



August 2015

# SEC CONFLICT MINERALS RULE

Initial Disclosures  
Indicate Most  
Companies Were  
Unable to Determine  
the Source of Their  
Conflict Minerals

## Why GAO Did This Study

Armed groups in eastern DRC continue to commit severe human rights abuses and profit from the exploitation of minerals, according to the United Nations. Congress included a provision in the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act that, among other things, directed SEC to promulgate disclosure and reporting regulations regarding the use of conflict minerals from the DRC and adjoining countries. The act also directed State and USAID to develop a strategy to address the linkages among human rights abuses, armed groups, the mining of conflict minerals, and commercial products.

This report examines (1) company disclosures filed with SEC for the first time in 2014 in response to the SEC conflict minerals disclosure rule; and (2) State and USAID actions related to the U.S. conflict minerals strategy in the DRC region. This report also includes information on sexual violence in the DRC and three adjoining countries. GAO reviewed and analyzed relevant documents and data and interviewed officials from relevant U.S. agencies and nongovernmental, industry, and international organizations; and analyzed a random sample of company disclosures from the SEC database that was sufficiently large to produce estimates for all companies that filed. GAO also traveled to the DRC, Rwanda, and Burundi to conduct field work.

## What GAO Recommends

GAO is not making any recommendations.

View [GAO-15-561](#). For more information, contact Kimberly Gianopoulos at (202) 512-8612 or [GianopoulosK@gao.gov](mailto:GianopoulosK@gao.gov).

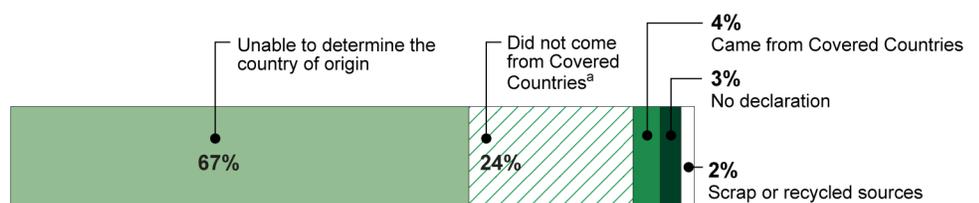
# SEC CONFLICT MINERALS RULE

## Initial Disclosures Indicate Most Companies Were Unable to Determine the Source of Their Conflict Minerals

### What GAO Found

According to a generalizable sample GAO reviewed, company disclosures filed with the Securities and Exchange Commission (SEC) for the first time in 2014 in response to the SEC conflict minerals disclosure rule indicated that most companies were unable to determine the source of their conflict minerals. Companies that filed disclosures used one or more of the four “conflict minerals”—tantalum, tin, tungsten, and gold—determined by the Secretary of State to be financing conflict in the Democratic Republic of the Congo (DRC) or adjoining countries. Most companies were based in the United States (87 percent). Almost all of the companies (99 percent) reported performing country-of-origin inquiries for conflict minerals used. Companies GAO spoke to cited difficulty obtaining necessary information from suppliers because of delays and other challenges in communication. Most of the companies (94 percent) reported exercising due diligence on the source and chain of custody of conflict minerals used. However, most (67 percent) were unable to determine whether those minerals came from the DRC or adjoining countries (Covered Countries), and none could determine whether the minerals financed or benefited armed groups in those countries. Companies that disclosed that conflict minerals in their products came from covered countries (4 percent) indicated that they are or will be taking action to address the risks associated with the use and source of conflict minerals in their supply chains. For example, one company indicated that it would notify suppliers that it intends to cease doing business with suppliers who continue to source conflict minerals from smelters that are not certified as conflict-free.

Types of Company Declarations Reported in Response to the SEC Conflict Minerals Disclosure Rule in 2014



Source: GAO. | GAO-15-561

<sup>a</sup>Covered Countries: Angola, Burundi, Central African Republic, the Democratic Republic of the Congo, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia.

Department of State (State) and U.S. Agency for International Development (USAID) officials reported taking actions to implement the U.S. conflict minerals strategy, but a difficult operating environment complicates this implementation. The agencies reported supporting a range of initiatives including validation of conflict-free mine sites and strengthening traceability mechanisms that minimize the risk that minerals that have been exploited by illegal armed groups will enter the supply chain. As a result, according to the agencies, 140 mine sites have been validated and competition within conflict-free traceability systems has benefited artisanal miners and exporters. Implementation of the U.S. conflict minerals strategy faces multiple obstacles outside the control of the U.S. government. For example, eastern DRC is plagued by insecurity because of the presence of illegal armed groups and some corrupt members of the national military, weak governance, and poor infrastructure.

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## Abbreviations

CFSI	Conflict-Free Sourcing Initiative
CMR	Conflict Minerals Report
Commerce	United States Department of Commerce
DHS	Demographic and Health Survey
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
DRC	Democratic Republic of the Congo
EDGAR	Electronic Data Gathering, Analysis, and Retrieval
FDLR	Forces Democratiques de Liberation du Rwanda
GDRC	DRC government
HAI	Heartland Alliance International
ICGLR	International Conference on the Great Lakes Region
IOM	International Organization for Migration
IPIS	International Peace Information Service
IPSA	Independent Private Sector Audit
MONUSCO	UN Organization Stabilization Mission in the Democratic Republic of the Congo
MPSMRM	Ministry of Planning and Implementation of the Modern Revolution
MSP	Ministry of Public Health
NGO	nongovernmental organization
OECD	Organization for Economic Co-operation and Development
PPA	Public-Private Alliance for Responsible Minerals Trade
RCOI	reasonable country-of-origin inquiry
SAM	Save Act Mine
SD	Specialized Disclosure
SEC	Securities and Exchange Commission
Securities Exchange Act	Securities Exchange Act of 1934
State	United States Department of State
UN	United Nations
UNDP	United Nations Development Program
UNFPA	United Nations Population Fund
UNGOE	UN Group of Experts
USAID	United States Agency for International Development

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August 18, 2015

Congressional Committees

Over the past decade, the United States and the international community have sought to improve security in the Democratic Republic of the Congo (DRC), the site of one of the world’s worst humanitarian crises. An estimate by the International Rescue Committee indicated that since 1998, more than 5.4 million people have died in the DRC as a result of this crisis, which has also destabilized the minerals-rich eastern part of the country, created insecurity, displaced thousands of people, and perpetuated a cycle of poverty. As we previously reported, illegal armed groups and some units of the Congolese national military have committed severe human rights abuses and mass killings and profited from the illegal exploitation of minerals originating in eastern DRC, particularly in the provinces of North Kivu and South Kivu.<sup>1</sup> In January 2015, the United Nations (UN) reported that the momentum created by the defeat of M-23, an illegal armed group, in November 2013 failed to translate into significant gains in security and stability in 2014 in eastern DRC. The UN also reported that while there has been progress on traceability and due diligence efforts concerning minerals produced in the DRC, smuggling continues, and that elements of the Congolese army and some armed groups remain involved in the minerals trade.

Congress included a provision in the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act<sup>2</sup> (hereafter referred to as the Dodd-Frank Act, or the act) that addressed the trade in “conflict minerals”—tantalum, tin, tungsten, and gold.<sup>3</sup> Section 1502 of the act directed

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<sup>1</sup>GAO, *The Democratic Republic of the Congo: U.S. Agencies Should Take Further Action to Contribute to the Effective Regulation and Control of the Minerals Trade in Eastern Democratic Republic of the Congo*, [GAO-10-1030](#) (Washington, D.C.: Sept. 30, 2010).

<sup>2</sup>Pub. L. No. 111-203, § 1502. 124 Stat. 1376, 2213-18.

<sup>3</sup>The Dodd-Frank Act defines conflict minerals as columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives, or any other mineral or its derivatives that are determined by the Secretary of State to be financing conflict in the DRC or an adjoining country. See Pub. L. No. 111-203, § 1502(e)(4). Columbite-tantalite, cassiterite, and wolframite are the ores from which tantalum, tin, and tungsten, respectively, are processed.

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several U.S. agencies—the Securities and Exchange Commission (SEC), the Department of State (State), the U.S. Agency for International Development (USAID), and the Department of Commerce (Commerce)—to take certain actions to implement the act’s conflict minerals provisions. For example, Section 1502(b) of the act required SEC, in consultation with State, to promulgate disclosure and reporting regulations regarding the use of conflict minerals from the DRC and adjoining countries. SEC adopted its conflict minerals disclosure rule in August 2012.<sup>4</sup> The act also required State, in consultation with USAID, to submit to appropriate congressional committees a conflict minerals strategy to address the linkages between human rights abuses, armed groups, mining of conflict minerals, and commercial products.<sup>5</sup> In addition, the act mandated GAO to report, beginning in 2012, and annually thereafter, on the effectiveness of the SEC rule in promoting peace and security in the DRC and adjoining countries and to report annually, beginning in 2011, on the rate of sexual violence in war-torn areas of the DRC and adjoining countries, among other things.<sup>6</sup>

This report examines (1) company disclosures filed with SEC for the first time in 2014 in response to the SEC conflict minerals disclosure rule, (2) State and USAID actions related to the U.S. conflict minerals strategy in the DRC region, and (3) any new information on the rate of sexual violence in eastern DRC and three adjoining countries—Burundi, Rwanda, and Uganda—that has become available since we issued our 2014 report.

To address our objectives, we analyzed documents and data and interviewed officials from State, USAID, SEC, Commerce, nongovernmental organizations (NGO), industry, and international organizations, including several offices within the United Nations. To examine company disclosures filed with SEC in 2014 in response to the

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<sup>4</sup>Conflict Minerals, 77 Fed. Reg. 56,274, (Sept. 12, 2012) (codified at 17 C.F.R. § 240.13p-1).

<sup>5</sup>See Pub. L. No. 111-203, § 1502(c). Section 1502 of the act defines “appropriate congressional committees” to mean the Committee on Appropriations, the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on Financial Services of the House of Representatives, and the Committee on Appropriations; the Committee on Foreign Relations; the Committee on Finance; and the Committee on Banking, Housing, and Urban Affairs of the Senate.

<sup>6</sup>Pub. L. No. 111-203, § 1502(d).

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SEC rule, we downloaded Specialized Disclosure reports and Conflict Minerals Reports from SEC’s publically available Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database. We randomly sampled 147 reports from a population of 1,324 to create estimates generalizable to the population of all companies that filed. All estimates based on our sample have a margin of error of plus or minus 10 percentage points or less at the 95 percent confidence level. We determined that the EDGAR database was sufficiently reliable for identifying the universe of filings on July 31, 2014. We reviewed the Dodd-Frank Act and the requirements of the SEC disclosure rule to develop a questionnaire that guided our data collection and analysis of the filings. We also attended an industry conference on conflict minerals and spoke with company representatives to obtain additional perspectives. We traveled to the DRC, Burundi, and Rwanda to conduct field work. We met with a range of stakeholders, including NGOs, contractors, international organizations, and private sector representatives, and visited three conflict minerals sites—a tantalum mine in the DRC, a tin mine in Rwanda, and a gold mine in Burundi—to observe operations and artisanal mining activities.<sup>7</sup> For a complete description of our scope and methodology, see appendix I.

We conducted this performance audit from September 2014 to August 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

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### Brief History of Conflict in the DRC and the Region

The DRC is a vast, mineral-rich nation with an estimated population of about 75 million people and an area that is roughly one-quarter the size of the United States, according to the UN. The map in figure 1 shows the DRC’s provinces and adjoining countries.

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<sup>7</sup>Artisanal mining is a form of mining that is characterized by a lack of mechanization or capital investment.

**Figure 1: Map of the Democratic Republic of the Congo with Provinces and Adjoining Countries**



Source: GAO based on UN map. | GAO-15-561

Note: According to USAID, the DRC recently rolled out a decentralization scheme that has changed the number of provinces from 11 to 26.

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Since its independence in 1960, the DRC has undergone political upheaval, including a civil war, according to State. In particular, eastern DRC has continued to be plagued by violence, often perpetrated against civilians by illegal armed groups and some members of the Congolese national military. In November 2012, M-23, an illegal armed group, occupied the city of Goma and other cities in eastern DRC and clashed with the Congolese national army. During this time, the UN reported numerous cases of sexual violence against civilians, including women and children, which were perpetrated by armed groups and some members of the Congolese national military.

Some of the adjoining countries in the region have also experienced recent turmoil, which has led to flows of large numbers of refugees and internally displaced persons into the DRC.<sup>8</sup> The United Nations High Commissioner for Refugees (UNHCR) estimated that as of mid-2013 there were close to 50,000 refugees from the Central African Republic, over 120,000 refugees from other countries, and around 2.6 million internally displaced persons living in camps or with host families in the DRC.

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## Uses of Conflict Minerals

Various industries, particularly manufacturing industries, use the four conflict minerals in a wide variety of products. For example, tin is used to solder metal pieces and is also found in food packaging, in steel coatings on automobile parts, and in some plastics. Most tantalum is used to manufacture tantalum capacitors, which enable energy storage in electronic products such as cell phones and computers, and to produce alloy additives, which can be found in turbines in jet engines. Tungsten is used in automobile manufacturing, drill bits and cutting tools, and other industrial manufacturing tools and is the primary component of filaments in light bulbs. Gold is used as reserves and in jewelry and is used by the electronics industry.

As we reported in 2013, conflict minerals are mined in various locations around the world. For example, tin is predominantly mined in China, Indonesia, Peru, and Bolivia, as well as in the DRC, while tantalum is reportedly predominantly mined in areas such as Australia, Brazil, and

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<sup>8</sup>According to the UN, internally displaced persons are people who have not crossed an international border but have moved to a different region than the one they call home within their own country to escape war, persecution, or terror.

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Canada. Gold, however, is mined in many different countries, including the DRC.

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## U.S. Government Response to Conflict in the DRC

Congress has focused on issues related to the DRC for almost a decade. In 2006, Congress passed the Democratic Republic of Congo Relief, Security, and Democracy Promotion Act of 2006, stating that U.S policy is to engage with governments working for peace and security throughout the DRC and hold accountable any individuals, entities, and countries working to destabilize the country.<sup>9</sup> In July 2010, Congress passed the Dodd-Frank Act, of which Section 1502 included several provisions concerning conflict minerals in the DRC and adjoining countries.<sup>10</sup> The act directs State, USAID, SEC, and Commerce to take steps on matters related to the implementation of those provisions (see text box).

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<sup>9</sup>Pub. L. No. 109-456, § 102(14), 120 Stat. 3384.

<sup>10</sup>Pub. L. No. 111-203, § 1502.

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### **Dodd-Frank Act Provisions Concerning Conflict Minerals in the Democratic Republic of the Congo and Adjoining Countries**

- Section 1502(a) states that “it is the sense of the Congress that the exploitation and trade of conflict minerals originating in the Democratic Republic of the Congo is helping to finance conflict characterized by extreme levels of violence in the eastern Democratic Republic of the Congo, particularly sexual- and gender-based violence, and contributing to an emergency humanitarian situation therein, warranting the provisions of section 13(p) of the Securities Exchange Act of 1934, as added by subsection (b).”
- Section 1502(b) requires the Securities and Exchange Commission (SEC), in consultation with the Department of State (State), to promulgate disclosure and reporting regulations regarding the use of conflict minerals from the DRC and adjoining countries.
- Section 1502(c) requires State and the U.S. Agency for International Development (USAID) to develop, among other things, a strategy to address the linkages among human rights abuses, armed groups, the mining of conflict minerals, and commercial products.
- Section 1502(d) requires that the Department of Commerce report, among other things, a listing of all known conflict minerals-processing facilities (smelters and refiners) worldwide.

Source: GAO analysis. | GAO-15-561

As we have previously reported, SEC, State, USAID, and Commerce have each taken steps to address the provisions of the act.

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SEC Promulgated Conflict Minerals Disclosure Rule in 2012

SEC issued its conflict minerals disclosure rule in August 2012<sup>11</sup> in response to Section 1502(b) of the Dodd-Frank Act, which required that SEC promulgate disclosure and reporting regulations regarding the use of conflict minerals from the DRC and adjoining countries by April 2011.<sup>12</sup> In its summary of the rule, SEC noted that to accomplish the goal of helping to end the human rights abuses in the DRC caused by the conflict, Congress chose to use the securities laws disclosure requirements to bring greater public awareness of the source of companies’<sup>13</sup> conflict minerals and to promote the exercise of due diligence on conflict mineral supply chains.<sup>14</sup>

In the SEC adopting release, SEC noted that it understood Congress’s main purpose in doing so was to attempt to inhibit the ability of armed groups in the DRC and adjoining countries to fund their activities by exploiting the trade in conflict minerals. According to SEC, Congress’s objective was to promote peace and security, and reducing the use of such conflict minerals was intended to help reduce funding for the armed groups contributing to the conflict and thereby put pressure on such groups to end the conflict. SEC also indicated that one of the cosponsors of the provision noted that the provision would “enhance transparency”

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<sup>11</sup>77 Fed. Reg. 56,274.

<sup>12</sup>The term “adjoining country” is defined in Section 1502(e)(1) of the Act as a country that shares an internationally recognized border with the DRC, which included Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia at the time that SEC issued its conflict minerals disclosure rule. Pub. L. No. 111-203, § 1502. For the purposes of the conflict minerals disclosure rule, SEC refers to these countries as “Covered Countries.”

<sup>13</sup>The rule uses the term “issuers.” As adopted, the final rule applies to any issuer that files reports with SEC under Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a) and 78o(d)) and uses conflict minerals that are necessary to the functionality or production of a product manufactured or contracted by that issuer to be manufactured. For the purposes of our report, we refer to those issuers affected by the rule as “companies.”

<sup>14</sup>The Organisation for Economic Co-operation and Development defines “due diligence” as an ongoing, proactive, and reactive process through which companies can ensure that they respect human rights and do not contribute to conflict. Due diligence can also help companies ensure that they observe international law and comply with domestic laws, including those governing the illicit trade in minerals and UN sanctions. Risk-based due diligence refers to the steps companies should take to identify and address actual or potential risks in order to prevent or mitigate adverse impacts associated with their activities or sourcing decisions.

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and “also help American consumers and investors make more informed decisions.”<sup>15</sup>

Companies are required to file a Specialized Disclosure report (Form SD) if they manufacture or contract to manufacture products that contain conflict minerals necessary to the functionality or production of the products and, as applicable, file a Conflict Minerals Report. The form provides general instructions to companies for filing the conflict minerals disclosure and specifies the information that their Conflict Minerals Reports must include. Companies were required to file under the rule for the first time by June 2, 2014, and annually thereafter on May 31.<sup>16</sup>

State and USAID Developed  
U.S. Conflict Minerals  
Strategy in 2011

In 2011, State and USAID developed the U.S. Strategy to Address the Linkages between Human Rights Abuses, Armed Groups, Mining of Conflict Minerals and Commercial Products. The strategy includes five objectives:

1. *Promoting an Appropriate Role for Security Forces.* U.S. efforts under this objective aim to end the commercial role of the DRC security forces in the minerals trade and to make the security forces more effective within their appropriate, limited role in monitoring and securing trade.
2. *Enhance Civilian Regulation of the DRC Minerals Trade.* U.S. efforts under this objective will aim to increase the capacity of DRC civilian authorities involved in overseeing the minerals trade, particularly in the east.
3. *Protect Artisanal Miners and Local Communities.* U.S. efforts under this objective will aim to reduce the vulnerability of men and women in local communities directly and indirectly engaged in the mining sector.
4. *Strengthen Regional and International Efforts.* U.S. efforts under this objective aim to support the implementation and coordination of national, regional, and international efforts to promote monitoring, certification, and traceability—particularly the Great Lakes regional

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<sup>15</sup>77 Fed. Reg. 56,274.

<sup>16</sup>The first filing date was set for June 2, 2014, because May 31, 2014 occurred on a weekend. As explained in the SEC adopting release published in the *Federal Register*, if the deadline for filing the conflict minerals disclosure report occurs on a weekend, or a holiday on which SEC is not open for business, then the deadline shall be the next business day.

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Commerce Issued List of  
Known Conflict Minerals-  
Processing Facilities in  
September 2014

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initiative—as well as the harmonization of due diligence guidance developed in various forums.

5. *Promote Due Diligence and Responsible Trade through Public Outreach.* U.S. efforts will aim, through public outreach, to encourage all stakeholders to take steps at the local, regional, and international level to promote the responsible trade in minerals.

Following our June 2014 report,<sup>17</sup> Commerce issued a list of all known conflict minerals-processing facilities worldwide in September 2014.<sup>18</sup> We reported in June 2014 that Commerce had not yet fulfilled its mandate under the act to report, among other things, a list of all known conflict minerals-processing facilities worldwide to appropriate congressional committees. We also recommended that the Secretary of Commerce provide to Congress a plan that outlines the steps, with associated time frames, to develop and report the required information about smelters and refiners of conflict minerals worldwide. As of July 2015, GAO was reviewing Commerce’s related actions to assess its progress toward implementing the recommendation.

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<sup>17</sup>GAO, *Conflict Minerals: Stakeholder Options for Responsible Sourcing Are Expanding, but More Information on Smelters Is Needed*, GAO-14-575 (Washington D.C.: June 26, 2014).

<sup>18</sup>As of June 2015, the list was accessible online at <http://www.ita.doc.gov/td/forestprod/DOC-ConflictMineralReport.pdf>.

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## First Company Filings in Response to the SEC Rule Are Fewer Than SEC Estimated and Provide Limited Insights Regarding Country of Origin and Chain of Custody

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### Companies Filed for the First Time in Response to the SEC Rule in 2014 on Conflict Minerals Used in 2013

Companies filed for the first time in response to the SEC rule in 2014 on conflict minerals used in calendar year 2013. As we previously reported, SEC adopted the final conflict minerals disclosure rule on August 22, 2012.<sup>19</sup> As adopted, the final rule applies to any company that files reports with SEC under Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934<sup>20</sup> and uses conflict minerals that are necessary to the functionality or production of a product manufactured or contracted by that company to be manufactured.<sup>21</sup> The SEC conflict minerals disclosure rule details a process for companies to follow, as applicable, to comply with the rule. Broadly, the process falls into three steps that require a company to (1) determine whether the rule applies to it; (2) conduct a reasonable country of origin inquiry concerning the origin of conflict minerals used; and (3) exercise due diligence, if appropriate, to determine the source and chain of custody of conflict minerals used. Figure 2 depicts SEC's flowchart summary of the conflict minerals disclosure rule.<sup>22</sup>

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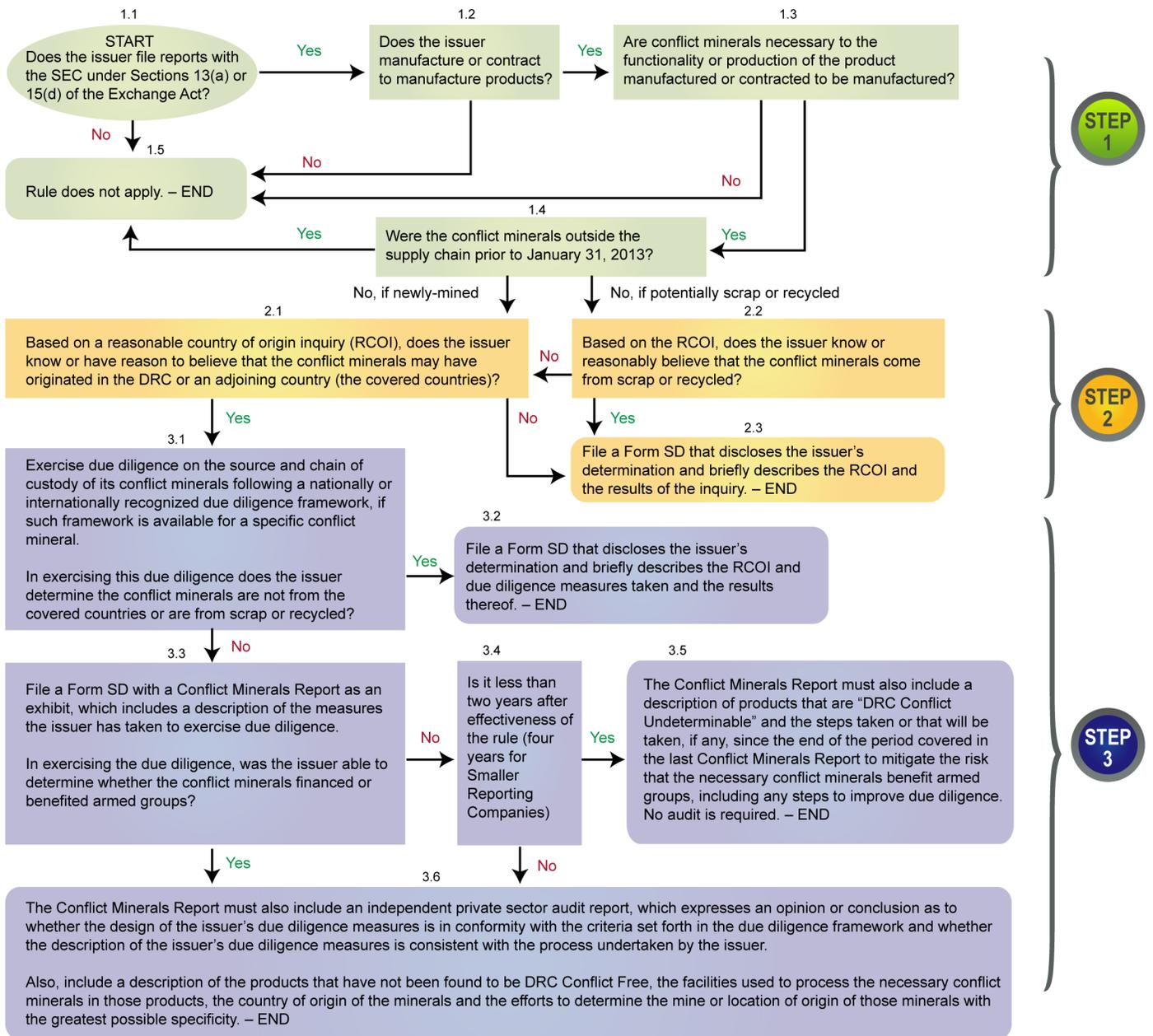
<sup>19</sup>According to SEC, when SEC proposes or adopts a set of rules, often those rules are contained in a single document, called a proposing release or adopting release.

<sup>20</sup>15 U.S.C. §§ 78m(a) and 78o(d).

<sup>21</sup>77 Fed. Reg. 56,274.

<sup>22</sup>SEC notes that the flow chart is intended merely as a guide and that companies should refer to the rule text and the preamble's narrative description for the requirements of the rule. While our discussion in this section is guided by the SEC flowchart, for the purposes of this report, we do not elaborate on every element in the flowchart.

**Figure 2: SEC Flowchart Summary of the Conflict Minerals Disclosure Rule**



Source: Securities and Exchange Commission (SEC). | GAO-15-561

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*Step 1: Determine Applicability of the Conflict Minerals Disclosure Rule*

A company is subject to the rule if, as step 1 of figure 2 indicates, the company files reports with SEC under Section 13(a) or 15(d) of the Exchange Act and conflict minerals are necessary to the functionality or production of a product manufactured or contracted by that company to be manufactured. If a company does not meet this definition, it is not required, under the conflict minerals rule, to take any action, make any disclosures, or submit any reports. If, however, a company meets this definition, the company moves to step 2 of figure 2 (discussed later) and must file a Form SD.

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**Number of Companies Was Lower than SEC Estimated; Most Were Domestic**

The number of companies that filed Form SDs in 2014—1,321—was substantially lower than SEC’s estimate of 6,000 companies that could possibly be affected by the rule. In its rule proposal, SEC had estimated that approximately 6,000 companies could possibly be affected by the rule by estimating the number and types of businesses that SEC staff believed may manufacture or contract to manufacture products with conflict minerals necessary to the functionality or production of those products. According to an SEC official, this estimate was intentionally overly inclusive, was not an expectation, and was provided to satisfy the requirements of the Paperwork Reduction Act.<sup>23</sup>

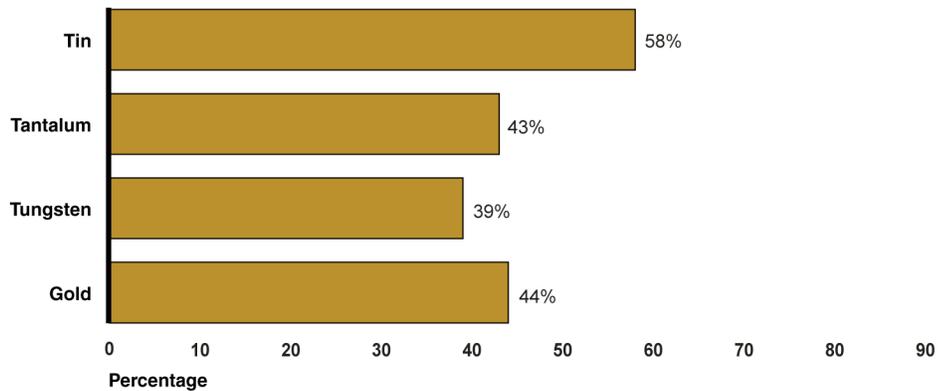
Our analysis of a sample of 2014 Form SD filings indicated that an estimated 87 percent of the companies that filed were domestic, while an estimated 13 percent were foreign.<sup>24</sup> Also, while not all of the companies in our sample identified which conflict minerals they used in calendar year 2013, as there was no requirement in the rule to do so, of those companies that did, about 58 percent reported using tin, 43 percent reported using tantalum, 39 percent reported using tungsten, and 44 percent reported using gold (see fig. 3).

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<sup>23</sup>For the purpose of the Paperwork Reduction Act of 1995, the Commission was required to estimate the number of companies that could be affected by the collection of information requirements of the rule. Pub. L. No. 104-13, 109 Stat. 163 (codified at 44 U.S.C. §§ 3501-3520).

<sup>24</sup>Unless otherwise noted, all estimates of percentages have a margin of error of no more than plus or minus 10 percentage points.

**Figure 3: Percentage of Companies That Reported in Response to the SEC Conflict Minerals Disclosure Rule in 2014 That They Used Conflict Minerals in Calendar Year 2013**



Conflict minerals = Tantalum, tin, tungsten, or gold.

Source: GAO analysis of SEC data. | GAO-15-561

Note: this percentage breakdown is based on our analysis of company filings from the SEC database. All estimates of percentages have a margin of error of no more than plus or minus 10 percentage points.

*Step 2: Conduct a Reasonable Country of Origin Inquiry (RCOI) Regarding the Origin of Conflict Minerals*

**Company Filings in 2014 Indicate Companies Performed Country-of-Origin Inquiry but Provided Limited Insights Regarding Country of Origin of Conflict Minerals Used, Citing Difficulty Obtaining Information From Suppliers**

The sample of filings in 2014 that we reviewed indicates that 99 percent of companies conducted a country-of-origin inquiry and most companies reported that they were unable to determine the country of origin of conflict minerals they had used in 2013. Company representatives we interviewed cited difficulties in obtaining information from suppliers. If a company determines that it is subject to the SEC conflict minerals disclosure rule, the company is required to conduct a reasonable country of origin inquiry regarding the origin of conflict minerals it used and disclose its determination in a Form SD (illustrated by step 2.1 of fig. 2). The rule does not prescribe the specific actions that are required for an RCOI, noting that it will depend on each company’s facts and circumstances. However, the rule provides general standards: A company must conduct an inquiry regarding the origin of conflict minerals it used that is reasonably designed to determine whether any of those conflict minerals originated in the Covered Countries or are from recycled or

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scrap sources, and must conduct the inquiry in good faith.<sup>25</sup> Moreover, the rule recognizes that a company, after conducting an RCOI, may not know whether conflict minerals it used originated from a Covered Country. For example, the rule explains that step 3 can be triggered by the determination that the company has a reason to believe that its necessary conflict minerals may have originated in the Covered Countries and may not have come from recycled or scrap sources.

According to our analysis of all companies in our sample that filed a Form SD in 2014, an estimated

- 67 percent reported that they were unable to determine the country of origin,
- 4 percent reported that conflict minerals came from Covered Countries,
- 24 percent reported that conflict minerals did not originate in Covered Countries,
- 2 percent reported that conflict minerals came from scrap or recycled sources, and
- 3 percent did not provide a clear determination.

In our analysis of a sample of filings, an estimated 99 percent of companies that filed a Form SD reported conducting an RCOI. Almost all (96 percent) of the companies reported that they conducted a survey of their suppliers to try to obtain information about whether they used conflict minerals, the country of origin of those conflict minerals, and the processor of the conflict minerals. We did not systematically analyze how companies conducted their supplier surveys, but a few of the Form SDs that we reviewed and some company representatives we spoke with indicated that they used a supplier survey and industry template to conduct their RCOIs. For example, one company reported that its method for determining the country of origin of its minerals was to conduct a supply chain survey with direct suppliers using a template developed by an industry association. Another company reported contacting suppliers

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<sup>25</sup>Covered Countries are the DRC and countries that share an internationally recognized border with the DRC, which included Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia at the time that SEC issued its conflict minerals rule.

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and using an industry survey template—the Conflict Minerals Reporting Template—from the Conflict-Free Sourcing Initiative, an industry association. In our analysis, an estimated 47 percent of companies reported that they received responses from the suppliers they surveyed. Nineteen companies in our sample reported that they had 100 percent response rates from their suppliers, but 12 of them were unable to determine the source of the conflict minerals. Four reported that they were able to determine that conflict minerals they used did not come from Covered Countries, while 1 was able to determine that conflict minerals it used came from Covered Countries.<sup>26</sup> Representatives of some companies that we spoke with told us that they received information from suppliers that was incomplete, limiting their ability to determine the source and chain of custody of the conflict minerals they used in 2013. As we reported in July 2013, a company’s supply chain can involve multiple tiers of suppliers.<sup>27</sup> As a result, a request for information from a company could go through many suppliers, as figure 4 illustrates, delaying the communication of information to the company. For example, as we previously reported, companies required to report under the rule could submit the inquiries to their first-tier suppliers.<sup>28</sup> Those suppliers could either provide the reporting company with sufficient information or initiate the inquiry process up the supply chain, such as by distributing the inquiries to suppliers at the next tier—tier 2 suppliers. The tier 2 suppliers could inquire up the supply chain to additional suppliers, until the inquiries arrived at the smelter. Smelters could then provide the suppliers with information about the origin of the conflict minerals. Figure 4 illustrates the flow of information through the supply chain.

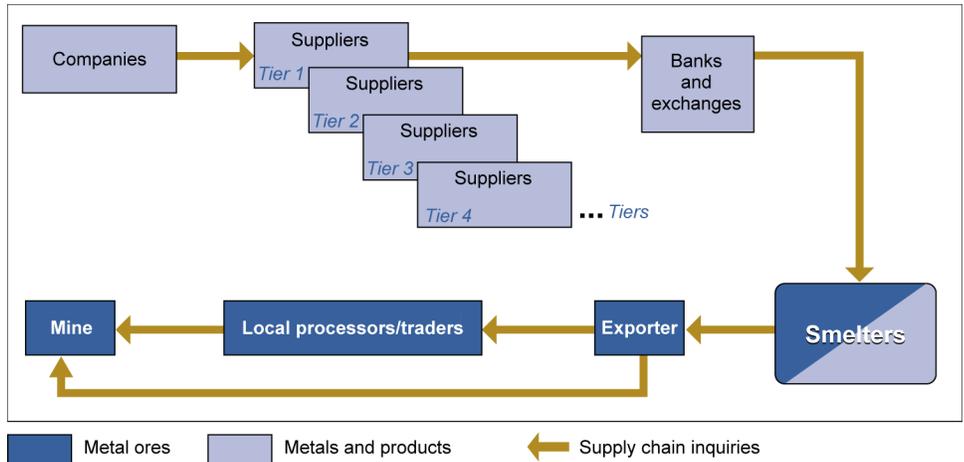
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<sup>26</sup>Two of the companies that reported getting a 100 percent response rate did not provide information about whether or not they were able to determine the source of conflict minerals they had used.

<sup>27</sup>GAO, *SEC Conflict Minerals Rule: Information on Responsible Sourcing and Companies Affected*, [GAO-13-689](#) (Washington D.C.: July 18, 2013).

<sup>28</sup>*Ibid.*

**Figure 4: Simplified Conflict Minerals Supply Chain Showing Tiers of Suppliers**



Source: GAO analysis. | GAO-15-561

Representatives of some companies that we spoke with told us that they were making efforts to address concerns about the lack of information on the country of origin of conflict minerals they had used. For example, one representative told us that in the future the company plans to include in all new and renewing contracts a conflict minerals clause that will require its suppliers to source only conflict-free minerals, leveraging continuing business negotiations with its suppliers and adding downward pressure for suppliers to source responsibly from the region. Another company’s representative told us that the company would alter its outreach strategies to contact suppliers sooner and more frequently during the reporting process.

The rule requires a company that determines that, based on its RCOI, conflict minerals it used (1) did not originate in the Covered Countries or (2) came from recycled or scrap sources, to disclose in its Form SD its determination and briefly describe the RCOI it used in reaching the determination and the results of the inquiry (illustrated in step 2.3 of fig. 2). As indicated above, an estimated 26 percent of all companies that filed a Form SD reported in these two categories. While we did not individually analyze each company’s description of method of RCOI in this group, as mentioned earlier, an estimated 96 percent of the companies in our sample that conducted an RCOI reported using supplier surveys.

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*Step 3: Exercise Due Diligence on the Source and Chain of Custody of Conflict Minerals Using a Nationally or Internationally Recognized Framework, if Available.*

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**Company Filings Indicate Companies Exercised Due Diligence but Most Were Unable to Determine Whether or Not Conflict Minerals Used Came From Covered Countries, or Whether They Financed or Benefited Armed Groups**

According to our analysis, the exercise of due diligence on the source and chain of custody of conflict minerals yielded little or no additional information, beyond the RCOI, regarding the country of origin of conflict minerals or whether the conflict minerals used in 2013 in products by companies benefited or financed armed groups in the Covered Countries.<sup>29</sup> According to the SEC rule, based on a company's RCOI, if a company knows that conflict minerals it used originated in the Covered Countries or has reason to believe that they may have originated in the Covered Countries and may not have come from recycled or scrap sources, the next step is to exercise due diligence using a nationally or internationally recognized due diligence framework, if such a framework is available for the necessary conflict minerals (step 3.1).<sup>30</sup>

- *Majority of companies exercised due diligence and most maintained the determination that they could not identify origin of conflict minerals.* According to our analysis, about 92 percent of the companies mentioned the OECD framework in connection with their

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<sup>29</sup>We asked SEC staff to define "source and chain of custody of conflict minerals" in the context of a company's exercise of due diligence. SEC staff noted that the Commission did not define these terms and did not specifically address in its releases how chain of custody relates to benefitting or financing armed groups. However, as depicted in figure 2, exercise of due diligence on source and chain of custody is associated with a company's ability to determine whether conflict minerals it used are not from covered countries or are from scrap or recycled (step 3.1); and whether those conflict minerals financed or benefited armed groups (step 3.3).

<sup>30</sup>While SEC did not specifically mandate the framework to be used, the SEC adopting release noted that it appears the only nationally or internationally recognized due diligence framework presently available is the due diligence guidance approved by the Organisation for Economic Co-operation and Development (OECD). The OECD due diligence guidance, which OECD adopted in 2011, includes supplements on tin, tantalum, tungsten, and gold. The framework's five steps are (1) establishing strong company management systems, (2) identifying and assessing risk in the supply chain, (3) designing and implementing a strategy to respond to identified risks, (4) carrying out an independent third-party audit of supply chain due diligence at identified points in the supply chain, and (5) reporting on supply chain due diligence. Organisation for Economic Cooperation and Development, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Second Edition*, OECD Publishing (2013), accessed June 23, 2014, <http://dx.doi.org/10.1787/9789264185050-en>.

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due diligence, while another 2 percent mentioned a framework other than the OECD framework.<sup>31</sup> Notwithstanding, the results remained as indicated above in the discussion of RCOI.<sup>32</sup> That is, an estimated 67 percent of all companies declared that they were unable to determine the country of origin of the conflict minerals in their products.

- *Companies unable to determine if conflict minerals benefited or financed armed groups in Covered Countries.* As we indicated in the discussion of RCOI, an estimated 4 percent of the companies determined that the necessary conflict minerals used in their products originated from Covered Countries. However, according to our analysis, all of these companies disclosed that they conducted due diligence on the source and chain of custody of conflict minerals they used but none were able to determine whether such conflict minerals financed or benefitted armed groups during the reporting period (step 3.3 of fig. 2).
- *SEC rule provides a temporary period during which companies can describe their products as “DRC conflict undeterminable.”* The SEC rule allows a temporary period during which, if after exercising due diligence for source and chain of custody of conflict minerals used in their products, companies remain unable to determine the origin of conflict minerals used and whether those minerals financed or benefitted armed groups, those companies can describe their products as DRC conflict undeterminable (step 3.5 of fig. 2) in their

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<sup>31</sup>We did not determine if or how the companies applied the five-step process of the OECD due diligence framework.

<sup>32</sup>According to one report, companies’ discussions of their RCOI and OECD due diligence guidance often were combined in the Conflict Minerals Report. In the sample the report analyzed, the majority of companies that filed a CMR included the substance of their RCOI within their discussion of the OECD guidance. See Schulte Roth & Zabel, *Conflict Minerals Reporting: A Review of Calendar Year 2013 Filings and Recommendations for Calendar Year 2014 Compliance*. September 2014.

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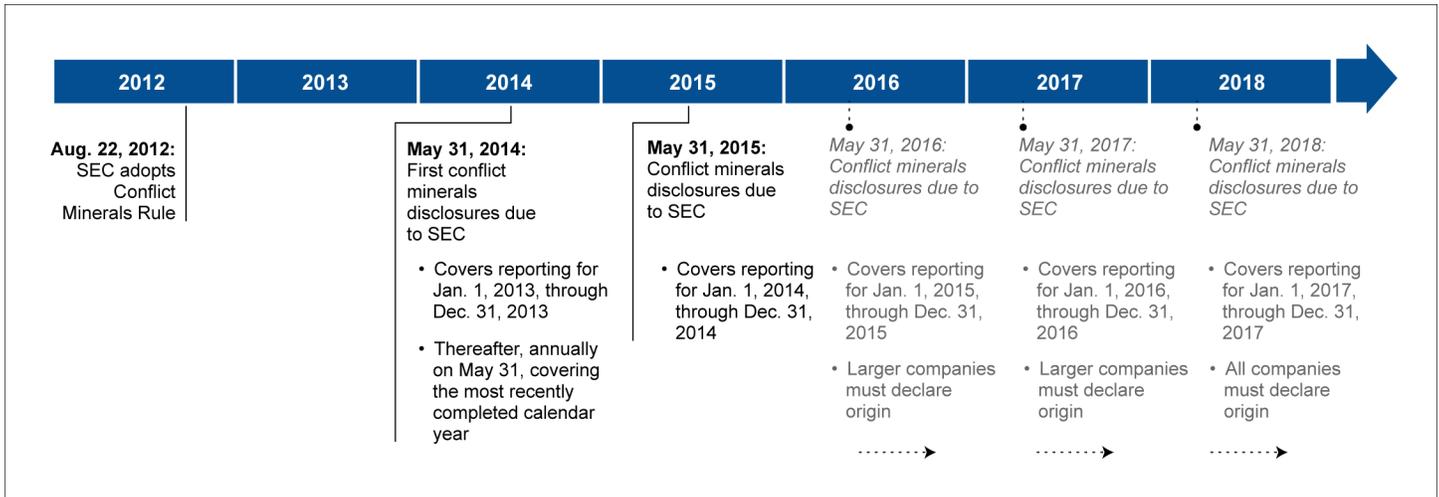
Conflict Minerals Report (CMR).<sup>33</sup> The temporary period is in place for 2 years for all companies and 4 years for smaller reporting companies following the effective date of the rule. However, due to continuing litigation in a legal challenge to the conflict minerals rule, SEC staff has issued guidance stating, among other things, that companies are not required to use this label.<sup>34</sup> See appendix II for additional information on this issue. Figure 5 depicts the SEC conflict minerals disclosure rule timeline. As we previously reported, SEC staff had indicated that they anticipated that most companies during the first year of filing would likely claim “DRC conflict undeterminable” in their disclosures. According to SEC staff, of the 1,321 companies that filed distinct Form SDs in 2014, 89 percent were larger companies, while smaller companies made up 11 percent of all companies that filed a Form SD.

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<sup>33</sup>As we reported in our July 2014 report, in October 2012, the U.S. Chamber of Commerce, the National Association of Manufacturers, and the Business Roundtable filed a lawsuit against SEC challenging the final conflict minerals rule, making claims based on the Administrative Procedure Act, the Securities Exchange Act of 1934, and the First Amendment. In July 2013, the U.S. District Court for the District of Columbia denied the plaintiff’s claims on all counts. See *National Association of Manufacturers v. SEC*, 956 F. Supp. 2d 43 (D.D.C. 2013). In August 2013, the petitioners appealed the decision to the U.S. Court of Appeals for the District of Columbia Circuit, and on April 14, 2014, the appeals court upheld the District Court’s findings on all the petitioners’ claims except the First Amendment claims, concluding that section 13(p) of the Exchange Act and the final conflicts minerals rule violate the First Amendment “to the extent the statute and rule require regulated entities to report to the Commission and to state on their website that any of their products have ‘not been found to be DRC conflict free.’” *National Association of Manufacturers, et al. v. SEC et al.*, No. 13-5252 (D.C. Cir. April 14, 2014). After the panel’s decision was issued, the SEC and intervenor in the case petitioned for rehearing. While the court was considering the petitions, the full DC Circuit issued a decision in a separate case that spoke to a First Amendment issue. *American Meat Institute v. U.S. Department of Agriculture*, 760 F.3d 18 (D.C. Cir. 2014). As a result, in November 2014, the panel hearing the conflict minerals case issued an order granting rehearing and directing the parties to file supplemental briefs regarding the impact of the new decision. Those briefs were filed in December 2014 and the court is currently in the process of reviewing the briefs.

<sup>34</sup>See *National Association of Manufacturers, et al. v. SEC et al.*, No. 13-5252 (D.C. Cir. April 14, 2014) and Keith F. Higgins, Director, SEC Division of Corporation Finance, Statement on the Effect of the Recent Court of Appeals Decision on the Conflict Minerals Rule (Apr. 29, 2014), available at <http://www.sec.gov/News/PublicStmnt/Detail/PublicStmnt/1370541681994>.

**Figure 5: The Securities and Exchange Commission (SEC) Conflict Minerals Disclosure Rule Timeline**



Source: GAO analysis. | GAO-15-561

Note: Under the SEC rule, if the deadline for filing the conflict minerals disclosure report occurs on a weekend, or a holiday on which SEC is not open for business, then the deadline shall be the next business day.

According to SEC, the temporary period recognizes that company processes for tracing conflict minerals through the supply chain must develop further. After the temporary period described above, if in exercising due diligence the company was not able to determine whether the conflict minerals came from Covered Countries or financed or benefited armed groups in those countries, it must include in its CMR a description of those products as not having been found to be DRC conflict free.<sup>35</sup>

- *Majority of companies should have filed conflict minerals report as an exhibit to their Form SDs.* The rule requires a company that exercised due diligence on the source and chain of custody of conflict minerals it used to file a Conflict Minerals Report as an exhibit to its Form SD (step 3.3), when appropriate. According to our analysis, at least an estimated 71 percent of companies should have filed a CMR as an exhibit to their Form SDs. The CMR must also include an Independent

<sup>35</sup>77 Fed. Reg. 56,274.

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Private Sector Audit (IPSA) report.<sup>36</sup> According to the SEC disclosure rule, the audit's objective is for the auditor to express an opinion or conclusion as to whether the design of the company's due diligence measures as set forth in the CMR, with respect to the period covered by the report, is in conformity with, in all material respects, the criteria set forth in the nationally or internationally recognized due diligence framework used by the company, and whether the company's description of the due diligence measures it performed as set forth in the CMR, with respect to the period covered by the report, is consistent with the due diligence process that the company undertook. Under the rule, for products that have not been found to be DRC Conflict Free, the companies are required to disclose, for those products, the facilities used to produce the conflict minerals, the country of origin of the minerals, and the efforts to determine the mine or location of origin.<sup>37</sup>

Companies that disclosed that conflict minerals came from covered countries indicated they are or will be taking action. Examples include the following:

- notify suppliers that the company intends to cease doing business with suppliers who continue to source conflict minerals from smelters that are not certified as conflict-free;
- include a conflict minerals clause in new or renewed contracts requiring suppliers to provide conflict minerals information on a prospective basis and identify alternative sources of conflict minerals if suppliers are found to be providing the company with minerals that support conflict in the Covered Countries;
- increase the number of surveyed suppliers; reach out earlier in the year, and direct suppliers to information and training resources;

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<sup>36</sup>In light of the ongoing legal case, SEC staff issued guidance on April 29, 2014, providing that an IPSA is not required unless a company voluntarily elects to describe any of its products as DRC conflict free in its Conflict Minerals report. Keith F. Higgins, Director, SEC Division of Corporation Finance, Statement on the Effect of the Recent Court of Appeals Decision on the Conflict minerals disclosure rule (Apr. 29, 2014), available at <http://www.sec.gov/News/PublicStmnt/Detail/PublicStmnt/1370541681994>.

<sup>37</sup>Pursuant to SEC guidance issued in response to ongoing litigation on April 29, 2014, subject to further action taken by either SEC or a court, no company currently is required to describe its products as "DRC conflict free," having "not been found to be 'DRC conflict free,'" or "DRC conflict undeterminable."

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- participate in the Conflict-Free Sourcing Initiative, an industry association effort, to define best practices and induce smelters and refiners to adopt socially responsible business practices; and
  - address, as appropriate, complaints or concerns expressed through grievance mechanisms.
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## State and USAID Actions to Implement the U.S. Conflict Minerals Strategy Have Yielded Some Results, but Conditions Remain Difficult

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### State and USAID Are Taking Action to Implement Strategy Objectives

State and USAID officials reported that they are implementing the U.S. conflict minerals strategy (the strategy) they submitted to Congress in 2011 through specific actions that address the five key objectives of the strategy. Both State and USAID officials in Washington and the region reiterated that the strategy and its five key objectives remain relevant although years have passed since the strategy was developed. In November 2014, we requested a consolidated list of the actions the agencies are taking under the strategy's objectives. The information we received included actions by each agency, or its implementing partners, and status or results, where applicable, as shown in tables 1 through 5.<sup>38</sup> State and USAID reported that some activities are associated with multiple objectives.

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<sup>38</sup>The information on agencies or implementing partners, activities, and results under each of the five objectives is presented as reported to us by State and USAID. We did not evaluate whether the reported activities are relevant to the objectives under which they are reported.

Promote an Appropriate Role for Security Forces (Objective 1)

As we previously reported, some members of the security forces in the DRC, such as some members of the Congolese national military units, are consistently and directly involved in human rights abuses against the civilian population in eastern DRC and are involved in the exploitation of conflict minerals and other trades. Some of the reported actions being undertaken by the International Organization for Migration (IOM), a USAID implementing partner, are helping to lessen the involvement of the military and increasing the role of legitimate DRC government stakeholders in mining areas (see table 1). For example, USAID reported that IOM has assisted with the planning and demilitarization of mine sites in eastern DRC through leading a multi-sector stakeholder process of mine validation to ensure that armed groups and criminal elements of the Congolese military are not active in eastern DRC mines.

**Table 1: USAID-Reported Actions to Promote an Appropriate Role for Security Forces, as of April 2015**

Activities	Status/results
<ul style="list-style-type: none"> <li>Validating conflict-free mine sites through DRC government (GDRC) led multi-stakeholder teams</li> <li>Planning for demilitarization of mine sites</li> <li>Providing regular and as-needed security analysis and reports assessing ongoing threats to and opportunities for conflict-free minerals supply chains</li> </ul>	<ul style="list-style-type: none"> <li>As of July 2015, validated 140 mine sites in eastern DRC</li> <li>Planned and facilitated demilitarization of 2 mine sites in South Kivu</li> <li>Facilitated conflict resolution between large-scale mining titleholders in North and South Kivu</li> </ul>

Legend: USAID = U.S. Agency for International Development; DRC = Democratic Republic of the Congo

Sources: Department of State and USAID. | GAO-15-561

Enhance Civilian Regulation of the DRC Minerals Trade (Objective 2)

Official Congolese agencies tasked with regulating the minerals trade have responsibilities that include collecting production and export figures. However, as we reported in 2010, U.S. and DRC officials, a foreign official, and industry representatives told us that their ability to carry out their duties is reportedly impeded by various factors such as weak capacity, volatile security, and poor infrastructure, among other things. USAID reported that it is undertaking a number of actions, through implementing partners, to enhance civilian regulation and traceability of the DRC minerals trade.

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### **Traceability Mechanisms**

Traceability mechanisms may minimize the risk that minerals that have been exploited by illegal armed groups will enter the supply chain and may also support companies' efforts to identify the source of the conflict minerals across the supply chain around the world. Such initiatives in the Democratic Republic of the Congo and adjoining countries focus on tracing minerals from the mine to the mineral smelter or refiner by supporting a bagging and tagging program or some type of traceability scheme.

Source: GAO | GAO-15-561

For example, USAID reported funding TetraTech, a technical services company, to (1) build the capacity for responsible minerals trade in the DRC, (2) strengthen the capacity of key actors in the conflict minerals supply chain, and (3) advance artisanal and mining rights. In addition, USAID indicated that it is funding IOM to support DRC infrastructure and regulatory reform. According to an IOM official we spoke with in the region, IOM also provides the DRC government with information on which mines should be suspended from the conflict-free supply chain based on safety and human rights violations. A USAID official and representatives of local human rights organizations we met with during our visit to North Kivu also told us that the implementation of traceability schemes is contributing to positive outcomes.

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**Figure 6: A Bag of Tantalum Ore at a DRC Mine Being Prepared for “Tagging,” a Method to Trace Origin, and Export**



Source: GAO. | GAO-15-561

**Figure 7: A Bag of Tin Ore at a Rwandan Mine Tagged for Export**



Source: GAO. | GAO-15-561

For example, in some cases, according to USAID, local miners earn double the price for certified conflict-free minerals compared to non-certified illegal minerals, which is more than they would earn from smuggling. Table 2 shows actions USAID has taken to enhance civilian regulation of the DRC minerals trade.

**Table 2: USAID-Reported Actions to Enhance Civilian Regulation of the DRC Minerals Trade, as of April 2015**

Activities	Status/results
<ul style="list-style-type: none"> <li>• Supporting government of DRC ministries and multi-stakeholder structures in planning and piloting traceability schemes</li> <li>• Leading multi-stakeholder process of mine validation to ensure that armed groups are not active in the region</li> <li>• Strengthening traceability mechanisms by:               <ol style="list-style-type: none"> <li>1. Improving DRC institutions and understanding about due diligence and responsible mining practices</li> <li>2. Including civil society in training efforts</li> <li>3. Improving governance and finance skills among mining cooperatives</li> <li>4. Providing occupational health and safety training and gender awareness</li> </ol> </li> <li>• Assessing the current DRC Mining Code and providing recommendations that address loopholes and gaps related to artisanal mining</li> <li>• Conducting field based scoping exercises with DRC mining officials and civil society representatives to examine due diligence and traceability schemes and the formalization of artisanal mining</li> <li>• Assessing artisanal mining cooperatives and providing training</li> <li>• Providing funding, along with State, to the International Peace Information Service (IPIS) for the DRC government mapping capacity building</li> <li>• Providing funding to build capacity among ICGLR governments for a regional certification mechanism</li> <li>• Constructing sales point infrastructure to facilitate government transparent monitoring and taxation of the sales between miners and traders</li> </ul>	<ul style="list-style-type: none"> <li>• Facilitated government of DRC planning and validation of over 140 mine sites involved with an industry traceability mechanism</li> <li>• Efforts to improve existing traceability schemes and demonstrate that new systems are allowing competition to function in conflict-free traceability systems, benefiting artisanal miners, exporters, and DRC government services</li> <li>• Improved the capacity of the International Conference on the Great Lakes Region (ICGLR) regional certification mechanism</li> </ul>

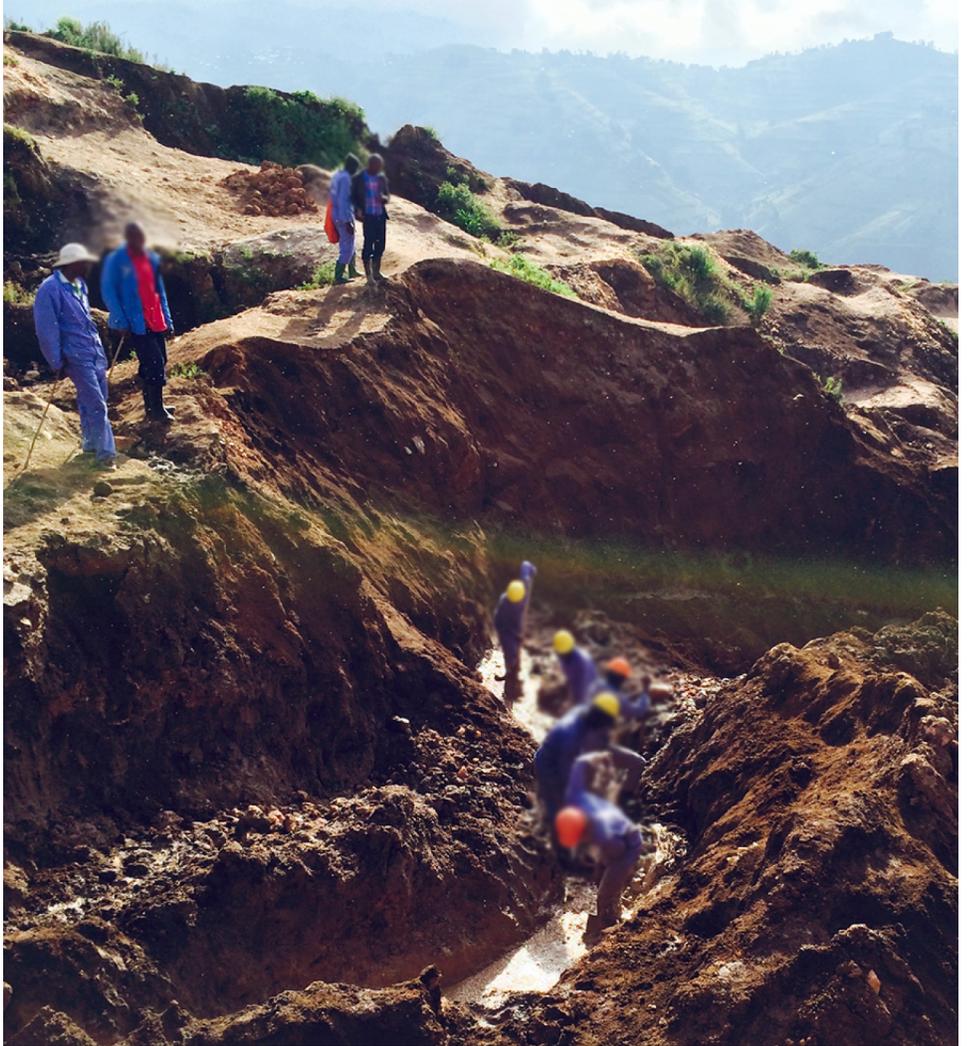
Legend: State = Department of State; USAID = U.S. Agency for International Development; DRC = Democratic Republic of the Congo  
 Sources: State and USAID. | GAO-15-561

**Protect Artisanal Miners and Local Communities (Objective 3)**

According to USAID, artisanal mining provides survival incomes to Congolese throughout the country but it is particularly significant in eastern DRC, where roughly 500,000 people directly depend on artisanal mining for their income. These miners work under very difficult safety, health, and security conditions and almost always within an illegal and illicit environment. Moreover, as we observed during our visits to the mines in the region, artisanal mining is a physically demanding activity requiring the use of rudimentary techniques and little or no industrial capacity (see figs. 8 and 9 for illustrations of artisanal miners at work).

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**Figure 8: Artisanal Miners at a Tantalum Mine in the Democratic Republic of the Congo**



Source: GAO. | GAO-15-561

**Figure 9: Artisanal Miners at a Gold Mine in Burundi**



Source: GAO. | GAO-15-561

State and USAID reported several programs (shown in table 3), through their implementing partners, aimed at protecting artisanal miners and local communities and providing alternative livelihoods. For example, State reported that it funded an implementing partner, Heartland Alliance International (HAI), a service-based human rights organization, for anti-human-trafficking initiatives as well as to promote alternative livelihoods and improve workers' rights in the artisanal mining sector. According to State, these efforts aimed to reduce the vulnerability of men and women in local communities. State officials reported some illustrative examples of success in promoting alternative livelihoods. For example, a woman who used to transport minerals, a physically demanding, low-paying job, attended one of HAI's alternative livelihood trainings where she received a kit to sell fish. Today, she makes a better living from selling fish and is able to pay her children's school fees without working in the mining sector, according to State officials. In addition, USAID has funded Pact, an implementing partner, to promote community conflict-mitigation and conflict minerals monitoring structures at local levels. State also supported Pact to build local capacity for monitoring security and human rights conditions and mineral traceability, and provide local artisanal mining communities with resources to monitor, record, and report on initiatives and human rights abuses. State indicated that its actions

through Pact also support enhancing civilian regulation of the minerals sector and strengthening regional and international cooperation, other objectives of the strategy.

**Table 3: Reported Actions to Protect Artisanal Miners and Local Communities, as of April 2015**

Agency or implementing partner	Activities	Status/results
State implementing partner	<ul style="list-style-type: none"> <li>• Investing in the organizational and technical capacity of worker rights organizations</li> <li>• Providing socio-economic support and alternative livelihood opportunities to exploited workers</li> <li>• Strengthening systems to promote identification and remediation of labor law violations in the mining sector at the local, regional, and international levels</li> <li>• Strengthening the organizational and technical capacity of four mining cooperatives</li> </ul>	<ul style="list-style-type: none"> <li>• Miners reported increased capacity to report abuses, adopt nonviolent strategies to combat human rights violations, and to access legal assistance</li> <li>• Sensitized 1,394 persons on abuses and human rights violations in the mining sector</li> <li>• Directly raised the awareness of 3,538 individuals from North and South Kivu about worker rights in the mining sector, and thousands of others via radio</li> <li>• Mining cooperatives increased their technical and organizational capacities, including development and/or maintenance of standard accounting records, adoption of national and international organizational guidelines and protocols, commitment of cooperatives' leadership to improve working conditions, and the establishment of new organizational structures that promote efficiency</li> <li>• Improved competitiveness of cooperatives in the local economic market</li> </ul>

Agency or implementing partner	Activities	Status/results
State and USAID implementing partner	<ul style="list-style-type: none"> <li>• Providing baseline studies of mining</li> <li>• Providing alternative livelihoods, including village savings and loan associations to women and men involved in artisanal mining</li> <li>• Fostering a grass-roots approach aimed at sustainably increasing security, strengthening human rights protections, moving toward mine demilitarization, and reducing corruption in the DRC and Rwanda</li> <li>• Strengthening the capacity of local government employees, including their capacity to prevent human rights abuses, and to mitigate conflict, in efforts to promote traceability</li> </ul>	<ul style="list-style-type: none"> <li>• Built local capacity for monitoring security and human rights conditions and mineral traceability, including providing local artisanal mining communities with resources to monitor, record, and report on initiatives, security challenges, human rights abuses and perpetrators, and corruption and to enable local authorities to take appropriate action to protect mining communities</li> <li>• Provided key information to civilians in North and South Kivu about mineral sector governance and its link to conflict, increasing understanding of traceability and certification systems</li> </ul>
USAID implementing partner	<ul style="list-style-type: none"> <li>• Implementing partner commissioned to conduct an in-depth assessment of human trafficking — including both sex and labor trafficking—in mining communities to address an information gap regarding the prevalence of human trafficking in mining areas</li> </ul>	<ul style="list-style-type: none"> <li>• Findings have been made available and shared with U.S. government agencies, the government of the DRC, civil society actors, UN agencies, and donors. USAID will use the assessment to improve the design and implementation of programs related to the minerals trade, economic recovery, and anti-human trafficking</li> </ul>

Legend: State = Department of State, USAID = U.S. Agency for International Development, DRC = Democratic Republic of the Congo, UN = United Nations

Sources: State and USAID | GAO-15-561

### Strengthening Regional and International Efforts (Objective 4)

In our July 2012 report, we provided a description of regional and global initiatives being undertaken by various stakeholders that may facilitate responsible sourcing of conflict minerals in the DRC region.<sup>39</sup> These included, among others, efforts by the UN and International Conference on the Great Lakes Region (ICGLR). Objective 4 of the U.S. conflict minerals strategy calls for actions to strengthen regional and international efforts. USAID reported that it is working with TetraTech to achieve this goal. Specifically, USAID said it is working with TetraTech to build the capacity of the ICGLR, an intergovernmental organization. According to USAID, this effort supports the implementation and coordination of regional countries’ efforts to promote monitoring, certification, and traceability of mine sites. A TetraTech representative we met with in the region told us that TetraTech is also organizing workshops for educating and raising awareness about regional certification in ICGLR countries.

<sup>39</sup>GAO, *Conflict Minerals Disclosure Rule: SEC’s Actions and Stakeholder-Developed Initiatives*, [GAO-12-763](#) (Washington D.C.: July 16, 2012).

According to officials we interviewed from the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the ICGLR, and local officials, U.S. diplomacy has increased awareness and improved coordination about conflict minerals in the region; a situation described by some of the officials as the most effective State and USAID actions for conflict minerals in the region.

**Table 4: Reported Actions to Help Strengthen Regional and International Efforts, as of April 2015**

Agency or implementing partner	Activities	Status/results
USAID implementing partner: TetraTech	<ul style="list-style-type: none"> <li>Working to establish an independent auditor function for the International Conference on the Great Lakes Region (ICGLR)</li> <li>Support the initial third-party audits component of the ICGLR Regional Certification Mechanism</li> </ul>	<ul style="list-style-type: none"> <li>Assessed the independent mineral chain audit function</li> <li>Currently drafting an implementation plan for the independent mineral chain audit function</li> <li>An ICGLR audit has been conducted in Rwanda</li> </ul>
State and USAID	<ul style="list-style-type: none"> <li>Engaging regional and international actors through diplomacy</li> </ul>	

Legend: State = Department of State; USAID = U.S. Agency for International Development; DRC = Democratic Republic of the Congo

Sources: State and USAID. | GAO-15-561

### Promote Due Diligence and Responsible Trade through Public Outreach (Objective 5)

State and USAID reported engaging in various efforts to reach out to industry associations, NGOs, international organizations, and regional entities to help promote due diligence and responsible trade in conflict minerals. For example, State and USAID reported that they leveraged private sector interest to establish the Public-Private Alliance for Responsible Minerals Trade (PPA) to support supply chain solutions to conflict minerals challenges in the region. The alliance includes State, USAID, and representatives from U.S. end-user companies, industry associations, NGOs, and ICGLR, among others. In addition, State is engaged with the Conflict-Free Sourcing Initiative (CFSI) and State and USAID both participate in the biannual OECD, UN Group of Experts (UNGOE), ICGLR forums. According to State and USAID officials, these efforts promote continued engagement with industry officials and civil society groups and encourage due diligence and strengthening of conflict-free supply chains. At a conference in Kinshasa, DRC, co-hosted by the OECD, UN Group of Experts, and the ICGLR in November 2014, we observed State and USAID officials outline their actions, outcomes, and next steps to conference participants. A USAID official in the region told us that teams of private sector executives, which State and USAID officials in the DRC and Rwanda helped to organize and host, have visited eastern DRC and Rwanda mining sites on several occasions, reinforcing the executives' commitment to source minerals responsibly.

According to the USAID official, these efforts have resulted in a reduction in predatory taxes, contributions by exporters to social development, and increased focus on certification and traceability systems. Noting that visits to the DRC and some locations in Rwanda had been coordinated and led by State and USAID staff, a State official added that some private companies had made independent contributions to community projects and other companies had been active in providing feedback on certification and traceability mechanisms.

**Table 5: Reported Actions to Promote Due Diligence and Responsible Trade through Public Outreach, as of April 2015**

Agency or implementing partner	Activities	Status/results
State and USAID Partners with the Public-Private Alliance for Responsible Minerals Trade (PPA)	<ul style="list-style-type: none"> <li>• Providing funding and support to organizations working in the region to develop verifiable conflict-free supply chains</li> <li>• Aligning chain of custody programs and practices</li> <li>• Encouraging responsible sourcing and transparency</li> <li>• Bolstering in-region civil society and government capacity</li> <li>• Convening periodic stakeholder meetings to facilitate alignment among multiple initiatives across up-stream, smelters/refiners, and end-user companies</li> </ul>	<ul style="list-style-type: none"> <li>• Raised \$1.2 million from the private sector to support programs</li> <li>• National Center for Development Support and Public Participation (a PPA program) supported civil society capacity to monitor transparency, implementation of an early-warning system, and accountability of the mining sector in South Kivu province of the DRC</li> <li>• Currently finalizing the scope of a grant to Save Act Mine (SAM), a Congolese non-governmental organization (NGO), to support community efforts to report suspected conflict minerals smuggling activities in North and South Kivu</li> <li>• Contributed to the direct engagement and involvement of 119 private sector end-user companies directly or through trade association memberships in understanding and promoting responsible sourcing, along with prominent NGOs, and the 12 nations of the International Conference of the Great Lakes Region (ICGLR)</li> </ul>
State and USAID	<ul style="list-style-type: none"> <li>• Engaging with the private sector through the Conflict-Free Sourcing Initiative (CFSI), the Automotive Industry Action Group, and companies</li> <li>• Engaging with international stakeholders, such as the United Nations Group of Experts (UNGOE), International Conference on the Great Lakes Region (ICGLR) and Organisation for Economic Cooperation and Development (OECD)</li> </ul>	<ul style="list-style-type: none"> <li>• Participant at CFSI conferences</li> <li>• Participant OECD/ICGLR/UNGOE conferences</li> </ul>

Legend: State = Department of State; USAID = U.S. Agency for International Development; DRC = Democratic Republic of the Congo

Sources: State and USAID. | GAO-15-561

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## State and USAID Face Difficult Conditions in Implementing the U.S. Conflict Minerals Strategy

Although State and USAID officials have provided some examples of results associated with their actions, the agencies face difficult operating conditions that complicate efforts to address the connection between human rights abuses, armed groups, and the mining of conflict minerals. We have described some of these challenges in our previous reports but, as we observed during our recent visit to the region, numerous challenges continue to exist. First, the mining areas in eastern DRC continue to be plagued by insecurity because of the presence and activities of illegal armed groups and some corrupt members of the national military. In 2010, we reported extensively on the presence of illegal armed groups, such as the Democratic Forces for the Liberation of Rwanda or Forces Democratiques de Liberation du Rwanda (FDLR), and some members of the Congolese military and the various ways in which they were involved in the exploitation of the conflict minerals sector in eastern DRC.<sup>40</sup> In 2013, the Peace and Security Cooperation Framework signed by 11 regional countries noted that eastern DRC has continued to suffer from recurring cycles of conflict and persistent violence.<sup>41</sup> Although U.S. agency and Congolese officials informed us during our recent field-work in the region that a large number of mines had become free of armed groups (referred to as green mines),<sup>42</sup> MONUSCO officials we met with in the DRC also told us that armed groups and some members of the Congolese military were still active in other mining areas. Specifically, MONUSCO officials described two fundamental ways in which armed groups continued to be involved in conflict minerals activities: directly, by threatening and perpetrating violence against miners to confiscate minerals from them; and indirectly, by setting up checkpoints on trade routes to illegally tax miners and traders. As we noted in our 2010 report, U.S. agency and UN officials and others believe that the minerals trade in the DRC cannot be effectively monitored, regulated, or controlled as long as armed groups and some

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<sup>40</sup>See [GAO-10-1030](#).

<sup>41</sup>*Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region*, signed in Addis Ababa (Feb. 24, 2013).

<sup>42</sup>For this report, we traveled to a tantalum mine in eastern DRC, which would have been impossible in 2010 during our last visit to the region, because of security concerns at that time.

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members of the Congolese national military continue to commit human rights violations and exploit the local population at will.<sup>43</sup>

As we reported in 2010, U.S. government officials and others have indicated that weak governance and lack of state authority in eastern DRC constitute a significant challenge. As we noted then, according to U.N. officials, if Congolese military units are withdrawn from mine sites, civilian DRC officials will need to monitor, regulate, and control the minerals trade. We also noted that effective oversight of the minerals sector would not occur if civilian officials in eastern DRC continued to be under paid or not paid at all, as such conditions easily lead to corruption and lack of necessary skills to perform their duties. Evidence shows that this situation has not changed much. U.S. agencies and an implementing partner, as well as some Congolese officials, told us that there are insufficiently trained civilians to effectively monitor and take control of the mining sector. ICGLR officials we met with highlighted the importance of a regional approach to addressing conflict minerals and indicated that governments' capacity for and interest in participating in regional certification schemes varies substantially, making it difficult to implement credible, common standards. Corruption continues to be a challenge in the mining sector. For example, a member of the UN Group of Experts told us that smuggling remains prolific and that instances of fraud call into question the integrity of traceability mechanisms. This official stated that tags used to certify minerals as conflict free are easily obtained and sometimes sold illegally in the black market. According to USAID, USAID is working to introduce a pilot traceability system to increase transparency, accountability, and competition in the legal artisanal mining sector. According to U.S. government officials and officials from local and civil society in the region that we met with, lack of state authority bolsters armed group activity and precludes public trust in the government.

Poor infrastructure, including poorly maintained or nonexistent roads, makes it difficult for mining police and other authorities to travel in the region and monitor mines for illegal armed group activity. In our 2010 report, we reported that the minerals trade cannot be effectively monitored, regulated, and controlled unless civilian DRC officials, representatives from international organizations, and others can readily access mining sites to check on the enforcement of laws and regulations

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<sup>43</sup>[GAO-10-1030](#).

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and to ensure visibility and transparency at the sites.<sup>44</sup> During our recent visit to the region, poor road conditions made travel to the mines very challenging (see fig. 10).<sup>45</sup>

**Figure 10: Stuck Vehicle during a Visit by GAO Team to a Mine Site in Eastern DRC (November, 2014)**



Source: GAO. | GAO-15-561

In addition, U.S. agencies cited the overall lack of an investor-friendly environment, including poor investment climate, arbitrary and excessive taxation and predatory government monitoring and enforcement, and the scarcity of basic services, such as water and electricity, as challenges that make it difficult for mining companies to conduct business, a fundamental issue that precludes economic development and makes it more difficult for U.S. agencies and contractors to conduct oversight and provide services. Also, a mine owner in eastern DRC that we met with

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<sup>44</sup>[GAO-10-1030](#).

<sup>45</sup>The mine owner told us that he paid for the road pictured in figure 10 to be constructed because no road to the mine existed and there was no public capacity to build one.

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cited a range of challenges to conducting business in the region, including lack of access to financing, poor security, and inadequate infrastructure.

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## Additional Information Available on Rate of Sexual Violence in Eastern DRC and Adjoining Countries since GAO's June 2014 Report

Since we last reported, in June 2014, results from three new population-based surveys related to sexual violence in eastern DRC have been published, one of which provides a basis for comparison with results of an earlier survey of sexual violence in the DRC.<sup>46</sup> The Dodd-Frank Act mandated GAO to report annually, beginning in 2011, on the rate of sexual violence in war-torn areas of the DRC and adjoining countries.<sup>47</sup> No new population-based surveys related to sexual violence in Uganda, Rwanda, or Burundi have been published since our last report, but some surveys in these countries are underway or being planned. Some new additional case file data on sexual violence are available for some of these countries. However, as we reported in 2011, case file data on sexual violence are not suitable for estimating an overall rate of sexual violence.<sup>48</sup>

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## Three New Population-Based Studies Provide Additional Data on Sexual Violence in the DRC; Additional Studies for Adjoining Countries Are Under Way or Planned

We identified three new population-based surveys related to sexual violence in eastern DRC that have been published since June 2014: (1) a Demographic and Health Survey (DHS) conducted by the DRC Ministry of Planning with technical assistance from ICF International,<sup>49</sup> (2) a USAID-funded survey conducted by a U.S.-based monitoring and evaluation firm (Social Impact) and (3) a survey co-produced by the Harvard Humanitarian Initiative, a university-based research center, and the United Nations Development Program (UNDP). For the purposes of this report, we define eastern DRC as encompassing South Kivu, North Kivu, and the Ituri District of Orientale Province. Population-based surveys for

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<sup>46</sup>GAO, *Conflict Minerals: Stakeholder Options for Responsible Sourcing are Expanding, but More Information on Smelters is Needed*, [GAO-14-575](#) (Washington, D.C. June 26, 2014).

<sup>47</sup>Pub. L. No. 111-203, § 1502(d)(1).

<sup>48</sup>GAO, *The Democratic Republic of Congo: Information on the Rate of Sexual Violence in War-Torn Eastern DRC and Adjoining Countries*, [GAO-11-702](#) (Washington, D.C.: July 13, 2011).

<sup>49</sup>ICF International implements the DHS Program, which has provided technical assistance to more than 300 surveys in over 90 countries. The DHS Program provides capacity building to host-country implementing agencies through all survey stages, including survey design and sampling, training, field work, data tabulation and analysis, report writing, and dissemination and use of findings.

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2014 Demographic and Health Survey of the DRC

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Burundi and Rwanda are underway or planned by ICF International, which does not currently have plans to conduct another DHS for Uganda. We previously reported that population-based surveys are more appropriate for estimating the rate of sexual violence than case file data because population based surveys are conducted using the techniques of random sampling and their results are generalizable.<sup>50</sup> However, there are limitations and challenges to using such surveys to gather data on sexual violence and estimate the rate of such violence, particularly in eastern DRC. Examples of limitations include undercoverage caused by poor infrastructure and insecurity, which can limit access to some areas; and underreporting, as survey response rates partly depend on whether or not sexual violence victims are willing to discuss such difficult experiences. In addition, if large sample sizes are required, the result can be higher survey costs.

A Demographic and Health Survey of the DRC was published in September 2014, covering data collected from November 2013 to February 2014.<sup>51</sup> An ICF International analysis of the 2013-2014 survey data found that, in the DRC, 17 percent of women nationwide, ages 18-49, reported they had experienced sexual violence in the 12-month period preceding the survey, while 29 percent reported they had experienced sexual violence at some point in their lifetime.<sup>52</sup> ICF International's analysis also found that in North Kivu, 14 percent of women in that age group reported they had experienced sexual violence in the 12-month period preceding the survey while 30 percent reported they had experienced sexual violence at some point in their lifetime. In South Kivu, 18 percent of women reported they had experienced sexual violence in the 12-month period preceding the survey, while 37 percent reported they had experienced sexual violence at some point in their lifetime. The DHS

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<sup>50</sup>[GAO-11-702](#).

<sup>51</sup>Ministry of Planning and Implementation of the Modern Revolution (MPSMRM), Ministry of Public Health (MSP), and ICF International. *Democratic Republic of Congo Demographic and Health Survey 2013-14*. Rockville, MD, 2014.

<sup>52</sup>Figures in the published September 2014 DHS report differ from those generated by ICF International. For the purposes of this review, ICF International identified sexual violence data that could be compared across time periods. According to ICF International, figures from the published DHS 2008 and 2014 reports for the DRC cannot be compared because the questions asked and the population interviewed for the two surveys differed. For example, the 2008 DHS interviewed females ages 18-49 while the 2014 DHS interviewed females ages 15-49.

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study was designed to provide data for monitoring the population and health situation in the DRC, using indicators such as fertility, sexual activity, and family planning, among other things. The DRC Ministry of Planning conducted the survey with the support of the DRC Ministry of Public Health as well as several foreign governments; international, and nongovernmental organizations, including USAID; various UN agencies; and the World Bank.

The 2014 DHS survey of the DRC is the second such survey conducted by the DRC's Ministry of Planning that has yielded nationwide information on sexual violence in the DRC, so it provides a basis for comparison over time. The first DHS survey was published in August 2008, and was conducted from January 2007 to August 2007.<sup>53</sup> According to ICF International's analysis of the 2007 survey data, 28 percent of women nationwide, ages 18-49, reported having experienced sexual violence in the 12-month period preceding the survey, while 36 percent of women nationwide reported they had experienced sexual violence at some point in their lifetime.

According to an analysis by ICF International, which compared estimates from the 2007 and 2013-2014 survey data, nationwide estimates of sexual violence decreased from 2007 to 2013-2014 for both the 12-month period preceding the surveys (28 percent to 17 percent) and the lifetime figures (36 percent to 29 percent). ICF International determined these differences to be statistically significant. For North Kivu, the rate of sexual violence reported by women in the 1-year period preceding the 2007 and 2013-2014 surveys decreased from 30 percent in 2007 to 14 percent in 2013-2014, which is also statistically significant, according to ICF International. For South Kivu, ICF International found no statistically significant difference in the rate of sexual violence reported by women in the 12-month period preceding the survey and at any point in their lives between the 2007 and 2013-2014 surveys. See table 6 for a summary of the comparisons.

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<sup>53</sup>Ministry of Planning and Macro International. *Democratic Republic of the Congo Demographic and Health Survey 2007*. Calverton, MD: Ministry of Planning and Macro International. 2008.

**Table 6: 2007 and 2013-2014 DHS Data on the Rates of Sexual Violence Reported by Women in the DRC, Ages 18-49, by Percentage**

Geographic Area	Rate of Sexual Violence Reported in 2007 (12-Month Period Preceding the Survey)	Rate of Sexual Violence Reported in 2013-2014 (12-Month Period Preceding the Survey)	Rate of Sexual Violence Reported in 2007 (Lifetime)	Rate of Sexual Violence Reported in 2013-2014 (Lifetime)
South Kivu	20	18	32	37
North Kivu	30 <sup>a</sup>	14 <sup>a</sup>	43	30
Nationwide estimates	28 <sup>a</sup>	17 <sup>a</sup>	36 <sup>a</sup>	29 <sup>a</sup>

Source: ICF International analysis of DHS 2007 and 2013-2014 sexual violence data for the DRC. | GAO 15-561

Notes:

<sup>a</sup>The change in the rate from 2007 to 2013-14 is statistically significant for that geographic area.

Data above are based on DHS questions asking whether sexual violence was perpetrated by the woman's current or most recent spouse/partner and by a perpetrator other than the woman's current or most recent spouse/partner. The data are not based on survey questions asking whether the women's first experience of sexual intercourse was forced. "Lifetime" refers to whether a woman reported experiencing sexual violence at any point in her life. Figures in table have been rounded. The nationwide estimates include data for Orientale Province but do not provide estimates on the rate of violence for the Ituri District, located within Orientale Province.

**USAID-Funded Social Impact Survey of Eastern DRC**

A population-based survey, funded by USAID and conducted by the U.S.-based organization Social Impact, on human-trafficked individuals, ages 15 and older, in artisanal mining towns in South Kivu and North Katanga, found that 7.1 percent of women and 1.2 percent of men had experienced sexual violence in the previous year at the mining sites. The survey, published in August 2014, and covering data collected from April 2014 to May 2014, also found that the most common perpetrators of this violence were friends or acquaintances (identified as responsible for about one-half of the attacks) and miners (identified as responsible for about one-fifth of the attacks). The survey is intended to measure sexual violence in areas that have artisanal mines and included a sample of territories within eastern DRC and outside of eastern DRC. Because of this, survey results may not be generalizable to the population of eastern DRC.

**Harvard Humanitarian Initiative / UNDP Survey of Eastern DRC**

A 2014 survey, co-produced by the Harvard Humanitarian Initiative and UNDP, of adult men and women, ages 18 and older, in the eastern DRC provinces of North and South Kivu and the Ituri District, found that 23 percent of respondents had witnessed sexual violence being committed

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Additional Population Surveys  
of Adjoining Countries Under  
Way or Planned

by armed groups on civilians since 2002.<sup>54</sup> The survey also found that a total of 9 percent of respondents had witnessed sexual violence being committed by armed groups on civilians over the 12-month period prior to the survey.<sup>55</sup> The survey was conducted between November 2013 and December 2013. According to the survey report, the survey was conducted to assess the population of eastern Congo's perceptions, knowledge, and attitudes about peace, security, and justice, and aimed at providing results that were representative of the adult population of territories and major urban areas in eastern Congo. The interviewers asked respondents if they had witnessed sexual violence being perpetrated by armed groups on civilians, but did not explicitly ask whether the respondents had ever experienced sexual violence; therefore we found that the data cannot be used to estimate the rate of sexual violence in eastern DRC.

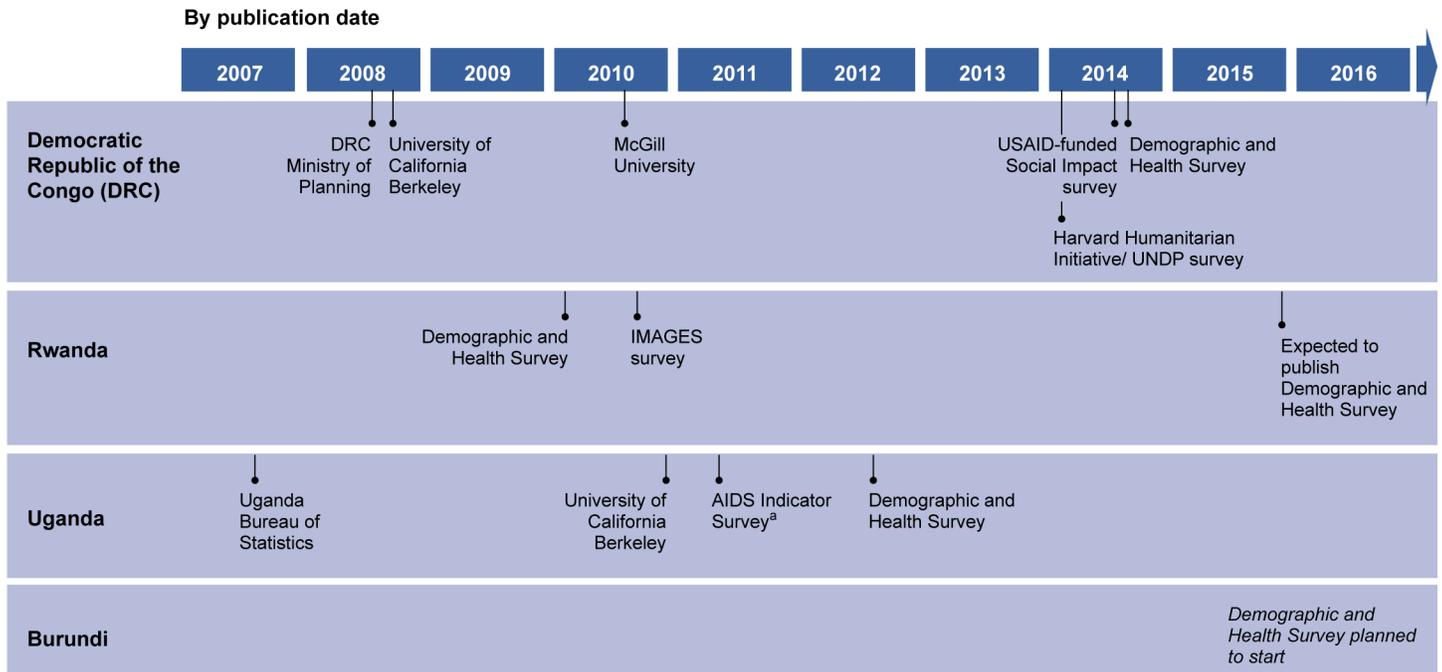
Although no new population-based surveys related to sexual violence in Uganda, Rwanda, and Burundi have been published since July 2014, population-based surveys are underway or planned by ICF International in Rwanda and Burundi. (Fig. 11 shows a timeline of population-based surveys for the DRC, Rwanda, Uganda, and Burundi since 2007). According to ICF International, data collection for a DHS for Rwanda is complete and it expects to publish the survey results by the end of 2015. ICF International said it has planned a DHS for Burundi in late 2015 and expects the report to be available in late 2016. ICF International said that discussions are underway to conduct another DHS for Uganda in 2016 but it may or may not include questions related to sexual violence.

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<sup>54</sup>The survey provides a breakdown of the percentage of respondents who witnessed sexual violence being committed by armed groups on civilians since 2002, by province: 24 percent for North Kivu, 29 percent for South Kivu, and 12 percent for the Ituri District of Orientale Province.

<sup>55</sup>The survey provides a breakdown of the percentage of respondents who witnessed sexual violence being committed by armed groups on civilians over the 12-month period prior to the survey, by province: 14 percent for North Kivu, 8 percent for South Kivu, and 3 percent for Ituri District of Orientale Province.

**Figure 11: Timeline of Population-Based Surveys Estimating the Rate of Sexual Violence in Eastern DRC, Rwanda, Uganda, and Burundi**



Source: GAO analysis. | GAO-15-561

<sup>a</sup>We recently identified the Uganda 2011 AIDS Indicator Survey as containing data on sexual violence in this country.

### Some Additional Case File Data on Sexual Violence Have Become Available since GAO's 2014 Report

Since GAO's June 2014 report, State and some UN agencies have provided additional case file data on instances of sexual violence in the DRC and adjoining countries. State's annual country reports on human rights practices provided information pertaining to sexual violence in the following countries:<sup>56</sup>

- **DRC.** The state security force, rebel and militia groups, and civilians perpetrated widespread sexual violence. The United Nations registered 3,635 victims of sexual violence from January 2010 to December 2013. These crimes were often committed during attacks

<sup>56</sup>U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices for 2014*, accessed June 30, 2015, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

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on villages and sometimes as a tactic of war to punish civilians for perceived allegiances with rival parties or groups. The crimes occurred largely in the conflict zones in North Kivu province but also in provinces throughout the country.

- *Burundi.* Centre Seruka, a clinic for rape victims, reported an average of 135 new rape cases per month from January through September. Of that number, 68 percent were minors, and 17 percent were children under age five. Centre Seruka also reported approximately 30 percent of its clients filed complaints, and 70 percent knew their aggressors.
- *Rwanda.* Domestic violence against women was common. Although many incidents remained within the extended family and were not reported or prosecuted, government officials encouraged the reporting of domestic violence, and the Rwanda National Police stated that reporting of such cases increased.
- *Uganda.* Rape remained a serious problem throughout the country, and the government did not consistently enforce the law. Although the government arrested, prosecuted and convicted persons for rape, the crime was seriously underreported, and authorities did not investigate most cases. Police lacked the criminal forensic capacity to collect evidence, which hampered prosecution and conviction. The 2013 police crime report registered 1,042 rape cases throughout the country, of which 365 were tried. Of these, 11 convictions were secured, with sentences ranging from 3 years to life imprisonment, 11 cases were dismissed; and 343 cases were still pending in court at year's end.

In addition, some UN entities reported case file information on sexual violence in the DRC and Burundi, as described below:

- *DRC.* A March 2015 report of the Secretary-General on conflict-related sexual violence showed that, from January 2014 to September 2014, the United Nations Population Fund (UNFPA) recorded 11,769 cases of sexual violence in the provinces of North Kivu, South Kivu, Orientale, Katanga, and Maniema. Of these cases, 39 percent were considered to be directly related to the dynamics of conflict, being perpetrated by arms bearers. The report also notes that, as in 2013, North Kivu and Orientale remain the provinces most affected by

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conflict-related sexual violence, with 42 percent of all incidents taking place in Orientale.<sup>57</sup>

- *DRC.* MONUSCO reported in September 2014 that armed groups and national security forces continued to commit crimes of sexual violence. Between June 30, 2014, and September 25, 2014, it recorded 37 cases of sexual violence committed by armed groups and national security forces, 15 of which were committed by the armed forces of the Democratic Republic of Congo and 10 by Mayi-Mayi combatants from different groups. The report indicates that 18 of the 37 cases of sexual violence occurred in North Kivu, South Kivu, and Orientale Provinces.<sup>58</sup>
- *DRC.* MONUSCO also recorded 61 cases of sexual violence in conflict during the reporting period of September 25, 2014 to December 30, 2014. MONUSCO reports that at least 30 women and 31 children were victims of sexual violence, allegedly committed by armed groups and national security forces in eastern DRC.<sup>59</sup>
- *Burundi.* UNFPA reports that it supported 3,203 survivors of sexual violence at care centers located in the areas of Seruka, Nturengaho, and Humara. In addition, 24 UNFPA-supported hospitals across six provinces in Burundi are also collecting sexual violence data. UNFPA reports that these hospitals provided medical support to 180 survivors in 2014.

As we previously reported, several factors make case file data unsuitable for estimating rates of sexual violence.<sup>60</sup> First, because case file data are not aggregated across various sources, and because the extent to which various reports overlap is unclear, it is difficult to obtain complete data, or a sense of magnitude from case files. Second, in case file data as well as in surveys, time frames, locales, and definitions of sexual violence may

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<sup>57</sup>UN Security Council, *Report of the Secretary-General on Conflict-related Sexual Violence*, S/2015/203 (New York, NY: March 23, 2015).

<sup>58</sup>UN Security Council, *Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of Congo*, S/2014/698 (New York, NY: Sept. 24, 2014).

<sup>59</sup>UN Security Council, *Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of Congo*, S/2014/956 (New York, NY: Dec. 30, 2014).

<sup>60</sup>[GAO-14-575](#).

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be inconsistent across data collection operations. Third, case file data are not based on a random sample and the results of analyzing these data are not generalizable.

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## Agency Comments

We provided a draft of this report to SEC, State, USAID, and Commerce for their review. Agencies provided technical comments, which we have incorporated as appropriate.

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We are sending copies of this report to appropriate congressional committees. The report is also available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8612 or [gianopoulosk@gao.gov](mailto:gianopoulosk@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.



Kimberly M. Gianopoulos  
Director, International Affairs and Trade

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*List of Addressees*

The Honorable Thad Cochran  
Chairman  
The Honorable Barbara A. Mikulski  
Ranking Member  
Committee on Appropriations  
United States Senate

The Honorable Richard Shelby  
Chairman  
The Honorable Sherrod Brown  
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The Honorable Orrin G. Hatch  
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Ranking Member  
Committee on Foreign Relations  
United States Senate

The Honorable Hal Rogers  
Chairman  
The Honorable Nita Lowey  
Ranking Member  
Committee on Appropriations  
House of Representatives

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The Honorable Jeb Hensarling  
Chairman  
The Honorable Maxine Waters  
Ranking Member  
Committee on Financial Services  
House of Representatives

The Honorable Edward Royce  
Chairman  
The Honorable Eliot Engel  
Ranking Member  
Committee on Foreign Affairs  
House of Representatives

The Honorable Paul Ryan  
Chairman  
The Honorable Sander Levin  
Ranking Member  
Committee on Ways and Means  
House of Representatives

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# Appendix I: Objectives, Scope, and Methodology

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To examine company disclosures filed with the Securities and Exchange Commission (SEC) for the first time in 2014 in response to the SEC conflict minerals disclosure rule, we downloaded the Specialized Disclosure reports (Form SD) and Conflict Minerals Reports from SEC's publically available Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database on July 31, 2014. We downloaded 1,324 filings identified as Form SDs in EDGAR.<sup>1</sup> To review the completeness and accuracy of the EDGAR database, we reviewed relevant documentation, interviewed knowledgeable SEC and GAO officials, and reviewed prior GAO reports on internal controls related to SEC's financial systems. We determined that the EDGAR database was sufficiently reliable for identifying the universe of SD filings on July 31, 2014. We reviewed the conflict minerals section of the Dodd-Frank Wall Street Reform and Consumer Protection Act<sup>2</sup> and the requirements of the SEC conflict minerals disclosure rule<sup>3</sup> to develop a questionnaire that guided our data collection and analysis of Form SDs and Conflict Minerals Reports. Our questionnaire was not a compliance review of the Form SDs and Conflict Minerals Reports. The questions were written in both yes/no and multiple choice formats. An analyst reviewed the Form SDs and Conflict Minerals Reports and recorded responses to the questionnaire for all of the companies in the sample. A second analyst also reviewed the Form SDs and Conflict Minerals Reports and verified the questionnaire responses recorded by the first analyst. Analysts met to discuss and resolve any discrepancies.

We randomly sampled 147 filings from a population of 1,324 to create estimates generalizable to the population of all companies that filed. All estimates based on our sample have a margin of error of plus or minus 10 percentage points or less at the 95 percent confidence level. Because we followed a probability procedure based on random selections, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular

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<sup>1</sup>The number of SD filings we downloaded from the public EDGAR site on July 31, 2014 varies slightly from SEC's reported number of 1,321 filings. Because companies can file amendments or request corrections to filings, any updates to SD filings made after July 31, 2014 are not reflected in our analysis.

<sup>2</sup>Pub. L. No. 111-203, § 1502.

<sup>3</sup>17 C.F.R. § 240.13p-1.

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sample's results as a 95 percent confidence interval. This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. We also attended an industry conference on conflict minerals and spoke with company representatives to obtain additional perspectives.

To examine Department of State (State) and U.S. Agency for International Development (USAID) actions related to the U.S. conflict minerals strategy in the DRC region, we reviewed the *U.S. Strategy to Address the Linkages between Human Rights Abuses, Armed Groups, Mining of Conflict Minerals and Commercial Products*, developed by State and USAID in 2011, and State's and USAID's websites. We interviewed State and USAID officials in Washington for an update on the U.S. implementation of the strategy in the Democratic Republic of Congo (DRC) and continuing challenges. We also reviewed the Dodd-Frank Wall Street Reform and Consumer Protection Act.

In November 2014 we traveled to the DRC region and met with several State and USAID officials implementing actions related to the strategy and host country officials. We also met with representatives of nongovernmental organizations (NGO), contractors, international organizations, and private sector representatives to gather information and assess the impact of the Dodd-Frank Act and the implementation of the conflict minerals strategy. In addition, we visited three conflict minerals sites—a tantalum mine in the DRC, a tin mine in Rwanda, and a gold mine in Burundi—to observe operations and artisanal mining activities and to gain an understanding of mine certification processes and the challenges that mines must overcome to export minerals. We also reviewed documents from officials working in the region that detailed the various programs State and USAID are implementing.

In response to a mandate in the Dodd-Frank Wall Street Reform and Consumer Protection Act that GAO submit an annual report that assesses the rate of sexual violence in war-torn areas of the DRC and adjoining countries, we identified and assessed any additional published information available on sexual violence in war-torn eastern DRC, as well as three adjoining countries that border eastern DRC—Rwanda, Uganda, and Burundi—since our June 2014 report on sexual violence in these

areas.<sup>4</sup> During the course of our review, we interviewed officials from USAID to discuss the collection of sexual violence-related data—including population-based surveys and case file data—in the DRC and adjoining countries. We contacted researchers and representatives from groups we interviewed from our prior review on sexual violence rates in eastern DRC and adjoining countries. We also traveled to New York City to meet with officials from the United Nations (UN) Population Fund, United Nations High Commissioner for Refugees, United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict, and the United Nations Children’s Fund. In addition, we reviewed relevant documentation, such as reports and technical briefs, from various UN entities. To determine whether sexual violence data from the last two Demographic Health Survey (DHS) published reports for the DRC were comparable, we corresponded with and interviewed officials at ICF International, a firm providing technical assistance for survey design and implementation. Because data from the published 2008 and 2014 DHS for DRC were not comparable, we reported on data that ICF International generated at our request for the two time periods, which it determined to be comparable. We also conducted Internet literature searches to identify new academic articles containing any additional information on sexual violence since our 2014 report.<sup>5</sup>

We conducted this performance audit from September 2014 to August 2015 in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>4</sup>GAO, *Conflict Minerals: Stakeholder Options for Responsible Sourcing Are Expanding, but More Information on Smelters Is Needed*, [GAO-14-575](#) (Washington, D.C.: June 26, 2014).

<sup>5</sup>[GAO-14-575](#).

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# Appendix II: Description of Litigation and Resulting Guidance Related to the “DRC Conflict Undeterminable” Classification

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In response to the appeals court’s April 2014 decision, the Securities and Exchange Commission (SEC) staff, on April 29, 2014, issued a statement that it expects companies to file any reports required under Rule 13p-1 subject to any further action that may be taken by either the commission or a court. The SEC staff’s statement contains guidance to companies, which provides, among other things, that no company is required to describe its products as having “not been found to be ‘DRC [Democratic Republic of the Congo] conflict free,’” or as “DRC conflict undeterminable” in their reports. The guidance also states that, although the rule does not require any company to describe its products as “DRC conflict free,” a company may voluntarily elect to describe any of its applicable products that way in its report if it had obtained an independent private sector audit as required by the rule. In addition, the guidance states that, pending further action, an independent private sector audit will not be required unless a company voluntarily elects to describe a product as DRC conflict free in its Conflict Minerals Report. On May 2, 2014, SEC issued an order staying the effective date for compliance with the portions of Rule 13p-1 and Form SD subject to the appeals court’s First Amendment holding pending the completion of judicial review. On May 5, 2014, the plaintiffs filed a motion with the appeals court asking the court to stay the entire rule pending the completion of judicial review, which the commission opposed, and on May 14, 2014, the appeals court denied the motion.

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# Appendix III: GAO Contacts and Staff Acknowledgments

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## GAO Contact

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## Staff Acknowledgments

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