

Democratic Republic of Congo



COUNTRY BRIEF

THE SENTRY

Dismantling the Financing of Africa's Deadliest Conflicts

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Photo Credit: AP Photo/Jerome Delay
Rebel soldiers in the Goma region of eastern Congo are seen
Heading towards a battle with pro-government Mai Mai militia.

Executive Summary.

The DRC's wealth has been plundered by elites in Congo, Rwanda, Uganda, and other neighboring countries, and elsewhere, including by those who directly and indirectly support the commission of mass atrocities

The DRC is one of the most resource-rich countries in the world, boasting an estimated 45% of the world's cobalt reserves, about 25% of all global diamond reserves, and the world's tenth largest reserves of gold. The country has tremendous economic potential; in fact, it has been forecasted to be one of the world's fastest growing economies in 2015, with GDP projected to grow 9.2% according to Central Bank figures. Despite its immense natural wealth, the majority of the country lives in abject poverty. The 2014 Human Development Index placed the DRC at 186 out of 187 countries, and the African Development Bank noted that its per capita income in 2011 was actually below what it had been in the 1980s. Today, 71% of the population is estimated to live in poverty, infant and maternal mortality rates are among the highest in the world, and only 26% of the population has access to potable water.

The DRC's wealth has been plundered by elites in Congo, Rwanda, Uganda, and other neighboring countries, and elsewhere, including by those who directly and indirectly support the commission of mass atrocities. Perpetrators of violence directly control and influence various illicit networks in the country, but they are assisted by a series of facilitators spread across the country and region who provide their local networks logistics and access to the international systems of global finance, trade, and transportation. All these actors operate within a system of violent kleptocracy that sanctions the use of state authority at the highest levels in Congo and the region to privately appropriate the country's wealth, ensuring a constant feedback loop between corruption and armed conflict.

This brief attempts to categorize and provide contextual analysis of the current system of violent kleptocracy in the DRC, and the various incentives and mechanics by which elites use power to enrich themselves. The typologies in this brief are all derived from real-world examples of the economic system in the DRC and supported by disparate open sources that include global public records, media reporting, government documentation, and independent investigation. These typologies are not meant to be seen as exhaustive or definitive, but rather as representative of broader trends of corruption and illicit activity. Throughout the entirety of this report, an illicit activity is defined as an activity that could be perceived as contrary to international norms and standards, but is not necessarily illegal. As such, no illegality is implied by the content herein unless explicitly stated.

We identify seven key trends that constitute the kleptocratic economic system of the DRC:

- I. Convergence of Licit and Illicit Systems
- II. Regulatory and Sanctions Evasion
- III. Extractives and Resource Trafficking
- IV. Corruption and Illicit Financial Flows
- V. Security Sector Procurement and Abuse
- VI. Disguised Beneficial Ownership
- VII. Elite Financing and Offshored Assets

Accountability and enforcement are among the key problems currently facing the DRC. Years of international attention have resulted in some progress, but both issues continue to be particularly challenging. Reporting standards for mining sector contracts have improved and conflict-free mineral trading channels are beginning to expand. For example, according to a 2014 survey, 70% of formerly conflict tin, tantalum, and tungsten mines surveyed in eastern Congo are now conflict-free. Furthermore, the reported 17.4 tons of industrialized conflict-free gold exports from the DRC in 2014 outstrips the estimated illicit artisanal gold

trade by almost a third. Although this constitutes progress over previous years, enforcement capacity against the rest of the illicit trade remains weak, and domestic political will to promote conflict-free trade and enforce measures against illicit trade is virtually non-existent. Many perpetrators of violence rely on a wide network of facilitators who are not directly connected to the violence but who, knowingly or unknowingly, provide the means to access and then launder funds towards their personal use. Any attempt to reform Congo's predatory state that enables the country's violent conflicts and exploits its people will require targeting elites within and outside Congo who profit from this system, their financial networks, and the schemes they use to divert the country's money towards their private ends.

Context.

Economic growth in the DRC has not helped the average Congolese citizen. The mining sector and the government budget constitute the two largest revenue streams in the country, and both have been captured by a kleptocratic elite that uses state authority as a means to privately appropriate public resources. The mining sector is particularly susceptible to corruption given its close association with conflict financing, with armed commanders controlling mines, taxing miners and traders, and participating in international trafficking networks. Artisanal gold (i.e. gold mined by individual miners) is the most prevalent conflict resource. A 2014 survey of 1,088 mining sites in the country's insecure eastern region, estimated about 221,500 artisanal miners digging various resources, with 176,000, or 80% currently working in the gold sector. A very significant proportion of this gold is smuggled out of the country illegally, without any benefit to the Congolese Treasury. The World Bank estimates that artisanal gold production in the eastern DRC is roughly 12 tons per year, but official gold exports in 2013 amounted to only 200 kilograms. A UN Group of Experts estimates 98% of artisanal gold is smuggled out of the country, and therefore is unaccounted for.

Despite years of international attention, the Congolese state currently resembles a kleptocracy, with elites capturing, controlling, and personally profiting from any revenue streams into which they are able to crowd. Resource trafficking constitutes only one such revenue stream. Government parastatals are major targets for elite enrichment, while contracts in mining, infrastructure, procurement, and external trade are regularly alleged to be plagued with corruption and political nepotism. A study of production, revenue, and payment figures between 2011 and 2013 found discrepancies amounting to US\$380 million that were not transferred from the government's state-owned mining company to the public treasury, an example which illustrates only one segment of the entire mining economy. Overall, the study estimated about US\$4 billion in annual losses to the state from revenue leakages due to corruption and fraud. Reports indicate that the vast majority of this wealth flows to a narrow set of elites, including politicians, government officials, security force commanders, and community leaders.

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Trends and Typologies.

The following typologies attempt to categorize and provide examples of the kleptocratic economic system that helps enable conflict in DRC. No illegality is implied unless explicitly stated. Instead, the goal is to provide real-world examples on how the typologies manifest themselves in real-life. The examples do not purport to be exhaustive, but rather are representative of broader trends. The following seven typologies are as follows:

I. Convergence of Licit and Illicit Systems

There are various points at which illicit resource trades touch licit sectors, including banking and upstream minerals smelting and refining. According to reports issued by the International Monetary Fund and the U.S. State Department, the banking sector in particular may be exploited by those engaged in illicit financial activity. Given the current climate of economic instability, the presumed size of illicit flows, and the weak regulatory structure to oversee financial transactions, it is likely that the exploitation of the banking sector goes beyond the trade of conflict minerals, and includes money laundering and terror financing. In recent years, as many as 15 banks have been de-listed or closed, leaving only 20 operating banks, according to the Central Bank of Congo. The highly dollarized nature of the economy is particularly worrying in the illicit finance context, as money laundering and diversion of dollars into the parallel economy can expose a fragile financial sector to severe liquidity shocks. Separately, regarding upstream gold refining, weak due diligence procedures make it possible for illicitly trafficked gold to enter the licit economy. As a result, illicit gold out of the DRC is making its way to large, internationally-integrated gold markets outside the DRC.

II. Regulatory and Sanctions Evasion

In response to the exploitation of resources that has served to further finance conflict, a series of regulatory and due diligence measures have been put in place. However, gold in particular is a difficult resource to track given its portability; millions of dollars in gold can be carried in a hand-held briefcase. Enforcement mechanisms, such as the DRC's financial intelligence center, Cellule Nationale des Renseignements Financiers (CENAREF) within the Ministry of Finance, are underfunded and unable to effectively monitor businesses suspected of money laundering, pillage, or the illicit smuggling of minerals. As a result, known smugglers appear to continue trafficking operations with impunity in Congo and neighboring countries. For example, the UN Panel of Experts on the DRC reported that it received evidence that a director of a sanctioned company has ties to companies in Uganda and Burundi that have allegedly made gold transactions. Due diligence costs for companies involved at all points in the supply chain require substantial financial investments and analytical manpower, which, by one estimate, could be as high as US\$7.93 billion. These efforts have been impeded by a number of hurdles, with a lack of capacity being one of them. As trafficking networks have become more sophisticated over the years in the face of increased regulatory attention, smugglers have certainly become far more adept at working around enforcement mechanisms. The UN Panel of Experts reported that gold buyers could potentially cheat suppliers out of roughly 200 kilograms of gold each year, and could therefore make an extra US\$5 to US\$13 million each year.

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III. Extractives and Resource Trafficking.

In addition to being an important source of income, the DRC's natural resources have been a significant source of funding for armed commanders complicit in the ongoing violence, both directly and indirectly, as well as officials in Congo and neighboring countries. The theft of minerals by state and non-state actors in the context of armed conflict could be a criminal act under international humanitarian law – the war crime of pillage. Estimates of the scale of loss and other leakages are disputed, but one study estimated the losses at about US\$1-1.5 billion per year. A 2014 survey of 591 of 1088 artisanal mines visited revealed the presence of at least one armed group, including the Congolese army, at one of every three mines. The most common form of interference in the mining sector is in the form of illegal taxes extorted from miners and traders by armed groups, army commanders, local chiefs, and government officials, in particular for the minerals tin, tantalum, tungsten, and gold. Government officials, for example, have been reported to intervene when smugglers are arrested, both returning the smuggler and the confiscated minerals, as well as halting efforts at investigations. Smuggling in the artisanal sector is only one segment of a broader set of problems in the mining sector. Even industrialized concessions engage in practices that result in the loss of billions of dollars for the Congolese Treasury.

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IV. Corruption and Illicit Financial Flows.

Despite measures taken to reduce illicit activity, the DRC has routinely ranked as one of the most corrupt countries in Sub-Saharan Africa, according to a variety of sources. The DRC ranks as the world's worst country in the Verisk Maplecroft Corruption Risk Index, behind Somalia, Burma/Myanmar, Sudan, and Zimbabwe. The DRC ranks 154 out of 175 countries in the 2014 Transparency International Corruption Perceptions Index, and as the 5th most fragile state out of the 178 indexed by Fund for Peace in 2015, with particularly negative scores on rule of law and state legitimacy indicators.

The government is reportedly plagued by cronyism. According to a Transparency International report, by 2010 President Kabila had replaced the heads of 37 state-owned enterprises with elites from his own network of supporters. Embezzlement is also rampant, with government audit reports allegedly suggesting that state agencies and parastatals had siphoned off about US\$1.8 billion in just one year. A separate analysis of the economy estimates that upwards of US\$4 billion, or 20% of GDP, has been diverted away from official government budgets to the hands of regime elites. Illicit financial flows also permeate the broader economy. According to a United Nations Group of Experts report, army officials scrambled for control of various gold mining fields in the Kivus in 2009, including areas that were under FARDC control, to seize potential revenue. Local armed groups and military actors reportedly raise funds by taxing owners of small artisanal gold mines, while government officials are reported to regularly accept bribes due to low salaries and lax oversight. Multinational companies have also been reported to use bribery and other corrupt practices as part of their regular business operations.

V. Security Sector Procurement and Abuse

Arms trafficking networks have continued to bring weapons into the DRC. A 2011 UN Panel of Experts paper alleges arms shipments into the DRC used North Korean flagged ships, Chinese ships, Ukrainian and Belarusian pilots working with the military of the DRC, as well as planes from the UAE. A number of other regional actors, particularly Sudan, are also believed to have supplied weapons and military goods to various groups within the country, as evidenced by a series of 24 flights that allegedly flew between Sudan and the DRC with evidence to suggest the transport of military cargo. In addition to transnational arms shipments, there appears to be weapons transfers between the DRC armed forces and armed groups acting in country, according to a UN report.

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VI. Disguised Beneficial Ownership

The Democratic Republic of Congo has recently made a push to clarify beneficial ownership of companies, especially within the mining and petroleum industries, through a pilot program with the Extractives Industries Transparency Initiative. Several newly proposed transparency initiatives include requirements to publicly publish mining contracts involving the state's natural resources within 60 days of their execution. Nonetheless, a study released in 2015 concluded that implementation of these measures was significantly lacking. At least 62 contracts, amendments, and annexes that should have been published under the 2011 regulations were not published, and more than three quarters of companies had failed to report their environmental impact data, despite the legal requirement. Such failures to disclose have triggered significant international action in the past.

VII. Elite Financing and Offshored Assets

Corruption is not a new phenomenon in the DRC. Former President Mobutu was widely alleged to have stolen large sums of government funds. CNN reported that asset-tracing investigations carried out after his government was toppled revealed at least US\$3.4 million in two Swiss bank accounts, and a 30-bedroom property in Lausanne, Switzerland worth US\$5.5 million.

The illegal resource trade, particularly in gold and other minerals, indirectly and directly benefits various armed and predatory civilian groups.

Conclusion.

Corruption and insecurity remain a major threat to the DRC. The lack of transparency surrounding dubious mining contracts, bribery, and fragile state authority in conflict mining regions not only exacerbates clientele politics, but also spurs rent seeking practices of the elites, perpetuating instability in the area. The illegal resource trade, particularly in gold and other minerals, indirectly and directly benefits various armed and predatory civilian groups. More broadly speaking, however, the stranglehold on the economy by a circle of elites in Congo and neighboring countries has diverted sizeable government revenue streams to corrupt activities. The financial flows across these various illicit schemes have become central to both the ongoing conflict, and the DRC's systemic instability in its governance structures and institutions.

Bibliography.

African Development Bank, African Development Fund, "Democratic Republic of Congo: 2013-2017 Country Strategy Paper," (June 2013), available at <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Democratic%20Republic%20of%20Congo%20-%202013-2017%20-%20Country%20Strategy%20Paper.pdf>.

Bafilemba, Fidel and Sasha Lezhnev, "Congo's Conflict Gold Rush: Bringing gold into the legal trade in the Democratic Republic of Congo," The Enough Project (April 2015), available at <http://www.enoughproject.org/files/April%2029%202015%20Congo%20Conflict%20Gold%20Rush%20reduced.pdf>.

Bafilemba, Fidel, Timo Mueller, and Sasha Lezhnev, "The Impact of Dodd-Frank and Conflict Minerals Reforms on Eastern Congo's Conflict," The Enough Project, (June 2014), www.enoughproject.org/files/Enough%20Project%20-%20The%20Impact%20of%20Dodd-Frank%20and%20Conflict%20Minerals%20Reforms%20on%20Eastern%20Congo's%20Conflict%2010June2014.pdf

Banque Centrale du Congo Comité de politique monétaire, "Communiqué de presse," June 5, 2015, available at http://www.bcc.cd/downloads/actu/cpm_05_15.pdf.

Banque Centrale du Congo, "Liste des banques agréées et leurs agences agréées par la BCC," available at www.bcc.cd/index.php?option=com_content&view=article&id=63&Itemid=74.

Bayer, Chris, "A Critical Analysis of the SEC and NAM Economic Impact Models and the Proposal of a 3rd Model in view of the Implementation of Section 1502 of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act," October 17, 2011, available at <http://lawprofessors.typepad.com/files/tulane-study.pdf>.

The Carter Center, "New Report Assesses Transparency of Congolese Mining Sector," February 2, 2015, available at www.cartercenter.org/news/pr/drc-020215.html.

CNN World News, "Swiss banks find only \$3.4 million in Mobutu assets," June 3, 1997, available at <http://www.cnn.com/WORLD/9706/03/mobutu/>.

Dearing, Caitlin, "A Global Approach to Regulating Trade in Conflict Goods in the DRC," available at <http://www.iar-gwu.org/node/26>.

De Koning, Ruben, "Conflict Minerals in the Democratic Republic of the Congo," available at <http://books.sipri.org/files/PP/SIPRIPP27.pdf>.

Diplomatic Conference of Geneva of 1949, "Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949," available at <https://www.icrc.org/ihl/intro/380>

Dranginis, Holly, "Grand Theft Global: Prosecuting the War Crime of Pillage in the Democratic Republic of Congo," available at <http://www.enoughproject.org/blogs/ending-grand-theft-global-scale-prosecuting-war-crime-pillage-0>.

Englebert, Pierre, "Democratic Republic of Congo: Challenges and Opportunities for a New Economic Future Growth for All?" The Brenthurst Foundation, (June 2014), available at http://www.thebrenthurstfoundation.org/Files/Brenthurst_Commisioned_Reports/Brenthurst-paper-201406-Growth-for-All.pdf.

Extractive Industries Transparency Initiative, "Pilot project: Beneficial ownership," available at <https://eiti.org/pilot-project-beneficial-ownership>.

Fund for Peace Fragile State Index, available at <http://fsi.fundforpeace.org/>.

Gettleman, Jeffrey, "Congo Army Helps Rebels Get Arms, U.N. Finds," The New York Times, November 25, 2009, available at http://www.nytimes.com/2009/11/25/world/africa/25congo.html?_r=0.

GOXI, "DR Congo leads the way in disclosing owners of companies," (January 2015), available at <http://goxi.org/profiles/blogs/fresh-on-eiti-org-dr-congo-leads-the-way-in-disclosing-owners-of>.

GRIP-BICC, "Étude sur la prolifération des armes légères en République démocratique du Congo," June 2010, available at http://www.cd.undp.org/content/dam/dem_rep_congo/docs/demgov/UNDP-CD-ETUDE-PROLIFERATION-ARMES-LEGERES-ALCP.pdf.

International Monetary Fund, "Democratic Republic of the Congo: Poverty Reduction Strategy Paper," (July 2013), available at <https://www.imf.org/external/pubs/ft/scr/2013/cr13226.pdf>.

International Monetary Fund, "Democratic Republic of the Congo IMF Country Report No. 14/315," (October 2014), available at <http://www.imf.org/external/pubs/ft/scr/2014/cr14315.pdf>

International Peace Information Services, "Analysis of the interactive map of artisanal mining areas in Eastern DR Congo: May 2014 update," (May 2014) available at http://reliefweb.int/sites/reliefweb.int/files/resources/20141031_Promines_analysis.pdf.

International Peace Information Service, "Mapping Security and Human Rights in Mining Areas in Eastern DRC," Available at <https://infogr.am/mapping-security-and-human-rights-in-mining-areas-in-eastern-drc>.

KPMG Global Mining Institute, "Democratic Republic of Congo: Country mining guide," (2014) available at <https://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/mining-country-guides/Documents/democratic-republic-congo-mining-guide.pdf>.

Maplecroft "Corruption Risk Index," available at <http://maplecroft.com/portfolio/new-analysis/2013/09/24/corruption-risk-index-reveals-long-term-lack-will-tackle-corruption-brics/> (June 2015).

Ministère des Mines République Démocratique du Congo, "Contrats des Ressources Naturelles," available at mines-rdc.cd/fr/index.php/contrats-des-ressources-naturelles.

Miniter, Richard, "Obama's Double Standards for Dictators," (August 5, 2014) available at www.forbes.com/sites/richardminiter/2014/08/05/obamas-double-standards-for-dictators/.

Nienaber, Georgianne, "UN Report on Congo: A Boeing 727 from Florida, Money Laundering, and Gold for Dubai," (May 2011), available at www.huffingtonpost.com/georgianne-nienaber/un-report-on-congo-a-boei_b_371970.html.

Partnership Africa Canada, "All that glitters is not gold: Dubai, Congo and the illicit trade of conflict minerals," (May 2014), available at <http://dspace.africaportal.org/jspui/bitstream/123456789/34455/1/All%20That%20Glitters.pdf?1>.

Stewart, James, "Corporate War Crimes," (2011), available at <http://www.opensocietyfoundations.org/sites/default/files/pillage-manual-2nd-edition-2011.pdf>.

Transparency International, "Overview of Corruption and anti-corruption in the Democratic Republic of Congo," 2014 available at www.transparency.org/files/content/corruptionqas/Country_Profile_DRC_2014.pdf.

Transparency International, "Corruption By Country/Territory: Democratic Republic of the Congo," available at <http://www.transparency.org/country#COD> (June 2015).

United Nations Development Project, "Sustaining Human Progress: Reducing Vulnerabilities and Building Resilience: Congo (Democratic Republic of the)," (2014), available at http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/COD.pdf.

United Nations Security Council, "Letter dated 10 December 2008 from the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) Concerning the Democratic Republic of the Congo addressed to the President of the Security Council," S/2008/773, §91-93, December 2008, available at <http://transarmsusa.org/wp-content/uploads/2014/06/Group-of-Experts.pdf>.

United Nations Security Council Group of Experts, "Letter dated 9 November 2009 from the Group of Experts on the Democratic Republic of the Congo addressed to the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004)," available at http://rabbitsliketrumpets.typepad.com/Group_of_Experts_Report_DRC_november_2009.pdf.

United Nations Security Council Group of Experts, "Letter dated 12 November 2012 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of Congo."

United Nations Security Council Group of Experts, "Letter dated 23 November 2009 from the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council."

United Nations Security Council Group of Experts, "Letter dated 22 January 2014 from the Coordinator of the Group of Experts on the Democratic Republic of the Congo addressed to the President of the Security Council," S/2014/42, available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_42.pdf.

United Nations Security Council Group of Experts, "Final report of the Group of Experts on the DRC, submitted in accordance with paragraph 6 of Security Council resolution 1896 (2009)," S/2010/596.

United Nations Security Council Group of Experts, "Letter dated 12 December 2013 from the Group of Experts on the Democratic Republic of the Congo addressed to the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo," (December, 2013), S/2013/38 available at http://africanarguments.org/wp-content/uploads/2014/01/FINAL-REPORT-GoE_DRC.pdf.

United States Department of State, "International Narcotics Control Strategy Report (INCSR)-- Volume II: Money Laundering and Financial Crimes Country Database--Comoros through India", (July 2013), available at www.state.gov/j/inl/rls/nrcrpt/2013/database/211181.htm.

United States Department of State, "Countries/Jurisdictions of Primary Concern - Congo, Democratic Republic of the," (2014), available at www.state.gov/j/inl/rls/nrcrpt/2014/supplemental/227757.htm.

Wild, Franz and Michael Kavanagh, "Glencore Unit Buys Congo Copper License in Unannounced Deal," (January 2015) available at www.bloomberg.com/news/articles/2015-06-23/glencore-venture-buys-congo-copper-license-in-unannounced-deal.

World Bank. "Democratic Republic of Congo: Growth with Governance in the Mining Sector. Report no. 43402-ZR" (May 2008) available at <http://documents.worldbank.org/curated/en/2008/05/9693487/congo-democratic-republic-growth-governance-mineral-sector>.