FRAME Webinar
The Costs of Mining: Artisanal vs. commercial and global policy with local impact
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Extractive Industries Disclosure Provision
ABCG is a group of conservation organizations working together towards the vision of an African continent where natural resources and biodiversity are securely conserved in balance with sustained human livelihoods.
Biodiversity Analysis & Technical Support (BATS)

A multi-partner USAID Bureau for Africa effort including:

- Chemonics International, International Resources Group (IRG) and Development Alternatives International (DAI)
- Environmental Law Institute
- USDA Forest Service International Programs
- Africa Biodiversity Collaborative Group (ABCG)

BATS key issues:

- Country-level 118/119 assessments
- Forest and biodiversity conservation in states vulnerable to crisis, in crisis, or emerging from crisis
- Collaborating with extractive industries to reduce environmental impacts
- Reviewing USAID/Africa’s conservation history, lessons learned, and way forward
- Anticipating emerging issues and their impact on biodiversity conservation
Mining in DRC

ABCG Focus

- Identification and mapping of areas of overlapping biodiversity importance and mineral wealth
- Review of DRC national legislation on mining and biodiversity conservation
- Artisanal and Small Scale Mining review in DRC Protected Areas & Critical Ecosystems
- **Assessment of impact of Section 1504 of the US Dodd-Frank Wall Street Reform and Consumer Protection Act on mining companies in DRC**
- Case studies around Kahuzi-Biega National Park, Itombwe Nature Reserve and the Ituri Landscape
“...each resource extraction issuer to include in an annual report of the resource extraction issuer information relating to any payment made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government of the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals...”
What the Law Requires

4 BASICS

• Applies to companies that submit annual reports to SEC
• Disclosure of type & total amount of payments made for each project and to each government
• Payments include taxes, royalties, license fees, bonuses and production entitlements; other payments may be included
• Information will be available for free to the public on SEC website
SEC Rule-Making

- Final SEC rules were due by April 2011; companies have 1 FY to comply
- Multiple interpretation issues:
  - Definitions of “project,” “control,” “subsidiary,” etc.
  - Payment categories
  - Companies covered
- Multiple opportunities for submitting public comments
- NGOs and industry engaged
• 90% of world’s largest international oil companies
• 8 of world’s 10 largest mining companies
• Large companies engaged in all aspects of sector
Some Critical Issues for DRC

• Which types of activities qualify as “significant actions” in mining sector?

• Will all companies that trade as ADRs be required to report payments?

• Will subsidiaries that submit annual reports have to comply if controlling company do not?

• Will regulations allow for exemptions from filing certain reports and from making certain disclosures?
What Does this Mean for DRC?

- Mining permit
  - Mining permit
  - Mining permit located in a conserved priority area

Conservation Priority Area
- World Database on Protected Area
- Key Biodiversity Area
- Alliance for Zero Extinction Sites

Sources:
- WDPA: http://www.protectedplanet.net/termsandconditions
- IUCN and UNEP-WCMC (2010), The World Database on Protected Areas (WDPA)
- Cambridge, UK: UNEP-WCMC. Available at: www.protectedplanet.net
- KBA: BirdLife International
- Towns: DIAF, WRI, 2010
- Mining permits: Ministry of Mines, DRC, 2011
- Towns: DIAF, WRI, 2010

October 2011
Mining concessions overlapping with conservation priority areas

4,164 Concessions in 2011
867 Companies

<table>
<thead>
<tr>
<th>Total # of companies with titles overlapping with a PA, KBA or AZE*</th>
<th>236</th>
<th>100%</th>
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<tbody>
<tr>
<td>Individuals</td>
<td>53</td>
<td>22%</td>
</tr>
<tr>
<td>Unknown companies (excluding individuals)</td>
<td>89</td>
<td>38%</td>
</tr>
<tr>
<td>Companies partially or totally owned by a company found on an Xchange place (incl. subsidiaries of)</td>
<td>31</td>
<td>13%</td>
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PA = Protected Areas
KBA = Kea Biodiversity Areas
AZE = Alliance for Zero Extinction Areas
Companies publicly owned

11 companies with overlapping titles with a PA, KBA or AZE are partially or totally owned by an entity required to submit an Annual Report to the SEC

ASHANTI GOLDFIELDS KILO
BANRO CONGO MINING Sarl
BHP BILLITON WORLD EXPLORATION GISOR
SHAMIKA CONGO KALEHE
TENKE FUNGURUME MINING
Twangiza Mining

Uncertain cases

SAKIMA
PHELPS DODGE CONGO
MIDAMINES Sprl
LONCOR RESOURCES CONGO Sprl
Example #1: Ashanti GoldFields Kilo

18 Exploitation permits including:
• 5 on Lendu Plateau (KPA)

Annual report required by SEC

100% (public company)

DRC government

OKIMO

86%

ANGLOGOLD ASHANTI

14%

ASHANTI GOLDFIELDS KILO
Example #2: Banro & subsidiaries

- **Banro Corporation**
  - 35 Exploitation permits including:
    - 9 in Itombwe Mountains (PA, KPA & AZE)
    - 2 in Tayna Natural Reserve

- **Twangiza Mining**
  - 6 Exploitation permits including:
    - 3 in Itombwe Mountains (PA, KPA & AZE)
    - 2 in National park Kahuzi-Biega (PA)

- **Banro Congo Mining**

- **DRC government**
  - 46 Exploitation permits including:
    - 13 in National park Kahuzi-Biega (PA, KPA & AZE)

Annual report required by SEC
42 Exploration permits including:

- 5 in Maiko National Park (PA)
- 7 in Tayna Natural Reserve (PA)
- 2 in Kisimba Primates Reserve (PA)
- 1 in Virunga National Park (PA)
- 30 in Forest of Lake Edward (KBA)
Example #4: Shamika and investors

45 Exploration permits including:
- 1 in Itombwe Mountains (KBA & AZE)
- 2 in Marungu Islands (KBA)
- 1 in Mount Kabobo (KBA)
Potential for expansion

<table>
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<tr>
<th>Companies registered in other countries</th>
<th>Canada</th>
<th>UK</th>
<th>Australia</th>
<th>South Africa</th>
<th>China</th>
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</thead>
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<tr>
<td></td>
<td>14</td>
<td>5</td>
<td>5</td>
<td>2</td>
<td>2</td>
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Potential TSX-LSE Merger

European Commission developing counterpart legislation in Europe

Campaign organized by civil-society organizations (June 2011)
Next Steps

• Influence SEC rule-making to ensure broad application
• Conduct further research on companies with large titles on biologically-rich areas
• Encourage government to award licenses to SEC-listed companies
• Encourage other countries to pass similar legislation (UK)
• Train DRC NGOs on US law and build capacity on accessing and using SEC reports