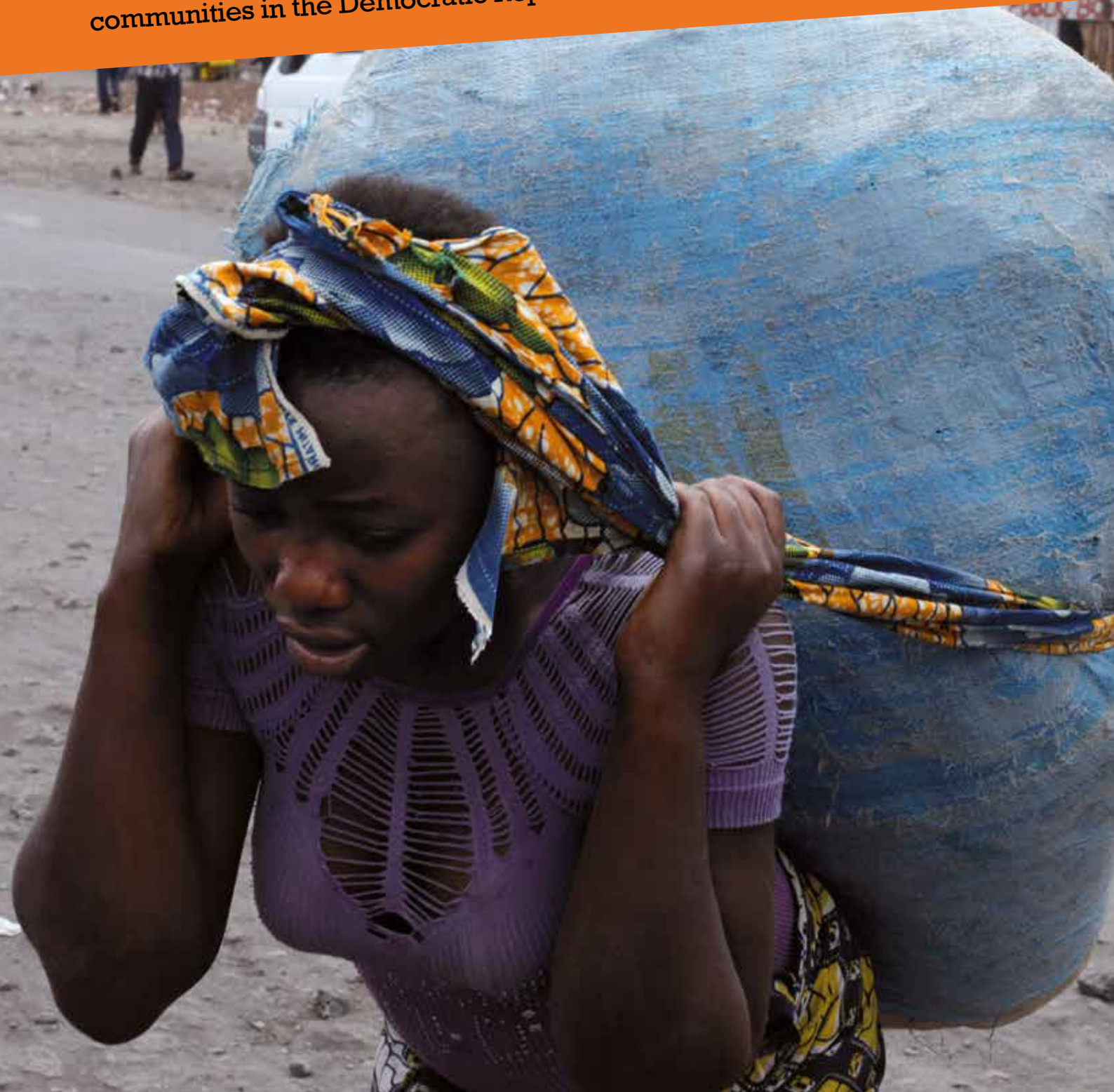


women and artisanal mining

The impact of traceability systems in the Rubaya/Masisi communities in the Democratic Republic of Congo



CONFLICT-FREE
TECHNOLOGY





index

Editors' note	5
Acknowledgments	6
Acronyms	7
Executive summary	8
1. Introduction	11
2. Research aims	12
3. Methodology	13
4. Research findings	13
4.1. Socioeconomic impact of the traceability system	14
4.2. Mining in Rubaya	20
4.3. The role of women in mining	22
5. Conclusions	24
6. Recommendations	25
Appendix I. Current traceability certifications	27

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FEMMES DANS LES MINES. Les Impacts du Système de Traçabilité dans les communautés Rubaya / Masisi, en République démocratique du Congo.

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Author: Justine Masika

Editors: Alicia Aleman and Guillermo Otano

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Editors' note

This report is the result of research carried out in June 2016 by *Synergie des Femmes pour les Victimes des Violences Sexuelles (SFVS)*, a women's organisation from the east of the Democratic Republic of the Congo (DRC), at the request of **ALBOAN**, the NGO of the Jesuits in the Basque Country and Navarre. The collaboration between the two organisations is part of **ALBOAN's** Conflict-Free Technology Campaign, the aim of which is to end the link between the extraction and illicit trade of minerals from conflict zones such as the eastern border zone of the DRC and the production and consumption of technology.

Many of the electronic devices we use in our daily lives (mobile phones, tablets, computers, batteries, etc.) contain minerals such as coltan, tin, tungsten and gold, without which they could not function in the ways that we are accustomed to. On the journey that these minerals make to end up in our hands in the form of technological products, all kinds of human rights violations occur, and at the site of extraction in particular (from child exploitation to systematic violence against women and the normalisation of adult labour in conditions of semi-slavery).

There is evidence that trade in these minerals is a potent source of funding for various corrupt practices and armed groups which impede the development of the local communities. In order to put a stop to this situation, a number of initiatives have been launched with the goal of promoting the responsible sourcing of "conflict minerals" on the part of the electronic industries.

At the international level, the OECD's Due Diligence Guide is an essential point of reference as it establishes a set of principles that all companies can adopt in order to improve the transparency and social responsibility of their supply chains. These principles have been used as a basis for drawing up specific legislation. In the United States, section 1502 of the Dodd-Frank Act, approved in 2010, obliges companies that use the four aforementioned minerals (coltan, tungsten, tin and gold) to determine their origin and to manage the risks their trade involves. Along the same lines, on the 17th of May 2017, the European Union passed similar legislation¹ which obliges direct

importers of these minerals to introduce responsible mineral supply practices.

In parallel with the progress of these regulations, a system of mineral traceability is being created on the ground, led by various public and private interests, with the aim of certifying conflict-free mines in the Great Lakes region. A task of this kind represents an enormous challenge. According to a recent study², in the eastern DRC alone there are about 2,026 mining sites, spread over an area of some 325,000 km². Many of these small mining operations are inaccessible due to the lack of infrastructure and in half of those visited armed groups were present.

Collaborating with *Synergie des Femmes* on this research has enabled us to learn firsthand about the socio-economic impacts of traceability systems on the women of Rubaya/Masisi in the North Kivu province. The work carried out by this organisation, accompanying the victims of sexual violence in their quest for redress and justice, is invaluable. They are an example of bravery, courage and solidarity. The following pages are the fruits of their labour and we at **ALBOAN** would like to thank them for shining a light into the darkest corners of the world of the mining communities of the eastern DRC.

Alicia Aleman and Guillermo Otano
Research and Training
ALBOAN

¹ EU Regulation 2017/821 available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R0821>

² See the 2015 update of the report by the International Peace Information Service (IPIS): *Analysis of the Interactive map of artisanal mining areas in eastern DR Congo*. It can be accessed at: <https://goo.gl/7U9wdY>

Acknowledgements

*We would first of all like to thank the people in charge of the NGO **ALBOAN** for the work done on the Conflict-Free Technology campaign. The interest shown in the situation of the women in the Rubaya coltan mine and their participation in the Maisisi value chain in the North Kivu province is very important to us.*

We also extend our gratitude to the staff at the SMB company and COOPERAMMA, as well as those at the Mining Administration, PACT/ITRI, IOM, CBRMT/Tetra Tech, SAKIMA, the FEC/Mining, the Kivu Traders Association. Our appreciation of your work goes without saying.

The report below shows the beginning of a constructive partnership between civil society, the SMB and COOPERAMMA in the North-Kivu province. Although the time we were able to devote to gathering information was shorter than we would have liked, we received frank and complete cooperation from the parties concerned. Without their full cooperation, this study would simply not have been possible and would be of no practical interest.

Justine Masika
Synergy des Femmes pour les Victimes
des Violences Sexuelles Coordinator



Acronyms

ALBOAN	NGO set up by the Society of Jesus
ANEMNKI	Association des Négociants Miniers du Nord-Kivu (North-Kivu Mining Traders Association)
ASSODIP	Association pour le Développement des Initiatives Paysannes (Association for the Development of Rural Initiatives)
BGR	Bundessanstalt für Geowissenschaften und Rohstoffe (Federal Institute of Geoscience and Natural Resources)
CAMI	Cadastre Minier (Mining Cadastre)
CEEC	Centre d'Évaluation, d'Expertise et de Certification (Centre for Evaluation, Expertise and Certification)
COOPERAMMA	Coopérative des Exploitants Artisanaux Miniers de Masisi (Masisi Artisanal Miners Cooperative)
CSAC	Monitoring and Anti-Corruption Committee
DRC	Democratic Republic of Congo
EITI	Extractive Industries Transparency Initiative
FEC-Mines	Federation of Congolese Mining Companies
FARDC	Armed Forces of the Democratic Republic of the Congo
GEPACER	Water Resources Maintenance Committee
ICGLR	International Conference of the Great Lakes Region
IOM	International Organization for Migration
IPIS	International Peace Information Service
ITRI	International Tin Research Institute
iTSCi	ITRI Initiative for the Tin Supply Chain
MHI	Mwangachuchu Hizi International
OECD	Organisation for Economic Co-operation and Development
OXFAM	Oxford Committee for Famine Relief
PBG	Panafrican Business Group
SAESSCAM	Service d'Assistance et d'Encadrement du Small Scale Mining (Small Scale Mining Assistance and Regulation Service)
SAKIMA	Société Aurifère du Kivu et du Maniema (Gold Company of Kivu and Maniema)
SFVS	Synergie des Femmes pour les Victimes des Violences Sexuelles (Synergy of Women against Sexual Violence)
SMB	Société Minière de Bisunzu (Bisunzu Mining Company)
SOMINKI	Société Minière et Industrielle du Kivu (Kivi Industrial Mining Company)
SOPROP	Solidarité pour la Promotion sociale et la Paix (Solidarity for Social Promotion and Peace)
Tetra-Tech	Is a leading provider of consulting and engineering services

Executive summary

The 21st of July, 2016, marked the sixth anniversary of the Dodd-Frank Act, the American Wall Street reform and consumer protection act. As stipulated in Section 1502 of that Act, final consumers - essentially a number of US electronics companies - are required, as of April 2011, to disclose the source of the minerals they use in the manufacture of their products and to demonstrate that due diligence is exercised in the event that such minerals come from the Democratic Republic of the Congo or a bordering country. The purpose of such measures was to remove the link between the trade in 3TG minerals (tantalum, which is extracted from coltan, tin, tungsten and gold) and the funding of armed conflicts.

Section 1502 of the Dodd-Frank Act, although directly applicable to parties at the end of the value chain, is actually more restrictive on the parties at the beginning of the value chain: the artisanal mining sector of the Member States of the International Conference of the Great Lakes Region (ICGLR), and more particularly the Democratic Republic of the Congo (DRC). That is why on the 9th of October, 2010, just three months after the enactment of the act which contains the aforementioned section 1502, the DRC suspended artisanal mining in the east of the country. Shortly thereafter, the DRC published the *Manuel de procédures de traçabilité des produits miniers de l'extraction à l'exportation* ("Manual of traceability procedures for mining products from extraction to exportation"). Various initiatives for its implementation have come into being as a result including, among others, the demilitarisation of artisanal mining sites, the construction of trading centres, the training and deployment of units of the Mining and Hydrocarbons Police, the certification and ratification of artisanal mining sites, the signing of memoranda of agreement between mining rights holders and the mining cooperatives, the establishment of the labelling system, the Traceability of Artisanal Gold Initiative (ITOA), the ICGLR certificate, etc. To these we can add the regional and international initiatives listed in Annex 1.

As might be expected, much has been written about these developments and they have been the subject of much debate in the public and private sector alliances as well as in the academic world.



However, aside from the controversy over the positive or negative repercussions of the Dodd-Frank Act, the aim of this publication is to stimulate debate on gender issues, in particular the specificities of gender roles with regard to artisanal mining in the east of the DRC.

If we consider the preponderant role of women in the economic life of the DRC, and in particular in the east of the country, gender should be a cross-cutting issue in the awareness raising in the artisanal mining sector which is ongoing at present. Since this awareness on the part of the workers at the beginning of the 3T minerals value chain is unprecedented, the opportunity should be taken to ensure that women's participation is genuine, in keeping with the laws and conventions relating to the promotion and protection of women's rights.

This report is the result of research carried out on the ground in and around Rubaya, an area in the North Kivu province where the pilot traceability project has been implemented.

The research found that:

- The mine labelling and certification system has had a large impact in the city of Rubaya and in the communities of Masisi. However, any evaluation should take into account some of the information gathered by this research.
 - ▶ A significant demographic increase was noted in the region, in the city of Rubaya in particular. However, this has not been accompanied by an expansion of basic services in child education and health care.
 - ▶ There has been a lowering of prices which, according to the people surveyed, can be attributed to the fall in international prices and to the monopoly exercised by some key players in local business. Some people even believe that it is due to the labelling system itself.
 - ▶ A significant lack of knowledge among the villagers with regard to the purposes and functioning of the traceability system was found.
 - ▶ The impact on the improvement of transport infrastructures has been minimal and has been driven by the mineral trade rather than social reasons.
 - ▶ The lack of economic benefits for the local communities may be due to mining fraud.
 - ▶ The mining boom is leading to pressure for access to the land and the migration of labour from the field to the mine.
 - ▶ The environmental impacts of mining affect not only the pressure on the land but also water pollution, which is detrimental to community health (e.g. the emergence of new diseases, etc.).
 - ▶ There has been no improvement in working conditions at the mining sites, although there seems to have been progress in the fight against child exploitation.
- All of these changes have had a particularly negative impact on women in the community in the following regards:
 - ▶ Women's economic opportunities, which until now had been connected to agriculture, have been adversely affected by the decrease in farmland. The few concessions of crop-growing rights that have been maintained following the mining boom are in the hands of men.
 - ▶ Women have had hardly any access to the profits generated by the artisanal mining sector. Even though they are involved in the value chain performing different tasks, they are not on an equal footing with the men. They are not granted licenses ("carte de creuseur") in order to work legally in the certified mine and thus they are also not involved in miner cooperatives, such as the SBM.
 - ▶ This discrimination is attributed to the ignorance on the part of the local population of the international regulations which are interpreted in a self-serving way by the proprietors of the mines so as to exclude women. For example, the ban on pregnant women working in the mines has been extended to *all* women.
 - ▶ A marked increase in child prostitution and early pregnancy among the girls in the community has been detected, as well as in sexual violence against women.
 - ▶ Victims of sexual violence can attend health centres in the region, but these do not have specific treatment programmes. They therefore end up being referred to social organisations such as SFVS.
- In order to counteract the effects of these gender inequalities, it is recommended that the local authorities draw up a local development plan aimed at improving governance of the artisanal mining sector, which includes the voice of the women in the region. For this, it is necessary to involve them in every phase of the project, from the design to its implementation and follow-up.



1. Introduction

In order to strengthen the arguments in favour of its “Conflict-Free Technology” campaign, **ALBOAN** undertook the study of a certified mine following the implementation of the Dodd-Frank Act so as to assess its impact on the situation of the women. The mining areas chosen for this purpose were Rubaya and the surrounding villages in the Masisi territory, North Kivu province, in the eastern DRC. The majority of the mining operations in these communities are dedicated to the extraction of coltan and they are an important source of income for the population. The artisanal mining sector in the eastern DRC is of great importance from an economic and social point of view. The majority of the 3T and Gold reserves are found there. In the North and South provinces of Kivu alone, there are

602 and 659 mining operations, respectively³. The presence of armed groups in the region represents an additional challenge for local governance and this is compounded by other factors such as the lack of infrastructure and services, illiteracy and poverty.

Considerable efforts have been made in recent years to demilitarise and certify the mining operations, but the challenges remain. What impacts are these efforts having on the men and women of the local communities? What are their needs and what are their hopes for the future?

³ According to IPIS's database.

Map 1. The Great Lakes and the Rubaya/Masisi region in the North Kivu Province, in the east of the Democratic Republic of Congo



The recognition of the formal equality of rights between men and women:

“Public authorities strive for the elimination of all forms of discrimination against women and ensure the protection and promotion of their rights.

In all areas, in particular in the civil, political, economic, social and cultural, all appropriate measures are taken to ensure the full realisation and participation of women in the development of the nation [...]”

Article 14 of the 2006 Constitution

The mining sites chosen to answer these questions have been Rubaya and the surrounding villages, which are located in the territory of Masisi, in the North Kivu Province, eastern DRC. The majority of the mining operations in these communities is dedicated to the extraction of coltan and Rubaya has been among the first in being certified by the Congolese Government, hence the interest in analyzing the effects of the traceability system implemented on the local community.

With regard to women's rights, the DRC has made significant progress at the regulatory level and has reaffirmed its adherence and commitment to the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights, the Convention on the Elimination of All Forms of Discrimination against Women, all the United Nations Security Council's "Women, Peace and Security" resolutions and the Protocol on the Rights of Women in Africa (the Maputo Protocol). The principle of equality between men and women has also been recognised in the constitution of the DRC.

However, in spite of all these advances, the evidence gathered tells us that the role of women in the artisanal mining sector in the eastern DRC remains marginal. We therefore feel that this issue should receive at least as much attention as that given to the implementation of the Due Diligence for Responsible Supply Chains of Conflict-Free Minerals initiated by the OECD (Organization for Economic Co-operation and Development) .

Despite the fact that none of either the DRC's Mining Law or the ICGLR's Regional Certification Mechanism or the Dodd-Frank Act, etc., expressly stipulate the participation of women in the mineral supply chain, neither do they forbid it. In fact, women are actively involved in practically all activities connected with artisanal mining. Nonetheless our starting hypothesis is that their participation is conditioned by a series of discriminatory mechanisms which force them to occupy a marginal place in the mineral supply chain. For this reason, this paper will assess the situation of women of Rubaya from a human rights point of view, based on the legal instruments mentioned above.

2. Research aims

- Conduct a diagnosis of the human rights situation in general and that of women in particular in

the mines of Rubaya, with particular focus on the mine labelling and certification system.

- Identify human rights violations at the mining sites and the catalogue of abuses of women prior to certification, when rebel groups and the FARDC were present, and after demilitarisation.
- Determine the price, the approximate level of 3T production and the average income of those engaged in artisanal mining before and after the certification of the mines.
- Shed light on the financial flow of the Rubaya value chain since the establishment of the labelling system and analyse its socio-economic impact on local communities in general and on women in particular, taking into account the social and environmental responsibility of those involved along the chain.

3. Methodology

The study of the Rubaya/Masisi traceability system was based on a participatory methodology which combines different research techniques. On the one hand, it involved a qualitative approach, based on semi-structured interviews with key groups as well as individual interviews; as in the contrast with documentary analysis, direct observation and conversations with the main players from different sectors of the local community.

On the other hand, with regard to the quantitative approach, we carried out a questionnaire designed for a heterogeneous population of 103 individuals (37 women and 66 men). The respondents included local administrative and traditional authorities, the agents from the Small Scale Mining Assistance and Regulation Service (SAESSCAM), the Mining Administration, the Bisunzu Mining Company (SMB), the Masisi Artisanal Miners Cooperative (COOPERAMMA), traders, quarrymen, the Mines and Hydrocarbons Police, grassroots activists from Rubaya, people from the towns of Mushaki, Mumba, Kibabi, Bihambwe, Humule, Matanda, Kashovu and Sake. The team were unable to access the town of Rushoga due to problems with the roads.

The minority participation of women in the questionnaire is a reflection of the persisting gender inequalities in many local institutions and organi-

sations and of the marginal role of women in the public domain, despite the fact that the work they do is fundamental to the life of the communities.

4. Research findings

Located 64 km from Goma, a journey of approximately three hours in an off-road vehicle, Rubaya is a decentralised territorial entity currently administered by a single official delegate of the governor. It is located in Masisi territory in the province of North Kivu and is bordered to the north by the Bashali community, to the south by the Katoyi sector, to the east by the Ufamandu 1 and Muvunyi-Shanga groupings, and to the west by the Osso Banyungu community sector.

There are three administrative entities in the area: the Kibabi grouping, the administrative post of Rubaya and the grouping office of Matanda. It should be noted that Rubaya, which was previously administered by the State Administration in Kibabi, acceded to administrative autonomy on the 16th of February, 1999. This administrative entity is subject to the hierarchical authority of the *mwami* of Bahunde, whose Head Office is in Bweremana.

In the midst of a real estate boom, life in Rubaya has been intimately bound to mining since colonial times. Many observers are quick to note the irony that it will disappear plain and simple once the mining reserves of coltan, the most abundant



mineral in that area, are exhausted. The town has traditionally been inhabited by the hunde, hutu and tutsi ethnic groups. However, a massive influx of people from other areas is currently under way due to the coltan boom. The demographic growth of the area is the first of the socio-economic impacts that we examine below.

4.1. Socioeconomic impact of the traceability system

4.1.1. Demographic changes in the region of Rubaya

Although artisanal mining has a long history in the area, it has undergone remarkable growth in recent years. This is due to the so-called “raw material boom” of the last decade as well as, more recently,

the introduction of the traceability systems. The latter was only possible after the demilitarisation of the mines. Since then, the relative stability of the area has allowed local trade to grow. In this regard Rubaya differs from other nearby territories, where the presence of armed groups is still a major problem for mining operations.

One result of these developments is an exodus from rural areas to the city which is contributing to the depopulation of nearby villages. According to Rubaya Health Sector authorities, the population density of the city has soared to “44,661 inhabitants, compared to 1,287 before the introduction of the mineral labelling system in March 2014.”

The population growth in the city of Rubaya is spectacular. However, the bigger towns of the same region of Masisi have also experienced very significant population increases, with the exception of Kibabi, which has remained more or



less the same. In Table 1 we can see that the town of Mumba, for example, has practically doubled its population and that the population of Bihambawe has increased by a third. This has all occurred in the extremely short time of just 24 months.

routes connecting the main localities. In 2016, following the construction of the three new roads, the number amounts to thirteen. Nonetheless, those surveyed feel that there have been hardly any improvements in road quality. We should note

Table 1: Number of inhabitants of the townships in the Rubaya region. Before and after the traceability system			
No.	Name of the town	Before (2014)	After (2016)
1	Rubaya	1.287	44.661
2	Mumba	3.654	7.556
3	Bihambwe	4.950	6.926
4	Kibabi	44.000*	44.392
	Total	53.891	103.536

* In the case of Kibabi, we could not find demographic data for 2014, but the interviewees' perception is that there has been no significant demographic change. This figure is a rough estimate.

This population growth can be explained by the madness that the search for mineral resources triggered, along with the factors mentioned above. However, the acceleration of this trend presents enormous challenges in other areas such as access to basic services, child schooling enrolment rates, infrastructures and the environment. We will also show signs that this change has had negative impacts on women in the region.

4.1.2. The condition of the roads

Three new roads have been built in the Rubaya region since the implementation of the mineral traceability system. Before that there were only two roads that crossed the south of the territory, the one covering the Goma-Bihambwe-Rubaya route and the one that goes from Rubaya-Muba-Nungu. Following the certification of the mining sites, a third was added, going from Humule through the SMB and Muderu and then to Rubaya. At the time of our investigation however, all were still in a very precarious condition.

The interviewees say that the traceability system has increased the number of terrestrial connections in the area. Before 2014 there were ten

that none of these roads are paved and that they are practically impassable in the rainy season because of the mud.



The COOPERAMMA is working at rehabilitating the roads and this work is clearly being carried out by men and women who work as labourers during the day. However, the general opinion is that the cooperative is more concerned with ensuring the easy flow of minerals than with community welfare. This is a plausible notion when we consider the fact that there is no local development plan providing for the improvement of terrestrial infrastructures.

4.1.3. Community health

a) Access to health centres

The number of health centres remained the same before and after the implementation of the traceability system. No new health care facilities have been built, despite the enormous population growth in the area. However, needs have increased exponentially as a result of the unusual population growth of the last three years. The consequences of this are observable in the overcrowding of the area, but also in the increase of avoidable diseases.

The situation is particularly serious for women who are victims of sexual violence, since the phenomenon has increased proportionally and yet none of these centres have specific treatment programmes. This is a task that falls to the non-governmental organisations in the region.

The positive aspect in relation to healthcare access is the introduction of free services in health centres in Rubaya and Kibabi. This is not attributable to the revenues obtained in the certified mine sites, but rather to Italian aid, which is not a sustainable source of financing in terms of local governance.

b) Management of mining accidents

The geology of certain parts of Masisi has turned some of the mines in Rubaya into veritable death traps. “Maybe that’s the price of Rubaya’s coltan boom”⁴ — one quarryman told us in confidence. We will not reveal their identity for security reasons. “Landslides and collapses are daily occurrences”, he expanded. The D4 Gakombe mine, one of the most productive in Rubaya, is often

called the “mass grave”⁵ due to the number of victims of the many accidents. The Mining Administration has halted operations in the mine on two occasions, on the 10th of January and the 20th of June 20, 2015, but to no avail. The suspension of operations only applies during the day, and “we work double at night”⁶.

Despite asking repeatedly how the parties involved in the Rubaya value chain manage risks, we were unable to find any formal risk management and mitigation plans. Cases involving collapses are managed in an amicable way, depending on whether the victim possesses a quarryman’s license and whether their family is known in the area or not. “The general rule is compensation not exceeding US \$300 [for victims of accidents in the Rubaya mines], which is paid by the owner of the mine”⁷.

c) Hygiene and unsanitary conditions at the mining sites

This investigation attests to the presence of twenty-seven water dispensers, twelve of which were fitted by Oxfam International long before the traceability system was introduced in the city of Rubaya. Although twenty-three of the twenty-seven are still in operation, there is rarely running water and the dilapidated state of the fittings mean the drinkability of the water cannot currently be guaranteed. Some of the pumps do not have taps or valves.

According to the Water Resources Maintenance Committee of Rubaya (GEPACER), “the quarrymen are always looking for water since the nature of Rubaya’s mineral products is such that they need to be washed using large amounts of water before being taken from the area.” The washing of the minerals is the main cause of the water shortage in the city because the quarrymen do not hesitate to cut off the pipes of the network which supplies the city in order to divert the water to their laundry rooms.

One of the consequences of this water shortage is the water-borne diseases to which the inhabitants of the area are extremely vulnerable.

⁴ Interview with a quarryman in Luwowo, June 2016.

⁵ Interview with a quarryman in D4 Gakombe, June 2016.

⁶ Interview with a quarryman in Luwowo, June 2016.

⁷ Interview with a quarryman in Luwowo, June 2016.



4.1.4. Child school enrolment

The primary school enrolment rate is still very low in the villages around Rubaya. The absence of formal education during childhood negatively affects adult life, increasing the probability of a life in poverty. Hence the issue not only concerns access to school, but also combating the high drop-out rates. The need to contribute to the family income is one of the main reasons that minors leave school to help with the work of selecting and washing the minerals.

School drop-out rates are especially high among girls (more than 60% of school-age girls in Rubaya do not attend class, whereas for boys this percentage is only 20%⁸). This is due to gender discrimination (e.g. the division of domestic labour, early marriages, etc.) and its consequences perpetuate the disadvantages of women in adult life.

⁸ Local and school authorities of the city of Rubaya and neighbouring villages, June 2016.

4.1.5. The effects of the “coltan boom” on agriculture and the environment

According to various testimonies gathered on the ground, the discovery of new mining sites forces peasants to sell their farmland to mining operators for measly amounts. This leads to the “farmers leasing plots at a price of US \$350 per hectare and growing season”⁹. As a result, farmland is becoming increasingly scarce, forcing many farming families to move to other localities or to migrate to “the *El Dorado* that is the city of Rubaya”. This scarcity of farmland drastically reduces agricultural production and the direct consequence of this is that the prices of food products soar. In addition, much of the land that is still available for cultivation has been contaminated by the muddy waters discharged by the mining sites that dominate Rubaya from above. The toxicity of these waters has yet to be determined. From the interviews conducted in

Rubaya, it would appear that these food shortages have contributed to the marasmus and “*kwashiorkor*”¹⁰ from which inhabitants of the area suffer.

The shift of Rubaya’s economy from agriculture to artisanal mining began in 1985 after the dissolution of the former Mining Society of Kivu (SOMINKI). From then on, artisanal mining became the cornerstone of the region’s economy, and many of the former farmers and ranchers were transformed overnight into mine workers. Some of those who

⁹ Interview with a farmer in Rubaya, June 2016.

¹⁰ Editors’ note: “Kwashiorkor” is a word from the Kwa language, originating in Ghana. The term is widely accepted today to refer to a particularly serious clinical syndrome in childhood. Its incidence is a result of a serious deficiency of proteins of high biological value together with an insufficient calorie intake. Its effects can occur from weaning, or even earlier if the malnutrition of the mother is extreme, up to five years of age, although its effects at those ages may negatively impact on further development.



began as quarrymen later became traders and have today become very wealthy as the owners of processing plants. These include Edouard Mwangachuchu Hizi, the owner of the Bisunzu Mining Company (SMB) and holder of mining certificate number CAMI/CE/2430/2006 of the 8th of July, 2006, on the basis of operating license 4731 of the 7th of July 2006, and Robert Seninga Habinshuti, president of the Masisi Artisanal Miners Cooperative (COOPERAMMA), authorised by administrative provision 0447/CAB.MIN/MINES/01/2012 of the 8th of August, 2012.

The Rubaya mining operation has been jointly managed by SMB and COOPERAMMA based on a memorandum of understanding signed on the 28th of November, 2013. According to the terms of the memorandum, “the two parties are committed to cultivating a climate of positive and honest collaboration, as well as the peaceful coexistence of the communities living in the places that the MHI [now SMB] mining rights certificate encompasses”¹¹. This collaboration translates in particular into “the acceptance on the part of MHI that the artisanal mining operator members of COOPERAMMA will continue to work [extracting minerals themselves] at the mining sites that their mining rights certificate covers”, and the commitment of COOPERAMMA “to sell all of its produce to MHI at the current purchase price in the local market [...]”¹².

This joint venture was sealed with the introduction of **the labelling system in March 2014**, which led to the establishment of **the first conflict-free mineral supply chain in the North Kivu province**. During the first three months, the monthly production of coltan underwent “an increase of more than 350%, i.e. 250 tonnes compared to the 70 tonnes which were harvested prior to the introduction of labelling”¹³.



This output has led to Rubaya becoming the most economically and socially viable value chain, in spite of its inherent existential challenges. The issues arising from the rapid population growth have already been mentioned, but many other harmful effects should be noted which, if left unattended, could endanger the very existence of Masisi as a whole. Some of the effects that we have been able to observe in visits to the city of Rubaya are the following:

- ▶ The huge craters which bear witness to the ongoing uncontrolled deforestation, which is ravaging the old farmlands, pastures and other green spaces;
- ▶ A tropical temperature conducive to the spread of the mosquitoes that transmit malaria;
- ▶ The mud-coloured waters discharged by the mineral laundry rooms that proliferate in Rubaya and which are contaminating exponentially almost all the water sources in the area, from which women and children extract water daily for drinking and cooking; the fact that, of the 16 water sources in the city of Rubaya, none are in a fit condition;
- ▶ The economic transformation of a traditionally agro-pastoral area where mining activity now accounts for 63% of the sources of income.

¹¹ Article 11 of the memorandum of understanding between Ets. Mwangachuchu Hizi International (MHI), now SMB, and the Artisanal Miners Cooperative (COOPERAMMA) of 28/11/2013.

¹² Articles 1 and 2 of the memorandum of understanding between Ets. Mwangachuchu Hizi International (MHI), currently SMB, and the Artisanal Miners Cooperative (COOPERAMMA) of 28/11/2013

¹³ Documentary analysis of mining production statistics 2014-2015; Sources: SAESSCAM, North Kivu Mining and Geology Division.

4.2. Mining in Rubaya

4.2.1. Mineral prices

The sale price of the minerals in the Rubaya markets varies depending on whether one is dealing with a local trader, a quarryman or a mine service agent. The gains for each of them also vary, depending on their position in the chain. In general terms, people's perception is that the price was high (between \$50 and \$100 per kilo) before the labelling system, but it was also felt that there was a decrease in the price of the minerals (from \$20 to \$30 per kilo). Some of the respondents attributed this change in the prices of the coltan to the monopoly exercised by the Bisunzu Mining Company over the ownership of the mines and their ability to set prices unilaterally. Others believe it is due to the fall in the prices of the raw materials on the international markets and, consequently, of the mineral produce and the difficulties of the current economic climate.

The reality is that the introduction of traceability systems has taken place in a context in which all these factors operate and where power relations at the local level determine the sharing of costs and benefits between different social groups (local authorities, women, merchants, owners). Some studies have warned of the "co-optation" of cooperatives by local elites, who, after the implementation of mining certifications in 2010, saw cooperatives as an instrument to control natural resources¹⁴. Moreover, in addition to the above factors, price instability is also a product of fraud and smuggling to other countries with more export-friendly regulations and where sales prices are higher, as is the case of Rwanda with the trade in coltan¹⁵.

¹⁴ Altayó Carme, "Los efectos de la regulación de los minerales de conflicto en la economía de guerra" en VVAA (2016), *La fiebre de los minerales en conflicto*, BCN/Madrid: Ed. Justicia y Paz; EurAc (2017), "Mesures d'accompagnement au Règlement de l'UE sur l'approvisionnement responsable en minerais. Pour un renforcement de la gouvernance du secteur minier artisanal en RDC", 22.03.2017.

¹⁵ The UN estimates that half of Congolese production of coltan and tin is not declared and illegally exported to neighboring countries such as Rwanda. See, United Nations Group of Experts in the DRC (2014), s / 2014/42.

4.2.2. Farm productivity and mining fraud

Regardless of the price fluctuations, between March 2014 and December 2015 the monthly production of coltan remained at around 250 tonnes per month, which gives us an idea of how well the partnership between the COOPERAMMA and the SMB worked in its early stages.

At present, however, the officially registered monthly production barely reaches "an average of 65 tonnes"¹⁶. The different parties involved who were interviewed mentioned different reasons for this, in particular the fluctuations of the price of coltan due to the poor performance of raw materials on the world market, the delays in payment by SMB and the difficult geological conditions of the mines, etc. All these reasons are valid from a certain point of view, but what is not being said and the main cause of this virtual collapse of official production is the gradual distancing of the two interested parties, the COOPERAMA and the SMB.

According to Article 5 of the Collaboration Agreement signed by both parties, "MHI [now SMB] and COOPERAMMA undertake, each according to their abilities, to scrupulously respect standards concerning traceability [...]". However, we have reason to believe that this commitment is not being adhered to. On the one hand, as we have pointed out, the analysis of official statistical data on the legal exports of Rubaya Coltan from January to May 2016 shows an average monthly production of 65 tonnes. On the other hand, the information that we have been able to collect during this investigation indicates that current monthly production, while lower than that of 2014-2015, is not less than 150 tonnes of coltan per month. This discrepancy between official data and actual estimates of the trade in minerals indicates that there is a serious tax evasion problem and a consequent loss of revenue for the community development fund.

This raises the question: where do the rest of the minerals end up? Information collected on the ground in Rubaya and Goma attests to the existence of an "organised group at the head of which are influential Rubaya traders who would have

¹⁶ Analysis of production statistics from January to May 2016; Source: North Kivu Mines Division, June 2016.



vowed never to sell their produce to the SMB”¹⁷. “These traders would supply their cargoes directly to mining companies based in Rwanda, mainly Minerals Supply Africa Ltd”¹⁸. “Once the minerals from Rubaya cross the border, they are stamped with ITRI labels which state that they are from Rwandan mines. This practice is part of the reason that this country is classified as the “world’s leading producer of coltan”¹⁹.

According to the same sources, “the financial interests involved in this organised fraud are gigantic, with ramifications at the highest level of the governments of the DRC and Rwanda”²⁰. That said, it is clear that “the Rubaya minerals value chain now depends solely on the fear of a *de facto* embargo, otherwise the COOPERAMMA/SMB divorce would have happened long ago”²¹.

¹⁷ Interview with a PACT agent in Goma, June 2016.

¹⁸ Interview with a PACT agent in Goma, June 2016.

¹⁹ Interview with a SAKOMA geologist in Goma, June 2016.

²⁰ Interview with a United Nations agent in Goma, June 2016.

²¹ Interview with a United Nations agent in Goma, June 2016.

4.2.3. The average income

According to the interviews carried out with women, quarrymen and porters on site and in the city of Rubaya, a porter of mineral-rich sand from the deposit to the laundry room can earn 1,500 CDF per load, and their daily pay can be as much as 10,000 or even 15,000 CDF. This means an average of about 12,500 CDF per day, i.e. US \$14²². Depending on the strength and health of the porter, it can be estimated that their monthly income would be about US \$416, which is equivalent to the monthly salary of three primary school teachers in the Democratic Republic of the Congo.

²² Editors’ note: This data correspond to June 2016 when the fieldwork for this investigation was completed. The currency exchange rate was relatively stable at 900 CFD per USD until December 2016, when president Kabila decided to postpone indefinitely the elections after the end of his second term. Since then increasing political instability has had economical consequences. Today the currency exchange rate is 1,500 CFD per USD. That means that the same porter is earning today around 8 USD a day and not 14.

“Everyone here earns their living by the sweat of their brow. Everybody finds something to do according to their strength”²³, we were told by Fiston, a mineral transporter locally referred to as “porters.”



²³ Interview with Fiston Kasigwa at the Luwowo site in Rubaya, June 2016.

4.3. The role of women in mining

4.3.1. The participation of women in the supply chain

It can be deduced from this research that women are indeed involved in mining in Rubaya and at all stages of the value chain. Their involvement is minority, however, and it occurs in a situation of disadvantage with respect to men's participation. For example, although they can be seen working in the mines, they have almost zero access to the licenses in order to do so legally and they are almost never the proprietors of the mining operation. As a consequence, their role is also residual in the cooperatives. However, the presence of women and girls is easily identifiable in the mineral laundry rooms where you do not need a license in order to work and there is less monitoring. The use of toxic products in the washing of other minerals, such as gold, also exposes them to serious damage to their health.

The discrimination against women and gender inequalities in this context are mainly due to:

- ▶ retrograde customs and superstitions, according to which a woman who is menstruating will negatively impact on the performance of the mine;
- ▶ marital and family conditions, which mean women have little time to devote to other activities;
- ▶ misinterpretation of the requirements of the Dodd-Frank Act and the OECD Due Diligence Guide, which are believed to prohibit the presence of women in the mines;
- ▶ the lack of economic autonomy (women who succeed in business are generally considered to be emancipated women);
- ▶ the lack of adequate guidance and support structures for women in the mining sector, such as a women's association or a credit union.

4.3.2. Concerning the protection of women and children at mining sites

As we pointed out above, it is increasingly easy to find women and children in the mineral laundry rooms since the implementation of the traceability system. Although they are the most vulner-



able, they are treated the same. They receive no special care. Some of the respondents stated that there is no longer child labour in the mines. Others, conversely, said that there are children present, although they justify this by claiming that the children are actually going to visit their parents, or are there out of curiosity or are taking shortcuts through the area. With regard to pregnant women, their presence has been noted around the quarries and so their participation in the work at the mines cannot be ruled out.

Given that the school dropout rate in Rubaya exceeds 60%, it is difficult, if not impossible, to avoid the presence of minors at the mines. Unfortunately, their age and familial dependency make them the target of those looking for cheap labour, as happens in the camps for internally displaced people at the entrance to the city of Rubaya.

Nonetheless, the interviews and surprise visits to certain mining sites during the investigation indicate that there is a definite decline in children's presence at the mines, although we found it very difficult to find up-to-date statistics. This decline in

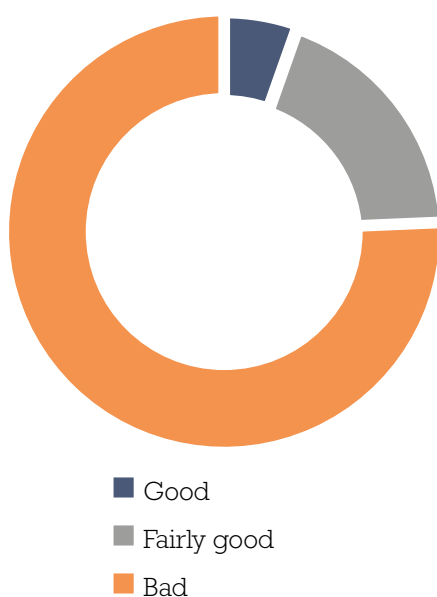
the number of children at the mines is a result of increased awareness among mining operators of the need to comply with the requirements of the traceability initiatives, but also of the regular visits to the area of rapid alert bodies such as ASSODIP, CSAC, etc.

4.3.3. Women entrepreneurship

The number of projects for the promotion of the entrepreneurial capacity of women is minimal. Some organisations (such as ASSODIP or ETN) have launched initiatives along these lines in the city of Rubaya, which include training in literacy, dressmaking and cookery classes. In terms of mining, ASSODIP runs family reunification and awareness-raising projects in order to reduce the presence of minors in the quarries, as well as vocational training programmes through Mutual Funds for the benefit of young people. The organisation SOPROP, on the other hand, provides human rights training to women's groups.

No.	Assessment	No. of responses
1	Excellent	0
2	Very good	0
3	Good	2
4	Fairly good	7
5	Bad	28
	Total	37

Graph 3. Women's assessment of the traceability system



The women's assessment is mostly negative because they feel that the traceability system is one more tax being applied to the price of the minerals. Only two women out of a total of 37 interviewed think that mineral labelling and certification is a good thing, while 28 see it as bad. This, however, seems to be down to a major lack of information among women in the mining communities with regard to how the traceability systems work: they are not familiar with the mechanisms that determine mineral prices or the underlying causes which explain their low incomes.

4.3.4. Prostitution in the city of Rubaya

Prostitution is more or less endemic in mining areas, and the city of Rubaya is no exception. With the rapid population growth due to the coltan boom and the easy earnings, especially for the "porters", the result is the destruction of homes and moral degradation. "Prostitution has taken on disturbing proportions in the city. In the main we are talking about underage girls who are much sought after by the traders [of minerals]"²⁴, a Rubaya child protection police official told us in confidence. School dropout numbers are higher among girls as "there are girls as young as twelve who will offer their bodies for the night for less than five dollars"²⁵, added the official.

5. Conclusions

- ▶ Rubaya's mineral supply chain is in jeopardy and there is the risk of a *de facto* embargo if its key players do not effectively implement their memorandum of understanding. They need to put a stop to the organised and ongoing fraud.
- ▶ The sustainability of Rubaya and its mining operations involves serious environmental risks due to uncontrolled deforestation and exponential pollution. The environmental impact studies of the mining concessions, if they exist, do so only on paper. They are of no practical consequence.
- ▶ The role of women in the Rubaya value chain remains marginal; any plan, whether regarding local development or environmental impact mitigation, needs to take women into consideration.
- ▶ The "Basket Fund" or local development fund is not being managed transparently nor allocated reasonably.

²⁴ Interview with a child protection police official in Rubaya, June 2016.

²⁵ Interview with a child protection police official in Rubaya, June 2016.

6. Recommendations

For the government of the North Kivu province

- ▶ The provincial government must step in as a matter of urgency and try to restore trust between the parties to the memorandum of understanding, namely the SMB company and COOPERAMMA, in order to curb the increase in tax evasion given rise to by the organised and on-going Rubaya coltan fraud.
- ▶ Given that the repercussions of the various taxes levied on mining in the province are not apparent, not even in the road infrastructure in the mining areas, the system of managing and allocating the Local Development Fund should be transparent and include local communities and the civil society of Rubaya or whatever other mining area. The allocation of the Fund should also be included in the local development plan, with a view to the appropriation of the projects on the part of the local communities.
- ▶ The Local Development Fund should include a focus on promoting the rights of women in the mineral supply chain.

To the SMB company

- ▶ We recommend that the environmental impact study be made public and that its effective implementation begin, taking into account the participation of women and their specific needs at the mining sites at all stages. For this, SMB must involve the local communities in the implementation of its environmental impact mitigation plan.
- ▶ It is a matter of urgency that SMB expedite the payment process for the shipments of mineral supplies so as to put an end to the complaints of the traders, who say they have to wait months and months for the payments.

To COOPERAMMA

- ▶ COOPERAMMA should become an actual artisanal miners cooperative instead of being a springboard for the enrichment of its founding members. To do this they will have to restructure in such a way that allows the effective participation of the “auxiliary” members, as well as the appropriation of the project on their part





- ▶ COOPERAMMA should contribute to and become genuinely involved in the fight against the organised fraud and smuggling of Rubaya coltan. COOPERAMMA should reduce the number of taxes levied on the “auxiliary members” (the quarrymen).
- ▶ COOPERAMMA, as the main player in artisanal mining in Masisi, should have an environmental risk management plan in place. This should be done in tandem with the SMB and its implementation should form part of a local development plan.

To ANEMNKI

Given that the traders are said to be the main people responsible for the organised fraud and smuggling of Rubaya's coltan, and that some of them have vowed not to resume their shipments of minerals to SMB, ANEMNKI has the important responsibility of raising awareness among its members in order to end these illegal practices. ANEMNKI should also cooperate fully with COOPERAMMA, SMB and the judicial authorities, since the mafia networks have reached crazy levels in the mineral value chain of Rubaya and the surrounding area.

To civil society

- ▶ Collaborate with national and international judicial bodies, the United Nations Security Council, the African Union, the European Union and the United States Department of State, given the

sanctions targeting the main parties responsible for mineral fraud and smuggling from the eastern Democratic Republic of the Congo.

- ▶ Civil society needs to be proactive in finding partners to finance the development of a local development plan and to collaborate and combine forces with SMB, COOPERAMMA and local authorities in order to put it into practice.
- ▶ A partnership should be established with the public and private sectors, so that the latter upholds its commitments regarding social and environmental responsibility and the mining of natural resources.
- ▶ Support the development of the organisational capacities and financial management of COOPERAMMA and its local organisations.
- ▶ Advocate the creation of people's banks and/or credit unions in mining areas.
- ▶ Support the creation of women's associations in the mining sector in particular and in that of natural resources in general.

To the international community

Support civil society initiatives in favour of alternatives to the mines and support local and women's cooperatives and organisations in the mining areas.

Appendix I. Current traceability certifications

Table 1. Regional and International Initiatives for mineral traceability

Initiative	Initiating body	Minerals covered
Certified Trading Chains	BGR (German Geological Survey) in bilateral collaboration with Rwanda, the DRC and Burundi	3T (Tantalum, Tin, Tungsten)
Conflict Free Gold Standard	"World Gold Council"	Gold
Conflict Free Smelter Program	EICC/GeSI	3TG
Conflict Free Tin Initiative	Dutch government, private sector	Tin (closed supply chain)
ICGLR Regional Certification Mechanism	International Conference on the Great Lakes Region, GIZ (German development cooperation)	3T (Coltan, Tin, tungsten)
ITRI Tin Supply Chain Initiative (iTSCi)	International Tin Research Institute Tantalum-Niobium Study Centre	3T
OECD Due Diligence Guidance	OECD	3TG
Public-Private Alliance for Responsible Minerals Trade	Actors from the business and public (US DoS) domains and civil society	3TG
Responsible Gold Guidance	London Bullion Market Association	Gold
Responsible Sourcing Guidance	Dubai Multi Commodity Centre	3TG
RJC Code of Practices, Chain of Custody Standards	Responsible Jewellery Council	Gold
Solutions for Hope	Motorola, AVX, etc.	Tantalum (closed supply chain)



"Congolese women must be taken seriously so that the Democratic Republic of the Congo can finally witness the peaceful future that we have all dreamed of for many years. A part of that is in our hands"

Justine Masika

Synergy des Femmes pour les Victimes
des Violences Sexuelles (SFVS) Coordinator

This research is part of the campaign:
www.conflictreetechnology.org

Find more info about our work with SFVS at:
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