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WAR CRIMES SHOULDN'T PAY

## **House Foreign Affairs Subcommittee on Africa**

### **Metals, Minerals, and Mining: How the CCP Fuels Conflict and Exploitation in Africa**

**March 25, 2025**

**Statement of Sasha Lezhnev**

**Senior Policy Advisor, The Sentry**

Thank you Chairman Smith, Ranking Member Jacobs, and other Members of the House Foreign Affairs Subcommittee on Africa for drawing attention to the critically important issue of how minerals are driving conflict and corruption and how China is involved. I have witnessed the horrors of child soldiers and child miners as young as eight years old at mines in the Democratic Republic of Congo, as well as the warlords and corrupt companies and officials making money from this system of exploitation—all in the name of getting us cheaper smart phones, jewelry, and electric vehicles (EVs). This has got to stop.

As the price of gold and other minerals reach record highs, and all of us use more electronics, we are increasingly reliant on mining and minerals. The extraction of those minerals comes at a major cost to human beings and the environment in Africa and adds risk for the electronics companies that purchase them; what's more, China and other illicit actors control a sizeable portion of the trade in them. The only good news here is that international leverage exists over these supply chains, and there are key steps that the U.S. government and the private sector—from tech companies to banks—can take to stop the illicit exploitation by China and others. I will focus on four policy opportunities.

#### **Background: Critical Minerals and Beyond**

Africa holds an estimated 40 percent of the world's reserves of energy transition minerals.<sup>1</sup> China made a strategic decision a decade ago to procure critical minerals and has spent well over \$10 billion acquiring mines across Africa<sup>2</sup> and elsewhere in the world, and it has established monopolies over some of them. These minerals have spurred China's development and have had a direct impact on its EV industry, with Chinese EVs being sold much cheaper than U.S. or European models. China is now sub-Saharan Africa's largest trading partner,<sup>3</sup> which stands in sharp contrast to the 1990s, when Europe and the US dominated African markets. Nearly half of China's largest mining investments around the world have been in sub-Saharan Africa.<sup>4</sup>

Such investment has come with significant corruption. It is perhaps no accident that the African countries that export the most to China also have some of the world's worst corruption ratings. The five countries in sub-Saharan Africa that export more than half of their goods to China are South Sudan, the Democratic

Republic of Congo, Angola, Eritrea, and the Republic of the Congo,<sup>5</sup> and all except Angola are in the lowest 20 percent in the world in the Transparency International Corruption Perceptions Index.<sup>6</sup> The new global scramble for minerals for the energy transition has led to significant corruption by others as well, from Israeli tycoon Dan Gertler to Swiss companies, for example.<sup>7</sup>

Likewise, human rights have been negatively impacted. The Business and Human Rights Resource Center found 102 allegations of human rights and environmental abuses linked to Chinese investment in green energy mineral projects between 2021 and 2022, and less than one-fifth of the companies surveyed even had a human rights policy.<sup>8</sup>

## The DRC

Nowhere have these problems been more acute than in the Democratic Republic of Congo (DRC). The DRC has some of the world's largest concentrations of critical minerals, and China is by far its biggest mining investor and trading partner. China signed a \$6.2 billion minerals-for-infrastructure deal in the DRC in 2008, referred to at the time as "the deal of the century." The DRC is the world's largest producer of cobalt, accounting for 75 percent of global production,<sup>9</sup> and tantalum, accounting for 40 percent of global production,<sup>10</sup> and last year it became the world's second largest producer of copper.<sup>11</sup> The DRC has become one of the most pivotal countries in China's Belt-and-Road Initiative.

Corruption in the DRC has only increased since the Chinese mega-deal. Peter Zhou, a Chinese-born financier who has worked on various mining deals in the DRC, said that in such countries, "there is corruption, there is lack of the rule of law, which gives you more autonomy to be entrepreneurial."<sup>12</sup> Today, the country's international corruption rating is 163<sup>rd</sup> in the world, lower now under President Felix Tshisekedi than under his predecessor Joseph Kabila.<sup>13</sup> The DRC's anti-corruption czar said that \$530 million went missing from state coffers, money that was paid by a mining partner of a Chinese company.<sup>14</sup> A top Tshisekedi advisor was caught on tape requesting a large bribe for a mining deal,<sup>15</sup> several ministers have resigned over alleged corruption,<sup>16</sup> <sup>17</sup> and the government lobbied on behalf of sanctioned mining magnate Dan Gertler. Moreover, repression remains very high under Tshisekedi's regime,<sup>18</sup> with increasing crackdowns on activists, journalists, and protestors.<sup>19</sup>

Civil society has decried the infamous China-DRC deal, which is heavily skewed in favor of Chinese companies, resulting in a \$132 million loss for the DRC in 2024 alone, according to a coalition of Congolese and international NGOs.<sup>20</sup> My organization, The Sentry, investigated the deal in the DRC in 2021 and found that "the shell company at the center of the scheme—Congo Construction Company (CCC)—received \$55 million from foreign sources apparently intended for Kabila and his entourage."<sup>21</sup> And two companies, one of which was cofounded by a Kabila family investment firm, allegedly misappropriated \$238 million that was meant to transport cobalt and copper, according to audits done by the country's anti-corruption official.<sup>22</sup>

Additionally, several major mining contracts remain opaque, leaving Congolese citizens perpetually in poverty. These include the shareholder change deal at Tenke Fungurume Mining to China Molybdenum and the agreement with China Nonferrous Metal Mining (Group) Co. for Deziwa mine.<sup>23</sup> Additionally, China

Molybdenum paid \$800 million to notoriously opaque Congolese state-owned company Gecamines in 2023 to end a dispute.<sup>24</sup> Without the details of these contracts, it is impossible to tell how much the country is supposed to receive for its minerals or who profits from them. Then there was the case of one of the world's largest lithium mines.<sup>25</sup> The DRC took the permit away from an Australian company and awarded it to a Chinese company, according to an international arbitration court, which has ordered a DRC state-owned company to pay the Australian company \$42 million.<sup>26</sup>

Corruption has not been limited to Chinese investors in the DRC. International businessman and billionaire Dan Gertler was sanctioned during the first Trump administration after he “amassed his fortune through hundreds of millions of dollars’ worth of opaque and corrupt mining and oil deals in the DRC. Gertler has used his close friendship with DRC President Joseph Kabila to act as a middleman for mining asset sales in the DRC, requiring some multinational companies to go through Gertler to do business with the Congolese state. As a result, between 2010 and 2012 alone, the DRC reportedly lost over \$1.36 billion in revenues from the underpricing of mining assets that were sold to offshore companies linked to Gertler.”<sup>27</sup>

Human rights abuses are extensive in mines in the DRC, including in Chinese controlled mining areas. There are an estimated 25,000 to 35,000 child miners in the DRC<sup>28</sup> working at mines that send cobalt and copper to Chinese crude refiners. Herve Diakiese Kyungu testified compellingly at a Lantos Commission hearing about how Chinese nationals at a Chinese-owned mine instructed military officers to whip Congolese people who were found on their site.<sup>29</sup> Moreover, the DRC Republican Guard, the president's elite security force, has been documented illegally controlling artisanal mines through use of violence or threats.<sup>30</sup> There have also been extensive documented accounts of sexual exploitation,<sup>31</sup> child labor,<sup>32</sup> and other human rights violations. Amnesty International reported in 2023 that at one Chinese joint venture, thousands of people were forcibly evicted to make way for mining operations, including a neighborhood of 38,000 people.<sup>33</sup> Many copper and cobalt workers face dire working conditions, and salaries were cut by up to 40 percent as Chinese mining companies have increased their presence.<sup>34</sup>

The DRC is also home to the Congo River Basin, the world's second-largest tropical forest, and it is in danger of being destroyed by mining and logging operations, “with the country losing more than one million hectares of tree cover in 2023 alone,” according to Global Forest Watch.<sup>35</sup>

The DRC has expressed an interest in moving away from Chinese dominance in its minerals sector, since it retains little control over the sector.<sup>36</sup> It even opposed a sale of major mining concession to a Chinese company last year.<sup>37</sup> This would include the Lobito corridor project to export minerals westward instead of only to the east, but the DRC has also made deals with or held exploratory talks with the United Arab Emirates, Saudi Arabia, and others.

## **Conflict Gold**

Critical minerals are not the only sector rife with exploitation, corruption, and Chinese and other involvement. Gold has been at the heart of the recent escalation of the conflict in eastern DRC, in which 6.5 million people have been displaced<sup>38</sup> and millions more have died. The DRC produces over \$1 billion in

artisanally mined gold annually, but it is almost all smuggled out of the country, primarily to neighboring Rwanda and Uganda, before flowing to the United Arab Emirates, China, and other countries. And [China](#) is purchasing record amounts of gold, including [from Russia](#), potentially in order to establish a new BRICs currency that would whittle away at the U.S. dollar's dominance or for other competitive purposes.

Gold is a major source of revenue for armed groups in eastern DRC,<sup>39</sup> who “have increasingly fought for gold mines,” the Government Accountability Office said last year.<sup>40</sup> Armed groups and military units profit by illegally taxing miners, raiding mines, and partnering with smugglers.<sup>41</sup> By selling gold to neighboring countries, armed groups have purchased arms and ammunition and engaged in extensive sexual violence against civilians, mainly women and children.<sup>42</sup>

Most recently, Rwanda has heavily supported the M23 armed group with up to 12,000 of its own troops, and the M23 has taken over gold mines.<sup>43</sup> Rwanda was upset that the DRC government set up a *de facto* gold trading monopoly in 2022, which UN experts said highly possibly sourced conflict gold but cut out Rwanda.<sup>44</sup> Rwanda then set up its own refinery and exported a record \$885 million worth of gold in 2023,<sup>45</sup> despite having no major domestic gold mines. That refinery was sanctioned by the European Union last week for illegally profiting from conflict gold. Uganda, which has also supported M23 to a lesser extent, also exported a record \$3.4 billion worth of gold in 2024,<sup>46</sup> including significant amounts from eastern DRC.<sup>47</sup> All the gold flows to the United Arab Emirates and then to Hong Kong in China, Switzerland, and India.<sup>48</sup>

China is the largest gold consuming and producing country in the world, and it has been active in the conflict gold trade in eastern DRC and elsewhere on the continent, including in illegal operations. Global Witness investigated a \$38 million per year mining operation in which a Chinese company, Kun Hou Mining, paid armed groups for access to gold. The company ran semi-industrial river dredging machines along the Ulindi River, and members of the armed groups the company reportedly paid earned up to \$25,000 per month by regularly taxing workers on dredges.<sup>49</sup>

At present, there are reportedly over 450 illegally operating mining companies in South Kivu, mainly run by Chinese nationals,<sup>50</sup> who have been involved in smuggling up to eight tons of gold annually.<sup>51</sup> According to Congolese civil society representative and Harvard Visiting Fellow Amani Matabaro, in these mining areas, “the rate of severe malnutrition among children under five years old is high, many children are out of school, there is an unbearable degradation of water ecosystems, and the rainforest is being washed out. ... The [mainly Chinese mining operations] have no permits, their production is not traced, they corrupt and engage armed forces in their activities, and they have no social responsibility commitments.”<sup>52</sup>

According to regional expert Gregory Mthemba-Salter, “Well-placed industry sources have alleged widespread corruption and collusion by officials [in Chinese gold mining operations], and it is difficult to envisage how else, apart from systematic corruption and bribery, such overt practices could have continued for so long.”<sup>53</sup>

Chinese gold mining companies have also been involved in deforestation and loss of habitat for endangered species. Last year, Chinese gold miners expanded semi-industrial mines on the edge of the

Okapi Wildlife Reserve, threatening the endangered animal and the reserve.<sup>54</sup> In 2019, Chinese operators established at least 40 semi-industrial gold mining operations in the Itombwe reserve and deforested 82 hectares, resulting in decreased habitat for the critically endangered Grauer's gorillas.<sup>55</sup> "It is difficult to monitor these companies," according to mining inspector Ghislain Chivundu Mutalemba. "These Chinese partners mine, [and] the cooperatives sell the product over the counter. We don't know what percentage the Chinese take, or how much they produce."<sup>56</sup> Seven Chinese gold miners were suspended in 2022 for polluting rivers with mercury and other toxic substances, including a major tributary of the Congo River, dead fish, not doing environmental assessments.<sup>57</sup> And even after the environment minister ordered mining operations closed, the Chinese continued to operate with impunity and with military escorts.<sup>58</sup>

More widely across Africa, Chinese operators are involved in semi-mechanized gold extraction in Ghana, Nigeria, Mali, and the Central African Republic. In several of these countries, gold mined by Chinese nationals has been illegally extracted and smuggled to China.<sup>59</sup> In Ghana, the impact of Chinese machinery on the environment is noted to be extremely harmful. As one Ghanaian official noted, "...the Chinese equipment is degrading the environment faster – [it is] ruthless and brutal."<sup>60</sup> It is also widely alleged that Chinese nationals are not selling the gold they mine to legal buyers in Ghana, but rather smuggling or selling it to foreign buyers or exporters who do not declare it.<sup>61</sup>

## **Solutions**

Despite the human rights abuses, corruption, and risks to U.S. companies, there is leverage available to change the equation. And there are important roles that the U.S. government and U.S. companies can play in addressing these issues in the DRC and in Africa more broadly.

### **1. Combating corruption**

The biggest obstacle to eliminating abuses in minerals supply chains is the continuing system of kleptocracy in the DRC. This system allows ruling elites and their commercial partners to benefit while leaving the population to suffer from poor security, health care, and education services. Over the past 130 years, the DRC has had many elements of violent kleptocracy, a system of state capture in which ruling networks and commercial partners hijack governing institutions and maintain impunity in order to extract resources and secure the regime.<sup>62</sup> The networks use varying levels of violence to maintain power and repress dissent.

The kleptocratic system will continue unless there are serious consequences for corrupt activities, and addressing corruption will benefit U.S. companies by leveling the playing field. The Department of the Treasury should build on its sanctions of Dan Gertler and Alain Goetz (for involvement in the conflict gold trade) and investigate and sanction the networks that facilitate grand corruption, particularly relating to mining. These could include gold refineries and traders in Rwanda, Uganda, and the UAE that trade conflict gold; individuals identified in Congo Hold-Up and other investigative reports, including key Chinese middlemen and companies and international businessmen; as well as senior officials in the DRC actively

facilitating corruption. Additionally, the U.S. government should nominate an Assistant Secretary of State for African Affairs with urgency to help coordinate a response to the DRC crisis.

Importantly, there should be judicial accountability for grand corruption and human rights abuses in the DRC, and the administration and Congress should support the establishment of a transitional justice mechanism.<sup>63,64</sup>

## **2. A Golden opportunity**

The Trump administration and Congress also have key roles to play in combating the deadly conflict gold trade from the DRC to the UAE, China, and beyond, in partnership with the gold industry. Secretary of State Marco Rubio can combat the illicit gold trade by taking three main steps.

First, he should lead a public-private illicit gold initiative, partnering with gold industry bodies such as the London Bullion Market Association (LBMA), the World Gold Council (WGC), bullion banks, and allies such as the United Kingdom and the European Union.

The new body must address gold trade data transparency—a primary problem—by collecting, consolidating, and sharing reliable data. There is currently no reliable real-time gold trade data available, leaving sanctions bodies and others trying to combat the illicit gold trade significantly behind the curve of criminal actors. The public-private initiative can build on the new LBMA/WGC gold bar integrity initiative and learn lessons from the Kimberley Process trade data system for diamonds to enable governments and the public to get real-time gold trade data to catch smugglers, all while ensuring the data is not commercially sensitive.

The entity should then be empowered to independently monitor and certify vulnerable areas for conflict gold smuggling, such as cash-for-gold markets, and boost the legal artisanal trade. There is strong precedent for data transparency and independent review bodies, including the FATF Mutual Evaluation system, the Kimberley Process peer review visit system for conflict diamonds,<sup>65</sup> and the Extractive Industries Transparency Initiative (EITI) review board for oil, gas, and mining transparency.

Second, the US-UAE strategic partnership presents an opportunity to partner with the UAE to combat illicit gold. The US and the EU should work with UAE Customs to identify gold smuggling patterns and companies and then help indict and prosecute the illicit actors. This would have a significant impact.

Third, Secretary Rubio and Treasury Secretary Scott Bessent should work hand-in-hand to establish an illicit gold task force to robustly investigate and sanction trafficking networks, together with the EU and the UK. The US recently sanctioned a UAE-based gold company for purchasing gold from the genocidal Rapid Support Forces in Sudan, as well as a few UAE-based companies for importing Russian gold,<sup>66</sup> but this only touched the tip of the iceberg. Many more significant sanctions against profiteering networks are needed to have an effect.

The Treasury Department's Financial Crimes Enforcement Network (FinCEN), as part of the task force, could issue alerts, keep banks updated, and encourage reporting entities to file suspicious transaction reports. FinCEN could also convene FinCEN Exchange public-private partnership meetings with banks and others to share information on illicit gold trafficking networks. These public-private partnerships would go a long way in tackling criminal gold enterprises. Indeed, extra measures such as these had a major impact in changing how financial institutions dealt with the Uyghur forced labor issue in China, with actions from a business advisory to the Commerce Department blacklisting Chinese surveillance technology companies.<sup>67</sup>

Industry must deploy its leverage as well. Leading banks and gold industry bodies such as LBMA should robustly follow up on their demands of global gold trading centers such as Hong Kong and the UAE from recent years,<sup>68</sup> offering partnerships to assist but also cutoffs if real reforms are not made. The LBMA and the WGC have a new gold bar integrity program, and they could offer to include UAE-based refineries if they follow very strict due diligence and transparency measures, providing an incentive to not source illicit gold. The Organization for Economic Cooperation and Development (OECD) has an important role to play, as well. Finally and significantly, financial institutions need to enhance their due diligence and monitoring of gold suppliers and refiners from risky gold centers such as the UAE and Hong Kong in order to detect illicit gold traders and deny them access to the global financial system.

### **3. Contract transparency**

In addition to consequences, greater transparency is needed around gold and minerals to prevent corruption by Chinese and other mining entities in the DRC and beyond. Sunlight can be the best disinfectant. As EITI has recognized and adopted in recent years, a critical method of flushing out corruption and improving governance in mining is through the comprehensive disclosure of mining contracts.<sup>69</sup> EITI adopted contract transparency, but only 29 percent of EITI implementing countries publish mining contracts in full.<sup>70</sup> This is one key part of meaningfully consulting communities affected by mining and allowing them to participate in decisions affecting their lives; these binding roles for civil society in local communities should be part of all Chinese and other mining contracts.

The State Department and industry should help increase mining contract transparency in the DRC and in sub-Saharan Africa. Electronics and automotive companies can use supply chain leverage to this end, and the State Department can provide support through senior-level diplomatic engagement. The transparency should include obtaining and publishing the beneficial ownership structures of the mining companies, including joint venture partners; requiring producers and suppliers to publish production contracts; requiring all mining companies to identify all contractors and subcontractors that provide services to the producer in excess of a reasonable threshold (e.g., \$100,000); and requiring the disclosure of payments to governments. The U.S. government should also urge the Congolese government to publish the contract that Dan Gertler signed with the DRC in 2022, which remains largely opaque.<sup>71</sup>

As part of this effort, U.S. and European end-user companies should require mining companies in their supply chains that are operating in the DRC to hire the majority of their Congolese workforce directly, not through subcontractors, and ensure that a living wage is paid and healthcare is provided.

Relatedly, artisanal miners need legal space in which to work, otherwise the corruption and human rights abuses will continue unabated. Formalization gives artisanal miners property rights, and enforcing laws and regulations around their work is instrumental to improving working conditions.<sup>72</sup> The most important first step in the DRC would be to designate many more artisanal mines as official mining zones, known by their French acronym ZEA.<sup>73</sup> The State Department and electronics and automotive companies should strongly urge the DRC Mining Ministry to create more ZEAs at cobalt and gold mines and to take other steps to formalize artisanal and small-scale mining, for instance, by agreeing to a workable, enforceable set of criteria for mine safety and rights.

#### **4. Using leverage**

China still needs U.S. markets. While China may control a large portion of the critical minerals trade, their companies still want to sell to U.S. and western markets, which are still the biggest in the world for electronics and important for EVs. Chinese companies supply to Tesla, Apple, Ford, etc. U.S. automotive and electronics companies thus still have important leverage on this supply chain through their combined buying power, which they can exert through due diligence, tracing, and auditing. And cobalt supply chains, for example, are relatively short and simple compared to other minerals, with only about 75 major cobalt smelters worldwide<sup>74</sup> becoming the choke point in supply chains.

One key point of leverage is the smelter auditing program of the electronics industry association Responsible Minerals Initiative (RMI), which runs audits of the cobalt smelters on conflict minerals, child labor, and environmental issues. A majority of the world's major cobalt smelters are participating in the program: 53 smelters worldwide have undergone and passed the audits, including 27 Chinese companies, and 11 more are in the process of being audited, including four Chinese smelters.<sup>75</sup>

However, the Chinese Chamber of Commerce on Metals, Minerals, and Chemicals, or CCCMC, devised its own smelter audit program on cobalt in 2023.<sup>76</sup> This threatens progress, as the Chinese program's audits are not subject to independent third-party international scrutiny. Tesla, Apple, Google, and other key cobalt using companies should work with the State Department to negotiate an agreement with the key Chinese entities on cobalt, CCCMC and China Minmetals Corporation, to create a credible electronics industry/Chinese auditing program for all smelters. The agreement should allow smelters an implementation period, and companies should either urge all smelters to participate in RMI audits or come to an agreement with the CCCMC to have joint oversight over the audits. That could be by sharing auditors or by ensuring that RMI auditors are part of the CCCMC audits.

Additionally, tech companies and the State Department should insist that all crude refiners of cobalt and copper in the DRC, which are the closest to child labor and other abuses, undergo RMI audits. This would be key to reforming the critical minerals trade in the DRC.

In sum, abuses and corruption by Chinese and other mining companies are only increasing in the DRC and sub-Saharan Africa, but there are critically important steps that the U.S. government can take, in coordination with the private sector, to combat them. Importantly, this is also in the U.S. interest to do so,



as it could reduce business and supply chain risks for American companies. I sincerely hope that progress is made on these issues so that Congolese and other mining communities in Africa no longer experience the horrors that I have seen.

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<sup>6</sup> Transparency International, “Corruption Perceptions Index 2024,” February 2025, available at: <https://www.transparency.org/en/cpi/2024>

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<sup>9</sup> U.S. Geological Survey, “Cobalt: Annual Report 2025,” available at: <https://pubs.usgs.gov/periodicals/mcs2025/mcs2025-cobalt.pdf>

<sup>10</sup> U.S. Geological Survey, “Tantalum Annual Report for 2025,” available at: <https://pubs.usgs.gov/periodicals/mcs2025/mcs2025-tantalum.pdf>

<sup>11</sup> Marco Aquino and Felix Ninji, “Congo overtakes Peru on copper output, still behind on exports,” Reuters, March 22, 2024, available at: <https://www.reuters.com/markets/commodities/congo-overtakes-peru-copper-output-still-behind-exports-2024-03-22/>

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<sup>13</sup> Transparency International Corruption Perceptions Index, 2012-2024, available at: <https://www.transparency.org/en/countries/democratic-republic-of-the-congo>

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