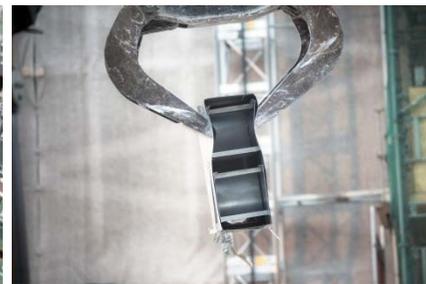
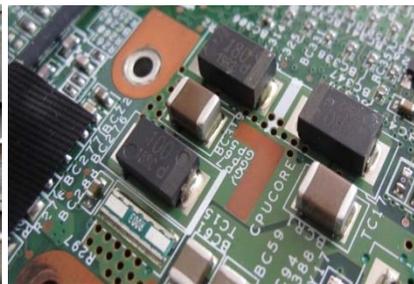


Conflict Minerals

An evaluation of the Dodd-Frank Act and other resource-related measures

Andreas Manhart

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Our Profile

Oeko-Institut is a leading European research and consultancy institute working for a sustainable future.

- Founded in 1977, non-profit association
- Offices in Freiburg, Darmstadt and Berlin
- More than 145 staff, including 100 researchers
- Clients: Ministries, international organisations, European Union, industrial companies, non-government organisations



Our Issues

- Energy and Climate Protection
- Nuclear Engineering and Facility Safety
- Sustainability in Consumption, Mobility, Resource Management and Industry
- Law, Policy and Governance
- Emission and Ambient Pollution Control
- Chemicals Management and Technology Assessment
- Sport and Culture



Agenda

1 Background

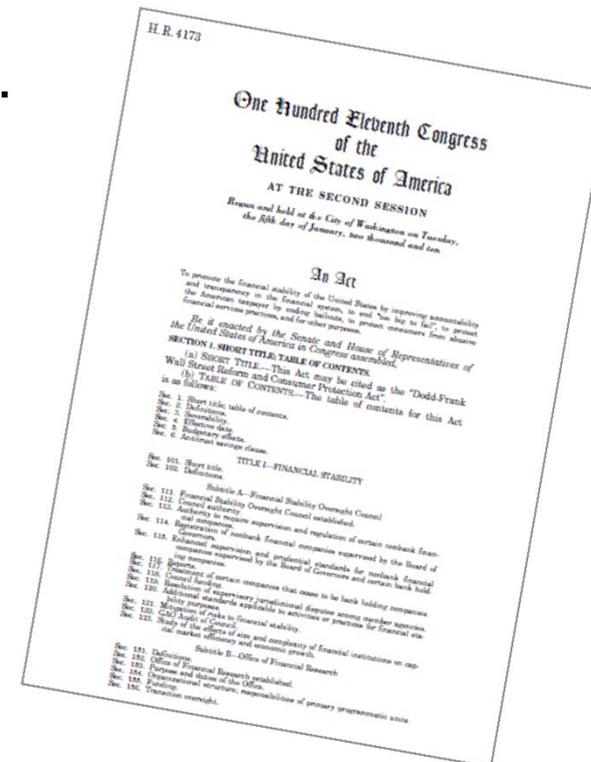
2 Approach

3 Results



The Dodd-Frank Act

- “Dodd-Frank Wall Street Reform and Consumer Protection Act”
- US-American Act to improve accountability and transparency in the financial system.
- Signed by Barak Obama in July 2010.



The Dodd-Frank Act

Section 1502 on „Conflict Minerals“

Companies traded on the US stock-exchange market have to report the following:

- Does the company use conflict minerals (or metals refined from such minerals)?
- If yes: Did any of these materials originate in the DR Congo or any adjoining country?
- If yes: The company has to provide a “conflict mineral report” describing all measures taken to avoid direct or indirect financing of conflicts (including independent auditing results).

Companies not using conflict minerals can use the label “DRC conflict free”.

The Dodd-Frank Act

Definition of „conflict minerals“

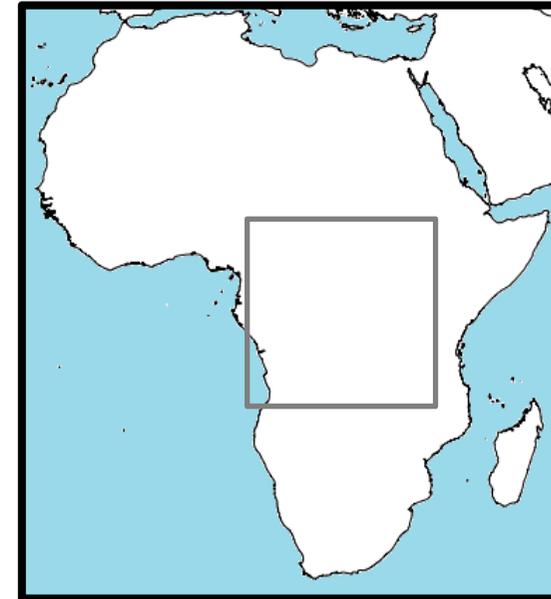
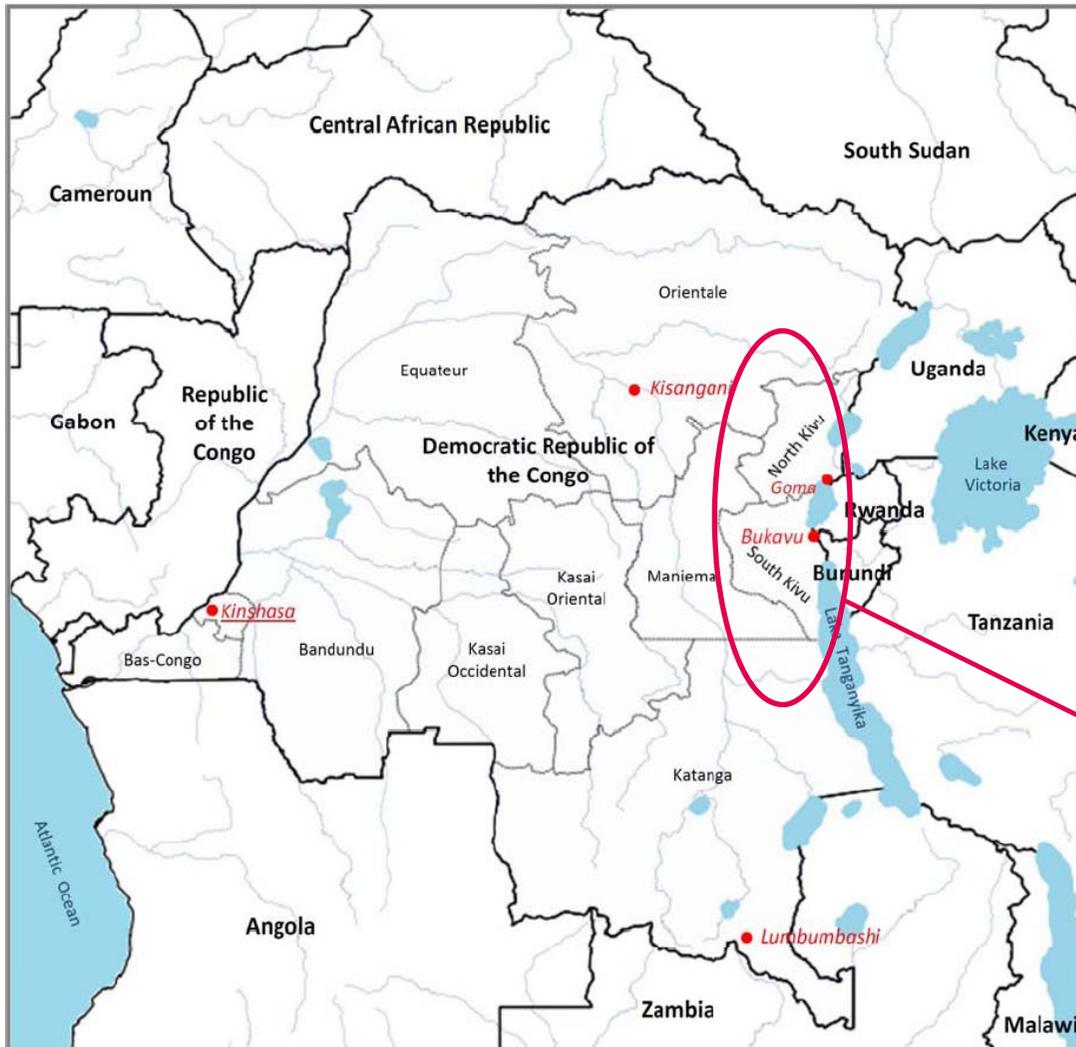
“Columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives; or any other mineral or its derivatives determined by the Secretary of State to be financing conflict in the Democratic Republic of the Congo or an adjoining country”

| Ore | Metal |
|------------------------------|----------|
| Columbite-tantalite (Coltan) | Tantalum |
| Cassiterite | Tin |
| Wolframite | Tungsten |
| - | Gold |



Abbreviation **3TG**

The Situation in the DR Congo



Conflict-affected region

The Situation in the DR Congo

- Lack of government control over vast parts of the eastern DR Congo.
- Destroyed infrastructure.
- Political and economic disputes with neighbouring countries.
- Numerous armed groups fighting over local dominance as well as political and economical advantages.

The conditions in the mines:

- Decade-long mismanagement and insecurity led to a complete decline of industrial mining activities → artisanal mining.
- Unclear concession rights.
- No health & safety standards, child labour...
- Armed groups skimming profits (control of mines, illegal taxes...).

The Situation in the DR Congo

Consequences for the local population:

- Severe human rights abuses: Displacement, forced recruitment of (child-) soldiers, sexual violence, looting, destroyed infrastructure, houses and harvests, road blocks and illegal taxes.
- Impunity for war criminals.
- Corruption and extortion around mines through government forces and armed groups.



In numbers:

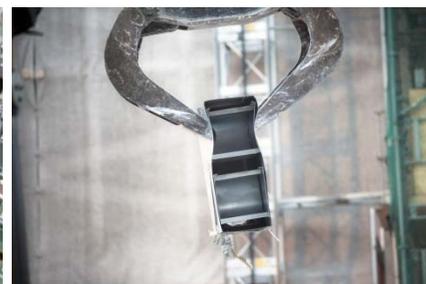
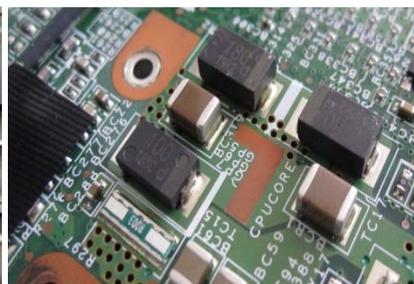
- 2.6 million refugees
- Last rank on the Human Development Index
- Up to 5 million fatalities since 1994

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Research Questions

- How are the requirements of the Dodd-Frank Act (Section 1502) implemented by industry?
- What are the impacts of the Dodd-Frank Act on the ground?
- What other approaches on conflict minerals do exist?
- What can be recommended for a European policy approach?

Overall aim:

- To constructively contribute to the discussion about a European initiative on conflict minerals.

Methodology

- Extensive literature review
- Interviews with key stakeholders

Government & International Organisations

Federal Institute for Geoscience and Natural Resources (BGR)

UN Group of Experts on the DR Congo (former member)

US State Department

World Bank

Methodology

NGOs

Bureau d'Etudes Scientifiques et Techniques (BEST)

Centre National d'Appui au Développement et à la Participation Populaire (CENADEP)

Ecumenical Network Central Africa (ÖNZ)

International Peace Information Service (IPIS)

Pole Institute

Methodology

Companies:

| Name | Sector |
|---------------|--|
| H.C. Starck | Metal smelter (Ta, W) |
| Heraeus | Metal smelter (Au, Sn, Ta, W) |
| Wieland-Werke | Copper products |
| Siemens | Electronics, electrical engineering... |
| ThyssenKrupp | Steel |
| Brose | Automotive |
| Köhle | Jewellery |

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Conflict in the DR Congo

- A policy only focused on minerals (due diligence, certification, chain-of-custody...) cannot bring peace and stability to the region.
- In turn, policy approaches neglecting the conflict mineral issue are also prone to failure.
- A conflict minerals approach needs to be embedded into a coherent policy-mix.
- In particular, this should encompass the following fields:
 - Security sector reform
 - Respect of human rights
 - Institutional reforms / functioning administration
 - Stability of the law

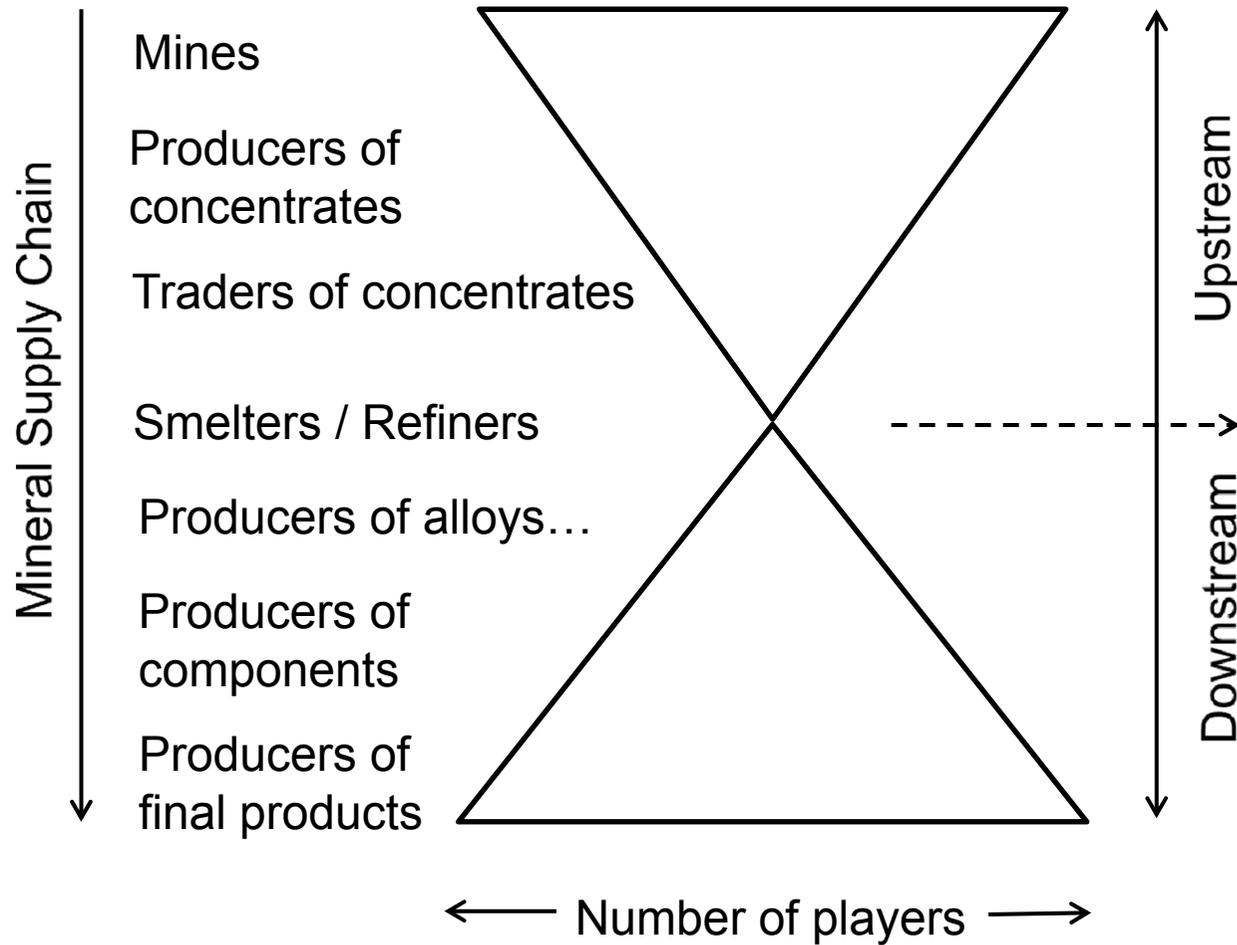
Process of Dialogue

- Decisions on the DR Congo and the Great Lakes Region should not be made in the EU alone.
- Political decision-makers from the DR Congo, adjoining countries, the EU, as well as the *International Conference on the Great Lakes Region (ICGLR)*, industry and civil society organisations should be included.
- A process of dialogue should lead clear, ambitious and measurable commitments.

Due Diligence & the Dodd-Frank Act

- The Dodd-Frank Act widely follows the recommendations of the UN Group of Experts and the UN Security Council on Due Diligence (Integration into national legislation)
- The Dodd-Frank Act (Section 1502) features some notable characteristics that led to unintended side-effects:
 - Sourcing from the DR Congo or any adjoining country requires quite complex compliance documentation (third-party audit, conflict mineral report).
 - The Dodd-Frank Act allows the product label “DRC conflict free” – even if this was achieved by a strategy of not sourcing from the region.
- This resulted into clear disincentives to source from, and invest into the region.
- Instead, positive incentives are needed (e.g. label on “responsible sourcing from the DR Congo”).

Upstream / Downstream



Due Diligence in the EU

- Upstream due diligence requirements (from mine to smelter/refiner) are in line with the major discussion-lines on conflict minerals.
- Downstream due diligence (from smelter/refiner to product) is currently quite complex:
 - There are only very limited volumes of guaranteed conflict-free minerals from the DR Congo available.
 - Smelters certified as “conflict free” are mostly “Congo free”.
- The aim should be to foster responsible sourcing from the DR Congo to support and increase ‘Islands of stability’.
- Increasing the conflict-free mineral volume from the DR Congo is a lengthy and demanding process.
- A rapid introduction of mandatory downstream due diligence is likely to cause further ‘boycott-strategies’.
- Alternatively, a system is needed that directly channels efforts and resources in responsible mining projects.

Existing On-the-Ground Projects

- Some closed-pipe investment and sourcing projects (e.g. Solutions for Hope, Conflict Free Tin Initiative) have measurable impacts in the DR Congo.
 - Mining of conflict-free minerals
 - Investments (first investments after 20 years of warfare)
 - Taxes
 - Introduction of basic labour standards
- Such projects can help to achieve the policy goal of contributing to the stabilisation of the eastern DR Congo through conflict-free and responsible mining.
- The EU should create framework conditions that effectively support such approaches.
- Industry should engage and develop business models in the field of responsible sourcing from the DR Congo.

E.g. by initiating a *Congo Stewardship Initiative*

Analogy with the Electricity Market

- Demands for 100% conflict-free products (in a physical-chemical sense) can only be realised with high transaction costs.
- These costs do not directly benefit the affected communities in the DR Congo or other regions.
- Parallels to the green electricity market should be explored.



Summary

- Measures on conflict minerals need to be embedded into a comprehensive strategy on the DR Congo.
- Engage into a process of dialogue with Congolese and European stakeholders.
- Rethink strategies on extensive and mandatory downstream due diligence (risks of boycott-strategies).
- Use existing sourcing projects as model cases. The goal should be to create and expand *Islands of Stability*.
- Create positive incentives for responsibly sourced minerals and related initiatives.
- Industry should develop and expand business solutions for conflict-free sourcing from the DR Congo → *Congo Stewardship Initiative*.
- Consider alternative engagement models for downstream actors (e.g. by exploring analogies with the green electricity market).

Thank you for your attention!

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