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TACKLING CONFLICT MINERALS

HOW A NEW CHINESE INITIATIVE CAN ADDRESS CHINESE COMPANIES' RISKS

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For over twenty years Global Witness has engaged with companies, governments and other partners to tackle the issue of natural resource-funded conflict. For the past ten years we have been reporting on the trade in conflict minerals from eastern Democratic Republic of Congo and working with policy-makers and business leaders to develop practical solutions. Much of our research and analysis has focused on the role of African, European and North American companies and governments. This is our first publication focusing on the role of Chinese businesses in the trade in conflict resources and the role of the Chinese government in regulating those businesses.

For further information on Global Witness' work in eastern DRC and other countries, please see http://www.globalwitness.org/campaigns/conflict/conflict-minerals.

Cover photograph

Ground-breaking guidelines for mining and mineral trading companies operating overseas by the Chinese Chamber of Commerce for Minerals, Metals and Chemicals Importers and Exporters cover wide-ranging aspects of responsible corporate behaviour including preventing conflict and corruption, labour rights, environmental protection, and community relations. The guidelines have the potential to benefit implementing companies as well as overseas communities, such as these gold miners in rebel-held territory, North Kivu province, Democratic Republic of Congo.

Contents

1. Introduction

A Chinese government-affiliated body, the Chinese Chamber of Commerce for Minerals, Metals and Chemicals Importers and Exporters (CCCMC), published this month ground-breaking Guidelines for its mining and mineral trading companies operating overseas. The progressive and ambitious standards cover wide-ranging aspects of responsible corporate behaviour including preventing conflict and corruption, labour rights, environmental protection, and community relations.

This briefing highlights the necessity and potential value of the new Guidelines to shape company behaviour on one critical issue – "conflict minerals". Conflict minerals are mined or traded in a way that fund armed groups and rogue army elements who commit violence against local populations. The Guidelines aim to address this problem by ensuring that companies buying minerals from conflict-affected and high-risk areas undertake robust checks on their supply chains.

Putting progressive Guidelines into practice will help Chinese companies ensure their involvement in the minerals trade no longer risks contributing to social instability and violence around the world, as is currently the case, but instead provides benefits to local populations.

By setting clear Guidelines that cover conflict minerals, CCCMC is demonstrating leadership appropriate to the country's prominent international role as a permanent member of the United Nations Security Council. The initiative is also fitting given that Chinese companies are major players in the trade of minerals sourced from politically unstable locations, such as the Democratic Republic of Congo (DRC). Putting progressive Guidelines into practice will help Chinese companies ensure their involvement in the minerals trade no longer risks contributing to social instability and violence around the world, as is currently the case, but instead provides benefits to local populations. Implementing robust supply chain checks, known as due diligence, as set out in the Guidelines, would also help companies build more secure supply chains and ensure compliance with host country and international laws and standards.

CCCMC can show its commitment and vision by ensuring that companies now begin implementing the Guidelines, including the provisions on conflict minerals. For their part, Chinese companies can earn recognition as responsible global players by conducting robust supply chain checks and, in so doing, demonstrate they have no association with the violent groups that for too long have devastated eastern DRC and other conflict-affected areas.

This briefing describes the new Guidelines for Chinese mining and mineral trading companies operating overseas, focusing on the conflict minerals component, and the UN and Organisation for Economic Co-operation and Development (OECD) standards that they draw from. It goes on to set out the problem of conflict resources and how China participates in related UN and other intergovernmental initiatives to address it. The briefing documents particular links between Chinese companies and Congolese mineral supply chains and describes national and international standards, as well as industry schemes that may impact on these companies' operations. Finally the briefing suggests next steps that the Chinese government, the Chamber of Commerce that published the Guidelines and its member companies can take to help stop the minerals business financing brutal armed groups.

2. Chinese Guidelines for Social Responsibility in Outbound Mining Investments

The Chinese Chamber of Commerce for Minerals, Metals and Chemicals Importers and Exporters (CCCMC), under the auspices of the Ministry of Commerce, took concrete action to tackle the links between companies registered in China and conflict minerals when it established Guidelines for Social Responsibility in Outbound Mining Investments. The Guidelines' purpose is to reduce operating risks for mining and minerals trading companies overseas and ensure companies prevent their operations from directly or indirectly causing harm. The Guidelines were developed in association with the German development agency GIZ following a year-long drafting process and public consultation. They will be implemented by CCCMC members on a voluntary basis.

The Guidelines include several practical measures that are aimed at ensuring that they are properly implemented. CCCMC commits to providing outreach and training to companies and the wider public and evaluating the performance of Chinese companies against the Guidelines. In addition, the preamble of the Guidelines emphasises the need for companies' senior management to take responsibility for their implementation and for adherence to broader social responsibility standards.

Clause 2.4.6 of the Guidelines state that implementing companies should:

Conduct risk-based supply chain due diligence in order to prevent engagement with materials that may have funded or fuelled conflict.

- *Conduct an assessment to define whether the mining project from which traded minerals originate or the mineral trading routes used are located in a conflict-affected and/or high-risk area.*

- *Adapt existing due diligence measures to the specific needs of conflict-affected and high-risk areas. Measures should be third-party audited and publicly reported on.*

- *When operating in a conflict-affected and/or high-risk area, take steps to monitor the business relations, transactions, and flows of funds and resources and avoid the trade of conflict minerals.*

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The CCCMC Guidelines state that implementing companies should 'conduct risk-based supply chain due diligence in order to prevent engagement with materials that may have funded or fuelled conflict.'

3. Supply chain due diligence – the benchmark for companies to prevent resource-funded conflict

The CCCMC Guidelines on conflict minerals and their accompanying footnote reflect supply chain due diligence guidance established by the UN Security Council and the Organisation for Economic Co-operation and Development (OECD), which set out how companies can carry out checks on the sourcing of natural resources from conflict-affected or high-risk areas.[1] Both guidelines are available in Chinese.

The *"UN Due Diligence Guidelines for the responsible supply chain of minerals from red flag locations to mitigate the risk of providing direct or indirect support for conflict in the eastern part of the Democratic Republic of the Congo"* (UN Guidelines) were written in 2010 by the UN Group of Experts on the DRC and endorsed by the UN Security Council, of which China is a permanent member.[2] The UN Guidelines entail a five-step due diligence process.

The *"OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas"* (OECD Guidance) is a voluntary framework negotiated by a diverse multi-stakeholder working group and formally adopted in 2011 by OECD member states. In a footnote to the Guideline CCCMC recognises the OECD Guidance as due diligence good practice and suggests companies implement the OECD five step due diligence framework when operating in conflict-affected or high-risk areas. Numerous public and private initiatives aiming to break the links between natural resources, conflict and human rights abuses have referenced the OECD Guidance. Chinese companies have attended OECD working group meetings on development and implementation of the Guidance in Paris and Central Africa, despite China not being a member of the multilateral group.

The UN Guidelines and OECD Guidance recommend that companies operating right along the mineral supply chain – from the mine to the smelter, the manufacturer and finally the retailer – adopt a risk-based five-step due diligence framework to ensure that they do not contribute to conflict or human rights violations through their mineral purchases. The CCCMC Guidelines summarise these requirements for companies as follows:

1. Put company management systems in place and use these to assess whether minerals used or traded originate from conflict-affected and/or high-risk areas;

2. Identify and assess risks in the supply chain;

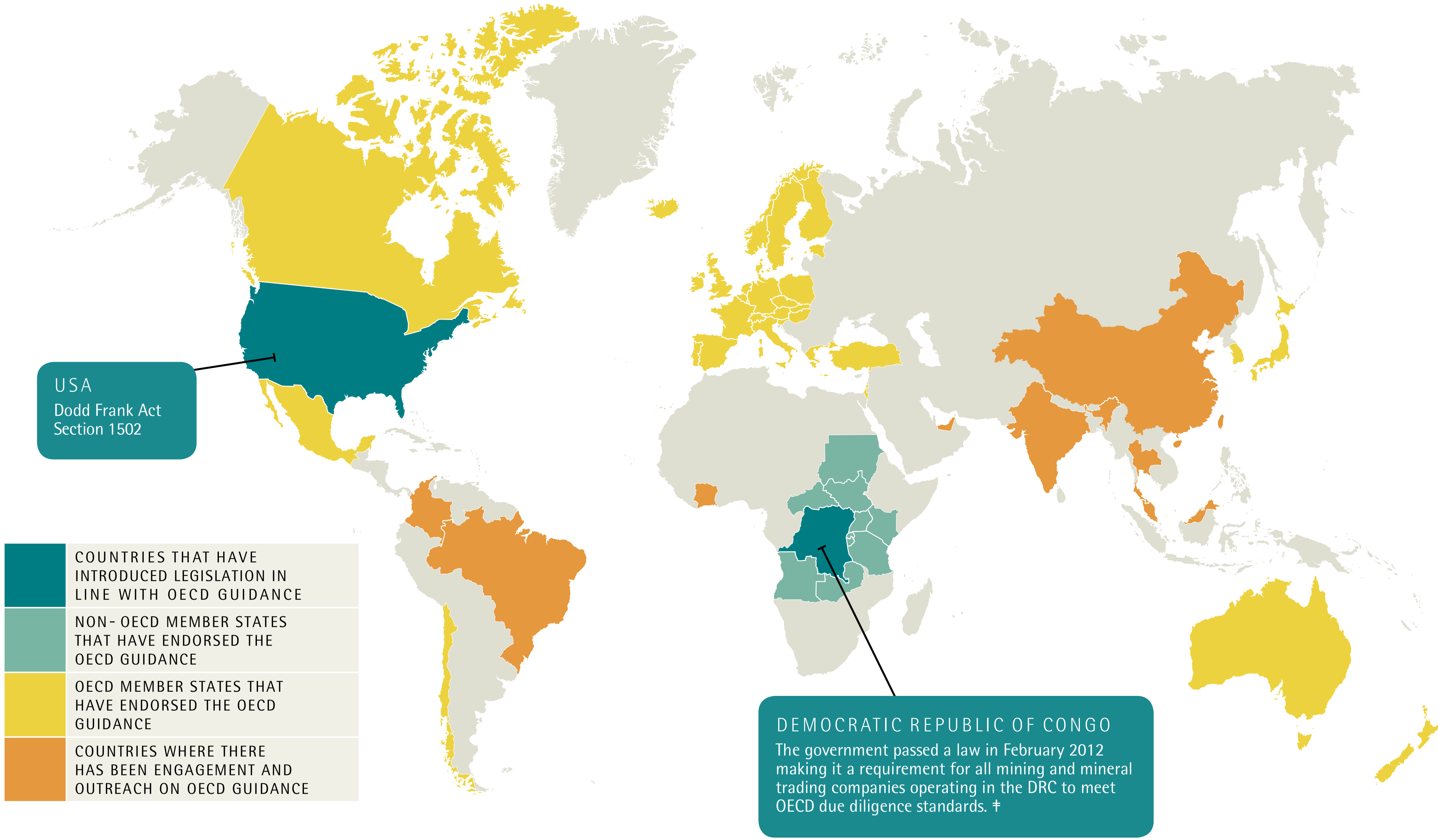
3. Design and implement a strategy to respond to identified risks;

4. Commission an independent third party audit of the due diligence practices on an annual basis;

5. Report publicly on supply chain due diligence on an annual basis.

CCCMC's incorporation of this due diligence framework into its Guidelines for mining and minerals trading companies reflects an emerging international standard. Some countries have already passed laws that require Chinese companies to meet the OECD and UN due diligence standards. Several industry initiatives are also based on the same five-step due diligence process and are being implemented by some Chinese firms. Section 7 below, 'Regulations and standards shaping company behaviour around the world', describes these developments in more detail.

Countries that have introduced legislation in line with the Organisation for Economic Co-operation and Development (OECD) Due Diligence Guidance



ǂ See Arrêté ministerial N.0057.CAB.MIN/MINES/01/2012 du 29 février 2012 portant mise en oeuvre du mécanisme régional de certification de la Conférence Internationale sur la Région des Grands-Lacs « CIRGL » en République Démocratique du Congo, Article 8.

4. 'Conflict resources' – linking business to the world's worst wars

According to the UN Environment Programme, at least forty percent of all intrastate conflicts in the sixty years prior to 2009 had links to natural resources, and the presence of natural resources makes conflicts twice as likely to recur.[3]

Central to these links is the trade in conflict resources, which are defined by Global Witness as "natural resources whose systematic exploitation and trade in a context of conflict contribute to, benefit from, or result in the commission of serious violations of human rights, violations of international humanitarian law or violations amounting to crimes under international law".[4]

According to the UN Environment Programme, at least forty percent of all intrastate conflicts in the sixty years prior to 2009 had links to natural resources.

Current cases of conflict resources include the funding of abusive state and non-state armed groups through the trade in minerals, precious stones – notably diamonds – and other natural resources in Colombia, Afghanistan and the Central African Republic.[5] Revenues from the resource trade also provide off-budget funding to government security forces and corrupt officials, often further weakening already fragile states.[6] In many instances, these groups are responsible for widespread violence against civilians.

Conflict resources enter global supply chains where they are traded, processed and manufactured into a wide variety of consumer and industrial products.

As one of the five permanent members of the UN Security Council and home to companies investing and trading in conflict-affected countries, China has participated in several international initiatives to tackle conflict resources. It has also contributed personnel to UN peacekeeping missions, including these Chinese engineers and medics preparing to travel to the DRC.

Chinese involvement in international initiatives to tackle conflict resources

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Kimberley Process

The most well-known international mechanism set up to address the trade in diamonds funding armed groups is the Kimberley Process Certification Scheme (Kimberley Process or KP). The KP is an inter-governmental system, endorsed by the United Nations General Assembly and the UN Security Council, which is designed to prevent the trade in diamonds that fund conflict. It requires member countries to certify that shipments of rough diamonds are conflict-free. China joined the scheme in 2003, the year of its launch, and is currently Chair.

Global Witness was a founding member of the Kimberley Process, but left the scheme in 2011 over concerns that the scheme was not doing enough to prevent the trade in diamonds fuelling violence and human rights abuses in countries such as Zimbabwe and Côte d'Ivoire.[7]

UN Security Council sanctions

The UN Security Council, of which China is a permanent member, can specify mandatory economic or other sanctions on states to maintain or restore international peace and security under Article 41, Chapter VII of the UN Charter. The Security Council has, on several occasions, used this authority to establish sanctions regimes aimed at limiting the supply of funds to armed groups involved in resource-related conflicts and thus preventing abuses against civilians.

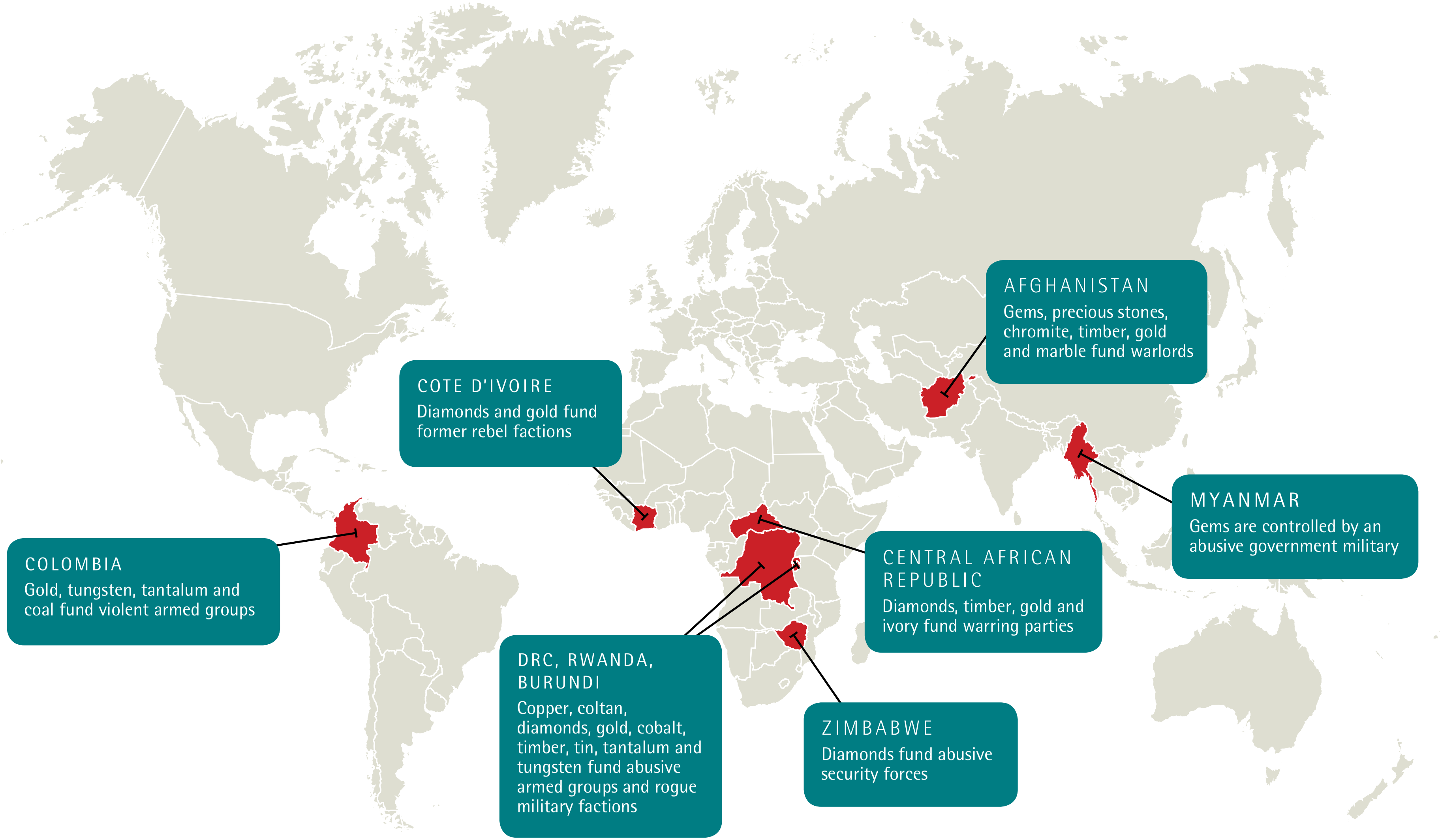
Significant cases of the UN adopting such measures include the imposition of sanctions on rough diamond exports in order to reduce the financing of UNITA in Angola (1998-2002) and the Revolutionary United Front in Sierra Leone (2000-2003); sanctions on the export of diamonds from Côte d'Ivoire (2005 – present) and sanctions on exports from Liberia of diamonds (2001-2007) and timber (2003-2006).

However the implementation and monitoring of sanctions is inconsistent and flawed. Reasons include limited resources for the UN's sanctions committees and associated 'panels of experts', complicity in sanctions-busting by peacekeepers and government officials, impunity for businesses that violate sanctions and a lack of international coordination.[8]

UN Due Diligence Guidelines

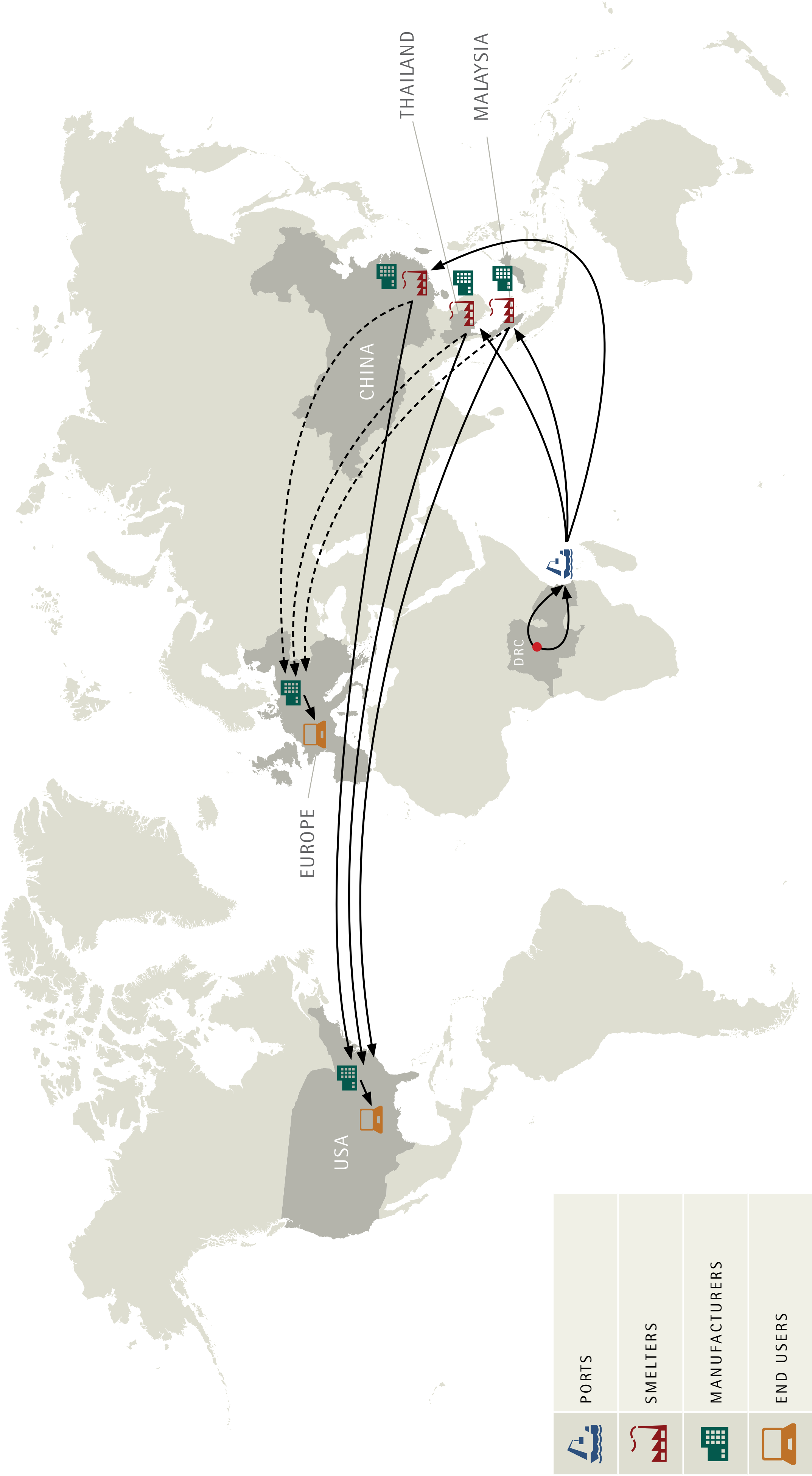
As mentioned above, the "*UN Due Diligence Guidelines for the responsible supply chain of minerals from red flag locations to mitigate the risk of providing direct or indirect support for conflict in the eastern part of the Democratic Republic of the Congo*" were written in 2010 by the UN Group of Experts on DRC and endorsed by the UN Security Council, of which China is a permanent member. The Guidelines entail a five-step due diligence process for companies that is almost identical to those developed by the OECD.

Hot Spots: Natural resource-fuelled conflicts



This map highlights examples of countries and regions where natural resource supply chains fuel conflict; it is not an exhaustive list.

Typical supply chain for DRC minerals sourcing the electronics industry



5. Conflict minerals and 'the world's deadliest conflict' – the case of the Democratic Republic of Congo

Recent efforts to break the links between international supply chains and violence in countries that produce natural resources have focused primarily on Democratic Republic of Congo (DRC), where the trade in tin, tantalum, tungsten and gold has fuelled conflict for almost a decade and a half. In the DRC's eastern provinces of North and South Kivu, which cover an area roughly the size of Fujian Province, foreign and Congolese armed groups and members of the Congolese army have made millions of dollars through controlling mines and mineral trading routes. Illegal control of the minerals trade generates revenues that finance warring parties' operations and weapons, and provides off-budget cash to rogue elements within the Congolese army and partially-integrated militia. In some cases competition over access to lucrative mining areas provides an incentive to continue fighting.[9] Consequently minerals have contributed to widespread instability and violence, which have had a devastating impact on the local population. In fact the conflict in DRC has led to more deaths than any other conflict since the Second World War. The overwhelming majority of these fatalities were caused by preventable diseases.[10]

Chinese companies impacted by 2012 Congolese due diligence laws

In February 2012, the Congolese government introduced a law requiring businesses – including Chinese companies – operating in the domestic tin, tantalum, tungsten or gold mining sectors to undertake supply chain due diligence in line with the OECD Guidance, and reflecting the UN Guidelines, "to ensure that they do not contribute to human rights violations or conflicts in DRC".[11]

In May 2012, two Chinese companies – TTT Mining, exporting as China Minerals and Metals (CMM), and Huaying Trading Company (Huaying) – were suspended by the Congolese government for failing to carry out due diligence in line with DRC law, and on suspicion that they were sourcing minerals from areas under the control of armed groups.[12] The DRC government instructed the national and provincial mining authorities to launch an investigation into the firms' mineral purchases.[13] The results of the investigation were not made public, and the suspension was lifted on 3 March 2013.[14] CMM and Huaying have both since exported minerals to China from North Kivu, as well as opening offices in DRC's South Kivu and Maniema provinces.[15]

Illegal control of the minerals trade generates revenues that finance warring parties' operations and weapons.

On 24 October 2013, the DRC Minister of Mines issued a letter to government departments and mining industry associations, reminding them of the due diligence reporting obligations set out in Congolese law.[16] In February 2014 Global Witness obtained copies of CMM's and Huaying's supply chain due diligence reports for 2013.[17] The reports show that both companies have undertaken some due diligence activities. But they also strongly suggest that neither CMM nor Huaying have met in full the supply chain due diligence requirements contained within Congolese law.

- Huaying's two-page report, seen by Global Witness, states that the company has a model supply chain policy that has been

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Recent efforts to break the links between international supply chains and violence in countries that produce natural resources have focused primarily on DRC in Central Africa. The trade in tin, tantalum, tungsten and gold has fuelled conflict in eastern Congo for almost a decade and a half, resulting in millions of premature deaths.

internally circulated to all levels within the company, as stipulated under Annex II of the OECD Guidance. The company also names the designated staff member responsible for overseeing Huaying's supply chain due diligence, in accordance with Step 1 of the five-step framework.[18] However, although the company makes a general commitment to undertaking risk assessments, including consideration of information generated by civil society and the media, Huaying has not included a risk assessment as part of its due diligence report. Nor does its due diligence report contain any information on a risk management strategy or on steps taken to manage risks, as required under Step 3 of the five-step framework.

- CMM's five-page report states that the company has a model supply chain policy in place (and Global Witness has been shown a copy). CMM also names the company representative who is directly responsible for overseeing due diligence. The report contains information on one identified supply chain risk, where CMM found and reported an "unidentified number" of mineral traders operating with out-of-date trading licences. However, the report does not contain any information on the company's methods for identifying all suppliers along the supply chain, as required by the five-step framework. Although the company states that it is committed to denouncing and reporting risks and to working with its suppliers, transporters, with provincial oversight committees and the state administration in order to identify and resolve these, no detailed information on company risk assessment or management is included.[19]

Global Witness contacted CMM and Huaying on 27 March 2014 and put to them the allegations that their company due diligence report did not contain sufficiently detailed information to meet the requirements of Congolese law. Representatives from both companies agreed that their reports lacked adequate detail, particularly with regard to supply chain risk assessment, and acknowledged that neither report had been made publicly available, as required by Step 5 of the five-step framework and by Congolese law. Both companies told Global Witness that they would improve on this in their 2014 reporting.[20]

6. Continued risks to Chinese firms sourcing minerals from DRC

Chinese companies continue to play a significant role in the minerals trade in eastern DRC's Kivu Provinces and remain at risk of being associated with the conflict.[21] It is important to stress that Chinese companies are not the only firms involved in sourcing minerals from eastern DRC. At the same time, however, Global Witness research shows that Chinese firms do currently play a leading role in the trade in these materials. Global Witness research in the Kivus during 2013 and 2014 revealed clear links between the tin and tantalum trade and armed groups operating at mine sites and along trading routes. In November 2013, Global Witness heard eyewitness accounts of tantalum from mines in North Kivu being taxed by rogue elements of the Congolese army and partially integrated militia, and being sold to trading houses in Goma for export. This raises the risk that Chinese importers buying tantalum from Goma may have been indirectly financing those groups.

In March 2014, Global Witness interviewed minerals porters and their managers, middlemen, provincial officials and traders who described to Global Witness how mining pits at Bisie – North Kivu's largest tin mine – and minerals trading routes leading out of the area, were taxed by rogue elements of the Congolese army and partially integrated militia. These informants explained that tin from Bisie had been transported to Goma and Bukavu during 2013 and exported, including by Chinese companies.[22] In turn, official government export statistics seen by Global Witness show that companies, including Chinese trading houses, exported tin and tantalum from North and South Kivu in 2012, 2013 and 2014.[23]

Chinese trading houses based in North Kivu

Official export statistics for North Kivu obtained by Global Witness show that CMM and Huaying are amongst the five trading houses that exported tin and tantalum from the provincial capital, Goma, in 2013. Over this period, exports from the two Chinese companies accounted for over 65 per cent of total official exports of tin and


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Chinese companies continue to play a significant role in the minerals trade in eastern DRC's Kivu Provinces and remain at risk of being associated with the conflict.

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CCCMC's incorporation of a supply chain due diligence framework into its Guidelines for mining and minerals trading companies reflects an emerging international standard, established by the UN Security Council (UNSC) and the Organisation for Economic Co-operation and Development (OECD). Although China is not a member of the OECD, it is one of only five countries to have a permanent seat on the UNSC. Here China's Permanent Representative to the UN and then President of the Security Council chairs a meeting on the violence in eastern DRC, October 2008.

tantalum combined. In 2013, CMM exported 245 tonnes of tin and 124 tonnes of tantalum and Huaying exported 347 tonnes of tin from Goma. The entirety of the tin and tantalum exported by CMM and Huaying from Goma in 2013 was sold to companies listed as based in Hong Kong or mainland China.[24]

Global Witness contacted Huaying again in August 2014 and put to them the allegations that: the company had bought conflict minerals sourced from North Kivu during 2013, notably cassiterite from Bisie, which had been illegally taxed by rogue elements of the national Congolese army; and that their company due diligence report did not contain sufficiently detailed information to meet the requirements of Congolese law. Huaying stated that it had not traded in tin ore from conflict regions in North Kivu and that it is engaged in the trade of tin ore that is government-controlled and legal. The company asked for greater clarity regarding the allegations that its due diligence report did not contain sufficiently detailed information to meet the requirements of Congolese law but gave no response when this additional detail was provided.

Global Witness also contacted CMM in August 2014 and asked for the company's comment on the allegations documented in this report. The company did not provide a response.

Chinese international traders, smelters and refiners

Chinese companies further along the supply chain are buying minerals from exporters operating out of eastern DRC.[25] According to Congolese mineral export statistics, from January to July 2014 firms based in mainland China and Hong Kong imported all tantalum and over 80% of the tin leaving Goma, North Kivu, with a combined value of US$11.9 million.

Between January and December 2013, the last full trading year, six of the eight companies buying tin or tantalum from Goma in North Kivu were mainland China or Hong Kong-based firms. Collectively, they purchased over 90 per cent of Goma's official exports of both tin and tantalum. The companies include:

- *Tolead Group Limited* (Hong Kong) which bought 46.9 tonnes of tin and 20.5 tonnes of tantalum from CMM in 2013. The company also bought tin and tantalum from CMM in 2012.

Some Chinese companies buying minerals from Central Africa, including metals smelters and processors, are members of responsible supply chain pilot implementation projects in the DRC and Rwanda. This participation is an important step forward in Chinese company engagement in efforts to end the conflict minerals trade.

- *Guilin Jinli New Chemical Materials Co. Ltd. No. 2* (mainland China) which bought 244.6 tonnes of tin and 20.8 tonnes of tantalum from trading house AMR in 2013. The company also bought tin and tantalum from AMR in 2012.[26]

Four other Chinese companies were listed in Congolese government records as importing tin and tantalum from Goma, North Kivu between January and December 2013. During the year the four companies imported a total of 545.3 tonnes of tin and 160.4 tonnes of tantalum. However Global Witness was not able to confirm contact details for the companies and request comment in advance of publication. Consequently their names have not been included in this report.

Global Witness wrote to CMM, Guilin Jinli, and Tolead Creation Technical Commerce Ltd and asked for the companies' responses to the allegations documented in this report. None of the companies provided a response.

No Chinese company which imported tin and tantalum from Goma in 2013 has published a due diligence report. Tolead Group, Guilin Jinli and the four other importing firms either have not made a due diligence report available on their company websites or do not have a website.

By contrast, some Chinese companies buying minerals from Central Africa, including Ningxia Orient Tantalum Industry Co., Ltd (OTIC), Duoluoshan Sapphire Rare Materials Co Ltd and F&X Electro-Materials Ltd, are now members of responsible supply chain pilot implementation projects in the DRC and Rwanda (described further in section 7).[27] This is an important step forward in Chinese company engagement in efforts to end the conflict minerals trade.

F&X in particular was one of the first Chinese smelters to team up with downstream electronics manufacturers and implement responsible sourcing initiatives. The company has been part of a closed-pipe sourcing initiative, Solutions for Hope, which was launched in DRC's Katanga province in 2011, whereby businesses at all levels of the supply chain work together to identify and manage risks at specific mines and trading routes as a means of establishing a 'clean' minerals supply. Through this initiative, verified conflict-free tantalum has been sold to smelters certified under the industry-run Conflict-Free Smelter Programme and, in turn, exported to over nine major end users, including Nokia, Motorola Solutions, Intel and Hewlett Packard.[28]

7. Regulations and standards shaping company behaviour around the world

Regulation and regional cooperation in Central Africa

Rwanda and the DRC already have domestic frameworks in place that require companies operating in the minerals sector, including Chinese companies, to undertake supply chain due diligence.[29] The DRC government is currently reviewing its Mining Code and Congolese officials have told Global Witness that due diligence requirements will either be contained within the main Code or will be specifically listed as a requirement in accompanying ministerial decrees.[30]

In their capacity as members of the International Conference on the Great Lakes Region (ICGLR), DRC, Rwanda and Burundi all signed the December 2010 Lusaka Declaration of the ICGLR Special Summit to Fight Illegal Exploitation of Natural Resources. The declaration directs the ICGLR Secretariat to integrate the OECD Guidance into the six tools of the ICGLR's Regional Initiative against the Illegal Exploitation of Natural Resources.[31] The ensuing ICGLR Regional Certification Mechanism (RCM) requires companies mining or trading minerals from member states to undertake due diligence to the OECD standard in order to receive a certificate for export.[32] The eventual aim is for all minerals leaving the region to have an RCM certificate – so Chinese companies will have to meet this standard in order to continue exporting. The scheme's first certificate was issued on 5 November 2013 in Rwanda. In January 2014, the RCM also issued certificates covering a limited number of sites in DRC.[33]

US legislation

Reflecting the global nature of mineral supply chains, and the significant role played by American companies, the United States Congress included in the 2010 Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd Frank Act) a provision – Section 1502 – to tackle the problem of conflict minerals in DRC. Section 1502 requires companies listed with the US Securities and Exchange Commission, including any Chinese firms, to carry out a country of origin inquiry on all tin, tantalum, tungsten or gold contained in their products. If these resources come from DRC or adjoining countries, the companies have to carry out supply chain due diligence to determine whether they have funded armed groups in the DRC. The regulation accompanying Section 1502 requires that companies adhere to a nationally or internationally recognised due diligence framework, and specifically references the OECD Guidance as a framework that may be used to meet the law's requirements.[34]

The consequence of this legislation is that companies anywhere in the world that supply a US-listed firm covered by the law, either directly or through a supply chain, may now be asked by their US customers to provide information about the country of origin of the minerals they supply. If the company sources minerals from the DRC or its nine neighbouring countries, it could also be called on to demonstrate evidence of its supply chain due diligence.

China is home to a significant proportion of the world's processors of tin, tungsten and tantalum.[35] At the same time, significant volumes of these minerals are exported, in processed form, from China to the US. According to the UN Comtrade data for 2013, the US imported 766.5 tonnes of tungsten metal from China in 2012, at a value of US$38.3m. In the same year, the US imported 1,511 tonnes of tin from China, at a value of US$33.7m, as well as 132.9 tonnes of tantalum at a value of US$61.4m.[36]

Many of the companies in the US that are importing these metals will be listed with the Securities and Exchange Commission. This means that, in line with Section 1502, Chinese companies may be asked to provide their US customers with evidence that they carried out supply chain due diligence to find out where the minerals they process come from, and whether the purchase of these minerals may have funded armed groups.

Global Witness spoke to mineral exporters in Burundi in November 2013 who said that their Chinese buyers were asking for information on the provenance of the minerals they buy from the region. This shift in purchasing behaviour appeared to be in large part due to the requirements laid out under Section 1502.[37]

Implementation of Section 1502 began in January 2013 and by 7 August 2014 over 1,300 companies had submitted reports with the SEC.[38] Some firms made strong submissions containing detailed information about the steps they took to source minerals responsibly and demonstrated that oversight of supply chains is possible. Disappointingly, however, the quality of many of these inaugural reports and the due diligence they describe was poor. In particular: some companies published minimal, if any, information on their efforts to determine which countries the minerals in their products are sourced from; many companies did not explain how they assessed their suppliers' due diligence practices; and many companies did not show the steps they took to identify and mitigate the risks in their supply chain.[39]

European Union legislative proposal

The European Union (EU) is in the process of developing legislation on mineral sourcing which aims to ensure that minerals used or traded in Europe have been sourced responsibly and have not funded conflict or human rights abuses. The European Commission published a draft legislative proposal on 5 March 2014 which the EU Member States and European Parliament are currently reviewing.[40] Depending on the outcome of the EU legislative process, Chinese companies supplying the European market may be affected.

Industry initiatives

Several industry initiatives, such as the London Bullion Market Association's Responsible Gold Guidance and the Electronic Industry Citizenship Coalition and Global e-Sustainability Initiative Conflict-Free Smelter Programme – in which a number of Chinese companies participate – have developed additional guidance for members to help them meet international due diligence standards, whether they are sourcing from DRC or elsewhere.[41]

There are signs of more responsible mineral sourcing at specific mine sites in DRC as well. Companies operating in and sourcing from DRC have begun to develop 'closed-pipe' initiatives. South Kivu province's Conflict-Free Tin Initiative (CFTI), a closed-pipe system where all companies in the supply chain are identified and directly involved in the programme, is one of the first examples of efforts towards this kind of responsible mineral sourcing from conflict-affected areas.[42]

Meanwhile, the International Tin Research Institute's (ITRI) Tin Supply Chain Initiative (iTSCi) has established a due diligence scheme operating at certain mines in Katanga, Maniema, North and South Kivu provinces of DRC, at over 400 mine sites across the border in Rwanda, and in Burundi.[43] In March 2014, the iTSCi programme launched its programme in North Kivu province – making iTSCi the first responsible sourcing scheme to operate in the province. Under the terms of the iTSCi Membership Programme Agreement, full members of the scheme agree "to adopt the OECD Annex II Model Supply Chain Policy and fulfil all obligations recommended by the OECD Guidelines."[44] At least ten companies either Chinese owned or headquartered in mainland China or Hong Kong are participating in the iTSCi programme.[45] There are also plans under development to introduce other due diligence schemes to the Kivu provinces.

8. Conclusion - due diligence is good for Congolese communities and good for Chinese business


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New legislation introduced under the US Securities Exchange Commission, pictured, means that companies anywhere in the world that supply a US-listed firm, either directly or through a supply chain, may now be asked by their US customers to provide information about the country of origin of the minerals they supply.

In many conflict-affected and high-risk areas, brutal armed groups with a track record of abuse against innocent people prey on the trade in natural resources. Nowhere is this more apparent and pressing than in the Democratic Republic of Congo.

The Chinese Chamber of Commerce for Minerals, Metals and Chemicals Importers and Exporters has taken an encouraging step in launching Guidelines that set out how companies can conduct robust supply chain checks and break their association with the conflict minerals trade. This is especially welcome given China's prominent international role as a permanent member of the UN Security Council and the importance of Chinese companies in the Congolese minerals trade.

Moreover, Chinese government policy states the need for companies investing or listed overseas to abide by the laws of the host country, reflecting a central tenet of Chinese foreign policy of non-interference and respect for national sovereignty.[46] For Chinese companies operating in countries where domestic laws require firms operating in the minerals sector to undertake supply chain due diligence, the obligation for compliance with due diligence standards is therefore all the greater. The new Chinese Guidelines also come in the context of established and evolving initiatives in the US, the European Union and amongst industry bodies that are already influencing Chinese company behaviour.

Chinese government policy states the need for companies investing or listed overseas to abide by the laws of the host country, reflecting a central tenet of Chinese foreign policy of non-interference and respect for national sovereignty.

There is a real risk that Chinese companies that do not carry out due diligence in line with CCCMC Guidelines and international standards, are buying minerals from firms who may source from areas of eastern DRC under the control of rebel groups or criminal elements within the national army. It is therefore crucial that the government and the Chamber of Commerce prioritise enforcing implementation of the new standards in order to ensure their members can no longer be linked to harm against citizens in some of the most unstable and vulnerable places on earth.

9. Recommendations

Global Witness makes the following recommendations to the Chinese government, the Chinese Chamber of Commerce for Minerals, Metals and Chemicals Importers and Exporters (CCCMC) and its member companies, in order to build on the launch of the Guidelines for overseas mining operators and ensure that Chinese companies can no longer be associated with conflict financing.

We recommend that the Chinese government:

- Publish a statement that says that its state-owned companies and private companies registered in its jurisdiction should undertake robust supply chain due diligence in order to ensure they are not contributing to trade that funds conflict and associated violence against civilians.

- Make resources available to facilitate outreach by CCCMC to inform companies of best practice CCCMC Guidelines and monitor compliance.

- Provide diplomats and other government officials based in conflict-affected countries with the mandate, training and resources to communicate to Chinese companies their obligations under the new Guidelines and monitor their implementation.

We recommend that the CCCMC:

- Provide training to its members regarding the new Guidelines for overseas mining operators and other companies trading minerals, particularly with respect to conflict minerals from conflict-affected countries or countries neighbouring those that are conflict-affected. Training could be done both in Beijing and also through Ministry of Commerce representatives in countries where Chinese mining and trading companies are active.

- Establish a monitoring mechanism to ascertain compliance with the Guidelines, including a process whereby civil society can submit information easily and securely.

- Annually report compliance with the Guidelines, highlighting both positive and negative company experiences. This report should be made public.

We recommend that Chinese companies trading in minerals sourced overseas:

- Undertake supply chain due diligence in line with the standard set out in the CCCMC Guidelines, following these five steps:

    1. Put company management systems in place and use these to assess whether minerals used or traded originate from conflict-affected and/or high-risk areas;

    2. Identify and assess risks in the supply chain;

    3. Design and implement a strategy to respond to identified risks;

    4. Commission an independent third party audit of the due diligence practices on an annual basis;

    5. Report publicly on supply chain due diligence on an annual basis.

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