccountability amongst the participants (Litovsky and MacGillivray 2007: 5), and it can be compromised through distributing accountability amongst the participants (Rajak 2006). What are often overlooked are power differences in a partnership, which significantly affect the accountability and governance of the partnership (Rajak 2006; Findlay-Brooks *et al.* 2007). While the inclusion of disadvantaged groups in partnerships is promoted, the power differences persist in the partnerships, and working explicitly towards a truly level playing field is necessary (Edmunds and Wollenberg 2002). Partnerships risk legitimacy (Findlay-Brooks *et al.* 2007; Litovsky and MacGillivray 2007) when power differences and vested interests are embedded in a partnership (Rajak 2006; Rochlin *et al.* 2008), such as when companies use the partnership to deceive stakeholders (Rajak 2006; Litovsky and MacGillivray 2007). When partnerships operate in states with limited capacity, indifference and corruption (Findlay-Brooks *et al.* 2007; Warhurst and Franklin 2007), they not only risk their legitimacy but can also undermine the function of the state (Rajak 2006; Litovsky and MacGillivray 2007).

## 2.8. Chapter summary and conclusions

This chapter reviewed the literature on seven areas that are relevant to the research subject, namely contemporary conflicts, resource curse, war economy, informal economy, artisanal mining, post-conflict reconstruction and partnerships.

The contemporary conflicts that have taken place in the post-Cold War period display distinct features in terms of scope, actors, methods of warfare and finance. The absence of superpowers' support following the end of the Cold War as well as the acceleration of globalisation and market deregulation appear to have weakened the state monopoly of organised violence, eroded the autonomy of state, and expanded the regional and global networks thereby enabling self-financing of the conflicts.

Amongst various perspectives on the contemporary conflicts, the resource curse thesis has been highly influential in the analysis of resource-related conflicts despite being criticised for a number of analytical limitations including coding issues, an overly reductionist approach, cross-country analysis without micro- and regional-level analysis, and a lack of causal explanation. The greed hypothesis explains that economic motivations and opportunity created by abundant natural resources (valuable, lootable, diffuse and distant resources in particular) and weak governance trigger and sustain armed conflict, while dismissing grievance as the motivation of armed conflict.

A strand of recent study on the economic agendas of war or war economy explains the features of the contemporary war economy as adaptive networked structures connected to the global market. The contemporary war economy is hence decentralised, situated in the internal opportunity structure and broader political economy, and well integrated into the existing economies. While grievance is acknowledged as a continually important factor in the contemporary conflicts, the economic dimensions of war have largely dominated the policy formulation for ending and preventing conflict by curtailing finances linked to rebels, manifested by sanctions. The limitation of these instruments in transforming the war economy highlights the importance of the internal structures as well as the broader political economy.

In the case of the DRC conflict, informal economy and artisanal mining are crucial areas of the internal structures sustaining the conflict and war economy. The informal economy, economic activity which is not accounted for by governments, is difficult to define or measure because of its nature and

diversity. While inappropriate or inefficient economic policies are considered to be the key driver of the informal economy around the world, the gradual informalisation and privatisation of the state function in the DRC has to be taken into account in the case of the DRC. The informal economy can be positive in providing a survival mechanism to the population and facilitating development; however, it can also be exploitative and repressive and undermines the state capacity to collect tax revenues, provide public goods and control the macroeconomy.

Artisanal mining constitutes one of the crucial activities in the DRC informal economy. It is a prevalent activity in developing countries owing to a lack of other livelihoods; however, it lacks a universally agreed definition because of the diversity of the sector. Though it has a significant economic impact, it also has an inverse effect on the environment and socio-economic conditions as most of the operations take place illegally and informally. Given the potential of the artisanal mining for poverty reduction and the need to reduce the negative impacts, formalising the artisanal mining is viewed as the way forward in theory. However, attempts to formalise the artisanal mining in various countries have not seen any success, and most studies attribute the failure of formalisation to inappropriate policies and services provided to the sector because of the lack of understanding of the dynamics of the sector. There is also a view that it is the reforms, such as structural adjustment programmes and market liberalisation, which have created unemployment and poverty, thereby expanding informal artisanal mining activity in the first place, and therefore legalising artisanal mining conflicts with these reforms which encourage large private industry-based mining operations through foreign direct investment in an effort to increase the state revenue. The study of artisanal mining can suggest that the formalisation of artisanal mining in post-conflict/conflict situations, such as in the DRC, faces obstacles because of the post-conflict reconstruction instruments.

Post-conflict reconstruction, which states emerging from armed conflict are subject to, usually consists of programmes in security, governance, justice and economic development. These instruments have not been successful,

and there are extensive studies and discussions within both policy and academic circles, ranging from the nature and capacity of African states to donors' agendas. Nonetheless, the crucial shortcoming of this common post-conflict reconstruction framework for the DRC appears to be its inability to transform the existing internal structures including the informal economy and multiple governance in which war economy thrives and the reforms are resisted, thereby conflict continues. Given the weak capacity of the state to control the economic activity and the connection between the war economy and the global market, global governance processes through multi-stakeholder partnerships are expected to fill the governance gap to help delink the war economy and the global market. However, there is a lack of empirical evidence to support the role of multi-stakeholder partnerships in filling the governance gap in conflict-affected situations or in conflict prevention.



## Chapter Three: Methodology

This chapter briefly summarises the methodology of this research to examine how multi-stakeholder partnerships can help in enhancing governance to promote sustainable peace and security and why, with a particular focus on how they can curtail revenues for the belligerents from coltan production and trade in the eastern DRC. It includes details about the approach, data collection and analysis methods as well as an indication about the limitations of the methodology.

The research is founded on a constructivist epistemology, which allows a consideration of different understandings and perspectives around the research question, namely the role of multi-stakeholder partnerships as participatory governance in promoting sustainable peace and security by addressing the issues of 'conflict coltan' in the eastern DRC. While other approaches may lead to their own unique insights (Oliver 2008), I find the constructive approach to be a more useful model of inquiry for realities that are multiple and both 'socially and societally embedded' but also 'existing within the mind' (Grbich 2007: 8). In the context of this research, the concern is to frame ideas and any findings as situated knowledges (Haraway 1988) as 'there is no objective knowledge independent of thinking' (Grbich 2007: 8). Indeed, my experience of living and working in the Great Lakes Region (mentioned in the foreword) has made me more aware of the fact that multiple realities may be expressed by different people as they tend to live such realities differently (Grbich 2007: 8) depending on their ethnic and cultural affiliations.

The research employs case studies of informal artisanal coltan mining and trade, coltan supply chains and coltan certification schemes in the eastern DRC, which are supported by inductive, qualitative methods. According to Yin (2003: 10–14), a case study is 'a distinctive form of empirical inquiry' to 'investigate a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly

evident'. In addition, the case study inquiry 'copes with the technically distinctive situation in which there will be many more variables of interest than data points, and as one result relies on multiple sources of evidence, with data needing to converge in a triangulating fashion, and as another resolute benefits from the prior development of theoretical propositions to guide data collection and analysis'. I selected the case study method because through this research I seek to answer how multi-stakeholder partnerships can help in enhancing governance to promote sustainable peace and security in the eastern DRC and why. The case study method is suitable when 'a "how" and "why" question is being asked about a contemporary set of events, over which the investigator has little or no control' (ibid.) and allows a better understanding of 'complex social phenomena' (ibid.: 2). It is also useful in dealing with a range of evidence including documents, artefacts, interviews and observations.

By pursuing the case study method, I did not seek to make statistical generalisations but hoped to demonstrate the complexity and importance of the contexts in order to expand theories. Similarly, I did not seek representativeness or validation in data collection since I anticipated limitations and restrictions in conducting PhD research on the subject. The constraints envisaged were linked to the available time and financial resources, logistics and terrains in the DRC as well as the clandestine and illicit nature of the activities in question. I employed triangulation in methods and materials used in the research to be able to pursue in-depth understanding of the phenomenon (Flick 2002). In so doing, 'rigor, breadth, complexity, richness, and depth' are added to the inquiry (Denzin and Lincoln 2005: 5).

I therefore attempted to use a broad range of materials for the inquiry: secondary data, which included academic writing, reports, documents, websites, news bulletins, and audio and visual resources in English; and primary data, which consisted of semi-structured interviews and correspondence with a range of stakeholders as well as observation. Broadly, the secondary data were useful in examining the current understanding and

the professed realities of the topic under study or the main research issues. In contrast, the primary data through interviews were sought after in order to explore multiple realities constructed and expressed by various stakeholders that are not always articulated in official or public domains.

In conducting the semi-structured interviews, I used a self-styled 'romantic' approach which is believed to support 'a more "genuine" human interaction as well as help establish rapport, trust and commitment between interviewer and interviewee in the interview situation ... to explore the inner world (meaning, ideas, feelings, intentions) or experienced social reality of the interviewee' (Alvesson 2002: 108–109). By engaging in a 'real' conversation, the 'romantic' approach can also reduce 'the risks of the interviewees talking what the interviewer wants to hear' and it can 'make the interviews more honest, morally sound, and reliable' (ibid.).

I am, however, aware that 'an interview is an empirical situation' which 'informs us how people behave in the interview situation' and about the social process, requiring that local conditions be appreciated as interviewees may have 'a political interest in how socially significant issues are represented' (ibid.: 110–113). Similarly, it is important to note that I (the interviewer) as an outsider have my 'own interests, preferences and preconceptions' and choose what to perceive (Chambers 1983: 4). I also have my own particular interests at stake which, in this case, relate to my attempt to identify gaps and limitations within the ongoing academic debates, policy responses and NGO activism linked to the significant issue of 'conflict coltan'.

In analysing the interview data, I looked for common patterns of meaning through a preliminary data analysis and through subsequent thematic analysis. The thematic analysis is a useful tool, allowing comparisons between diverse perspectives owned by a variety of groups (Flick 2002). Special attention was paid to the categorised data segments in referring them to other secondary materials with the aim of identifying discrepancies between academic debates, policy responses and NGO activism, as was mentioned earlier. In so doing, I tried to achieve an in-depth understanding of the issues

being debated; however, I have also been driven into adopting a micro-approach (as highlighted by Grbich 2007). which may reflect one of the limitations of constructivism.

In total, the data collection entailed a document search through the library and the Internet, collecting accounts from media and conferences, and semi-structured interviews and informal conversations, thirteen of which were conducted in England between 2009 and 2010, backed up by different communication technologies, such as email, phone and Skype, and thirteen of which were carried out during a two-week fieldwork trip to Rwanda in June 2009.

With regard to the fieldwork, I had intended to conduct research in the eastern DRC in order to collect direct accounts from a range of respondents, including miners, middlemen, traders, international traders, civil society members, officials, aid agencies and various other social actors. However, the deteriorating security conditions in the eastern DRC during 2008 meant that the planned fieldwork encountered a few difficulties: I was in the process of securing an ethics approval for the research and financial support from the funding body, Coventry University. In order to obtain the ethics approval and financial support from the university, I changed the location of my fieldwork from the eastern DRC to its neighbouring country, Rwanda, a place where I had lived and worked until 2005 and where I still had connections. In an attempt to interview some Congolese stakeholders, I had asked them to cross the border into Rwanda to meet up with me there. In the end, it proved difficult to make the arrangements owing to the logistics, communication and the short period allowed for the fieldwork, so only one Congolese person made it to the interview in Rwanda.

When I conducted fieldwork in Rwanda in June 2009, I carried out ten semi-structured interviews and three informal conversations with mainly Rwanda-based Congolese, Rwandese and foreigners. I also carried out observations of an artisanal coltan mining site and the operation of two international coltan trading companies in Rwanda. The selection of the research participants was

determined by their involvement in the extraction of coltan, its trade and knowledge of it. Therefore, the key questions centred on the situation of the coltan extraction and trade, the respondents' perceptions of the difficulties they faced, their ideas about ways of improving the situation in the eastern DRC and their views about the conflict coltan approach. The selection of the fieldwork participants was also determined by the condition of their own availability and my access to them. Through a previous network, I was able to employ a Rwandese-Congolese research assistant who spoke English, French, Kiswahili and Kinyarwanda, with connections both in Rwanda and the DRC and who was acquainted with a large number of people involved in minerals extraction and trade. Access to the research participants was largely facilitated by this research assistant through his knowledge and networks. In terms of my own representation, I benefitted from the fact that, as a Japanese national, I did not suffer from negative associations due to some historical legacy in the eyes of any Congolese or Rwandese I met. A few even approached me inquiring about funding opportunities. But, on the whole, international actors were reluctant to engage with a researcher.

During the interviews conducted, I started by presenting all respondents with a participant information sheet and a consent form in English; however, these documents clearly discouraged the participants and, in most cases, I proceeded through a verbal method of agreement instead. Most interviews were conducted in French, Kiswahili and Kinyarwanda via translation provided by the research assistant but were not audio-recorded as this would have caused concerns for the research participants. There may have been a degree of inaccuracy in the research data derived from the interpretation work and note-taking, which I tried to palliate with my own fieldwork notes.

Regarding the other thirteen semi-structured interviews and communications carried out in England, I tried to collect various perspectives within coltan supply chains as well as multi-stakeholder partnerships on ideas about conflict coltan and initiatives by the multi-stakeholder partnerships. I developed three focus areas for data collection as the research progressed. Firstly, actors involved in coltan certification schemes were prioritised as

coltan certification schemes have become the key initiative with regard to coltan issues. Secondly, actors engaged in the Durban Process were pursued because the Durban Process was the only Congolese multi-stakeholder partnership working on the coltan issues in the eastern DRC. Thirdly, a German coltan processor, H.C. Starck, was an object of focus as it is the previous key buyer of Congolese coltan and has been involved in a coltan certification scheme as well as the Durban Process. The limited number of interviews/communications conducted was due to the difficulty in identifying specific individuals (coltan certification schemes), gaining access to the research respondents, especially business stakeholders, and the absence of information (the information on the Durban Process was not accessible for a considerable period of time as its website subscription had run out). Most of the interviews were audio-recorded and transcribed.

The table below explains the objectives and methods to achieve the objectives in more detail.

Table 1: Data collection

Objectives	Methods of data collection to achieve the objectives
<p><b>Chapter Four</b> To identify the background and causes rather than the economic motivations for the continuing conflict in the eastern DRC.</p>	<p>Secondary data from sources including academic writing, reports, documents, news, and audio and visual resources.</p>
<p><b>Chapter Five</b> To analyse how coltan production and trade finance and drive the conflict in the eastern DRC based on the following:</p> <ul style="list-style-type: none"> <li>• The current knowledge on the link between the conflict and coltan;</li> <li>• How the coltan market and industry are structured and linked to the DRC conflict;</li> <li>• How coltan is produced and traded in the DRC; and</li> <li>• The involvement of the armed groups in the coltan production and trade.</li> </ul>	<p>Secondary data from sources including academic writing, reports, government documents, industry news, news, company websites, and audio and visual resources.</p> <p>Primary data collected from the interview with D'Souza (2009).</p>

## Chapter Six

To examine different perspectives of stakeholders within the coltan supply chains on:

- Whether revenues from coltan drive and finance the conflict;
- Whether it is possible to identify 'conflict coltan';
- The idea of halting the purchase of 'conflict coltan';
- The issues and challenges relating to coltan production and trade; and
- How best to address these issues and challenges.

### **For end-users (electronics companies including NOKIA, Motorola, Samsung, Sony Ericsson, LG Electronics, Vodafone, SONY, Intel and Hewlett Packard):**

Secondary data from sources including company statements, letters, policies from websites, interviews with spokespersons in industry news/media and NGO reports.

### **For mid-users (capacitor manufacturers and tantalum processors including Kemet Electronics Corporation, Ningxia Non-ferrous Metals Smeltery, Cabot Corporation and H.C. Starck):**

Secondary data from sources including company statements, letters, policies from websites, interviews with spokespersons in industry news/media, and NGO and UN reports.

Primary data for H.C. Starck from the email communication with Buetefisch (2009) and the interview with Roethe (2009).

### **For International traders (including Eagle Wings Resources, Thailand Smelting and Refining Company (THAISARCO)/Amalgamated Metal Corporation (AMC), Traxys and Refractory Metals Mining Company (RMMC)):**

Secondary data from sources including company statements and interviews with spokespersons in industry news/media and NGO reports, and NGO and UN reports.

### **Actors in the DRC and Rwanda (including mineral trading houses and their employees, middlemen, miners, NGO staff, government officials and a researcher):**

Secondary data from sources including interviews with the actors in media, and NGO and UN reports.

Primary data from interviews with mineral trading house employees, middlemen, miners, NGO staff, government officials (Rwanda Geology and Mines Authority (OGMR)), the telephone interview with Fletcher (2009), and the Skype interview with Losango (2009).

**Chapter Seven**

To analyse the role of the multi-stakeholder partnerships (MSPs) in enhancing governance, limit the finance for the belligerents, and improve people's life in the eastern DRC by examining the following:

- The background, objectives and scope, type, and progress of the multi-stakeholder partnerships;
- Whether they are inclusive, participatory, transparent and accountable; and
- Their opportunities and challenges.

**For eight multi-stakeholder partnerships including the Durban Process, KPCS, CTC, ICGLR, GeSI & EICC Joint Working Group, OECD Guidelines for Multinational Enterprises, Voluntary Principles on Security and Human Rights, and EITI:**

Secondary data from sources including websites, reports, conference proceedings, statements of the MSPs and organisations in media/reports, NGO reports, and media. Primary data for Durban Process from the interviews with Bucknell (2009) and D'Souza (2009), the telephone interview with Levin (2010) and the email communication with Buetefisch (2009). Primary data for CTC from the interviews with D'Souza (2009) and Roethe (2009), the telephone interview with Levin (2010), and the email communications with Hamuli (2010) and Franken (2010a; 2010b). Primary data for ICGLR from conference presentations, and the email communications with Franken (2010a) and Hamuli (2010).

In the last stage of the research, consulting the research participants about the final draft of the thesis should constitute an important ethical process. However, in this case, it has not been achievable for two reasons. The first relates to a problem of logistics and the second lies in the very concept of a consultation following research where many of the respondents may have been politically motivated in expressing their particular views (Alvesson 2002), as already stated. Most of the research participants did not wish to remain anonymous, including foreign participants who may be easily identified from their positions. However, I chose to omit the names of local participants as a measure of caution.



## **Chapter Four: Conflicts in the DRC between 1996 and 2008**

This chapter provides an analysis of the trajectories and nature of the protracted conflict in the Democratic Republic of Congo (DRC), from the first Congo War (1996 to 1997) through the second Congo War (1998 to 2003) to the ongoing conflict up to 2008, with a focus on the relationship with Rwanda because of its central role in the conflict as well as in coltan exploitation. In so doing, it intends to identify the background and causes rather than the economic motivations for the continuing conflict in the eastern DRC in order to address the first research question set out in the introduction.

The analysis demonstrates that the conflict has not been a single conflict but a convergence of several conflicts, which occurred broadly at local, national and regional levels, involved numerous actors (Cramer 2006a; Grignon 2006; Wake 2008), and were exacerbated by their interactions. This 'complex hybrid' conflict (Carayannis 2003) or a 'multi-layered' conflict (Prunier 2009) unfolded in the context of a significant economic decline, an apparent institutional collapse and a loss of political legitimacy, particularly since the early 1990s. The chapter also highlights the importance of the local context, prior to the outbreak of the conflict, in which historical, social, economic, political and cultural relations in the region are embedded.

Violent conflict in the Democratic Republic of Congo (DRC) since 1996 has been largely explained as a means to fulfil economic interests through the exploitation of natural resources and control over trade. The exclusive focus on the economic agendas of belligerents and the economic functions of the conflict in the DRC was often justified by 'the low-intensity nature' of the conflict, the fragmentation of the belligerent groups and the cross-border networks of illegal trade involving the belligerents and criminal elements (UNSC 2001a; 2001b; 2002a; 2002b).

Both academic writing (Carayannis 2003) and media coverage (Hawkins 2008) on the DRC conflict have been limited, despite the scale and the

humanitarian impact, and it is only recently that the volume of publications has increased somewhat. A major challenge in analysing the complexity of the DRC conflict is posed by the existing theoretical divide. The sections on contemporary conflicts, resource curse and war economy in the literature review chapter suggest the inappropriateness of treating the DRC conflict as a civil war (King 1997), or characterising it as a 'new war' (Kaldor 2007) or a resource war (Klare 2001; 2002), with analytical focus on the state and state actors employed by the international relations scholarship. At the same time, explaining the DRC conflict in terms of a rational choice approach in the context of resource abundance and weak governance based on statistical analysis<sup>39</sup> also reveals limitations as it does not adequately allow for causation. There has been, nonetheless, considerable growth in study within both academia and the policy community, focusing exclusively on the economic agendas and the political economies of the DRC conflict. Some have been conducted by the International Peace Academy,<sup>40</sup> the Overseas Development Institute (ODI),<sup>41</sup> the UN,<sup>42</sup> and various NGOs such as the International Peace Information Service (IPIS).<sup>43</sup>

A focus on the war economy, or the functions of the war paradigm, however, may overlook political grievances held by the belligerents and local contexts in which those grievances were constructed and transformed into violence. While the nature of the DRC state is largely accounted for as a continuation of predatory governance following on from Mobutu's regime (Rackley 2006) or a shadow state where warlords prevail (Reno 1998; 2000), and although various analyses on the DRC state collapse are offered within the political science literature (Young and Turner 1985; Lemarchand 1997; 2003; McNulty 1999; Zeilig 2009), Sangmpam (1994) contests these views derived from the weak governance paradigm as inadequate in understanding the nature of

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<sup>39</sup> The most influential work has been provided by Collier (2000) and Collier and Hoeffler (2004).

<sup>40</sup> Berdal, M. and Malone, D. M. (eds.) (2000) *Greed and Grievance: Economic Agendas in Civil Wars*, Boulder: Lynne Rienner; Nest, M. W. with Grignon, F. and Kisangani, E. F. (2006) *The Democratic Republic of Congo: economic dimensions of war and peace*, Boulder: Lynne Rienner.

<sup>41</sup> Jackson (2003).

<sup>42</sup> UNSC (2001a; 2001b; 2002a; 2002b).

<sup>43</sup> Cuvelier and Raeymaekers (2002a; 2002b); Raeymaekers (2002)

governance in the DRC. Comprehensive analyses on the DRC conflict have been recently offered by historians, from a focus on the role of Rwanda (Prunier 2009) to a criticism of the rational choice approach (Turner 2007). Mwanasali (2000) contends that local level and context-specific analyses and 'the view from below' are critical in understanding the political grievances and context. In this light, crucial insights have been offered by Mamdani (1998; 2001), Vlassenroot (2002), Jackson (2007) and Turner (2007) on ethnicity and citizenship issues, and MacGaffey *et al.* (1991) and Raeymaekers (2009) on the informal cross-border trade, while economic analysis of the DRC state over the past decade is largely missing.<sup>44</sup>

Having the above points in mind, this chapter sets out to analyse the nature of the conflict in the DRC since 1996, with a focus on the Kivu provinces in the east. The two wars in the DRC are 'complex hybrid wars combining civil war, inter-state war, and cross-border insurgencies' and arose from the 1994 Rwandan genocide (Carayannis 2003: 232). They are closely related to the historical events of its neighbouring countries, particularly those of Rwanda, and this chapter provides a brief chronology of events between 1996 and 2008 with a focus on North and South Kivu, in relation primarily to Rwanda. Before reviewing the two wars, the chapter also presents a brief history of the DRC prior to the conflict and introduces several underlying issues in this region: ethnicity, identity, migration and citizenship, and how these elements have been associated with access to local resources, specifically land, rights and security for the people in the region. These elements, which have been shaped throughout history, have created a complex context in which the conflict in the DRC can be understood. Subsequently, the chapter examines the two wars: the first 'war of liberation' from 1996 to 1997, and the second war from 1998 to 2003, and the continuing conflict thereafter in the eastern DRC resulting from the failure of the peace process.

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<sup>44</sup> However, there exists a substantial study of the economy of the colonial period by Hochschild (1999) and of the Mobutu era by Young and Turner (1985). Some economic analyses are available from the policy community such as the international financial institutions, the UN and NGOs, as national statistics from the DRC state have been largely unavailable for more than a decade (Putzel *et al.* 2008).

Accounts on the history and events of the DRC are always conflicting and contentious, reflecting strong vested interests and different world views held by various actors. By following events in the eastern DRC, this chapter illuminates the overriding context at the local level that is embedded in historical, social, economic, political and cultural relations in the region. In so doing, the chapter examines various conflicting interpretations of events and perspectives rather than reconciling these different views.

#### 4.1. Brief history prior to 1965

The history of the DRC has been largely shaped by external interests and intervention. The DRC<sup>45</sup> experienced a brutal rule and exploitation of its natural resources, particularly that of rubber, through forced labour of the indigenous population, by King Léopold II of Belgium after 1885 (Hochschild 1999; Bate 2004). When international pressure intensified against unfolding atrocities in what was his personal property, known as the Congo Free State, the state was annexed to Belgium in 1908 (Hochschild 1999). It is estimated that 10 million people, half of the population in the country, died during King Léopold's rule (ibid.).

The colonial administration by the Belgian state was no better than King Léopold's rule and employed an extremely discriminative system, based on race. The Belgian Congo was governed by the infamous colonial trinity of the state, the Catholic Church and large corporations, particularly the mining companies (Martelli 1962; Nzongola-Ntalaja 2002). In 1916, Belgium first occupied, then in 1921, took over the administration of Ruanda-Urundi (present Rwanda and Burundi) of German East Africa through a League of Nations mandate, after Germany's defeat in the First World War (Nzongola-Ntalaja 2002). The Belgian administration governed the Belgian Congo and Ruanda-Urundi together, as *Le Congo Belge et le Ruanda-Urundi*, with a single army and a single governor-general in Kinshasa. It applied the

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<sup>45</sup> The Kingdom of Kongo (1400 - 1914), which at its peak was the largest state in western Central Africa, covered what are now northern Angola, part of the DRC and part of the Republic of Congo (BBC n.d.). See [www.bbc.co.uk/worldservice/africa/features/storyofafrica/10chapter2.shtml](http://www.bbc.co.uk/worldservice/africa/features/storyofafrica/10chapter2.shtml).

aforementioned colonial trinity to this entity to seek 'to impose its hegemony through paternalism, white supremacy and administratively enforced ethnic divisions among Africans', and thereby built the basis of ethnic identity politics in Rwanda and Burundi (ibid: 217).

In the Kivus, peasantisation and peripheralisation were imposed throughout the colonial period, by creating plantations in fertile areas without developing infrastructures to connect the region to the rest of the country (Sosne 1979). A framework for exploitation of the peasants was established through this process in which local traditional authorities, as intermediaries for the colonial administration, profited and became powerful (ibid.).

#### 4.1.1. Independence

The DRC received independence from Belgium on 30 June 1960, following the upsurge of a continent-wide anti-colonial movement, and held its first parliamentary elections. The Belgian rule had largely excluded Congolese from administrative roles and did not try to develop a capable political class amongst the Congolese.<sup>46</sup> In addition, owing to the highly discriminative system used during the Belgian rule, the number of Congolese with university degrees at the time of independence was only nine. Allegedly, Belgium deliberately granted independence hastily to ensure the failure of the newly independent country (Pare 2000) and allowed only six months for them to prepare for independence, in contrast to the ten years given to Nigeria (Davidson 1984). In the newly formed government, represented by Joseph Kasavubu as the first president and Patrice Lumumba as the first prime minister, only three out of thirty-two cabinet members had university degrees (ibid.).

Within two weeks of independence, the country went through nationwide armed rebellions and secessionist movements in Katanga and South Kasai. The Katangan secessionist movement led, by Moïse Tshombe in September

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<sup>46</sup> See BBC (2010b) at <http://news.bbc.co.uk/1/hi/world/10449507.stm>.

1960, triggered the so-called Congo Crisis. The new Congolese state immediately requested the UN to intervene to re-establish the sovereign state. The UN responded with the deployment of troops, which numbered up to 20,000 by the time of its withdrawal in 1964 (ICG n.d.). At the same time, in the Cold War context and in a country of such size, wealth and geopolitical importance, the West feared that Lumumba would seek support from the Soviet Union (Young and Turner 1985; Pare 2000; Peck 2000; Nzongola-Ntalaja 2002; ISS c2008; ICG n.d.), as he was perceived to be communist despite his denial (Pare 2000; Peck 2000). Consequently, Patrice Lumumba was arrested by the army and eventually assassinated in 1961, allegedly with the involvement of the CIA, Belgian soldiers and Moïse Tshombe (Pare 2000; Peck 2000; ISS c2008). During this crisis, the then UN Secretary General, Dag Hammarskjöld, was killed in a plane crash.

#### 4.2. Rise and fall of Mobutu

Colonel Joseph Mobutu was a political creation of the USA. He was seen 'as a reliable client in a state which was key to Western Cold War strategy in Africa', and was supported chiefly by the USA, France and Belgium (McNulty 1999: 58). Taking advantage of the extreme instability in the country, Mobutu initiated a successful coup in November 1965, with the support of a CIA agent, who was also implicated in the assassination of Lumumba (Young and Turner 1985; Pare 2000; Peck 2000; Nzongola-Ntalaja 2002). Mobutu established a centralised administration system based on horizontal elite networks and attempted to reduce the power of local networks and traditional authorities, who had gained power during the colonial period (Young and Turner 1985; Putzel *et al.* 2008). In creating his networks, he selected representatives of ethnic groups that he could take advantage of due to their vulnerable political and social status as minorities (Jackson 2007). In relation to the eastern DRC, he chose the Congolese Tutsi minority for his elite networks (*ibid.*).

Mobutu implemented some major reforms during his time. In 1966, Mobutu passed the Bakajika Law to transfer the ownership of all land and mineral rights to the state, in order to solve intrinsic conflicts between the land law

system based on individual land ownership that was established during the colonial period and the customary system of land tenure (Meditz and Merrill 1993). In 1971, Mobutu introduced an authenticity campaign, *Authenticité*, reflecting the African nationalism of the day, whereby the country was renamed Zaïre and Mobutu became Mobutu Sese Seko Koko Ngbendu wa Za Banga ('the all-powerful warrior who, because of his endurance and inflexible will to win, will go from conquest to conquest, leaving fire in his wake') (History.com n.d.). Land was also nationalised to underpin the 1966 Bakajika Law mentioned above, which sent a 'strong signal to traditional authorities who presided over rural lands through customary rights' (Putzel *et al.* 2008: v).

In 1973, Mobutu initiated a Zairianisation campaign, *Radicalisation* or *Zairianisation*, thereby nationalising all foreign-owned businesses. This process appeared to have helped Mobutu and his political elite patrons to gain control of the nationalised businesses for their benefit (Young and Turner 1985) and to personalise both private and public funds, resulting in a notorious kleptocracy (ISS c2008). A new land law, the General Property Law, was also enacted to enable purchases of individual land rights from the state, which officially owned all lands (Meditz and Merrill 1993).<sup>47</sup> The 1971 and 1973 laws, nevertheless, did not abolish the indigenous customary law; and individual land rights could be obtained from the state or through the customary land rights, but the future status of ownership of the land remained unclear (*ibid.*). The 1973 Zairianisation and the land law were tools for consolidating Mobutu's patronage system by 'constantly converting economic assets into a stock of political resources for distribution against political loyalty' (Van Acker 2005: 88). During these periods, Mobutu made significant achievements in delivering public goods, including the provision of education and primary health care.

#### 4.2.1. Economic collapse

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<sup>47</sup> See Van Acker (2005) for a detailed analysis on the impact of the 1973 Land Law in the eastern DRC and the section 3.3. Ethnicity, citizenship and land in this thesis, which shows how this law is associated with the issue of ethnicity and citizenship.

Zaire went through an economic crisis and was in a constant state of decline after 1974, when there was a price collapse for copper, which was the country's main source of income (Young and Turner 1985; Putzel *et al.* 2008). The decreased copper price affected state revenues directly, through nationalised mining companies, and impacted economic and social development thereafter (Nest 2006b). The country defaulted on debt payments to the international financial institutions and the International Monetary Fund (IMF) commissioned a report in 1981 which critically pointed out widespread corruption and Mobutu's inability to distinguish between personal property and state property (Young and Turner 1985). Consequently, foreign investment was invited back into the country. However, the country continued to default on debt payments and the economy continued to decline (ISS c2008). As in other developing countries, Zaire was also forced to implement reforms in order to overcome the budget deficits through structural adjustment programmes prescribed by the IMF (Zeilig 2009). Mobutu partially implemented the reforms, by cutting expenditure in 'non-productive' sectors such as health and education (*ibid.*).

The effect of the economic collapse was, hence, significant (Zeilig 2009). The country's infrastructure almost entirely disintegrated, which also negatively affected agricultural production. The civil servants and soldiers were poorly and irregularly paid. A large number of professionals and skilled workers, who had lost jobs, left the country and emigrated to South Africa. Moreover, inflation dramatically reduced the value of the meagre earnings of the population. The population was increasingly living at subsistence level, and the informal economy expanded as the formal economy collapsed.

Given the shrinking national budgets, Mobutu was forced to abandon the horizontal elite networks and instead formed 'vertical networks based on ethnic and regional affiliation' to maintain his power (Putzel *et al.* 2008: vi). This shift in his strategy eventually gave rise to regional strongmen or 'warlords' in the context of a growing informal economy, who gained control



over production and trade through their connection with Mobutu and control of coercive forces (Nest 2006b; Reno 1998).

#### 4.2.2. The end of the Cold War and the failed democratic transition

Mobutu was previously supported by France, Belgium and the USA as a guarantor of stability (McNulty 1999). Amongst them, France had been a strong military supporter of Zaïre for more than two decades, especially during the 1970s when competition between the superpowers over the decolonisation of Angola, Mozambique, and white-ruled Rhodesia and South Africa was intense (McNulty 1999). Mobutu strategically used this backdrop to make himself indispensable (Young and Turner 1985). The end of the Cold War, however, resulted in major changes in the treatment of Africa, and saw the withdrawal of financial and diplomatic support by the superpowers in the early 1990s. In this context, France and Belgium changed their stance and urged Mobutu to step down, while the USA still considered Mobutu as being able to maintain national unity in Zaïre (McNulty 1999).

This significant change in international relations, combined with growing pressure for multi-party democracy from both the international community and domestically through riots and protests, pushed Mobutu to accept multi-party democracy in 1990 (Nzongola-Ntalaja 2002). Following a round of 'popular consultations' throughout the country that resulted in blunt calls for the end of the Mobutu regime, Mobutu announced the end of the Second Republic to begin a transitional phase on 24 April 1990. For this transitional phase, he pledged to introduce: a multi-party system with three parties including his own party; a separation of the party and state; a transitional government for one year; the drafting of a new constitution; and the revival of the three-tiered traditional authorities,<sup>48</sup> leading to democratic elections at all levels.

This also signalled the beginning of political turmoil and crisis, or the failed democratic transition, owing to the problem of leadership in the opposition

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<sup>48</sup> See the structure of traditional authorities in the section 4.3. Ethnicity, citizenship and land.

(Zeilig 2009) and Mobutu's manipulation to weaken the opposition (Lanotte 2010). The USA, with the belief that Mobutu would be able to maintain national unity, asserted that the opposition must agree to share power with Mobutu and facilitated the process for democratic elections through the *Conférence Nationale Souveraine* (CNS, Sovereign National Conference) (McNulty 1999). Mobutu, being favoured, made every attempt to sabotage the transition by manipulating the existing divisions (Jackson 2007) and the CNS. He also maintained significant powers, including control of the security systems and central ministries, through his divide-and-rule strategies (Wrong 2001; Zeilig 2009). Furthermore, he suppressed protests with violent means, including the Lubumbashi massacre in 1990.<sup>49</sup>

After some upheavals, Étienne Tshisekedi, the leader of the main opposition party, *Union Sacrée*, was elected transitional prime minister and appointed a transitional Government of National Unity in August 1992 (Zeilig 2009). Mobutu unsuccessfully attempted to suspend the Tshisekedi government (ibid.) and the international community, particularly the USA and France, rejected the democratically elected government and supported Mobutu (Nzongola-Ntalaja 2002). The international community, hence, did 'not recognis[e] these decisions as sovereign and binding on all parties' and ignored the outcomes of the CNS (ibid.: 1). When the momentum for the democratic transition was lost, partly owing to the serious leadership problem and disorientation of the political class and social forces, the country went into a deeper crisis (Zeilig 2009). There was, thus, no viable political opposition by 1996 but there remained poverty and insecurity for the population (ibid.).

The subsequent rebellion by Laurent Kabila between 1996 and 1997 was welcomed within this context, and was made possible with the political and military backing of Rwanda, Uganda and Angola, rather than by his political competence (Lemarchand 1997). Furthermore, ethnic conflict started in North Kivu in 1993, which was exacerbated by the aftermath of the 1994 Rwanda

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<sup>49</sup> Dozens of students at the University of Lubumbashi, who were demonstrating against the continuing dictatorship by Mobutu, were killed by security forces on 11 May 1990, and their bodies disappeared (Zeilig 2009). This provoked economic sanctions internationally and facilitated the economic collapse of the Mobutu regime (Takeuchi 1997).

genocide. It is essential to review this local conflict and its context which have been the underlying issues behind the protracted conflict in the eastern DRC. Before proceeding to examine the two Congo Wars, the next section sheds light on the critical link between ethnicity, citizenship and land, which produced marginalisation, inequality and insecurity, leading to the unfolding conflict in the eastern DRC.

#### 4.3. Ethnicity, citizenship and land

Ethnicity has been politically manipulated in the DRC, through its relation to citizenship, in civic terms, 'as a consequence of membership of the central state' as well as in ethnic terms, 'as a result of membership in the Native Authority' (Mamdani 1998: 2–4).<sup>50</sup> While many studies recognise ethnicity as a critical element behind the conflict in the eastern DRC (e.g. Mamdani 2001; Vlassenroot 2002; Armstrong and Rubin 2005; Jackson 2007; Clark 2008), it is vital to explore how the Banyarwanda,<sup>51</sup> people of Rwandan origin, became deprived of both their civic and ethnic citizenship (Mamdani 1998; 2001).<sup>52</sup> Moreover, it is even more pertinent to appreciate the profound issue of access to land through citizenship. Land is a vital source of livelihood in the densely populated areas in the eastern DRC (Sosne 1979; Van Acker 2005; Turner 2007) and hence, is 'the single most important local economic resource' (Vlassenroot and Raeymaekers 2005: 9). The commodification of land through the 1973 land law led to a shifting pattern of inequality and distortion of the existing patrimonial systems (Van Acker 2005).

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<sup>50</sup> According to Mamdani (1998), these parallel citizenships derive from the two legal regimes of the colonial period: racialised civic authority and ethnicised customary Native Authority. While the civic authority was de-racialised at independence, the Native Authority became further embedded within the ethnic context and remained as a means to control the majority of the rural population, even when the state was perceived to have collapsed. See also Mamdani (2001).

<sup>51</sup> The prefix, 'banya' means literally 'people from' (Clark 2008).

<sup>52</sup> Turner (2007) provides detailed accounts on local politics and identity in the eastern DRC. Clark (2008) illustrates a similar fate of refugees and migrants from Rwanda in Uganda. Their citizenship status was precarious and vulnerable, and influenced by political developments in Uganda. The attack on Rwanda by the Rwandan Patriotic Front (RPF), which resulted in the Rwandan civil war in 1990, was initially formed by the Rwandan refugees in Uganda and is considered to have been triggered by the passage of the 1990 land bill that prohibited land ownership by non-citizens, specifically by Rwandan refugees and their children.

Map 1: Population density map for year 2000<sup>53</sup>

Map 1 has been removed due to third party copyright. The unabridged version of the thesis can be viewed at the Lanchester Library, Coventry University

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Civic citizenship is deeply associated with issues, including migration, access to land, resources, and entitlements and security, whereas ethnic citizenship has been intricately connected to changing relationships under the Native Authority system, which profoundly shapes the local socio-political context (Mamdani 1998; 2001). The three-tiered Native Authority in Kivu consists of a chief of the locality at the lowest level, the *Chef de Groupement* and the Mwami of the *Collectivité* at the highest level (Mamdani 1998: 9). 'Non-indigenous' people generally have only the chief of the locality from amongst their own ranks, whereas 'indigenous' people have the right to a *Chef de Groupement* and a Mwami of the *Collectivité* from their own ranks. This difference in the entitlement to the Native Authority has been crucial as only

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<sup>53</sup> United Nations Environment Programme /Global Resource Information Database (UNEP/GRID) and Center for International Earth Science Information Network (CIESIN), Columbia University NY, available from: [http://na.unep.net/globalpop/africa/Appendix\\_6e.html](http://na.unep.net/globalpop/africa/Appendix_6e.html) [Accessed 23 June 2010].

the *Chef de Groupement* and the Mwami of the *Collectivité* have the customary authority in administration and to verify ethnic belonging, issue identity cards, distribute customary land for livelihood and deliver customary justice.

Similarly, ethnicity has been used deliberately to manipulate fear and support in Rwanda and Burundi, leading to violent conflict and refugee flows to neighbouring states (Evans 1997; Mamdani 2001).<sup>54</sup> Each violent event associated with political development in Rwanda and Burundi, both very small poor countries with some of the highest population densities in Africa, created new refugee flows to neighbouring countries, thereby influencing political developments in host countries and provoking a chain of violence, accompanied by impunity (Evans 1997; Takeuchi 2006). Turning points in the region included: the 'social revolution' of the Hutu, led by Grégoire Kayibanda in Rwanda between 1959 and 1962; the assassination of Prince Rwagasore in Burundi in 1961; the massacres and purges of the Hutu middle class in 1972 after which Tutsi became dominant in Burundi; the killing of Tutsi following the coup by Juvénal Habyarimana in Rwanda in 1973; and the brutal crushing of a Hutu uprising in Burundi in 1988 (Evans 1997; Lemarchand 1997). As a result, about half of the Tutsi population, or some 480,000 Rwandan Tutsi had become refugees in neighbouring countries by the 1980s, and 240,000 Hutu had left Burundi (Evans 1997). The presence of these refugees in the host countries lead to rumour, violence and reprisal (ibid.).

This section primarily focuses on people of Rwandan origin, given their influence on the subsequent conflict in eastern the DRC. The population in the eastern DRC broadly consists of two groups: the *autochtones* or often-called the 'indigenous', 'who trace their lineage to groups which lie entirely within the territorial domain of present day' DRC and the Banyarwanda or the Rwandophone, whose heritage traces back to Rwanda (Reed 1998: 143). The Banyarwanda are 'first and foremost a cultural identity, speakers of a common

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<sup>54</sup> 'Conventional wisdom in Goma and Bukavu [the provincial capital of North Kivu and South Kivu respectively] has it that Kivu Province in the eastern DRC is where losers in Rwanda traditionally end up, and it is from Kivu that they prepare to return to power in Rwanda' (Mamdani 2001: 234).

language, Kinyarwanda' (Mamdani 2002: 494).<sup>55</sup> Since independence, citizenship law, 'although theoretically "national" and "objective", was, in fact, completely political and driven by the need to deal with the Rwandophone population of the east' (Prunier 2009: 457). Given the politically sensitive nature of citizenship for the Banyarwanda and different identities that are socially constructed, accounts of the origin of the Banyarwanda vary depending on the source (Clark 2008). While there have been successive waves of migration in the region throughout history, they are not well recorded, and different groups remember, interpret and re-imagine their collective history in different ways (Vlassenroot 2002; Clark 2008).

Generally, the Banyarwanda consist of those who migrated to the DRC long before the colonial period (Lemarchand 1997), those who belong to the DRC because of colonial division (Mamdani 1998; 2001),<sup>56</sup> as labour supply to the agricultural plantations and mining centres through colonial promotion (Lemarchand 1997; Mamdani 1998; 2001; Huggins *et al.* 2005),<sup>57</sup> and those who arrived as refugees from the political violence in Rwanda in the early 1960s (Lemarchand 1997). The time when the first settlers from Rwanda arrived in the eastern DRC has been debated widely and controversially; however, some Rwandan pastoralists, who arrived in South Kivu in the end of the 19<sup>th</sup> century, are generally thought to be the first settlers (Mamdani 2001; Vlassenroot 2002).<sup>58</sup> The early pastoralist migrants had settled in the high plains and received permission from the colonial administration to occupy further south of the high plateau (Mamdani 2001). The colonial labour migrants had settled in urban areas, and the refugees settled in refugee camps (*ibid.*).

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<sup>55</sup> Kinyarwanda is 'a language spoken by the Banyarwanda tribe, and *exactly* the same whether spoken by Hutu or Tutsi' (Prunier 2009: 368) and some scholars depict these people, who speak Kinyarwanda, Rwandophone. Mamdani (1998) states that although they were historically divided into three groups based on territories, the division between Hutu and Tutsi was not essential until about 1996.

<sup>56</sup> Jackson (2007: 483 - 484) claims that the borders between the eastern DRC, Burundi and Rwanda are not as artificial as many other borders in Africa and 'roughly follows what was once one amongst several "African frontiers".' However, there was the westward expansion of Rwanda prior to colonial period though being partial and tentative.

<sup>57</sup> The colonial administration 'was aware it risked upsetting the delicate intercommunal balance' by supplying labour from Rwanda and was, at the same time, reducing the demographic pressure in Rwanda (Jackson 2007: 484).

<sup>58</sup> Jackson (2007) claims it was by the middle of the 19th century.

There were also three generally distinct groups based on territories amongst the Banyarwanda: the Banyaruchuru and the Banyamasisi in North Kivu, and the Banyamulenge in South Kivu (Mamdani 1998; 2001). While the Banyaruchuru and the Banyamasisi were mostly Hutu, the Banyamulenge were Tutsi. In addition, the Hutu of Ruchuru had their own Native Authority as they were classified as 'indigenous', whereas the 'indigenous' status of the Hutu of Masisi had been contested and the Tutsi of Mulenge never had their own Native Authority (ibid.). The Banyamulenge were called 'Pastoralists of Itombwe' or 'Tutsi of Itombwe' from the name of the place they had settled, or 'Banyaruanda' during the colonial period (Jackson 2007). They changed their name to 'Banyamulenge' around the 1960s/1970s in order to claim indigenous status to qualify for social and political entitlements by distinguishing themselves from Rwanda (Vlassenroot 2002) and the latecomers (Jackson 2007). However, this strategy of shifting their identity from ethnicity (Rwandan) to the territory (the hill of Mulenge), hence making them indigenous, backfired against them in their claim for citizenship following the exclusive citizenship law in 1981 (Jackson 2007), mentioned later. It also created suspicions and perceptions within the 'indigenous' communities about the Banyamulenge that they had been trying to cover their real identity (Vlassenroot 2002) with a 'counterfeit identity', making for 'doubtful nationality' in the foreseeable future (Jackson 2007).

The *autochtones* formed the majority of the population throughout the eastern DRC, apart from some parts in North Kivu, particularly Masisi, although the Banyarwanda in Masisi were still subject to pay customary tribute to the Native Authority, the indigenous local chiefs (Reed 1998). This caused the first major rebellion against the local chiefs at independence, the *Guerre des Kinyarwanda* in North Kivu, marking the start of local conflict (Huggins *et al.* 2005). While the Banyarwanda were accepted as Congolese at independence,<sup>59</sup> the citizenship of the minority Banyarwanda became very

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<sup>59</sup> The Banyarwanda were allowed to participate in the provincial and municipal elections both as voters and candidates in 1960, and this suggests that they were accepted as Congolese at independence (Mamdani 1998).

sensitive after this event and their status was not determined in the Fundamental Law<sup>60</sup> (Mamdani 1998).

There were three essential decisions on citizenship during the Mobutu regime, in 1972, 1981 and 1991, explained in the following sections. When massacres and purges of the Hutu middle class occurred in Burundi in 1972, thousands of Burundian refugees flooded into eastern Zaïre. This new arrival of a large number of refugees created fear amongst the 'indigenous' Congolese, and they responded by pressuring the existing Banyarwanda minority (Mamdani 1998; 2001). In response, Mobutu enacted a citizenship decree in 1972 to secure the status of the Banyarwanda minority. The 1972 citizenship decree extended citizenship to the Banyarwanda population, who had come as refugees from Rwanda in 1959–60.

Mobutu used this decree to marginalise traditional authorities in order to consolidate the centralised horizontal networks of elites, which strategically included the vulnerable Tutsi Banyarwanda minority (Putzel *et al.* 2008). However, the decree was considered to be signed under the influence of Bisengimana, a *Chef de Cabinet*, one of the 1959 Rwandan Tutsi refugees (Mamdani 1998: 2001). The decision was, therefore, perceived as representing a rise in power of the Tutsi Banyarwanda minority by the 'indigenous' Congolese and the other Banyarwanda population, who had arrived earlier than 1959 and were mainly Hutu, and this led to division between Hutu and Tutsi in the Banyarwanda communities in eastern Zaïre (*ibid.*).

During this period, a critical decision to commodify land was made in 1973, as mentioned in the previous section. The 1973 land law introduced individual land ownership, by removing the existing customary ownership of land, and permitted the purchase of any land that was not titled (Huggins *et al.* 2005). Notwithstanding the official ownership of all the lands by the state, pre-existing customary land rights were still valid on the ground; and individual

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<sup>60</sup> The Fundamental Law states that 'the Congolese people will themselves decide this issue' (Mamdani 1998: 5).



land rights could also be attained through indigenous customary law while the future land tenure was not assured (Meditz and Merrill 1993). Moreover, registration of privately owned land was mostly incomplete, which caused land disputes largely from uncertain land tenures (*ibid.*). Following the enactment of this law, 'indigenous' 'peasants rushed to register small family plots to secure their tenancy' through which the Native Authorities profited from customary duties (Sosne 1979: 199), whereas the Banyarwanda started buying land on the market since they were denied equal access to land as a customary right (Mamdani 1998; Reed 1998; Huggins *et al.* 2005). An analysis of the impact of the 1973 land law in the eastern DRC (Van Acker 2005) highlights the fact that the introduction of this modern law destroyed the traditional patrimonial system that provided social cohesion and public goods and hence changed the social structure to allow marginalisation and inequality.

The Banyarwanda had acquired large parts of former colonial estates, enabled by the 1973 land law, and became prominent in the local economy (Huggins *et al.* 2005; Van Acker 2005; Jackson 2007).<sup>61</sup> They were also 'rewarded with ministerial posts and newly armed with Zairian citizenship' from the 1972 citizenship decree (Huggins *et al.* 2005: 2); however, they still had to pay customary tributes for the land they owned to the local chiefs of the groups to which they did not belong (Mamdani 1998; 2001; Huggins *et al.* 2005), without being allowed to have local chiefs of their own (Mamdani 1998; 2001). Land alienation by the Banyarwanda, however, provoked resentment of the 'indigenous' population against them, as the Banyarwanda had acquired vast land (Jackson 2007). This situation made the Banyarwanda make every effort to attain representation in both local and national politics, and the 'indigenous' population became afraid of the Banyarwanda becoming too powerful, and thus opposed citizenship for the Banyarwanda minority groups (Mamdani 1998; 2001; Huggins *et al.* 2005). Under these circumstances, the Banyarwanda, especially the Banyamulenge, attempted to

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<sup>61</sup> For example, in 'fertile highland areas of Masisi and Rutshuru [in North Kivu], they acquired more than 90 per cent of the colonial plantations and some of the biggest ranches', and this action provoked tensions leading to inter-ethnic conflict in Masisi and Rutshuru in 1993 (Van Acker 2005: 88).

improve their status by linking with international human rights NGOs and, although this was seen as expansionist by the 'indigenous' population (Vlassenroot 2002), sought to access the state organs, particularly in the security sector (Huggins *et al.* 2005).

Given the growing prominence of the Banyarwanda, the 'indigenous' majority Congolese became aware of the possibility that the Banyarwanda minority would gain political power during the legislative elections that took place in 1977 (Mamdani 1998; 2001). This was also the time when the country's economy had dramatically declined and Mobutu shifted his strategy from a centralised administration based on horizontal networks of elites to vertical networks of power by strengthening traditional authorities, his divide-and-rule strategy (Putzel *et al.* 2008). In this changing political context, a new exclusive citizenship law was passed in 1981 by the parliament which was elected in 1977 (Mamdani 1998; 2001). The 1981 citizenship law stipulated that individuals that could prove that their ancestors had resided in Zaïre prior to the colonial partition in 1885 would be eligible to be citizens of Zaïre.

The 1981 citizenship law was decisive for all the Banyarwanda communities, as they became treated as a single group despite the different time periods and circumstances in which they had come to Zaïre, in part owing to the difficulty of finding proof of their heritage (Reed 1998). However, as Prunier (2009) pointed out, the citizenship law intended to remove from the Banyarwanda the rights to vote and to buy land (Lemarchand 2003). The Banyarwanda were only allowed to vote in the 1985 provincial assembly elections, but were not permitted to run for office, due to their ambiguous status (Mamdani 1998; 2001). North and South Kivu did not see any assemblies elected, as a consequence of a physical boycott by the Banyarwanda population, particularly by the Tutsi (*ibid.*).

Based on the 1981 citizenship law, a *Mission d'Identification de Zairois au Kivu*, authorised by Mobutu in 1989, had removed citizenship from many of the Tutsi Banyarwanda population (Mamdani 1998; 2001; Vlassenroot 2002), or the Banyamulenge, as they were considered to have counterfeited their

identity as members of the indigenous population without being able to prove it (Jackson 2007). This prompted many young Tutsi Banyarwanda to join the Tutsi-dominated rebel group based in Uganda, the Rwandan Patriotic Front (RPF) when the RPF began attacking the Hutu-governed Rwanda during the Rwandan civil war which started in October 1990.<sup>62</sup> Thus, when the CNS started in 1991, citizenship had already been a hugely contentious issue (Mamdani 1998). The Banyarwanda were, nonetheless, excluded from the CNS and were facing possible further marginalisation by losing their citizenship status. The Hutu Banyarwanda communities responded to this crisis by forming organisations to oppose marginalisation, for example, the *Mutuelle des Agriculteurs et Eleveurs du Virunga* (Magrivi, Farmers and Livestock Raisers Cooperative of Virunga) (Reed 1998). Magrivi protested their exclusion from the 1991 CNS and proposed the suspension of customary tributes to local chiefs. In responding to the requests of the delegates from North and South Kivu to review the 1981 citizenship law, the CNS discussed the citizenship issue and adopted a resolution to endorse the 1981 citizenship law (Mamdani 1998).

This resolution by the CNS had a significant impact on polarisation between the 'indigenous' majority and the 'non-indigenous' Banyarwanda minority (ibid.). In 1993, roughly half of the population of about 3.5 million in North Kivu were considered to be Banyarwanda, consisting of 80 percent Hutu and 20 percent Tutsi (Lemarchand 2003). The 'indigenous' majority felt threatened by the increase of the 'non-indigenous' Banyarwanda minority through successive flows of refugees, and the 'non-indigenous' Banyarwanda feared being marginalised by the 'indigenous' majority (Mamdani 1998). Amongst the 'non-indigenous' Banyarwanda minority, the Tutsi Banyarwanda were increasingly seen as one single group and the term 'Banyamulenge' became 'a generic term for all Congolese Tutsi', which made the Tutsi Banyarwanda

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<sup>62</sup> The Rwandan civil war was a conflict between the Rwandan government led by a Hutu president, Habyarimana, and the rebel group, the RPF. It started on 1 October 1990 when the Rwandan Patriotic Army (RPA, the military arm of the RPF) invaded Rwanda, and officially ended on 4 August 1993 when the Arusha Accords were signed. For more details, see Prunier (1995) and Clark (2008) for example.

population aware of the similar situation for all Tutsi despite their different backgrounds (ibid.: 8).

Mobutu's shifting strategy (favouring and empowering the Banyarwanda and then marginalising them through the manipulation of citizenship and commodification of land) shaped the issues around land in this highly populated and land-scarce region (Rwanda, Burundi and the eastern DRC) (Mamdani 1998). After the 1973 land law, there were two ways of acquiring land: through a market transaction (for those who had resources) and through 'asserting one's "customary" rights as a member of a Native Authority' (ibid.: 14). The latter was political, and was the only option for the poor. The socio-political impact from Mobutu's strategy eventually led to conflict in Masisi, North Kivu, in 1993. The conflict was initially over access to land between poor Hutu and rich Hutu, and then turned into an inter-ethnic war in Masisi and Walikale, over 'who was entitled to customary rights to land through a customary authority' between the 'indigenous' Bahunde and Banyanga and the 'non-indigenous' Banyarwanda (Lemarchand 1997; 2003; Mamdani 1998; 2001; Reed 1998).<sup>63</sup> The conflict killed about 10,000 and displaced some 250,000 within six months (Lemarchand 1997);<sup>64</sup> and the violence was halted by troops sent by Mobutu (Mamdani 1998; 2001; Reed 1998).

It is within this context that about 50,000 Burundian refugees from the Burundian Civil War arrived mainly in South Kivu in late 1993 and roughly one million Hutu refugees moved in following the 1994 Rwandan genocide. The arrival of the Hutu refugees from the 1994 Rwandan genocide and the formation of the armed refugee camps in the area significantly transformed the nature of this ethnic crisis in the eastern DRC, by adding the division between Hutu and Tutsi amongst the Banyarwanda to the inter-ethnic conflict between the Banyarwanda and the 'indigenous' population (Reed 1998). The

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<sup>63</sup> As the Native Authorities played a key role in the sale of land, they appear to have shifted the focus of the conflict to ethnic discourse, in order to avoid blame for selling land to 'non-indigenous' population (Huggins *et al.* 2005).

<sup>64</sup> The estimates vary depending on the source. For example, Reed (1998) estimates between 14,000 and 40,000 deaths and the displacement of 350,000 in 1993 alone.

subsequent section highlights this process by examining the impact of the 1994 genocide in Rwanda.

#### 4.4. Rwandan genocide and its impact

The 1994 genocide in Rwanda was the 'defining moment in the history of the region during the 1990s' (Nzongola-Ntalaja 2002: 216). This event was 'a logical outcome of an ideology and a politics of exclusion that had generated earlier episodes of large-scale massacres and the flight of Rwandans of Tutsi origin into exile' and was rooted in 'the history of ethnic identity construction and mobilization under colonial rule' (ibid.).<sup>65</sup> For Mobutu, who was barely clinging to power after losing importance in Cold War terms, the event was an opportunity to show his supporters the strategic importance of Zaïre, particularly France (McNulty 1999), which continued to support Mobutu through his personal relationship with the Mitterand family (ISS c2008). Consequently, France and Zaïre played a critical role in supporting the former Rwandan government, led by the Hutu president, Habyarimana, to fight the RPF and to re-establish themselves in eastern Zaïre through two interventions during the Rwandan civil war.

The first intervention occurred in 1990, when Mobutu provided his forces, *Forces Armées Zairoises* (FAZ, Zairian Armed Forces), for the French-led intervention in Rwanda, *Opération Noroît*, in order to defend the Habyarimana government from the RPF attacks. However, Habyarimana asked Mobutu to withdraw his forces because the FAZ was causing chaos by looting and raping Rwandan civilians rather than defending them (Reed 1998; McNulty 1999). French troops were also sent to Rwanda, supposedly to train the Rwandan army, *Forces Armées Rwandaises* (FAR, Rwandese Armed Forces), and protect foreign nationals, but they were accused of being directly involved in the fighting and supporting the FAR (Reed 1998).

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<sup>65</sup> A similar interpretation is offered by several scholars, including Lemarchand (1997).

In *Opération Turquoise* in 1994, France intervened in the nearly completed genocide in Rwanda through eastern Zaïre, assisted by Mobutu, and ostensibly aimed to stop the genocide, protect refugees and hand them over to the UN, following accordance with the French-drafted UN mandate (McNulty 1999). Despite the Arusha Accords signed in 1993<sup>66</sup> and a comprehensive arms embargo,<sup>67</sup> France continued to equip the former Rwandan government (Reed 1998). This intervention, however, did not achieve the objective of France, which was to prevent the RPF victory and force the RPF to share power with the former Rwandan government (McNulty 1999). France, instead, facilitated the movement of the defeated FAR and *Interahamwe*,<sup>68</sup> often called the *génocidaires*,<sup>69</sup> into a safe humanitarian zone that they had created, and helped them move into exile in eastern Zaïre together with portions of the Rwandese population (Prunier 1995; McNulty 1999). They also helped the former Rwandan government maintain their well-equipped troops and key command structure, and allegedly re-armed them in refugee camps if they had been disarmed (Reed 1998). France has lost credibility for its interventions from this operation (McNulty 1999).

Estimates of the number of Rwandan refugees who flooded into eastern Zaïre in 1994 and remained there vary depending on the source, in part because their presence was highly political (Lemarchand 1997). They range from 800,000 (Reuters AlertNet n.d.) to 1.7 million (Prunier 1998). Over half a million refugees also escaped to Tanzania but the former Rwandan government was less influential there owing to more effective control of the camps by Tanzanian authorities (Reed 1998). The Rwandan refugees

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<sup>66</sup> The Arusha Accords (or the Arusha Peace Agreement, or the Arusha negotiations) to bring an end to the Rwandan civil war were signed in Arusha, Tanzania, on 4 August 1993 by the Rwandan government, led by President Habyarimana, and the RPF, as a result of talks between 12 July 1992 and 24 June 1993, with the support of the USA, France and the Organization of African Unity. It included a set of five protocols. See UN Peacemaker (1993).

<sup>67</sup> UN Security Council Resolution 918 (1994) was applied to both the Rwandan government and the RPF. See UNSC (1994).

<sup>68</sup> The Rwandan government, led by president Habyarimana, described the youth movement of his single party, *Interahamwe*, as '[t]hose who work together' (Prunier 1995: 367-368). *Interahamwe* was 'the first civilian militia, officially created for tasks of social interest', and was 'later the main perpetrators of the genocide' (ibid.).

<sup>69</sup> The French word, *génocidaires*, was initially merely descriptive to mean '[t]hose who committed the genocide', but has attained political connotation to suggest 'people who had not taken part in the genocide but who were considered hostile to the new regime' (Prunier 2009: xxi).

arguably took virtually everything from Rwanda when they fled, including the military capacity as mentioned earlier, skilled and educated human resources, and state-owned assets that were located both domestically and abroad (ibid.).

The former Rwandan authorities effectively controlled the refugee camps in eastern Zaïre, which were located along the border with Rwanda and Burundi (Prunier 1998; Reed 1998; Nzongola-Ntalaja 2002). Moreover, they continued to promote the genocidal ideology and organised cross-border attacks on Rwanda (ibid.), in order to reconquer Rwanda and complete the genocide (Nzongola-Ntalaja 2002). In addition to the full state treasury and the entire military capacity brought from Rwanda, they controlled the movement of goods and services in the camps, including information and humanitarian assistance, and established a military structure of about 50,000 soldiers under the command of political leaders by early 1995 (Reed 1998).

This creation of a mini state of the former Rwandan government within eastern Zaïre provided strategic importance to Mobutu, who had lost importance in Cold War terms (Reed 1998). Zaïre became a key for the international community in its effort to address regional instability caused by the former Rwandan government in eastern Zaïre. At the same time, Mobutu could strengthen his influence through the long-established relationship with the former Rwandan authority in eastern Zaïre, where there had been a strong opposition to the Zairian state and economic autonomy (ibid.). Zaïre therefore played a pivotal role in assisting the former Rwandan government in its territory, by ensuring secure passage into and out of its territory, guaranteeing residence, and allowing the establishment of military training camps (ibid.). Moreover, Zaïre allegedly assisted with supplying the former Rwandan government with arms (Evans 1997; Reed 1998). While unpaid Zairian soldiers were often involved in arms trafficking for their own survival, Zaïre was accused of having facilitated large-scale arms sales through an international network of dealers from Britain, China and South Africa.

With this assistance from Zaïre, the former Rwandan government was able to pursue a policy of insurgency in Rwanda (Reed 1998). The cross-border

attacks from the armed Rwandan refugee camps, which had started in October 1994, escalated to several attacks along and distant from the border, including the capital, Kigali, and the second largest city, Butare, in 1995. The intention of the former Rwandan government to carry out a full-scale invasion of Rwanda was revealed, which provoked the new Rwandan regime to fight against the former Rwandan government in eastern Zaïre (Evans 1997; Reed 1998).

The former Rwandan government realised that a quick triumph was not likely and shifted its strategy to destabilising the newly formed Rwandan government and securing its long-term presence in eastern Zaïre, by linking with other forces in the region<sup>70</sup> (Reed 1998). More importantly for North Kivu, they also decided to use the aforementioned existing local ethnic conflict, which had erupted in 1993 between the 'indigenous' Congolese population and the Banyarwanda, and started attacking the Tutsi Banyarwanda in collaboration with the Hutu Banyarwanda, rather than focusing on the 'indigenous' Congolese (ibid.). The violence also increased the tension between the Tutsi Banyarwanda and other groups, who feared attacks from those Hutu militias from the refugee camps (ibid.). In the face of escalating tension, the Native Authority in Kivus started to create their own militia, including Mayi Mayi militia<sup>71</sup> (Mamdani 1998). Attacks upon the Tutsi Banyarwanda escalated further and were joined by those local militias by 1995 (Lemarchand 1997; Reed 1998; Lanotte 2010) and by the poorly paid FAZ troops who allied with the well-resourced former Rwandan government (ibid.). The former Rwandan government eventually expanded its operations into South Kivu, causing massacres of the Banyamulenge there (Reed 1998), and local authorities appropriated property owned by the Banyamulenge in the valley (Mamdani 2001).

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<sup>70</sup> For example, the Hutu militia in Burundi, Milton Obote and the northern rebel movements in Uganda, and the Sudanese government (Reed 1998).

<sup>71</sup> The name derives from the word 'Maji (pronounced Mayi in Kivu)', and means water in Kiswahili, referring to 'the powers claimed for ritually blessed water to render all those on whom it is sprinkled immune to the life-destroying effect of bullets' (Mamdani 2001: 340). The Mayi Mayi militia was considered to be based in Masisi and Walikale, consisting of the Bahunde and the Batembo, however, 'Mayi Mayi' 'became a generic term for all militias in Kivu provinces linked to "indigenous" Native Authorities' (ibid.: 258).



In addition, the Parliament of Transition made a judgement that the Banyamulenge and Hutu Banyarwanda were recent refugees and should be expelled (Mamdani 2001). The tension reached its peak between March and May 1996 when the remaining Banyamulenge from Masisi and Ruchuru were identified and taken to the border to Rwanda to move into refugee camps in Gisenyi, the border town in Rwanda, following the decision by the parliament (Mamdani 1998). By the summer of 1996, the situation had grown increasingly serious, as anti-Tutsi violence by the FAZ, the *Interahamwe*, ex-FAR and local Hutu militia groups intensified (Prunier 2009) and caused the displacement of between 100,000 and 250,000 individuals in Zaïre (Reed 1998). Many of those had fled to Rwanda and more Banyamulenge joined the RPF, which fuelled perceptions amongst the 'indigenous' population that they were Rwandese (Mamdani 1998). As a result, the entire Tutsi population had been displaced from North Kivu by September 1996 (Reed 1998) and militarisation of the Banyamulenge and retaliatory offensives increasingly ensued (Prunier 2009).

Given that the Zairian state was not functional by this time, the responsibility to disarm the Rwandan refugee camps in the Kivus and separate the *génocidaires* from civilians lay with the international community, particularly France and the United Nations High Commissioner for Refugees (UNHCR) (Mamdani 1998). There was, however, no political will or policies within the international community (Reed 1998).<sup>72</sup> The Tutsi population in the DRC were particularly dissatisfied with France since they had sent the Rwandan Hutu refugees to the eastern DRC but did not disarm them (Sawada 1997). Consequently, Zaïre and Rwanda made an agreement to repatriate all Rwandan refugees to Rwanda unconditionally and close the refugee camps in eastern Zaïre (Reed 1998). For the transitional government of Rwanda, it reached the point when it felt it had to take decisive action against the Hutu armed refugee camps in the eastern DRC, in the face of the failure of the international community to act (Prunier 2009). The crisis eventually resulted in the attacking of the refugee camps in October 1996 and the emergence of

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<sup>72</sup> The international community provided assistance to the armed Hutu refugee camps on humanitarian grounds, which is not related to the peace building policies (Shinoda 2006).

Laurent Kabila (Lemarchand 1997) to spearhead the first Congo War, which is detailed in the following section.

#### 4.5. The first 'war of liberation': the rise of Laurent Kabila and the AFDL

The 1996 rebellion led by Laurent Kabila was able to successfully remove Mobutu within six months in a 'war of liberation', in the context illustrated in the previous section. Most importantly, the Mobutu state was faced with declining legitimacy and was going through apparent institutional collapse (Raeymaekers 2007; Vlassenroot 2008), resulting from failed democratic transition and the loss of international support, in addition to economic collapse. While the political system had persisted, it was filled by various non-state actors as 'state sovereignty had been undergoing a gradual process of "informal privatization"' since the 1980s (Vlassenroot 2008: 2). In this process, a 'fend for yourself attitude' served as social pact between state and society; and 'de-bureaucratized patrimonialism' (ibid.: 3) led to increasing autonomy of local strongmen (Reno 1998). The state was increasingly governed by those informal social and economic networks, which relied on the state to consolidate their system of control and distribution (Vlassenroot 2008). This became particularly evident in the periphery, such as in the Kivus, where various actors could control local resources and trade and challenge the state (ibid.).

The suffering of the population from the impact of the economic and institutional collapse was devastating. The population was suffering an extreme level of poverty, especially at the eastern border, and were surviving largely through an informal economy in which they played shifting roles (Raeymaekers 2009a). Although the data on the livelihood of the population during this time is scarce,<sup>73</sup> fieldwork in the eastern DRC (Sawada 1997) noted the destructive impact of the state's decline. For instance: faced with the economic collapse and the hyperinflation, teachers at school were not paid but were provided with small amounts of cash and palm oil from the

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<sup>73</sup> Funao (2006) provides accounts on the life of the population in the eastern DRC during his research on the Pygmy in 1998.

parents; medical care was only available from some churches; and maintenance of roads had stopped in 1993 and many roads became passable only by bicycles. The situation was made worse with the insecurity caused by the heightened tensions and violence from the citizenship and land issues since 1993, which were exacerbated by the rapid militarisation of the area, following the formation of the armed Rwandan refugee camps in 1994 and the absence of intervention by the international community. Furthermore, tensions between Tutsi and Hutu were escalating in the region, owing to the Banyamulenge crisis since 1996 and 'the Burundi factor' in which many Tutsi were massacred during the Burundi Civil War (Prunier 2009).<sup>74</sup>

### *The rise of Laurent Kabila and the AFDL*

In response to the 1996 Banyamulenge crisis, the RPF veteran Banyamulenge started attacks in South Kivu in September 1996, and the South Kivu governor asked all Tutsi to leave Zaïre within a week on 7 October 1996 (Lemarchand 2003; Prunier 2009). A full-scale attack began on 13 October 1996, marking the start of the first Congo War (Reed 1998; Lemarchand 2003).

The *Alliance des Forces Démocratiques pour la Libération du Congo* (AFDL, Alliance of Democratic Forces for the Liberation of Congo) was formed in South Kivu on 18 October 1996. It was a coalition of a group of the Banyamulenge, the *Alliance Démocratique des Peuples* (ADP, Democratic Alliance of Peoples),<sup>75</sup> an alliance Kabila made with other opposition groups, the *Mouvement Populaire pour la Libération du Zaïre*, and a small Lumumbist guerrilla group in eastern Zaïre, the *Conseil National de Résistance pour la Démocratie* (McNulty 1999; Nzongola-Ntalaja 2002). Laurent-Désiré Kabila, a Lumumbist and Marxist from Shaba province, spearheaded the AFDL (Reed 1998; McNulty 1999; Nzongola-Ntalaja 2002).

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<sup>74</sup> The Burundi Civil War was triggered by the assassination of the first democratically elected Hutu president, Melchior Ndadaye, on 22 October 1993. The war prompted violence between Tutsi and Hutu, and continued until 2005.

<sup>75</sup> This group, which was created by some 'Banyamulenge who had returned to Rwanda after 1994, together with Tutsi from North Kivu in Kigali', was headed by Déogratias Bugera and closely linked to the RPF (Vlassenroot 2002: 509).

Prior to the formation of the AFDL, Kabila spent most of his time engaging in business, including the gold trade in Tanzania, as his previous movement through the Marxist People's Revolutionary Party was unsuccessful and dormant (Reed 1998). Kabila appeared to have financed the war effort through gold from eastern Zaïre and made contacts and contracts with mining and resource companies (Nest 2006b), including De Beers and American Mineral Fields (AMF) (Reed 1998). Based on the mining contracts made with junior companies such as the AMF, Takeuchi (1997) suggests that the rebellion should be considered in terms of a regional dynamism rather than interventions by the USA or France. These contacts with commercial companies, nonetheless, gave him a label of a typical African warlord rather than a revolutionary guerrilla leader (Nzongola-Ntalaja 2002).

The AFDL movement quickly and brutally dismantled the Hutu armed refugee camps; more than half a million refugees returned to Rwanda (Reed 1998; McNulty 1999), while those who were considered to have led the violence fled further into Zaïre (Reed 1998). The unpaid and undisciplined FAZ troops, allied with the ex-FAR and the *Interahamwe*, collapsed quickly (McNulty 1999). The arrival of the AFDL improved the security situation dramatically in eastern Zaïre, as the looting by the FAZ had significantly decreased, and was welcomed and supported by the majority of the population (Sawada 1997). The AFDL swiftly moved westwards to Kinshasa, meeting very little resistance, and entered Kinshasa on 17 May 1997 (Nest 2006b). Mobutu had fled just before and died in exile in Morocco in September (*ibid.*). Kabila declared himself president and renamed Zaïre the Democratic Republic of Congo (DRC).

The AFDL strategically attempted to portray itself as a Congolese rebellion to overthrow the dictator Mobutu, which was welcomed by much of the population (Reed 1998; McNulty 1999; Mwanasali 2000), despite the fact that it was armed, trained and directed chiefly by Rwanda (Reed 1998; McNulty 1999; Nzongola-Ntalaja 2002; Lemarchand 2003). Rwanda expressed its motivation to take action as its urgent need to address the security threat

posed by the Hutu armed refugee camps, and considered that its actions were consistent with the goals of Congolese nationalism and the regionally shared need to overthrow Mobutu (Nzongola-Ntalaja 2002). The AFDL rebellion, thus, managed to receive support from other countries based on regional security imperatives (McNulty 1999).

First of all, Uganda quickly joined the RPF and sent its army, the Uganda People's Defence Force (UPDF) into Zaïre. The Ugandan president, Yoweri Museveni, was keen to get rid of Mobutu because Mobutu had allowed Ugandan opposition groups to launch attacks on the UPDF from Zairian territory. Museveni was also a close ally of senior Rwandan leaders, most of whom had served in the UPDF while being in exile from Rwanda (Nest 2006b).

Secondly, the Angolan government had long been a foe of Mobutu, since Mobutu had been allowing the forces of a rebel group, *Uniao Nacional para a Independência Total de Angola* (UNITA), which was fighting with the ruling party in Angola, *Movimento Popular de Libertação de Angola - Partido do Trabalho* (MPLA), to operate from bases in Zaïre (Nest 2006b). The bases functioned as a conduit for weapons and diamonds and helped the UNITA sustain its fight against the Angolan government. The Angolan government therefore allowed the AFDL to enter Zaïre from its territories and sent in its troops (Reed 1998). In contrast, the UNITA allegedly supported Mobutu in order to protect their bases and supply routes in Zaïre from the AFDL (McNulty 1999).

In addition to Uganda and Angola, Burundi also had concerns to secure its borders to prevent attacks from Zaïre (Reed 1998). Zambia was also claimed to have allowed the AFDL to enter Zaïre from its territories, and Zimbabwe supplied military goods (ibid.).

The DRC finally removed the Mobutu regime through the AFDL rebellion, which was long overdue, considering the state of the country (McNulty 1999). The strategy by Mobutu to ethnically divide and rule the country backfired,

since the Banyamulenge, as the scapegoat, this time had received military support from neighbouring countries, particularly from Rwanda and Uganda (ibid.). This critical support, however, especially that from Rwanda, had a decisive long-term impact, for two key reasons. Whilst the rebellion had been promoted and perceived as 'the war of liberation' to an extent, 'the Rwandan army turned into an army of occupation' in the eyes of the Congolese population as its commanders filled senior positions in the Congolese national army (Mamdani 1998: 17).

Secondly, this army of occupation started to intervene in Congolese affairs, most notably on the issue of the Banyamulenge (ibid.).<sup>76</sup> This was perceived as reflecting an expansionist aspiration of Rwanda (McNulty 1999), and the perception was reinforced by the dependence on Rwanda, the overwhelming presence of Rwandans and the massacres committed during the rebellion, especially in eastern Zaïre (Reed 1998). Mamdani (2002) argues, however, that the post-genocide Rwandan government, largely led by the Tutsi refugees that had returned from Uganda, held two convictions: the need for the protection of all Tutsi, and Tutsi power as a prerequisite for the survival of Tutsi.

The Banyamulenge achieved their needs to reclaim their citizenship and to protect their community and gained strong military and political positions with the help of the RPF, although most of the older Banyamulenge had been opposing the recruitment of young Banyamulenge into the RPF (Vlassenroot 2002). For the Banyamulenge community, their coalition with the RPF had considerable consequences and posed dilemmas (ibid.). Firstly, their citizenship status was not recovered in spite of Kabila's verbal promise during his visit to Bukavu in February 1998. In order for them to be accepted as full Congolese, they needed to cut their ties with the RPF to gain confidence amongst other Congolese yet, at the same time, they were dependent on the RPF support for their security.

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<sup>76</sup> For instance, the Banyamulenge received a separate Native Authority in South Kivu, and a Tutsi replaced the Hutu Native Authority in Ruchuru, in North Kivu (Mamdani 1998).

Secondly, the objectives of the Banyamulenge and the RPF appeared to be radically different. The RPF had attempted to persuade the Banyamulenge and the Tutsi in the DRC to migrate to Rwanda,<sup>77</sup> something the Banyamulenge strongly resisted. At the same time, the Banyamulenge found themselves increasingly rejected and detested by the rest of the population, as the AFDL became to be perceived as an expansionist aspiration of the Tutsi; they had acquired privileged positions (Vlassenroot 2002; Lemarchand 2003) and the AFDL rebellion committed killings and torture (Mamdani 2001). While the Mayi Mayi had joined the first rebellion, they opposed the AFDL when it came to power as it appeared to have turned into a Rwandese occupation (*ibid.*). The ethnic situation in the Kivus thus deteriorated as the rift between the Banyamulenge and the rest of the population grew.

#### 4.6. The second Congo War

##### 4.6.1 The breakout of the second Congo War

Prior to the second Congo War, the economic conditions the Kabila regime inherited from the Mobutu era deteriorated further and saw drastic declines in GDP, which were accompanied by collapses in all sectors except mining (Nest 2006b; Putzel *et al.* 2008; Prunier 2009). Economic transactions were increasingly controlled informally by the regional strongmen and concentrated around the borders (Nest 2006b; Putzel *et al.* 2008). The size of the informal economy was estimated to be three times the value of the official GDP by the 1990s (Putzel *et al.* 2008).

Upon taking power, Laurent Kabila attempted to reform political, social and economic configurations through increasing state revenues, particularly from mining concessions and rebuilding state capacity. His attempt to consolidate his authority over the territory and increase legitimacy, however, did not bring

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<sup>77</sup> The motivation behind this idea of migration is not clear, although, some explanations have been offered (Vlassenroot 2002): the idea possessed by the Tutsi refugees who had grown up in Uganda that Tutsi diasporas should return their homeland; ensuring security of the Tutsi by increasing their number in Rwanda; and increasing Rwandan control of Kivu by sending the returned Banyamulenge back to Kivu.

much success; Kabila turned out to be another dictator, not much different from his predecessor, in the eyes of many observers (Lemarchand 2003; Nest 2006b; Putzel *et al.* 2008; Prunier 2009).

Kabila's regime was faced with legitimacy dilemmas borne from the fact that he had achieved his military victory chiefly through the support of the RPF, by which numerous Rwandese refugees and civilians in the eastern DRC were allegedly massacred (Prunier 2009).<sup>78</sup> To clear himself from the allegations of crimes against humanity, Kabila had to jeopardise his legitimacy by admitting that the military campaign was not under his control. His initial attempt to follow the agenda of Rwanda in arresting and disarming the *Interahamwe* and the ex-FAR, who continued to attack Rwanda, had also resulted in confrontation with local populations hosting them and a growth of *Mayi Mayi* militias (Prunier 2009). Consequently, Kabila became increasingly independent, refusing to cooperate with Rwanda in providing security at the borders (Nest 2006b) and thus greatly disappointing his backer, Rwanda (McNulty 1999).<sup>79</sup> The more pressing need for Kabila to detach himself from Rwanda, however, was linked to internal division and domestic resistance in Kinshasa against the overwhelming presence of the Banyamulenge and the Tutsi in key positions within the military and political circles of his regime (Lemarchand 2003; Nest 2006b; Putzel *et al.* 2008; Prunier 2009).

In the Kivus, the antipathy towards the presence of the Tutsi was even more compelling as the Banyamulenge had been given a separate Native Authority in South Kivu and several local authorities were replaced with Tutsi (Mamdani 1998). Moreover, numerous Tutsi pastoralists had also moved into the Masisi-Walikale area with their cattle (Prunier 2009). These expansions of the Tutsi led to an escalation of violent attacks on the Banyamulenge and successive insurgencies against each other (*ibid.*).

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<sup>78</sup> The UN investigation over the alleged human rights abuses, including massacres, during and after the first Congo War (ECOSOC 1999) was hampered by the DRC and Rwanda, and the international aid for the DRC was blocked (Prunier 2009). Takeuchi (1997) predicted such a measure would have made the country's economic recovery significantly difficult, as the economic sanctions following the massacre of students at the University of Lubumbashi in 1990 had led to the complete economic collapse for Mobutu's regime.

<sup>79</sup> He also enraged Uganda by accusing Ugandan officials of profit seeking in their intervention in the DRC (McNulty 1999).



Confronted with both domestic and regional discontent, Kabila had chosen his strategy with a view to gathering support within the country by manipulating and intensifying anti-Tutsi feelings (McNulty 1999; Lemarchand 2003; Reuters AlertNet n.d.). Kabila announced that the foreign troops had to leave on 27 July 1998 and the Rwandan troops left the following day. This decision eventually prompted Rwanda, along with Uganda, to attack the DRC in order to oust Kabila (Vlassenroot 2002). It also led the Banyamulenge to seek security from the RPF despite their frustration and discontent over the dominance of the RPF.

Clashes between Tutsi and non-Tutsi in barracks on 2 August 1998 prompted a second rebellion, spreading from the eastern DRC across the country (Nest 2006b; ICG 1998). Towns in the east were quickly seized by the anti-government forces. While this rebellion was presented as the 'second Banyamulenge revolt, its impetus came from Kigali' (Vlassenroot 2002: 511). In retaliation, hundreds of Tutsi residents in Kinshasa were either massacred or fled (Lemarchand 2003). On 16 August 1998, *Rassemblement Congolais pour la Démocratie* (RCD, Rally for Congolese Democracy), backed by Rwanda, was officially formed and announced its uprising.

Whilst the RCD included a number of Banyamulenge leaders as well as soldiers, the Banyamulenge community was divided, in part owing to the lack of leadership within the community and also because of the dilemmas between achieving autonomy and receiving protection and support from the RPF (Vlassenroot 2002; Lemarchand 2003). As such, some Banyamulenge resisted being used or 'instrumentalised' by Rwanda and chose to fight against Rwandan expansionism, based on a strong sense of mistrust against Rwandans (Vlassenroot 2002; Lemarchand 2003). They thus sought support from others, including Burundi, joined other militias (Vlassenroot 2002), and formed a movement, *Forces Républicaines Fédéralistes* (FRF, Federalistic Republican Forces)<sup>80</sup> (Lemarchand 2003), which led to some armed

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<sup>80</sup> The FRF was formed in Uvira in January 2000, in response to the double threat faced by the Congolese Tutsi (Lemarchand 2003). They feared persecution by the government and

confrontation with the RCD and the RPA (Vlassenroot 2002). This fragmentation demonstrates the increasingly complex nature of the Banyamulenge politics (Lemarchand 2003).

The rebellion rapidly took control of several towns and advanced to Kinshasa on 26 August 1998; but was repelled by the government with the support of the Zimbabwe Defence Force (ZDF) and the Angolan army (Nest 2006b; Prunier 2009). As Kabila's force was largely made up of soldiers from his previous backers, and he had weak control over them, Kabila sought help from other ethno-regional groups, the Mayi Mayi, the *Interahamwe*, and foreign supporters including Angola, Zimbabwe and Namibia (Putzel *et al.* 2008; Prunier 2009). Rwandan and Ugandan forces re-launched their offensive against the DRC government from the east and attempted to advance on Kinshasa in late August. In this way, the second Congo War involved several countries and numerous rebel groups, some of which were backed by their foreign allies. Battles continued until the war reached a military stalemate and Laurent Kabila finally agreed to sign the Lusaka Peace Agreement in August 1999 (Grignon 2006; Nest 2006b; Prunier 2009). Consequently, the country was divided roughly into two territories by the fractured frontline, the south-west was controlled by pro-government forces and the north-east by the anti-government forces (Grignon 2006).

On the pro-government side, the main countries supporting *Forces Armées Congolaises* (FAC, Congolese Armed Forces), created by Laurent Kabila, were Angola and Zimbabwe. Angola needed Kabila's support to destroy the UNITA's rear base in the DRC, especially when they discovered that the UNITA was approaching Rwanda and Uganda, supposedly to establish new military supply networks (Lemarchand 2003). Also, strategically, Angola appeared to have allied with Kabila because of the ease with which they thought they could influence him as the head of the DRC (Prunier 2009). It also allied with Zimbabwe with a view to preventing South Africa's domination in southern Africa (*ibid.*). Zimbabwe sought to limit South African influence

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instrumentalisation by Rwanda, and aspired to negotiate a peace agreement between the Congolese Tutsi and their neighbours (*ibid.*).

with Angola and Namibia for the same strategic reason, but officially intervened in the DRC to respect a collective security chapter of the Southern African Development Community (SADC) (Lemarchand 2003; Prunier 2009). While Zimbabwe did not have security or economic stakes in the DRC, they wanted to ensure that they could recover their loans to the DRC government by maintaining Kabila as the head of the country (Lemarchand 2003). Namibia appeared to have allied with Angola in facing the UNITA infiltration in its territory, in addition to other shared strategic objectives (Nest 2006c; Prunier 2009). Although Sudan never admitted their involvement in the DRC, they sided with the DRC based on their confrontation with Uganda (Prunier 2009). Chad and Libya also supported Kabila for a short while, though Libya did not acknowledge its involvement in the DRC (ibid.).

In addition to those countries, there were several militias that supported the FAC. They included the domestic Mayi Mayi militias,<sup>81</sup> a Hutu rebel force from Burundi, *Forces pour la Défense de la Démocratie* (FDD, Forces for the Defense of Democracy),<sup>82</sup> and the *Interahamwe* and ex-FAR, many of whom established a rebel force called the *Forces Démocratiques de Libération du Rwanda* (FDLR, the Democratic Forces for the Liberation of Rwanda) in 2000.<sup>83</sup> Kabila dissolved the AFDL in 1999 (Lemarchand 2003).

Lemarchand (2003: 31) pointed out that ‘the only glue holding together this disparate group of counterinsurgents was their common hatred of the Rwandan occupying forces and their local allies’. The RPA and RCD were most disliked by the population because of their use of extremely brutal

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<sup>81</sup> Various community-based, self-styled civil defence units became known as Mayi Mayi collectively (IRIN 2007b). They initially aimed at protecting villages from the Rwandan invasion and became prominent during the second Congo War (ibid.). However, once they had gained a certain level of political and economic power, they became a threat rather than a source of protection to the local population (Vlassenroot 2008). Those individuals within the militias were also faced with poverty, unemployment and social exclusion (Nest 2006c).

<sup>82</sup> Burundi never admitted the presence of the FDD in the DRC (Prunier 2009).

<sup>83</sup> There are different accounts on the formation of the FDLR (see details in Prunier (2009) and ICG (2003)). It is, nonetheless, considered that a militant group of the *Interahamwe* and the ex-FAR in the eastern DRC, the *Armée de Libération du Rwanda* (ALIR, the Army for the Liberation of Rwanda, also known by its political wing, *Peuple Armé pour la Libération du Rwanda*, PALIR, the Party for the Liberation of Rwanda) merged with the Hutu resistance movement in Kinshasa to form the FDLR in September 2000.

violence against civilians, probably because they faced stronger resistance (Prunier 2009).

The anti-government movement largely included three forces, with strong support from their backers.<sup>84</sup> The RCD was initially supported by Uganda and Rwanda. Rwanda also had its own troops on Congolese soil because of its urgent concern for survival as a regime (Nest 2006c). For that reason, it felt it needed to prevent ethnic-based killings and infiltrations by the *Interahamwe* and the ex-FAR from the DRC (Nest 2006c), which had escalated since the end of 1997 (Prunier 2009). The RCD split into two groups in May 1999, following a disagreement between Rwanda and Uganda over the leadership of the RCD (Lemarchand 2003; Prunier 2009). *Rassemblement Congolais pour la Démocratie- Goma* (RCD-Goma, Rally for Congolese Democracy - Goma) was based in Goma and backed by Rwanda,<sup>85</sup> and *Rassemblement Congolais pour la Démocratie – Mouvement de Libération* (RCD-ML, Rally for Congolese Democracy – Liberation Movement) was initially based in Kisangani and later in Bunia and allied with Uganda. The third force was *Mouvement de Libération du Congo* (MLC, Congolese Liberation Movement). The MLC was created and headed by a wealthy influential businessman from the north, Jean-Pierre Bemba, in order to resist government oppression, and received support from the UPDF. The motivation of Uganda to move into the DRC is often interpreted to be its close ties with the RPF and the possible effect of the defeat of the RPA and RCD on its borders (Nest 2006c). The main reason, however, appeared to be national security, as it had been during the first Congo War, which had been threatened by several Ugandan militant groups operating in Sudan and north-eastern DRC, supported by Sudan (Clark 2001).<sup>86</sup> In addition to those major actors, the Burundian national army

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<sup>84</sup> In addition to these major parties, there were also indirect connections with some other countries, which did not clearly take sides (Prunier 2009). For example, some individuals in Zambia were supporting the UNITA, refugees and rebels in Tanzania, Burundi, the Republic of Congo and Central African Republic were recruited to fight in the DRC, and leading politicians from the former Rwandan government, who were accommodated in Kenya, influenced the Kenyan government's position (Prunier 2009).

<sup>85</sup> The UN Panel of Experts (UNSC 2001b: 23) states that the RCD-Goma was 'the creation of the Rwandan State', and that it depended 'financially, politically and militarily on Kigali'.

<sup>86</sup> Sudan was supporting several Ugandan militant groups, including the Allied Democratic Forces (ADF) and Lord's Resistance Army (LRA), possibly to destabilise the region to spread

was collaborating with the RPA and the UPDF and, though Burundi never admitted its presence officially, Burundi felt it needed to mind 'its back door' where the Hutu rebel group, the FDD, could enter (Prunier 2009: 198).

Despite fragmenting and shifting coalitions and alliances amongst rebel groups and their supporters, three key anti-government coalitions prevailed during the second Congo War and largely controlled three broad areas (Nest 2006b; Prunier 2009). The MLC with its Ugandan backers was located in north and north-western DRC, the RCD-ML with its Ugandan backers occupied the north-west DRC, and the RCD-Goma with its Rwandan backers controlled the central-eastern DRC. They eventually shifted their focus from overthrowing Kabila to being recognised in the government as they met a strong military resistance by the supporters of Laurent Kabila, leading to a military stalemate (Nest 2006b).

The consolidation of the frontlines occurred not only from the stalemate of the war, but also from the peace process that took place during the course of the war, as discussed in the following section.

#### 4.6.2. The peace process

Following a series of difficult negotiations between Laurent Kabila, the RCD and the MLC, the Lusaka Peace Agreement was signed in Lusaka, Zambia, in 1999.<sup>87</sup> The DRC and five countries, namely Angola, Namibia, Zimbabwe, Rwanda and Uganda, signed in July 1999.<sup>88</sup> The MLC signed on 1 August 1999 and the RCD signed on 31 August 1999. Behind the slow progress of the negotiations leading to the agreement, there was a strong reluctance by Kabila for democratic transition (Prunier 2009). There were also different interpretations of what the war was about within the international community, with some seeing the war as a rebellion to oust Laurent Kabila and others as

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Islamic fundamentalism, using the territories in Sudan as well as in north-eastern DRC (Clark 2001).

<sup>87</sup> ICG (1999) provides a detailed analysis of the negotiations leading to the Lusaka Peace Agreement.

<sup>88</sup> Burundi attended as an observer since it was not recognised as a belligerent party.

an invasion by Rwanda and Uganda (ibid.). The military stalemate eventually allowed the peace process to move forward (Grignon 2006; Prunier 2009).

The Lusaka Peace Agreement was primarily a ceasefire agreement and became the foundation of the peace process in the DRC. It stipulated the withdrawal of foreign troops, the disarmament of 'negative forces', including the FDLR, ADF and FDD, and the organisation of an Inter-Congolese Dialogue (ICD) in order to establish a new political system. In order to monitor the ceasefire, the UN peacekeeping force, *Mission de l'Organisation des Nations Unies en République Démocratique du Congo* (MONUC, United Nations Organisation Mission in the Democratic Republic of the Congo), was deployed by February 2000. However, fighting continued between rebels and government forces, and between Rwandan and Ugandan forces, including heavy fighting between Uganda and Rwanda in Kisangani in August 1999, and May and June 2000. The MONUC, with a mere 5,537 troops and a weak mandate failed to stop fighting between rebel and government forces (Reuters AlertNet n.d.).

The Lusaka Peace Agreement did not stop the war, but 'froze the military frontline ... and allowed Laurent Kabila to consolidate the FAC's defences in the face of a threatened RPA advance' (Grignon 2006: 71).<sup>89</sup> By signing the Lusaka Peace Agreement, Kabila strategically bought time to strengthen his military position (ibid.). The peace agreement, however, meant a serious political defeat for Kabila as the peace process required him to share political power with four opponents, namely the RCD factions, the MLC, opposition political parties and civil society representatives (Grignon 2006). Kabila was also forced to acknowledge that he had lost control over half of the territory of the country (ICG 1999). The Lusaka Peace Agreement, in essence, 'legalized the partition of the country into three distinct zones and enabled the rebels to legitimately claim that they both officially represented their part of the country and had the authority to administer and exploit their zone' (Grignon 2006: 71).

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<sup>89</sup> The RPA launched a large offensive and advanced on Mbuji-Mayi, the diamond town, located between Lubumbashi in Katanga and Kinshasa (Grignon 2006).

The tension between Rwanda and Uganda had grown when the RCD had split into two groups over a leadership struggle, prior to the signing of the Lusaka Peace Agreement (ICG 1999). It reached a breaking point in early August 1999 as the UPDF and the RPA clashed in Kisangani (ibid.). Both parties blamed each other for breaking the ceasefire (Lemarchand 2003). The peace process eventually came to a halt when Rwanda and Uganda refused to participate unless the *Interahamwe* and the ex-FAR were dealt with; the Angolans and Zimbabweans, as a response, refused to leave the DRC until the Rwandans and Ugandans withdrew. This was followed with more violent clashes, and by 2004 it was estimated that 3.8 million people had died as a result of the conflict.

Given the undesirable political implications of the Lusaka Peace Agreement, Kabila put all his efforts into preventing genuine power-sharing (ICG 2000; Grignon 2006) and any dealings with the economic dimensions of the conflict (ICG 2000; Lemarchand 2003; Grignon 2006). He resisted negotiating with other parties for power-sharing through the ICD (Lemarchand 2003). The implementation of the Lusaka Peace Agreement only progressed after the assassination of Kabila in January 2001,<sup>90</sup> as Kabila had represented a major obstacle to the democratic transition (ICG 2000; Lemarchand 2003; Grignon 2006).

Joseph Kabila, Laurent Kabila's son, succeeded his father as president, without facing major objections. Despite early scepticism about his ability to lead the country in a difficult transition, he made significant progress (Lemarchand 2003; Nest 2006b). He managed to improve the country's relations with international financial institutions and donor governments, facilitated the implementation of the Lusaka Peace Agreement (Nest 2006b), and strategically kept his distance from the old allies of Laurent Kabila and Angola (Lemarchand 2003). As a result, interstate fighting came to an end; Uganda and Rwanda began pulling troops back from the front line in February

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<sup>90</sup> Laurent Kabila was shot by a bodyguard, who was killed on the spot, on 16 January 2001 and died two days later. The exact reason for the assassination is uncertain.

and the ICD restarted discussions on the formation of a Government of National Unity.

The ICD was facilitated by the former Botswanan head of state, Sir Ketumile Masire, to create a new political dispensation for the DRC in Sun City, South Africa, between February and April 2002. Despite wranglings over the composition of the ICD delegations,<sup>91</sup> the Sun City Agreement was signed on 19 April 2002. It specified a framework for establishing a unified multi-party government and a timeline for democratic elections. The agreement also confirmed Joseph Kabila as the president of the DRC and Jean-Pierre Bemba, the leader of the MLC, as prime minister for the transitional period. Kabila would share power with four vice-presidents: one from each of the two main armed opposition groups, one from the government and one from the unarmed political opposition. However, the agreement was partial and did not cover issues regarding the unification of the army. Moreover, the RCD-Goma and some other unarmed political opposition parties did not sign the agreement. This opposition, as well as the dispute between the government and the prime minister, resulted in the collapse of the agreement (Grignon 2006).

Rwanda and the DRC held peace talks in Pretoria, South Africa, on two issues: the withdrawal of the estimated 20,000 Rwandan soldiers in the DRC and the rounding up of the ex-FAR and dismantling of the *Interahamwe*. They signed a security protocol, known as the Pretoria Accord, on 30 July 2002. Uganda and the DRC also formalised a similar deal, known as the Luanda Agreement, on 6 September 2002, on the withdrawal of Ugandan troops from Bunia and improving relations between the two countries. These two peace negotiations resulted in the withdrawal of Rwandan and Ugandan troops beginning in late 2002 (ICG n.d.).

Following the last ICD to finalise a power-sharing arrangement for the period of political transition, the Global and All-Inclusive Peace Agreement on the

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<sup>91</sup> See details in ICG (2002).



transition in the Democratic Republic of Congo was finally signed in Pretoria on 17 December 2002.<sup>92</sup> Joseph Kabila remained as interim president and four vice presidents were to represent the government, the RCD-Goma, the MLC, and civil society. The agreement laid down a framework for the transitional government, including legislative and presidential elections within two years. Although this agreement marked the end of the war, it was criticised for disregarding the questionable political legitimacy of the former rebels that had committed serious crimes against the population and the ethnic and regional balance (Prunier 2009).

Lastly, a transitional constitution and a protocol on security sector reform were agreed upon and were ratified in the concluding session of the ICD held in Sun City on 2 April 2003. A Government of National Unity and Transition, the transitional government, was formed on 30 June 2003, marking an official end of the conflict and the beginning of the transitional period.

#### 4.7. The continuation of the conflict in the eastern DRC

##### 4.7.1. The transitional period

The transitional government progressed in steps toward democratic transition, while the transitional period saw continued political struggles and sporadic conflict, despite the existence of the power-sharing agreement.

As a vital step towards holding general elections, a new law on nationality was adopted by the transitional government on 12 November 2004 (Jackson 2007). The new nationality law was regarded as necessary also on the normative grounds that the exclusion of the Banyarwanda from the citizenship was 'unlawful under both international customary law and the international conventions' and on security grounds given that the Banyarwanda "nationality question" has acted as a prime incendiary igniting successive regional conflicts', including the outbreak of the second Congo War (ibid.: 489). The

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<sup>92</sup> This Congolese process rejected external interference 'in the management of the transition and in the implementation of the agreement' (Grignon 2006).

2004 nationality law grants nationality by origin or by acquisition to 'all people and their descendents who were resident in the DRC on or before independence on 30 June 1960', but it does not permit dual citizenship (Clark 2008: 6).

Despite the fact that this law officially granted citizenship to the Banyarwanda, it did not change the perception of the Banyarwanda as 'non-indigenous' amongst the 'indigenous' Congolese, or reduce the tensions between them (ibid.). More importantly, the new nationality law posed three key concerns: the law did 'not seem likely to eliminate many ambiguities concerning the national status of' the Banyarwanda; the enforcement of the law was likely to be ineffective; and 'the political relationship between the individual and the state' for the Banyamulenge was not likely to be improved through this law (Jackson 2007: 481). The nature of the political relationship, essential in providing the sense of being a full citizen, encompasses 'local rights and obligations between the individual and customary authority, with implications for land allocation and other vital entitlements; and the ethnically vital, lived sense of belonging and existential security for the individual within society as a whole' (ibid.). These had been denied to the Banyarwanda and were not likely to be changed through this law (ibid.)

In May 2005, parliament approved a new constitution which introduced power-sharing between the president and prime minister and a two-term presidential limit.<sup>93</sup> The constitution was approved by referendum in December 2005 and promulgated on 18 February 2006.

The presidential and legislative elections were held on 30 July 2006, with more than 17 million voters, after a slow candidate registration and continued political struggle. In this first round vote, none of the candidates won the majority, as president Joseph Kabila received 44.81 percent and his main rival, vice-president Jean-Pierre Bemba, won around 20 percent. Kabila won 58 percent of the vote and Bemba received 42 percent in the second round

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<sup>93</sup>For details of the elements of the constitution, see UNSC (2005a).

vote on 29 October 2006. Kabila's coalition also won a majority in national and provincial assemblies. Joseph Kabila became the first democratically elected president of the DRC in forty years. Although Bemba contested the result, it was upheld by the Supreme Court, and Bemba accepted his position as vice-president. Kabila was sworn in as president in December 2006, and a new government was named in February 2007.

The results of the elections were disastrous for the RCD-Goma and the Congolese Tutsi communities, as they could not secure adequate political representation. During the election period, other political leaders provoked anti-Tutsi sentiment (Human Rights Watch 2007). The presidential candidate of the RCD-Goma, Azarias Ruberwa, who was one of the four vice-presidents during the transitional period and the leader of the rebel group, received only 2 percent of the vote (Prunier 2009). Similarly, the RCD-Goma gained only 15 seats (3 percent) in the legislative elections (ibid.). Because the Banyamulenge were perceived as Rwandans and therefore resented (ibid.), the RCD-Goma lost political significance in the democratically elected government, despite the fact that its predecessor the RCD was one of the four political forces in the transitional government (Human Rights Watch 2007). As such, the RCD-Goma was politically liquidated (ICG 2007b). Moreover, at the provincial level, the territory of Minembwe, where the Banyamulenge were the majority population, was not recognised as a territory by the government; hence, the Banyamulenge were prevented from having local administrative control or representation in the provincial and national assemblies (Human Rights Watch 2007). This decision by the government was perceived as a deliberate strategy to marginalise the Banyamulenge and it alarmed the Banyamulenge communities (ibid.).

In spite of the progress made during the transitional period, the Kabila government was faced with growing criticism both at national and international levels (ICG n.d.). The new Congolese army, *Forces Armées de la République Démocratique du Congo* (FARDC, Armed Forces of the Democratic Republic of Congo), formed in July 2003, was constantly being accused of committing

human rights abuses and being undisciplined.<sup>94</sup> The lack of transparent resource management, corruption and lack of infrastructure and basic services was also criticised. Moreover, there was a growing level of political repression,<sup>95</sup> especially against Bemba's supporters and in peripheral regions, such as in the east. While the international community blamed the weak governance of the regime for these problems, 'violent coercion was increasingly adopted as a government technique' (Vlassenroot and Raeymaekers 2009: 477). The government also tried to gain control over strategic natural resources in the Kivus through privatised and violent forms of governance, resulting in 'a disparate and fragmented control' over the territories (ibid.). The tension between Kabila and Bemba supporters reached a point where Bemba fled the country to Portugal after seeking refuge in the South African embassy in Kinshasa in 2007.

The implementation of army integration, agreed in the Global and All-Inclusive Peace Agreement of 2002, was ineffective during the transitional period (Human Rights Watch 2007; ICG 2007b). The process of integrating former rebel groups and the former government troops, estimated to be around 330,000 combatants (Amnesty International 2007), into the new national army, FARDC, and the demobilisation of soldiers not necessary for the FARDC, was significantly delayed, and the elections were held before the completion of the process (Human Rights Watch 2007; Turner 2007). This process for integrating the former troops into the national army, called *brassage*, 'required soldiers to be trained for 45 days and then to be deployed in a region other than that in which they had previously fought' (Human Rights Watch 2007: 10). Soldiers also had an option to be demobilised to return to civilian life during the process (ibid.). There was, however, a strong resistance

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<sup>94</sup> MONUC warned the government that it would withdraw from the joint operations in the east unless the FARDC ended human rights violations (Reuters AlertNet n.d.).

<sup>95</sup> The nature of the human rights abuses include unlawful killings in the Kivu provinces, violence against women, child soldiers, torture, persecution of human rights activists, political violence between Kabila and Bemba supporters as well as other factions and limited access to proper justice (Amnesty International 2006). MONUC (2006) also published a special report on the human rights situation. A brutal military crackdown on political-cultural movement Bundu dia Kongo (BDK) in Bas-Congo, which aimed at reviving the pre-colonial Kongo kingdom, was also reported in January 2007 (Reuters AlertNet n.d.). Human Rights Watch (2008) provides an analysis of the political violence between Kabila and Bemba supporters and against the BDK.

to the process amongst the various armed forces, most notably from Banyarwanda officers, caused by fears for their security and the loss of their power base (Turner 2007), but also from the Mayi Mayi militias and the FDLR rebels (ICG 2007b). The *brassage* process was not transparent, in terms of the size of the units or identification of soldiers, and did not establish human rights standards (Turner 2007).

The national programme for Disarmament, Demobilisation and Reintegration (DDR) intended to integrate 130,000 soldiers into the FARDC and demobilise another 200,000 soldiers (Marriage 2007). The DDR programme was not supported, however, by viable security or development agendas and largely failed to assist the former combatants to address their grievances or to earn a living without using violence (Marriage 2007; Wake 2008). Soldiers who had integrated into the FARDC were largely dissatisfied with the salaries of USD10 a month (if they were paid at all) and soldiers who had chosen to be demobilised were also disillusioned by the absence of measures to assist them to integrate into civilian life, while local economic and social grievances remained (Baaz and Stern 2008). The failure of the DDR programme was in part conceptual, as the demobilisation was perceived to be a simple technical issue and implementation responsibilities were not allocated (Marriage 2007). It was also structural, reflecting the increasingly informal and predatory nature of political and economic life, normalisation of a systematic use of violence to acquire and retain power, and continuing inter-related conflicts on the ground (ibid.).

#### 4.7.2. The continuing violence in the Kivus

Despite the expectations that the peace process and resulting political arrangements would end the violence affecting civilians, many of the armed forces were not disarmed but have instead consolidated their authority and increased armed conflict and brutal attacks on civilians (Human Rights Watch 2007). The Kivu provinces have been plagued by insecurity since 2003 and North Kivu's security conditions turned into large-scale violence after the presidential, parliamentary and provincial elections in 2006, through which the

Banyamulenge felt sidelined and threatened by losing political significance (ibid.). In addition, they had been dispossessed of the economic privileges that they had and, in terms of political positions, other 'indigenous' groups in the community had replaced the Banyamulenge (ICG 2007b).

The *brassage* process, through shuffling of commands and of units, had adversely affected the security situations in the Kivus (ICG 2007b), contrary to the government's assertion that it would enable the pacification of the east by integrating all armed groups into the national army (IRIN 2007). In the *brassage* process, a commander from Kabila's troops was appointed to South Kivu, replacing the serving RCD commander, while the RCD retained North Kivu (ICG 2007b). In response, an increasing number of RCD officers, including Laurent Nkunda, refused to recognise the authority of the government and to go through *brassage* because they feared ethnic persecution and revenge for their acts during the wars, and so formed a network (Human Rights Watch 2007; ICG 2007b; Prunier 2009; Vlassenroot and Raeymaekers 2009). According to Human Rights Watch (2007), there had been some incidents of imprisonment, torture and killing of Tutsi soldiers between 2004 and 2006. Nkunda also accused the government of not doing enough to dismantle the FDLR (IRIN 2007).

A dispute between commanders eventually led to a full-blown battle in June 2004, in which a dissident faction led by Colonel Jules Mutebutsi, supported by Laurent Nkunda, occupied Bukavu, South Kivu. This uprising was put down by the government after one week. In December 2005, dissident soldiers belonging to the RCD-Goma fought off the FARDC in Kanyabayonga and captured several towns in North Kivu, thereby creating tensions in the relationship between the RCD-Goma leadership and other parties in the transitional government (Grignon 2006). In July 2006, during the elections, Nkunda formed a political movement, *Congrès National pour la Défense du Peuple* (CNDP, National Congress for the Defence of the People), which was mainly composed of Congolese Tutsi from the RCD-Goma but also of other ethnic communities. Nkunda was able to attract numerous opponents who had been dissatisfied with the democratisation process (Vlassenroot and

Raeymaekers 2009). According to Nkunda, the CNDP was established for the purpose of 'preventing the exclusion of Tutsi from national political life, assuring the security of Tutsi soldiers in the national army, eliminating the presence of the FDLR in the DRC, and assuring the return of Congolese refugees now in Rwanda' (Human Rights Watch 2007: 64).

The CNDP frequently clashed with the FARDC and secured their continued autonomy without being integrated into the national army (Human Rights Watch 2007). When they rebelled again in November 2006, they attacked Goma, presumably to hold it to make their position advantageous in any future negotiations with the government (Prunier 2009). The CNDP thus became the most serious threat to the government by the end of 2006 (Vlassenroot and Raeymaekers 2009). In order to prevent further clashes, Kabila and Kagame negotiated with Nkunda in December 2006 to mix the CNDP troops into the FARDC through a limited integration process called *mixage* (Human Right Watch 2007; ICG 2007b; Prunier 2009). In *mixage*, various troops serve in the same units without the original units being dissolved (Prunier 2009) and, allowing for concerns about security, the troops would not have to leave their province, as they would with *brassage* (ICG 2007b). During the negotiations, Nkunda demanded that several political grievances were addressed, 'including the return of 45,000 Banyarwanda refugees from Rwanda, the liberation of political prisoners and military operations against the FDLR' (ICG 2007a).

In February 2007, the CNDP began integrating its troops into the FARDC through *mixage*. The *mixage* was beneficial for Nkunda, as he increased the number of troops under his command (Human Rights Watch 2007; Turner 2007; Prunier 2009), and became stronger both politically and militarily (Human Rights Watch 2007). Nkunda used his units to crackdown on the FDLR in North Kivu and also started recruiting widely from demobilised troops who were unemployed, and unemployed Tutsi in Rwanda and Burundi amongst others (Prunier 2009). The FARDC also launched military operations against the FDLR without much success, displacing more of the civilian population. These military operations prompted the creation of the *Patriotes*

*Résistant Congolais* (PARECO, Coalition of Congolese Patriotic Resistance) by the Mayi Mayi<sup>96</sup> (Vlassenroot and Raeymaekers 2009). While the PARECO stated that its objectives were to suppress Nkunda's rebellion and bring peace in the east, the political objectives of the PARECO were ambiguous (IRIN 2007), like the Mayi Mayi, which resisted any authority and kept changing allies (Prunier 2009).

The reinforcement of the CNDP through the *mixage* process therefore increased ethnic tensions in the Kivus, as it had 'kick-started the FDLR back into life and reopened all the scores of the east' (Prunier 2009: 324). The FDLR took advantage of the tensions to demonstrate their usefulness to the government; a group of the FDLR, called Rastas, carried out massacres in South Kivu in May 2007 (ICG 2007b). As a result, 'the whole region experienced a sudden return to a state of tension previously forgotten' (Prunier 2009: 324). In addition to several uncontrolled armed elements, including the Mayi Mayi, warlords and the FDLR (Prunier 2009), some armed groups, supposedly overseen by the government, such as the CNDP and the FARDC, had all been committing crimes that were not being investigated (Human Rights Watch 2007). The *mixage* process eventually failed in May 2007, owing to the opposition by some hardliners in both the FARDC and CNDP (Human Rights Watch 2007; ICG 2007b).

Following the collapse of the *mixage* arrangement, the government decided to crack down on the CNDP, leading to heavy fighting between the CNDP and the national army in August 2007<sup>97</sup> without success, owing to the weakness of the FARDC (Vlassenroot and Raeymaekers 2009). In November 2007, the governments of Rwanda and the DRC reached an agreement in Nairobi to repatriate the FDLR, which became known as the Nairobi Agreement.

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<sup>96</sup> PARECO also includes some Hutu CNDP deserters (Vlassenroot and Raeymaekers 2009).

<sup>97</sup> This was supposedly triggered by a failed negotiation for *brassage* (Human Rights Watch 2007). The fighting also involved the FDLR and the Mayi Mayi and displaced more than 170,000 people, in addition to 200,000 people internally displaced since the end of 2006 and 322,000 refugees hosted in neighbouring countries (Amnesty International 2008).



In January 2008, a 'Conference on Peace, Security, and Development in the Kivus', broadly known as the 'Amani'<sup>98</sup> process, was held in Goma. As a result, a comprehensive peace agreement, *Actes d'Engagement*, for a ceasefire and voluntary demobilisation and integration in the east was signed on 23 January 2008. The participants of the Goma conference included members of the different Congolese armed groups,<sup>99</sup> government representatives, civil society leaders and international observers. While the Amani process was praised as having moved things forward by addressing fundamental issues (Prunier 2009), its focus on a ceasefire and voluntary demobilisation contradicted the forceful demobilisation of the FDLR agreed upon in the preceding Nairobi agreement of 2007 (Boshoff 2008).

The peace process did not progress and the security situation did not improve after the agreement in Goma (Vlassenroot and Raeymaekers 2009). The FARDC resumed an attack on the CNDP; and renewed fighting erupted in August 2008 between the CNDP and FARDC, who often allied themselves with the FDLR and PARECO. In October, the CNDP captured large areas of North Kivu and advanced to within a few kilometres of Goma, the provincial capital. As a result, the FARDC fled and went on sprees of killing, raping and looting, leaving the FDLR and PARECO to battle with the CNDP. This renewed hostility affected the relationship between the DRC and Rwanda, with both accusing of each other of supporting non-state armed forces: the FDLR and the CNDP respectively.<sup>100</sup> Several international diplomatic efforts were made in an attempt to settle the crisis, in line with the 2007 Nairobi agreement and 2008 Goma agreement, essentially to repatriate the FDLR and to integrate the armed groups into the national army. The situation, however, remained volatile and fighting continued.

#### 4.7.3. Failures of the peace process

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<sup>98</sup> 'Amani' literally means 'peace' in the Swahili language (Vlassenroot and Raeymaekers 2009).

<sup>99</sup> Twenty-two Congolese Kivu-based armed groups, including those who had ceased operations, were invited in order to ensure equal treatment (Vlassenroot and Raeymaekers 2009).

<sup>100</sup> These allegations were largely verified by the investigation by the UN Group of Experts (UNSC 2008a) that Rwanda discreetly supported the CNDP and the FARDC officers extensively collaborated with the FDLR.

Analysts have offered three broad explanations for the successive failures of these peace agreements and the resulting conflict in the eastern DRC. These peace agreements were essentially inclusive power-sharing agreements. They are based on a consociational model which considers that incorporation is the key to conflict solution, as it believes exclusion, as opposed to greed alone, to be the key factor behind most conflicts in Africa.<sup>101</sup> Firstly, Tull and Mehler (2005) contend that these inclusive power-sharing arrangements might have provided negative incentives for the belligerents to ignite insurgencies in order to be included in the arrangements. The power-sharing arrangements appear to be 'co-option, directed by expediency' (Lemarchand 2006: 4) by the Western donors (Tull and Mehler 2005). According to this view, a recurrent pattern in which 'every negotiated peace deal in the DRC has been followed by the proliferation and fragmentation of armed groups' was because 'each want a portion of existing power arrangements' (Vlassenroot and Raeymaekers 2005: 476). An analysis of the 2008 Amani process verifies this point as the proliferation of armed groups was observed following the Amani process (Vlassenroot and Raeymaekers 2009: 480). It contends that the Amani process 'had introduced a logic of warfare into the peace process', by providing negative incentives to be armed, enhancing recognition or access to resources.

Secondly, the failures of the peace agreements can be attributed to the failure to include potential spoilers in the power-sharing arrangements because of their economic and security interests (Grignon 2006). This is particularly the case considering the fluid nature of the belligerents in the DRC and the involvement of regional actors who were not part of the peace agreements and who might gain from continuing fighting (ibid.). The case of the 2002 Global and All-Inclusive Peace Agreement demonstrates the failure to include potential spoilers as 'the ICD [based on the 1999 Lusaka Peace Agreement] was frozen in a system of power relations that has changed considerably over the course of the conflict' (Grignon 2006: 76). This arrangement meant that

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<sup>101</sup> The consociational model was formulated by Lijphart in 1970s and has been a predominant theory in thinking of democratic governance. See Lemarchand (2006: 1-2).

powerful domestic actors operating in the eastern DRC, namely the FDLR, RCD-Goma (though its predecessor, RCD, was included in the peace process) and Mayi Mayi were not included in the transitional government. In both the 1999 Lusaka Peace Agreement and the 2002 Global and All-Inclusive Peace Agreement, only the formal international aspects of the conflict were addressed, leaving other aspects of the war unresolved (Grignon 2006).

The above two explanations (negative incentives and peace spoilers), however, only deal with the outcomes rather than the underlying issues and contexts that drive this behaviour. Lemarchand (2006) suggests that the socio-political context determines the outcomes of power-sharing arrangements, based on his comparative assessment of trajectories of power sharing in Rwanda, Burundi and the DRC. The background behind the fragmentation of the belligerent groups, particularly the RCD, in terms of both intra- and inter-ethnic conflict, serves to support this point (ibid.).

From this standpoint, inclusive power-sharing arrangements might have provided negative incentives to the belligerent groups who could otherwise achieve meaningful political representation through non-violent means within the existing socio-political system. This outcome therefore highlights the nature of the socio-political system in the DRC. Behind the RCD's continuance, while splitting a number of times (including the emergence of the CNDP), lies their weak position to achieve political representation as they represent ethnic minority groups whose citizenship has been politically manipulated and who have been largely supported by Rwanda. Their efforts to display the symbols of the state, trademarks and their attachment to the state administration framework (Tull 2003), as well as to secure social control over local resources (Vlassenroot and Romkema 2002), can also be seen as a way in which they try to increase political credibility and their presence.

The same socio-political system might also have motivated some actors to 'spoil' the negotiated peace since they were either not represented (included) or their agendas were not addressed in the negotiated peace. Two factions

that were not included in those peace agreements are the Mayi Mayi and the FDLR. Mayi Mayi militias have been fragmented and it has proved very difficult to comprehend their objectives. As they have fought against any authority (Prunier 2009), their participation in peace agreements has been a genuine political problem (Grignon 2006). As for the FDLR, all the peace arrangements aim to disarm and repatriate the FDLR forces. Nevertheless, the FDLR seems to be determined to return to power in Rwanda through a political dialogue with the current Rwandan government rather than having a war (Fessy and Doyle 2009) and, on its website, it claims to have aims to 'establish a regime based on universal principles, promote moral values, end wars and establish peace in Rwanda and in the region' (Chatham House 2009: 6). The disarmament and repatriation of the FDLR forces is expected to be difficult because of the limited political space under the current Rwandan regime and assimilation of the FDLR members into communities after more than a decade of residence in the DRC (Chatham House 2009).

Despite peace agreements aimed at disarming and repatriating the FDLR forces, the government has been failing to dismantle them and has allowed them to consolidate their position in the Kivus (ICG 2005; 2010). In this sense, the government is also spoiling the negotiated peace (Vlassenroot and Raeymaekers 2009), partly owing to a lack of capacity. The attempt by Rwanda to increase its influence in the Kivus can be seen as a response to this unfulfilled agreement (Grignon 2006). Rwanda has not only been controlling the area effectively through its allies but has also transferred its troops to the eastern DRC (ibid.: 79). In addition, it has given Hutu Banyarwanda leaders senior positions in the provincial administration 'to reduce their temptation to join' the FDLR (ibid.). Furthermore, these actions by Rwanda appear to be linked to its economic interests to re-start cattle ranching in the eastern DRC, although economic agendas have not been addressed by those peace agreements (ibid.).

For example, during the ICD, civil society groups were able to raise the issue of illicit exploitation of natural resources (Ballentine 2004), established by the

UN Panel of Experts' investigations,<sup>102</sup> but the ICD did not adequately address the economic aspects of the conflict and refused to identify any responsibility for the illegal exploitation of natural resources (Grignon 2006). While the belligerent groups were able to access the mineral resources from the land they occupied (Lemarchand 2003) and several clashes over control of the key mineral producing and trading towns occurred<sup>103</sup> (Nest 2006b; Prunier 2009), Rwanda and Uganda strongly denied their economic motivations and engagement in the exploitation of Congolese natural resources (Prunier 2009). Nonetheless, some analysts have dismissed their security imperatives as a justification to invade the DRC for their 'long-standing interest ... in plundering the Congo's riches' in the power vacuum (Nzongola-Ntalaja 2002: 215), or have suggested that there was a change in focus after these countries made huge profits from the plunder of natural resources during the first Congo War (UNSC 2001a; Lemarchand 2003).

While the economic agendas above have been largely treated as examples of greed, analyses on the economic agendas of the belligerent groups suggest that economic interests 'emerged as a function of war' in order to make a necessary cash flow for their military campaigns through capitalising limited means (Nest 2006c; Prunier 2009), while some became aware of the economic opportunities available and pursued personal economic gain (Nest 2006c). Owing to the significant economic decline,<sup>104</sup> destruction of infrastructure, an apparent decrease in agricultural outputs, fluctuations in mining outputs, high costs of business operation, increasing poverty and a growing informal economy in the DRC, the belligerent groups sought quick returns and minimum investment (Nest 2006c). They, for instance, controlled points of access to tax on trade (Nest 2006c; Vlassenroot and Raeymaekers 2005), made preferential trade agreements with local traders, and provided protection for local businesses (Vlassenroot 2008). The economic interests had become crucial when the belligerent groups faced the military stalemate

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<sup>102</sup> See UNSC (2001a; 2001b; 2002a; 2002b).

<sup>103</sup> For example, the UPDF and the RPA clashed for control of Kisangani in August 1999 and May 2000.

<sup>104</sup> Per capita income decreased to 25 percent of 1970 levels by 2000 (Nest 2006c).

in mid-1999 (Nest 2006c) and, hence, the low-intensity conflict (Vlassenroot and Raeymaekers 2005).

The function of war was essential for all the belligerent parties, including the DRC government (Nest 2006c: 38). In addition to the declining economy, the government 'had lost control of half of its territory along with commerce within it' as well as 'one of the most important and historical dependable sources of funding for the state, foreign aid'.<sup>105</sup> The military campaign by Rwanda was understandably self-funding as Rwanda was trying to recover from the total destruction left by the civil war and genocide in the early 1990s. Uganda also needed to fund the military campaigns as the country was pressured on its oversized budget by the donors (Prunier 2009).

In addition, the failure of the DDR process, which significantly hindered progress towards the negotiated peace, can be blamed partly on the socio-economic conditions in the DRC. The absence of viable livelihoods as well as the inadequate DDR programme<sup>106</sup> meant that combatants could not be persuaded to demobilise and the integrated soldiers, receiving meagre and irregular payments, often had to earn by looting and plundering.

Moreover, Grignon (2006) pointed out that external actors also attempted to influence the peace processes in pursuit of their economic agendas, though this has not been rigorously analysed. It has been suggested, for example, that the economic interests of the official peacemakers, namely South Africa, threatened other countries in the region and thereby drove them to spoil the arrangements made (ibid.). Other external actors who were sidelined during the development of the peace agreements because of the strong influence of Western countries with a close relationship with the Congolese government, such as Belgium, France and the USA, might have become spoilers (ibid.).

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<sup>105</sup> The foreign aid for the DRC reached its lowest point in 1998 since Laurent Kabila appear to have created antagonism with the major donors by being 'resentful at pressure to pay debts accumulated under Mobutu and increasingly bellicose in its diplomacy' (Nest 2006c: 38).

<sup>106</sup> The lack of financial means and agreement between the government and the armed groups is discussed by Vlassenroot and Raeymaekers (2009).

Explanations for the failures of the peace process in the DRC, therefore, need to take the local contexts into account. While both negative incentives and peace spoilers may exist and hinder the peace process, analyses on the socio-political context illuminate various economic and security imperatives for the warring parties and their backers that have not been recognised or addressed in the peace arrangements.

#### 4.8. Chapter summary and conclusions

This chapter has examined the trajectories and nature of the conflict in the DRC between 1996 and 2008, with a focus on the relationship with Rwanda. The continuing conflict in the DRC, from the first Congo War between 1996 and 1997, through the second Congo War from 1998 to 2003, to the ongoing conflict, has been depicted as a 'complex hybrid' conflict (Carayannis 2003) or a 'multi-layered' conflict (Prunier 2009). It was not a conflict but rather several conflicts, which occurred at various levels with different players, broadly at local, national and regional levels (Cramer 2006a; Grignon 2006; Wake 2008), and which were intensified and complicated by their interactions. The analysis has demonstrated that the conflicts unfolded in the context of a significant economic decline, an apparent institutional collapse and a loss of political legitimacy. It has also highlighted the importance of the local context, prior to the outbreak of the conflicts, in which historical, social, economic, political and cultural relations in the region are embedded.

At the local level, the issues behind the conflicts have a long historical standing. Waves of Rwandan migrants and refugees, who moved into the densely populated eastern DRC, have been subjected to political manipulation (Mamdani 1998; 2001; Lemarchand 2003; Prunier 2009). The Banyarwanda were largely denied customary rights, including access to land, through the traditional authority, as they are ethnically 'non-indigenous' (Mamdani 1998; 2001). They had, however, become prominent by being favoured in Mobutu's strategy to govern the country through horizontal elite networks (Putzel *et al.* 2008), being equipped with citizenship through the 1972 citizenship decree, and acquiring vast land following the 1973 land law

(Huggins *et al.* 2005; Van Acker 2005; Jackson 2007). When the sharp economic decline after 1974 disabled Mobutu's patronage system, in which economic assets were distributed for political support, and the prominence of the Banyarwanda became resented, citizenship was removed from the Banyarwanda by the 1981 citizenship law. Local actors were privileged in new vertical networks, replacing the previous patronage system (Putzel *et al.* 2008), and became increasingly autonomous (Nest 2006b) through informal privatisation of the state (Vlassenroot 2008). The attempted democratic transition in early 1990s did not solve the highly contested issue of citizenship but excluded the Banyarwanda from the process, thereby intensifying the situation and militarising the Banyamulenge (Lemarchand 2003; Prunier 2009).

The commodification of land through the 1973 land law meant 'the transformation of land from a social resource into a capital asset' and brought about 'an increasing socio-economic exclusion of large segments of the population' (Tull 2003: 437) and distortion of the traditional patrimonial system (*ibid.*; Van Acker 2005). The incomplete land reform had also created a parallel structure of land ownerships (Meditz and Merrill 1993) through customary rights and the market (Mamdani 1998). It had a significant impact on the Kivus, as land is the most critical local resource in this land-scarce and densely populated region (Sosne 1979; Mamdani 1998; Van Acker 2005; Vlassenroot and Raeymaekers 2005; Turner 2007). It eventually led to an ethnic conflict over land in 1993, which was exacerbated by the influx of the Hutu refugees from the 1994 Rwandan genocide (Reed 1998) and the subsequent first Congo War in 1996. While the local conflict took the form of an ethnic conflict over land, it was about 'defining access to land' (Mamdani 2002) and political exclusion (Lemarchand 1997) based on ethnicity and citizenship.

During the first Congo War, the rebellion by the Banyamulenge, in alliance with Rwanda, was successful in allowing the former to regain its position. The alliance with Rwanda, however, presented dilemmas for the Banyamulenge community, as the rift between them and the other communities had widened, and their autonomy had been threatened in return for the security provided by



Rwanda (Vlassenroot 2002); mistrust and resentment against the Rwandans had increased due to a belief that they had been used (Vlassenroot 2002; Lemarchand 2003). Although the Banyamulenge were heavily involved in the second Congo War, owing to their alliance with Rwanda, and became part of the power-sharing transitional government at the end of the war, they were marginalised and threatened with the loss of their political significance following defeat in the 2006 elections (Prunier 2009). Faced with the outcomes of a majority-driven political system (Mamdani 2002), which marginalised the ethnic minorities, the CNDP was formed and this led to intensified conflict in the Kivus (Autesserre 2008).

Nationally, there was a struggle against internal dictatorship and for democratic transition. While the first 'war of liberation', driven by regional security interests, managed to overthrow Mobutu, the struggle had failed in terms of the democratisation process, partly owing to internal divisions and the lack of legitimacy of the new government due to its dependence on and association with Rwanda (Lemarchand 2003; Nest 2006b; Putzel *et al.* 2008; Prunier 2009), which had become an occupying force and had strengthened the Banyamulenge community. The attempt to gain legitimacy by cutting off the association with Rwanda had a significant effect on the regional and local aspects of the conflict. It gave Rwanda a reason to return to deal with the FDLR element (Rwanda's security imperative) and to remove Laurent Kabila (Vlassenroot 2002), and it revived the anti-Banyamulenge campaign (McNulty 1999; Lemarchand 2003; Reuters AlertNet n.d.). When it eventually triggered the second Congo War, the war brought in numerous regional players because of their own regional security concerns.

Despite the signing of the 1999 Lusaka Peace Agreement, Laurent Kabila was reluctant to move towards democratic transition. The process for a negotiated peace was only moved forward when Joseph Kabila succeeded Laurent Kabila following the latter's assassination in 2001. Nonetheless, the principle of power-sharing, through the 1999 Lusaka Peace Agreement and the 2002 Global and All-Inclusive Peace Agreement, did not unite the fragmented country or solve the local aspects of the conflicts in the eastern

DRC. The transition to democracy through elections instead intensified the conflict in the eastern DRC and led to increased political oppression by Joseph Kabila (Amnesty International 2006; MONUC 2006; Human Rights Watch 2008; Reuters AlertNet n.d.)

Regional actors played a significant role in the conflicts in the DRC, as both wars were triggered by external interventions. Regional security interests were high in the DRC since the DRC hosted sanctuaries for several foreign rebel groups (Salehyan 2008) and numerous 'refugees as vectors of violence' (Lemarchand 1997) from neighbouring countries.<sup>107</sup> This has been particularly so for Rwanda, owing to the threat from the armed Hutu refugees in the Kivus from the 1994 genocide, who later formed the FDLR, and the politically excluded Banyamulenge community in the eastern DRC, causing a 'Kin country syndrome' (Lemarchand 1997).<sup>108</sup> Rwandan interventions greatly affected the local conflicts in the eastern DRC as they increased the anti-Tutsi feelings.

The above examination of the multi-layered nature of the DRC conflict has identified the background and underlying causes of the continuing conflict in the eastern DRC. Firstly, there was the declining political legitimacy of Mobutu regime, along with institutional collapse and economic collapse, which led to the informal privatisation in the 1980s. This informal governance by social and economic networks was particularly apparent in the Kivus and has been consolidated through the wars and power-sharing arrangement followed during the peace process. Secondly, the local context in the Kivus was significantly affected by the issues around ethnicity, citizenship and land as underlying causes of the conflict as these issues were manipulated for political exclusion. Although 'defining access to land' (Mamdani 2002) was a key for the ethnic conflict in the Kivus, the state legislation remains inadequate in regulating land ownerships because of the existing traditional

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<sup>107</sup> Local settlement, as the preferred policy for refugees by the international community until the 1980s, did not bring about a desirable impact as some of those refugees had turned into armed rebels (Takeuchi 2006).

<sup>108</sup> According to Lemarchand (1997), 'where ethnic fault-line cut across national boundaries, conflict tends to spill-over from one area to the next, transforming kin solidarities into a powerful vector of transnational violence.'

authority and rebel authority in the area. Thirdly, how the international community responded to the Rwandan refugees who flooded into the DRC following the 1994 genocide significantly affected the occurrence and trajectory of the conflict in the DRC. The failure to disarm and separate *génocidaires* from civilians in the Rwandan refugee camps has consequently militarised the eastern DRC and created an urgent security threat for Rwanda to take action.

More importantly, the peace process to achieve ceasefire and inclusive power-sharing agreements and the reconstruction process during the transitional period have failed to address these issues and the context adequately.

Based on the examination of the peace process in this chapter, the state-centric, inclusive power-sharing approach did not address the local socio-political context in which various economic and security imperatives remain, and displayed its inability to address negative incentives and peace spoilers. Hence, the eastern DRC continues to be governed by informal social and economic networks which control the local resources and trade outside the state authority, and remain militarised. Within this context, players such as the FDLR are left outside the power-sharing arrangement. While the only option provided to the FDLR is to demobilise and repatriate, the FDLR maintain their economic and security interests and resist firmly by demanding political dialogue with the Rwandan government. Similarly, the members of the RDC-Goma confront antagonism within the local community because of their relations with Rwanda and continue to be armed.

Likewise, the reconstruction process during the transitional period suffered from some of the limitations of the post-conflict reconstruction instruments reviewed in Chapter Two. The majority-driven political system that was established through the 2006 elections significantly sidelined the RCD-Goma as an ethnic minority as well as maintaining the rift with the local community. The struggle against political exclusion by the Banyamulenge resulted in the formation of the CNDP and relapse of the armed conflict; as Hesselbein *et al.*

(2006) point out, this is a risk of pursuing modern liberal democracy in post-conflict African states. Another key issue is the failure of the process to integrate the army and demilitarise the area. As stated in the literature, the DDR programme overlooks distinct and complex structures embedded in the local context, and is unable to provide adequate assistance to former combatants and security to both former and integrated combatants.

This chapter has highlighted that the above unsolved issues are crucial to be taken into account in any efforts to cease and prevent conflict in the eastern DRC. It therefore suggests some weaknesses of the analysis of contemporary conflicts – resource curse theory in particular. For example, the conflict in the DRC challenges the categorisation of civil war and inter-state war by presenting a multi-layered and hybrid nature. It also suggests the existence of a compelling link between scarcity in renewable natural resources and armed conflict in the DRC, as opposed to the abundance in non-renewable natural resources being a critical factor, since defining access to land appeared to be critical in understanding the local-level conflicts in the eastern DRC.

## **Chapter Five: Links between coltan and conflict in the eastern DRC**

This chapter explores how coltan production and trade finance and drive the conflicts in the eastern DRC. These armed conflicts are frequently explained by the 'greed' or the 'economic functions of war' hypotheses in the prevailing conflict analyses (Chapter Two). However my previous chapter, which examined the trajectories and nature of the DRC conflicts, has demonstrated the complex context which triggered conflicts at multiple levels and which still sustains some of them. By examining the system of coltan exploitation in the eastern DRC and how it has changed over time, this chapter seeks to identify the ways in which coltan exploitation is related to the conflict in the eastern DRC, an analysis that complements the preceding chapter.

The chapter begins with a brief literature review on the links between coltan exploitation and conflict in the eastern DRC. The second section gives an overview of coltan applications and the market. The subsequent section examines artisanal coltan mining and its background and legislative environment, followed by the impact on the socio-economic and environmental conditions to identify core issues of coltan extraction. The fourth section begins by analysing the coltan trade chain from the perspective of the history of informal cross-border trade in the DRC. It then examines the coltan trade chain and the involvement of armed groups during the second Congo War and the post-war period as the coltan trade has evolved over time.

### **5.1. Studies on the nexus between coltan exploitation and conflicts in the DRC**

Numerous studies have been conducted on the relationship between mineral resources and conflict in the eastern DRC since 2000. The UN Security Council commissioned a Panel of Experts<sup>109</sup> to study the illegal exploitation of resources in the DRC in 2000, which prompted many other studies. The Panel

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<sup>109</sup> The Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo.

published five reports between 2001 and 2003.<sup>110</sup> The first report (UNSC 2001a) identifies the pervasive link through which the illegal exploitation of natural resources financed and sustained the second Congo War. This report was significant in highlighting the role played by private companies, supported by their home countries and international financial institutions (Khan 2008), and provoked diplomatic pressure from some Western governments (Lasker 2008). The second report (UNSC 2001b) also suggests that the exploitation of natural resources has become a 'primary motive' for Rwanda and Uganda, although they initially invaded the DRC for security reasons (UNSC 2001b), and the system of natural resource exploitation through 'elite networks' (UNSC 2002b) was established during the second Congo War (UNSC 2002a). While the study lists 85 companies as being in breach of the OECD Guidelines for Multinational Enterprises and stressed the responsibility of the home governments (UNSC 2002b), the natural resource and conflict link has been supported by the influential rational choice theory and the economic functions of the war paradigm reviewed in Chapter Two.

A study by the International Peace Information Service (IPIS) also suggests that there was a change in the motivation for conflict from political to economic (Raeymaekers 2002). The study uses the term 'network war' to depict privatised networks of army officers, armed groups and international companies, linking the local war economy with global economic networks to plunder resources for personal enrichment and to finance the conflict. In the emerging political economy from this 'network war', state boundaries, state sovereignty or the distinction between legal and illegal economy are not relevant. As such, the situation can be understood as 'emerging complexes', according to Duffield (2001).

The view, which states that coltan exploitation motivates and finances armed groups, has been supported in particular by NGOs, which call for action by private companies.<sup>111</sup> The business partnership between military and private companies, which assist to exploit, transport and market coltan from the DRC,

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<sup>110</sup> UNSC (2001a; 2001b; 2002a; 2002b; 2003b).

<sup>111</sup> For example, Hayes and Burge (2003); Global Witness (2004); Enough (2009a).

is described as 'military commercialism' in some studies.<sup>112</sup> Within this 'military commercialism', 'the maintenance of insecurity has become a primary source of enrichment' and strategy (Raeymaekers 2002: 9).

Other studies, whilst agreeing with the above view, point out issues that have not been considered by the above studies, with the exclusive focus on the link between coltan exploitation and conflict. One piece of research, using an ethnographic approach, demonstrates that coltan mining has become the most important means for local people to survive (Jackson 2003). A Congolese NGO in Goma, the Pole Institute, has revealed how coltan mining changed the life of the population within the context of state collapse and successive wars (Tegera *et al.* 2002). Furthermore, by examining the mining policy of the transitional government, the Pole Institute elucidated, firstly, a general structural problem of the DRC that lies in the collapse of the state institutions and formal economy and, secondly, the inability of the transitional government to address the struggles over mining ownership that arose from inconsistent legislation (Johnson and Tegera 2005). The NGO also provided a detailed analysis of the informal cross-border trade in North Kivu which explains the existing commercial rivalry between different communities for survival (Tegera and Johnson 2007). While there are some studies that focus on the informal cross-border trade in the region,<sup>113</sup> in-depth studies are limited.<sup>114</sup> As explained in the previous chapters (Chapters Two and Four), some studies emphasise the nature of the state and governance, such as the 'predatory governance' (Rackley 2006) and warlord politics (Reno 1998; 2000).

Studies conducted more recently identify that all key parties to the conflicts, namely the FDLR, the CNDP, the Mayi Mayi and the FARDC, raise funding from mineral exploitation and taxations (UNSC 2008a; Global Witness 2009c; Garrett and Mitchell 2009a; 2009b). While the continuation of the natural

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<sup>112</sup> They include Dietrich (2000); Cuvelier and Raeymaekers (2002a); Raeymaekers (2002); Amnesty International (2003).

<sup>113</sup> Examples include DFID (2007); INICA (2007a; 2007b); Garrett and Mitchell (2009a; 2009b).

<sup>114</sup> Examples include MacGaffey *et al.* (1991); Kisangani (1998); Raeymaekers (2009a; 2009b).

resource exploitation by the armed groups in the eastern DRC can be viewed as a symptom of insecurity and governance failure (Garrett and Mitchell 2009a; 2009b), or the complexities of war economies (Garrett *et al.* 2009), an analysis of the conflict motivation using qualitative geographical methodology uncovered grievance and security as being important motivations (Spittaels and Hilgert 2008; 2009b).

The above literature review clearly shows remarkably little analysis of the motivation for the conflicts. There is also a limited attempt to join together the various issues related to natural resource exploitation in order to achieve more comprehensive understanding of the nature of the link between the coltan exploitation and conflict, which constitutes the aim of the rest of this chapter.

## 5.2. Coltan

Coltan is the local name of columbo-tantalite or columbite-tantalite in central Africa (TIC 2009). As the name suggests, coltan contains two kinds of ores, namely, tantalite and columbite. A metallic element called tantalum is extracted from tantalite and, similarly, niobium is extracted from columbite (*ibid.*). Tantalum is highly resistant to heat and corrosion, and has a particular ability to store and release electrical energy (Mining Journal 2007). It is tantalite that has been considered to be one of the conflict minerals from the eastern DRC, since the demand for tantalum has increased over the past ten years.

### 5.2.1. Application

Given its ability to store and release electrical energy, about 60 percent of the tantalum consumed each year is made into powder or wire form to manufacture capacitors (Mining Journal 2007; TIC 2009). Despite efforts to find a substitute material for the production of capacitors, other materials cannot achieve the same performance as tantalum (Ruffini 2008). Tantalum capacitors are very small and lose less power, and are therefore used in



various devices in telecommunications, data storage and implantable medical devices (Mining Journal 2007). As tantalum capacitors are able to miniaturise handsets and prolong battery life, they have become essential elements for the telecommunications industry, whose demands of which take up about 18 percent of production (Hayes and Burge 2003). A typical mobile phone handset with camera and video function contains 22 or 23 tantalum capacitors (TIC 2004). In addition, tantalum has a wide range of other applications, including: cutting tools made of tantalum carbide; X-ray films, camera lenses and inkjet printers made from tantalum oxide; and jet engines made with tantalum sheets, rods and wires (TIC 2009).

For those various applications above, primary tantalum processors purchase tantalum bearing mineral concentrate, extract and purify tantalum, and transform tantalum into powders, wires and other forms (Talison 2008a). This is a highly sophisticated process, which requires a considerable amount of investment for factories and facilities (Ruffini 2008), the use of highly dangerous chemicals and, hence, adherence to various regulations (TIC 2004). Owing to the above requirements, as well as the highly specialised market for tantalum products, there are only limited numbers of tantalum processors in the world.<sup>115</sup> Germany's H.C. Starck,<sup>116</sup> the Cabot Corporation based in the US,<sup>117</sup> and China's Ningxia Non-ferrous Metals Smeltery (NNMS)<sup>118</sup> are the three principal tantalum processors in the world and consume 70 percent (Mineweb 2008) to 80 percent of the global tantalum supply (Ruffini 2008).<sup>119</sup>

### 5.2.2. Demand and price

Global demand for capacitor-grade tantalum has continued to grow at 6 percent a year on average for the past 15 years, and totalled approximately 5

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<sup>115</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

<sup>116</sup> [www.hcstarck.com](http://www.hcstarck.com)

<sup>117</sup> [www.cabot-corp.com](http://www.cabot-corp.com)

<sup>118</sup> [www.nniec.com/](http://www.nniec.com/)

<sup>119</sup> These three companies are detailed in the section 6.3., and the involvement of H.C. Starck in the Durban Process is also reviewed in the section 7.1.

million pounds in weight per year (Ruffini 2008). The growth has been smaller than expected because of the development of smaller capacitors (ibid.).

Figure 1: Tantalum historical market demand (Talisson Minerals 2008a)

Figure 1 has been removed due to third party copyright. The unabridged version of the thesis can be viewed at the Lanchester Library, Coventry University

The price of tantalum is determined by the tantalum oxide ( $Ta_2O_5$ ) content, which ranges from 10 percent to over 60 percent (TIC 2009). The price is usually negotiated between buyers and sellers with long-term contracts without being published; however, a spot market for tantalum exists, especially when the demand is high or supply is low (Mining Journal 2007). Although the price soared from between USD18 and USD20 per pound in 1998 to USD300 per pound in 2000, due to the 'IT tech bubble' (Ruffini 2008), which caused a 'coltan boom' between November 2000 and March 2001 in the DRC, it shrank to normal level of USD30 to USD40 per pound in October 2001 (Hayes and Burge 2003). This price drop is explained by both an increase in supply and a decrease in demand. The increased supply came from additional outputs in Australia and a sale of tantalum stockpiles by the US Defence Logistics Agency (DLA), which operates under the US Ministry of Defence, in December 2000 (Cuvelier and Raeymaekers 2002b).<sup>120</sup> Many coltan-using companies suspended purchases of tantalum from the DRC

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<sup>120</sup> The US DLA was selling its tantalum stockpiles from the Cold War period at 500,000 pounds a year, however, it had stopped the sale when the stockpiles run out in 2006 (Miningmx 2007; Ruffini 2008).

around the time when the UN Panel of Experts' reports were released between 2001 and 2002,<sup>121</sup> as discussed in more detail in Chapter Six. The 'coltan boom' (Redmond 2001) was thus short lived, and the tantalum price had remained stable at around USD50 per pound since the 'coltan boom'.

### 5.2.3. Supply

The major sources of tantalum include areas in Australia, Brazil, Canada, China, Ethiopia and central and southern Africa (Mining Journal 2007). Talison Minerals Pty Ltd, formally Sons of Gwalia Ltd, in Western Australia, was the world's largest tantalum concentrate supplier and supplied about a third of the tantalum in the world (Mineweb 2008). The company suspended its operations in the Wodgina mine on 26 November 2008, due to weak demand caused by the global financial crisis and a continuing tendency for cost reduction in the electronics supply chain, which could be served by low-cost tantalum from the DRC (Talison Minerals 2008b). According to an industry expert (Roskill 2009), the reason behind the suspension was a failed attempt in negotiation to increase the contract price with its clients, who were facing a weakened demand and a cheap supply available from central Africa and large raw material stocks. In addition, Noventa's Marropino mine in Mozambique was suspended (Noventa 2009) in May 2009, owing to a lack of investment (Biesheuvel 2009), as well as Tanco's mine in Canada (Mineweb 2009). Altogether, almost 40 percent of primary tantalum supply has been reduced (Roskill 2009).

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<sup>121</sup> UNSC (2001a; 2001b; 2002a; 2002b).

Figure 2: Tantalum primary production in 2008(f) (Talisson Minerals 2008a)

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There is a claim that cheap raw materials from artisanal production in the eastern DRC have been fulfilling the need for various electronic goods over the last ten years (Mantz 2008: 44), particularly because the DRC is considered to possess 80 percent of the world's coltan reserve.<sup>122</sup> There are different estimates of the coltan supply from the DRC, owing to the absence of reliable or accurate records from the DRC. The US Geological Survey (USGS 2009b) estimates that 70,548 pounds of tantalum content were supplied from the DRC in 2007. Another source estimates that the supply of 259,000 pounds per year came from small artisanal mining operations in Zimbabwe, Mozambique, the DRC, Nigeria and Namibia (Ruffini 2008). Because there are no reliable or accurate statistics on tantalum production or supply from the

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<sup>122</sup> This figure appears in a book chapter by Moyroud and Katunga (2002: 159) and has been quoted in numerous studies, however, the original source of this figure is unknown. The German Federal Institute for Geosciences and Natural Resources (BGR) estimates that 25-65 percent of the world's coltan reserve is in the DRC, stretching into Rwanda and Uganda (Garrett 2007). These figures are, nonetheless, not likely to be accurate because of the lack of modern geological surveying in the DRC (ibid.; D'Souza 2009).

DRC, all figures relating to tantalum supply from the DRC are 'guesstimates'.<sup>123</sup>

Figure 3: Tantalum ore production in Africa (Franken 2009: 7)

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There are also other sources of tantalum including scrap and recycled tantalum, surpluses and tin slag. Whilst tantalum processors try to obtain tantalum from scrap and other secondary sources due to the abovementioned decrease in primary tantalum supply (Roskill 2009), tantalum supply from scrap and recycling is also declining, owing to the difficulty in extracting tantalum from extremely small circuit board chips (Ruffini 2008). There is, therefore, a likelihood of an acute supply shortage in the near future when demand recovers (Mineweb 2009; Minor Metals 2009). The challenge for primary tantalum suppliers will be the increasing mining operation costs and the stagnant tantalum price imposed by the cost reduction strategies of the electronics supply chain (Talison Minerals 2008a).

Figure 4: Tantalum supply sources in 2008 (Source: Talison Minerals 2008a)

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<sup>123</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

Figure 4 has been removed due to third party copyright. The unabridged version of the thesis can be viewed at the Lanchester Library, Coventry University

### 5.3. Artisanal coltan mining in the eastern DRC

The World Bank published a report on the mining sector in the DRC in 2008. According to the report (World Bank 2008a), 90 percent of the mineral production is considered to be mined by artisanal miners in the DRC, who are estimated to number between 500,000 and 2,000,000. The artisanal mining sector in the DRC thus provides a livelihood for 14–16 percent of the total population. The report sums up that the artisanal mining in the DRC is:

the largest segment of the DRC mining sector and the one that has the highest impact in terms of production as well as persons involved. This sector is dominated by a number of problem areas, including relations between artisans and large-scale miners; exploitation of vulnerable populations; extortion by government officials and criminal elements; lack of health, safety, and environment protection; and inadequate legal protection and government assistance for the miners.

(ibid.: 56)

The rest of this section examines artisanal coltan mining in the eastern DRC, in terms of its method, background, legislative environment and impacts.

### 5.3.1. Artisanal coltan mining in the eastern DRC

Coltan deposits exist in the provinces of North Kivu, South Kivu, Maniema, Orientale and Katanga in the DRC (Fetherston 2004, cited in USGS 2009b), often together with or close to deposits of cassiterite (tin) and wolframite (tungsten) (USGS 2009a). According to a recent interactive map of mines in the eastern DRC, created by the International Peace Information Service (IPIS 2009), there are approximately 200 mines for various minerals in the Kivus, of which 13 are major mines.<sup>124</sup> Whilst the DRC is believed to have more deposits and greater potential, these areas have not undergone modern geological exploration, largely owing to the wars and conflict, and thus exact potential deposits are unknown (Enough 2009b).<sup>125</sup>

Artisanal coltan mining occurs in rivers, open cast or underground, and in soft rock deposits (Redmond 2001; Levin 2008d; Garrett 2009). The process includes removing vegetation and surface, digging up stones and rocks containing coltan, and crushing and washing them in water in order to remove impurity (Redmond 2001; Hayes and Burge 2003; Jackson 2003; Levin 2008d). Most of the mines in these areas are only suitable for artisanal mining because of soft rocks (Garrett 2009; Garrett and Mitchell 2009a).

The hazardous and exploitative nature of artisanal mining in the eastern DRC has been highlighted by various media and reports.<sup>126</sup> They convey typical stories of miners (*creuseurs*) who scratch inside fragile narrow pits or in a river in inhumane conditions, without any sanitation systems or protection, and earn a meagre income after being extorted by armed groups, the national

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<sup>124</sup> Amongst the thirteen major mines, twelve mines are under the control of armed groups. The major mines are identified as Minembwe, Misisi, Mpofi, Bisie, Gakombe, Bwina, Benzia, Wamiti, Lugushwa, Kinyinya Millimani, Ihana group, Bibatama – River Gauche, and Mugerero, and there are more than 500 workers at each mine site. The interactive map of militarised mining areas in the Kivus (August 2009) can be viewed online at <http://www.ipisresearch.be/maps/MiMiKi/Areas/web/index.html>.

<sup>125</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

<sup>126</sup> For example, Channel 4 (2008); Guardian Weekly (2008); World Bank (2008a); Global Witness (2009c).

army and government officials surrounding the mines. The income of artisanal miners in the Kivus is estimated to be much smaller than those in other provinces, ranging from between USD2 and USD10 per day (INICA 2007a) to USD800 per year, owing to extortion by numerous actors and the smaller value of minerals produced in the Kivus (World Bank 2008a).

### 5.3.2. Historical background of artisanal coltan mining

Coltan was originally found in the Kivus in 1910, but was only extracted as a minor by-product of cassiterite until the 1990s (Amnesty International 2003; World Bank 2008a). Based on this, some assume that artisanal coltan mining began in the area in the 1990s.<sup>127</sup> This partly explains the historical events relevant for artisanal coltan mining in the eastern DRC, which overlap with the previous chapter on the DRC conflict.

The 1966 Bakajika Law to change the ownership of all land and mineral rights to the Zairian state, mentioned in the previous chapter (section 4.2.), was followed by the nationalisation of a Belgian-owned private mining company, the UMHK (*Union Minière du Haut-Katanga*) in 1967, turning it into a 100 percent state-owned mining company, Gécamines (*Générale des carriers et des mines*). Whilst there was a period of economic growth and high copper prices between 1968 and 1974, the country then entered an economic crisis, following the 1973 Zairianisation of all foreign-owned businesses, a decline of copper prices in 1974, unsuccessful public investments, a rise in the price of oil, and a disruption of mineral exports owing to the Angolan civil war (MacGaffey 1991). As the country went into a deeper economic crisis in the 1980s, despite various efforts being made, government capacity had also deteriorated, and fiscal and liberalisation reforms were introduced (ibid.). In 1983, artisanal mining was officially permitted in order to legalise artisanal mining by the Zairian state, which 'was increasingly powerless to control the circuits of mineral production in the informal economy' and under pressure

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<sup>127</sup> Jackson (2003) mentions it was in 1996. Global Witness (2004) assumes it was when the refugees from the 1994 Rwandan genocide arrived, after the cease of production in the end of Mobutu era.



from the IMF (Zeilig 2009: 226). The informal cross-border trade in minerals as a means of survival expanded considerably throughout the 1980s and 1990s (Johnson and Tegera 2005; Custers *et al.* 2009), as detailed in the subsequent section. It is important to note that the cessation of large-scale industrial mining production has transformed the mining sector into artisanal mining production over the three decades (Garrett 2007).

Prior to the first Congo War, there were two key mining companies operating in the Kivus. Firstly, a Belgian-Zairian mining company, SOMINKI (*Société Minière et Industrielle du Kivu*), was established in 1976, through a merger of several Belgian mining companies which had existed since colonial times (Tegera *et al.* 2002). SOMINKI owned most of the significant mining concessions in eastern Zaïre for gold, cassiterite and coltan. It permitted controlled artisanal mining in its mining concessions when it was forced to close its industrial mining operations during the economic crisis in the 1980s.

SOMINKI went through an upheaval, including several changes of ownership and a state collapse and was eventually liquidated on 29 March 1997 when its shares were largely owned by SAKIMA (*Société Aurifère de Kivu et Maniema*), a subsidiary of the Canadian Banro Group. Banro and the Congolese government, headed by Laurent-Désiré Kabila, had legal disputes over the ownership of SOMINKI since the AFDL, led by Kabila, was controlling SOMINKI concessions. Kabila, however, cancelled a deal made with Banro and set up a state company called SOMICO (*Société Minière du Congo*), headed by a Kivu traditional ruler, to take over the former SOMINKI. Subsequently, the second Congo War began, and the RCD-Goma seized power in the eastern DRC in 1998. The RCD-Goma received support from subsidiaries of Banro and took control of mining concessions belonging to SOMINKI and a traditional ruler in the area. The RCD-Goma considered SOMINKI as abandoned property, since 42 of the 47 concession titles had expired between 1998 and 2000, and granted the concessions to the Congo Holding Development Company and MEDIVAL.

In 2001, the Congolese government acknowledged that Banro, through its subsidiary SAKIMA, had legal ownership of SOMINKI's former concessions. While the disputes over the ownership of SOMINKI's former concessions were settled legally, the geographical area, where these concessions were located, was under the authority of the RCD-Goma, and the expired titles reverted to the RCD-Goma authorities.

Secondly, a company called SOMIKIVU (*Société Minière du Kivu*) was established in 1982 (Johnson and Tegera 2005), with the ownership of a German company GfE, which was 100 percent owned by a US firm, Metallurg, the Zairian government and SOMINKI. SOMIKIVU's key operation was the mining of niobium, a metallic element extracted from columbite in coltan (columbite-tantalite), in the Luheshe mine in North Kivu. Although GfE handed over its shares to a local German director, Karl-Heinz Albers, in 1993, Albers left GfE and set up his own trading firm called Masingiro in 1996, in order to export coltan and niobium from North Kivu. Laurent Kabila's government decided to liberate the Luheshe mine and dissolve SOMIKIVU in 1998. The RCD-Goma, nonetheless, started a mining operation under the management of Albers in 1999 after it took control of the eastern DRC in August 1998. The RCD-Goma provided armed protection for the operation of the Luheshe mine, in return for economic support. Coltan produced in the Luheshe mine was handled by the aforementioned Masingiro and exported through a trading company, GBC. GBC purportedly exported around 50 percent of coltan from the eastern DRC in 2000 to clients abroad, including H.C. Starck, the Cabot Corporation and the NNMS (Tegera *et al.* 2002). At the same time, Laurent Kabila's government cancelled all the SOMIKIVU concessions and granted them to an Australian firm in 1999.

The above two cases of SOMINKI and SOMIKIVU illustrate the conflicts over mine ownership, involving the government, rebel groups and private companies. These conflicts occurred largely because of the duplications of mine ownership since the area was not controlled by the central government, and mining legislation was not adequate. The following sub-section examines mining legislation in the DRC in relation to artisanal mining.

### 5.3.3. Legislative environment for artisanal mining

Artisanal mining was by and large neglected in the previous mining legislation (INICA 2007b), despite having been permitted by the Mobutu government in 1983.<sup>128</sup> New mining legislation governing mineral extraction and trading, the Mining Code of 11 July 2002<sup>129</sup> and the Mining Regulation of 26 March 2003,<sup>130</sup> were developed by the Ministry of Mines and Hydrocarbons with the support of the World Bank. It aimed 'to create a stable investment environment for companies investing in the DRC, providing them with security of title and certainty of process' in order to increase state revenues to rebuild the country (INICA 2007b: 33).

The Mining Code was created after Joseph Kabila became the head of Kinshasa government, following the assassination of Laurent-Désiré Kabila in January 2001 (Johnson and Tegera 2005). The Mining Code was drafted by World Bank consultants within the framework of an economic reform programme, the Programme Intérimaire Renforcé (PIR), which the Kinshasa government started in 2001. On completion, the PIR was replaced by the Programme Économique du Gouvernement (PEG) for 2002–2005, and the Kinshasa government restored international cooperation in 2002. As all these events, including the enactment of the Mining Code, took place before the peace agreements were signed,<sup>131</sup> and when half of the country was controlled by various rebel groups, they were not initiatives of the transitional government that was formed in 2003.

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<sup>128</sup> For details, see the section 5.3.2..

<sup>129</sup> Official Document of the Democratic Republic of Congo, LAW No. 007/2002 of JULY 11, 2002 RELATING TO THE MINING CODE, downloaded from [www.unites.uqam.ca/grama/pdf/DRC2002.pdf](http://www.unites.uqam.ca/grama/pdf/DRC2002.pdf) on 12/11/2009.

<sup>130</sup> Decree No. 038/2003 of 26 March 2003 or DECRET N°038/2003 DU 26 mars 2003 PORTANT REGLEMENT MINIER, downloaded from <http://www.droit-afrique.com/images/textes/RDC/RDC%20-%20R%E9glement%20minier%202003.pdf> on 12/11/2009.

<sup>131</sup> These peace agreements include the Sun City Agreement of 19 April 2002, the Pretoria Accord of 30 July 2002, the Luanda Agreement of 6 September 2002 and the Global and All-Inclusive Agreement of 17 December 2002, prior to the formation of the transitional government in 18 July 2003. Chapter Four details those peace agreements.

According to the 2002 Mining Code, it is the state that possesses all deposits of minerals and can grant mining and exploration rights, and holders of mining or exploration rights obtain the ownership of products for sale.<sup>132</sup> Mining and exploration rights must be distinguished from surface rights, which are regulated by the land law<sup>133</sup> as follows:

[T]he state has the exclusive, inalienable and imprescriptible property of the land. The state can grant surface rights to private or public parties ... Surface rights do not entail the right to exploit the mineral substances of the soil or subsoil and, inversely, a mining right does not entail any surface occupation right over the surface (André-Dumont and Carbonez 2009: 45).

These two different laws create confusions and conflicts, as more than one party can claim the ownership of the same land, in addition to the land ownership through the customary land tenure system<sup>134</sup> on the ground (Garrett 2007).

The 2002 Mining Code states that: the president has jurisdiction over the classification of mineral substances and the designation of areas out of bounds for mining;<sup>135</sup> the Mining Minister is tasked with granting mining rights, authorising trading and export, and creating artisanal mining zones<sup>136</sup>; the Provincial Governor issues traders' cards for artisanal mining products; and the Provincial Mining Division issues artisanal miners' cards.<sup>137</sup>

The 2002 Mining Code is distinct from the previous mining legislation in providing a clear division between industrial and artisanal mining (Johnson and Tegera 2005). The code states that a 'mining perimeter covered by a valid mining title cannot be transformed into an artisanal mining area ... As long as an artisanal mining area exists, no mining titles can be granted over

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<sup>132</sup> Article 3.

<sup>133</sup> Law No. 73-021 of July 1973.

<sup>134</sup> For details on the customary land tenure system see the section 4.3..

<sup>135</sup> Article 9.

<sup>136</sup> Article 10.

<sup>137</sup> Article 12.

the area, except for an exploration licence applied for by a group of artisanal miners who are working in the area'.<sup>138</sup> Whilst artisanal miners do not have legal mining rights, artisanal miners, who are Congolese nationals, can pay USD25 to receive a one-year Artisanal Exploitation Card (*carte de creseur*) from the Provincial Mining Division and mine within a designated zone for artisanal exploitation (INICA 2007b). Similarly, Congolese nationals can apply to the Provincial Governor for a traders' card in order to purchase artisanal mining products.<sup>139</sup>

As such, the code intends to regulate mineral extraction and trading in order to formalise the informal economy in artisanal mining, as one of the key elements of the transitional government's mining policy (Johnson and Tegera 2005). The mining policy also attempts to create legal security and necessary conditions for investors through reviewing existing mining contracts and concessions, restructuring existing parastatals in the mining sector, and certifying mineral exports from the DRC through the Kimberley Process Certification Scheme (KPCS)<sup>140</sup> for diamonds and adaptations of the KPCS for other minerals (*ibid.*).

In reality, the 2002 Mining Code does not appear to be effective for the artisanal mining sector in the DRC for three reasons. Firstly, provisions for the artisanal mining sector are not practical. For example, few artisanal miners possess an Artisanal Exploitation Card, mainly because of the obstacles they face in obtaining the card, including fees, a written exam to pass, a requirement to undertake training and various obligations with which to comply<sup>141</sup> (INICA 2007b). Moreover, designated artisanal mining areas have not been established in the Kivus, despite requests made by artisanal and small-scale miners (*ibid.*). The government (Ministry of Mines) is not likely to provide artisanal mining areas because the area has not had a modern

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<sup>138</sup> Article 109.

<sup>139</sup> Article 116-120.

<sup>140</sup> For details on the KPCS, see the section 7.2..

<sup>141</sup> These obligations include protecting and restoring the environment and ensuring health and safety (INICA 2007b).

exploration and there could be deposits to attract large mining investments.<sup>142</sup> Secondly, the code does not clarify how to address the issue of ongoing artisanal mining in industrial mining areas, or how to settle disputes over mine ownership (Johnson and Tegera 2005). Lastly, there is a serious problem in the enforcement of the code, and the timetable for the application of the Mining Code has not been followed (ibid.). Although the code clarifies that the military does not play a role in providing security in mining areas<sup>143</sup> and the authority assured to address insecurity caused by military personnel in mining areas (IPIS 2007), the military remains largely present in those areas. In addition, as artisanal mining activities often occur in isolated and remote areas, they tend to remain informal and subsidiary (INICA 2007b). The underlying issue for the lack of enforcement is that the code has been set up by the central government located in the western DRC without understanding the reality in the eastern DRC, providing judicial and financial means to enforce the code, or addressing its contradictions with other legislation (Jonson and Tegera 2005).

Consequently, the 2002 Mining Code has been criticised for being unrealistic and encouraging fraud (Johnson and Tegera 2005; Garrett 2007; INICA 2007b). The inadequate provisions for the artisanal mining sector make artisanal mining illegal and unregulated and do not provide any legal protection for artisanal mining communities (Garrett 2007). While the code's 'international best standard' (IPIS 2007) made the acquisition of mining rights 'laughably easy' for industry mining, it does not improve natural resource management (Johnson and Tegera 2005: 57) and artisanal mining communities are largely neglected in the design of the code (Johnson and Tegera 2005)<sup>144</sup> as they are considered to be trivial in terms of their economic output (Johnson and Tegera 2005) despite the fact that 90 percent of minerals in the DRC are produced by the artisanal mining sector (World Bank 2008a). Above all, the code does not provide solutions to conflicts over mine

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<sup>142</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

<sup>143</sup> Article 16.

<sup>144</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

ownership, or confusions with other contradicting legislation, hence it does not improve security in mining areas.

#### 5.3.4. Impact of artisanal coltan mining

The last two sub-sections have explained why illegal, unregulated and dangerous artisanal coltan mining has been widespread in the eastern DRC. In sum, there is a lack of alternative livelihood, owing to the collapse of the formal economy since the economic crisis in 1970s and the ongoing conflict and insecurity since 1996. Moreover, the inadequate legislation leaves the artisanal mining sector largely illegal and unregulated and hence creates considerable negative impacts. This sub-section identifies the impact of artisanal coltan mining in the eastern DRC.

Firstly, the environmental impact in the area has been considerable (Redmond 2001; Moyroud and Katunga 2002; Garrett 2009), especially in the Kahuzi-Biega National Park, where 75 percent of the coltan deposits are located (Levin 2008d). Forest clearance for mining, making mining camps and tools and cooking, the pollution of streams from washing minerals and tailing, especially with mercury and other toxins, and miners eating bush meat have caused a significant change in the biodiversity. In addition, the unprotected land surface has caused landslides.

Artisanal coltan mining has also produced an incalculable socio-economic impact in the area (Redmond 2001; Tegera *et al.* 2002; Amnesty International 2003; Jackson 2003). Agricultural production has dramatically declined and caused a food crisis since a significant number of the local population, including children, have left agriculture and moved to mining, or have been forced to mine in some cases, especially during the coltan boom (Tegera *et al.* 2002; Amnesty International 2003; Jackson 2003). The influx of people to the mining areas has caused conflicts with the local population and inflation in the area (Garrett 2007). According to an estimate, about 40 percent of the people around mines are children and about 20 percent are women (World Bank 2008a). Inevitably, school attendance has declined, and livelihoods have

changed. Health and safety issues are the main concern in the mining areas because of accidents and respiratory illness from the dust. Social problems such as drinking, drugs, crimes, prostitution, sexual abuse, HIV/AIDS and sexually transmitted diseases have also increased in the mining areas. In addition, radioactivity from coltan is considered to have caused respiratory problems and led to deformed or stillborn babies being born in the mining communities (Amnesty International 2003); however, the issue of radioactivity has been largely neglected in the recent research.

In addition to the environmental and socio-economic issues above, there is a security concern posed by the presence and involvement of various armed groups and the national army in artisanal coltan mining (UNSC 2001a; 2001b; 2002a; 2002b; Raeymaekers 2002; Amnesty International 2003; Jackson 2003; Global Witness 2004; 2009c; World Bank 2008a; Garrett and Mitchell 2009b). This affects the artisanal mining communities severely, in particular because artisanal miners are not protected legally under the current Mining Code, as examined in the previous section. Various illegal taxes are often extorted from poor artisanal miners, and they are 'kept to [their] little hole' without having access to markets or trading houses (Johnson and Tegera 2005: 24). It is often the traders who benefit from having access to the international market and buyers; the local population, especially artisanal mining communities, do not benefit significantly from artisanal coltan mining and trade (Tegera *et al.* 2002; Johnson and Tegera 2005; Garrett and Mitchell 2009a) but suffer from environmental damage, socio-economic problems and insecurity (Johnson and Tegera 2005). Despite the considerable negative impact, artisanal mining can provide a quick or the only livelihood without any capital or education for the local population in an insecure and unstable environment (Durban Process 2006b). The engagement of the local population in dangerous artisanal mining manifests the human insecurity in the eastern DRC, as artisanal mining is the 'industry of last resort' (Material World 2005).

#### 5.4. Coltan trade in the eastern DRC and beyond



This section begins by contextualising the coltan trade chain in the history of informal economy in the DRC, cross-border trade in particular. It then examines the coltan trade chain and the involvement of armed groups during the second Congo War and the post-war period.

#### 5.4.1. Informal cross-border trade in the region

The size of the informal economy in the DRC has been significant, and the anthropological study on the Congolese 'real economy' by MacGaffey (1991) estimated the size to be as high as three times the size of the official GDP. Similarly, a recent study on the natural resource trade in the Great Lakes Region (DFID 2007) estimates that more than half of exports from the DRC are not officially recorded, owing to under-declared exports for tax evasion and the lack of capacity and weak governance within the state institutions in the DRC. The tax gap in 2005, resulting from the ongoing informal cross-border trade in minerals, is considered to amount to USD35 million or nearly USD170 million if mining taxes are included (World Bank 2007b cited in IPIS 2007: 2).<sup>145</sup> The degree of informality within the mining and trade sectors encourages illegal operations, since formal operations are more difficult to carry out (*ibid*). This corresponds to the 'Doing Business' ranking, mentioned in the introduction of this thesis, which rated the DRC 178<sup>th</sup> out of 178 states for its regulatory environment for business and investment (World Bank 2007a).

The extent of informal cross-border trade in the DRC is, however, not a new phenomenon (MacGaffey 1991; Putzel *et al* 2008; Raeymaekers 2009). As the preceding chapter (section 4.2.1.) has explained, the collapse of the formal economy in the 1970s facilitated the expansion of the informal economy in the DRC. Moreover, the Congolese population has been taking matters into their own hands throughout the colonial and post-colonial period

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<sup>145</sup> World Bank (2007b) 'DRC, Growth with Governance in the Mining Sector' is an action plan for the DRC mining sector, and was presented at the 'World Bank and DR Congo, Mining Session' meeting in Paris on 30 November 2007.

(MacGaffey 1991; Vwakyanakazi 1991; Johnson and Tegera 2005; IPIS 2009; Raeymaekers 2009b). In De Soto's words (1989: 55):

[P]eople are capable of violating a system which does not accept them, not so that they can live in anarchy but so that they can build a different system which respects a minimum of essential rights.

However, informal cross-border trade in the DRC is understudied,<sup>146</sup> partly owing to the difficulties of conducting research on second economy activities and in the DRC (MacGaffey 1991).

Historically, the exchange of different resources between natural regions had developed trade routes throughout Africa, and the trade continued despite restrictions imposed by colonial administrations (MacGaffey 1991). The peasantisation and peripheralisation policies that were enforced by the Belgian administration in the Kivus<sup>147</sup> meant that the area was brought into a capitalist world system, merely to provide food to mining areas and cities and labour to plantations (Sosne 1979). After independence in 1960, faced with no possibility of marketing or uprooting the tea and coffee introduced for the plantations,<sup>148</sup> the local population started selling tea and coffee to Rwandan traders clandestinely (ibid.). Two studies on the informal cross-border trade from North Kivu are introduced in the following sections to illustrate the long-standing structure of informal cross-border trade.

According to a study on the territories of Beni and Lubero in North Kivu, bordering with Uganda (Raeymaekers 2009b), some Nande inhabitants became petty traders during the colonial period, and started to sell local

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<sup>146</sup> Studies that are conducted on the informal cross-border trade in the eastern DRC are limited. This research identified: MacGaffey *et al.* (1991); Kisangani (1998); DFID (2007); INICA (2007a; 2007b); Raeymaekers (2009a; 2009b).

<sup>147</sup> Throughout the colonial period, no investment was committed to infrastructure development, including roads, ports, storages, electricity and water, and forced labours were barely paid, in order to secure profits for the planters through peasantisation of the populations (Sosne 1979). Concomitantly, the area was cut off from the Congo exchange network and the rest of the world, to be peripheralised (ibid.).

<sup>148</sup> The capacity to process tea and coffee domestically was insufficient, but peasants were prohibited to kill the tea bushes and coffee trees or market tea and coffee legally (Sosne 1979).

agricultural products to urban areas. Their position resembled local chiefs, and they benefitted from the colonial peasantisation and peripheralisation policies in the economic and political exploitation of the rural populations (MacGaffey 1987; 1991; Raeymaekers 2009b). When state control declined after independence, those traders expanded their activities, which resulted in a real smuggling economy reaching Sudan, Uganda, Rwanda, Kenya, Tanzania and east Asia during the 1970s and 1980s (Raeymaekers 2009b).

Another study was conducted in the towns of Goma, Butembo and Beni in 1987 (Vwakyanakazi 1991), which, while being unable to collect complete statistics, confirmed that the main trade routes from North Kivu covers Uganda, Sudan, Rwanda, Kenya and the Indian Ocean, though only big traders were able to smuggle to foreign countries. There are a number of border crossings in North Kivu, and the populations on both sides are associated linguistically and culturally. It is difficult to identify all the commodities that are exported informally, but gold, ivory, coffee, papain, tea and cinchona were listed as the key commodities, amongst which ivory was the most valuable. In Beni and Lubero, the main commodities were gold, cassiterite and wolframite, although the UN Panel of Experts claimed that informal cross-border trade in this region had been exercised for exchanges in consumer goods and petroleum products rather than minerals (UNSC 2001b). The trade in gold, often with Nairobi, enabled the traders to bring in scarce products that were not obtainable in these isolated areas.

As such, the Kivus have been eminent as one of the primary regions for smuggling in the DRC (Vwakyanakazi 1991). This is because: the Kivus have rich mineral resources and agricultural products available in the area; the geographical location of the Kivus is linked more closely to the neighbouring countries, namely Uganda, Rwanda, Burundi, Kenya, Sudan and Tanzania, rather than the rest of the country; and the Kivus enjoy certain political and economic autonomy from Kinshasa, which is 2,000km away (MacGaffey 1991; Vlassenroot and Romkema 2002). While this type of economy flourishes in 'a troubled socio-economic environment' (Vwakyanakazi 1991: 65), the informal cross-border trade is conditioned by supply and demand,

local and international transportation, and political and economic conditions in neighbouring countries (MacGaffey 1991). The local population engages in informal cross-border trade because of insufficient wages, unemployment and the inefficiency of the formal system (MacGaffey 1987).

The informal cross-border trade depends on the complicity of officials (MacGaffey 1991; Vwakyankazi 1991; Raeymaekers 2009b) and a reliance on personal ties (MacGaffey 1991; Kisangani 1998). Personal ties provide mutual trust and obligation in transactions (Kisangani 1998) to compensate for the reliability and predictability that are absent in the unofficial system (MacGaffey 1991). They can be based on patron-client, family, kinship or ethnic ties, but ethnicity and knowledge of local language facilitate access to smuggling chains (MacGaffey 1991). Moreover, it is often observed that people switch their roles between official and unofficial (Raeymaekers 2009b), which results in a trade chain comprising a varying degree of both formality and illegality (MacGaffey 1991; Vwakyankazi 1991).

The significant development of the informal economy has contributed to the creation of a new local capitalist class amongst government officials at all levels in the DRC (MacGaffey 1991). This dominant class tends to serve its own interests and deprives opportunities for others (MacGaffey 1991; Kisangani 1998). Huge vested interests within this dominant class prevent any efforts for reforms, as the 1983 liberalisation reforms and deregulation of some businesses had failed to reduce the informal economy, particularly in smuggling of minerals (MacGaffey 1991; Vwakyankazi 1991; Kisangani 1998). This failure was more evident in rural areas that are far from the capital (MacGaffey 1991). In this way, the informal economy efficiently decreases the state capacity to control the economy through applying regulations, taxation and border controls (MacGaffey 1991). Furthermore, this type of economy is governed by politics rather than markets, as the dominant class often secures its position by being able to provide its services, supports and opportunities in various manners (MacGaffey 1991). This situation can be described as pseudo-capitalism (Sangmpam 1994), or mercantilism (MacGaffey 1991), in which political status is often maintained through the distribution of resources.

#### 5.4.2. The coltan trade chain during the second Congo War

##### *The trade chain*

Numerous studies conducted during the second Congo War established that the coltan trade chain in the DRC was highly complex with a large number of actors involved.<sup>149</sup> This is partly explained by the remoteness of mines from trading cities and the lack of infrastructure, including roads (Jackson 2003).

In a simplified coltan trade chain, coltan-bearing ores, which are mined by diggers with artisanal methods, as explained in the previous section, were brought to local markets by porters (*ibid.*). Middlemen, or *négotiants*, purchased the ores from the local markets and arranged transport of the ores for trading houses, or *comptoirs*, based in large cities, such as Goma, Bukavu or Kigali, the Rwandan capital (*ibid.*). A frequent traffic of small aircraft, carrying minerals from the airstrips in mining areas to airports, was observed during the second Congo War (Redmond 2001; Cuvelier and Raeymaekers 2002a; Jackson 2003). When the coltan ores reached those large cities, the *comptoirs* pre-concentrated the ores, and exported them abroad using international cargo, even without an export licence (Cuvelier and Raeymaekers 2002a; Amnesty International 2003; Hayes and Burge 2003; Jackson 2003; Global Witness 2004).

The main trade route for coltan during the second Congo War was by air from Kigali to Europe, primarily Ostende and Antwerp (Belgium), or from Kigali to Mombasa (Kenya) or Dar es Salaam (Tanzania), and then to Ostende and Antwerp by sea (UNSC 2001b). Whilst a large amount of coltan was transported from there to Hamburg in Germany, some was transported further to a tantalum processing plant in Kazakhstan (*ibid.*).<sup>150</sup> Another study suggests that destinations included Malaysia, Germany, Switzerland, the

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<sup>149</sup> Some examples include Hayes and Burge (2003) and Jackson (2003).

<sup>150</sup> Details of this 'Kazakh Connection' are explained in Raeymaekers (2002).

Netherlands, Belgium, the United Kingdom, India, Pakistan, the United States and Russia (Global Witness 2004).

*The involvement of armed groups*

A key issue of the coltan trade chain was identified to be the involvement of armed groups, who financed their war effort and violence with and profited from the coltan trade, especially from the remarkable increase in the coltan price after 2000. The first Congo War in 1996 appeared to have led to the illegal exploitation of natural resources by foreigners with Congolese support, and brought in ‘a first wave of “new businessmen”’, who spoke only English, Kinyarwanda and Kiswahili, in the eastern DRC, where the AFDL took control (UNSC 2001a: 6–7). This operation is, therefore, considered as having given ‘a strong sense of the potential’ in the eastern DRC to Uganda and Rwanda prior to the second Congo War in 1998, and motivated them, particularly Uganda, to invade the DRC again (ibid.). Rwanda, however, entered the DRC for security reasons; whether it had predetermined economic motivation from the experience of the first Congo War has not been verified (UNSC 2001b).

The UN Panel of Experts (UNSC 2002b: 16) stated in 2002 that ‘no coltan exits from the eastern Democratic Republic of the Congo without benefitting either the rebel group or foreign armies’ (UNSC 2002b: 16). Whilst various armed groups and troops, both foreign and Congolese, occupied different parts of the country throughout the second Congo War, the RCD (or the RCD-Goma after May 1999) and the Rwandan army controlled a large part of the Kivus since the RCD took power in the eastern DRC in August 1998, as detailed in the preceding chapter. The actors linked to Rwanda and the RCD/RCD-Goma thus largely controlled the coltan exploitation and trade in the Kivus during this period (Cuvelier and Raeymaekers 2002a; Amnesty International 2003; Jackson 2003).

Although the warring parties sometimes fought to capture mineral rich areas in order to deprive their opponent (UNSC 2001a; 2002a), the objectives of the warring parties were considered to have shifted from the political to the

economic (Cuvelier and Raeymaekers 2002b) as the profits from the resources became a 'prime motive' for self-financing military campaigns and self-enrichment (UNSC 2001b). The UN Panel of Experts thus concluded that there is a link between the persistence of the conflict and the resource exploitation (ibid.). This view is supported by the facts, including the huge profits from the resources (UNSC 2001b; Cuvelier and Raeymaekers 2002b) and the collaboration between apparent military enemies (Amnesty International 2003; Jackson 2003).

According to some studies, these actors, linked to Rwanda, were involved in the confiscation of production, the operation of mining concessions, imposing monopolies and price-fixing, and the use of child labour and forced labour (UNSC 2001a; Cuvelier and Raeymaekers 2002a; Amnesty International 2003; Hayes and Burge 2003; Jackson 2003), even including prisoners (UNSC 2001a; Amnesty International 2003). At the outset, the Rwandan occupying force looted seven years' worth of coltan stock from the aforementioned mining company, SOMINKI, before starting extraction of coltan in the area (UNSC 2001a). It then developed a structure of 'systematic and systemic exploitation', resulting in 'unprecedented control of the economy' of the eastern DRC (UNSC 2001a: 13). The pre-existing traditional trade chain, which was 'through locally based Congolese, mostly civilian-managed, business operation' (UNSC 2001a: 6), was completely changed to a new power structure, following the occupation by the AFDL in 1996. Accordingly, means of the transportation of goods were changed from roads and lakes to aircraft, operated by emerging transportation companies, during the second Congo War (UNSC 2001a).

The core of the above business structure was an administrative unit, known as the Congo Desk, established within the Department of External Relations of the RPA (UNSC 2001a). The Congo Desk controlled the exploitation and taxation, granted permission for monopoly operations in the RCD-Goma occupied area, and networked with clients in Europe (UNSC 2001a). The *comptoirs* in the occupied area, namely *Grands Lacs Metals* and *Rwanda Metals*, appeared to have direct connections with the RPA, and exported

coltan directly through the Congo Desk (UNSC 2001a; Amnesty International 2003). During the coltan boom,<sup>151</sup> the RCD-Goma and Rwandan authorities attempted to centralise their monopoly operations. In November 2000, the RCD-Goma granted an export monopoly to a *comptoir*, called SOMIGL (*Société des Mines des Grands Lacs*, Great Lakes Mining Company), in exchange for a monthly payment of USD1 million, until this was cancelled in April 2001 (UNSC 2001a; Amnesty International 2003; Jackson 2003). According to the RCD-Goma mining minister, the RCD-Goma adopted a monopoly strategy and withdrew export rights from all nineteen operating coltan trading companies, since most of them, though they were well-established and dominating the coltan trade, underestimated the quantity and value of coltan mined and traded for tax evasion (Tegera *et al.* 2002).

From the coltan sales, the RPA made between USD40 million (Cuvelier and Raeymaekers 2002b) and USD250 million (UNSC 2001a) over a period of 18 months, between late 1999 and mid-2001. It was enough to re-invest between 60 and 70 percent of the revenues (Cuvelier and Raeymaekers 2002b) in order to finance their war effort (UNSC 2001a; 2001b). The military monopoly of the coltan trade was enabled by the support of businesses. One study (Cuvelier and Raeymaekers 2002a) illustrated the role of European companies in supporting this military monopoly to sell coltan to international markets. According to the study, the RCD-Goma received USD600,000 in December 2000 alone from some Belgian companies through the SOMIGL monopoly, and more than USD3 million from a German company after the end of SOMIGL. There were also a number of joint ventures between European trading companies and senior Rwandan officials through the abovementioned *Rwanda Metals* and *Grands Lacs Metals*. Although the revenues from the coltan exploitation could support the RCD-Goma's military operations during the coltan boom (Global Witness 2004), they are considered to have benefitted the RPA and others, while depriving the RCD-Goma (Amnesty International 2003). When Rwanda attempted to increase its revenues by ending the coltan trade monopoly through the SOMIGL by force

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<sup>151</sup> Between November 2000 and March 2001.



in April 2001, the RCD-Goma was further deprived of tax revenues (UNSC 2002b).

The pre-existing private *comptoirs* operated underground during the coltan boom, and smuggled coltan to international markets to spoil the Rwandese monopoly (Amnesty International 2003; Hayes and Burge 2003; Jackson 2003). They were, however, forced out of business, following the steep price drop at the end of the coltan boom (Jackson 2003) and the withdrawal of the majority of the international coltan trading companies from the DRC (Cuvelier and Raeymaekers 2002b). Consequently, the lower ranks of the armed groups took over the place of those *comptoirs*, which consolidated the 'politico-military presence at all levels of the chain' (Jackson 2003: 29). Simultaneously, the RPA switched over their coltan traders to Congolese operators and moved some of their *comptoirs* from Bukavu and Goma in the Kivus to Cyangugu and Gisenyi in Rwanda, upon the release of the first UN Panel of Experts' report in April 2001 (UNSC 2001b).

The above consolidation of the politico-military trade structure during the war has made it possible for the Rwandan actors to continue the coltan trade (UNSC 2002a). This structure was not only maintained after the withdrawal of the Rwandan troops in late 2002<sup>152</sup> but also transformed to set up economic control mechanisms without a visible presence of the RPA, which was their new strategy (UNSC 2002b). More specifically, Rwanda: changed the Congolese directors of the parastatals to businessmen from Rwanda; switched the Congolese currency to the Rwandan currency; kept specially organised RPA brigades in civilian clothes in mining activities in place; reorganised the RCD-Goma forces in order to accommodate a large number of RPA soldiers in their army; and repatriated a large number of Congolese Tutsi refugees from Rwanda (ibid.).

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<sup>152</sup> The withdrawal of the Rwandan troops was as a result of the security protocol between Rwanda and the DRC, the Pretoria Accord, signed on 30 July 2002, as detailed in the preceding section 4.6.2..

The politico-military structure, therefore, established 'control over a range of commercial activities involving the exploitation of natural resources, diversion of taxes and other revenue generation activities' and was identified as one of the 'elite networks' in the DRC by the UN Panel of Experts (UNSC 2002b: 6–7). The elite network typically 'consist[s] of a small core of political and military elites and business persons', such as rebel leaders and officials (*ibid.*). They develop front enterprises, use rebel administrations, conduct a variety of criminal activities, collude with transnational criminal groups, and monopolise violence and means of production, trade and finance, in order to generate profits (*ibid.*). In Rwanda, the functions of their 'elite network' are managed centrally from the aforementioned Congo Desk to coordinate business and military activities (*ibid.*). Some other studies also recognised this structure and it was depicted, for example, as 'the emergence of a mafia economy' (Tegera *et al.* 2002).

The second Congo War, therefore, transformed the structure of the informal cross-border trade in minerals (Jackson 2003), which existed in the Kivus prior to the war.<sup>153</sup> It brought in new foreign actors with physical power at a significant level and confounded the existing informal economy (Tegera *et al.* 2002). It has also created conflict in the area with the legislative environment, which is conducive to confusions and conflicts over mine ownership (Tegera *et al.* 2002).<sup>154</sup> This new-found informal cross-border trade, nonetheless, has been providing critical livelihoods for the local population to survive since the beginning of the second Congo War (Vlassenroot and Romkema 2002) and lucrative commercial opportunities for certain people at the same time (Jackson 2003).

#### 5.4.3. The coltan trade chain after the second Congo War

The official end of the second Congo War and formulation of the transitional government in June 2003, based on the power-sharing agreement signed in

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<sup>153</sup> See details in the preceding section (5.4.1.).

<sup>154</sup> See details of the legislative environment for artisanal mining in the previous section (5.3.3.).

Pretoria in December 2002,<sup>155</sup> signified a harmonisation of legislation and regulations for the DRC mining sector. In theory, the 2002 Mining Code, detailed in the earlier section (5.3.3.), was applied to the entire country to resolve any conflicts or contradictions between various authorities. In the case of the eastern DRC, where the rebel groups had established themselves and their own administrative system, the politico-military structure created during the second Congo War remained intact in spite of the unification of the country (Johnson and Tegera 2005).

There were, however, changes in market conditions. The coltan boom had finished by the time the second Congo War ended, and both demand and prices for coltan decreased dramatically. Coltan mining, however, did not stop but continued alongside the fluctuating coltan market at a lower level, in the same fashion as during the coltan boom (Jackson 2003; Johnson and Tegera 2005). An analysis of the impact of the coltan price (Jackson 2003: 1) explained that the price crash intensified the control of 'war entrepreneurs' while the armed groups 'turned inwards to the territory they control, capitalising – personally as well as collectively – on the rich resources available' when the war arrived at a deadlock. The coltan price started to rise again in 2005, leading to a slight increase in coltan exports from North Kivu and the 'Grand Nord' of North Kivu (Beni/Butembo), although there are no reliable statistics to quantify the unrecorded trade (Johnson and Tegera 2005). It should be noted that there was a cassiterite boom between 2003 and 2004<sup>156</sup> and many miners moved on to mine cassiterite, in more or less the same areas as the coltan mines in North Kivu (ibid.)

### *The trade chain*

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<sup>155</sup> See details in the preceding section (4.6.2.).

<sup>156</sup> The hike in cassiterite price is considered to have been prompted by China's economic growth (Johnson and Tegera 2005) and the adaptation of the Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment (2002/95/EC), known as the Restriction of Hazardous Substances Directive (RoHS) by the European Union in February 2003. The RoHS restricts the use of lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls, and polybrominated diphenyl ether in the production of electronic and electrical equipment. As a result, cassiterite is largely replacing lead for manufacturing solder.

According to a recent study (Custers *et al.* 2009), the most important coltan mines are located in the territories of Kalehe, Mwenga, Shabunda and Masisi, while there is a large cassiterite mine in Walikale. The official statistics from 2008 show that coltan is largely exported from Bukavu, the provincial capital of South Kivu (*ibid.*). If not directly exported from trading posts in Goma or Bukavu, coltan often crosses borders into Rwanda, namely from Goma to Gisenyi (the western province of Rwanda) and from Bukavu to Cyangugu (the south-western province of Rwanda), and is brought to Kigali, the capital of Rwanda, from where it is exported outside Africa, chiefly through Mombasa (Kenya) or Dar es Salaam (Tanzania).<sup>157</sup>

Map 2: Major trade routes of coltan from the eastern DRC (INICA 2007b)

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<sup>157</sup> These trading routes are also identified by other studies, including DFID (2007); INICA (2007a); Garrett and Mitchell (2009a; 2009b); Global Witness (2009c). Whilst Uganda and Burundi are also transit countries, Rwanda appears to be the major transit country for coltan (DFID 2007; Enough 2009b).

Map 2 has been removed due to third party copyright. The unabridged version of the thesis can be viewed at the Lanchester Library, Coventry University

A key issue in the above trade chain is the degree of unrecorded mineral exports, which is estimated to be over 50 percent (DFID 2007; Tegera and Johnson 2007). It is alleged that minerals are smuggled out from Goma to Gisenyi by night when the border is closed (Johnson and Tegera 2005), while the scale of coltan trafficking through the Bukavu-Cyangugu route is even bigger (INICA 2007a).<sup>158</sup> This significant size of the unrecorded trade is often attributed to under-declaration for tax evasion<sup>159</sup> and the lack of capacity and weak governance within the DRC state institutions (DFID 2007). The absence

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<sup>158</sup> Both routes were also mentioned by traders based in Rwanda during the interviews by the author in June 2009.

<sup>159</sup> In some cases, coltan is declared as cassiterite in order to lower the export value (DFID 2007).

of tax harmonisation in the region is also blamed for encouraging informal cross-border trade as the DRC imposes higher export tax than its neighbouring countries (Tegera and Johnson 2007; Custers *et al.* 2009). State officials are deeply complicit in the system of the informal cross-border trade and charge various illegal fees (MacGaffey 1991; Vwakyankazi 1991; Tegera and Johnson 2007; Raeymaekers 2009b) 'all along the [trade] chain', and it is not possible to conduct trade outside this system (Tegera and Johnson 2007: 7; World Bank 2007b cited in IPIS 2007).

Moreover, a stipulation in the 2002 Mining Code to restrict the export of raw materials<sup>160</sup> and a decision by the *Centre d'Evaluation, Expertise et Certification* (CEEC) to export only semi-processed tantalum concentrate in February 2005 have further facilitated the informal cross-border trade (Johnson and Tegera 2005). Most of the coltan produced in the eastern DRC is brought to Rwanda, recorded as transit goods on the Rwanda side, and concentrated in Rwanda before being exported abroad (Garrett and Mitchell 2009a; 2009b)<sup>161</sup> as the eastern DRC lacks processing facilities and investments for such facilities (Global Witness 2007c; INICA 2007a).

While a large portion of coltan is exported informally, some exports are conducted officially by paying taxes to the Congolese authorities (Enough 2009b; Garrett and Mitchell 2009a; 2009b; Global Witness 2009c). Rwanda has, nevertheless, become a crucial trade route and processing centre for Congolese minerals and has achieved a considerable economic growth from the mining sector (Garrett and Mitchell 2009a; 2009b; Global Witness 2009c).<sup>162</sup> The growth of Rwanda's mining sector can also be attributed to an improved organisation of the mining sector and a growth of private investment

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<sup>160</sup> Article 85.

<sup>161</sup> According to an interview with an artisanal mining expert (D'Souza 2009), this process is called pre-concentration to remove impurity, and a more sophisticated processing takes place at advanced processing plants, such as the H.C. Starck. He is concerned that processing coltan in the eastern DRC would cause serious problems, such as pollution and health hazard without appropriate systems and standards in place.

<sup>162</sup> Revenues from mineral exports have increased from USD38 million in 2005 to USD130 million in 2008 (Global Witness 2009c). Other source quotes USD94 million revenue in 2008, of which USD43 million is earned from re-exporting minerals, based on a Rwandan central bank report (Holland 2009).

in the mining sector since 2006 (Global Witness 2009c; Rwirahira 2009) because of the political stability, unlike the situation in the DRC (Holland 2009). As more than 50 percent of coltan exported from Kigali is allegedly of DRC origin (INICA 2007a),<sup>163</sup> Rwanda has been criticised for being ‘a channel for “conflict minerals”’ from the eastern DRC and financing the warring parties (Global Witness 2009c: 71).

### *The involvement of the armed groups*

Recent studies conducted on mining and trade in the eastern DRC observed that the system of informal natural resource exploitation, which was established during the second Congo War, persists (Garrett et al. 2009; Garrett and Mitchell 2009a; 2009b; Global Witness 2009c). All key actors in the continuing conflict, the FDLR, the CNDP, the Mayi Mayi and the FARDC,<sup>164</sup> generate revenues from mineral exploitation and various taxations, albeit to varying degrees (UNSC 2008a; Garrett and Mitchell 2009a; 2009b; Global Witness 2009c; Spittaels and Hilgert 2008; 2009b). According to the UN Group of Experts (UNSC 2008a), the FDLR and the FARDC 85<sup>th</sup> brigade largely depend on income from the mines they control and from illegal mineral trade and taxation, and the CNDP largely finances itself from land, cows and external funding while it also profits from protection money and controlling a customs post.

Given the revenues from the mineral exploitation and trade above, the mineral resources are considered to be a key driver for the continuing conflict (UNSC 2008a; Global Witness 2009c). Global Witness (2009c) views that the revenues from the mineral resources ‘overtake political or ethnic grievance as the primary motivation’ for the conflict (Global Witness 2009c: 16). De Koning (2009), however, rejects the economic motivation and asserts that the mineral

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<sup>163</sup> While the Minister of Mines quoted approximately a quarter of mineral exports in 2008 to be originated from the DRC, the customs declarations in 2008 show that almost half of the mineral exports by weight were re-exports (Global Witness 2009c). The Rwanda Investment and Export Promotion Agency (RIEPA) states that a sizable mineral exports from Rwanda are transit goods and only 20 percent of coltan and wolframite exports are produced within Rwanda (RIEPA 2008).

<sup>164</sup> For details of the players and the recent conflict, see the section 4.7..

resources prolong the conflict as access to resources prevents military defeat and obstructs military integration. Garrett and Mitchell (2009a; 2009b), while accepting the link between the mineral resources and conflict, contend that the mineral exploitation by the armed groups is a consequence of insecurity and governance failure in the DRC, especially because the DRC state is unable to control the monopoly of violence and protect its citizens.

One analysis focusing on the conflict motivation, however, arrived at different conclusions from the above views (Spittaels and Hilgert 2008; 2009b). The research considered four different conflict motivations, namely profit (greed), grievance, survival and power, by employing a qualitative geographical methodology.<sup>165</sup> It concludes that 'it would be wrong to assert that minerals constitute the core issue of the current conflict dynamics', as the behaviour and determination of the warring parties are shaped by other factors, 'such as personal security issues, ethno-economic grievances, and the protection of individual business interests' (Spittaels and Hilgert 2009b: 54). The research found that the fighting is not concentrated around mines, and the rebel groups do not control important mines. In the case of the FDLR, 'the large majority of them are in fact hiding themselves and surviving' in the jungles and villages, while engaging in illegal mining and taxation and drug trafficking (ibid.: 57). Its grievances against the current Rwandan government thus appear to be 'a plausible explanation for their behaviour in the field' (Spittaels and Hilgert 2008: 35). The CNDP seems to protect the interests of the Tutsi communities as well as the economic interests of some of its members and supporters, hence its behaviour corresponds to its grievances to a degree (Spittaels and Hilgert 2008; 2009b). The study suggests a need to focus more on grievance and security as the conflict motivations and how motivations transform over time (ibid.).

Another study on the informal cross-border trade in North Kivu (Tegera and Johnson 2007) provides an insight into the relationship between the conflicts

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<sup>165</sup> The research used a geographical information system software to map the locations of the armed groups, incidents of human rights abuse, natural resources, trade routes, ethnic groups, Tutsi refugees amongst others, during the period of between August 2007 and January 2008 (Spittaels and Hilgert 2008; 2009b).



and mineral trade. It illustrates an existing commercial rivalry between the Banyarwanda trading elites controlling trades around Goma and the Nande trading elites in the Beni/Butembo areas in North Kivu. The Nande traders established their own advantageous trading rules, whereas the Banyarwanda traders countered with military power during the second Congo War and the conflict between them has not been resolved. The study states that:

Political and military power struggles in Eastern Congo are in part an expression of commercial rivalry, but commercial rivalry in turn is an expression of competition around means of ensuring one's own and one's community's physical survival in an area of profound and prolonged conflict (ibid.: 6).

Traders need to have connections with the authorities in the area of operation, such as government institutions and armed groups, and when the ruling group changes, traders also change (Tegera and Johnson 2005). They are 'powerful businessmen in Goma or Bukavu, with strong political connections inside the DRC and in neighbouring countries' (Global Witness 2009c: 55). In some cases, *comptoirs* (trading houses) are directly or indirectly controlled by armed groups, who try to access international markets (Spittaels and Hilgert 2009b). *Comptoirs* are also considered as being 'a critical point in the supply chain' (Global Witness 2009c: 56) as they:

[O]perate at the interface between the local and the international mineral business ... act as intermediaries between, on the one hand, Congolese *négociants* who enter the mines to do business with the diggers, and, on the other hand, international traders who sell the minerals to processing plants in different parts of the world. Thanks to their intermediate position between the local level and the international level, the *comptoirs* have the advantage of being well informed about the latest developments on the global commodity market as well as about the political and economic situation in North and South Kivu (Custers *et al.* 2009: 11).

In addition, *comptoirs* are also involved in the struggles over the ownership of SOMINKI and SOMIKIVU concessions that were key factors of the second Congo War (Johnson and Tegera 2005), as reviewed in the previous section (5.3.2.). These ownership disputes continued even after the transitional government was formed and the new Mining Code had been enforced (ibid.).<sup>166</sup> In the ownership conflict over SOMINKI concessions, there were three parties: Banro, through its subsidiary SAKIMA (the legal owner); SOMICO (the state company recognised by Laurent Kabila); and the RCD-Goma (controlling the mines). SOMICO appears to have support from the FDLR; a new trading house, Mining Processing Congo (MPC), seems to have unofficial support from the previous RCD and pro-Rwandan forces on the ground; and Banro is supposed to be protected by the Congolese army FARDC since it has the legal status. MPC is a main buyer of artisanally mined ores in Kivu and a subsidiary of a new company in Gisenyi (Rwanda), the Metal Processing Association (MPA).<sup>167</sup> The MPA was established in 2001 and processes the majority of cassiterite arriving in Goma to export to South Africa.<sup>168</sup>

With regard to the ownership dispute over the Lueshe mine of SOMIKIVU, despite legal ownership by SOMIKIVU, the management of the Lueshe mine and SOMIKIVU have ended up in the hands of an elite business man in Goma, who is associated with the local RCD leadership (Johnson and Tegera 2005). Although administrative acts by rebels for the areas they control have been agreed to be legitimate in the peace negotiations, this does not apply to mining concessions. The DRC state, however, has not been able to settle the issue of duplicated ownership through judicial means and hence confusion over mining concessions creates new conflict and resolution through military means becomes even more important.

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<sup>166</sup> See more details of the struggle relating to the MPA and MPC in Barouski (2008).

<sup>167</sup> The author observed the MPA factory in June 2009. The factory stands along the main road connected from the border to the DRC (Goma).

<sup>168</sup> The MPA's operation in exporting cassiterite and tantalite to South Africa was announced in August 2002, by Hochschild partners, an arm of the French steel giant Arcelor, and began trading in the DRC in December 2002 (Pole Institute 2005). The MPA and MPC are both subsidiaries of Kivu Resources, registered in Mauritius, but owned by South African, according to Kivu Resources (2009).

The state transition after the war also complicated the ongoing struggle over mining rights and concessions because the actors in the struggle were integrated into the same state institutions, namely in the government and the national army, FARDC, through the process of *brassage* (Johnson and Tegera 2005). It is, therefore, even more difficult to distinguish between state and non-state actors or legal and illegal operations (Global Witness 2009c).

### 5.5. Chapter summary and conclusions

This chapter has examined how coltan production and trade finance and drive the ongoing conflicts in the eastern DRC, and has identified some underlying issues as discussed below.

There has been a remarkable increase both in demand for and the price of tantalum in the global market, albeit fluctuating, as tantalum extracted from coltan has a wide range of applications, especially in the telecommunications industry. This increasing demand for tantalum in the global market has influenced the artisanal mining sector in the DRC. The demand for cheaper tantalum within the global market favours artisanally mined tantalum from the DRC over tantalum produced by large industry operations with high standards; the Congolese tantalum seems to be filling supply shortages in the spot market caused by the growth of the high-tech electronics industries. The 'coltan boom' in the eastern DRC and the recent closure of tantalum mining operations by large established mining companies serve this point.

Artisanal coltan mining in the eastern DRC has to be considered within the broader context presented in the literature review chapter. In developing countries, artisanal mining is a prevailing activity largely driven by poverty and a lack of employment opportunities, yet it is difficult to regulate and causes severe environmental and socio-economic problems. The expansion of the artisanal mining sector in the DRC is, however, unprecedented, as 90 percent of the minerals are produced by the artisanal mining sector. This can be explained by the insecurity caused by the successive conflicts in addition to the long-term economic crisis and institutional collapse, which began in the

1970s. While the insecurity in the eastern DRC drives more people to engage in artisanal mining, the militarisation in the mining areas also aggravates the conditions in the artisanal mining community and makes regulation/formalisation of the sector more challenging owing to the lack of state authority in the eastern DRC.

The examination of informal artisanal coltan mining has illustrated that conflict over mine ownership as one of the key dynamics of the DRC conflict, in addition to the underlying causes of the DRC conflict identified in the previous chapter. Although the mine ownership conflict amongst the state, rebel groups and companies was as a result of the first Congo War, during which the rebel groups controlled the mines in the areas they occupied, the ownership conflict has continued even after the wars. The continuation of the mine ownership conflict can be attributed to the failures of the peace process and reconstruction policy to address the mine ownership conflict and informality in the DRC.

Firstly, the negotiated peace process based on the inclusive power-sharing agreement allowed the rebel groups to remain in their occupied area and control the area though the mines were not supposed to be under their control. This created the duplication of authority in the area, which maintained the conflict and contributed to the informality in the area.

Secondly, the reform of the mining sector through the 2002 Mining Code has been ineffective in addressing both the mine ownership conflict and the informality of the sector. The code has not clarified the contradiction between the mining and exploration rights ruled by the Mining Code and the surface rights governed by the Land Law, or the customary land tenure system exercised on the ground. Although the Mining Code intends to encourage investment in the DRC mining sector by building a stable operational environment and regulating artisanal mining and trade to formalise the informal economy in the sector, the provisions and their implementation have been inadequate and facilitate fraud and informality within the sector, thereby making artisanal mining illegal, unregulated and unprotected.

Lastly, the unsuccessful DDR programme and army integration, discussed in the previous chapter, failed to improve the security in the eastern DRC. As a consequence, the area remains militarised, and military means have been important in settling conflict in the absence of the judicial means and capacity to do so. This is evident in the mine ownership conflict as the armed groups and army in the area continue to be involved in the conflict

The analysis of the coltan trade in and from the eastern DRC also possesses the dynamics of an informal economy. While the long-existing, significant scale of the informal economy in the DRC is owing to the inefficient policies as well as the informality distinct to the Congolese state, as explained in the literature review chapter, this chapter displayed that the wars have transformed the structure of the informal economy. Throughout the wars, the highly complex and largely informal coltan trade financed the war effort and consolidated the new politico-military structure, in which powerful trading houses are closely connected with the authorities in the area. The politico-military structure that financed the war effort currently remains.

The reasons for the continuation of the above structure can be considered here. As with the maintenance of the mine ownership conflict, the power-sharing agreement kept the same actors on the ground who have vested interests in preventing the reforms. The maintenance of the informal economy supported by those actors significantly decreases the state capacity in managing the economy or implementing any policies. It has also become difficult to distinguish state/non-state actors and legal/illegal operations as the actors have integrated into the same institution in theory. In other words, it is incredibly difficult to differentiate the war economy and the peace economy.

An important element in looking at the coltan production and trade as part of the war economy and conflict dynamics is the motivation of the warring parties. However, the review in this chapter has demonstrated that there is only limited analysis on the conflict motivations. The view that political motivations have shifted to economic motivations has been predominant, whereas a

recent study highlighted the importance of grievance and security as motivations for the conflict. Nonetheless, it is not easy to separate these motivations because they are all linked, as pointed out by the studies on war economy. The study on the informal cross-border trade in North Kivu (Tegera and Johnson 2007) illustrated this point based on the commercial rivalry which is about competition over means of ensuring survival in an extremely conflict-prone area where informality and military means prevail. Coltan production and trade provides one of the means of survival within the war economy. However, the boundary between the war economy and the peace economy cannot be clearly set.

It is therefore possible to attribute blame to coltan production and trade for financing and driving the conflict in the eastern DRC. However, it is impossible to determine to what extent the coltan production and trade or other commodities actually drive the conflict. More attention should be paid to the context in which the use of military means has been dominant and normalised.

## **Chapter Six: Perspectives and initiatives within the coltan supply chains**

The preceding chapter demonstrated that coltan supply chains are highly complex and tend to encompass a large number of actors and locations in which the cheap, artisanally mined coltan fills supply shortages on the spot market. The chapter included some evidence supporting the claim that the armed groups and army troops operating in the eastern DRC have financially benefitted from the informal coltan exploitation and trade, which has expanded considerably. While the evidence to support economic reasons being the prime motivation of the conflicts remains weak, the chapter also illustrated how military methods have been used as a way of solving conflicts and grievances, including struggles over mine ownership, in the absence of any adequate judicial means and control by central governments over the disputed areas.

This chapter presents perspectives from within the coltan supply chains. As discussed in the previous chapter, coltan, which is mined by artisanal miners, brought to local markets by porters and traded by *négociants*, is generally pre-concentrated by trading houses, *comptoirs*, to be exported to Europe, Asia and the USA through Rwanda, Kenya and Tanzania. Coltan becomes, therefore, mixed from various sources along the supply chains. Tantalum bearing mineral concentrate is then processed and transformed into powders, wires and other forms by primary tantalum processors. Whilst the application of tantalum is extensive, this thesis focuses mainly on the supply chains of the consumer electronics industries, as the growth of these industries multiplied demand for tantalum capacitors and prompted the 2000 coltan boom in the DRC during the second Congo War.

Figure 5: Supply chain model from mines to consumer electronics (Nokia n.d.)

Figure 5 has been removed due to third party copyright. The unabridged version of the thesis can be viewed at the Lanchester Library, Coventry University

To distinguish the different challenges and perspectives that various stages of the coltan supply chains possess, this chapter is organised into five sections. At the outset, the chapter illuminates a growing scrutiny and pressure on the coltan supply chains to clean up 'conflict coltan' by applying human rights due diligence, which is addressed in terms of traceability and accountability of raw material sources. The subsequent section examines the downstream supply chain, end-user companies of coltan, including mobile phone and computer manufacturers. The third section focuses on middle-user companies of coltan, such as capacitor manufacturers and tantalum processors. The fourth section displays views from international traders, and the final section presents perceptions of actors from the upstream supply chains within the DRC and its neighbouring country, Rwanda.

My examination of the coltan supply chains displays the clearly different perspectives of the demand and supply sides of the supply chains, depending



on the challenges they face. The demand side is driven by its need to secure coltan supply without damaging their reputation by being implicated in the 'conflict coltan' issues. Firstly, the end-users of coltan are facing with reputational risks for their brands posed by the 'conflict coltan' from very distant supply chains. Although they are pressured to apply enhanced human rights due diligence on their source of raw materials, they are not solely able to achieve full traceability and accountability, and are seeking collaborative initiatives. Secondly, amongst the middle-users of coltan, tantalum processors are considered to be a key pressure point in the supply chains, owing to their dominance in the global market and their influence on the conflict. Whilst two major tantalum processors claim that they do not purchase tantalum from the DRC 'knowingly', this chapter focuses on H.C. Starck, as a company that has responded more proactively, including its engagement in a multi-stakeholder initiative, the Durban Process,<sup>169</sup> following severe criticism made against the company. The company admits its vulnerability to reputational risks as a listed company but also draws attention to the partial actions by the international community. Thirdly, international traders, being blamed for fuelling the conflict through their mineral purchase from the eastern DRC, maintain that their operation is lawful and provides valuable livelihoods to the local population, yet are being forced to suspend their mineral purchase on reputational grounds. They require clear guidance on the 'conflict coltan' issue since the situation on the ground is 'confusing'.

On the contrary, the actors from the upstream supply chains, including miners, middle-men and trading houses, need to capitalise available resources for their livelihood, survival and security, and present different views. The trading houses oppose the assumption that they can know the origin of coltan ores and advocate the application of due diligence. The actors from the upstream supply chains generally criticise the due diligence approach imposed by the West as being impractical and as not taking into account the complex relations on the ground. They distinguish various conflicts, such as those related to mining and trade and political issues, and identify the problems as

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<sup>169</sup> See details in the section 7.1.

the lack of control, structures and livelihoods, inappropriate legislation, and poverty. These different perspectives illuminate a critical question on how to define the 'conflict coltan' and the lack of involvement of local actors in the discussion on the 'human rights due diligence' agenda.

### 6.1. The 'conflict mineral' agenda

This section sets out to elucidate an emergent response to the 'conflict coltan' issue through applying 'human rights due diligence', as it is gaining a momentum to pressure the stakeholders in the coltan supply chains to act and shape the debate around the 'conflict coltan' issues for the DRC. The response is based on the understanding that the informal exploitation and trade of coltan finance the armed groups and army troops, as detailed earlier in Chapter Five. This 'conflict coltan' view corresponds to the prominent resource curse thesis reviewed in Chapter Two. It also reveals a major concern for consumers of coltan products, and has led to the response aiming to cut off the financial source from the belligerents by applying 'human rights due diligence' to the supply chains, which is also recommended by the UN.<sup>170</sup> The following briefs the background of a 'conflict mineral' view and its implication for companies. It then outlines an emerging 'human rights due diligence' agenda as a response to the 'conflict mineral' issue that has been shaping the perceptions and initiatives of the stakeholders presented in the subsequent sections (6.2. to 6.5.), as well as critiques against the 'conflict mineral' approach.

Previously, the investigations carried out during the second Congo War uncovered that the armed groups financed their violence from illegal natural resource exploitation with the help of business.<sup>171</sup> They prompted activist campaigns, such as 'No blood on my mobile! Stop the plundering of Congo!' by nineteen Belgian NGOs in 2001 (Cuvelier and Raeymaekers 2002a) and,

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<sup>170</sup> See the UN Security Council Resolution 1857 (UNSC 2008c).

<sup>171</sup> For example, UNSC (2001a; 2001b; 2002a; 2002b); Cuvelier and Raeymaekers (2002a); Raeymaekers (2002); and Tegera *et al.* (2002). For more details, see the section 5.4.2..

more recently, the 'makeITfair' campaign<sup>172</sup> and 'Cell Out' campaign by the Friends of Congo in 2008 (Raphael 2008). Recent studies have revealed that the system of natural resource exploitation established during the second Congo War (UNSC 2002a) has been continued by the FDLR, CNDP, FARDC and international resource companies, particularly of coltan, wolframite and cassiterite, or '3T', and gold,<sup>173</sup> with the continued conflict in the eastern DRC described in the earlier chapter (section 4.7.). While a few studies identified other critical issues, such as the inadequate legislation, the lack of central government's control in the eastern DRC (Tegera *et al.* 2002; Johnson and Tegera 2005), grievances and security issues (Spittaels and Hilgert 2008; 2009b), the majority of studies consider that the 'conflict coltan' motivates the belligerents (UNSC 2008a; Global Witness 2009c) in the context of governance failure (Garrett and Mitchell 2009a; 2009b).

Considering that the belligerents receive finance from the 'conflict coltan', most actions by the UN and NGOs aim to bring to an end the illicit natural resource trade. Following the UN Group of Experts' final report (UNSC 2008a), the UN Security Council passed two resolutions on the same day. UN Security Council Resolution 1856 (UNSC 2008b) of December 2008 expanded the mandate of MONUC to curtail illegal armed groups to finance from illicit natural resource trade<sup>174</sup> and called on all states to take appropriate measures to cease illicit natural resource trade. The UN Security Council Resolution 1857 (UNSC 2008c) extended the existing targeted sanctions<sup>175</sup> to include individuals or entities assisting the illegal armed groups through illicit natural resource trade, and urged member states to ensure all companies exercise due diligence when sourcing their mineral supplies.<sup>176</sup> These UN resolutions were praised as 'a big step forward' (Global Witness 2009a), as

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<sup>172</sup> See details in <http://makeitfair.org/>.

<sup>173</sup> For example, UNSC (2008a); Garrett and Mitchell (2009a; 2009b); and Global Witness (2009c). See the section 5.4.3. for more details.

<sup>174</sup> MONUC was authorised to use its monitoring and inspection capacities for the first time in its operation.

<sup>175</sup> The first arms embargo, the UN Security Council Resolution 1493, was imposed on 23 July 2003 and modified and strengthened through a successive adoption of resolutions. For details, see details in UNSC (n.d.).

<sup>176</sup> The UN Resolution 1857 (UNSC 2008c) requested member states to report their actions to implement the measures outlined to the UNSC within 45 days.

NGOs such as Global Witness (2008c) have been calling for enhanced due diligence and checks on the entire supply chains by mineral using/trading companies<sup>177</sup> and the 'Enough Project' has been demanding the transparency and accountability of supply chains (Enough 2009a). The UK National Contact Point (NCP) judgement passed on the two UK-based companies (Afrimex and DAS Air),<sup>178</sup> which accused them of being in breach of the OECD Guidelines for Multinational Enterprises for having business dealings with the rebels operating in the eastern DRC, has sent a strong signal about reputational risks to many companies.

The above findings and actions have resulted in increased awareness of the illicit trade in the '3T's and gold from the DRC and the labelling of those minerals as 'conflict minerals'.<sup>179</sup> Le Billon provides a definition of conflict resources as follows (2003b: 216):

*Conflict resources* are natural resources whose control, exploitation, trade, taxation, or protection contribute to, or benefit from the context of, armed conflict.

The 'conflict mineral' risk in the supply chains compel mineral using companies to act, especially if the companies add value to their brands (Conroy 2007). A company is more vulnerable to a corporate campaign if it has 'valuable brand names to protect and sells a non-essential product in a market place where alternatives are available' (Marlin 2006: 63). According to the Vice President of Social Risk Consulting at Control Risks (Shtender-Auerbach 2010), to apply human rights due diligence and 'conduct robust supply chain assessments to ensure their products are conflict-mineral free' is amongst 'the top five sociopolitical risks that global multinationals must be aware of, prepare for, and confront proactively'. Similarly, the Top 10 Emerging Business and Human Rights Challenges for 2010 by the Institute

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<sup>177</sup> Global Witness published a guide for companies, 'DO NO HARM: Excluding conflict minerals from the supply chain' in July 2010, in order to introduce key components of supply chain due diligence (Global Witness 2010).

<sup>178</sup> For details see the section 7.5..

<sup>179</sup> See, for example, Enough (2009a), Open Congress (2009) and Enough and Global Witness (2009).

for Human Rights and Business (IHRB 2009) includes 'establishing universal criteria for operating in conflict zones' and 'developing standards for human rights due diligence'. For companies, '[r]eputation and image management, and a proactive engagement with the challenges of the 21<sup>st</sup> century, are critical to ensure continued success in 2010' (Shtender-Auerbach 2010).

The concept of human rights due diligence is explained in the business and human rights framework proposed by the Special Representative of the UN Secretary General, John Ruggie.<sup>180</sup> The second principle of the framework states that the corporate responsibility to respect human rights is the 'basic expectation society has of business' (Ruggie 2008: 5) and it 'requires due diligence' (ibid.: 9). Due diligence is defined as 'a process whereby companies not only ensure compliance with national laws but also manage the risk of human rights harm with a view to avoiding it' and hence 'to do no harm' (ibid.). This definition differs from a traditional definition of 'the diligence reasonably expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or discharge an obligation' (Black's Law Dictionary, 8<sup>th</sup> edition 2006, cited Ruggie 2008: 9).

The due diligence concept, therefore, describes:

the steps a company must take to become aware of, prevent and address adverse human rights impacts ... Companies should consider three sets of factors. The first is the country context in which their business activities take place, to highlight any specific human rights challenges they may pose. The second is what human rights impacts their own activities may have within that context – for example, in their capacity as producers, service providers, employers, and neighbours. The third is whether they might contribute to abuse through the relationships connected to their activities, such as with business partners, suppliers, State agencies, and

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<sup>180</sup> Ruggie states that in order to address 'governance gaps are at the root of the business and human rights predicament' (2008: 5), and proposes a framework, comprising 'three core principles, the State duty to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights; and the need for more effective access to remedies' (ibid: 1).

other non-State actors. How far or how deep this process must go will depend on circumstances' (ibid.: 17–19).

The scope of human rights due diligence is hence 'determined by the context in which a company is operating, its activities, and the relationships associated with those activities' (ibid.: 9).

Human rights due diligence is, hence, expected to be applied in the coltan supply chains in order to address the 'conflict coltan' issues. It is essential to provide a definition of supply chains here. In a supply chain, 'the material and informational interchanges in the logistical process stretching from acquisition of raw materials to delivery of finished products to the end user', and all vendors, service providers and customers are links in the supply chain (CSCMP 2010: 179). Nagurney (2006: 3) contends that 'any formalism that seeks to model supply chains and to provide quantifiable insights and measures must be a system-wide one and network-based', owing to the nature of supply chains that is:

the critical infrastructure for the production, distribution, and consumption of goods as well as services in our globalized Network Economy. Supply chains, in their most fundamental realization, consist of manufacturers and suppliers, distributors, retailers, and consumers at the demand markets. Today, supply chains may span thousands of miles across the globe, involve numerous suppliers, retailers, and consumers, and be underpinned by multinational transportation and telecommunication networks. Changes in the availability of suppliers, price shocks, as well as distributions to transportation modes or telecommunications may have effects that propagate throughout the supply chain ... Supply chains are characterized by decentralized decision-making associated with the different economic agents but are, in fact, complex network systems (ibid.).

To clear supply chains from 'conflict minerals', traceability has become critical (McMahon 2009). As managing director of Boston Common Asset

Management, Lauren Compere (Kelly 2010) states: 'From an investment perspective, we have been highlighting this issue [on supply chains] as a critical risk-management issue for companies. Traceability in the supply chain has gone from a nice to have, to a must have.' Given extensive and complex mineral supply chains between mine and end products such as mobile phones, it is considered to be difficult to prove products are conflict minerals free (Hayes and Burge 2003). A study by DanWatch (2008), however, demonstrated conclusively the possibility of identifying the entire supply chain from the extractors to the mobile phone companies, in the case of cobalt. Meanwhile, Patrick Stratton, North American manager at a prominent international metals and minerals research company, Roskill Information Services Ltd., states that '[u]nless there is a fundamental change in the supply base, conflict tantalum will probably still get into the global market for the foreseeable future' (Kelly 2010).

As a consequence of the growing pressure to address the 'conflict mineral' issues, the US Senate Bill S. 819, the Congo Conflict Minerals Act of 2009 (Open Congress 2009), was introduced by Senators Brownback, Durbin and Feingold in the United States Senate in April 2009.<sup>181</sup> The introduction of the bill was praised as an important first step by Global Witness and Enough (Enough and Global Witness 2009).

This 'conflict mineral' approach, however, has been criticised by some activists working in and experts on the DRC as it 'does not fully capture the geo-political dynamics at play' (Friends of the Congo 2009). It is 'silent on the question of resource sovereignty which has been a central question in the geo-strategic battle for Congo's mineral wealth' without paying attention to the looting of Congo's resources and to the contribution to the perpetuation of the conflict by corporations, Rwanda amongst others (Musavuli and Macharia 2009). The 'conflict mineral' approach is, therefore, perceived as one of 'myriad Western based "prescriptions" ... devoid of social, political, economic

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<sup>181</sup> The US President passed this bill on 20 July 2010, as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (East African Business Week 2010). The provision requires companies to investigate whether they use minerals from the DRC or its neighbouring countries and to conduct third-party audits on their supply chains.

and historical context and [is] marked by remarkable omissions ... serves more to perpetuate the root causes of Congo's challenges than to resolve them' (ibid.). Similarly, an Africanist scholar, Alex De Waal, said 'advocating that the trade in minerals should be choked off, supposedly in the name of human rights, is dangerous nonsense' (De Waal 2009). There is, therefore, a concern about the impact of such measures to boycott the so-called 'conflict minerals', despite it being the most appealing method for public relations for companies (Hayes and Burge 2003). Marlin (2006: 61) points out:

One danger of campaigning without regular attention to outcomes is that a campaign will be driven to 'win' battles with corporations regardless of their impact on society. In this case, the outputs may look good, but the outcomes may be regrettable.

Congolese activists urge diplomatic and political means, rather than the 'conflict mineral' approach, to bring an end to the conflict quickly (Musavuli and Macharia 2009).

Furthermore, recent studies supported by Western donors and institutions contend that halting or disrupting the mineral trade would likely do more harm than good as around 1 million people depend on the minerals trade for their livelihood in the region (Garrett and Mitchell 2009a). They suggest focusing on the security sector reform to address issues of insecurity in the eastern DRC, though the 'conflict mineral' approach can promote the professionalisation of the minerals trade (Garrett and Mitchell 2009b).

## 6.2. End-users

End-users of coltan, such as producers of mobile phones and laptops, have been targeted by campaigns by NGOs and consumers, as described earlier. They are targeted since a 'consumer brand is more vulnerable to buying power than a generic product' (Marlin 2006: 59). Some end-user companies have responded to these calls for responsible supply chains. Mobile phone



manufacturers were first targeted by those campaigns, and have been trying to address the issues of conflict minerals in their supply chains.

In January 2008, the makeITfair campaign (makeITfair c2008) sent its List of Principles for dealing with mining issues<sup>182</sup> to all major electronics brand companies with a request for a public response. The responses received may be summed up as follows:

[Companies face] the difficulty *'to trace the metal used in a particular product to the original source'*, the added complexity of metals being mined at numerous countries and the proportion of artisanal mining. As the companies do not purchase the metals directly, they feel that the electronics industry's *'ability to address social and environmental concerns at raw material level could be strengthened by investigating options to work alongside other major end-user sectors'*. They are concerned about the *'allegations of poor conditions in the supply chain of metals used in electronics products'* and are looking at possible collaboration with existing multi-stakeholder initiatives on social and environmental conditions in the mining industry (makeITfair c2008).

While Hewlett Packard has demonstrated an outstandingly proactive effort, many companies, including Acer, LG, Rim, Palm, Creative and Logitech, failed to provide any response. Similarly, Global Witness (2009b) wrote to major mobile phone manufacturers during 2009 'to ask them what due diligence measures they are taking to ensure that their sourcing practices are not fuelling the conflict'. Based on responses received, the organisation has concluded that the mobile phone industry 'as a whole lacks sufficient measures to guarantee that phones and other electronics are free of conflict minerals', although some companies have increased their supply chain control.

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<sup>182</sup> This was developed following the international roundtable with electronics companies and the GeSI and EICC in January 2008 (makeITfair c2008).

The following section presents initiatives by some major mobile phone companies<sup>183</sup> and electronics companies. For instance, Nokia provides a statement on metals from the DRC in their website. The company states that it became aware of the possibility of coltan from the conflict area in the DRC being included in their products in 2001 and 'took action immediately to ban Tantalum derived from illegally mined Coltan' (Nokia 2010). While Nokia does not purchase raw materials directly, the company recognises 'its environmental and social responsibility to ensure [raw materials] are responsibly sourced by [its] suppliers' (ibid.). It takes 'continuous action to ensure that metals from the conflict areas do not enter [its] supply chain' through its conflict metal policy (ibid.). Although Nokia primarily focuses on its own direct suppliers and believes that 'each tier of the supply chain must take responsibility for managing its own suppliers', it 'works deeper down the supply chain to investigate and address any concerns' when 'concerns arise regarding the performance of 2<sup>nd</sup>/3<sup>rd</sup> tier suppliers' (Nokia n.d.).

Nokia, however, admits the challenges of reaching full traceability of coltan, owing to the extensive and complex supply chain (Nokia 2010). As characteristics of the ore disappear once a mineral is processed, 'no company can give the exact origin of [minerals] used in a particular product or its component' (ibid.). Faced with this challenge, Nokia has been proactively engaging in industry-wide cooperation, namely the Global e-Sustainability Initiative (GeSI) and the Electronic Industry Citizenship Coalition (EICC),<sup>184</sup> to enhance 'transparency and supporting verification of the supply chain of metals' (ibid.).

Motorola (Motorola 2010a) recognises its 'global supply chain begins with raw materials extraction and processing and continues through manufacturing of components and final products'. While the company does not procure raw materials directly, the 'mining and processing of raw materials raises serious concerns' for the company (Motorola 2010b). The company 'first became

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<sup>183</sup> Five corporations, namely Nokia, Motorola, Samsung, Sony Ericsson and LG, accounted for over 80 percent of all mobile phones sold in 2007 (Gartner 2008).

<sup>184</sup> For details of the GeSI and EICC, see the section 7.4.

aware of the illegal mining of coltan in early 2001' and 'took swift steps to cease the use of materials containing tantalum derived from illegally mined Congolese coltan' (ibid.). Motorola 'require[s] high labor and environmental standards in [its] operations' and 'expect [its] suppliers to do the same' through its supplier code of conduct (ibid.). Motorola 'requires all of [its] suppliers of tantalum-containing capacitors to verify, in writing, that capacitors sold to Motorola do not contain tantalum derived from illegally mined Congolese coltan' (ibid.).

Motorola supports the development of the proposed US bill, the Congo Conflict Minerals Act, as the company is 'very concerned that currently no credible independent systems exist ... to verify the source of the metals in their products' (ibid.). Given the concern, the company is 'collaborating with others in the industry to tackle the challenges of traceability/tracking and other issues' through the GeSI and EICC (ibid.).

SAMSUNG Electronics (Samsung n.d.) acknowledges that it 'is known that illegally mined coltan from the Congo is contributing to intense political conflict in the region and causing significant harm to wildlife'. According to its policy on coltan, SAMSUNG's Telecommunication Business has taken some steps 'to endeavour that [its] mobile phones do not contain materials derived from illegally mined Congolese coltan' (ibid.). These steps include:

We do not purchase coltan directly from the Congo nor from any other source in the form of raw material. A limited number of our component vendors do supply us with tantalum-based components; In the cases when SAMSUNG does use tantalum-based components, the company requires suppliers to take appropriate measures in order to avoid using tantalum sourced from the Congo region; We request that all vendors refrain from purchasing tantalum powder mined in the Congo and we regularly audit vendors to ensure compliance. Our component vendors inform us that they obtain tantalum powder from the U.S.A, Russia and Thailand, not from the Congo; [w]e are making efforts to use substitutes for tantalum-based components where possible' (ibid.).

SAMSUNG, nonetheless, states that it is more likely to employ collective action than individual action (makeITfair c2008).

Sony Ericsson states, 'we do not purchase raw materials such as tin, tantalum, tungsten or gold, but we purchase components which may contain small amounts of these metals. We have more influence on companies and organizations where there is a direct relationship and agreement structure in place ... the further away from a direct relationship the less impact you have' (Sony Ericsson 2009).

With specific reference to coltan, Sony Ericsson explains that most of its phone models have virtually no tantalum content as the company has 'significantly reduced the usage of tantalum capacitors and replaced it with ceramic capacitors due to the scarcity of the metal' (Sony Ericsson 2010: 1). The company also has requirements on their suppliers as follows:

We have also specifically been in contact with our suppliers of tantalum capacitors and require them not to use illegally mined tantalum from Congo and the surrounding area. Our suppliers have made investigations of their supply chains and have obtained certificates that the tantalum used in their products is not originating from Central Africa. They have long term contracts with suppliers and do not generally buy from the spot market where most of the illegally mined tantalum is expected to be sold. It is important to point out that Sony Ericsson buys capacitors from suppliers who manage their own tantalum purchases. For Sony Ericsson it is not fully possible to control the sources of a raw material but we have clear requirements on our suppliers (ibid.).

In addition, Sony Ericsson mentions industry-based efforts through the GeSI and EICC.

LG Electronics (LG n.d.), one of the five major mobile phone companies, does not state any supply chain management policy on coltan or other minerals.

Vodafone states that they do not produce mobile phones; however, the company 'maintain[s] [its] responsibility to drive ethical values through the supply chain' (Vodafone n.d.a). It explains its supply chain management strategy is 'to engage directly with [its] first-tier suppliers and assess their compliance' with its Code of Ethical Purchasing, which requires them to assess their own supply chain management (ibid.). In addition, the company states that its 'suppliers of telecommunications and IT equipment are mainly large multi-nationals (often well-known brands)' or contract manufacturers to produce Vodafone-only branded products, through which it 'increases sustainability risks for Vodafone, including the potential impact on [its] reputation given that Vodafone is the only brand label on the product' (ibid.). Given particular concerns regarding mining coltan in the conflict-affected areas of the DRC, Vodafone also works 'to develop a common approach to supplier assessments through industry partnerships' such as the GeSI and EICC (Vodafone n.d.b).

Aside from the campaign pressure on the mobile phone manufacturers, other sectors have also been targeted. The remaining part provides available examples of other sectors. As for SONY, whose PlayStation 2 game console launch in the spring of 2000 was considered to have triggered the coltan boom in 1999, the company still uses tantalum in its products, according to a SONY spokesperson from Japan, Satoshi Fukuoka (Lasker 2008). He said the company is 'satisfied with responses from suppliers the tantalum they use is not "illegally mined Congo coltan"', even for the past purchases of tantalum parts. As the PlayStation 2, PSP and PlayStation 3 'are manufactured mostly from independent parts and components that manufacturers procured externally', its 'suppliers source their original material from multiple mines in various countries'. While it is difficult for the company 'to know what the supply chain mix is', he said, 'I am happy to state to you that the best of our knowledge, [SONY] is not using the material about which you have expressed concern'.

The world's leading semiconductor chip maker, Intel, has started a third-party audit programme for the smelters (processing companies) of tantalum in its supply chain; however, the company has been criticised for being involved in the lobbying to gut the aforementioned US bill, the Congo Conflict Minerals Act of 2009 (Foden-Vencil 2010). According to the Intel spokesperson, Chuck Malloy, Intel 'is not trying to gut anything ... neither supporting nor opposing the act'; however, 'after working for years across many different countries to clean up [its] tantalum supply, Intel has come up with a better fix' (ibid.). It has 'identified a link in that supply chain, at the smelter level, that [it] can insert an audit process to ensure that the source of the material isn't a conflict area' (ibid.). As such, smelters elsewhere 'would be forced to clean up their suppliers', 'if enough companies were to be band together to demand conflict-free minerals' (ibid.).

A large multinational information technology company, Hewlett Packard (HP), is considered to be one of the most proactive electronics companies in addressing the challenge of conflict minerals in supply chains (makeITfair c2008). The company 'felt pressure to act from outside groups, including enterprise customers, investors, and non-government groups pushing for more transparency of suppliers in the IT industry' (LaMonica 2010). It believes that 'addressing conflict minerals is a natural extension of [its] existing efforts', says Zoe McMahon, Supply Chain Social and Environmental Responsibility Manager of HP (McMahon 2010). It started a Supply Chain Social and Environmental Responsibility (SER) Program in 2000, to ensure the responsible conduct of its suppliers, and HP became the first company to disclose its list of suppliers in the IT sector (ibid.).

Furthermore, the company conducted a survey on its suppliers and found out that there is a limited traceability to the mines, where minerals are extracted (ibid.). McMahon said, '[b]ecause our suppliers are not using materials from the DRC, that gave us some comfort. But to this day, there is no certification mechanism that can assure us wholeheartedly that they are not sourced from the DRC ... Once metals are with smelters, it's difficult to know where the material comes from' (LaMonica 2010). HP 'reduces its chances of bad

publicity or seeks to avoid other business risks' by auditing its suppliers (ibid.). However, she admits that 'the issue of metals' traceability is very challenging' (ibid.).

In addition, McMahon states:

HP is working to ensure that our products do not contain metals sourced from mineral trade financing the armed conflict in the DRC. We will take further steps to educate our own supply chain and develop an approach to validate the assurances from our suppliers. We will continue to work with our sector and other industries using minerals from the region to develop an effective, cross-industry solution. In addition, HP will engage with groups with firsthand experience of the situation in the Eastern DRC to gain further insight into the specifics of the challenges ahead (ibid.).

In 2009, HP, together with Dell, Intel, Motorola and Phillips, held a multi-industry forum on the issues of mining of metals, 3Ts and gold from the DRC (McMahon 2010). 'Tantalum is arguably the most significant metal on the list for the electronics sector' as it 'is used extensively in the production of capacitors for electronic equipment' (ibid.). The group hopes to 'define a multi-industry path to assure that these metals are sourced from mines not associated with the conflict in the DRC' (ibid.). As such, it does not advocate a halt in purchasing metals from the DRC or Africa, rather it hopes 'to establish a "clean stream" of metals and promote environmentally and socially responsible mining practices there' (LaMonica 2010). The group believes that it 'will not be successful unless significant users of these metals come together to address this issue' and needs to involve 'multi-industries and all stakeholders to develop an effective system of mineral certification and supply chain assurance for metals' (McMahon 2010). While the group hopes to pursue certification by pressuring other industries, McMahon says, '[w]e have some gaps in our understanding of our products and we want to continue filling gaps (from suppliers)' (LaMonica 2010). She points out, '[w]ho isn't in the room [to discuss the issues] are the traders in the DRC, that's the hard part. In

pulling together all parts of the tantalum supply chain, it's been evident that greater action is needed' (ibid.).

The above efforts by the companies, albeit to varying degrees, indicate that 'as the ethical sourcing agenda has moved from primary suppliers further down raw material supply chains, companies have found themselves dealing with challenges that are simply harder to meet on their own' (Cooper 2009) to protect their brands and manage reputational risks. These challenges are, first, a limited influence over the upstream suppliers without direct contacts, while their influence over their direct suppliers or the first-tier suppliers can also be limited depending on the contracts and relationships they have with their suppliers.<sup>185</sup> The second challenge is the raw material traceability, as there are no verification mechanisms to prove the origin of coltan or techniques to identify the source of coltan once processed.

As 'companies pursue higher social and environmental standards further down often complex supply chains' or 'ethical standards in raw material supply chains', they need collaboration with other companies and stakeholders (Cooper 2009). John Gabriel, chairman of the EICC and supply chain responsibility manager at IBM, reiterates that collaboration amongst companies and inclusion of external stakeholders with specific insight into the issues are the key to pursuing ethical sourcing agendas on raw materials, '[u]nless a brand company has an exclusive pipeline for raw materials' (Cooper 2009). It is, therefore, evident that companies are trying to widen the industry-based collaboration, such as the GeSI and EICC, towards multi-industries and stakeholder collaboration.

### 6.3. Middle-users

Broadly, middle-users of coltan consist of capacitor manufacturers and tantalum processing companies. Some of those companies were listed in the Annex III of the final report of the Panel of Experts on the Illegal Exploitation

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<sup>185</sup> Informal conversation with Corporate Responsibility Senior Manager of a mobile phone company on 6 February 2009.



of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo,<sup>186</sup> as ‘parties that, while having only indirect commercial ties to the Democratic Republic of the Congo, still bore a responsibility to ensure that those links did not, albeit inadvertently, contribute to funding and perpetuating the conflict’, and hence were in apparent violation of the voluntary OECD Guidelines for Multinational Enterprises<sup>187</sup> (UNSC 2003b: 5). As the publication of the annexes in this report prompted strong reactions by those who were listed therein and ‘raised a great deal of interest in the media and among observers of the situation’ in the DRC, companies recognised that ‘their responsibilities extended further than they had previously acknowledged’ and reassessed their activities in the DRC (UNSC 2003b: 6) While the companies were given opportunities to respond and discuss with the Panel of Experts, under the principle of due process to protect their confidentiality for security purposes (UNSC 2003b), the process has been criticised as being without transparency and accountability (RAID 2004).

While these middle-users of tantalum have not been direct targets of consumer activist campaigns, tantalum processing companies have been increasingly targeted as a key pressure point in coltan supply chains. This is because tantalum processing companies should be able to verify the origin of the minerals before destroying their characteristics, as Intel insisted in the previous section (Foden-Vencil 2010). Tantalum processing is also a highly specialised industry, in which only three companies in the world consume 70 percent (Mineweb 2008) to 80 percent of the global tantalum supply (Ruffini 2008), as explained in Chapter Six. On the contrary, capacitor manufacturers are usually small in size, but numerous for their specialised products. During July and August 2009, the author contacted some eminent capacitor manufacturers in Japan; however, the companies were reluctant to provide comments or accept interviews. This section, therefore, focuses on the world’s largest tantalum capacitor manufacturer and three primary tantalum processing companies that were listed in the abovementioned Annex III of the final UN Panel of Experts’ report.

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<sup>186</sup> S/2002/1146, dated on 16 October 2002. See UNSC (2002b).

<sup>187</sup> See details of the guidelines in the section 7.5..

### 6.3.1. Kemet Electronics Corporation

Kemet Electronics Corporation is the world's largest tantalum capacitor manufacturer in the USA. It decided to cease its activities in the eastern DRC, following a resolution of the US House of Representatives in September 2001, which had suspended coltan imports from the DRC (Cuvelier and Raeymaekers 2002b; Tegera *et al.* 2002). The company responded officially to the Panel of Experts and its case was categorised as 'resolved' of the category I in the panel's report in 2003 (UNSC 2003b). Kemet currently publishes the statement below:

KEMET fully supports the position of the Electronic Industry Citizenship Coalition (EICC), the Electronic Components, Assemblies and Materials Association (ECA) and the Tantalum-Niobium International Study Center (TIC) to avoid the use of tantalum ores which directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo or adjoining countries, in line with full compliance to the EICC's Electronic Industry Code of Conduct. KEMET's tantalum supply base has been and continues to be certified to be sourced from conflict free zones. All of KEMET's tantalum material suppliers have complied with and issued signed Letters of Certification attesting that KEMET Corporation will not receive tantalum powders made from tantalum ores illegally mined in the Democratic Republic of the Congo. KEMET will immediately discontinue doing business with any supplier found to be purchasing materials which directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo or adjoining countries. KEMET will continue to work through the EICC, ECA and TIC towards the goal of greater transparency in the supply chain (Kemet n.d.).

### 6.3.2. Ningxia Non-ferrous Metals Smeltery

The 'big three' tantalum processors in the world, namely, Germany's H.C. Starck<sup>188</sup> as the largest, Cabot Corporation based in the US<sup>189</sup> as the second largest, and China's Ningxia Non-ferrous Metals Smeltery (NNMS)<sup>190</sup> as the third largest, were all buying coltan from a German corporation, Masingiro GmbH, managed by a German entrepreneur, Karl-Heinz Albers<sup>191</sup> (Cuvelier and Raeymaekers 2002a), and named in Annex III (UNSC 2002b). Although all three cases were categorised as 'resolved' in the Panel of Experts' report in 2003 (UNSC 2003b), H.C. Starck is the only company that had reacted publicly to the Panel of Experts (RAID 2004). As illustrated below, H.C. Starck and Cabot have explicit policies on tantalum supply from the DRC; however, NNMS does not have any comments regarding its tantalum supply on its website (NNMS n.d.). NNMS is a state-owned enterprise and research institute in China (ibid.), which does not adhere to the OECD Guidelines. NNMS's main products are tantalum powder and wires, which they sell to capacitor manufacturers in America, Europe, Israel, Japan and South Korea (ibid.). The company states that '[e]ffective cost control and continuous quality improvement are our commitment to customers all over the world' (ibid.). In 2002, the UN Panel of Experts verified that NNMS sourced up to 50 percent of its tantalum supply from Central Africa (UNSC 2002b), and NNMS is now the primary consumer of DRC's coltan, according to the combined data from the 2007 UN Comtrade data and Paumanok Publications (Ma 2009).

### 6.3.3. Cabot Corporation

In April 2001, the Cabot Corporation released a press statement stating that the company had the highest environmental standards and purchased ores mostly from Australia and Canada, however, 'a small percentage is sourced from other locations and, to the best of our knowledge, none of this originates from environmentally sensitive areas' (Hayes and Burge 2003: 36). Contrary to this statement, the company came to a decision to stop operations in the

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<sup>188</sup> [www.hcstarck.com](http://www.hcstarck.com)

<sup>189</sup> [www.cabot-corp.com](http://www.cabot-corp.com)

<sup>190</sup> [www.nniec.com/aboutus.htm](http://www.nniec.com/aboutus.htm)

<sup>191</sup> He was also the director of SOMIKIVU and accused of a close relationship with the RCD-Goma (UNSC 2001a).

eastern DRC, following the falling coltan price, beginning in March 2001 (Raeymaekers 2002b), and the resolution by the US House of Representatives in September 2001, likewise Kemet Electronics (Cuvelier and Raeymaekers 2002b; Tegera *et al.* 2002).

Cabot Corporation states its position on tantalum and coltan and the Democratic Republic of Congo on its website,<sup>192</sup> and it is publicised using banner advertisement spots on other websites relevant to coltan, mining and the DRC amongst others. The company expresses its awareness of the report by the UN Panel of Experts in 2002<sup>193</sup> and its rigorous efforts to communicate 'to its employees, customers and investors that it does not purchase or mine tantalum or coltan from the DRC' (ibid.). With regards to its tantalum supply, Cabot explicitly states that it 'comes exclusively from [its] own mine in Manitoba, Canada, a Talison Minerals owned mine in Wodgina, Australia and a Noventa owned mine in Mozambique' (ibid.). As Cabot is a leading world producer of tantalum and niobium products, it has a specific 'position on the purchase, sale or mining of tantalum or coltan in the Democratic Republic of Congo' as follows (ibid.):

- We do not and will not mine any material containing Tantalum, including coltan in the Democratic Republic of the Congo.
- We do not and will not knowingly purchase any material containing Tantalum, including coltan, which was mined in the Kahuzi-Biega National Park and the Okapi Wildlife Reserve in the Congo.
- We reject any new offer of ore if there is any possibility that the source is the DRC. We have instructed the personnel in our organization responsible for acquiring raw materials not to acquire any material containing tantalum, including coltan, that they have reason to believe was mined in the Kahuzi-Biega National Park and the Okapi Wildlife Reserve in the Congo, and not to sell any such material. We employ several controls to ensure that we do not purchase ore from the DRC,

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<sup>192</sup> See Cabot Corporation (2008).

<sup>193</sup> UNSC (2002b).

including the requirement of a government issued certificate of origin to ensure the ore we purchase is not sourced from the DRC.

- We do not acquire any material containing tantalum from the following countries:
  - Republic of Congo
  - Democratic Republic of Congo
  - Republic of Zambia
  - Republic of Burundi
  - Republic of Rwanda

In sum, 'Cabot will not knowingly purchase any tantalum supplies from any unlawful source where wildlife or the environment is threatened in any part of the world' (ibid.).

#### 6.3.4. H.C. Starck

H.C. Starck was allegedly purchasing ores through the German entrepreneur, Karl-Heinz Albers, who managed companies in the eastern DRC, namely Masingiro (Cuvelier and Raeymaekers 2002a; 2002b), SOMIKIVU (UNSC 2001a) and GBC<sup>194</sup> (Johnson and Tegera 2005). When H.C. Starck was accused of supporting the RCD rebels through its purchase of coltan in the first UN Panel of Experts' report<sup>195</sup> and by the lobbyists and media, it initially refused to verify its purchase of coltan from the DRC for several months (Tegera *et al.* 2002). In the press release of April 2001, H.C. Starck stated its ores from Africa were from 'established trading companies that have worked in various African countries for a long time and are headquartered in Europe or the United States. These trading companies have confirmed that H.C. Starck is not being supplied with illegally mined material from Central Africa' (Hayes and Burge 2003: 36). In May 2001, the company announced in its press release that in future it would not purchase any materials from Central Africa, providing the cut-off point as August 2001 (Raeymaekers 2002; Johnson and Tegera 2005). The then CEO, Peter Kählert, commented on the

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<sup>194</sup> This was one of the main coltan exporters during the coltan boom in 2000, but stopped trading in September 2002 (Johnson and Tegera 2005).

<sup>195</sup> See UNSC (2001a).

first UN Panel of Experts' report in November 2002 that 'we were taken completely surprised since, at that point in time, we knew nothing about the situation in Eastern Congo',<sup>196</sup> despite having made comments on the situation previously (Johnson and Tegera 2005).

H.C. Starck, however, relented in October 2001, after the publication of a book (Tegera *et al.* 2002), *Schwarzbuch Markenfirmen – Die Machenschaften der Weltkonzerne (Black Book on Brand Companies)* in Germany in September 2001.<sup>197</sup> An undercover investigation for this book revealed that H.C. Starck was the most important buyer of coltan from the DRC, as 80 percent of coltan originated from the DRC was estimated to have ended up in H.C. Starck's plant during the second Congo War (Werner and Weiss 2001 cited in Cuvelier and Raeymaekers 2002). H.C. Starck stated that 'H.C. Starck had obviously been misled by with regard to the origin of the material' in May 2003, following discussions with the UN Panel of Experts in 2002 (Johnson and Tegera 2005), and was categorised as 'resolved – no further action required' in the UN Panel of Experts' report in October 2003 (UNSC 2003b). The latest statement on 3 August 2009 (H.C. Starck 2009: 1), nonetheless, states that '[a]t the time, without being requested to do so, we supported the panel of experts in the clarification of allegations which were made against our company'.

In response to the researcher's question regarding the way H.C. Starck tried to respond to the allegations by the UN Panel of Experts and others, the General Manager of Corporate Communications of H.C. Starck, Manfred Bueteftisch, commented as follows (Bueteftisch 2009):

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<sup>196</sup> This was reported in H.C. Starck Newswire, April 2003 (Johnson and Tegera 2005).

<sup>197</sup> This book, *Schwarzbuch Markenfirmen - Die Machenschaften der Weltkonzerne*, was written by Klaus Werner and Hans Weiss in German and was published in September 2001. Though this book has been translated into several languages as the book turned into a best-seller within a few days, the English translation, *Black Book on Brand Companies*, has not yet published (Markenfirmen n.d.). The book 'tries to go beneath the image of the top brands on the market and reveals which of them have the most skeletons in their closet' and 'also shows the power of consumers in forcing these companies to change their business practices' by providing detailed portraits of 50 companies and product lists (*ibid.*). One of the two exclusively researched chapters, based on undercover research and on-site investigations, focuses on coltan and is titled 'Blood for Mobile Phones' (*ibid.*).

We got notice of the first report issued by the Panel in April 2001 and we were surprised to be named as a customer of a Mrs. Gulamali.<sup>198</sup>

We have never heard the name before and we have never had relations to Mrs. Gulamali.

We wrote several letters directed to the Secretary General of the UN, the Chairman of the Panel and the Chairman of the US delegation at the UN, who headed the Security Council at that time. We never got any response to our letters.

Only with the support of the German Foreign Office we got in contact with members of the Panel and we had a meeting with members of the Panel in New York in November 2001.

While the company explicitly rejected the relationship with Mrs Gulamali, who was directly connected to the RCD rebels, it did not clarify how the allegations of the purchase of coltan from the RCD rebel-held area in the eastern DRC were perceived by the company and resolved with the panel. Some research confirmed the coltan exports to H.C. Starck. In addition to the aforementioned book published in Germany, research by the Pole Institute (Johnson and Tegera 2005) found that a subsidiary of H.C. Starck in Thailand bought tantalum directly from one of the most dubious trading companies, Dara Forest, a Ugandan-Thai company in North Kivu. Furthermore, a new coltan trading company, Munsad, registered in 2003, was considered to be a subsidiary of H.C. Starck and worked with a Belgian trading company, Tradmet, which was considered to do business with H.C. Starck (Johnson and Tegera 2005). Munsad was one of the largest official cassiterite exporters in North Kivu in 2003 and 2004, and it was alleged that coltan was exported as cassiterite (ibid.).

Currently, H.C. Starck states that it 'has committed itself to upholding the International Guiding Principles of the OECD for multinational companies and follows these principles in all its activities' and '[a]llegations to the contrary, which third parties wrongly asserted against the company, were completely

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<sup>198</sup> Aziza Kulsum alias Mme Gulamali was the head of SOMIGL, through which the RCD imposed the trade monopoly from November 2000 to March 2001 (UNSC 2001a).

rejected by German courts' (H.C. Starck 2009: 1). It 'condemns all activities in connection with the illegal or unlawful exploitation of mineral resources ... does not knowingly purchase any raw materials originating or which could originate from such source ... in particular does not purchase any raw materials from the DRC, not even if we are offered materials with certifications proffered as "official" from Congolese state authorities' (ibid.). The company also explains that its 'supply of tantalous raw materials is currently guaranteed by contracts with suppliers from other parts of the world' which includes ore concentrates from Australia and South America, including 'tantalous tin slag and the recycling of tantalum scrap' (ibid.: 2). In addition, the company has 'adequate reserves of raw materials to bridge any possible unexpected loss of suppliers' (ibid.).

Unlike other companies mentioned in this section, H.C. Starck attempted to clear its image also through supporting a British conservation NGO, the Gorilla Organization.<sup>199</sup> This support was based on the company's concern about the ecosystem in the national parks (Cuvelier and Raeymaekers 2002b), though H.C. Starck was initially prevented from supporting the Gorilla Organization by the German government policy to halt all coltan imports from the DRC (Cuvelier and Raeymaekers 2002b). H.C. Starck participated in an international conference, the Durban Process, at the Tala Game Lodge in Durban, South Africa, organised by the Gorilla Organization between 28 and 30 July 2003 in order to discuss 'how raw material extraction and trade can be more closely harmonized with the needs of the local population and the ecosystem'<sup>200</sup> (Johnson and Tegera 2005). It also participated in the second meeting at the Tarangire Safari Lodge, Arusha, Tanzania, in April 2004.

H.C. Starck was interested in the idea, proposed by the Gorilla Organization, of establishing a pilot mining operation 'outside of the park and to monitor raw material coming out of this mine and to assure that none of the war parties have any benefit from such material', since it perceives it unethical to promote

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<sup>199</sup> The Gorilla Organization was formally called the Dian Fossey Gorilla Fund, but this thesis uses the current organisation's name.

<sup>200</sup> The process of the Durban Process is analysed in the section 7.1..



and implement a total ban on coltan mining in the DRC (D'Souza 2003) and thus decided to support it.<sup>201</sup> At the second Durban Process meeting in 2004, the head of environmental affairs of H.C. Starck, Ernst Joachim Martin, said that H.C. Starck would be happy to come back to the DRC; however, coltan had to be 'ethically produced, without polluting or destroying the environment or using child labour', 'marketed in accordance with international law' and that, 'to this end, his company would always demand some kind of certification' (Durban Process 2004: 18). His comments prompted criticism of the Durban Process being a way of securing 'sources of coltan which are beyond criticism' (Johnson and Tegera 2005: 56).

After participating in the Durban Process meetings of 2003 and 2004, the company, however, is 'no longer pursuing this idea' (H.C. Starck 2009) since 'nothing could be achieved in regard of a mining operation due to the ongoing war and the insecurity in the Kivus', while the company 'still generally support[s] this idea'.<sup>202</sup> The company is 'not planning any other activities for the operation of a mine or for the mining or extraction of raw materials in the DRC' (H.C. Starck 2009: 1). It has, however, been involved as the only industrial partner in a pilot project (H.C. Starck 2009) to develop a Certified Trade Chain (CTC) for mineral resources in Rwanda, by the Rwanda Geology and Mines Authority (OGMR) with German support.<sup>203</sup> H.C. Starck pursues this project 'because we believe this is a unique solution for developing countries and this will allow also western companies to buy raw materials from such countries without being criticized to violate local laws or regulations'.<sup>204</sup>

H.C. Starck is also involved in the CTC pilot project through a company based in Rwanda, Natural Resources Development Ltd (NRD), in which H.C. Starck took over 85 percent of the shares in 2006.<sup>205</sup> An interview with the managing

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<sup>201</sup> Email communication with Manfred Buetefisch, General Manager Corporate Communications of H.C. Starck GmbH on 12/6/2009 (Buetefisch 2009).

<sup>202</sup> Email communication with Manfred Buetefisch, General Manager Corporate Communications of H.C. Starck GmbH on 12/6/2009 (Buetefisch 2009).

<sup>203</sup> See details on the CTC pilot project in Rwanda, in the section 7.2..

<sup>204</sup> Email communication with Manfred Buetefisch, General Manager Corporate Communications of H.C. Starck GmbH on 12/6/2009 (Buetefisch 2009).

<sup>205</sup> In 2006, Mr. Joachim Zarnack signed a memorandum of understanding to invest USD40 million over a period of five years in a mineral venture with the Natural Resources

director (mining engineer) of the NRD, Dr Gustav Roethe, at the NRD Kimihurura office in Kigali, Rwanda, in 2009 revealed some of the experiences and perspectives of H.C. Starck, as detailed in the subsequent part.<sup>206</sup>

On 18 June 2009, Dr Roethe appeared to be uncomfortable about being approached for an interview by the author on the partnership for coltan certification between the NRD and Rwandan government in his office, but agreed to be interviewed the following week. He stated that the company is a private company and 80 percent of its shares are owned by H.C. Starck and 15 percent by individuals from Rwanda. On 19 June 2009, he was witnessed by the author and a research assistant in Gisenyi, when he was queuing at the Rwanda-DRC border to cross the border to Goma, the DRC, by coincidence. This event probably forced him to accept the interview to justify his travel to the DRC while his company claims to have no operations in the DRC.

As such, the author's visit to his office was welcomed without a further appointment. Dr Roethe was transferred to the NRD by H.C. Starck in 2008, but worked for SOMIKIVU in the DRC twenty-five years ago, implying his familiarity with the region. He started off with an hour-long technical lecture on geology and mineralogy without giving the author any chance to ask questions. He then explained the need to transform artisanal mining, often illegal, with primitive, environmentally disastrous and unsafe methods, to semi-industrial mining in Rwanda. While emphasising the nature of the company's operation as being generous in assisting the Rwandan artisanal mining sector in terms of environmental protection and formalisation, he explained the decision of H.C. Starck a year ago to try to own raw materials, although H.C. Starck is not a mining company. The company is, therefore,

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Development (NRD) in 2006 Africa-Invest.Net 2006). Mr. Joachim Zarnack owns an 85 percent stake and Mr. Ben Benzinge owns a 15 percent holding in the NRD. The NRD has concessions in Rutsiro, Marasebeya and Giciye in the western province and Nemba in the eastern province, and 'promised modern mining processing facilities and the establishment of a refinery to purify minerals' to be used 'by countries in east and central Africa to purify minerals.'

<sup>206</sup> Interview with the Managing Director of the NRD in Kigali on 22/6/2009 (Roethe 2009).

producing coltan and cassiterite in Nemba and wolfram in Rutsiro in Rwanda. Without being asked, Dr Roethe mentioned his visit to Goma on 19 June. He justified the purpose of the visit as being to see the situation in the DRC, which is 'not allowing' (sic) (his company to start operating). The reasons that are stopping the company from operating in the DRC are mainly insecurity, owing to the lack of government control, the presence of rebels and the absence of a MONUC presence outside towns, as well as the extensive need to build roads in the areas of operation.

Throughout the interview, Dr Roethe was speaking as an employee of H.C. Starck. He specifically mentioned that the company was severely criticised for buying 'blood coltan' by the UN Panel of Experts' investigation. From this experience, H.C. Starck became 'shy' about being exposed and is exceptionally concerned to make it clear that it does not get mineral concentrates from uncontrolled or illegal mining, including the use of child labour or trading. The company fears that it would be driven out of the market if it is seen as selling materials from the DRC. As companies being public and listed in the international markets are 'vulnerable', H.C. Starck does not take any risks that may damage its 'public image' which 'outweighs profits'. He also mentioned that NGOs are not looking at how the Chinese do their business in the DRC, even though he said the Chinese do not care about their public image because their clients do not care, without specifying the name of the company.<sup>207</sup> He expressed his criticism towards NGOs, saying that NGOs lack solid knowledge and disciplines unlike those in the mining business, yet claim to do charity work, while companies like H.C. Starck assist communities in various meaningful ways without any rhetoric.

#### 6.4. International traders

Numerous international coltan trading companies were accused in the UN Panel of Experts' reports of having assisted armed groups through purchasing

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<sup>207</sup> It is likely that he alluded to the Chinese company, Ningxia Non-ferrous Metals Smeltery (NNMS), reviewed in the section 6.2.1. as NNMS is a state-owned company and seems to continue purchasing ores from the DRC.

minerals and paying taxes (UNSC 2001a; 2002b) similar to middle-user companies in the previous section. These reports had resulted in certain outcomes. As mentioned earlier, a case of UK-based Afrimex regarding its mineral trade in the eastern DRC was filed by Global Witness in 2007 (Global Witness 2007a), and the UK NCP for the OECD Guidelines for Multinational Enterprises upheld the majority of the allegations against Afrimex in August 2008.<sup>208</sup> In addition, Eagle Wings Resources International had coltan exploration and trading operations in the DRC, and was named in the UN Panel of Experts' reports (UNSC 2001a; 2002b). Accusations made against the company of using child labour in one of their mines in the eastern DRC as well as being linked to the Rwandan 'elite network' have bankrupted the company (Lasker 2008). According to the CEO of Eagle Wings, when customers found out that the company had been accused by the UN of the use of child labour they abandoned the company (ibid.).

Pressure on international mineral trading companies was renewed following the publication of reports by the UN Group of Experts (UNSC 2008a) and Global Witness (2009c), which underscored the continuation of illicit exploitation and trade in minerals, and the adoption of the UN Security Council Resolutions 1856 (UNSC 2008b) and 1857 (UNSC 2008c) in December 2008 in relation to illicit natural resource trade. As the UN and human rights groups intensified pressure on international mineral trading companies and local authorities to crackdown on the sector, some companies suspended purchases of minerals from the DRC (Bavier 2009). This section introduces the perspectives of some international companies trading in tantalum as well as cassiterite<sup>209</sup> that have been expressed recently in light of the heightened attention to the sector.

The 2008 UN Group of Experts' report (UNSC 2008a) established links between the Thailand Smelting and Refining Company (THAISARCO) and a *comptoir*, Panju, based in Bukavu. Panju was identified as one of the

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<sup>208</sup> For details, see the section 7.5..

<sup>209</sup> This section includes cassiterite (tin) as tantalum is also produced from tin-slag and coltan is sometimes traded as cassiterite to undervalue the commodities.

*comptoirs* in Bukavu directly complicit in pre-financing *négociants* and as working closely with the FDLR.<sup>210</sup> Panju is one of the five major exporters of coltan, cassiterite and wolframite in South Kivu, based on government statistics in 2007. The UN Group of Experts claims that Panju was aware ‘that certain mines they buy from are controlled by FDLR’, which was widely known amongst mineral trading houses in South Kivu (*ibid.*: 21). It ‘has also obtained documents showing that all of Panju minerals purchases were sold to the Thailand Smelting and Refining Company (THAISARCO)’ (*ibid.*: 22–23).

THAISARCO is a Thailand-based tin smelter and is a principal subsidiary and operating unit of UK-based Amalgamated Metal Corporation (AMC),<sup>211</sup> which was named in the UN Panel of Experts’ report (UNSC 2002b) but categorised as ‘resolved’ in the 2003 UN Panel of Experts’ report (UNSC 2003b). A Global Witness report published in 2009 (Global Witness 2009c) also named THAISARCO as buying minerals from suppliers whose middle men had been trading with armed groups, and called for an assets freeze through the UN Security Council Resolution 1856. While the report acknowledges the legal operation of the company, it pointed out that the company failed to check the source of the minerals as its suppliers were laundering minerals originated from armed groups. Following the publication of the report, AMC was quoted by several media organisations, including the BBC.<sup>212</sup>

In response to Global Witness on 3 August 2009, AMC contended that purchases of coltan and wolframite by THAISARCO were ‘simply incorrect’ as THAISARCO ‘is a tin smelter and it does not and never has purchased Coltan or Wolframite’ (Global Witness 2009d). Global Witness countered this, stating that it has ‘official documents which clearly state that Panju sold coltan to Thaisarco in April 2008’ (*ibid.*). Both AMC and THAISARCO, hence, responded to these allegations made against them as they do not operate ‘directly’ in the DRC (Joshi 2009).

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<sup>210</sup> A UN Group of Experts report, leaked to the press in November 2009, documented that THAISARCO, as well as others, continues to trade with the FDLR (Africa Confidential 2009).

<sup>211</sup> AMC owns 75.25 percent shares of the THAISARCO.

<sup>212</sup> See BBC (2009), <http://news.bbc.co.uk/1/hi/world/africa/8159977.stm>

THAISARCO firmly rejected the allegations by claiming that the company is part of an industry-based comprehensive due diligence plan for tin minerals sourced from the DRC, the ITRI Tin Supply Chain Initiative (iTSCi), started on 1 July 2009<sup>213</sup> (BBC 2009). The company stated that '[i]f the UN were to decide that a withdrawal from the trade is the most appropriate way forward, the Thaisarco would comply absolutely with their requirements' (ibid.). It added, however, 'it is believed that such an approach would be to the detriment of large numbers of artisanal miners and their dependents in the DRC' by quoting the World Bank data estimating that there are up to 10 million people who are dependent on mining in the DRC (ibid.) and 'most parties and commentators appear to be in agreement that the continued trade in minerals from DRC is fundamental to the well being of the artisanal mining communities' (Joshi 2009: 6). THIASARCO, therefore, believes it is 'providing a very valuable service to the DRC economy although [it] recognise[s] that improvements in the visibility of the supply chain are both desirable and necessary' (ibid.).

Despite dismissing the allegations made against itself and claiming to have participated in the iTSCi, THIASARCO, who was sourcing between 25 percent and 50 percent of its tin supply from the DRC, suspended its purchases from the DRC in September 2009 (Bavier 2009). The chairman of THIASARCO and director of AMC, Giles Robbins, stated:

Although acting entirely lawfully, the threat of misleading and bad publicity remains for anyone who participates in the DRC tin trade. These pressures have led Thaisarco to suspend its purchases from the DRC (ibid.).

He also complained that '[n]egative campaigning from advocacy groups and adverse coverage in sections of the international media is undermining the credibility' of the iTSCi 'to combat illicit trading in the mineral' (ibid.). The

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<sup>213</sup> The iTSCi scheme is developed by an International Tin Research Institute (ITRI) working group, including THIASARCO and Malaysia Smelting Corporation Berhad. See details in ITRI (2009).

company would restart smelting, provided broader support for the scheme, as it believes ‘the mineral trade working with key stakeholders could, given the constructive engagement of all advocacy groups, be the catalyst for the return of security and economic prosperity to the Congo’ (ibid.).

A Belgium-based mineral trader, Traxys, was also named in the UN Group of Experts’ report in 2008 (UNSC 2008a). The group found that in 2007 Traxys officially bought 1,631 tonnes of cassiterite and 226 tonnes of coltan through four *comptoirs*, which systematically buy from FDLR-controlled mines (ibid.: 22). Traxys was also accused of pre-financing those *comptoirs*, though the company denies any pre-financing arrangements, while admitting engaging in a buying relationship with them (ibid.: 22–23). In May 2009, Traxys suspended the purchase of minerals from the eastern DRC on the grounds of reputation, although the company denies any wrongdoing (Bavier 2009).

The UN Group of Experts’ report, leaked to the press in November 2009,<sup>214</sup> named the Hong Kong-based Refractory Metals Mining Company (RMMC) (Refractory Metals Mining Company 2009). In response, RMMC published a statement ‘to clarify facts discussed in the report that have been the source of some confusion’ (ibid.). As the company is part of the ITRI Tin Supply Chain Initiative (iTSCi), it ‘abides by ITRI transparency obligations to show the origin of ore purchased, and conducts due diligence both in accordance with ITRI and UN recommendations to ensure that its cassiterite is not sourced from conflict areas’ of the DRC. The company’s due diligence process ‘includes oversight of sourced minerals’ origin, review of the licensed exporters’ policy and practices, and collection of complete and accurate government documents proving legality’.

RMMC states that its cassiterite supplier, African Ventures Ltd<sup>215</sup>, did not source cassiterite from a supplier until this supplier stopped purchasing

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<sup>214</sup> See Africa Confidential (2009).

<sup>215</sup> According to the leaked UN Group of Experts report in 2009, several foreign mining houses, including the African Ventures Ltd., trade with the FDLR (Africa Confidential 2009). The Africa Ventures Ltd. is a Samoan-registered company with a Hong Kong address, and is ‘being used as a front company for the Swiss businessman Chris Huber’ (ibid.). Chris Huber

cassiterite from 'a particular market where cassiterite from a rebel-controlled mine was commonly sold'. In the view of the company, it did not support rebel groups, as it had avoided 'purchases from areas controlled by, or benefitting, non-government armed groups'. RMMC 'has followed all recommendations and instructions of the 2008 report of the Group of Experts'. RMMC, therefore, feels that '[t]he situation clearly is confusing' as the 2009 UN Group of Experts' report 'suggests that some mines under the control of the Democratic Republic of the Congo are in fact under the control of rebel groups'. The company states that it 'will not restart purchases in the Democratic Republic of the Congo until the question of what constitutes conflict resources is resolved'. Moreover, the company states that it 'would greatly welcome UN guidance regarding which areas of the eastern Democratic Republic of the Congo are conflict zones at a particular point in time and how to continue to improve its supply chain due diligence process'.

#### 6.5. Actors in the DRC and Rwanda

This section introduces challenges and perspectives within the first stage of the coltan supply chains, or the upstream side of the supply chains. They include actors on the ground, both in the DRC and in Rwanda, namely mineral trading houses, middle-men, miners, government officials and NGOs. Scrutiny of coltan supply chains has highlighted the crucial roles played by mineral trading houses, *comptoirs*, within the coltan supply chains. They 'operate as the interface between the local and the international mineral business ... act as intermediaries between Congolese *négociants* and international traders who sell the minerals to different parts of the world' (Custers *et al.* 2009: 11). As they are informed both on the change of the global commodity market and the local political and economic situation (*ibid.*), they are expected to be able to know the exact mines that minerals are from and tell whether the minerals are conflict minerals or not.

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'was involved in the conflict coltan business during the 1998-2003 war' in the eastern DRC and is 'sourcing materials from companies with close ties to FARDC officers' from the former CNDP as well as 'companies buying from FDLR zones' (*ibid.*).



Contrary to expectations, *comptoirs* in Kivus did not provide information to the Group of Experts on 'which *negociants* they buy from, and from which geographical zones these *negociants* trade from, as well as information on quantities of minerals purchased over the past year', when asked during the meetings in 2008 (UNSC 2008a: 32). The group accuses both the head of the *comptoirs* association in North Kivu, John Kanyoni, and the head of the *comptoirs* association in South Kivu, Mudekereza Namegabe, of having 'falsely proclaimed that they are working with the United Nations to increase transparency in the sector' (ibid.). In view of the Group of Experts, '[t]oo many *comptoirs* are exploiting the legal distinction between themselves and *negociants* to claim they do not know the origin of the minerals they purchase, when clearly they often do, and, if they do not, it would be fairly easy to find out' (ibid.).

John Kanyoni has been articulating the view of Congolese mineral traders through media coverage, but whether his voice is truly representing the majority of the mineral traders is unknown. According to a BBC HARDtalk presenter, who interviewed him in 2009 (Sackur 2009), he is 'a designer-suited, BMW driving *comptoir* and an ethnic Tutsi'. During the interview, he acknowledged that the Hutu extremists in the eastern DRC finance their military operations through controlling local mines, some of whom killed members of his family (ibid.). In response to the question posed concerning whether he is trading blood minerals, he said, 'No ... That's a Western exaggeration' (HARDtalk 2009). Furthermore, he claims that it is a moral business by explaining, 'If you go to Walikale, you will see that the impact of the FDLR in mining is not so big, compared to the normal artisanal miners who are in the business' (ibid.).

The problem of the mineral trade in the DRC according to John Kanyoni is that, '[w]e are more suffering because of the lack of authority of our own government of the DRC in those areas' (ibid.). He insists that they are trying to help the authority to establish its control and formalise the sector, which is more important than halting the trade to stop human rights violation (ibid.). For that purpose, his association proposed 'to sit all of [them] together [to discuss]

how [to] establish a mechanism of due diligence which will be helping to get a kind of traceability of the ores from the mine, up to the *comptoir* and even to the end user'. This is not in response to the mounting pressure following the UN Group of Experts' report and the UN Security Council resolutions, as their approach is based on the understanding that thousands of people depend on the sector (ibid.).

Without making clear how their approach differs from other approaches for due diligence such as the 2009 US Congo Conflict Mineral Act, Kanyoni opposes the act as these approaches can increase the cost of operating in the DRC and 'a cumbersome mineral tracing scheme could kill off the industry'.<sup>216</sup> He commented, 'Do they want people to stop working in the Kivus too? Do you think that will bring peace? These people in the mines today will just join the armed groups tomorrow.' When THAISARCO announced its decision to suspend purchasing from the DRC in September 2009, Kanyoni, representing local traders, accused 'the United Nations and campaigners of stifling the sector, the main income sources for thousands of miners and dependents in the provinces of North and South Kivu', of making the sector's survival difficult (Bavier 2009).<sup>217</sup>

Since the traceability of minerals has become a focus of the conflict mineral issue, the key question is whether *comptoirs* can know the exact mine where minerals come from, as the Group of Experts claims.<sup>218</sup> Being asked whether *comptoirs* know the origin of minerals, as *négotiants* claim, and 'by implication, that some of them colluded with the illegal activities of the FDLR', local business leader, Basila Milabyo, in Bukavu answered that they know which market or company the minerals are from but not which mine (Fessy and Doyle 2009). He also said, however, '[w]ell, even in areas controlled by these rebels, the diggers are Congolese' and '[w]hat can we do to chase them? We

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<sup>216</sup> Reuters (2009a) *Rights group wants Congo 'conflict mineral' tracing*. 1<sup>st</sup> April 2009, available from: [www.miningweekly.com/print-version/rights-group-wants-congo-conflict-mineral-tracing](http://www.miningweekly.com/print-version/rights-group-wants-congo-conflict-mineral-tracing) [Accessed 2 April 2009].

<sup>217</sup> Kanyoni based his claim on the fact that the THAISARCO was purchasing more than 70 percent of production from North and South Kivu, while an industry expert does not think the suspension by the THAISARCO would affect the market as 'any materials they don't take the Chinese would' (Bavier 2009).

<sup>218</sup> UNSC (2008a).

suffer from their presence as well. They rape our women, and people are leaving the bush because of them, taking refuge in town. How can we get weapons to fight them? We have none' (ibid.). He declined to answer whether bringing a halt to purchasing minerals by his association can stop the operations of the FDLR, whom *négotiants* pay 'to get in and out mines under their control' and 'tax for each bag of minerals that they have removed from these sites' (ibid.).

An international NGO worker also recognises the difficulty in identifying the origin of ores.<sup>219</sup> During his assignment in Fizi, South Kivu, in 2008, he observed that small miners and entrepreneurs traded the ores they had mined at a basic, traditional market in the area, where people sell vegetables and livestock, and that the armed groups were present to collect informal tax 'in order to pay for the upkeep'. In his perception, supply chain due diligence process may not be appropriate as 'the situation on the ground is quite complex' and 'the mining operations are not ... very institutionalised'. Owing to the informality of the operation, he envisages that 'it's very difficult to actually trace where [ores] came from and also to make a firm question about how much the harm a particular mining operation has done'.

The above shows that *comptoirs* depend on middle-men, or *négotiants*, to source minerals from mines and markets in the eastern DRC. While many of these sites are controlled by armed groups and the national army, a representative of the *négotiants*, Masumbuko Moari, said, during a BBC interview, 'There is nowhere and no-one we won't buy from' (Allen 2009). Having been told that 'they [*négotiants*] might have blood on their hands as a result of buying from the men with guns', he laughed and said, 'That's a political issue' (ibid.).

Those perspectives illuminate the difficulty in distinguishing harmful conflict minerals from other minerals in the eastern DRC. Adolphe Muzito, DRC's prime minister, acknowledges that the real issue is the militarisation of the

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<sup>219</sup> Telephone interview with a former international NGO staff in South Kivu on 24/3/2009 (Fletcher 2009).

mining sector (Allen 2009). He said, 'We want people and companies to be able to work in good conditions' and, 'once the environment improves, the army won't be in a position to exploit the mines' (ibid.). He explained, 'It's an abnormal situation at the moment because the government doesn't have full control' (ibid.).

The aforementioned NGO worker supposes that 'the issue of whether or not mining is fuelling the conflict is not something that can be controlled at the end of the market chain', and where companies buy coltan from 'doesn't have a very clear impact on whether or not people's well-being is improved in coltan mining areas'.<sup>220</sup> His analysis is based on the mixed reality on the ground that various people are involved in dangerous mining operations in different ways in order to make a living, being desperately poor and lacking public services and social infrastructures. What is needed, therefore, is a 'structure in actual mining operations', which can convert 'the value of coltan to a local improvement in welfare'. Moreover, there is a problem of poor communications in 'the way that life is administered in Congo' and there is, hence, 'a very weak link between what actually happens on the ground in particular villages and particular communities with whatever agreements were made by states or by administration of the country or the administration of the state, or even by agreements from the militias or military leaders'.

The weak link between the reality on the ground and administration has been observed and confirmed by several other actors. The director of a *comptoir*, Olive Depot, says, 'You can cross the river to Rwanda with coltan in your pocket. They offer better prices there. Our legislation encourages fraud' (Dizolele 2007). Higher taxes in the DRC have been one of the reasons for the prevalence of the illegal and informal mineral trade, and a new tax hike triggered the suspension of purchase of ores in North Kivu in 2009 (Bavier 2009). Officials of the Rwanda Geology and Mines Authority (OGMR) are aware of the smuggling of minerals from the eastern DRC to Rwanda by

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<sup>220</sup> Telephone interview with a former international NGO staff in South Kivu on 24/3/2009 (Fletcher 2009).

'bachorachora'<sup>221</sup> in order to add value in Rwanda by purifying the minerals before exporting them abroad.<sup>222</sup> Though the authority is tracking exports in order to control smuggling, 'tracking the minerals back to the mines is proving to be much harder' as they 'are sold by third-party buyers ... [who] are not linking the materials to where it has come from, especially if it has come from the FDLR, so that's why the problem stay', according to the director of OGMR, Dr Michael Biryabarema (SaveRwanda 2009).

Accepting that the conflict has been 100 percent financed from the illegal mining activities, a Congolese expert on the DRC's extractive industry criticises the 2002 Mining Code which 'was drafted by the World Bank without taking into consideration the reality on the ground', such as the issues of artisanal mining 'due to the consequence of war' and 'also in favour [of] the multinational companies'.<sup>223</sup> He considers that the '[t]raceability and certification of mines from the DRC up to the last point [buyers and users] ... [s]trong law on mining regulation' and measures for the cross-border trade between the DRC and its neighbours, including '[c]apacity building of the DRC government in charge of mining revenues and taxes' are necessary (ibid.).

These realities on the ground have been expressed by some players in the mining and trade sector. Interviews conducted with the local population in North Kivu between December 2000 and August 2001<sup>224</sup> showed the fundamental changes brought by the coltan boom and the second Congo War (Tegera *et al.* 2002). Coltan mining provided cash income, which is very scarce in the area, and solved the unemployment problem even for the displaced population from the war. Those who engage in mining spoke of coltan mining as 'hard work' with problems of landslides and armed groups, and they did not accumulate wealth owing to the high cost of living around mines (ibid.). They still preferred and engaged in coltan mining because there

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<sup>221</sup> This is a vernacular in Kinyarwanda, referring to mineral smugglers.

<sup>222</sup> Interview with a Rwandese official at the Rwanda Geology and Mines Authority (OGMR) in Kigali on 18/6/2009.

<sup>223</sup> Skype interview with the Project Coordinator – DRC's Extractive Industries of the African Institute of Corporate Citizenship on 22/5/2009 (Losango 2009).

<sup>224</sup> A co-research by the Pole Institute and CREDAP (Tegera *et al.* 2002) interviewed miners and their families, managers of mine, traders, NGOs, church, local administrators and traditional authorities.

were no other sources of income due to the effects of the war; they hope to become rich 'one day' and they were not worried about the risks as 'death is everywhere' (ibid.: 16). Others saw coltan mining as quick and easy money, compared to earning income through agriculture or cattle-raising, and that produced negative outcomes. Those outcomes include: the decline of agriculture and cattle-raising, which was left to women and caused high food prices; socio-cultural destruction through prostitution, school dropout, drugs and drinking; and environmental destruction. In addition to rising violence in the mines being used as a means to settle disputes, some foresaw the risk of new land conflicts between individuals or ethnic groups when the previous conflicts over pastoral land had not been solved. An NGO director specifically pointed out the potential confrontation between the absent landowners that were Tutsi and Hutu and their managers from the Hunde tribe who were becoming rich through coltan mining, despite the underground land belonging to the state.

Interviews for a follow-up study between 2004 and 2005 revealed that coltan mining continued under the same conditions, given 'the lack of viable alternatives' (Johnson and Tegera 2005: 19). While traders or people with access to trade made money, miners did not profit and their lives had not improved. A mine manager explained, 'The traders in the market manage to take all the miners' money, so the miners' life is one of starting all over again every day, going back and forth between the mine and the market' (ibid.).

It is not only miners who do not benefit greatly from coltan mining. Labourers, who work on separation processes for minerals at a *comptoir* in South Kivu, are mostly day-labourers without any contracts and they make less than USD1 a day (Dizolele 2007). A worker explains, 'If we did not have this job, we will have no work' (ibid.). Even *négotiants* are 'very much at the mercy of the *comptoir* (ibid.). A *négotiant* asks, 'If I did not do this, then what else?', even though he is often in the red (ibid.). The aforementioned NGO worker noted that 'cash income is very hard to come by' and people work as a

labourer for only USD1–4 a day.<sup>225</sup> He also observed that ‘money is quite high objective of the people, perhaps because of the shortage. Particularly amongst young men, there’s a huge drive to try to earn cash’ so that they can manage to do things by giving a bribe (ibid.).

Fieldwork by the author in 2009 also revealed that people who engage in mineral extraction and trade are exploited and do not make a great deal of profit. A Rwandese demobilised man, who works as a *négotiant* to buy minerals or employ miners to mine on the land he buys in Bukavu for his big boss in Cyangugu (Rwanda), said he is not rich since he has been exploited like a slave.<sup>226</sup> A Rwandese, who was previously mining in North Kivu between 2000 and 2004, said he was paid very little per quantity he mined and stopped mining when he became ill from respiratory problems.<sup>227</sup> Though he started supervising the packing of ores for a company in Kigali, he is paid a meagre salary. According to him, armed groups send guards to the mines they control and charge a small amount of tax, but it is safe and there are no problems in these mines. A priest in Bukavu employs a Congolese former coltan miner, who has no car and looks just like a worker, as an errand runner to deal with a local business, Kotecha,<sup>228</sup> in order to avoid drawing attention to his business operation.<sup>229</sup> The Congolese errand runner assists the priest in selling ores, which he buys very cheaply from local miners to Kotecha, and in buying drugs from Kotecha. According to him, miners are not in danger in the FDLR- or Congolese army-controlled mines, as those groups need miners and money from the mines.

The situation for individuals who are employed by established companies does not seem to be much better. A Congolese, who works for a mineral exporting company owned by a ‘big boss’ (American) in Kigali, has no contracts or insurances despite having worked for the company for the past

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<sup>225</sup> Telephone interview with a former international NGO staff in South Kivu on 24/3/2009 (Fletcher 2009).

<sup>226</sup> Interview with a Rwandan *négotiant* in Kigali on 17/6/2009.

<sup>227</sup> Interview with a former Rwandese miner in Kigali on 23/6/2009.

<sup>228</sup> This prominent local entrepreneur is associated with the British mineral trading company, Afrimex, which breached the OECD Guidelines for Multinational Enterprises by trading minerals from the rebel-held eastern DRC. See details of Afrimex case in the section 7.5.

<sup>229</sup> Interview with a former Congolese miner in Kigali on 20/6/2009.

ten years.<sup>230</sup> Similarly, a Rwandese worker with a university degree in an established mineral trading company works six days a week from morning to late evening without a proper contract.<sup>231</sup> At both Mineral Supply Africa (MSA) in Kigali and the Metal Processing Association (MPA) where the author observed their compounds, several workers are engaged in purifying minerals in blue overalls with no other protective clothing.

There are also individuals who engage in the mineral trade by using their connections and access. A Rwandese mineral dealer, who resides both in Goma and Gisenyi, smuggles minerals from Goma to Gisenyi in small portions with help from the border authority and then sells them to exporters based in Kigali.<sup>232</sup> He seems to be making a good living through smuggling. Organisers of a cooperative initiative to deal with the '3Ts' based in Goma and Gisenyi are well connected to Europe, as well as Rwanda and the DRC.<sup>233</sup> They pay very little money to their groups of miners and swap groups when those groups start to complain about the payment, thereby becoming rich, and managing to build large houses in Goma.

Lastly, actors on the ground seem to have a different perception of the nexus between minerals and the conflict in the DRC. Throughout the fieldwork in Rwanda in 2009, most interviewees were able to distinguish different conflicts that are related to mineral trade or political issues. They acknowledged the link between minerals and the conflict and attributed this to some disputes over deals.<sup>234</sup> Based on their perception, minerals can fuel conflict; however, it is beneficial to buy minerals from locals as minerals provide income for many. It is also necessary to assist miners' families and build infrastructures such as roads.

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<sup>230</sup> This was revealed when he had a road accident on his way to come to the interview in June 2009.

<sup>231</sup> Owing to this working condition, the author was not able to interview him during the fieldwork in June 2009.

<sup>232</sup> Informal conversation with a Rwandese mineral dealer in Gisenyi on 19/6/2009.

<sup>233</sup> Interview with a Congolese/Rwandese civil society representative in Gisenyi on 19/6/2009.

<sup>234</sup> The aforementioned Congolese worker for a mineral exporting company in Kigali, a Congolese executive secretary for a local NGO and a Rwandese-Congolese informant.



In one interview, a miner was asked, 'Do you understand that the exploitation of coltan fuels the conflict in Congo?' and he replied, 'If we knew that, we would no longer work here' (Dizolele 2007).

The governor of North Kivu province, Eugene Serufuli,<sup>235</sup> spoke on the prospects of peace and economic recovery of the DRC in 2004 and stated the following concerning the real cause of instability in the area:<sup>236</sup>

It is a problem that arose out of very poor management. The country had been very badly run for several decades. We should not today begin to trivialise the Congolese problem down to a political one. How many years have civil servants not been paid? How many years have passed without inter-ethnic fighting and killings where entire villages have been burnt down? You want to tell me that all these villages have been burnt because of natural resources? No, we have to be serious and sit down at the table, think and seek a lasting solution to the crisis in the DRC. [The problem of the Interahamwe and the ex-FAR] has to be solved at a much higher level [than the local level as they currently are] not only here in North Kivu; they are in the forest of central Africa.

Similarly, the view on the Congolese conflict of the representatives of members of the National Parliament in South Kivu was expressed in a letter to Hillary Clinton in August 2009:

[A] war of attrition is managed wisely and thoroughly fed through the plundering of our resources, the depopulation of areas affected by this war, and very soon balkanization [and this] policy has led to the strengthening of mono-ethnic powers in Rwanda and Uganda ... It is important to point out that with the support of the USA and the UK primarily, Rwanda released its tribal hatred on the DR Congo where its

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<sup>235</sup> Eugene Serufuli is a Hutu member of the Banyarwanda community and was an activist in the MAGREVI (Jourdan 2005). He was the second vice president of the RCD-Goma and was a pro-Rwanda governor, from 31 July 2000 till 2007.

<sup>236</sup> IRIN (2004) 'DRC: Interview with Eugene Serufuli, governor of North Kivu Province', 22 July 2004, available from: [www.grandslacs.net/doc/3100.pdf](http://www.grandslacs.net/doc/3100.pdf) [Accessed 3 July 2009].

support and participation alongside pseudo-insurgent movements are undeniable. Indeed, the involvement of multinational corporations in the delivery of arms and plundering the wealth of the DR Congo in the interest of great powers on one side and on the other, the cases of Mutebusi, Nkundabatware, Bosco Ntaganda, and the flagrant presence of many Rwandan soldiers in the integrated CNDP troops in support of Rwanda confirms our assertion ... Rwanda's history is punctuated by cyclical and fratricidal wars driven by a spirit of intolerance and retaliation between Hutus and Tutsis ... the DR Congo has become each time the country of pilgrimage for them.

They, therefore, 'condemn the guilty silence of the international community, particularly the USA' and demand the 'international community require of President Paul Kagame the organization of an inter-Rwandan dialogue that would bring together around one table all the components of the Rwandan tribes, both those inside and outside of the country, to find solutions to internal problems between them' (ibid.). They also denounce the 'contribution of the USA in the strict regulation of sale, delivery and purchase of arms and munitions to leaders implicated in the conflict in the Great Lakes sub-region, essentially Rwanda and Uganda' and call for '[p]lacing under embargo all American and Western firms trafficking in mineral resources known as "blood" coltan, diamonds, gold, cassiterite etc.' and 'punishing all political and economic players in the sub-region or elsewhere involved in the war' amongst other things. Lastly, they 'recommend that the Obama administration deals directly with Congolese institutions legally established in place of intermediaries or subcontractors'.

## 6.6. Chapter summary and conclusions

This chapter has, at the outset, explained the enhanced scrutiny and mounting pressure on the coltan supply chains, given the adverse impact of mining and trade of 'conflict coltan' on the conflict in the DRC and the role of coltan-using companies. Companies are increasingly being called upon to apply enhanced due diligence as part of their corporate responsibility to

respect human rights, thereby traceability and accountability of supply chains have become critical issues. Within this context, the 'conflict mineral' approach to clean up coltan, which is implicated in the conflict, from the coltan supply chains has become prevalent. However, as mentioned in section 6.1., the 'conflict mineral' approach has been criticised as it neglects the underlying geo-political issues and would negatively impact on the livelihood of the population. I believe my research supports this critical perspective.

The examination of challenges and perspectives within the coltan supply chains at four different stages has clearly demonstrated a lucid disparity amongst actors. End-users of coltan, such as mobile phone companies, are vulnerable to NGO and consumer campaigns, and are compelled to source coltan responsibly in order to protect their brands. Nonetheless, they are faced with the difficult task of achieving full traceability and accountability of coltan supply chains, owing to the extensive and complex coltan supply chains. They do not purchase raw materials directly, and depend on the lower tiers of suppliers to comply with their ethical supply chain policy; however, they acknowledge their limited influence on suppliers when not having direct contracts. The challenge of traceability is also evident as characteristics of the ore disappear once the ore is processed. Consequently, companies face significant challenges in pursuing ethical sourcing agendas on raw materials in order to protect their brands and manage reputational risks, and find those challenges impossible to address alone. End-users of coltan are, therefore, pursuing collaboration with other companies and stakeholders to tackle the coltan supply chain issues effectively, although local traders are not yet included.

Tantalum capacitor manufacturers and tantalum processors, as middle-users of coltan, were made aware of their extended responsibilities to the conflict in the DRC by the reports of the UN Panel of Experts and Group of Experts. Tantalum processors are directed particularly as a key pressure point within the coltan supply chains, as the 'big three' companies consume 70 to 80 percent of tantalum in the world. Amongst the 'big three', the Cabot Corporation and H.C. Starck fervently express that they do not 'knowingly'

purchase tantalum materials from the DRC or unlawful sources, and that they uphold international standards in its operation. Their response is in stark contrast to the Chinese state-owned company, Ningxia Non-ferrous Metals Smeltery (NNMS), which makes no comment on corporate responsibility or responsible supply chains, in spite of it being the primary consumer of the DRC's coltan. Noteworthy is the case of H.C. Starck, which has become extremely 'shy' and admits its vulnerability to reputational risks as a listed company after being severely criticised for buying 'blood coltan'. While the company itself takes its 'public image' seriously by taking precedence over profits, it points out undisciplined actions by the international community without addressing the Chinese company specifically.

Similarly, international traders have been blamed for fuelling the conflict by purchasing minerals from the eastern DRC, while operating lawfully. To counter the bad publicity caused by negative campaigns against them, some insist that their operations provide valuable livelihoods to the large number of the population who depend on mining in the DRC. Nevertheless, several trading companies have been forced to suspend the purchase of minerals from the DRC on reputational grounds. A question of what constitutes conflict coltan arose as the key issue for this sector. The sector demands clear guidance to determine which areas, when and from whom it is acceptable to buy minerals, since the situation on the ground is confusing, as sovereign actors also commit grave human rights abuses.

Amongst the actors on the ground, *comptoirs*, mineral trading houses, have been pressed to avoid buying minerals from rebel-controlled mines, on the basis that they should be able to know the exact origin of ores. *Comptoirs* oppose this assumption and demonstrate ambivalent perspectives. While they advocate due diligence, they criticise it at the same time, as an obstacle to the survival of the population and an impractical solution, owing to the complex relations on the ground. These perspectives are generally shared by other actors at the grass roots level. They distinguish conflicts related to mining and trade from the conflicts based on political issues, and reject the blood coltan scenario as a Western exaggeration. They identify the issues as being lack of

control, structures and livelihood, inappropriate legislation, and poverty. Faced with these issues, the population without access to markets engages in mining and trades in severe working conditions.

The assessment of these different challenges and perspectives illustrates that upstream supply side and demand side are driven by distinctly different standpoints and motivations. Actors in the upstream supply chain, including miners, middle-men and trading houses, are driven by their need to capitalise available resources for livelihood, survival and security, regardless of standards. On the contrary, those on the demand side are driven by their need to secure the supply of critical minerals. As the DRC became an essential supplier of coltan when some major suppliers suspended mining operations, the demand side needs to ensure the acquisition of conflict-free coltan. This is a critical issue for coltan-using companies in order to avoid damaging their public image and reputation through the supply chain due diligence.

The mounting pressure for supply chain due diligence has, however, posed a critical question as to what really constitutes 'conflict coltan'. The perspectives expressed by actors in the upstream supply side, as well as the analysis on the conflict in the DRC in Chapter Four and coltan mining in Chapter Five, illustrate the complex and nuanced relation between mining and the conflicts. It is essentially impossible to make a firm distinction between legal and illegal, or sovereign and non-state, in transactions that involve all aspects of the society. The disparity between the two sides highlights the lack of involvement of local actors in efforts to achieve the ethical sourcing of coltan. Yet involvement would be the only means through which the voice of local actors could be articulated in order to promote truly meaningful solutions.

## **Chapter Seven: Multi-stakeholder partnerships**

This chapter aims to assess the efficacy of multi-stakeholder partnerships in enhancing governance to prevent armed groups from accessing finance through coltan production and trade in the eastern DRC. It analyses empirical evidence of the multi-stakeholder partnerships relevant to coltan production in the eastern DRC, drawing also from the analysis of the nature of the link between coltan exploitation and armed conflicts in the eastern DRC from the preceding chapters (Chapters Four, Five and Six). Based on the findings above, the chapter also evaluates whether multi-stakeholder partnerships contribute to sustainable peace and security by improving governance to end and prevent armed conflicts.

The multi-stakeholder partnership approach to enhancing governance in natural resource production and trade has become prevalent based on the predominant conflict analyses reviewed in Chapter Two. The analysis of contemporary armed conflicts largely draws on econometric studies and emphasises the economic agendas of belligerents, or a rational choice theory, rather than the grievances of rebel groups. These studies find recurring evidence that the economic motivations of rebel groups in countries with weak governance and natural resource abundance, especially valuable, point source and lootable resources, lead to armed conflicts. This dominant hypothesis is increasingly shaping policies to strengthen governance in addressing resource-related armed conflicts. Given that involve responses such as country-based sanctions regimes to prevent armed groups from accessing natural resource revenues have proved ineffective, largely owing to the growing network of trade, responses have become increasingly global, inclusive and participatory. They are often manifested in a framework of multi-stakeholder partnership or co-regulation in order to enhance governance in resource production and trade.

The multi-stakeholder partnership approach also reflects the fact that it is not feasible for individual stakeholders to address the issues of 'conflict minerals'

as discussed in the previous chapter, owing to the extensive supply chains and complex causalities between coltan exploitation and armed conflicts in the eastern DRC. Key elements within the complex causalities include the widespread poverty, informal economy and artisanal mining caused by the economic decline and institutional collapse, all of which were exacerbated by the multi-layered, protracted conflicts and insecurity in the eastern DRC. These issues have been analysed in Chapters Four to Six.

This chapter reviews seven multi-stakeholder partnership examples that are relevant to coltan production and trade in the DRC. The final section summarises and concludes the chapter with an analysis of the efficacy of these multi-stakeholder partnerships in preventing armed groups from accessing finance through coltan production and trade in the eastern DRC. Subsequently the chapter discusses the role of multi-stakeholder partnerships in contributing to sustainable peace and security by bringing to an end in the ongoing armed conflicts and preventing future conflicts through improved governance.

This research identifies seven examples of multi-stakeholder partnerships that are relevant to coltan production and trade in the eastern DRC. For each partnership, it considers background, objectives and scope, type, general progress and impact and/or implications.<sup>237</sup> It has identified the relationships amongst these seven multi-stakeholder partnerships, as explained in the following description.

Amongst these seven multi-stakeholder partnerships, the Durban Process is the only Congolese-owned multi-stakeholder partnership which includes a variety of local and international stakeholders, and has tried to implement its ideas on the ground. Although it has not fully implemented its ideas to date and is dormant at the moment, its main idea of ethically sourced coltan has been learnt and inherited by other initiatives, supported by the UN

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<sup>237</sup> See Annex 3: Partnership Table.

recommendation in 2005<sup>238</sup> and the 2007 G8 summit.<sup>239</sup> These initiatives are namely: Certified Trading Chains (CTC), International Conference on the Great Lakes Region (ICGLR), Joint Working Group of Global e-Sustainability Initiative (GeSI) and Electronic Industry Citizenship Coalition (EICC). They are all ongoing processes and have not been implemented; thus, it is not possible to evaluate their outcomes. The CTC, as the most advanced mechanism, is expected to be applied through various initiatives.<sup>240</sup> As this is the first minerals certification being developed for industrial minerals, such as coltan, the lessons learnt from the implementation of the Kimberly Process Certification Scheme (KPCS) to prevent conflict diamonds in the DRC are considered to identify implications for the coltan certification schemes.

The subsequent sections present findings from the examination of four partnerships above in addition to a further three partnerships from which the CTC incorporated the standards. These standards-setting partnerships are: OECD Guidelines for Multinational Enterprises, Voluntary Principles (VPs) on Security and Human Rights, and Extractive Industries Transparency Initiative (EITI).

### 7.1. The Durban Process

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<sup>238</sup> The Report of the Group of Experts submitted a pursuant to resolution 1596 (UNSC 2005b: 27) to recommend: 'Enhanced traceability systems for all important natural resources of the Democratic Republic of the Congo should be developed under the direction of the Government and with the participation of Uganda, Rwanda, the World Bank and IMF, regional participants such as the Multi-country Demobilization and Reintegration Programme and the Great Lakes Region Conference, along with relevant industry participants and other interested parties. The Government of the Democratic Republic of the Congo should be required to report on a regular basis to the sanctions Committee about the development and implementation of those systems'.

<sup>239</sup> The 2007 G8 summit in Heiligendamm has created a momentum and commitment to address transparency in the extractive sector amongst the governments, heads of state and Government. 'Responsibility for Raw Materials' was discussed within the 'Growth and Responsibility in Africa' agenda, in which transparency in the extractive sector, with a focus on the certification schemes and the Extractive Industries Transparency Initiative (EITI), was discussed. In this discussion, improving transparency in the extractive sector is considered to be crucial to enhance accountability, good governance and sustainable economic development for the resource rich countries and to improve investment environment and the security of the supply chain for importers of raw materials.

<sup>240</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).



The Durban Process<sup>241</sup> is ‘a Congolese-led, multi-stakeholder initiative’ facilitated by the Gorilla Organization,<sup>242</sup> an International NGO (Durban Process 2008b: 1). It aims to mitigate the effects of illegal mining, which has drastically reduced the population of eastern lowland gorillas in the Kahuzi-Biega National Park (KBNP) in the eastern DRC (ibid.). It uniquely combines artisanal mining and environmental protection based on the understanding that any mining activities should be ‘linked to park protection and the development of other livelihoods’ (ibid.). The objectives of the Durban Process are: ‘[t]o disseminate the mining code<sup>243</sup> and raise awareness on environmental issues; [t]o develop alternative livelihoods to mining; [t]o reinforce [the capacity of the Congolese wildlife authority, *Institut Congolaise pour la Conservation de la Nature* (ICCN)] ... [and to] develop and implement a comprehensive training programme on ethical mining’ (Durban Process 2009a).

The Durban Process held three workshops between 2003 and 2005, as shown in the table below. Prior to its inception at the first workshop in Durban (South Africa) in 2003, a site visit was commissioned to an independent artisanal mining expert to observe the current mining practices and their consequences (D’Souza 2004). The first workshop sought the expertise of a conflict resolution specialist<sup>244</sup> to facilitate the discussion between hugely diverse stakeholders. The participants included representatives from the newly formed DRC government, the Chamber of Commerce in Bukavu, various national and international NGOs, local government, local ethnic groups, miners, coltan traders and industry (Durban Process 2003). The workshop aimed to ‘allow participants to find common ground and begin a broader dialogue aimed at finding solutions to the problems causing the reduction of the gorillas’ (ibid.: 2). It followed a three-stage process of defining and analysing the problem, identifying options and developing action plans to find sustainable solutions (ibid.: 3–4).

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<sup>241</sup> [www.gorillas.org/Project!Durban\\_Process\\_for\\_Ethical\\_Mining](http://www.gorillas.org/Project!Durban_Process_for_Ethical_Mining)

<sup>242</sup> The Gorilla Organization ([www.gorillas.org/Home](http://www.gorillas.org/Home)) was formally called the Dian Fossey Gorilla Fund Europe (DFGF-E) until its rename in October 2006. To avoid confusion, the current name, the Gorilla Organization, is used in this thesis.

<sup>243</sup> For details of the 2002 Mining Code, see the section 5.3.3..

<sup>244</sup> Director Glenda Caine of Independent Projects Trust ([www.ipt.co.za](http://www.ipt.co.za)), South Africa.

From the process above, the participants identified four key issues affecting the park (Durban Process 2003: 4):

1. Severe poverty among communities in the area – with the associated issues around limited opportunities for income generation and unequal access to resources.
2. Poor social and economic infrastructure – which includes the problems of health and hygiene, lack of social support, and inadequate road and transport infrastructure to name a few.
3. Armed groups and their movement within and around the park.
4. The need for clarity, dissemination and enforcement of a legal framework.

The discussion also highlighted the causal relationship between poverty and the presence of armed groups within the areas, and the need for collaboration of broader stakeholders to address the problem which is 'too big to be managed by one agency alone' (ibid.). The participants also identified four priority steps, which have become the objectives of the Durban Process. They also established a monitoring committee, *Comité de Suivi du Processus de Durban* (CSPD), to represent the stakeholders of the Durban Process and maintain the dialogue and commitment of the stakeholders. The CSPD manages the Durban Process, and implements activities with various local partners including the ICCN. Through the CSPD, 'the Durban Process incorporates an unprecedented level of local ownership within the global artisanal and small-scale mining sector' (Durban Process 2008b: 1).

The key priority of the Durban Process was an implementation of 'best practice' mining in line with the 2002 Mining Code (Durban Process 2009a). The plan was to create 'a model mine to demonstrate ethical mining' since it 'would be unethical to advocate, and impossible to implement, a complete ban on coltan mining' in the region when the artisanal mining 'has become the only available livelihood option for economic survival [of the local population]

as their old farms have been destroyed and their livestock confiscated’ (D’Souza 2003: 1).

Rather than ‘to help develop a “big-business” large scale mining venture for the benefit of business’, suitable mine sites were defined to be ‘low-tech’ mines which were combined with poverty alleviation, sustainable livelihoods and financial empowerment to help artisans and their communities (Durban Process 2004: 9). Specific criteria including geology, security and logistics<sup>245</sup> were established through the second site visit by the expert to ensure the selection of the right mine site since it was the key to the success of the whole project (Durban Process 2004: 9).

In addition, the elements of the project were defined to be technical assistance, with an emphasis on providing simple, low cost, locally reproducible and maintainable techniques and equipment, mineral marketing, environmental training, and health and safety training (D’Souza 2004). The expert (D’Souza 2005) also highlighted the need to ensure a proper and informed decision process, especially because there were some ‘negative views’ on the model mine concept, as analysed later. The idea of the model mine was later elaborated to a Model Community Mine Network to certify minerals in terms of origin, value and responsible mining (Durban Process 2006a), which has been succeeded by other initiatives as mentioned earlier.<sup>246</sup>

Table 2: The Durban Process key events

Date	Event	Objective	Participants
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<sup>245</sup> These criteria include: coltan being the primary mineral; proximity to the KBNP and areas of ecological importance; the regional and local security concerns; the logistics of site access; the ease of access from other mining areas; geological potentials; land tenure and mineral rights ownership; the ease of exploitation and mineral beneficiation; the proximity to water sources and basic infrastructure; local community issues, concerns and aspirations; socio-economic and potential impacts; environmental concerns and potential impact; the proximity to agricultural land for associated projects; the local government plans for rural economic development; and the proximity to and the availability of other potential incentives to lure the miners (D’Souza 2004: 5)

<sup>246</sup> See three initiatives: Minerals certification: Certified Trading Chain (CTC) (section 7.2.); International Conference on the Great Lakes Region (section 7.3.); and GeSI and EICC Joint Working Group (section 7.4.).

April 2003	Scoping study on the artisanal mining of coltan in the KBNP (D'Souza 2003)	An independent assessment of the issues and challenges of coltan mining in and around the KBNP, to organise the Durban Process meeting	Kevin D'Souza (consultant)
July 2003	Durban Process 1 <sup>st</sup> meeting/Durban (Durban Process 2003)	To find solutions by finding common ground and beginning a broader dialogue	26 stakeholders
January 2004	Reconnaissance visit (D'Souza 2004)	To initiate the process to establish a coltan mining pilot project	Kevin D'Souza (consultant)
April 2004	Durban Process 2 <sup>nd</sup> meeting/Arusha (Durban Process 2004)	To report on the progress, continue the dialogue, agree on action plan	31 stakeholders
May 2005	Durban Process 3 <sup>rd</sup> meeting/Kinshasa (Durban Process 2005)	To report on the progress, continue the dialogue, agree on action plan	29 stakeholders
September 2005	Site visit (D'Souza 2005)	To evaluate the identified mining pilot project sites	Kevin D'Souza (consultant)

The Durban Process had very limited progress in terms of implementing the planned activities, despite its success in bringing diverse stakeholders together. It held small workshops during 2007 and 2008 to develop new strategies in order to 'basically fulfil some of the objectives of the Durban

Process, without necessarily having a model mine'.<sup>247</sup> Through the strategy change, the Durban Process tried to 'focus on key implementing organisations, develop manageable workable proposals, get activities up and running so that [it] can achieve small successes on the ground and then [it] can report back on those successes'.<sup>248</sup> As a substitute to the model mine, the Durban Process organised a comprehensive training programme to provide ethical mining workshops to some mining sites. It also created committees of artisanal miners, which collectively established an association,<sup>249</sup> and provided micro-credit schemes to the communities. The Durban Process, however, did not find sufficient funding to continue with these new strategies and has become 'dormant' as a result.<sup>250</sup>

The rest of this section provides an evaluation of the Durban Process, drawing on the analysis of the qualitative data of the Durban Process. The qualitative data were collected from documents related to the Durban Process and the accounts of international participants of the Durban Process. The accounts were collected through: email communication with an industry participant, General Manager Corporate Communications of H.C. Starck;<sup>251</sup> an interview with the aforementioned artisanal mining consultant, Kevin D'Souza; an interview with the former Gorilla Organization regional programme officer, Dan Bucknell; and a telephone interview with the former CASM<sup>252</sup> representative and the former Durban Process coordinator, Estelle Levin.

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<sup>247</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>248</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>249</sup> The association is called l'Association des Creuseurs Miniers Artisanaux de Lulingu (ACRAL).

<sup>250</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>251</sup> The H.C. Starck is one of the main tantalum processor in the world and was buying coltan from the DRC. For details of the company, see the section 6.3.4..

<sup>252</sup> The Communities and Small-Scale Mining (CASM) is 'a global networking and coordination facility' to reduce poverty by improving the environmental, social and economic performance of artisanal and small-scale mining in developing countries', mainly supported by the World Bank and the UK. See [www.artisanalmining.org](http://www.artisanalmining.org).

Overall, the Durban Process did not achieve its objectives and failed to be sustainable despite being genuinely multi-stakeholder and Congolese-led and maintaining 'the right focus' on 'poverty alleviation for the impoverished communities that are basically the ones responsible for mining coltan in the first place' through the involvement of the artisanal mining expert.<sup>253</sup> There were three key findings from the evaluation. Firstly, external elements hindered the development of the Durban Process, in terms of the acquisition of a model mine and funding and the 'negative views' and suspicions of the Durban Process. Secondly, there were internal aspects that affected the course of development, such as diverse expectations that are different from the objectives of the Durban Process. Thirdly, there were dynamics of the Durban Process as a multi-stakeholder process.

The biggest impediment to the progress of the Durban Process was the difficulty in establishing a model mine, the focus of the initiative. The Durban Process was not able to find an appropriate model mine site because of the insecurity and limited infrastructure in the area (D'Souza 2005).<sup>254</sup> Moreover, it could not receive a legal title for a formal artisanal mining area from the Ministry of Mines because of an 'apparent "suspended" authority ... despite the full enactment of' the 2002 Mining Code (ibid.: 6). The DRC government was incapable of enforcing the Mining Code and formalising the mining sector in the eastern DRC by providing mining rights and artisanal mining zones (Durban Process 2005).<sup>255</sup>

The absence of a formal artisanal mining area hindered the Durban Process to seek funding as 'no donors or funders would want to support something that is essentially and theoretically illegal'.<sup>256</sup> The Durban Process never

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<sup>253</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>254</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

<sup>255</sup> A comment by a representative of the DRC government body responsible for overseeing artisanal mining, Service d'Assistance et d'Encadrement du Small Scale Mining (SAESSCAM, the Technical Assistance and Training Service for Small-Scale Mining), at the 2005 Durban Process workshop.

<sup>256</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

attracted funding despite having tried 'very hard with a lot of will'.<sup>257</sup> Other possible reasons why the Durban Process was not funded by donors include: the risks associated with the security situation in the area,<sup>258</sup> a small NGO (the Gorilla Organization) having to manage large resources for a hugely ambitious project;<sup>259</sup><sup>260</sup> and the absurdity of a conservation NGO working on mining.<sup>261</sup><sup>262</sup><sup>263</sup> There were also operational issues, such as limited time allocated for fundraising when the Durban Process had lost a full-time coordinator, 'large, unworkable proposals' and the absence of something tangible 'to show what the Durban Process was about'.<sup>264</sup>

The main internal challenge appeared to be the management of disparate expectations of the diverse stakeholders as the Durban Process succeeded in including them, even local militia groups.<sup>265</sup><sup>266</sup><sup>267</sup> It became difficult to incorporate the diverse expectations into one programme and yet to maintain 'the right focus' as described below.

Some local partners heightened their expectations 'to boost their organisation's capacity and to benefit from' the Durban Process because they thought 'there's money in this' 'as a result of the large workshops and very

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<sup>257</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

<sup>258</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

<sup>259</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>260</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).

<sup>261</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>262</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

<sup>263</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).

<sup>264</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>265</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>266</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

<sup>267</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).

high-calibre people attending those workshops'.<sup>268</sup> The involvement of the business stakeholders also resulted in the loss of the focus on poverty alleviation around the KBNP to prevent illegal mining, which was supported by the gorilla conservation objective of the Gorilla Organization.<sup>269</sup><sup>270</sup> One of the business stakeholders, H.C. Starck, claims that the company liked the idea of ethically sourced coltan;<sup>271</sup><sup>272</sup> but, because 'the finger blame was certainly pointed at them' by having purchased coltan from the area, the company might have seen 'an opportunity to maybe legitimise their involvement in eastern Congo'.<sup>273</sup> Similarly, other business stakeholders might have 'imagined that the model mine would be a large commercial enterprise with a large output of coltan' and were attracted to the model mine plan, despite the scale of the model mine 'never [being] fully established' and the idea of the model mine not being about business.<sup>274</sup> In addition, the then director of the Gorilla Organization had an enthusiasm for the Durban Process, which might have set the expectations of the stakeholders higher than necessary.<sup>275</sup>

Another challenge was to manage 'negative views' and suspicion of the Durban Process amongst various actors, which became an obstacle to the formation of good relationships and partnerships with other potential partners at the start. While having the business stakeholders, as possible buyers of ethically sourced coltan from the model mine, on board was crucial for the multi-stakeholder dialogue, the commercial aspects of the model mine and involvement of the business stakeholders caused the 'negative views' of the

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<sup>268</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>269</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>270</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

<sup>271</sup> Email communication with the H.C. Starck representative on 12/6/2009 (Buetefisch 2009).

<sup>272</sup> According to Levin (2010), H.C. Starck was genuinely interested in the Durban Process and 'they were **absolutely, in totally** willing to buy [our] gorilla friendly coltan at a slightly higher price than market rate' as a guaranteed buyer, and this was crucial for the operation of a model mine (bold letters by the author as there was an emphasis by Levin).

<sup>273</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>274</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>275</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).



Durban Process.<sup>276</sup> The model mine concept was strongly opposed by some actors on the ground, particularly by 'some of the more opinionated and conservative NGOs' (D'Souza 2005: 5). It was seen as 'an attempt to gain access to coltan without going through the proper environmental procedures of the government, and could prove disastrous as it increases the attractiveness of coltan again by holding out the prospect of renewed H.C. Starck purchases' (Johnson and Tegera 2005: 57). These conservation organisations did not understand that the commercial aspiration of the model mine to become financially viable was a way to make the model mine 'sustainable and generate sufficient income for reinvestment in real, local socio-economic development' (D'Souza 2005: 5). They did not recognise the link between poverty and mining since many conservation organisations 'are unfortunately still living in a slightly fantastical world' and do not understand that 'the pressure on protected areas is just going to get bigger' and 'at the end of the day you have to engage with the miners because if you don't, they are gonna destroy the rest of the forests'.<sup>277</sup>

There were also other facts that affected 'negative views' and suspicions about the Durban Process. For example, the slow progress and the focus of the Durban Process on coltan (Johnson and Tegera 2005) created suspicions, although the focus on coltan was simply because coltan was the initial cause of destruction of the park.<sup>278</sup> One bilateral aid agency was 'quite anti-Durban Process' partly because of the differences in personalities<sup>279</sup> and because of its critical view that the Durban Process did not try to collaborate collectively with the existing initiative on the ground (Johnson and Tegera 2005: 57). The Durban Process was also regarded as a Gorilla Organization project by other actors.<sup>280</sup>

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<sup>276</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).

<sup>277</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).

<sup>278</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>279</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>280</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

More critically, external actors considered that the idea of working with artisanal miners for conservation was ‘a risky undertaking’.<sup>281</sup> The Durban Process was aware of the risk of ‘a returned illegal artisanal mining’ in the park by improving artisanal miners’ ability.<sup>282</sup> Also, the large international NGOs in the Kivus were concerned that the Durban Process lacked ‘the donor mandate to engage with the [artisanal mining] sector’, and that the direct engagement with the artisanal mining sector ‘will “do more harm than good” because of the link with the conflict’ (Garrett 2007: 43).

Amongst the internal elements above, the relationship with the aid agency was improved by the personnel change on the ground. The issue of managing different expectations amongst the stakeholders was also solved through the aforementioned strategy change during 2007 and 2008. As this strategy change meant a departure from the model mine project, ‘naturally, people with higher ambitions and expectations fell by the way and came down to those that were interested in the whole objectives from the start, about livelihood and about conservation’.<sup>283</sup>

The Durban Process was significant, at least for the international facilitators being interviewed in this research, though it did not achieve its objectives or sustain itself. It was exceptional by being genuinely multi-stakeholder and locally owned. It truly achieved a multi-stakeholder dialogue by bringing the right selection of stakeholder representatives together<sup>284285</sup> who ‘had an ability to affect the process’, including the militias and warlords,<sup>286287</sup> in order to

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<sup>281</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>282</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>283</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>284</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>285</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D’Souza 2009).

<sup>286</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).

<sup>287</sup> A UNHCR representative confirms that the militias are key actors on the ground and it is crucial to have their cooperation (Yonekawa 2009).

address the problems that cannot be solved by one actor.<sup>288289290</sup> The multi-stakeholder dialogue ‘was quite amazing ... in terms of bringing very different people together to talk ... It was just one of those situations where people put aside their differences and actually talked about the way forward’.<sup>291</sup> For the international facilitators, the Durban Process has been a ‘really thrilling’ experience,<sup>292</sup> ‘one of the most exciting projects to have worked on’<sup>293</sup> and something they wish to be involved in again.<sup>294</sup>

There was strong emphasis on and enthusiasm for the local ownership of the Durban Process as it was owned ‘virtually all by Congolese’ who are from the area.<sup>295</sup> The local ownership was explained as:

It’s the Congolese, it’s the local Congolese organisations that are driving it ... It’s their initiative and ... it’s the Congolese saying this is what’s needed and this is what can be done, and it’s them putting a plan together, putting the budgets together.<sup>296</sup>

While the Durban Process ‘exists independent of the Gorilla Organization’, the role of the Gorilla Organization as a facilitating organisation appeared to be more crucial than the original design.<sup>297</sup> The Gorilla Organization has been behind the Durban Process and driving it ‘from the funding perspective ... to

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<sup>288</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>289</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D’Souza 2009).

<sup>290</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).

<sup>291</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D’Souza 2009).

<sup>292</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).

<sup>293</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>294</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).

<sup>295</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D’Souza 2009).

<sup>296</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>297</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

link with the funders' and to provide international perspectives.<sup>298</sup> The stakeholders 'weren't gonna come together otherwise' and the Gorilla Organization 'has always provided the glue [which is the funding] to keep the Durban Process together ... because otherwise it breaks down'.<sup>299</sup> The Gorilla Organization, however, appeared to be too small to facilitate the Durban Process in terms of the capacity to fundraise.<sup>300301</sup>

As mentioned earlier, the idea of the Durban Process assuring the ethical quality of coltan has been taken further in developing the Certified Trading Chain (CTC), detailed in the following section.

## 7.2. Minerals certification: Certified Trading Chain (CTC)

Certification has taken off the ground with the emergence of third-party independent verification systems in the mid-1990s, responding to advocacy campaigns criticising the inappropriateness of first- and second-party verifications (Baue 2008). Conroy (2007) calls it 'Certification Revolution' because 'for the first time in almost a hundred years, citizens are taking back the ability to force companies to become more socially and environmentally responsible, and particularly accountable' (Baue 2008). The 'Certification Revolution' is possible by finding out 'the sweet spot in corporations' (ibid.), i.e. the vulnerability of corporations created by adding value to their brands (Conroy 2007). The emergence of certification also meant that the relationship between companies and advocacy campaigns had transformed from hostility to strong collaboration in developing and implementing certification schemes together, as the engagement of external stakeholders is the key to effective certification schemes (ibid.)

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<sup>298</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>299</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>300</sup> Interview with the previous Regional Programme Manager of the Gorilla Organization in London on 18/11/2009 (Bucknell 2009).

<sup>301</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).

The development of certification has expanded to mining and mineral-using industries, and various minerals certifications have emerged in the past decade.<sup>302</sup> Minerals certification is ‘used to guarantee to consumers that a product meets certain standards’ (Levin 2008b: 1). There are two broad categories of minerals certifications. One is certification of origin, which assures that ‘minerals do not originate from places where they may have been implicated in war or human rights abuses’, and the other is certification of ethical quality, which assures that ‘minerals have been mined, processed, and traded in ways that do not compromise defined ethical standards’ (ibid.). Whilst minerals certification is driven by conscientious consumption, it can be applied to artisanal small-scale mining in order to ‘give legitimacy to [artisanal small-scale mining] through certification of responsible practice’ as well as facilitating local development and sustainability of supply chains, and meeting the needs of conscientious consumers (Levin 2008a; 2008b).

To date, certifications applied to artisanal small-scale mining products have been targeting jeweller-relevant minerals<sup>303</sup> because they create ‘added luxury value’ to individual consumers (Levin 2008b: 14). Certifications for industrial minerals,<sup>304</sup> such as coltan, were not developed before because the market for industrial minerals is usually other companies, within long and complex supply chains. This has, however, changed through the emergent ‘conflict mineral’ agenda discussed in the previous chapter (section 6.1.), and has led to some coltan certification schemes.

This section first evaluates the progress of the Kimberley Process Certification Scheme (KPCS), which is the only operational mineral certification scheme to certify a mineral’s origin in the DRC (CASM 2008) at the time of writing, with the aim being to seek implications for the development and implementation of the CTC in the DRC. It then reviews the development of the CTC.

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<sup>302</sup> For detailed information on various minerals certification, see Levin (2008a; 2008b; 2008c).

<sup>303</sup> Jeweller-relevant minerals are: precious metals such as gold, silver, and platinum; diamond; precious stones such as sapphire, ruby, emerald amongst others; semi-precious stones such as amethyst, beryl, citrine, aquamarine amongst others; alloys metals such as copper, nickel, palladium, silvers amongst others (Levin 2008b).

<sup>304</sup> Industrial minerals and materials include coltan, copper, cobalt, cassiterite, lead, tantalum, gypsum, sand, granite, marble, ornamental stones amongst others (Levin 2008b).

### *Kimberley Process Certification Scheme (KPCS)*

The Kimberley Process Certification Scheme (KPCS)<sup>305</sup> was launched in January 2003, as a joint initiative of governments, industry and civil society, to cease production of and trade in diamonds from conflict zones so that the diamond trade does not finance violence and conflict. The KPCS is global in its operation because the country-based diamond sanctions in Angola, Liberia and Sierra Leone were largely ineffective (Fatal Transactions 2008), and received strong international support, especially from the UN.<sup>306</sup> The KPCS members comprise approximately 99.8 percent of the global production of rough diamonds. With this scheme, international shipments of rough diamonds must have a Kimberley Process certificate to certify that they are not from conflict areas.

The KPCS is a significant agreement in considering the previously secretive diamond industry and the difficulties in agreeing on the system at the initial inter-governmental meetings (Smillie 2002; 2003), also owing to the total consensus system within the KPCS (Even-Zohar 2009).<sup>307</sup> According to the KPCS,<sup>308</sup> the scheme has not only been successful in controlling the flow of 'conflict diamonds', but has also raised poor governments' income by bringing large amounts of diamonds onto the legal market. Moreover, the KPCS offers an opportunity to discuss issues around diamonds and conflict minerals.

The KPCS has, however, been criticised for three broad areas of problems. Firstly, the KPCS faces a serious implementation problem: the scheme has no provisions for regular independent monitoring of internal controls (Smillie 2003; Global Witness and PAC 2004b; 2005; 2008; Burbank 2006); the scheme is a voluntary initiative and does not provide incentives to comply

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<sup>305</sup> [www.kimberleyprocess.com/](http://www.kimberleyprocess.com/)

<sup>306</sup> UN Resolution 1459 (UNSC 2003a: 2) states '*strongly supports* the Kimberley Process certification Scheme.'

<sup>307</sup> Reuters (2009b) 'Kimberley Process failing Africa – campaigners', 18 October 2009, available from: <http://www.reuters.com/article/2009/10/18/idUSLI538030> [Accessed 22 March 2010].

<sup>308</sup> [www.kimberleyprocess.com/](http://www.kimberleyprocess.com/)

(Smillie 2003; Burbank 2006); and there are technical obstacles such as widespread informal artisanal alluvial diamond mining in the producing countries (Dietrich 2002; Global Witness and PAC 2004a; 2008; Global Witness 2006) although the KPCS encourages a licensing programme for artisanal miners to formalise the complex artisanal small-scale mining sector and trade of its products. Secondly, the scheme cannot guarantee the origin of diamonds without having analytical proof of origin (Gardner and Schmitz 2008). Thirdly, the scheme does not cover the issues essential for conflict prevention, such as human rights abuse or development (Fatal Transactions 2008; Bell 2010). As a result of the continuous inaction of the KPCS members, the scheme is considered to be ineffective and is losing its credibility (Smillie 2003; Global Witness and PAC 2004b; 2005; 2008; Burbank 2006).

With regard to the KPCS implementation in the DRC, the country joined the KPCS at its launch in 2003 following the KPCS negotiation meetings in 2001. The DRC is the world's second largest diamond producer, producing about 20 percent of the world's diamonds (PAC 2009), and receives about 70 percent of its total export earnings from diamonds (PAC and CENADEP 2005). An independent government body, the *Centre d'Evaluation, d'Expertise et de Certification* (CEEC), is in charge of valuation and certification of diamonds before export, collection of export tax at 3.75 percent and confiscation of any conflict diamonds (PAC and CENADEP 2007).

In 2004 and 2009, the DRC had KPCS reviews which identified a number of weaknesses, including smuggling, under-valuations to evade tax, secrecy, a high degree of corruption and an inability to analyse the problem of implementing the KPCS (PAC and CENADEP 2004; 2005; PAC 2009). While participating in the KPCS initially increased official diamond exports, the official exports have declined again due to the widespread smuggling of conflict and illicit diamonds caused by weak internal controls within the country (PAC and CENADEP 2005; Burbank 2006; Global Witness 2006; 2007c; Global Witness and PAC 2008). The aforementioned CEEC has not made any systematic attempts to monitor the flow of diamonds whilst accepting its weakness of control of illicit exports (PAC and CENADEP 2007).

The problems of implementing internal controls for the KPCS are analysed to be: the complexity of the diamond industry; the size of the country; uncontrolled artisanal alluvial diamond mining across provinces (Dietrich 2002; Global Witness and PAC 2004a; PAC and CENADEP 2004; 2005; 2007; Burbank 2006); the absence of government control over the mining areas and borders (Burbank 2006);<sup>309</sup> and the lack of incentives (Burbank 2006). Besides, it is relatively easy to sell diamonds to Antwerp and Dubai without certificates (PAC and CENADEP 2007). More importantly, the mechanism in the DRC needs international cooperation support to provide the necessary resources for the KPCS implementation, whilst the KPCS certainly helped increase the government income from diamond exports.<sup>310</sup>

The continuous inaction of the KPCS and the DRC resulted in almost half of the exported diamonds being untraceable in 2008 (PAC 2009). The situation is summarised in the following:

Year after year, the KP has been advised of the essential weakness of the Congo's internal controls by Partnership Africa Canada, other NGOs, the United Nations and its own monitors. Year after year, the KP has chosen to do nothing, and to allow the Congo to do nothing. As a result, the DRC's network of *comptoirs* is the world's most effective system for laundering conflict, illicit and clandestine diamonds (PAC 2009: 9).

The DRC has become symbolic of the problems afflicting the KPCS,<sup>311</sup> which has made Ian Smillie, a driving force of the KPCS, to resign from Partnership Africa Canada (PAC), an influential conflict diamond NGO, and depart from participation in the KPCS governing body, commenting that 'I can no longer in

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<sup>309</sup> Email communication with the DRC National Coordinator for the ICGLR on 20/3/2010 (Hamuli 2010).

<sup>310</sup> Email communication with the DRC National Coordinator for the ICGLR on 20/3/2010 (Hamuli 2010).

<sup>311</sup> Reuters (2009b) 'Kimberley Process failing Africa – campaigners', 18 October 2009, available from: <http://www.reuters.com/article/2009/10/18/idUSLI538030> [Accessed 22 March 2010].



good faith contribute to a pretense that failure is success, or to the kind of debates we have been reduced to' (Even-Zohar 2009).

### *Certified Trading Chains (CTC)*

The Certified Trading Chain (CTC) concept has been developed by the German Federal Institute for Geosciences and Natural Resources (BGR)<sup>312</sup> and is the most advanced certification scheme for coltan at the time of writing. The idea to certify coltan was inherited from the Durban Process as explained in the previous section (7.1.) and recommended by the UN Group of Experts to develop advanced traceability systems of minerals (UNSC 2005b) and in the discussion on transparency in the extractive sector at the 2007 G8 Summit. This section reviews the development of the CTC concept and the CTC schemes that are under development for Rwanda and the DRC.

In 2006, the BGR started two research projects to provide assurance of the origin of coltan. The first research project was to test the feasibility of developing a 'mineral fingerprint' of coltan samples based on the mineralogical characteristics of specific ore bodies, in order to verify the origin of coltan ores (BGR 2009b). While it is possible to identify coltan from conflict areas by the forensic proof of origin (BGR 2009a),<sup>313</sup> it is time and cost consuming, and requires the skills of laboratory staff (BGR 2009b). The second research project was to develop the CTC, an assurance system, to guarantee transparent, traceable and ethical trading chains with an explicit focus on artisanal and small-scale mining (BGR 2009b).

The German government introduced the above CTC model as a new initiative at the G8 summit in Germany in 2007,<sup>314</sup> which discussed transparency and good governance as responsibility for raw materials and agreed that a

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<sup>312</sup> [www.bgr.bund.de/EN/Home/homepage\\_\\_node.html\\_\\_nnn=true](http://www.bgr.bund.de/EN/Home/homepage__node.html__nnn=true)

<sup>313</sup> However, in order to identify a specific mine, where ores have been extracted, an extensive collection of samples from various locations must be analysed. It also requires an advanced technology and skills to distinguish ores that are extracted from nearby, for example from the same province. (Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

<sup>314</sup> [www.g-8.de/Webs/G8/EN/Homepage/home.html](http://www.g-8.de/Webs/G8/EN/Homepage/home.html)

certification scheme would be an appropriate instrument.<sup>315</sup> The 2007 G8 summit was significant in recognising the importance of the artisanal small-scale mining sector<sup>316</sup> and encouraged the improvement of the sector through certification schemes.<sup>317</sup> Following the summit, the German government took an initiative to support and develop a scheme to certify the ethical quality of artisanally mined coltan, cassiterite (tin) and wolfram (tungsten), in line with internationally recognised standards for mining and trade, particularly with the OECD Guidelines for Multinational Enterprises (Levin 2008b). The certification scheme aims to certify local producers and international buyers within a CTC, combined with an analytical ‘finger print’ to verify the origin of ores (ibid.).

Given the heightened attention paid to artisanal mining in 2007, there was a further discussion on the CTC in an international conference.<sup>318</sup> The discussion (Gardner and Schmitz 2008) highlighted some potentials and challenges of minerals certification schemes. Whilst the CTC aims to integrate existing regimes and restrict illegal trading of minerals, there was a wide acknowledgement that a certification scheme does not solve all the problems. Particular challenges include addressing the issues of corruption, preventing the mining of minerals from driving violence and conflict, proving the origin of ores from the artisanal mining sector, coordinating and combining with other initiatives, and involving various stakeholders. Certification schemes, however, have potential in addressing the issues of artisanal mining because they are simple to use, realistic and pragmatic.

The BGR defined the general problem as being that ‘illegal mining and trade of mineral resources is a source of finance for violent groups and contributes to regional instability’ (Franken 2009: 3). It set dual policy objectives of the CTC as being to ‘utilize mineral potentials in developing countries for the alleviation of poverty and the strengthening of regional stability’, and to ‘create open and fair access to the worldwide potential of strategic raw materials

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<sup>315</sup> G8 Summit Declaration Article 85 (G8 Summit 2007).

<sup>316</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D’Souza 2009).

<sup>317</sup> G8 Summit Declaration Article 86 (G8 Summit 2007).

<sup>318</sup> International Conference: Transparency in the Extractive Sector, Berlin, 13-14 December 2007

indispensable to the industrial value chain through creation of a level playing field' (ibid.).

The BGR drafted the original set of CTC standards with a focus on transparency along the trading chain, by incorporating standards from the OECD Guidelines for Multinational Enterprises,<sup>319</sup> the Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones of 2006,<sup>320</sup> the International Finance Corporation's Performance Standards<sup>321</sup> and the Voluntary Principles on Security and Human Rights.<sup>322</sup> Multi-stakeholder consultation processes were held to discuss the content of the draft standards. Firstly, in October 2008,<sup>323</sup> five basic principles were established around themes, and standards on gender issues and handling influx migration were included based on the feedback (BGR 2009b). Feedback from the participants included: whether to have certification schemes in artisanal mining work; a risk of 'whitewashing' tainted minerals from the DRC; and constraints such as the limited capacity of host governments, financial resources, the lack of security and peace in the areas, vested interest by the auditor without independent auditing and the absence of incentives for informal artisanal mining operations (Garrett 2008b).

Secondly, the revised CTC standards were discussed with civil society at a follow-up consultation workshop in November 2008<sup>324</sup> (BGR 2009b). The workshop received extensive feedback including the need to consider customary law, responsibility for infrastructural and community development, security around mines, incentives for stakeholder participation, indigenous

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<sup>319</sup> See the section on the OECD Guidelines for Multinational Enterprises (7.5.).

<sup>320</sup> [www.oecd.org/document/5/0,3343,en\\_2649\\_34889\\_36899994\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/5/0,3343,en_2649_34889_36899994_1_1_1_1,00.html)

<sup>321</sup> International Finance Corporation (IFC) Performance Standards 'define clients' roles and responsibilities for managing their projects and the requirements for receiving and retaining IFC support. The standards include requirements to disclose information.' Details are found at [www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards](http://www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards)

<sup>322</sup> See the section on the Voluntary Principles (VPs) on Security and Human Rights (7.6.).

<sup>323</sup> This consultation took place at the Pre-Conference Technical and Collaborative Sessions Workshop 7: 'Update on the BGR Pilot Certification Programme', the 8<sup>th</sup> CASM Annual Conference, 7 October 2008. The details of the consultation process are in its workshop report (Garrett 2008b).

<sup>324</sup> Fatal Transactions and Bonn International Centre for Convention's Conference "Digging for Peace – Private Companies and Emerging Economies in Zones of Conflict" in Bonn, 21 - 22 November 2008

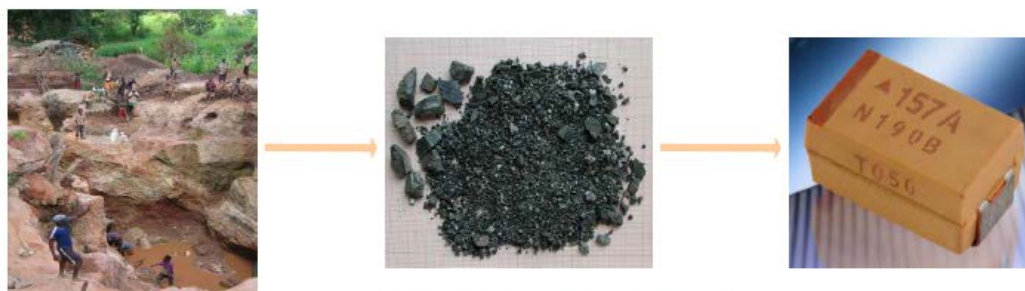
issues and the management of displacement and HIV/Aids (Guesnet *et al.* 2008).

Following these consultations, the CTC principles and standards are defined in the table below. The CTC covers five principles in traceability and transparency, labour and working conditions, security, community development, and environment, and includes a number of specific standards in each principle. The analytical fingerprint is used as the indicator of origin in the traceability and transparency principle. A simple system for audit has also been created to measure company adherence to each of the standards by an independent certifier by choosing from five levels of compliance (BGR 2009b: 5).

Table 3: CTC standards (BGR 2009b: 6)

Figure 6 has been removed due to third party copyright. The unabridged version of the thesis can be viewed at the Lanchester Library, Coventry University

Figure 6: Conceptual flowchart of a CTC (Franken 2009: 3)



### Certified Trading Chains



The key features of the CTC include: a focus on industrial, high value minerals; direct links with business partners; certification of specific mine sites; minimum standards by voluntary certification adapted to the local context; and implementation at a regional/multinational level (Franken 2009).

The CTC is expected to provide some benefits as follows. Firstly, the CTC can serve as an alternative to export bans on natural resources, which are costly and difficult to implement (BGR 2008; 2009b). Secondly, the CTC can transform and formalise the artisanal mining sector through positive changes from constructive engagement of companies (BGR 2009b), thereby filling the gap between the ideal and reality of governance of the mineral sector in developing countries with limited law enforcement and institutional capacity (ibid.: 4). Thirdly, this improved governance is expected to reduce conflicts associated with mineral resources (Garrett 2007; BGR 2009b) and increase state revenues (Johnson and Tegera 2005; Garrett 2007) as well as producer benefits, fair returns, and environmental and social performance of the mining sector (Garrett 2007). Lastly, the implementation of the CTC, driven both by industry and consumer demand for ethically sourced materials, can reduce

the reputational risks for companies and, hence, increase 'investments required for an efficient exploitation of mineral resources' (BGR 2008: 6).

The analyses of issues around the CTC implementation are limited; however, the implementation of the CTC is expected to encounter several constraints. Some examples include: the CTC does not address structural governance problems; it is focused on short-term benefits; it could cause bottleneck problems; it could create inequality amongst the local populations which could be a source of conflict; it is not owned by the local populations; political will and commitment can be weak (Garrett 2007); and there may be potential implementation problems owing to insufficient resources and institutional capacity.<sup>325</sup> More generally, there is a concern that the processes of certification can affect the local population 'in unforeseen ways, depending on the local political reality' (Pole Institute and International Alert 2004: 18–19). The populations in the eastern DRC are likely to resist the control by the central government as the eastern DRC 'has no history of positive experiences with a political system centralised around Kinshasa' (ibid.).<sup>326</sup>

The CTC is considerably more comprehensive than the KPCS as it includes the complete set of standards and mineral fingerprint; however, the implementation problems faced by the KPCS will affect the CTC implementation without these problems being reflected in the CTC process. In answering the question of the author as to why the CTC will be better implemented than the KPCS in the conflict-prone eastern DRC where the government control is limited,<sup>327</sup> the BGR professional explained that heavy minerals such as coltan are not easily moved without transportation, unlike diamonds, hence the CTC is possible.<sup>328</sup> To the same question, a Congolese mining sector expert answered that minerals certification must be done as it is

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<sup>325</sup> Email communication with the DRC National Coordinator for the ICGLR on 20/3/2010 (Hamuli 2010).

<sup>326</sup> Comments from a report of the seminar on Resource Exploitation and Human Security in the DRC, in Brussels, in 2004.

<sup>327</sup> Email communication with the DRC National Coordinator for the ICGLR on 20/3/2010 (Hamuli 2010).

<sup>328</sup> Email communication with the BGR on 19/3/2010 (Franken 2010b).

supported by the UN and donors and decided by the heads of states in the region.<sup>329</sup>

The implementation of the CTC is just about to start and so it is not yet possible to evaluate the outcomes of the CTC. There have been two CTC projects agreed so far: a CTC pilot project for mineral resources in Rwanda and a state certification system for coltan in the DRC. The rest of the section provides a summary of these two projects.

*The pilot project 'Certified Trading Chains (CTC) for Mineral Resources' in Rwanda*

The pilot project 'Certified Trading Chains (CTC) for Mineral Resources' in Rwanda was agreed at the 2007 G8 Summit. The BGR has been developing this CTC pilot project jointly with the Rwanda Geology and Mines Authority (OGMR), within a framework of a technical cooperation programme to strengthen the competitiveness of the Rwandan mineral sector for the duration of eighteen months.<sup>330</sup> Lessons learned from this pilot project in Rwanda are expected to be reflected in the development of other schemes and help implementation in the DRC (Garrett 2008a).

The aim of the CTC pilot project in Rwanda was 'to establish a third party certification system to assure the origin and ethical quality of stanniferous metal production and trade in Central Africa', by taking a pragmatic approach of moving from voluntary participation towards assurance to a third party verification, and then to possible government regulation (Garrett 2008a: 14). The most important procedures of the CTC are verification of origin and assessing the trading volume (BMZ 2010). This pilot project is in line with the national policy of Rwanda to build good practice in the mining sector, as well

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<sup>329</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009); Email communication with the DRC National Coordinator for the ICGLR on 20/3/2010 (Hamuli 2010).

<sup>330</sup> This project is funded by the Federal Ministry of Economics and Technology (BMWi) and the Federal Ministry for Economic Cooperation and Development (BMZ).



as the request from a regional mechanism, International Conference on the Great Lakes Region (ICGLR), detailed in the next section.

The most important aim for Rwanda, however, appears in the words of Minister of State in charge of Minerals and Natural Resources, Vincent Karega:<sup>331</sup>

We need to create more confidence in our partners about the availability of minerals in Rwanda highlighting their origin; this will clear the air about the ongoing contest on whether we have minerals or not (Gahigi 2009).

The aim of Rwanda to prove the long-contested availability of mineral resources in Rwanda is also repeated by Dr Michael Biryabarema, the OGMR director, and supported by Dr Gurdrun Franken of the BGR, who explained that there have been accusations that mineral resources exported from Rwanda have been linked to the conflict in the Great Lakes Region based on the belief that there are no mineral resources in Rwanda (Gahigi 2009). This contention is partly owing to the unclear Rwandan statistics in which producers merely declare the production figures to the Ministry of Land, Environment, Forestry, Water and Natural Resources and the export figures from the Banque Nationale du Rwanda, which include re-export of imported minerals, resulting in larger figures for mineral export than domestic production (Garret 2008a).

The pilot project implementation takes steps to elaborate a set of standards and adaptation, a baseline audit for individual operators and recommendations, expert monitoring and technical advice to the implementing companies, consultation with relevant national authorities and stakeholder groups, final third party auditing and documentation of results, and dissemination (Biryabarema and Franken 2009). It is still under development

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<sup>331</sup> This speech was made at a planning workshop held in Kigali, Rwanda on 25 and 26 March 2009, with the participation of representatives of the participating institutions and companies (BGR2009a).

as of March 2010.<sup>332</sup> Based on the planning workshop in March 2009, the CTC standards were specifically revised for Rwandan conditions (BGR 2009b).

Following the first initial baseline assessment of the participating companies and their concessions and trading chains by an independent auditor, the BGR is assisting these companies to improve their management systems and performance and to create an organisational framework for the certification.<sup>333</sup> The first results of the certification process by the participating companies will not be available until the end of 2010.

The participating companies include the aforementioned German tantalum processor H.C. Starck and three local companies, which received licences from the state-owned company REDEMI in 2006 (BGR 2009a)<sup>334</sup> and produced the majority of tantalum, tin and tungsten in Rwanda (Biryabarema and Franken 2009). The Natural Resources Development Ltd (NRD), one of the participating companies, is a subsidiary of H.C. Starck and has been engaging with artisanal mining in Rwanda with a view to transforming it into small-scale industrial mining.<sup>335</sup>

According to the managing director of the NRD,<sup>336</sup> there are some concerns for the implementation of the CTC. The company has given up the idea of a mineral fingerprint since it is costly and takes months to get the results, and is hence not practical. It supports the idea of self-assessing its compliance with the social and environmental standards and having a certificate of origin. The concern over the costs is shared by other companies as well, and there is a question as to who bears the costs of certification since the implementation

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<sup>332</sup> Email communication with the BGR on 5/3/2010 (Franken 2010a).

<sup>333</sup> Email communication with the BGR on 5/3/2010 (Franken 2010a).

<sup>334</sup> The three companies are the Natural Resources Development Ltd. (NRD), Gatumba Mining Concession and the Eurotrade International. The Wolfram Mining and Processing and the Pyramides were also planning to participate in the end of 2009.

<sup>335</sup> Interview with the Managing Director of the NRD in Kigali on 22/6/2009 (Roethe 2009).

<sup>336</sup> Interview with the Managing Director of the NRD in Kigali on 22/6/2009 (Roethe 2009).

costs of a certification scheme are often pushed down to local producers and traders (Ellis and Keane 2008a; 2008b).<sup>337</sup>

The BGR (2008) contends, from its initial findings, that the high value of tantalum, tin and tungsten produced and exported from Rwanda can help to address poverty alleviation, prevent conflict and supply security. The pilot project also aims to develop support for participating companies, establish mechanisms with national institutions, engage national civil society and local stakeholders in the process, and use lessons learned for the regional process (Biryabarema and Franken 2009). The Bureau of Standards in Rwanda (*Office Rwandais de Normalisation*) has been identified as a potential government agency to host the national CTC process and to certify minerals (Garrett 2008a).

#### *State certification system for coltan in the DRC*

In December 2008, following the agreement on the CTC pilot project in Rwanda, the BGR and the DRC government agreed on the development of a certification scheme in the DRC within a framework of the Programme for Transparency and Monitoring in the Raw Materials Sector. The programme intends to support the development of a state certification system for coltan in the first phase, and eventually for cassiterite (tin), wolframite (tungsten) and gold, and to implement them in selected mining operations. It also aims to build the necessary institutional framework and capacity within the sector institutions to expand certification and control mining. The mineral analytical fingerprint developed by the BGR is planned to be used for the DRC certification scheme.

The aims of the DRC state certification scheme are to increase state revenues and achieve peace and stability by putting licences, centralised control and certification in place, as controlling coltan will enable the government to control the territory (Bavier 2008). The development of a

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<sup>337</sup> Telephone interview with the former Durban Process coordinator on 12/1/2010 (Levin 2010).

national certification scheme is also in line with the ICGLR, discussed in the following section.

It is expected that the CTC will promote the transition from artisanal mining to small-scale mining, the organisation of artisanal miners and the engagement of companies with artisanal miners on their concessions (Garrett 2008b).

There is a business case for mining companies to constructively and safely engage with artisanal mining, rather than confront the whole artisanal mining sector (Garrett 2008c).<sup>338</sup>

In addition to the time needed for using the mineral fingerprint, there are other operational issues such as the capacity to monitor widespread artisanal and small-scale mining and the capacity of local governments (Garrett 2008a).

Given the huge vested interests amongst the stakeholders, which largely affect how the mineral sector is organised (Garrett 2008a), whether artisanal mining communities, which are not well organised or democratically represented, can be organised and participate in the initiative meaningfully (Garrett 2008c) and whether civil society can be involved in the initiative freely and constructively is questionable (Garrett 2008a).

There is also a concern over how implementation costs of the certification are shared as they are often borne by developing country producers without them having any guarantees of financial benefits and of meeting the required standards, thereby excluding poor producers (Ellis and Keane 2008a; 2008b) and discourage compliance (Wessells *et al.* 2001). Besides, there are liability issues for companies in engaging with artisanal mining as the sector is not regulated and is hence illegal (Garrett 2008a).

### 7.3. International Conference on the Great Lakes Region (ICGLR)

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<sup>338</sup> Interview with the artisanal mining expert for the Durban Process in Stoke-on-Trent on 25/9/2009 (D'Souza 2009).

This section describes a minerals certification scheme requested by the International Conference on the Great Lakes Region (ICGLR),<sup>339</sup> a regional approach to security, stability and development, following an overview of the ICGLR.

This intergovernmental mechanism of eleven member countries<sup>340</sup> is considered to be necessary in addressing the security and stability situation in the region affected by the 1994 Rwanda genocide. The effect is most evident in the eastern DRC where the presence of Rwandan refugees has been causing the instability. Following the complex consultation processes for preparation, in which bureaucracy and politicisation hampered the progress and meaningful participation by civil society (Berwouts 2009), the ICGLR was finally launched in 2003 under the auspices of the UN and the African Union (AU). The eleven ICGLR member countries made a declaration at the first summit in Dar-Es-Salaam (Tanzania) in 2004<sup>341</sup> to demonstrate their strong commitment to peace, and set four priorities in: peace and security; democracy and good governance; economic development and regional integration; and humanitarian and social issues.<sup>342343</sup>

Subsequently, the ICGLR adopted the Pact on Security, Stability and Development in the Great Lakes Region<sup>344</sup> at the second summit in 2006.<sup>345</sup>

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<sup>339</sup> [www.icglr.org/home.html](http://www.icglr.org/home.html)

<sup>340</sup> The member countries include Angola, Burundi, the Central African Republic, Republic of Congo, the DRC, Kenya, Rwanda, Sudan, Uganda, Tanzania and Zambia.

<sup>341</sup> At the Summit of the Heads of the State and Government in Dar-Es-Salaam on 19 and 20 November 2004, 'Dar-Es-Salaam Declaration on peace, security, democracy and development in the Great Lakes Region' (ICGLR 2004) was announced.

<sup>342</sup> It states that '[their] collective determination to transform the Great Lakes Region into a space of sustainable peace and security for States and peoples, political and social stability, shared growth and development, a space of cooperation based on the strategies and policies of convergence within the framework of a common destiny which they are determined to build, in line with the aspirations of their peoples, in conformity also with the AU Vision and Mission, with the full participation of all their peoples, and in partnership with the United Nations, the African Union, and the International Community as a whole' (ICGLR 2010a).

<sup>343</sup> Despite the declaration made, following events on the ground cast doubt on the commitment expressed in the declaration, as Rwanda was accused of being involved in the fighting in Kanyabayonga, North Kivu, and supporting rebel factions in the DRC in December 2006 (Berwouts 2009)

<sup>344</sup> The Pact consists of the Dar-Es-Salaam Declaration, 10 Protocols, 4 Programmes of Action with 33 Priority projects in Peace and Security, Democracy and Governance, Economic Development and Regional Integration, Humanitarian, Social and Environmental

The pact was ratified by nine member countries in May 2007<sup>346</sup> and came into effect on 21 June 2008. A secretariat was established in Bujumbura (Burundi) to coordinate the implementation of the pact in May 2007. The objectives of the pact include providing a legal framework governing relations between the member states, implementing the content of the pact, and creating conditions for security, stability and sustainable development between the member states (ICGLR 2010b).

The ICGLR secretariat claims that the ICGLR is a unique and crucial initiative of the region that has facilitated an important political dialogue amongst the states (Mulamula 2009), and the pact's inclusive agenda presents a potential to make a difference. The ICGLR, however, 'spent much of its activity on establishing itself', given conflicting political and economic interests within the region, yet still set a very ambitious agenda in the pact. Besides, there was disagreement between the member states supporting a broad development agenda and development partners and financial supporters focusing on a political, peace and security agenda (Bøås *et al.* 2009).

The ICGLR is therefore expected to face a number of questions and challenges. They are: the capacity of the ICGLR Secretariat to implement all the initiatives effectively (Bøås *et al.* 2009; Mulamula 2009); 'how to sustain the game and keep the international community's attention' (Mulamula 2009) for institutional and financial sustainability of the ICGLR (Bøås *et al.* 2009); managing conflicting interests of the member states (Singo 2009); and harmonising with other initiatives in Africa (Gaita 2009). There is a risk of the ICGLR becoming 'another externally-financed donor driven institution' without securing its own funding (Berwouts 2009), member states' ownership (Mulamula 2009), and internal leadership and commitment (Berwouts 2009; Bøås *et al.* 2009; Singo 2009).

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Issues; the Special Funds of Reconstruction and Development (SFRD), Programme of Cross Cutting Issues and the Regional Follow-up Mechanism.

<sup>345</sup> The Summit of the Heads of the State and Government was held in Nairobi (Kenya) on 15 December 2006.

<sup>346</sup> According to the Executive Secretary of the ICGLR (Mulamula 2009), the reason for those two member countries not having ratified the Pact is a technical nature, such as the absence of a Portuguese-translated version of the Pact, rather than a lack of political will.

The Pact on Security, Stability and Development acknowledges that illegal exploitation of natural resources ‘constitutes a violation of the States’ right of permanent sovereignty over their natural resources and represents a serious source of insecurity, instability, tension and conflicts’.<sup>347</sup> It specifies how the ICGLR intends to address the issues of the illegal exploitation of natural resources (ICGLR 2006a) and includes the Protocol Against the Illegal Exploitation of Natural Resources (ICGLR 2006b).

The protocol specifies three broad measures to be taken by the member states (*ibid.*). Firstly, it requests member states to harmonise their national legislations by each reviewing ‘its national legislations on the illegal exploitation of natural resources to insure that such legislations comply with the provisions of this Protocol and the relevant international instruments and legal norms’.<sup>348</sup> It also urges member countries to select and send one person<sup>349</sup> and to provide sufficient resources to the committee against illegal exploitation of natural resources,<sup>350</sup> which is intended to prevent the illegal exploitation of natural resources.<sup>351</sup> It calls for a certification mechanism as ‘a tool for combating the illegal exploitation of natural resources’. The certification mechanism ‘shall institute accredited standards as regards natural resource exploitation and shall include provisions on certification of origin including labelling, monitoring, supervision, verification and implementation, and as appropriate, capacity development and capacity building, with a view to ensuring the efficiency of such a mechanism’.<sup>352</sup>

The ICGLR has two planned projects to address the issue of illegal exploitation of natural resources. Firstly, the Democracy and Good Governance Programme includes the Regional Initiative Against the Illegal

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<sup>347</sup> Article 9 (ICGLR 2006a).

<sup>348</sup> Protocol Against the Illegal Exploitation of Natural Resources, Article 22 (ICGLR 2006b).

<sup>349</sup> Protocol Against the Illegal Exploitation of Natural Resources, Article 24 (ICGLR 2006b).

<sup>350</sup> Protocol Against the Illegal Exploitation of Natural Resources, Article 26 (ICGLR 2006b).

<sup>351</sup> Protocol Against the Illegal Exploitation of Natural Resources, Article 25 (ICGLR 2006b).

<sup>352</sup> Protocol Against the Illegal Exploitation of Natural Resources, Article 11 (ICGLR 2006b).

Exploitation of Natural Resources<sup>353</sup> with key partners.<sup>354</sup> This project 'proposes to establish a framework for dialogue and consultation to facilitate exchange of information, harmonisation of strategies and policies of cooperation, and elaborate new and more pertinent tools. It will contribute essentially to strengthen the capacities of the national institutions and to promote sensitisation strategies so that all social actors, including the populations, may be actively involved in the fight against the illegal exploitation of natural resources' (ICGLR 2006c).

Secondly, the Economic Development and Regional Integration Programme comprises a project of a regional mechanism for natural resources certification.<sup>355</sup> The project aims are explained as being to:

- Curb the illegal exploitation of natural resources in the Great Lakes Region;
- Eliminate the historical role played by the natural resources in fuelling conflict;
- Design a Regional Mechanism for the Certification of the origin of Natural Resources;
- Promote a culture of an equitable use of natural resources (ICGLR 2006d: 10).

Certification schemes will be implemented and enforced incrementally from a national level to a regional level (ICGLR 2006d). It is expected that national

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<sup>353</sup> ICGLR (2006c) 'Regional Programme of Action for the Promotion of Democracy and Good Governance', Project No. 2.2.2, Regional Initiative against Illegal Exploitation of Natural Resources, September 2006, [www.icglr.org/key-documents/democracy-good-gov/Project%202.2.2.%20Regional%20Initiative%20against%20Illegal%20Exploitation%20of%20Natural%20Resources.pdf](http://www.icglr.org/key-documents/democracy-good-gov/Project%202.2.2.%20Regional%20Initiative%20against%20Illegal%20Exploitation%20of%20Natural%20Resources.pdf) accessed on 9/3/2010.

<sup>354</sup> The partners include the member states, Deutsche Gesellschaft für Technische Zusammenarbeit GmbH (GTZ), AU, Regional Economic Communities (RECs), UN System, Common Agricultural Policy (CAP) and United Nations Economic Commission for Africa (UNECA).

<sup>355</sup> ICGLR (2006d) 'Regional Programme of Action for Economic Development and Regional Integration', Project No. 3.2.2, Regional Mechanism for Certification of Natural Resources Proposal, August 2006, [www.icglr.org/key-documents/economic-development-regional/Project%203.2.2.%20Regional%20Mechanism%20for%20Certification%20of%20Natural%20Resources%20Proposal.pdf](http://www.icglr.org/key-documents/economic-development-regional/Project%203.2.2.%20Regional%20Mechanism%20for%20Certification%20of%20Natural%20Resources%20Proposal.pdf) on 9/3/2010.



level certification schemes will be similar amongst the member countries, following policy harmonisation (SaveRwanda 2009).

The above project proposal (ICGLR 2006d) recognises the need for adequate policies, legislation and capacities to implement a certification mechanism efficiently, which poses a considerable challenge for implementing countries. It also highlights four preconditions for a successful implementation of the certification mechanism: locally driven certification mechanisms with a strategy to enhance local knowledge and skills; greater benefits of certification than costs of implementation; changes in natural resources management favourable for certification; and a clear commitment of all the stakeholders. It therefore envisages a huge groundwork to be carried out prior to the implementation of the certification mechanism. Bearing in mind the enormous challenges that will be faced in developing and implementing the certification scheme, the proposal recommends focusing on the most important resources, namely high-value mineral resources and timber, which have contributed to or may contribute to conflict.

The project acknowledges a risk of failure if any of the member states do not comply (ICGLR 2006d). Equally, the lack of political will and/or adequate financial resources, conflict within the region, and a failure of data collection, reporting and information exchange can all pose threats to the successful project implementation (ibid.). Whilst the DRC state recognises that the DRC alone cannot address the issues of illegal exploitation of natural resources (Hamuli 2009),<sup>356</sup> the progress and success of this regional initiative greatly depends on the commitment of all the stakeholders, who have different political and economic interests. The DRC ICGLR coordinator states that it is a long-term process which has just started, and cannot stop.<sup>357</sup>

With regard to the progress of the project, the committee against illegal exploitation of natural resources agreed on a draft action plan to prioritise

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<sup>356</sup> Email communication with the DRC national coordinator for the ICGLR on 20/3/2010 (Hamuli 2010).

<sup>357</sup> Email communication with the DRC national coordinator for the ICGLR on 20/3/2010 (Hamuli 2010).

development of the certification scheme in October 2009 (SaveRwanda 2009). The progress of the CTC development in Rwanda and the DRC certification system was introduced to the committee in order to contribute to the discussion on a regional certification mechanism.<sup>358</sup>

#### 7.4. Global e-Sustainability Initiative (GeSI) and Electronic Industry Citizenship Coalition (EICC) Joint Working Group

Initiatives to develop minerals certification are also emerging within the electronics and information and communication technology (ICT) industries as end-users of coltan, in addition to the aforementioned schemes by the BGR and ICGLR. As described in the previous chapter, the growing 'conflict mineral' agenda calls for the application of 'human rights due diligence' in coltan supply chains (6.1.) and end-user companies, electronics and ICT companies in particular, have been under increasing pressure to take action (6.2.). While many end-user companies try to manage their supply chains by achieving traceability and accountability for reputational risks, they face significant challenges owing to the extensive and complex coltan supply chains. Given the limitations as to what an individual company can achieve, these companies are seeking to collaborate at an industry level to develop a certification scheme for coltan. This section introduces two such industry-based partnerships, the Global e-Sustainability Initiative (GeSI) and Electronic Industry Citizenship Coalition (EICC), and the collaboration between them.

##### *Global e-Sustainability Initiative (GeSI)*

The Global e-Sustainability Initiative (GeSI)<sup>359</sup> was established as a voluntary industry initiative in 2001, supported by the UN Environment Programme (UNEP) and the International Telecommunications Union (ITU). The GeSI is 'uniquely dedicated to information and communication technologies (ICT) sustainability through innovation', as an ICT sector response to the Millennium

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<sup>358</sup> Email communication with the BGR on 5/3/2010 (Franken 2010a).

<sup>359</sup> [www.gesi.org/](http://www.gesi.org/)

Development Goals (MDGs)<sup>360</sup> in 2000 (GeSI 2010a). It aims 'to further sustainable development in the ICT sector' by bringing together leading ICT companies and NGOs that are committed to achieving sustainability objectives through innovative technology. The GeSI became an international non-profit association in June 2008 and its full members include NOKIA, CISCO, AT&T, GSMA, Microsoft, Ericsson, HP, Motorola, Vodafone and BT amongst others.

The GeSI's initiatives include climate change, supply chain, energy efficiency-waste and public policy. Poor labour and environmental standards within the ICT supply chains, such as mining raw materials in conflict zones, are highlighted in the recent media and NGO campaigns and pose huge concerns and challenges for the ICT industry (GeSI 2010b). The GeSI recognises the need to address this challenging issue at an industry level because 'there are limits to what individual companies can achieve' (ibid.). In order to test whether it is possible to develop a controlled trading system for coltan rather than responding by banning coltan mined in the DRC, the GeSI formed a Supply Chain Working Group.<sup>361</sup> It also provides training and materials to increase awareness of social and environmental issues within the supply chains.

### *Electronic Industry Citizenship Coalition (EICC)*

The Electronic Industry Citizenship Coalition (EICC)<sup>362</sup> was created in 2004, as a result of discussions on business for social responsibility amongst a small number of technology-sector companies. They identified that supply chain social responsibility is a top priority, and that there is a need to have a consistent system throughout the industry (EICC 2008). The aim of the EICC is 'to improve social, economic, and environmental conditions in the global

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<sup>360</sup> The eight Millennium Development Goals, which include end poverty and hunger, universal education, gender equality, child health, maternal health, combat HIV/AIDS, environmental sustainability and global partnership, by the target date of 2015, were agreed by all the world's countries and all the world's leading development institutions in 2000. See Millennium Development Goals in UN (2008).

<sup>361</sup> The GeSI commissioned a study to the Fauna and Flora International (FFI). See foreword by Chris Tuppen, the then GeSI Chair, in Hayes and Burge (2003).

<sup>362</sup> [www.eicc.info/](http://www.eicc.info/)

electronics supply chain through use of a standardized code of conduct' (EICC 2009b: 1). The EICC became incorporated as an association in 2007 and its members have grown to over forty global electronics and ICT companies. It promotes a standardised code of conduct, provides supplier training and guidance and develops programmes and tools through its working groups.

The standardised code of conduct, the Electronic Industry Code of Conduct,<sup>363</sup> is formulated to guide companies in five key CSR areas, namely labour, health and safety, environment, management system, and ethics. The code can be applied by a wide range of companies in the electronics industry, including their supply chains and subcontractors. Participation is voluntary; however, participants must use the code as a total supply chain initiative by requiring their next tier suppliers, as a minimum, to accept and implement the code. The EICC is dedicated to developing the code further by receiving regular inputs from its stakeholders and encouraging participants to go beyond legal compliance in order to increase social and environmental responsibilities.

The EICC recognises the challenges for responsible supply chain management, due to rapidly shifting sourcing locations within the industry. It therefore stresses a need to develop a culture of responsible facilities management within its members and supplier companies, and also to keep supplier tools and processes flexible to be applied to new regional contexts. The EICC admits that it is still at an early stage towards achieving its goals while it progresses its implementation of the Code of Conduct in the supply chain and improves the use of shared audit (EICC 2008).

The renewed conflict in the eastern DRC in 2008 highlighted the potential negative impact on the upstream supply chains, which represents one of the key and emerging corporate responsibility issues for the electronics industry and has led to the creation of the Extractives Working Group (ibid.). The EICC

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<sup>363</sup> EICC (2009a).

recognises that significant portions of tin, tantalum and cobalt are used in the electronics industry and that the electronics industry has a potential to impact the upstream supply chains, such as the mining industry (ibid.). The distance between the upstream suppliers and the electronics companies as end-users means, however, that there is little interaction between the two and limited traceability of minerals, which is the greatest challenge for the industry in addressing 'conflict minerals' (EICC 2009b). The achievement of traceability is also hampered by commercial agreements with mineral suppliers and mixed sources of minerals (ibid.). Since 2009, the EICC has been trying to approach the issue of 'conflict minerals' through provision of better information to the participants, stakeholder engagement to understand the issues and to create collective solutions, and supply chain transparency focusing on cobalt, cassiterite (tin) and tantalum (ibid.).

#### *GeSI and EICC Joint Working Group*

In March 2005, the GeSI and EICC formed a strategic alliance in order to deliver a single corporate responsibility supply chain solution to the industry. This has increased participation in the initiative because of 'the value proposition of working together to efficiently and effectively improve social and environmental conditions throughout the electronics supply chain' (EICC 2008: 1).

The key area of collaboration has been a joint working group between the GeSI Supply Chain Working Group and the EICC Extractives Working Group. The joint working group works in two broad areas. Firstly, it aims to enhance the effectiveness and efficiency of the initiatives by avoiding duplication and inconsistency to reduce time and costs using common tools such as a web-based self-assessment tool for suppliers and a shared auditing programme (GeSI 2010b).<sup>364</sup> These common approaches intend to facilitate learning and

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<sup>364</sup> The common tools developed are the web-based self-assessment tool for suppliers, E-TASC (Electronics – Tool for Accountable Supply Chains), in four languages in 2007, and the shared auditing programme, Validated audit programme, to accompany the E-TASC (GeSI 2010b). Moreover, audits and sharing findings are carried out by independent auditors 'to

build the capacity of suppliers across the complex multi-layered supply chains.

Secondly, the joint working group also seeks to understand the industries' metal supply chains to establish how the industries can improve their impact collectively (EICC 2008). It therefore commissioned an independent research on six key metals (aluminium, cobalt, copper, gold, palladium and cassiterite (tin)) in 2008.<sup>365</sup> This study (Young 2008) highlighted the challenges of tracking metals throughout the supply chains including the mixed sources of the metals at various stages and artisanal and small-scale production of metals. Based on the study, the joint working group has been trying to facilitate the entire supply chain to work together for responsible mining and organised stakeholder forums (EICC 2008).

The joint working group plans to create supply chain transparency models for cassiterite, tantalum and cobalt which do not identify 'their commercial relationships' through enhanced multi-stakeholder engagement (ibid.: 26). The group held a meeting with representatives from the entire tantalum supply chain in September 2009 to discuss the issue of responsible tantalum sourcing, traceability in particular (EICC 2009c). In the subsequent meeting in November 2009, the group discussed an idea of a certification programme to ensure socially and environmentally responsible sourcing of tantalum, and agreed to develop a process to certify smelters that obtain tantalum from responsible sources, initially in the DRC and then surrounding countries (EICC 2009d).

## 7.5. OECD Guidelines for Multinational Enterprises

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keep relationships between buyers and suppliers confidential and prevent anti-competitive behaviour' (ibid.).

<sup>365</sup> Young, S. B. (2008) *Social and Environmental Responsibility in Metals Supply to the Electronic Industry, June 20 2008* [online] available from <[www.eicc.info/PDF/Report%20on%20Metal%20Extraction.pdf](http://www.eicc.info/PDF/Report%20on%20Metal%20Extraction.pdf)> [27 January 2010]

The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises<sup>366</sup> are voluntary principles and standards for business activities with regard to human rights, disclosure and combating bribery, some of which have been incorporated into the aforementioned CTC standards. The guidelines were last updated in 2000 and a 'specific instance' complaints system as a complementary regulatory procedure was established in order to avoid the cost and complexity of developing another extensive set of standards and systems for monitoring, verification and reporting (Utting 2005). The 'specific instance' complaints system provides a limited accountability mechanism, in which a National Contact Point (NCP) in signatory countries<sup>367</sup> receives complaints over 'specific instances' of breaches of the guidelines and helps to solve them through confidential proceedings.

The structure and performance of NCPs largely vary amongst the signatory countries (OECD 2008); however, this section focuses on the case of the UK NCP because of its progress in terms of the treatment of two cases from the DRC.<sup>368</sup>

Initially, the UK NCP was criticised for its treatment of eighteen British or British-based companies whose operations in the DRC were considered to be in breach of the OECD Guidelines by the UN Panel of Experts<sup>369</sup> (APPG 2005). There were issues around integrity and impartiality, capacity to investigate such complex cases, the contents of recommendations (*ibid.*) and the narrow interpretation of the guidelines on supply chain issues to limit responsibilities of companies to actions that clearly link with investment rather than with trade relationships (Christian Aid *et al.* 2005; RAID 2008b; IBA 2009; 2010). In general, the UK NCP was criticised for its limited accountability mechanism, bias and the lack of transparency in the process (Christian Aid *et al.* 2005; Global Witness 2007b).

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<sup>366</sup> [www.oecd.org/daf/investment/guidelines](http://www.oecd.org/daf/investment/guidelines)

<sup>367</sup> There are thirty OECD member countries and twelve non-member countries adhere to the Guidelines as of 2009 (OECD 2010).

<sup>368</sup> The NCPs in Austria, Belgium, Canada, France, Israel, Netherlands, Switzerland and the United States have received specific instances in the DRC. See OECD (2009).

<sup>369</sup> See details in Chapter Five (5.1. and 5.4.2.) and UNSC (2002b).

The UK NCP, however, went through major reforms following a consultation in 2006<sup>370</sup> and made significant progress in judging two companies to be in breach of the guidelines (RAID 2009). One example is Afrimex, a UK-based mineral trading company, which has been trading in the eastern DRC since 1984. In 2007, Global Witness (2007a), an NGO, made a complaint to the UK NCP under the Specific Instance Procedure of the OECD Guidelines, regarding Afrimex's trading in coltan and cassiterite with the rebels operating in the eastern DRC. In August 2008, the UK NCP made a judgement to support the allegation made against Afrimex (Global Witness 2008; RAID 2008b; UK NCP 2008b). Another case is DAS Air, a British air cargo company, which was accused of transporting minerals from rebel-held areas in the eastern DRC. The complaint was made by RAID, a UK-based NGO, and the UK NCP confirmed the allegation in July 2008 (RAID 2008a; 2008b; UK NCP 2008a).

The decisions for the two cases above have been praised for applying the guidelines correctly to 'contractual relationships at all level of the supply chain', rather than focusing on investment relationships (RAID 2008b; IBA 2009; 2010). It is also consistent with the Business and Human Rights Framework proposed by the Special Representative to the UN Secretary General to include all levels of the supply chain<sup>371</sup> (ibid.). These cases are, therefore, significant in setting 'an important precedent in making companies ... answerable for their actions abroad' through the OECD Guidelines for Multinational Enterprises, as the only corporate accountability instrument with a complaint mechanism (RAID 2009: 9). They demonstrate an important development in the field of corporate responsibility for human rights (RAID

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<sup>370</sup> In response to the recommendations been made to enhance the function of the UK NCP (APPG 2005), the UK attempted to restructure the NCP by creating the inter-departmental structure with the Department for International Development (DFID) and the Foreign Commonwealth Office (FCO), and by establishing the Steering Board to oversee the work of the NCP (OECD 2008; RAID 2008b). Whilst this move was considered to be innovative and to improve the accountability of the UK NCP (OECD 2008; RAID 2008b), the DFID decided to reduce its involvement with the UK NCP and the FCO has withdrawn completely (RAID 2008b). In addition, the Steering Board, including a large number of civil servants, turned out to be less effective owing to the rigid and unmanageable procedures (RAID 2008b).

<sup>371</sup> Ruggie (2008).



2008b; Cernic 2009). The NCP accountability mechanism, however, displayed a critical weakness in its enforcement (Cernic 2009). For example, Afrimex did not inform the NCP about whether or how the company was implementing the NCP recommendations (IBA 2010).

The OECD Guidelines, despite being an important corporate accountability mechanism and contributing to the development of other standards such as the CTC, display ineffectiveness in addressing or preventing irresponsible corporate behaviour (OECD Watch 2009). There is a need to enhance critical areas such as human rights, supply chain responsibility and the function of the NCP by incorporating the perspectives of stakeholders in developing countries (ibid.). Moreover, the guidelines must ensure compliance through improved enforcement mechanisms for redress (RAID 2008b; Cernic 2009; OECD Watch 2009).

#### 7.6. Voluntary Principles (VPs) on Security and Human Rights

In March 2000, the US Department of State and UK Foreign Office initiated the Voluntary Principles (VPs) on Security and Human Rights,<sup>372</sup> a tri-sector multi-stakeholder initiative, through engaging with some leading companies from the extractive industries and human rights and corporate responsibility organisations. Its principles<sup>373</sup> were included in the CTC standards. The VPs provide 'guidance to extractives companies on maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms' (Voluntary Principles 2009). The VPs are 'the only human rights guidelines designed specifically for oil, gas, and mining companies' (ibid.).

There was a disagreement between NGOs and some companies during the process about establishing governance and reporting standards (Human Rights Watch 2007). The discussion leading up to the development of the VPs

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<sup>372</sup> [www.voluntaryprinciples.org/](http://www.voluntaryprinciples.org/)

<sup>373</sup> After some consultations, the Principles were established and announced by the US Secretary of State, Madeleine Albright, and the UK Foreign Secretary, Robin Cook, in December 2000.

and the continued dialogue are expected to serve as models of collaboration in sharing implementation experiences and reviewing the principles (CNCA 2006). In fact, elements of the VPs are increasingly included in the lending policies of banks and financial institutions for extractive companies (ibid.). Although their lack of clear criteria for evaluation, external monitoring mechanism on implementation and legal enforcement as 'soft law' have been criticised (CNCA 2006; Global Witness 2007b), the VPs have improved the practices of those companies that have embraced the principles (Global Witness 2007b). More importantly though, developing countries were not involved in the process of agreeing the principles, despite the fact that security and human rights issues tend to chiefly affect developing countries (CNCA 2006).

#### 7.7. Extractive Industries Transparency Initiative (EITI)

The Extractive Industries Transparency Initiative (EITI)<sup>374</sup> was launched by the UK in 2002 and adopted in 2003. The EITI supports 'improved governance in resource-rich countries through the verification and full publication of company payments and government revenues from oil, gas and mining', and is a coalition of governments, companies and civil society (EITI 2010). The EITI is based on a principle that transparency is a means of ensuring that revenues from extractive industries contribute to sustainable development and poverty reduction, and this principle is incorporated in the CTC standards. As the DRC state joined the EITI in March 2005, this section reviews the EITI with a focus on the progress and implications for the DRC mining sector.

The EITI is generally perceived as a success and has managed to attract broad endorsement within a short period of time (CNCA 2006; Aaronson 2009). It is, however, a voluntary initiative and lacks monitoring mechanisms

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<sup>374</sup> [www.eitransparency.org](http://www.eitransparency.org)

for implementation (CNCA 2006). As a result, its progress has been slow<sup>375</sup> (ibid.) in terms of the validation status achieved by participating countries as a measure of compliance; hence, there is a concern around efficacy (Rainbow Insight 2009). There is also a risk of failure if there are any companies that do not accept or respect the standards (Gardner and Schmitz 2008).

With regard to the mining sector, the EITI implementation has been slow owing to the unclear EITI policy on reporting of payments and revenues (Darby and Lempa c.2008; Darby 2009).<sup>376</sup> Moreover, there is a question as to whether or how the EITI process can include the huge artisanal and small-scale mining sector (Garrett 2007; Darby and Lempa c.2008) particularly in Africa.<sup>377</sup> So far, the EITI process has not been implemented in the artisanal and small-scale mining sector (Garrett 2007).

The DRC officially announced its endorsement of the EITI in March 2005, and started implementing the process in 2006.<sup>378</sup> The country was accepted as an EITI Candidate Country in February 2008, and has to undertake validation by 9 March 2010. It achieved some major tasks, including the creation of a multi-stakeholder committee with a high degree of civil society representation in 2005 and publication of the work programme (Revenue Watch c2009). In line with the decentralisation policy of the country, the DRC plans to establish a decentralised EITI process at a provincial level (Garrett 2007; Revenue Watch c2009).

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<sup>375</sup> Amongst the twenty-four participating countries, which account for 50% of all resource-rich developing countries, only Azerbaijan took all steps in the process, as of December 2008 (Aronson 2009).

<sup>376</sup> There are two specific issues. Firstly, the EITI policy has not clarified the materiality point from which companies should be reporting within the EITI process (Darby and Lempa c.2008), or whether an aggregated or disaggregated (company-by-company) approach to disclosure should be used (Darby 2009). The disaggregated reporting provides greater transparency over payments/revenues, improves perceptions of companies, makes mining agreements more equitable and hence, is more beneficial to the EITI stakeholders (ibid.). Secondly, the EITI policy is not explicit as to whether non-cash payments and payments received by sub-national governments should be reported (Darby and Lempa c.2008).

<sup>377</sup> More information can be found from the Communities and Small-Scale Mining (CASM) at [www.artisanalmining.org](http://www.artisanalmining.org).

<sup>378</sup> [www.eitransparency.org/DR Congo](http://www.eitransparency.org/DR Congo)

The impact of the EITI implementation in the DRC is at an early stage and yet to be known; there is, nevertheless, an expectation that successful implementation of the EITI process will promote good practices in the DRC extractive industries. Participation in the EITI is, therefore, a condition whereby the DRC state can improve its international standing with foreign investors and international financial institutions (Garrett 2007), based on the belief of the international community that ‘the failure to open government revenues and spending to public scrutiny undermines the growth of a transparent and accountable mineral sector’ (Revenue Watch c2009).

In contrast to the expectations of adherents of the EITI above, observers raise numerous concerns over the EITI implementation in the DRC. First and foremost, achieving transparency in revenues does not simply improve public expenditures as the EITI promotes (ICMM 2003; Gardner and Schmitz 2008). Secondly, there is not enough political support in the DRC (Garrett 2007) and the decentralised EITI process may hamper the EITI implementation in the country given the highly political issues surrounding the decentralisation (Garrett 2007; Revenue Watch c2009). Thirdly, there is also a concern over the limited institutional and human capacity to achieve the intended transparency and accountability (Revenue Watch c2009). As approximately 90 percent of the minerals in the DRC are produced by the artisanal and small-scale mining sector (World Bank 2008), incorporating this largely informal sector into the EITI process<sup>379</sup> will pose a huge challenge as it requires formalisation of the sector and a more responsible conduct of international mineral trading companies (Garrett 2007). Global Witness (2007c: 7) calls for ‘other, more wide-ranging and legally enforceable measures ... in parallel with EITI’ since the EITI process, as a voluntary initiative, cannot be a single solution in considering the degree of the problems within the country.

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<sup>379</sup> Garrett (2007) considers that it is possible to include the artisanal and small-scale mining sector in the EITI process at the licensed mineral traders (*comptoirs*) level by reporting export charges, tax payments and licence fees.

## 7.8. Chapter summary and conclusions

This chapter was tasked to assess the role of multi-stakeholder partnerships in strengthening governance to prevent armed groups from accessing finance through coltan production and trade in the eastern DRC, in order to evaluate whether multi-stakeholder partnerships contribute to sustainable peace and security.

The examination of the seven partnerships has uncovered that the Durban Process is the only Congolese-owned multi-stakeholder partnership which includes various local and international stakeholders. The Durban Process identified issues resonant with the core issues identified from the analysis in the previous chapters (Chapters Four, Five and Six), such as poverty, the absence of infrastructure, insecurity, inequality and the legislative environment for the artisanal mining sector. It also recognised the relationships of poverty with armed groups as well as artisanal mining, and tried to focus on poverty alleviation and ethical coltan mining in its programme. Despite having the right focus, the Durban Process did not achieve its objectives, largely due to the lack of funding without receiving donors' support or mandates. Moreover, while business stakeholders' participation in the process was crucial, it generated different agendas and expectations within the Durban Process and slowed the progress.

The idea of ethically mined coltan of the Durban Process was taken over to develop minerals certification schemes for coltan by three other partnerships: the German-led CTC; the regional mechanism of the ICGLR; and the industry-based Joint Working Group of GeSI and EICC. While it is not possible to evaluate the implementation of these certification schemes as they are all under development, it is anticipated that they will use the CTC model. The CTC aims to verify the origin of ores using mineral fingerprints and certify mines that meet the required standards in the five principles of traceability and transparency, labour and working conditions, security, community development and environment. These standards are incorporated from three

other standards, namely, the OECD Guidelines for Multinational Enterprises, the VPs on Security and Human Rights and the EITI.

The examination of these three minerals certification schemes has revealed the externally driven processes of the schemes, which are clearly demonstrated in the ways they define the problem and objectives. The German-led CTC states its objectives as being: 1) poverty alleviation and regional stability using mineral resources; and 2) open and fair access to strategic raw materials, based on its definition of the problem being the illegal mining and trade of mineral resources as a source of violence and regional instability (Franken 2009: 3). Similarly, the industry-based Joint Working Group of GeSI and EICC is driven by its need to source tantalum responsibly. While the ICGLR is a regional approach, the disagreement between the member states and the international and donor communities as supporters on the focus of the programmes exposes the risk of undermining member states' ownership (Mulamula 2009). The risk for the ICGLR of becoming 'another externally-financed donor driven institution' (Berwouts 2009) seems to be high as the ICGLR needs institutional and financial support from the donor communities (*ibid.*; Bøås *et al.* 2009).

Regarding the three standard setting partnerships, the OECD Guidelines for Multinational Enterprises and the VPs on Security and Human Rights are driven by a corporate social responsibility agenda, whereas the EITI is guided by the transparency agenda as a means to promote poverty reduction and sustainable development, though there is no clear link (ICMM 2003; Gardner and Schmitz 2008). All three partnerships are initiatives of industrialised countries, Western governments in particular. They display weaknesses in enforcement, monitoring and accountability as they are voluntary initiatives, and hence appear to be largely ineffective and inefficient.

Furthermore, these above partnerships have not sufficiently incorporated perspectives of the stakeholders from developing countries, who are most

affected by the issues,<sup>380</sup> and have normative obligations to address the issues (Reed 2002: 167), despite the claim that these partnerships have promoted discussions and learning. Similarly, three mineral certification schemes did not include perspectives from the local stakeholders in their processes, which could provide insights and knowledge on the local reality and crucial issues and help design the certification schemes. A meaningful participation by the local stakeholders, however, entails a huge challenge, as artisanal mining communities are not well organised or democratically represented and civil society may lack the capacity to become involved in the initiative freely and constructively.

Assessing the efficacy of these multi-stakeholder partnerships in blocking finance for armed groups from coltan production and trade was the objective of this chapter. As the certification schemes for coltan are at an early stage for evaluation, this chapter considers the potentials and challenges of the coltan certifications, drawing on the evaluation of the KPCS to prevent conflict diamonds and the core issues identified in the preceding chapters (Four, Five and Six). The KPCS implementation in the DRC appeared to be a large failure due to weak internal controls, and smuggling of conflict and illicit diamonds is widespread in the country. The weak internal controls are largely caused by the difficulty in monitoring pervasive, uncontrolled artisanal mining in the large country, which lacks government control in many mining areas and borders, and has limited resources.

The coltan certification schemes can possibly help companies to secure coltan supply without being accused of financing armed groups which is what drives the German-led CTC and the industry-based Joint Working Group of GeSI and EICC.

The analysis shows that the potential of the coltan certification schemes to prevent armed groups accessing finance from coltan production and trade in

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<sup>380</sup> Freeman (1984) defines that stakeholders are being influenced by or influencing the achievement of the organisation's objectives.

the eastern DRC and the challenges for the implementation is, however, limited. The same drawbacks suffered by the KPCS are likely to hinder effective implementation of the coltan certifications. Some likely implementation constraints for the coltan certifications are: the lack of government control in the eastern DRC (Chapters Four and Five); the extensive artisanal mining sector and informal economy (Chapter Five); insufficient resources and institutional capacity; the laboratory time and skills needed for the mineral fingerprint; the implementation costs of the certification schemes; and the political and commercial interests, both within and outside the DRC, involved in the coltan production and trade sector and the complex way in which the sector is organised (Chapter Five).

Given the obstacles noted above, implementation of the coltan certification schemes is not likely to be effective in preventing armed groups from accessing finance from coltan. Besides, they may impact adversely on the ground by exacerbating tensions amongst the local population by certifying certain mines without addressing structural problems such as poverty and inequality. They may not reduce illicit exploitation and trade as political will and commitment can be weak when the schemes are not owned by the population and there are buyers for the illicit minerals (Bavier 2009). More importantly, my analysis on the DRC conflict in Chapter Four suggests that the distinction between armed groups and sovereign actors is not always clear as some armed groups have been integrated into the DRC national army. Also, armed groups have diversified funding (Chapter Five) and may be able to finance their violence as long as their grievances are not resolved.

Based on the findings above, the following part discusses whether multi-stakeholder partnerships contribute to sustainable peace and security by preventing armed conflicts through enhanced governance. My research has identified that the participation of local stakeholders is hugely lacking in the multi-stakeholder processes in view of improving solution-finding and decision-making, despite the claim that multi-stakeholder partnerships, as participatory governance, can enhance governance through increased stakeholder participation and accountability.



The current focus of the multi-stakeholder partnerships on limiting finance for armed groups through coltan production and trade, or the 'conflict coltan' approach, has been shaped without including the perspectives of the local stakeholders, who may affect and be affected by the ways in which coltan exploitation is organised or armed conflicts are triggered. It is not likely that the multi-stakeholder partnerships can improve governance or make access to resources equitable to promote sustainable peace and security on the ground.

The lack of local stakeholder participation appears to be a major weakness of the multi-stakeholder partnerships that were examined in this research. This limitation, however, highlights the difficulty in realising genuine multi-stakeholder partnerships by including a wide range of stakeholders in order to address the problem in question, relating to informal, illegal, clandestine and illicit exploitation of coltan and armed conflicts. There is also a question as to whether meaningful participation can be achieved by local stakeholders such as artisanal miners who are not organised or may not have the resources or capacity to articulate their perspectives constructively and freely during the processes.

Without significant local stakeholder participation, the multi-stakeholder partnership cases have clearly demonstrated that they are largely driven by the 'conflict coltan' approach, which is an agenda external to local stakeholders. In other words, they are greatly shaped by agendas in corporate social responsibility and ethical sourcing of raw materials of industrialised countries in addition to the humanitarian concerns of the international and donor communities. The huge disparity of perspectives between local stakeholders and external stakeholders is evident in my analysis of perspectives from the coltan supply chains in Chapter Six.

In these multi-stakeholder processes, the problem has been largely defined as coltan being a financial source for armed groups, hence the 'conflict coltan' agenda, and the resolution has been set to limit armed groups from accessing

finance through coltan production and trade, without adequately taking into account the conflict motivations of belligerents or other factors. Given the complex causalities of the conflicts in the eastern DRC, uncovered through my analysis in the previous chapters (Chapter Four, Five and Six), the resolution to limit access to resources amongst the populations, rather than distributing resource access more fairly, may backfire. Provided that the unequal access to local resources had initially produced marginalisation, inequality and insecurity in the eastern DRC, which were exacerbated by the effect of the economic decline and successive conflicts, controlling access to coltan extraction and trade may provoke a strong resistance and produce grievances amongst the local populations.

A case study of the fair trade coffee from Bolivia can support the above points; the findings of the study suggest that fair trade could prevent conflict when poverty reduction has been achieved and horizontal inequality has been reduced (Imhof and Lee 2007). The Durban Process should be mentioned in this respect, as this Congolese multi-stakeholder partnership defined the problem as poverty and insecurity in the area and focused on poverty alleviation through providing alternative livelihoods and ethical coltan mining training, though it failed to deliver the objectives due to insufficient funding.

Furthermore, a fundamental problem of the 'conflict coltan' approach lies in its bias in trying to curtail financial resources for armed groups, the argument which was presented regarding sanction regimes in Chapter Two. The resolution based on the 'conflict mineral' agenda can be a partial approach as it may shift military balance in favour of the government. It also criminalises armed groups by dismissing their political grievances, whether legitimate or not, and at the same time legitimates state actors no matter what roles they play. Furthermore, the resolution is also coercive as it eliminates opportunities for diplomatic negotiation.

## **Chapter Eight: Summary and conclusions**

This research was conducted to examine how and why multi-stakeholder partnerships can help in enhancing governance to promote sustainable peace and security, with a focus on the role of the multi-stakeholder partnerships in curtailing revenues for the belligerents from coltan production and trade in the eastern DRC, i.e. the 'conflict coltan' approach. In order to achieve the above research aim, this research employed the case study method, supported by qualitative data, and aimed to analyse the following: the background and other causes of the conflict in the DRC; the ways and to what extent coltan production and trade finance and drive the conflict in the eastern DRC; the perspectives of various stakeholders within the coltan supply chains on issues around the coltan mining and trade in the eastern DRC as well as on the 'conflict coltan' approach; and the role of multi-stakeholder partnerships relevant to coltan mining and trade in the DRC. This chapter summarises the key findings of this research and evaluates the achievement of the research to conclude the thesis.

The analysis of the DRC conflict in Chapter Four demonstrated the importance of the domestic context in which the two wars took place, which induced regional insecurity and militarisation in turn from the regional security imperative.

The first and second Congo Wars unfolded in the domestic context of a significant economic decline, an apparent institutional collapse and a loss of political legitimacy, which were induced by a combination of the nationalisation of foreign-owned businesses in 1973, the 1974 price decrease for copper, which had provided the main export revenue to the country, and the end of the Cold War superpowers' support in the early 1990s. The effect of the economic decline was considerable: the population was living at subsistence level as the country's infrastructure became disintegrated; the informal economy expanded significantly, which gave rise to regional strongmen; and the state capacity was further diminished. While these

domestic conditions provoked increasing pressure for a democratic transition both domestically and internationally, there was no viable political opposition to be able to respond to such demand, largely owing to the lack of leadership in political opposition and the interference by the international community.

Another essential context lies in the fact that both wars were instigated from the eastern DRC, where waves of migration including refugees from political violence in Rwanda and Burundi arrived throughout history, and ethnicity was politicised by the manipulation of citizenship and land access, causing marginalisation, inequality and insecurity. Within this context, the laws governing land tenure and citizenship were the key instruments. The 1973 land law commodified land, which is the most important local asset in the densely populated and land scarce region, and allowed the purchase of land by the Banyarwanda who did not have access to land through customary rights as they were seen as 'non-indigenous'. The commodification of land changed the social structure radically and brought about marginalisation and inequality. Similarly, citizenship was politically manoeuvred through the introduction of the consecutive citizenship laws in 1972, 1981 and 1991 in order to control the Banyarwanda ethnic minority. The insecurity created through marginalisation and inequality above had led to an ethnic crisis in the eastern DRC before Hutu refugees, including *génocidaires* from Rwanda, arrived there in the aftermath of the 1994 Rwandan genocide. The formation of armed Hutu refugee camps with the support of Zaïre and France in the area intensified the militarisation of the area and the ethnic tensions, which caused security threats for both Rwanda and the Tutsi Banyarwanda and triggered the first Congo War in 1996. The manipulation of the anti-Tutsi feelings within the DRC and attacks on Rwanda by the Hutu refugees again led to the second Congo War in 1998.

In both wars, neighbour states had security imperatives to intervene in the DRC, whether directly or indirectly, thereby signifying the impact of the conflict and resulting in a military stalemate, leading to the partition of the country controlled by different armed groups.

Given the multi-layered nature of the wars at local, national and regional levels, the negotiated peace settlements through power-sharing at a national level, the DDR process and the democratic elections were not able to address marginalisation, inequality, insecurity and poverty in the eastern DRC. The protracted conflict in the area hence largely involves the CNDP against the FDLR. The CNDP emerged when the Banyamulenge representatives had lost political significance during the 2006 elections, and claims to protect the ethnic minority Banyamulenge. The Banyamulenge appear to face political exclusion in a majority-vote representative democratic system as well as a great rift with the rest of the local population created throughout the wars. With regard to the FDLR, which largely consists of the Hutu refugees or *génocidaires* from Rwanda, it demands political dialogue with Rwanda although there seems to be no political space within Rwanda, which enjoys the international community's support. The FDLR is, therefore, left with no option but to be demobilised and repatriated as it is categorised as a 'negative force'. Nonetheless, the local Mayi Mayi militia and the FARDC often support the FDLR in their fight against the CNDP.

In Chapter Five, the examination of how coltan production and trade finance and drive the conflicts in the eastern DRC illustrated that the belligerents exploited various natural resources in order to finance their military campaigns during the two wars, to deprive their opponents as well as for self-enrichment. The exploitation of coltan was particularly lucrative as there was a 'coltan boom' generated by the acute supply shortage in the midst of the 'IT tech bubble' during the second Congo War; and the Rwandan forces established a politico-military structure to control coltan exploitation, which transformed the existing informal cross-border trade system in the eastern DRC. While the current scholarly knowledge of conflict analyses emphasise the economic agendas of war in the light of the end of the Cold War sponsorships such as 'military commercialism' with very limited analysis on the conflict motivations, the informal exploitation of minerals should be located within the broader informal economy, which expanded considerably following the economic crisis in the 1980s mentioned earlier.

The economic crisis in the 1980s had significant impacts on the DRC mining sector: industrial mining operations were forced to close, and artisanal mining grew in the 1980s and 1990s, especially following the official permission for artisanal mining in 1983 and the decline of the state capacity to control mining operations within the informal economy. Informal artisanal mining and cross-border trade have been providing a means of survival for a large number of populations amid poverty, the lack of alternative livelihoods, destruction of the infrastructures, and insecurity caused by the conflicts. At the same time, the state of informal, unregulated artisanal mining appears to have contributed to the conflicts by creating confusions and disputes over mine ownership. The disputes over mine ownership were provoked by a number of problems: the inconsistent legislation governing surface land and mining rights; a parallel authorities ruling land access and ownership by the state land law and customary law; inadequate provisions and enforcement of the Mining Code; and the duplicated authorities of the central government and the armed groups controlling the territories. While the state is not able to provide effective judicial recourse to solve confusions and disputes over mine ownership, resolution through violent means has become important.

The peace process and reconstruction instruments did not address the new structure established within this widespread informal economy, and differentiating the war economy from the existing informal economy has become incredibly difficult as the actors have been integrated into the same institution. Moreover, the huge vested interest within the informal economy prevents reforms and decreases the state capacity. However, it is too simplistic to attribute the vested interest to economic motivations without a thorough analysis of the conflict motivations. The analysis in Chapter Five underscores that, while ensuring means of survival can be interpreted as an economic motivation, it is also about addressing the existing grievance and insecurity in a significantly militarised environment. Based on the difficulty of distinguishing different motivations and between the legal and illegal operations within the informal economy, it is not possible to evaluate exactly to what extent the coltan exploitation finances and drives the conflicts in the eastern DRC. Therefore, how and whether curtailing revenues for the

belligerents from coltan production and trade can end and prevent conflict is not clear. Without having established understanding of these nexuses, the impact of such action cannot be predicted.

The perspectives expressed by some local actors in Chapter Six support the above complex causalities and interactions. The local actors distinguished political struggles from disputes over various deals around mining and trade of coltan. Similarly, the local actors and the traders operating in the DRC expressed the difficulty of clearly identifying coltan that has not financed the armed groups and of making a firm distinction between legal and illegal or formal and informal transactions in the eastern DRC, where it is almost impossible to conduct fully formal and legal operations. In addition, the local perspectives have demonstrated the need to capitalise available resources for livelihood, survival and security, which is not limited to the belligerents.

In the ongoing conflict in the eastern DRC, all the armed groups therefore continue to benefit from the mineral exploitation as well as from their diversified sources of funding. While there seems to be an agreement that mineral resources such as coltan finance the armed groups operating in the eastern DRC, the examination of the link between coltan exploitation and armed conflict has highlighted that the empirical analysis of the conflict motivations of the belligerents is extremely limited. Despite the limited analysis of the conflict motivations, some research contends that the mineral resources are the key driver for the continuing conflict, or have become the primary motivation for the conflict, whereas others view that the mineral resources perpetuate the conflict or the link between mineral resources and conflict is a consequence of insecurity and governance failure in the DRC. With reference to the scholarly knowledge of the economic agendas of war, reviewed in Chapter Two, the economic agendas do not appear to constitute the prime cause behind most of armed conflicts, although it is difficult to clearly distinguish economic reasons from other factors, partly owing to the fact that conflict dynamics change over time. Without reaching an agreement on a set of conflict motivations, opportunities created by the availability of abundant natural resources and the effect of weak governance are largely

considered as triggering armed conflicts, both by the rebel greed hypothesis and the economic agendas of war.

The above view has been influential and shaping the responses, leading to the 'conflict mineral' approach in particular. The responses therefore concentrate on the task of limiting finance for rebel groups with the aim of ending and preventing violent conflict. They also seek to improve governance as the resource curse hypothesis views that weak governance is a crucial variable in triggering armed conflict in resource-abundant countries. They are echoed in the mounting pressure on and perspectives of coltan-using companies examined in Chapter Six. The coltan-using companies are increasingly pressured to apply enhanced human rights due diligence to their supply chains and to achieve traceability and accountability in order to secure the supply of ethically sourced coltan, or they face reputational risk. The analysis of the perspectives within the coltan supply chains elucidates the very different perspectives between the supplier community and demand side.

Provided with the analysis of the nature of the link between coltan exploitation and conflicts and the different perspectives within the coltan supply chains above, Chapter Seven evaluated the role of multi-stakeholder partnerships in curtailing revenues for belligerents through coltan production and trade by reviewing seven multi-stakeholder partnerships. Three standards-setting partnerships have displayed weaknesses in enforcement, monitoring and accountability as they are voluntary initiatives. Other partnerships that intend to apply minerals certification schemes for coltan to verify the origin of the ores and to assure the ethical standards of production have become central in the effort to curtail revenues for armed groups through coltan production and trade. Although they are yet to be fully implemented, they are not likely to be effective, owing to a lack of local commitment and ownership and a number of inherent implementation constraints.

While the idea of ethically sourced coltan was originally from the Durban Process, a Congolese initiative based on multi-stakeholder dialogues, my analysis has demonstrated that the certification schemes have been largely



driven by the ethical sourcing agenda of raw materials in industrialised countries, as the DRC has become an essential supplier of coltan. They differ from the original idea of the ethically sourced coltan in the Durban Process, which was based on a livelihood approach and the dialogues among a wide range of local and international stakeholders, and had a focus on poverty alleviation through providing alternative livelihoods, especially through agriculture.

Chapter Seven also reviewed the implementation of the Kimberley Process Certification Scheme (KPCS), which aimed to prevent trade in conflict diamonds in the DRC, in order to consider implications for the coltan certification schemes in the eastern DRC, and identified the implementation constraints. Overall, the issues that could hinder the implementation of the coltan certification schemes include: the lack of government control in the eastern DRC; extensive artisanal mining and informal economy; insufficient resources and institutional capacity; laboratory time and skills needed for the mineral fingerprint; implementation costs of the certification schemes; the political and commercial interests, both within and outside the DRC, in the coltan production and trade; and the complex ways in which the sector is organised. Moreover, there is no local ownership or political will, and commitment could be weak as the schemes are largely externally driven without sufficiently including the local perspectives.

As regards the three standards-setting partnerships that have contributed to developing the standards for the coltan certification schemes, they are driven by the corporate social responsibility agenda and transparency agenda from industrialised countries. They have been weak in enforcement, monitoring and accountability as they are voluntary initiatives, and appear to be largely ineffective and inefficient. They also lack the perspectives of stakeholders from developing countries in their processes.

Drawing on the above examination of the nexus between coltan and conflict in the eastern DRC and the multi-stakeholder partnership cases, I analysed how multi-stakeholder partnerships can contribute to sustainable peace and

security in the eastern DRC. While multi-stakeholder partnerships, as a new form of global governance, are seen to improve governance through more inclusive, transparent and accountable decision-making processes with higher stakeholder participation, my research has identified the limited participation of local stakeholders in most of the partnership cases. Without having included local perspectives, these partnerships have been largely driven by the agendas of external stakeholders, namely the corporate social responsibility and ethical sourcing of raw materials in the industrialised countries, leading to the resolution based on the 'conflict coltan' approach.

However, the 'conflict coltan' approach has not been able to determine exactly what constitutes the 'conflict coltan' or to what extent the coltan produced in the eastern DRC actually causes any harm in terms of violent conflict. This is because the war economy is deeply integrated in or has transformed the existing extensive informal economy, which is expressed in the nuanced perspectives of the local stakeholders. The multi-stakeholder partnerships therefore do not significantly improve governance without understanding the informality in the DRC, or contribute to end or prevent the conflicts in the absence of other measures.

Based on the complex causalities of the conflicts in the eastern DRC, in which unequal access to local resources played a role in creating marginalisation, inequality and insecurity, limiting resource access amongst the populations, rather than distributing it more fairly, may provoke grievance and conflict. There is no concrete evidence as to what would prevent armed groups from accessing revenues from coltan. Moreover, the 'conflict coltan' approach, with its focus on curtailing financial resources for armed groups, is a partial and coercive tactic. It may shift military balance in favour of the government, criminalise armed groups by dismissing any political grievances regardless of their legitimacy, legitimise state actors despite their role in violence, and eliminate opportunities for diplomatic negotiation.

The limited local participation, a major shortcoming of the multi-stakeholder partnerships examined in this research, highlights the difficulty in realising

genuine multi-stakeholder partnerships by including a wide range of stakeholders, owing to the nature of the problem in question. The stakeholders within the informal economy may not be organised or have the resources or capacity to be able to participate meaningfully in the processes and, more importantly, those actors who are involved in violent conflict are not likely to be included in the partnerships. This is the point in which I seek to contribute to knowledge by illuminating the theoretical contention of applying multi-stakeholder partnerships as a means of participatory governance in a place marked with violent conflict and weak governance. The concept of participatory governance requires re-assessment in terms of necessary environments to which the concept can be applied and a clarification of the extent to which inclusiveness and participation should be sought.

In addition to the above point, the arguments presented in my thesis have contributed to ongoing academic discussions on conflict analyses, the resource curse hypothesis and the economic agendas of civil war in particular. I have highlighted the limitations of country-based reductionist approaches and their over-emphasis on the economic dimensions of armed conflict through my analysis of the conflicts in the eastern DRC. The analysis not only uncovered the multi-layered complex nature of the conflicts but also the difficulty in isolating economic motivation as the economic motivation can be a symptom of underlying insecurity and grievance.

My research has also offered empirical analysis and data on the coltan industry and partnership initiatives in relation to armed conflicts in the eastern DRC. It has demonstrated how the global demand for resources such as coltan impacts on the place of supply and how the partnership initiatives, which aspire for more inclusive and accountable governance, are largely driven by the need to secure 'conflict-free' resources and neglect the complex relations on the ground.

I have achieved the objectives of the research set out in the introduction as presented in the table below.

Table 4: Achievement of the research objectives

Objectives	Evaluation of achievements
<p><b>Chapter Four</b> To identify the background and causes rather than the economic motivations for the continuing conflict in the eastern DRC.</p>	<p>The analysis of the secondary data elucidates the complex causalities including the domestic context prior to the wars, the issues around ethnicity, citizenship and land, regional security agendas, and the failures of the peace process and reconstruction.</p>
<p><b>Chapter Five</b> To analyse how coltan production and trade finance and drive the conflict in the eastern DRC based on the following:</p> <ul style="list-style-type: none"> <li>• The current knowledge of the link between the conflict and coltan;</li> <li>• How the coltan market and industry are structured and linked to the DRC conflict;</li> <li>• How coltan is produced and traded in the DRC; and</li> <li>• The involvement of the armed groups in coltan production and trade.</li> </ul>	<p>The examination, mostly based on secondary data, illustrates that the largely informal systems of coltan production and trade in the eastern DRC are connected to the global market through complex supply chains.</p> <p>It identifies that coltan production and trade finance the armed groups and that the inappropriate legislation and peace settlements cause conflict in the mining areas.</p> <p>It was not able to determine whether coltan production and trade drive the conflict, owing to the limited data as well as the various motivations being intertwined.</p>
<p><b>Chapter Six</b> To examine different perspectives of stakeholders within the coltan supply chains on:</p> <ul style="list-style-type: none"> <li>• Whether revenues from coltan drive and finance the conflict;</li> <li>• Whether it is possible to identify 'conflict coltan';</li> <li>• The idea of halting the purchase of 'conflict coltan';</li> <li>• The issues and challenges relating to coltan production and trade; and</li> <li>• How best to address these issues and challenges.</li> </ul>	<p>The analysis of the primary and secondary data demonstrates clearly how the perspectives between the supply and demand sides within the coltan supply chains differ.</p> <p>It also explains the difficulty of establishing a clear definition of 'conflict coltan'.</p>

**Chapter Seven**

To analyse the role of the multi-stakeholder partnerships (MSPs) in enhancing governance, limiting the finance for the belligerents, and improving people's lives in the eastern DRC by examining the following:

- The background, objectives and scope, type, and progress of the multi-stakeholder partnerships;
- Whether they are inclusive, participatory, transparent and accountable; and
- Their opportunities and challenges.

The evaluation of the multi-stakeholder partnerships demonstrates that the multi-stakeholder partnerships largely lack inclusive participation of the local stakeholders and their viewpoints.

It is too early to assess the outcomes of the ongoing processes of the multi-stakeholder partnerships.

However, I have illustrated the potential opportunities and challenges.

I conclude that the multi-stakeholder partnerships are not likely to enhance the governance to limit the finance for the armed groups from the revenues from mineral resources.

My research hypotheses were:

1. *Multi-stakeholder partnerships have not significantly improved governance in the region*
2. *Multi-stakeholder partnerships have not demonstrated any positive impact in conflict prevention or conflict resolution*
3. *Multi-stakeholder partnerships are inherently inadequate to address deep-rooted violent conflicts which have underlying political causes*

The data and arguments have, I believe, confirmed these and shown that there is no evidence to support that curtailing financial resources derived from mineral resources for the belligerents will end and prevent the conflict, and the distinctly different perspectives amongst the local stakeholders are not included in the multi-stakeholder processes. While it provided insight into how and why the multi-stakeholder partnerships do not concretely contribute to end and prevent the armed conflicts in the eastern DRC, the research has a limitation, as shown below.

The research topic is an ongoing endeavour and it is not possible to evaluate the outcomes of the multi-stakeholder partnerships at present. Some of the research findings are therefore not conclusive. This was evident from the start of the research; however, I still decided to conduct this research because the topic is extremely important. Firstly, the topic is a serious example of the

complicity of the developed world in chronic conflict and poverty; secondly, it requires an urgent response for the population in the eastern DRC.

I close these conclusions by highlighting that a number of Congolese populations have started to raise concerns about decisions and policies made on the issues of natural resource exploitation and human rights 'at such a distance from [their] daily reality'<sup>381</sup> and to demand that their voices be heard during the processes (Pole Institute 2010), and by suggesting future research agendas. The above demand serves to support the main finding of my research – that the views and ideas of a wide range of local stakeholders are currently not included in the multi-stakeholder processes.

I therefore suggest that future research should analyse those local views that are not currently being voiced or included in various decisions and policies. The research should not be limited to analysing the nexus between the conflict and mineral resources but should start by identifying the issues and needs faced by the local stakeholders as this research has suggested that the local actors face broader issues, including the lack of alternative livelihoods and infrastructures, poverty, and insecurity. It also needs to collect ideas about how these issues and needs can be addressed, and what has been preventing the improvement of the situations on the ground. Such research envisages improving policies and decisions for conflict resolutions leading to sustainable peace and security by incorporating these issues and the views of critical local stakeholders who are not organised or able to voice their concerns and perspectives. This further research also entails an anthropological approach through longer term observations of the informal economy to supplement the scarcity of statistics in the eastern DRC, and requires a holistic analytical approach to analyse these data from the ground that could be offered by a livelihood approach or the concept of human security.

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<sup>381</sup> A letter to Professor John Ruggie, the Special Representative of the Secretary-General on transnational and other business enterprises, from the *Collectif* of NGOs, 29 August 2010 (Collectif 2010).

Furthermore, for the future research above to be able to improve decisions and policies, another set of research needs to be carried out to seek how best these local views can be communicated to the ongoing multi-stakeholder processes. The future research should consider how and why the stakeholders in these multi-stakeholder partnerships change their perceptions. For this research, an applied research study, facilitating dialogue with wider stakeholders, local stakeholders in particular, in the multi-stakeholder processes would be desirable.

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## Annexes

### Annex 1: Chronology of key events

#### Post-independence turmoil

**1960** June - Congo becomes independent with Patrice Lumumba as prime minister and Joseph Kasavubu as president.

**1960** July - Congolese army mutinies; Moise Tshombe declares Katanga independent; Belgian troops sent in ostensibly to protect Belgian citizens and mining interests; UN Security Council votes to send in troops to help establish order, but the troops are not allowed to intervene in internal affairs.

**1960** September - Kasavubu dismisses Lumumba as prime minister.

**1960** December - Lumumba arrested.

**1961** February - Lumumba murdered, reportedly with US and Belgian complicity.

**1961** August - UN troops begin disarming Katangese soldiers.

**1963** - Tshombe agrees to end Katanga's secession.

**1964** - President Kasavubu appoints Tshombe prime minister.

#### Mobutu years

**1965** - Kasavubu and Tshombe ousted in a coup led by Joseph Mobutu.

**1971** - Joseph Mobutu renames the country Zaire and himself Mobutu Sese Seko; also Katanga becomes Shaba and the river Congo becomes the river Zaire.

**1973-74** - Mobutu nationalises many foreign-owned firms and forces European investors out of the country.

**1977** - Mobutu invites foreign investors back, without much success; French, Belgian and Moroccan troops help repulse attack on Katanga by Angolan-based rebels.

**1989** - Zaire defaults on loans from Belgium, resulting in a cancellation of development programmes and increased deterioration of the economy.

**1990** - Mobutu agrees to end the ban on multiparty politics and appoints a transitional government, but retains substantial powers.

**1991** - Following riots in Kinshasa by unpaid soldiers, Mobutu agrees to a coalition government with opposition leaders, but retains control of the security apparatus and important ministries.

**1993** - Rival pro- and anti-Mobutu governments created.

**1994** - Mobutu agrees to the appointment of Kengo Wa Dondo, an advocate of austerity and free-market reforms, as prime minister.

**1996-97** - Tutsi rebels capture much of eastern Zaire while Mobutu is abroad for medical treatment.

#### Aftermath of Mobutu

**1997** May - Tutsi and other anti-Mobutu rebels, aided principally by Rwanda, capture the capital, Kinshasa; Zaire is renamed the Democratic Republic of Congo; Laurent-Desire Kabila installed as president.

**1998** August - Rebels backed by Rwanda and Uganda rise up against Kabila and advance on Kinshasa. Zimbabwe, Namibia send troops to repel them.

Angolan troops also side with Kabila. The rebels take control of much of the east of DRC.

**1999** - Rifts emerge between Congolese Liberation Movement (MLC) rebels supported by Uganda and Rally for Congolese Democracy (RCD) rebels backed by Rwanda.

### **Lusaka peace accord signed**

**1999** July - The six African countries involved in the war sign a ceasefire accord in Lusaka. The following month the MLC and RCD rebel groups sign the accord.

**2000** - UN Security Council authorises a 5,500-strong UN force to monitor the ceasefire but fighting continues between rebels and government forces, and between Rwandan and Ugandan forces.

**2001** January - President Laurent Kabila is shot dead by a bodyguard. Joseph Kabila succeeds his father.

**2001** February - Kabila meets Rwandan President Paul Kagame in Washington. Rwanda, Uganda and the rebels agree to a UN pull-out plan. Uganda and Rwanda begin pulling troops back from the frontline.

**2001** May - US refugee agency says the war has killed 2.5 million people, directly or indirectly, since August 1998. Later, a UN panel says the warring parties are deliberately prolonging the conflict to plunder gold, diamonds, timber and coltan, used in the making of mobile phones.

**2002** January - Eruption of Mount Nyiragongo devastates much of the city of Goma.

### **Search for peace**

**2002** April - Peace talks in South Africa: Kinshasa signs a power-sharing deal with Ugandan-backed rebels, under which the MLC leader would be premier. Rwandan-backed RCD rebels reject the deal.

**2002** July - Presidents of DRC and Rwanda sign a peace deal under which Rwanda will withdraw troops from the east and DRC will disarm and arrest Rwandan Hutu gunmen blamed for the killing of the Tutsi minority in Rwanda's 1994 genocide.

**2002** September - Presidents of DRC and Uganda sign peace accord under which Ugandan troops will leave DRC.

**2002** September/October - Uganda, Rwanda say they have withdrawn most of their forces from the east. UN-sponsored power-sharing talks begin in South Africa.

**2002** December - Peace deal signed in South Africa between Kinshasa government and main rebel groups. Under the deal rebels and opposition members are to be given portfolios in an interim government.

### **Interim government**

**2003** April - President Kabila signs a transitional constitution, under which an interim government will rule pending elections.

**2003** May - Last Ugandan troops leave eastern DRC.

**2003** June - French soldiers arrive in Bunia, spearheading a UN-mandated rapid-reaction force.

President Kabila names a transitional government to lead until elections in two years time. Leaders of main former rebel groups are sworn in as vice-presidents in July.

**2003** August - Interim parliament inaugurated.

**2004** March - Gunmen attack military bases in Kinshasa in an apparent coup attempt.

**2004** June - Reported coup attempt by rebel guards is said to have been neutralised.

**2004** December - Fighting in the east between the Congolese army and renegade soldiers from a former pro-Rwanda rebel group. Rwanda denies being behind the mutiny.

**2005** March - UN peacekeepers say they have killed more than 50 militia members in an offensive, days after nine Bangladeshi soldiers serving with the UN are killed in the north-east.

### **New constitution**

**2005** May - New constitution, with text agreed by former warring factions, is adopted by parliament.

**2005** September - Uganda warns that its troops may re-enter DRC after a group of Ugandan Lord's Resistance Army rebels enter via Sudan.

**2005** November - A first wave of soldiers from the former Zairian army returns after almost eight years of exile in the neighbouring Republic of Congo.

**2005** December - Voters back a new constitution, already approved by parliament, paving the way for elections in 2006.

International Court of Justice rules that Uganda must compensate DRC for rights abuses and the plundering of resources in the five years up to 2003.

**2006** February - New constitution comes into force; new national flag is adopted.

**2006** March - Warlord Thomas Lubanga becomes first war crimes suspect to face charges at the International Criminal Court in The Hague. He is accused of forcing children into active combat.

**2006** May - Thousands are displaced in the north-east as the army and UN peacekeepers step up their drive to disarm irregular forces ahead of the elections.

### **Free elections**

**2006** July - Presidential and parliamentary polls are held - the first free elections in four decades. With no clear winner in the presidential vote, incumbent leader Joseph Kabila and opposition candidate Jean-Pierre Bemba prepare to contest a run-off poll on 29 October. Forces loyal to the two candidates clash in the capital.

**2006** November - Joseph Kabila is declared winner of October's run-off presidential election. The poll has the general approval of international monitors.

**2006** December - Forces of renegade General Laurent Nkunda and the UN-backed army clash in North Kivu province, prompting some 50,000 people to flee. The UN Security Council expresses concern about the fighting.

**2007** March - Government troops and forces loyal to opposition leader Jean-Pierre Bemba clash in Kinshasa.



**2007** April - DRC, Rwanda and Burundi relaunch the regional economic bloc Great lakes Countries Economic Community, known under its French acronym CEPGL.

**2007** April - Jean-Pierre Bemba leaves for Portugal, ending a three-week political stalemate in Kinshasa, during which he sheltered in the South African embassy.

**2007** May - The UN investigates allegations of gold and arms trafficking by UN peacekeepers in Ituri region.

**2007** June - War could break out again in the east, warns the Archbishop of Bukavu, Monsignor Francois-Xavier Maroy.

**2007** June - Radio Okapi broadcaster Serge Maheshe is shot dead in Bukavu, the third journalist killed in the country since 2005.

**2007** August - Uganda and DRC agree to try to defuse a border dispute. Aid agencies report a big increase in refugees fleeing instability in North Kivu which is blamed on dissident general Nkunda.

**2007** September - Major outbreak of the deadly Ebola virus.

**2008** January - The government and rebel militia, including renegade Gen Nkunda, sign a peace pact aimed at ending years of conflict in the east.

### **Renewed clashes**

**2008** April - Army troops clash with Rwandan Hutu militias with whom they were formerly allied in eastern Congo, leaving thousands of people displaced.

**2008** August - Heavy clashes erupt in the east of the country between army troops and fighters loyal to rebel leader Laurent Nkunda.

**2008** October - Rebel forces capture major army base of Rumangabo; the Congolese government accuses Rwanda of backing General Nkunda, a claim Rwanda denies.

Thousands of people, including Congolese troops, flee as clashes in eastern DRC intensify. Chaos grips the provincial capital Goma as rebel forces advance. UN peacekeepers engage the rebels in an attempt to support Congolese troops.

**2008** November - Campaign by Tutsi rebel leader Laurent Nkunda to consolidate control over east prompts new wave of refugees.

UN Security Council approves temporary increase of troops to bolster the strained UN peacekeeping effort.

**2008** December - Uganda, South Sudan and DRC launch joint assault on Ugandan Lord's Resistance Army bases in north-east DRC. Hundreds of civilians are killed in backlash attacks.

Adapted from 'Time line: Democratic Republic of Congo' (BBC 2010c)

## **Annex 2: List of Interviews**

### *In Rwanda:*

Interview with a Rwandan *négotiant* at Hotel Chez Lando, Kigali, 17 June 2009.

Interview with a Congolese *négotiant* at Hotel Chez Lando, Kigali, 17 June 2009.

Interview with a Rwandese official at the Rwanda Geology and Mines Authority (OGMR), Muhima, Kigali, 18 June 2009.

Informal conversation with a Rwandese mineral dealer, Gisenyi, 19 June 2009.

Informal conversation with a Rwandese university lecturer at ULK (Université Libre de Kigali), Gisenyi, 19 June 2009.

Interview with a Congolese executive secretary of a local NGO, Gisenyi, 19 June 2009.

Interview with a Congolese/Rwandese civil society representative, Gisenyi, 19 June 2009.

Interview with a former Congolese worker at the MPA, Gisenyi, 19 June 2009.

Interview with a former Congolese miner from Bukavu, at Hotel UMBANO, Kigali, 20 June 2009.

Informal conversation with a British mining engineer, at Hotel UMBANO, Kigali, 21 June 2009.

Interview with a Rwandese official at the Rwanda Geology and Mines Authority (OGMR), Muhima, Kigali, 22 June 2009.

Interview with Dr. Gustav Roethe, Managing Director (Mining Engineer) of NRD (Natural Resources Development Rwanda Ltd), Kigali, 22 June 2009.

Interview with a former Rwandese miner at Nakumatt café, Kigali, 23 June 2009.

*In the UK:*

Informal conversation with Corporate Responsibility Senior Manager of a mobile phone company at the Conference Board, 'European Council on Corporate Responsibility & Sustainability', British American Tobacco, London, 6 February 2009.

Informal conversation with Nounou Booto Meeti, Congolese journalist and human rights activities/Programme assistant of the International Action Network on Small Arms (IANSA)/Member of COMMON CAUSE UK/Member of the Women's International League for Peace and Freedom (DRC), at the Warwick Conference on Humanitarianism: 'Why is your life with more than theirs – stories from frontline', Coventry, 19 May 2009.

Informal conversation with Global Witness representative at The Great Lakes PACT – Two Years On: Issues of Implementation and Enforcement Conference, London School of Economics and Political Science, London, 29 May 2009.

Interview with Kevin D'Souza, Artisanal mining expert for the Durban Process/CASM board/Technical Director of Wardell Armstrong LLP, Stoke-On-Trent, 25 September 2009.

Interview with Dan Bucknell, Previous Regional Programme Manager of the Gorilla Organization, London, 18 November 2009.

*Telephone interview:*

Matthew Fletcher, former International NGO staff, positioned in South Kivu, DRC, during 2008, 24 March 2009.

Masako Yonekawa, JICA research fellow/former Head of UNHCR Goma between March 2007 and July 2008, 10 April 2009.

Estelle Levin, former Durban Process Coordinator during 2006/Consultant on minerals and sustainability, 12 January 2010.

*Email:*

Dr. Gudrun Franken, Economic Geology of Mineral Ressources (BGR), 5 March 2010.

Dr. Gudrun Franken, Economic Geology of Mineral Ressources (BGR), 19 March 2010

Manfred Buetefisch, General Manager Corporate Communications of H.C. Starck GmbH, 12 June 2009.

Baudouin Hamuli, ICGLR DRC National Coordinator/CENADEP, 20 March 2010.

*Skype:*

Jean Didier Losango, Project Coordinator – DRC's Extractive Industries of African Institute of Corporate Citizenship (AICC), 22 May 2009.

**Annex 3: Partnership table**

	Type	Founder/ support	Aims/objectives	Participant/driver type	Target	Progress/impact
OECD Guidelines (2000)	Standard setting	OECD members	HRs, disclosure, bribery	MSI	Companies in host countries	2 success cases, weak enforcement, limited accountability
EITI (2003)		UK	Improved governance through transparency	Tri-sector MSI	Extractive industries, governments	Widely accepted, slow progress in mining sector
VPs on Security and HRs (2002)	Standard setting	UK, USA	To fulfil responsibilities, particularly in HRs	Tri-sector MSI, with less developing countries	Extractive industries	No enforcement, monitoring, evaluation criteria
Durban Process (2003)	Multiple	DFGF (GO)	Long-term sustainability from artisanal mining and environment protection	Congolese-led MSI	Local population, environment	Slow due to external factors, no funding
ICGLR (2003)	Multiple	Region, UN, AU	Security, stability, development	Governments	Region	Ongoing development
Extractive Working Group (2005): GeSI, EICC	Standard setting	ICT & electronic industries	A single CR supply chain solution to the industry	ICT and electronic industries	ICT and electronic supply chain	Ongoing development
CTC (2006)	Certification, standard setting	BGR/GTZ, G8	Poverty reduction, regional stability & open, fair access to strategic minerals	MSI	Mineral mining, trade	Ongoing development