

## DRC: Cobalt Supply Chain Pressures Rising

*As the DRC seemingly heads towards elections slated for 23 December this year (see our [last InDepth](#) on the DRC), the only other topic as popular as Kabila's succession or candidacy in business circles is the flurry of mining activity in the country. Government contract renegotiations, miners' volatile stock prices, disputes and injunctions, the upturn in commodity prices and reputation-damaging NGO investigations have all dragged the DRC's mining industry back into the international limelight.*

Scrutiny has reached unprecedented levels due to the significance of cobalt – which has seen its price quadruple since 2016 – to the global tech industry, and the fact that almost two-thirds of the world's annual supply originates from the DRC, where traceability of origin and governance in the supply chain are severely deficient. A perfect storm of a deteriorating security and political situation in the DRC, increasingly responsible and informed consumers and regulators, and a rising global demand for cobalt are all combining to increase the pressure on tech and cleantech companies.

### A public perception onslaught

Although conflicts in the DRC's recent history have all been driven by communal, ethnic and/or political ideologies, it is undeniable that competition for lucrative control over local mineral resources – notably tin, tantalum, tungsten and gold (3TG) – has fed into the cycle of conflict and human rights abuses. In the late 1990s, these dynamics drew the international community's attention to the issue of conflict minerals and broader unethical practices affecting the Congolese mining industry. Copper and its by-product cobalt have historically been less impacted, since the vast majority of production sits in the more stable Katanga region where the presence of non-state armed groups and secessionist activity is on a less substantial scale than the violence witnessed in parts of eastern DRC, notably North and South Kivu. However, as cobalt demand rises and with it international scrutiny by regulators and civil society, the issue of child labour, health and environmental risks has been obtrusively exposed.



Media and civil society organisations such as Bloomberg, CNN, Amnesty International and Afrewatch have all recently shed light on the approximately 20% of national production that is thought to come from artisanal cobalt mines.

The presence of underage and pregnant workers in unregulated artisanal mines, in contravention of Congolese and international legislation, mean that international buyers must distinguish between product from those on the one hand, and ore from commercial mines and regulated artisanal mines on the other. Compliance requirements around supply chain due diligence – historically focused on the 3TG rather than cobalt – have evolved rapidly over the past decade to tackle some of the underlying problems evident in mineral production and supply, particularly in environments like the DRC. Transparency is the first step in counteracting uncertainty, with a noteworthy collaboration by the Government of the DRC with the Natural Resource Governance Initiative to render public **its mining contracts**, as it seeks to dissociate the country's mining industry's attractiveness from the broader negative perception of the business environment.



## Regulation not yet on the horizon, but pressure on end-buyers and impending uncertainty is prompting action

At present, appetite for cobalt-specific legislation is weak, due in no small part to the negative market reaction to the introduction of the Dodd Frank Act (specifically, Section 1502) in 2010, which affected 3TG mining in the DRC, and the Trump administration's planned rollback of the Act. However, as exposed by various NGO and media investigations to date, the nature of the mineral's value chain and the fact that cobalt from artisanal mines can change hands several times before being mixed with 'clean' ore prior to smelting, indicates the challenge companies face in their efforts to responsibly source the mineral. In anticipation of public pressure and eventual regulations, private sector actors are already seeking work-arounds. There include innovative tracing mechanisms that are being tested and certificate schemes implemented by various organisations, such as a blockchain tagging system run by RCS Global –

though at present these are still in the pilot phase. Another approach, feared by the Government of the DRC, is that end-buyers such as global tech and cleantech companies will limit their exposure to the country entirely. On 3 May 2018, Tesla's **Elon Musk announced** that the company is proactively seeking to reduce the amount of cobalt required in its car batteries.



The DRC's propensity for political instability is no doubt one major factor in such decisions, as a repeatedly delayed election approaches. The former Katanga province, now divided into Lualaba, Tanganyika, Haut-Lomami and Haut-Katanga as part of the *découpage* was previously considered one of the most stable regions but will now be a swing state in perhaps the country's fiercest electoral battle between President Kabila's allies and supporters of Moïse Katumbi Chapwe. Additionally, the new provincial divisions' effects have yet to play out on the mining industry,

with Lualaba Province authorities indicating a desire to re-route exports to avoid Lubumbashi, formerly the provincial capital. A second and crucial factor is the current global over-dependence on Congolese cobalt as the dominant supply source. A mining code revision, disputes between miners and litigation have the potential to single-handedly affect the market, as evidenced by the temporary halt of operations of a plant supplying 5% of the world's cobalt supply for almost two months this year.

## Long-term mitigation measures, short-term cautious business continuity

Until an alternative to the mineral in lithium-ion batteries is identified, the DRC will remain the world's foremost source of cobalt, and until traceability mechanisms using blockchain or indelible ink are proven to work, the question of ethical sourcing will rise in relevance. The cobalt price has seen fluctuations in recent months but overall demand is unlikely to recede, even in the face of socio-political uncertainty and heightened international scrutiny. As a result, we don't expect drastic action by major multinationals in order to limit exposure to the country, but rather a behind-the-scenes effort to stay ahead of international legislation and stay on top of domestic developments. With deep local knowledge and regular monitoring, as well as crucially the Government's active assistance, the mining industry can navigate the turbulent waters ahead. But rigorous supply-chain due diligence is already becoming a critical requirement for miners and end-users wanting to source cobalt from a region that has long suffered from abuses centred around its thriving industry.

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