



## Extraction in the Democratic Republic of Congo: Implementing Legislation to End Suffering

Event Summary  
October 14, 2010

---

***Panelists:***

**Assheton Stewart Carter**

Senior Vice President, Global Engagement and Strategy, Pact

**Catherine Robinson**

Director, High Tech Trade Policy and International Economic Affairs, National Association of Manufacturers

**Peter Rosenblum**

Professor, Columbia Law School

**David Sullivan**

Policy Manager, Enough Project

***Moderator:***

**Scott Edwards**

Director, Africa Advocacy and Science for Human Rights Program, Amnesty International

---

At the 157th Great Lakes Policy Forum (GLPF) Catherine Robinson from the National Association of Manufacturers (NAM), Prof. Peter Rosenblum from Columbia Law School, David Sullivan from the Enough Project, and Assheton Stewart Carter from Pact discussed the new U.S. legislation on minerals from the Democratic Republic of Congo (DRC). As various armed groups determine the human security in the Eastern Congo, the civilian populations suffers from terrible human rights abuses. Violence is more about opportunity costs than about politics. While the control of minerals is a source of violence, the revenues from extraction also sustain the long-standing and seemingly intractable conflict. The new law was adopted in April 2010 as part of the Dodd-Frank Financial Regulatory Reform Bill. Manufactures will now have to document the sources of the minerals used in their products and verify that their business does not contribute to the conflict. The forum discussed the options and needs of implementing the law.

**No More Conflict-Minerals**

The end-user industry, particularly the electronics industry, has increasingly faced criticism from consumer

groups and human rights activists regarding the use of conflict-minerals in their products. Subsequently, especially big companies began to push back on their supply chains with the objective of gaining a better understanding of the components' origins. UN investigations have been putting additional pressure on manufacturers and traders. Nevertheless, companies such as Dell and Apple still do not know exactly where the minerals come from. The new law will encourage further examination to differentiate the different traders and smelters involved in the mineral commerce. After the adoption of the law in April, the discussion now focuses on how it will be implemented. Many loopholes need to be closed in order for manufactures to have a clear impact on the ground.

Several governments and institutions have issued guidelines for the mineral trade. In cooperation with other interested parties, the OECD works on a promising process on due diligence. A certification scheme for different minerals is also being developed. In September 2010, President Kabila has issued an export ban on minerals coming from a particular region in the Eastern DRC. A day later, the mining ministry has expanded the ban to three provinces. This was the first time that the Congolese government officially recognized mineral extraction as a driver for the conflict. Nevertheless, the ban was issued without prior consultation and will most probably end within the next few weeks. As a result of the presence of illegal armed groups and the lack of effective government oversight, the implementation of the ban is necessarily deficient in the conflict-torn region.

A group of UN experts has engaged in sophisticated detail reporting, which has proven that it is possible to track the origins of the minerals and the cash flows. Nevertheless, it is important to improve and update the mapping as well as to enhance the cooperation among different actors, including local officials and tax authorities. "We know what does not function, but we also need to know what functions."

### **Complex Supply Chains**

Manufacturers know their mineral suppliers, but they still do not know where the minerals in their products originally come from. Some lobbyists express their concern that the law could lead to a de facto embargo on minerals from the region. However, lawmakers and human rights activists are confident that the new law will contribute to shifting the violent extraction towards a more peaceful extraction. Most manufacturers are committed to solving the problem of conflict-minerals in the DRC. Many companies are now involved in sector-wide initiatives and cooperate with the OECD working group on due diligence.

However, electronic products are particularly complex, some including more than 100,000 parts. Supply chains for minerals are long and complex, making it difficult to track the exact origin of all components used in the end product. Every mineral has its own specificities. "Knowing the culture of each mineral is important for designing a good system." Attention to detail is important and one-size-fits-all solutions will not work. "Solutions need to be sector-specific, as supply chains are not the same." Industry groups emphasize that an effective solution will require a strong system of governance to control and enforce a certification system on the ground, greater international diplomatic efforts to achieve a truly global solution, and cooperation across the supply chains. Presently, there is a lack of infrastructure to link the smelters to the consumers. Manufacturers will have to create a stronger contractual relationship with the first-tier supplier in order to push back into the supply chains. Proper examination will allow them to find out where the minerals come from.

### **A Certification Process**

The demand for coltan and other minerals will not go away in the near future. "The links between cell phones and computers in our every-day lives and the conflict in Congo can no longer be ignored." A certification system will legitimize the extraction industry and reduce its impact on the armed conflict. The Kimberly process for conflict diamonds provides many interesting lessons learned for the establishment of a similar certification system for other minerals. Heads of State will meet in Kinshasa to launch such a process. Appropriate checks

and balances, independent auditing, and high-level support are fundamental for the scheme to take hold. Such a process cannot succeed without buy-in and compliance from the Congolese government and neighboring countries. Some enforcement mechanisms are required for the system to work. In 2009, Secretary of State Clinton visited the DRC and expressed the U.S. support for the Eastern Congo, including for the establishment of a certification system. Human rights activists argue that the U.S. can provide important incentives and leverage.

In the DRC, it is largely artisanal mining that contributes to the violence. While raising different issues (environmental damage, distribution of revenues, etc.), industrial mining is less connected to the armed conflict. Nonetheless, the industry in general is still very reluctant to share information. Moreover, currently there is no capacity in place for independent auditing in the turbulent region of Eastern Congo.

### **Regional Dimension**

Both state and non-state armed actors are involved in the extraction and trade of conflict minerals. Reports by the UN Group of Experts and NGOs have all demonstrated that Rwanda is one of the main conduits for minerals leaving North and South Kivu. Estimated figures show that in 2008 nearly half the minerals exported (by weight) from Rwanda were re-exports, therefore not of Rwandan origin. In order for the new law to be effective, it will have to take into account minerals sold by the neighboring countries. "Minerals from Rwanda and Uganda need to provide the same information." Moreover, the neighboring countries' role in the mineral trade needs to be further investigated.

### **Conclusion**

The panelists agreed that the law, if implemented effectively, will contribute to solving the problem of conflict minerals. Despite some circular definitions, the new U.S. law is very progressive in the sense that it looks into the future and puts increased pressure on manufacture as well as actors in the DRC and neighboring countries. Supply-chain transparency, capacity building, and governance are three of the most important issues to assure a positive impact on the ground. Manufactures need to fully buy into the process in order to assure coherence throughout their supply chains. A robust global dialogue with all stakeholders is necessary to assure the effectiveness of a certification scheme. Moreover, it is important to build up the infrastructure on the ground.

The diverse backgrounds of the panelists allowed for the inclusion of several perspectives into the discussion. While the exchange with the audience was at times very emotional, all participants agreed that the new law is a very small but important aspect in ending the terrible atrocities in the Great Lakes region. Legal mineral extraction will be important for the DRC's economic development.

The next GLPF will be on **Wednesday, November 10th** from 9.00 to 11.00 am at the Council on Foreign Relations. It will explore the current situation in Burundi. The panel will feature Howard Wolpe, Former Special Advisor for the Great Lakes region to the Obama Administration, Dave Peterson, Senior Director of the Africa Program at NED, and the Search for Common Ground Country Directors from Burundi, DRC and Rwanda.