



September 2022

# CONFLICT MINERALS

## Overall Peace and Security in Eastern Democratic Republic of the Congo Has Not Improved since 2014

# GAO Highlights

Highlights of [GAO-22-105411](#), a report to congressional committees

## Why GAO Did This Study

In the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act, Congress expressed concern about peace and security in the DRC. Specifically, Congress noted that conflict minerals were helping to finance conflict, including in eastern DRC. Section 1502 of the act required the SEC to promulgate regulations containing disclosure and reporting requirements for companies that use conflict minerals from the DRC and adjoining countries. Required annual filing of specialized disclosure reports began in 2014.

The act also included a provision for GAO to assess the SEC regulations' effectiveness in promoting peace and security in the DRC and adjoining countries, among other things.

This report describes (1) what is known about progress made toward achieving improved peace and security in eastern DRC from 2014 through 2021, and (2) how companies responded to the SEC conflict minerals disclosure rule when filing in 2021, among other objectives.

GAO reviewed U.S. government, UN, and other relevant documents. GAO also conducted 10 interviews with experts on peace and security in the DRC and 10 interviews with conflict minerals industry stakeholders. In selecting experts and industry stakeholders to interview, GAO sought to obtain a range of perspectives from individuals with relevant knowledge and experience. Finally, GAO analyzed a generalizable sample of 100 SEC filings from 2021.

View [GAO-22-105411](#). For more information, contact Kimberly M. Gianopoulos at (202) 512-8612 or [gianopulosk@gao.gov](mailto:gianopulosk@gao.gov).

September 2022

## CONFLICT MINERALS

### Overall Peace and Security in Eastern Democratic Republic of the Congo Has Not Improved since 2014

## What GAO Found

Overall peace and security in the eastern part of the Democratic Republic of the Congo (DRC) has not improved since 2014 because of persistent, interdependent factors that fuel violence by non-state armed groups (armed groups). Armed groups continue to commit severe human rights abuses, including sexual violence, and profit from the exploitation of "conflict minerals," according to the Department of State. Battles, fatalities, and attacks on civilians were relatively constant from 2014 through 2016 but steadily increased from 2017 through 2021, according to the Armed Conflict Location & Event Data Project. According to various sources, the main factors that contribute to the conflict include weak governance; corruption; natural resource exploitation; influence from neighboring countries (particularly Burundi, Rwanda, and Uganda); ethnic tensions; and economic pressures. Some of these factors continue to support or give rise to armed groups.

Armed groups and Congolese security forces are the key perpetrators of this violence and create a climate of insecurity for civilians, according to participants in GAO's 10 expert interviews. In 2020, there were an estimated 113 armed groups in the region, according to the Kivu Security Tracker. These groups range from very small militias to well-organized, sophisticated groups with international recruitment, support, and finance networks. According to the United Nations (UN) Group of Experts, many armed groups continue to raise revenue from various sources, such as extortion and natural resources, including gold (see fig.).

#### Mai Mai Militia Combatants Extorting Payment from Fishermen on Lake Edward in the Democratic Republic of the Congo (DRC)



Source: United Nations Group of Experts on the DRC, S/2016/466. | GAO-22-105411

The Securities and Exchange Commission (SEC) disclosure rule broadly requires that certain companies submit a filing that describes their efforts to conduct a reasonable country-of-origin inquiry for necessary conflict minerals used in their products. These minerals include tin, tungsten, tantalum, and gold. Depending on the preliminary determination as to whether these minerals came from the DRC or adjoining countries (covered countries), the rule requires companies to perform due diligence to determine the source of their minerals. In 2021, an estimated 66 percent of companies made preliminary determinations about the origins of their conflict minerals. Of those companies that went on to perform due diligence, an estimated 47 percent reported they could not determine whether the minerals used in their products originated in covered countries.

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# Contents

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Letter		1
	Background	4
	Peace and Security in Eastern DRC Has Not Improved since 2014 Because of Continued Violence by Armed Groups	14
	Companies Generally Had Similar Findings to Those in the Past 2 Years, with Many Reporting They Could Not Determine the Source of Their Conflict Minerals	32
	Sexual Violence Persists in the DRC and Adjoining Countries, but Governments Have Taken Some Steps to Address It	42
	Agency Comments	49
Appendix I	Objectives, Scope, and Methodology	53
Appendix II	Summary of the Securities and Exchange Commission’s Conflict Minerals Rule Disclosure Process	59
Appendix III	Comments from the U.S. Agency for International Development	63
Appendix IV	GAO Contact and Staff Acknowledgments	64
Related GAO Products		65
Figures		
	Figure 1: Map of the Democratic Republic of the Congo and Adjoining Countries (Covered Countries)	6
	Figure 2: Armed Group Combatants in the Democratic Republic of the Congo (DRC)	10
	Figure 3: Number of Battles in Ituri, North Kivu, and South Kivu Provinces of the Democratic Republic of the Congo (DRC), 2014–2021	14
	Figure 4: Number of Reported Fatalities, Including Civilian Deaths, Caused by Violent Events in Ituri, North Kivu, and South	

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Kivu Provinces of the Democratic Republic of the Congo, 2014–2021	15
Figure 5: Artisanal Gold Mining in the Democratic Republic of the Congo	21
Figure 6: Number of Incidents of Violence against Civilians Committed by Non-State Armed Groups and Congolese Security Forces in Ituri, North Kivu, and South Kivu Provinces of the Democratic Republic of the Congo, 2014–2021	25
Figure 7: Number of Civilian Fatalities Related to Incidents of Violence Committed by Non-State Armed Groups in Ituri, North Kivu, and South Kivu Provinces of the Democratic Republic of the Congo, 2014–2021	26
Figure 8: Mai Mai Militia Combatants Extorting Payment from Fishermen on Lake Edward in the Democratic Republic of the Congo (DRC)	29
Figure 9: Tokens Issued by an Armed Group in the Democratic Republic of the Congo (DRC) as Proof That an Individual Paid Taxes to the Group	30
Figure 10: Number of Conflict-Related Internal Displacements and New Refugees from Ituri, North Kivu, and South Kivu Provinces of the Democratic Republic of the Congo, 2017–2021	32
Figure 11: Source of Conflict Minerals in Products as Determined by Companies' Reasonable Country-of-Origin Inquiries (RCOI), Reporting Years 2014–2021	34
Figure 12: Companies' Determinations Regarding the Source of Their Conflict Minerals, as Reported in 2021	37
Figure 13: Simplified Conflict Minerals Supply Chain and Standardized Programs and Tools	39
Figure 14: Population-Based Surveys on Sexual Violence Rates in the DRC, Rwanda, Uganda, and Burundi, by Publication Date	44
Figure 15: Securities and Exchange Commission Flowchart Summary of the Conflict Minerals Disclosure Rule	61

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## Abbreviations

ACLED	Armed Conflict Location & Event Data Project
ADF	Allied Democratic Forces
CODECO	Cooperative for the Development of the Congo
Dodd-Frank Act	2010 Dodd-Frank Wall Street Reform and Consumer Protection Act
DRC	Democratic Republic of the Congo
DHS	Demographic and Health Survey
EDGAR	Electronic Data Gathering, Analysis, and Retrieval
FARDC	Armed Forces of the Democratic Republic of the Congo
FDLR	Democratic Forces for the Liberation of Rwanda
Form SD	specialized disclosure report
IDMC	Internal Displacement Monitoring Centre
IDP	internally displaced persons
IPSA	independent private-sector audit
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
MSF	Doctors Without Borders
NDC-R	Nduma Defense of Congo-Renewal
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
RCOI	reasonable country-of-origin inquiry
RED-Tabara	Resistance for Rule of Law in Burundi-Tabara
SEC	Securities and Exchange Commission
State	U.S. Department of State
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNJHRO	United Nations Joint Human Rights Office
UN Women	United Nations Women
USAID	U.S. Agency for International Development

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September 14, 2022

### Congressional Committees

Conflict in the eastern provinces of the Democratic Republic of the Congo (DRC) contributes to severe human rights abuses and the displacement of people, according to the United Nations (UN) and U.S. Department of State (State).<sup>1</sup> Various sources have reported that this conflict is funded in part by the mining and trade of “conflict minerals,” in particular, tin, tungsten, tantalum, and gold. Despite attempts by the United States and the international community to improve peace and security, armed groups from the DRC and neighboring countries continue to clash with Congolese security forces—the national army and police—and with each other, according to various sources.<sup>2</sup> In addition, State has reported that these armed groups and members of the Congolese security forces have perpetrated violence, including sexual violence, against civilians.

The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) addresses, among other things, trade in conflict minerals.<sup>3</sup> Section 1502 of the act required the U.S. Securities and Exchange Commission (SEC) to promulgate regulations containing disclosure and reporting requirements on the use of conflict minerals from

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<sup>1</sup>For the purposes of this report, we use the term “conflict” to refer to the multiple conflicts that occur in eastern DRC among a range of actors, rather than a singular conflict involving all relevant parties. We consider eastern DRC to be composed of Ituri, North Kivu, and South Kivu Provinces, where the relevant mineral mines are concentrated.

<sup>2</sup>In this report, we use the term “armed groups” to refer to non-state armed groups.

<sup>3</sup>Pub. L. No. 111-203, § 1502, 124 Stat. 1376, 2213-18 (2010). 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 the Secretary of State determines to be financing conflict in the DRC or an adjoining country. See Pub. L. No. 111-203, § 1502(e)(4). When these ores are processed, they yield the following metals used in industrial and other applications: tantalum, tin, gold, and tungsten, respectively. Hereafter in this report, the term “conflict minerals” will refer to either these ores or these metals.

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the DRC and adjoining countries.<sup>4</sup> In 2012, the SEC adopted a disclosure rule for conflict minerals requiring companies to file specialized disclosure reports beginning in 2014 and annually thereafter.<sup>5</sup>

The act also includes a provision requiring us to report annually on the effectiveness of the SEC disclosure rule in promoting peace and security in the DRC and adjoining countries, and the rate of sexual violence in conflict-affected areas of the DRC and adjoining countries.<sup>6</sup>

In this report, we describe (1) what is known about progress made toward achieving improved peace and security in eastern DRC from 2014 through 2021, (2) how companies responded to the SEC disclosure rule when filing in 2021, and (3) information published since April 2020 about the rate of sexual violence in eastern DRC and adjoining countries.<sup>7</sup>

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<sup>4</sup>The Dodd-Frank Act defines the term “adjoining country” as a country that shares an internationally recognized border with the DRC. Pub. L. No. 111-203, § 1502(e)(1). When the SEC issued its conflict minerals rule, such countries included Angola, Burundi, Central African Republic, Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia. For the purposes of the SEC disclosure rule, the SEC refers to these countries, along with the DRC itself, as “covered countries.”

<sup>5</sup>77 Fed. Reg. 56,274 (Sept. 12, 2012) (codified at 17 C.F.R. § 240.13p-1).

<sup>6</sup>Pub. L. No. 111-203, § 1502(d), as amended by the GAO Mandates Revision Act, Pub. L. No. 114-301, § 3, 130 Stat. 1514 (2016). We are required to report on the effectiveness of the SEC disclosure rule annually from 2012 through 2020, with additional reports in 2022 and 2024. It also includes a provision for us to report on the rate of sexual violence from 2011 through 2020, with additional reports in 2022 and 2024. This report contributes to our body of work in response to the annual reporting requirements in Section 1502 of the Dodd-Frank Act. To date, including this report, we have issued 16 related products. For a complete list, see the Related GAO Products page at the end of this report.

<sup>7</sup>The Dodd-Frank Act includes a provision for us to submit a report that includes an assessment of the rate of “sexual and gender-based violence” in war-torn areas of the DRC and adjoining countries. UN officials and researchers advised us to focus our review on assessing “sexual violence.” UN officials said that the term “sexual and gender-based violence” is redundant because sexual violence is included in the definition of gender-based violence. Violence against women, a form of gender-based violence, includes broad violations not related to sexual violence and refers to any act that results in “physical, sexual, or mental harm or suffering to women.” UN officials said that it includes forced early marriage, harmful traditional practices, and domestic abuse. Violence against women does not include sexual violence against adult males or boys and would include other types of nonsexual violence against women. We last reported on these issues in September 2020. See GAO, *Conflict Minerals: Actions Needed to Assess Progress Addressing Armed Groups’ Exploitation of Minerals*, [GAO-20-595](#) (Washington, D.C.: Sept. 14, 2020). That report discussed information on sexual violence that had become available from March 2019 through April 2020.

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To describe progress made toward achieving improved peace and security in eastern DRC from 2014 through 2021, we reviewed literature about measuring these issues to identify potential quantitative and qualitative indicators for the DRC. We held a roundtable discussion with nine experts from the UN, U.S. government, nongovernmental organizations (NGO), and research institutions to help verify, adjust, and select potential indicators. We identified these experts using professional judgment and included experts on assessing peace and security as well as those with experience applying these types of indicators in the DRC context.

We collected and analyzed available quantitative data for these indicators to describe how the peace and security situation has changed in eastern DRC from 2014 through 2021. We used data about battles, fatalities, and incidents of violence against civilians from the Armed Conflict Location & Event Data Project (ACLED), along with other quantitative data from additional sources.<sup>8</sup> We assessed the reliability of these data by reviewing relevant documents and obtaining additional information through written responses from knowledgeable officials. We found these data to be sufficiently reliable to describe trends related to peace and security in eastern DRC. To collect qualitative information, we conducted 10 semi-structured interviews with knowledgeable UN and U.S. government officials as well as DRC experts from academic and research institutions and NGOs based in the United States, Europe, and the DRC. Seven of the 10 interviews had more than one participant. We identified the participants for these interviews using a snowball methodology that included asking experts to recommend other experts and professional judgment. We selected participants from various institutions to obtain a range of non-generalizable views. Finally, we reviewed literature, including NGO, UN, and U.S. government information and reports, to identify other relevant findings on changes in peace and security in eastern DRC from 2014 through 2021.

To describe how companies responded to the SEC disclosure rule for conflict minerals when filing in 2021, we downloaded and analyzed a random sample of 100 disclosure reports from the SEC's publicly available Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database. We randomly selected this sample from a total of 1,021 filings to create estimates generalizable to the population of all companies that

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<sup>8</sup>ACLED is a data collection, analysis, and crisis mapping project that collects the dates, actors, locations, fatalities, and types of reported political violence and protest events around the world. See <https://acleddata.com/#/dashboard>.

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filed in response to the SEC disclosure rule in 2021. We selected this sample size to achieve a margin of error of no more than plus or minus 10 percentage points at the 95 percent confidence level, which applies to all our estimates. We reviewed the Dodd-Frank Act and the requirements of the SEC disclosure rule to develop a data collection instrument that guided our analysis of the filings. In addition, we interviewed SEC officials and a non-generalizable sample of industry stakeholders to gather additional information on how companies responded to the SEC disclosure rule in their 2021 filings. We conducted 10 industry stakeholder interviews. We selected stakeholders to interview from our previous work in this area and a snowball selection process that included asking members of the population to recommend other members.

To provide information about sexual violence in eastern DRC and adjoining countries since April 2020, we searched research databases to identify journal articles and official reports. We also conducted interviews with and reviewed documents from State, the U.S. Agency for International Development (USAID), and UN agencies that work on sexual violence issues in the DRC and neighboring countries. For more details on our scope and methodology, see appendix I.

We conducted this performance audit from September 2021 to September 2022 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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### Conflict and Attempts to Improve Peace and Security in the DRC

The DRC has experienced decades of conflict since it achieved independence in the 1960s. In 1999, the UN deployed a peacekeeping mission to the DRC—now known as the UN Stabilization Mission in the

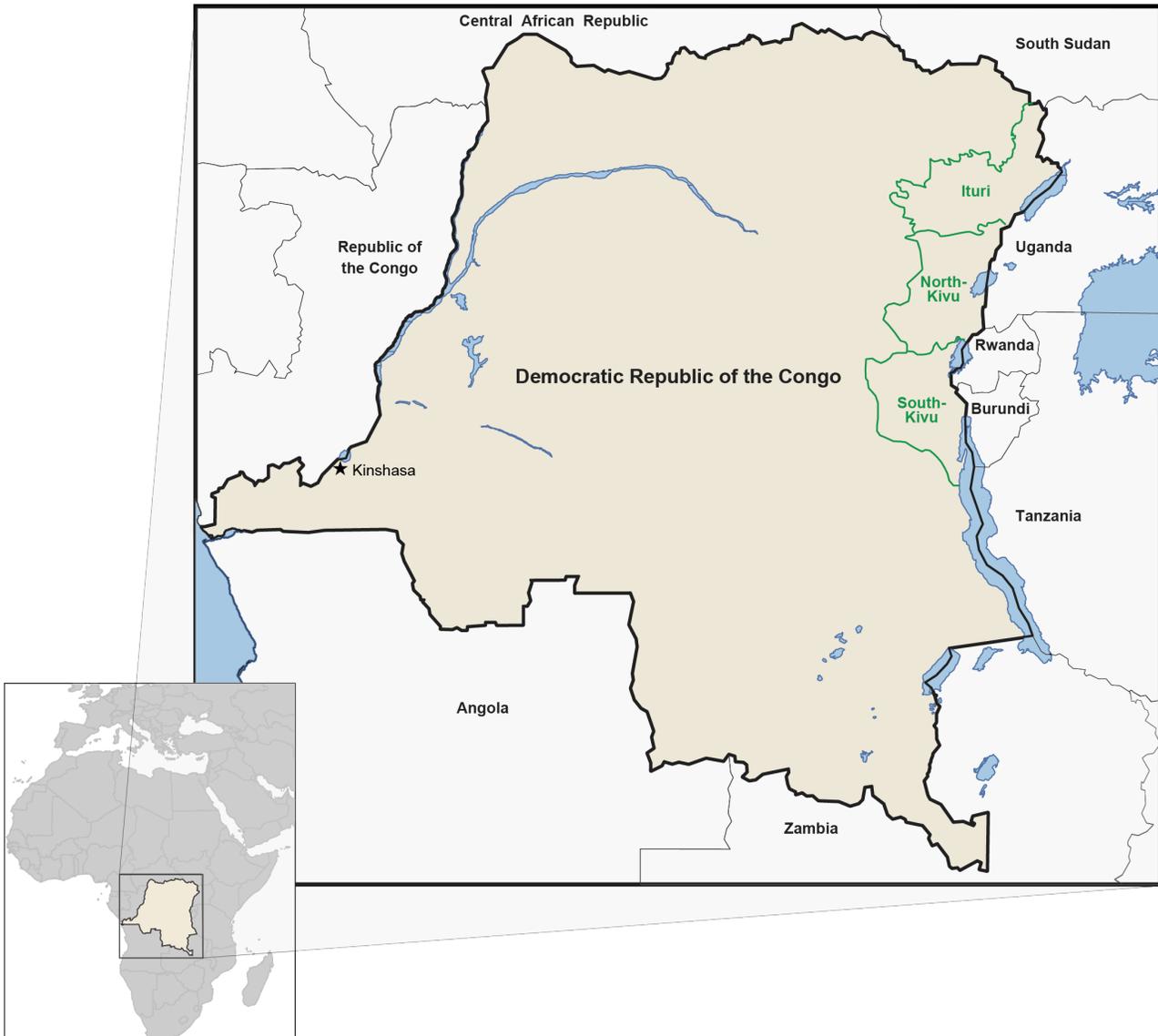
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DRC or by its French acronym, MONUSCO.<sup>9</sup> Despite MONUSCO's presence, ACLED has reported continued violence, particularly in the country's eastern provinces of Ituri, North Kivu, and South Kivu, the locations of many conflict mineral mines (see fig. 1). This violence includes sexual violence against civilians by some members of armed groups and the Congolese military and police, according to the UN Special Representative of the Secretary-General on Sexual Violence in Conflict.

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<sup>9</sup>MONUSCO's mandate includes protecting civilians and supporting the stabilization and strengthening of the DRC's institutions and key governance and security reforms. In December 2020, the UN adopted a resolution requesting that the Secretary-General develop a transition plan for MONUSCO's drawdown. United Nations Security Council, *Resolution 2556* (Dec. 18, 2020). In September 2021, MONUSCO presented this transition plan with details about the criteria and indicators necessary for its drawdown and reported that it had withdrawn from two provinces and had plans to withdraw from a third. MONUSCO remains active in Ituri, North Kivu, and South Kivu Provinces. For more information on the transition plan and conditions for MONUSCO's drawdown, see MONUSCO, *Report of the Secretary-General, S/2021/807* (Sept. 17, 2021).

**Figure 1: Map of the Democratic Republic of the Congo and Adjoining Countries (Covered Countries)**



Source: GAO, based on United Nations map. | GAO-22-105411

Note: The term “adjoining country” is defined in Section 1502(e)(1) of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act as a country that shares an internationally recognized border with the Democratic Republic of the Congo (DRC). Pub. L. No. 111-203, § 1502(e)(1), 124 Stat. 1376, 2217 (2010). Adjoining countries included Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia, at the time that the Securities and Exchange Commission (SEC) issued its conflict minerals disclosure rule. For the purposes of the conflict minerals disclosure rule, the SEC refers to these countries adjoining the DRC, along with the DRC itself, as “covered countries.”

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## Armed Groups in Eastern DRC

The overall number of armed groups in eastern DRC has varied since 2014, with an estimated 113 in Ituri, North Kivu, and South Kivu Provinces in 2020, according to the Kivu Security Tracker.<sup>10</sup> (See the text box below for a description of selected armed groups.) The Kivu Security Tracker has reported that the number of armed groups has ranged from approximately 70 to 130 in North Kivu and South Kivu Provinces alone since 2015. Armed groups fluctuate in number depending on the context, as discussed below. Over time, armed groups may fracture, disintegrate, collaborate, or ally with each other, according to experts we interviewed and UN Group of Experts reports.<sup>11</sup>

### Descriptions of Selected Non-State Armed Groups in Eastern Democratic Republic of the Congo (DRC)

#### Allied Democratic Forces (ADF)

Originally created in opposition to the Ugandan government, ADF is now an Islamist, Congo-based movement, according to the Kivu Security Tracker. The ADF is a well-organized group that includes recruitment, support, and finance networks, according to the UN Group of Experts. The Department of State has reported that ADF established ties with ISIS in late 2018. Although ADF generally operates in North Kivu Province, it recently has become active in Ituri Province, according to the Armed Conflict Location & Event Data Project.

#### Cooperative for the Development of the Congo (CODECO)

In 2017, CODECO emerged as a decentralized association of Lendu militias in Ituri Province, according to the International Crisis Group. The Kivu Security Tracker has reported that although the Congolese military killed CODECO's leader in March 2020, various factions continue to exist.

#### Democratic Forces for the Liberation of Rwanda (FDLR)

FDLR was created in 2000 by troops belonging to the Rwandan army and various militias, according to the Kivu Security Tracker. In 2016, the group splintered into FDLR and the National Council for Renewal and Democracy because of political disagreements, e.g., over the fate of Rwandan refugees in eastern DRC, according to the Kivu Security Tracker. FDLR continues to operate in North Kivu Province, according to the same source.

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<sup>10</sup>The Kivu Security Tracker is a joint project of the Congo Research Group, based at New York University's Center on International Cooperation, and Human Rights Watch. The goal of the Kivu Security Tracker is to map violence by state security forces and armed groups in eastern DRC to better understand trends, causes of insecurity, and serious violations of international human rights and humanitarian law. The groups included in the count are ones that (a) have a differentiated organizational structure and an identity, (b) seek to assert some form of control over a geographic area, (c) refer to an ideology, and (d) employ violence regularly as a technique of governance. Gangs whose main focus is banditry are not included in this count.

<sup>11</sup>A UN resolution in 2004 established the UN Group of Experts on the DRC. The group includes six experts mandated to, among other things, gather and examine information on the impact of conflict minerals traceability efforts, networks supporting armed groups and criminal networks in the DRC, and perpetrators of human rights violations and abuses in the DRC, including those within the security forces. We interviewed officials from the 2021 UN Group of Experts as one of our 10 DRC expert interviews to obtain qualitative information for this report.

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### **M23**

M23, an ethnically Tutsi group allegedly backed by Rwanda, captured Goma, the capital of North Kivu Province, in 2012 before UN and Congolese forces defeated it in 2013, according to the International Crisis Group. In November 2021, M23 reemerged and has since conducted attacks against the Congolese army in North Kivu Province, according to the same source.

### **Mai Mai militias**

Mai Mai militias are numerous disparate groups that operate as self-defense networks or criminal groups, according to the Congressional Research Service. The Kivu Security Tracker has reported that almost half of the armed groups in the region are Mai Mai militias.

### **Nduma Defense of Congo-Renewal (NDC-R)**

Based in North Kivu Province, NDC-R formed in 2014 as a breakaway group from the NDC and is led by a former lieutenant from the Congolese military, according to the UN Group of Experts. NDC-R is a well-disciplined and structured group whose main objective is to fight against FDLR and then integrate into the Congolese military, according to the same source.

### **Nyatara**

In 2020, there were about 10 active Nyatara factions operating in North Kivu Province, according to the Kivu Security Tracker. Most Nyatara groups claim to protect ethnic Congolese Hutus from Mai Mai militias or the Congolese military, and some collaborate with FDLR, according to the same source.

### **Resistance for Rule of Law in Burundi-Tabara (RED-Tabara)**

Consisting almost entirely of Burundian citizens, RED-Tabara is connected to the founder and leader of a Burundian political party, according to the UN Group of Experts. RED-Tabara has used South Kivu Province as a base to organize, plan, train, and launch operations across the border into Burundi and has collaborated with local armed groups, according to the same source.

### **Twirwaneho**

In 2019, ethnic Banyamulenge self-defense groups in South Kivu Province began to mobilize and developed into an organized and coordinated armed group known as Twirwaneho, according to the UN Group of Experts.

### **Yakutumba**

Yakutumba, also known as Mai Mai Yakutumba, is a predominantly ethnic Bembe armed group created by a former Congolese military officer in 2006, according to the UN Group of Experts and Kivu Security Tracker. Operating in South Kivu Province, Yakutumba is a well-organized group, with soldiers, a navy, intelligence services, and a political party, according to the UN Group of Experts.

### **Zaire**

Zaire began as a loosely defined self-defense militia in response to violence perpetrated by CODECO; it became more formalized in mid-2020, according to the Kivu Security Tracker. Zaire members are from almost all of the ethnic groups in northern Ituri Province, according to the same source.

Source: GAO analysis of United Nations (UN), U.S. government, and nongovernmental organization data and reports. | GAO-22-105411

From 2014 through 2021, the size and strength of armed groups changed, often because of internal fractures or external circumstances, such as whether they were targeted by the Armed Forces of the DRC

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(known by the French acronym FARDC) or other armed groups, according to various sources. For example, the Allied Democratic Forces (ADF) was weakened by military operations in 2014 and the arrest of its leader in 2015, had a resurgence around 2018, and then became one of the most violent armed groups in 2021, according to UN Group of Experts reports and ACLED data. Similarly, the Democratic Forces for the Liberation of Rwanda (known by the French acronym FDLR) grew increasingly destabilized in 2015 because of military operations and clashes with other armed groups, fractured into two groups for ideological reasons in 2016, and later joined forces with Nyatura militias, according to UN Group of Experts reports. Experts from an academic research institution told us that the splintering of larger armed groups might be a strategy to avoid provoking attention from the FARDC and MONUSCO because these security forces generally target groups that pose a threat at the national and regional levels. When armed groups split into factions because of internal conflict, the smaller groups may fight against each other, according to a researcher from a Congolese academic institution.

The UN Group of Experts has estimated that most of the larger armed groups consist of a few hundred active combatants, on average, at any given time. Figure 2 shows armed group combatants. Some groups may have over a thousand combatants and some are very small militias with 30 or 40 combatants, according to UN Group of Experts reports.<sup>12</sup> For instance, the UN Group of Experts estimated that Nduma Defense of Congo-Renewal (NDC-R) had amassed 5,000 combatants by 2019 by allying with and absorbing other armed groups. By 2020, however, the removal of NDC-R's leader by the second-in-command led to internecine fighting and the group's breakdown, according to the Kivu Security Tracker.

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<sup>12</sup>In some cases, not all combatants in an armed group have individual weapons, according to UN Group of Experts reports.

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**Figure 2: Armed Group Combatants in the Democratic Republic of the Congo (DRC)**



Source: United Nations Group of Experts on the DRC, S/2021/560. | GAO-22-105411

Note: GAO has blurred the faces in these images.

Experts we interviewed said that the structure of armed groups also varies. Some armed groups, such as ADF and Yakutumba, are sophisticated and well organized, according to UN Group of Experts reports and the Kivu Security Tracker. For example, ADF uses international recruitment, support, and finance networks, according to the UN Group of Experts. Yakutumba, which includes naval forces and intelligence services, set up a parallel administration with offices responsible for customs and migration, among other things, to generate revenues for the group, according to the same source.

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## SEC Disclosure Rule for Conflict Minerals

The four conflict minerals—tin, tungsten, tantalum, and gold—are used to make a variety of products. For example:

- Tin is used for food packaging and automobile parts.
- Tungsten is used for drill bits, cutting tools, and other industrial manufacturing tools.
- Tantalum is used for energy storage in cell phones and computers.
- Gold is used for money reserves and in jewelry, cell phones, and laptops.

In August 2012, the SEC adopted its disclosure rule for conflict minerals in response to Section 1502(b) of the Dodd-Frank Act.<sup>13</sup> In its adopting release for the rule, the SEC noted that Congress sought to accomplish

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<sup>13</sup>77 Fed. Reg. 56,274.

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the goal of helping to end the human rights abuses that the DRC conflict caused by using the act's disclosure requirements to increase public awareness of the sources of companies' conflict minerals and to promote the exercise of due diligence on conflict mineral supply chains.<sup>14</sup> According to the SEC, Congress also sought to promote peace and security and viewed reducing the use of conflict minerals as a way to decrease funding for armed groups and thereby put pressure on them to end the conflict.

The SEC disclosure rule addresses the four conflict minerals named in the Dodd-Frank Act that originate from the covered countries. The rule requires companies to (a) file a specialized disclosure report (Form SD) if they manufacture, or contract to have manufactured, products that contain conflict minerals necessary to the functionality or the production of those products; and (b) file an additional conflict minerals report, if applicable. The Form SD provides general instructions to companies submitting a filing and specifies the information that the form and a conflict minerals report must include. The conflict minerals report must be filed if a company, after exercising due diligence, has reason to believe its conflict minerals may have come from covered countries and may not be from scrap or recycled sources. For more details on the SEC process, see appendix II.

The SEC disclosure rule for conflict minerals outlines a process for companies to follow, as applicable, to comply with the rule. The process broadly requires a company to do the following:

- determine whether it manufactures, or contracts to be manufactured, products with "necessary" conflict minerals;
- conduct a reasonable country-of-origin inquiry (RCOI) concerning the origin of those conflict minerals; and
- exercise due diligence, if appropriate, to determine the source and chain of custody of those conflict minerals, adhering to a nationally or

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<sup>14</sup>77 Fed. Reg. 56,274, 56,275. When the SEC proposes or adopts a set of rules, it publishes them in a document called a "proposing release" or "adopting release," according to the SEC.

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internationally recognized due diligence framework, if such a framework is available for these necessary conflict minerals.<sup>15</sup>

In response to Section 1502(b) of the Dodd-Frank Act, the rule, as adopted in 2012, required companies to file a conflict minerals report after performing the three steps outlined above, if necessary. Among other things, companies were required to describe in their conflict minerals report, if appropriate, the products that had “not been found to be ‘DRC conflict free.’” However, an appellate court decision found that Section 1502 of the Dodd-Frank Act and the rule violated the First Amendment to the extent they required companies to report to the SEC and to state on their websites whether any of their products had not been found to be “DRC conflict free.”<sup>16</sup> Following the appellate court decision, SEC staff issued guidance in April 2014. This guidance indicated that, pending further action by the SEC or a court, companies required to file a conflict minerals report would not have to identify their products as “DRC conflict undeterminable,” “not found to be ‘DRC conflict free,’” or “DRC conflict free.”<sup>17</sup> According to the 2014 SEC staff guidance, companies are not required to obtain an independent private-sector audit (IPSA) unless they choose to disclose that their products are “DRC conflict free” in a conflict minerals report.<sup>18</sup>

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<sup>15</sup>A company is required to perform due diligence on source and chain of custody and provide a description of the measures it took to exercise due diligence if, after completing an RCOI, it knows or has reason to believe that its conflict minerals may have originated in the covered countries and may not have been from scrap or recycled sources.

<sup>16</sup>According to SEC staff, the U.S. Court of Appeals in April 2014 rejected challenges to the bulk of the SEC conflict minerals rule. However, the court held that Section 1502 of the Dodd-Frank Act and the rule violated the First Amendment to the extent that they required regulated entities to report to the SEC and to state on their website that any of their products have “not been found to be ‘DRC conflict free.’” *Nat’l Ass’n of Mfrs. v. SEC*, 748 F.3d 359 (D.C. Cir. Apr. 14, 2014).

<sup>17</sup>See 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). According to SEC staff, the April 2014 guidance is still in effect.

<sup>18</sup>Under the SEC disclosure rule, an IPSA expresses an opinion or conclusion as to whether the design of the issuing company’s due diligence measures conforms in all material respects with the criteria set forth in the nationally or internationally recognized due diligence framework the company used. The IPSA also expresses an opinion or conclusion on whether the description of those measures the company performed as set forth in its conflict minerals report is consistent with the due diligence process the company undertook.

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In April 2017, after the final judgment in the case,<sup>19</sup> the SEC staff issued revised guidance indicating that, because of uncertainty about how the SEC commissioners would resolve issues related to the court ruling, it had determined it would not recommend enforcement action to the commission if companies did not report on specified disclosure requirements for due diligence.<sup>20</sup>

However, as we previously reported, SEC staff told us that the 2017 guidance is not binding on the commission, which could initiate enforcement action if companies do not report on their due diligence in accordance with the rule. The SEC Chairman released a statement in 2018 confirming that SEC staff statements are nonbinding and do not create enforceable legal rights or obligations of the commission. The statement clarifies that there is a distinction between the SEC staff's views and the commission's rules and regulations.<sup>21</sup> According to SEC staff, the Chairman's statement was a general statement regarding staff views and was not specific to staff statements regarding the conflict minerals rule. The 2017 guidance is temporary but still in effect, pending the commission's review of the rule, according to SEC staff. As of June 2022, review of the rule was on the SEC's long-term regulatory agenda, which means that any action would likely not take place within the next 12 months, according to SEC staff.

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<sup>19</sup>The final judgment set aside the SEC disclosure rule "to the extent that the Statute and Rule require regulated entities to report to the [Securities and Exchange] Commission and state on their websites that any of their products have not been found to be 'DRC conflict free.'" *Nat'l Ass'n of Mfrs. v. SEC*, No. 13-cv-635 (D.D.C. Apr. 3, 2017). The District Court also remanded the case to the SEC.

<sup>20</sup>The updated guidance specifically stated that "in light of the uncertainty regarding how the [SEC] Commission will resolve those issues [raised by the Court's decision] and related issues raised by commenters, the SEC's Division of Corporation Finance [SEC staff] has determined that it will not recommend enforcement action to the Commission if companies, including those that are subject to paragraph (c) of Item 1.01 of Form SD, only file disclosure under the provisions of paragraphs (a) and (b) of Item 1.01 of Form SD." The statement noted that it "is subject to any further action that may be taken by the Commission, expresses the Division's position on enforcement action only, and does not express any legal conclusion on the rule." See SEC Division of Corporation Finance, *Updated Statement on the Effect of the Court of Appeals Decision on the Conflict Minerals Rule* (Apr. 7, 2017).

<sup>21</sup>See Jay Clayton, SEC Chairman, *Statement Regarding SEC Staff Views* (Sept. 13, 2018).

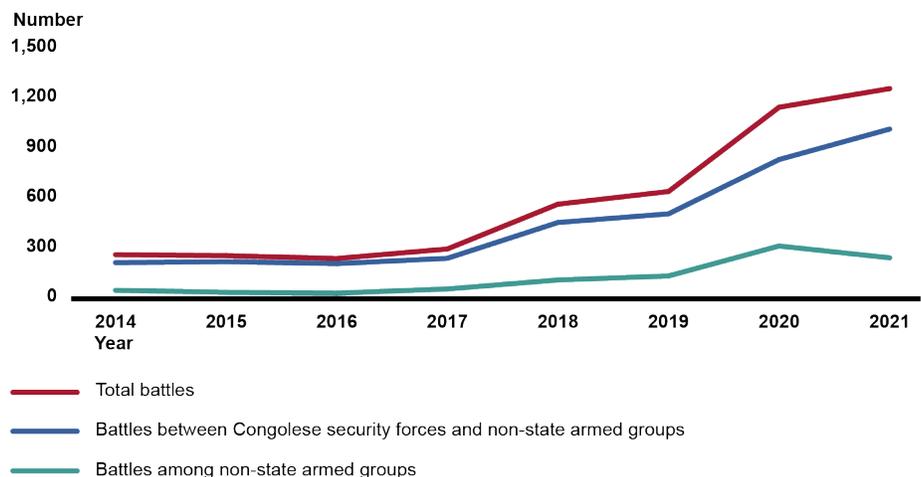
## Peace and Security in Eastern DRC Has Not Improved since 2014 Because of Continued Violence by Armed Groups

From 2014 through 2016, battles and fatalities from violent events in eastern DRC were relatively constant but steadily increased from 2017 through 2021, according to ACLED data. Experts we interviewed said that the conflict's intensity during this period varied across the region depending on the context and armed groups active in the area. Factors contributing to conflict are interdependent and persistent, according to these experts and USAID's conflict assessment. These factors include weak governance, natural resource exploitation, and the influence of adjoining countries, particularly Burundi, Rwanda, and Uganda. Overall, the conflict's violence, which is mainly perpetrated by armed groups, creates a climate of insecurity for civilians in eastern DRC.

## Battles and Fatalities from Violent Events in Eastern DRC Were Relatively Constant from 2014 to 2016 but Steadily Increased from 2017 through 2021

Battles and fatalities from violent events were relatively constant in Ituri, North Kivu, and South Kivu Provinces from 2014 through 2016 but steadily increased from 2017 through 2021, according to ACLED data. Figure 3 shows the increase in battles during this period. Most battles were between Congolese security forces and armed groups, but battles among armed groups also increased beginning in 2017 before decreasing slightly in 2021, according to ACLED data.<sup>22</sup>

**Figure 3: Number of Battles in Ituri, North Kivu, and South Kivu Provinces of the Democratic Republic of the Congo (DRC), 2014–2021**



Source: GAO analysis of data from the Armed Conflict Location & Event Data Project (ACLED). | GAO-22-105411

<sup>22</sup>From 2014 through 2021, there were also battles between armed groups and external or other forces, such as the armed forces of adjoining countries (e.g., Burundi, Rwanda, and Uganda), MONUSCO, and private security forces, according to ACLED data. The number of these battles ranged from four to 18 annually, averaging 12 per year.

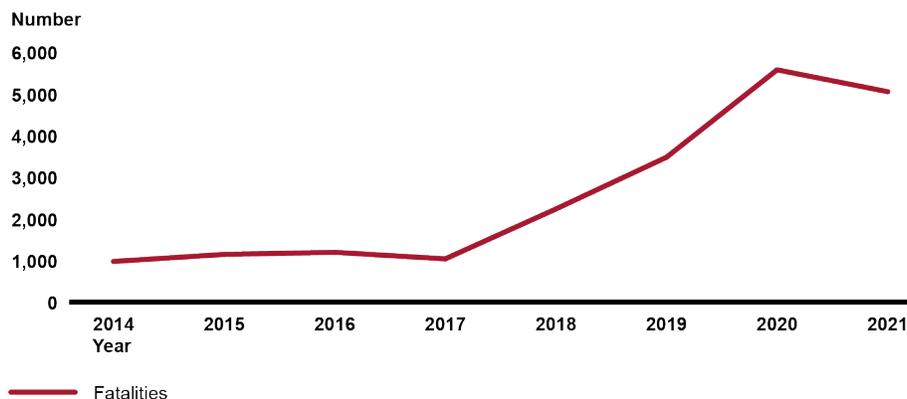
Notes: Congolese security forces include military and national police.

During this period, there were also battles between non-state armed groups and external or other forces, such as the armed forces of adjoining countries (e.g., Burundi, Rwanda, and Uganda), the United Nations Organization Stabilization Mission to the DRC, and private security forces. The number of these battles ranged from four to 18 annually, averaging 12 per year.

ACLED data are based on media reports, reports from non-governmental and international organizations, selected social media accounts, and information provided through partnerships with local conflict observatories. While local organizations gather primary data and have coverage that is more reflective of local-level realities, these initiatives are often limited in scope, according to ACLED. Additionally, ACLED states that media reports may not capture all events. Consequently, ACLED may underreport events such as battles.

Fatalities, including civilian deaths, caused by battles and other violent events also increased steadily from 2017 through 2020, with a slight drop in 2021, according to ACLED data (see fig. 4).

**Figure 4: Number of Reported Fatalities, Including Civilian Deaths, Caused by Violent Events in Ituri, North Kivu, and South Kivu Provinces of the Democratic Republic of the Congo, 2014–2021**



Source: GAO analysis of data from the Armed Conflict Location & Event Data Project (ACLED). | GAO-22-105411

Notes: ACLED defines violent events as battles, explosions, and violence against civilians. ACLED estimates the number of fatalities associated with an event when a report notes the occurrence of fatalities without specifying the number; fatalities are set to 10 for “significant attacks” and to three for attacks outside of a warzone.

ACLED data are based on media reports, reports from nongovernmental and international organizations, selected social media accounts, and information provided through partnerships with local conflict observatories. While local organizations gather primary data and have coverage that is more reflective of local-level realities, these initiatives are often limited in scope, according to ACLED. Additionally, ACLED states that media reports may not capture all events. Consequently, ACLED may underreport violent events and associated fatalities.

The intensity of conflict from 2014 through 2021 varied across the three provinces, depending on the context and the number and type of armed groups active in specific areas, according to experts we interviewed. Officials from the UN Group of Experts said that violent “hot spots” developed in different areas at various times. For example, external

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armed groups from Burundi became more active in South Kivu Province in 2015 following an attempted coup d'état in Burundi, according to a researcher at a Congolese academic institution.

Experts we interviewed partly attribute the increase in violence beginning in 2017 to shifting alliances among various armed groups as well as the emergence of the armed group Cooperative for the Development of the Congo (CODECO) and the strengthening of the armed group ADF. The August 2017 UN Group of Experts report described these varying alliances, noting that the conflict's dynamic changed as fragmented armed groups began to operate in a more decentralized but heavily networked manner. The report also noted that foreign and Congolese armed groups were growing increasingly interconnected, which affected patterns of violence.

In addition, certain events during this period contributed to spikes in violence in particular areas, according to experts we interviewed and UN Group of Experts reports. For example, although President Joseph Kabila's second term ended in December 2016, elections for his successor were postponed until December 2018. The UN Group of Experts reported that the delayed elections posed a threat to the country's peace and stability as some armed groups violently resisted Kabila's attempt to hold on to power. Further, violence also surrounded the 2018 Ebola outbreak in North Kivu Province, according to experts we interviewed. An expert explained that some armed groups intentionally created insecurity in areas affected by the Ebola epidemic with the expectation that international organizations responding to the epidemic would hire them to provide security. Moreover, in May 2021, President Felix Tshisekedi declared a state of siege for Ituri and North Kivu Provinces to combat the high level of violence by armed groups. The state of siege transferred local administration, including the judicial system, to the military's control. However, the state of siege has not improved and may have exacerbated the security situation in these provinces, according to experts we interviewed.

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### Interdependent Factors That Contribute to Violence in Eastern DRC Persist

Conflict in eastern DRC is a complex and multi-dimensional problem, with interdependent factors that vary across the provinces and remain unaddressed, according to experts we interviewed. Experts from an academic research institution said that those involved in the conflict have been conditioned by the past because memories of previous political, economic, and social conflicts influence current events. They further explained that the reliance on violence to resolve conflicts has led to a

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militarization of political and social interaction and a situation in which armed groups are deeply embedded in society.

Although various historical, political, environmental, and geographical issues have contributed to conflict, experts we interviewed and USAID's 2021 conflict assessment identified the conflict's main factors. The factors fall into the following six categories:<sup>23</sup>

- Weak governance
- Corruption
- Natural resource exploitation
- Influence from adjoining countries, particularly Burundi, Rwanda, and Uganda
- Ethnic tensions
- Economic pressures

Many of the factors that contribute to conflict also support or give rise to armed groups, as discussed below.

## Weak Governance

Participants in all 10 of our expert interviews and USAID's 2021 conflict assessment cited weak governance as one of the conflict's main factors. Significant portions of eastern DRC, particularly outside of urban areas, are not under government control, with much of this territory instead controlled by armed groups, according to these experts. Experts said that weak and ineffective government institutions at the national, provincial, and local levels cannot address citizens' grievances or negotiate access to resources such as land, minerals, and local power, all of which leads to conflict. The USAID conflict assessment identified one of the conflict's main factors as "the chronic capacity deficit of public institutions that lack not just budgetary resources, know-how, and equipment but also the political commitment to ensure basic rule of law and public safety." For example, the judicial system—under-resourced and highly corrupt—does not adjudicate conflict and citizens avoid using it, according to experts we interviewed. A Congolese researcher also said that the government lacks the capacity to follow through on commitments it made to armed groups

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<sup>23</sup>The USAID DRC Conflict Assessment's literature review identified nine factors contributing to conflict, seven of which they found were emphasized in their key informant interviews. We adapted five of our categories from these seven and added one category on the basis of our interviews with experts. International Business and Technical Consultants, Inc., *USAID/DRC Conflict Assessment*, a report prepared at the request of the U.S. Agency for International Development (Feb. 5, 2021).

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as part of negotiations, and this failure has fostered more ill will and a loss of credibility.

Experts we interviewed also pointed to the army as an institution whose weakness exacerbates conflict. The government does not have a monopoly on the use of force, and armed groups vie for control, according to the USAID conflict assessment. In 2017, several FARDC officers told the UN Group of Experts that they lacked adequate means to control their area of operations. Violence in an area may encourage community defense groups to form in order to protect local populations against particular armed groups because civilians cannot rely on the national security forces, according to experts. For example, according to the Kivu Security Tracker, most Nyatura armed groups claim to protect Congolese of Hutu ethnicity against the FARDC and Mai Mai militia groups.

The lack of professionalism in the national security forces may also lead to civilian support of armed groups, according to experts. For example, the UN Group of Experts reported that anger at FARDC harassment served as an extra incentive for youth to join the Yakutumba armed group. The FARDC has also been known to collude or cooperate with armed groups, according to experts we interviewed and UN Group of Experts reports. The FARDC may ally with an armed group or use it as a proxy to target another one, according to UN Group of Experts reports. For instance, the UN Group of Experts reported that FARDC officers coordinated with two armed groups against FDLR in 2015.

## Corruption

Corruption, often linked with weak governance and natural resource exploitation, is another key factor of the conflict, according to participants in eight of our 10 expert interviews. Government officials and the FARDC are the biggest perpetrators of corruption and benefit more from illegal taxes than armed groups, according to experts from an international NGO. Experts from a research institution said that government officials see their positions and the public treasury primarily as a means to enrich themselves. In general, according to experts we interviewed, a climate of predatory behavior exists in which various state agents, including the police, illegally tax the local population.

Some elements of the FARDC behave similarly to armed groups by charging illegal taxes and illegally exploiting natural resources, including

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gold, according to UN Group of Experts reports.<sup>24</sup> In 2014, the UN Group of Experts documented cases in which elements of the FARDC were involved in trading various natural resources, including conflict minerals, wildlife, charcoal, and wood. At times, the FARDC facilitates criminal activity or collaborates with armed groups to share profits from illegal taxes, according to experts.<sup>25</sup> MONUSCO officials explained that in some cases the FARDC may reach agreements with an armed group, allowing it to operate in a particular area without harassment from the FARDC in exchange for FARDC members taking a share of revenues generated from illegal mining or other activities. For example, the UN Group of Experts estimated that in 2014 the armed group FDLR and FARDC officers could earn more than \$650,000 in a year from the sale of charcoal in one area.<sup>26</sup>

Corruption in the judiciary and law enforcement combined with a lack of political will leads to pervasive impunity and the feeling that corruption has no consequences, according to experts we interviewed. Because of endemic corruption in the judicial system, there is no accountability for government officials or others involved in illicit mining, including for conflict minerals, according to a Congolese researcher. The UN Group of Experts reported that bribery affected law enforcement efforts in gold-related cases in 2020 and cited an example in which a senior prison officer and a mining official described cases that involved natural resources as “quick cash” because suspects would often pay bribes.

## Natural Resource Exploitation

Natural resource exploitation is another factor in the conflict, according to participants in all 10 of our expert interviews as well as UN Group of Experts reports and USAID’s 2021 conflict assessment. State officials said that competition for natural resources, including minerals, continues to fuel conflict. Land and natural resources are a significant aggravating

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<sup>24</sup>Experts explained that FARDC members might be susceptible to corruption because they receive poor pay and lack necessities.

<sup>25</sup>The FARDC and many armed groups have close ties with friends and acquaintances on both sides, according to officials from the UN Group of Experts. They explained that these ties are difficult to break and can lead to collusion. Most armed group leaders and many combatants are former FARDC members, and some former armed group combatants incorporated into the FARDC through disarmament, demobilization, and reintegration processes, according to these officials.

<sup>26</sup>The UN Group of Experts based this estimate on the conclusion that FDLR and FARDC officers earned a combined \$1,805 per day from the sale of charcoal in this area.

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factor in the conflict, according to MONUSCO officials.<sup>27</sup> A Congolese researcher explained that armed groups and political and military elites fight for control over territory in order to gain control of and benefit from natural resources. In 2017, the UN Group of Experts reported that the illegal exploitation and trade of natural resources continued to provide sources of revenue that fueled the region's insecurity.

Armed groups, as well as state officials and FARDC members, continue to benefit from and fight for control of natural resources, according to experts we interviewed. USAID's 2021 conflict assessment noted that armed groups fight for control over informal, small-scale mining sites, known as artisanal mining sites, and poaching operations, among other things. Although hundreds of thousands of Congolese rely on conflict minerals for their livelihoods, the mining and trade of these minerals fuel corruption and human rights abuses perpetrated by armed groups and undisciplined elements of the FARDC, according to a 2021 report by the International Peace Information Service. The USAID conflict assessment describes a "toxic alliance" between armed groups and illicit artisanal and small-scale mining. Figure 5 shows Congolese miners using artisanal gold mining techniques.

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<sup>27</sup>Issues concerning land ownership, access, and use also contribute to conflict in these provinces, according to USAID's DRC conflict assessment. The assessment notes that land disputes are often intertwined with ethnic tensions because of the lack of official documentation and the predominance of customary law over statutory law.

**Figure 5: Artisanal Gold Mining in the Democratic Republic of the Congo**



Source: International Peace Information Service. | GAO-22-105411

## Influence from Adjoining Countries

Adjoining countries, particularly Burundi, Rwanda, and Uganda, have also influenced and contributed to the conflict in eastern DRC, according to the USAID conflict assessment and participants in all 10 of our expert interviews. These neighboring countries have various connections and interactions with armed groups. According to the USAID conflict assessment, international military confrontations involving regional countries and proxy groups have contributed to increasing levels of conflict.

Some armed groups operating in eastern DRC emerged in opposition to the governments of Burundi, Rwanda, and Uganda. For example, FDLR was formed by former members of the Rwandan army, ADF was created to fight the Ugandan government, and RED-Tabara is linked to a Burundian opposition party, according to UN Group of Experts reports. These reports note that these armed groups are no longer solely focused on other countries; they also contribute to the violence in eastern DRC by threatening civilians and fighting or aligning with Congolese armed

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groups. Additionally, since 2017, these foreign armed groups have included more Congolese citizens, according to the UN Group of Experts.

At times, according to various sources, these countries have used proxy groups to further geopolitical aims or to combat armed groups working against their governments. For instance, the Burundian armed group RED-Tabara has received support from Rwanda, according to experts from an international NGO.<sup>28</sup> The UN Group of Experts reported in 2016 that three Burundian armed groups had received training and support from Rwandan individuals, including Rwandan military personnel. The armed group M23, which is allegedly supported by Rwanda, reemerged in November 2021 in North Kivu Province with attacks against the Congolese military, according to various sources. Further, according to the Kivu Security Tracker, the Burundian army subcontracted Congolese armed groups to fight RED-Tabara, which opposes the Burundian government.

In addition, Burundi, Rwanda, and Uganda have conducted military incursions into eastern DRC to fight armed groups, according to experts we interviewed. Experts said that these military incursions are now mostly in collaboration with or with the tacit acceptance of the DRC government. For example, the UN reported that in November 2021 the Congolese and Ugandan militaries initiated joint operations against ADF. Additionally, in 2019, Rwandan Special Forces killed the leader of FDLR during a secret operation in the DRC, according to MONUSCO officials.

## Ethnic Tensions

Ethnic tensions, possibly intertwined with economic pressures and influence from adjoining countries, also play a role in the conflict, according to the USAID conflict assessment, UN Group of Experts reports, and participants in eight of our 10 expert interviews. For example, land access and economic issues influence relations between the Lendu and Hema ethnic groups, according to experts. A Congolese researcher explained that tensions between the Lendu, who traditionally raise cattle, and Hema, who traditionally cultivate the land, may lead to disputes and confrontations over how land is used and who makes such decisions. The USAID conflict assessment concluded that parties to the conflict in northern Ituri Province divide along Lendu-Hema ethnic lines but engage in disputes over access to resources rather than ethnicity.

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<sup>28</sup>Rwanda's motivations for supporting armed groups in the DRC may include national security concerns, ethnic solidarity, and economic interests, according to the Congressional Research Service.

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DRC's borders encompass a multitude of ethnicities, and elites in some areas of eastern DRC pit historical ethnic groups against each other for their own benefit, according to a Congolese researcher. In addition, some politicians have encouraged violence along ethnic lines. For example, the UN Group of Experts in 2021 reported that inflammatory speeches and narratives on issues of identity and national belonging contributed to fueling conflict in areas of South Kivu Province. The report noted that some politicians and community leaders promoted an anti-Banyamulenge sentiment, considering Banyamulenge to be Rwandans rather than Congolese.<sup>29</sup>

Ethnic tensions have led to the creation of armed groups. For example, the UN Group of Experts reported that during 2019, as attacks against ethnic Banyamulenge civilians and fighting escalated, Banyamulenge groups and individuals started to mobilize under the name Twirwaneho, which in English means "let's defend ourselves." Twirwaneho gradually developed into an organized and coordinated armed group, according to the UN Group of Experts.

Armed groups may also perpetuate ethnic conflict. For example, the UN Group of Experts reported in 2020 that leaders of an armed group targeted Tutsi individuals and dispensed severe punishments against anyone suspected or proved of having connections with ethnic Tutsi. According to the report, punishable behavior included being seen with, sharing a drink with, or having a work relationship with a Tutsi. The report explained that punishments for associating with Tutsi included fines, whipping, and death.

## Economic Pressures

Economic pressures stemming from the poverty and unemployment in the region is another factor in the conflict, according to participants in seven of our 10 expert interviews and the USAID conflict assessment. The World Bank has described DRC's poverty as steep, widespread, and pervasive, with an estimated 64 percent of the population living below the national poverty line in 2012, the most recent data available. The USAID conflict assessment noted that the country faces economic challenges because of significant unemployment and a lack of employment opportunities outside of the mining industry. In eastern DRC, there is a general lack of legitimate economic activity, according to the assessment. Joining armed groups can be a way to survive in an area with few

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<sup>29</sup>The Banyamulenge are a community in South Kivu Province that many consider to be of Rwandan descent, although group members consider themselves to be Congolese, according to the Congressional Research Service.

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economic and employment opportunities, according to experts from a research institution. In 2020, the UN Group of Experts reported that high-ranking officers and leaders in one armed group earned more than \$200 a month, a good wage in a country where in 2018 almost three-quarters of the population lived on less than \$1.90 per day, according to the World Bank. In a video authenticated by the UN Group of Experts, a combatant from this armed group explained to civilians that the armed group offered jobs and accepted all candidates, regardless of community of origin.

Youth are especially at risk because of poor education and a lack of professional opportunities, according to the USAID conflict assessment. Over 21 percent of youth, defined as those 15 to 29 years old, were not in employment, education, or training in 2012, the most recent year for data reported by the International Labor Organization. A Congolese researcher said that these unemployed youth might view armed groups as a means of livelihood, which helps the groups' recruitment efforts.

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### Violence by Armed Groups and Congolese Security Forces Creates Insecurity for Civilians

Armed groups, particularly ADF, CODECO factions, and Mai Mai militias, committed the majority of violence against civilians in eastern DRC from 2014 through 2021, according to ACLED data. At times, Congolese security forces were also responsible for violence against civilians, including committing human rights abuses against civilians when fighting armed groups, according to experts we interviewed. Armed groups continued to raise funds to sustain themselves through various means, such as illegally taxing civilians and exploiting natural resources, including gold, according to various sources. In general, the level of violence perpetrated by these entities created a climate of insecurity for civilians, according to various sources.

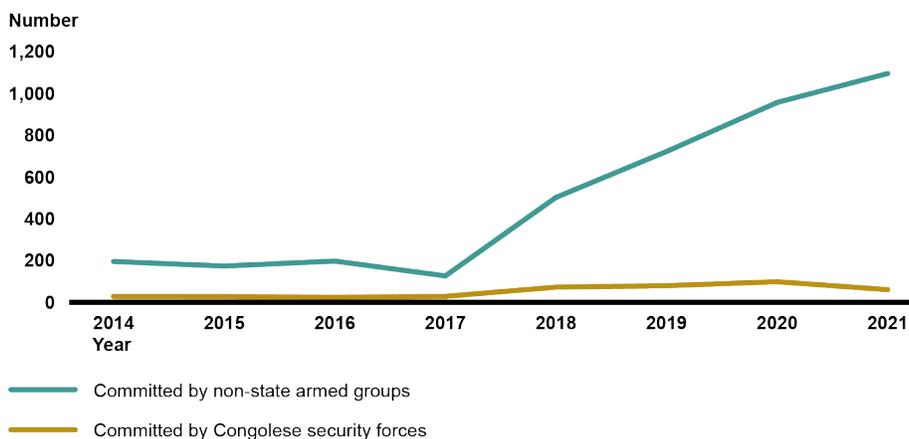
### Armed Groups and Congolese Security Forces Are Key Perpetrators of Violence against Civilians

A small number of armed groups—ADF, CODECO factions, and Mai Mai militias—as well as Congolese security forces were the main source of violence against civilians in eastern DRC from 2014 through 2021, according to ACLED data. In particular, ADF and CODECO factions tend to attack civilians, while other armed groups are more interested in theft and taxation, according to experts from a research institution. Experts added that regardless of their stated motive, once armed groups emerge, they often commit abuses, such as rapes or destroying villages, and prey on the local population for survival. In its June 2021 report, the UN Group of Experts noted that civilians continued to endure violence in eastern DRC and armed groups operated with near impunity. For example, armed clashes in North Kivu Province led to the killing and displacement of civilians caught in the crossfire and reprisals, according to the UN Group of Experts.

In 2021 in Ituri, North Kivu, and South Kivu Provinces, the UN High Commissioner for Refugees (UNHCR) recorded over 11,000 violations of the right to physical integrity, including injuries, mutilations, and deaths caused by conflict.<sup>30</sup> UNHCR also recorded over 13,000 violations of the right to liberty, including arbitrary arrests, forced work, abductions, and forced recruitment. Further, UNHCR recorded over 28,000 violations of the right to property, including extortion, illegal taxes, forced evictions, looting, illegal occupation, and arson.

As shown in figure 6, violence against civilians, including attacks, sexual violence, abductions, and forced disappearances, was relatively stable from 2014 through 2016 and steadily increased from 2017 through 2021. Armed groups committed the majority of this violence against civilians, although Congolese security forces, including the FARDC and the national police, were responsible for some, according to ACLED data.<sup>31</sup>

**Figure 6: Number of Incidents of Violence against Civilians Committed by Non-State Armed Groups and Congolese Security Forces in Ituri, North Kivu, and South Kivu Provinces of the Democratic Republic of the Congo, 2014–2021**



Source: GAO analysis of data from the Armed Conflict Location & Event Data Project (ACLED). | GAO-22-105411

Notes: ACLED defines incidents of violence against civilians as attacks, sexual violence, abductions, and forced disappearances and does not include battles between armed groups, explosions, or remote violence. Congolese security forces include the military and national police. During this period,

<sup>30</sup>The total number of human rights violations is likely higher than these amounts because UNHCR’s local partners monitor specific territories within each province, according to UNHCR.

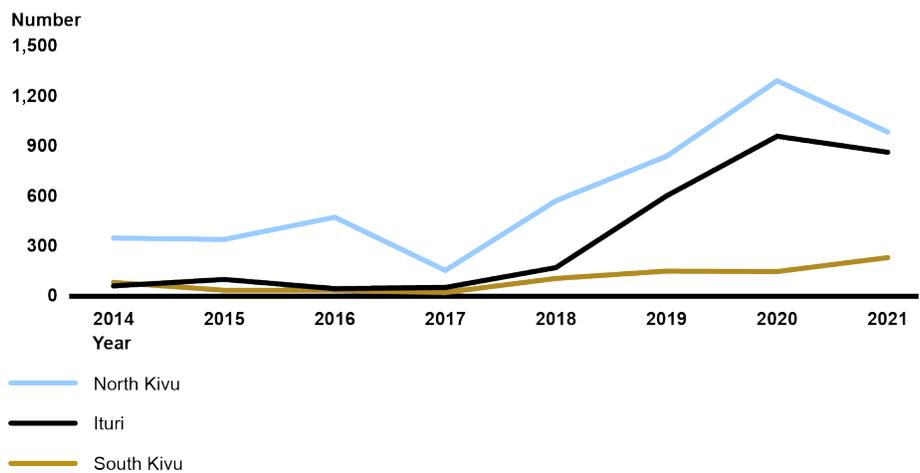
<sup>31</sup>Other armed actors, such as the state security forces of neighboring countries, committed incidents of violence against civilians an average of three times per year from 2014 through 2021, according to ACLED data.

other armed actors, such as the state security forces of neighboring countries, committed incidents of violence against civilians an average of three times per year.

ACLED data are based on media reports, reports from nongovernmental and international organizations, selected social media accounts, and information provided through partnerships with local conflict observatories. While local organizations gather primary data and have coverage that is more reflective of local-level realities, these initiatives are often limited in scope, according to ACLED. Additionally, ACLED states that media reports may not capture all events. Consequently, ACLED may underreport violent events.

The level of violence, including civilian fatalities and incidents of violence against civilians, varied across Ituri, North Kivu, and South Kivu Provinces, depending on the armed groups active in the area and other factors, according to ACLED data. Civilian fatalities related to incidents of violence committed by armed groups increased in all three provinces from 2017 through 2020, according to these data.<sup>32</sup> Figure 7 shows the number of civilians killed by armed groups during violent incidents in Ituri, North Kivu, and South Kivu Provinces from 2014 through 2021, according to ACLED data.

**Figure 7: Number of Civilian Fatalities Related to Incidents of Violence Committed by Non-State Armed Groups in Ituri, North Kivu, and South Kivu Provinces of the Democratic Republic of the Congo, 2014–2021**



Source: GAO analysis of data from the Armed Conflict Location & Event Data Project (ACLED). | GAO-22-105411

Note: Civilian fatalities shown here are those associated with incidents of violence against civilians and do not include fatalities from battles, explosions, or remote violence, according to ACLED. ACLED estimates the number of fatalities associated with an event when a report notes the occurrence of fatalities without specifying the number; fatalities are set to 10 for “significant attacks” and to three for attacks of a more limited scope.

ACLED data are based on media reports, reports from nongovernmental and international organizations, selected social media accounts, and information provided through partnerships with

<sup>32</sup>These data do not include civilian fatalities related to battles, explosions, or remote violence.

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local conflict observatories. While local organizations gather primary data and have coverage that is more reflective of local-level realities, these initiatives are often limited in scope, according to ACLED. Additionally, ACLED states that media reports may not capture all events. Consequently, ACLED may underreport violent events and associated fatalities.

In North Kivu Province, ADF was the main source of civilian fatalities related to violent incidents, responsible for 59 percent of fatalities from 2014 through 2021, according to ACLED data.<sup>33</sup> The data show that ADF was also responsible for 26 percent of all incidents of violence against civilians during this period. For example, in 2014, the UN Group of Experts reported that ADF kidnapped civilians to gain soldiers or enslaved people. MONUSCO officials further explained that when the FARDC undertakes an offensive against ADF, ADF usually reacts by splitting into smaller groups and carrying out violent reprisals against citizens as a tactic to traumatize local communities. ADF also attacks civilians as a tool to weaken trust in the national security forces, according to a UN Group of Experts report.

In Ituri Province, ADF and CODECO factions caused many of the civilian fatalities as well as much of the violence against civilians from 2014 through 2021, according to ACLED data. ACLED data show that violence between the Hema and Lendu ethnic groups contributed to an increase in civilian fatalities from 2017 through 2019. In 2020 and 2021, however, ADF and CODECO factions caused the majority of civilian fatalities related to violent events, according to ACLED data. In 2021, for example, ACLED data show that ADF was responsible for 45 percent of civilian fatalities and CODECO factions were responsible for 36 percent. CODECO factions also perpetrated 31 percent of all incidents of violence against civilians from 2014 through 2021, according to ACLED data. In the last 2 years of that period, ACLED data show that CODECO factions committed nearly half (49 percent and 47 percent, respectively) of all incidents of violence against civilians in the province.

In South Kivu Province, unidentified armed groups and Mai Mai militias were responsible for the majority of civilian fatalities and violence against civilians from 2014 through 2021, according to ACLED data. These data show that the number of civilian fatalities related to violent incidents was

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<sup>33</sup>ADF may not be responsible for all of the violence attributed to it, according to reports from the Kivu Security Tracker and UN Group of Experts. Although ADF targets civilians, the UN Group of Experts and others caution that other armed groups contribute to the violence in North Kivu and some attacks perpetrated by these groups might be wrongly attributed to ADF.

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lower in South Kivu Province than in Ituri and North Kivu Provinces during this period, and that nearly half (48 percent) of the perpetrators were unidentified. Similarly, according to ACLED data, unidentified armed groups committed 42 percent of all incidents of violence against civilians from 2014 through 2021. Mai Mai militias were responsible for 24 percent of the civilian fatalities and 36 percent of all incidents of violence against civilians during this period, according to ACLED data.

In addition to armed groups, Congolese security forces—both the FARDC and national police—contribute to the overall level of violence, according to experts we interviewed and UN Group of Experts reports. Experts said that some elements of the FARDC commit human rights violations or abuses when attacking armed groups, although there is a varying degree of professionalism among the security services and branches. The DRC has few accountability measures in place for the FARDC and primarily tries junior officers for abuses, according to these experts. In addition, FARDC stocks are the main source of weapons and ammunition for armed groups, according to UN Group of Experts reports.<sup>34</sup>

#### Armed Groups Raise Revenue from Extortion and Natural Resources, Including Gold

Armed groups continue to raise funds from a variety of sources, such as extortion and the exploitation of natural resources including gold, according to experts we interviewed and UN Group of Experts reports. Experts from an academic research institution said that armed groups weigh costs and feasibility when considering various revenue sources. Armed groups are adaptable in finding ways to finance their activities, according to officials from the UN Group of Experts.

Many armed groups raise funds through extortion, that is, by taxing economic activities or transit in areas under their control, according to experts we interviewed and UN Group of Experts reports. One of the most common revenue sources for armed groups is this type of illegal taxation because virtually everything is taxable, including charcoal, bananas, and people traveling through checkpoints on roads, according to experts. For example, the UN Group of Experts reported in 2018 that the armed group Yakutumba had organized a taxation system in its zone

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<sup>34</sup>In general, armed groups obtain matériel through targeted attacks on FARDC depots, armed clashes with the FARDC, or through purchase from some FARDC officers, according to UN Group of Experts reports. The 2017 UN Group of Experts final report noted that an AK-47 type rifle cost around \$30 to \$40, a light machine gun about \$200 to \$250, and ammunition less than \$0.15 per round. If an armed group earns around \$900 per day selling charcoal as described earlier, it can buy three light machine guns.

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of control. The report noted that Yakutumba collected taxes at both the harbor and at the marketplace, focused primarily on trade, shipping, and fishing.<sup>35</sup> According to the report, civilians who refused to pay the taxes were beaten or tortured. Armed groups may also erect roadblocks to charge for the safe passage of goods and people, according to experts and UN Group of Experts reports. The UN Group of Experts estimated that in one town in 2015 an FDLR unit generated \$13,000 annually from taxation on one road. Figure 8 shows combatants from a Mai Mai militia extorting payment from fishermen on Lake Edward.

**Figure 8: Mai Mai Militia Combatants Extorting Payment from Fishermen on Lake Edward in the Democratic Republic of the Congo (DRC)**



Source: United Nations Group of Experts on the DRC, S/2016/466. | GAO-22-105411

Armed groups may also charge “protection” fees for providing community security services or for providing security for businesses involved in the illegal timber and coffee trades, according to experts we interviewed and UN Group of Experts reports. One armed group collected a monthly “sleep peacefully” tax of 1,500 Congolese francs (approximately \$0.90) per adult, while another group collected a “war fund” tax of 6,500 Congolese francs (approximately \$4.00) per adult before or after combat, according to the UN Group of Experts reports. The reports noted that the armed groups issued tokens as proof of payment and civilians who could not produce these tokens were beaten, fined, and detained (see fig. 9).

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<sup>35</sup>As part of this taxation system, market vendors had to pay 1,000 Congolese francs (approximately \$0.60) a week to sell their goods, and fishermen had to give 20 fish per boat per week to the armed group, according to the UN Group of Experts report.

**Figure 9: Tokens Issued by an Armed Group in the Democratic Republic of the Congo (DRC) as Proof That an Individual Paid Taxes to the Group**



Source: United Nations Group of Experts on the DRC, S/2019/469. | GAO-22-105411

Some armed groups are involved in the trade of wildlife products, charcoal, timber, marijuana, and agricultural goods, according to experts we interviewed and UN Group of Experts reports. For example, FDLR required civilians to make and transport charcoal and wood and to pay a daily fee if operating in the charcoal and wood industry, according to the 2014 UN Group of Experts final report. Other armed groups finance themselves through the timber trade in redwood or illegal hunting and poaching, according to officials from the UN Group of Experts.<sup>36</sup>

Many armed groups continue to fund the conflict with gold, according to experts we interviewed and UN Group of Experts reports. Some armed groups may also be continuing to raise revenue from the mining of tantalum, tin, and tungsten; however, as due diligence and traceability systems have expanded to more sites, armed groups have had fewer opportunities to benefit from illegal involvement in these mining sectors, according to the UN Group of Experts. MONUSCO officials estimated that 70 percent of the country's gold involved some sort of armed interference from armed groups and FARDC units. In some instances, armed groups have been directly involved in the mining and sale of gold, according to UN Group of Experts reports. For example, the UN Group of Experts estimated that the armed group NDC-R could make at least \$35,000 a week in 2018 by forcing artisanal miners in the areas it controlled to sell their gold to the group at less than half the price miners would receive from independent buyers and then selling it to intermediaries at market

<sup>36</sup>For example, the UN Group of Experts estimated that an FDLR unit made \$24,000 to \$31,000 in 2015 from the sale of timber planks.

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price. Armed groups may also tax the gold that civilians mine and tax mine access, according to UN Group of Experts reports.<sup>37</sup> For example, the UN Group of Experts reported that in 2015 in an area of North Kivu Province controlled by an armed group, pit owners had to pay \$50 before digging, plus 10 percent of production.

Armed groups also raise revenue in many other ways, including looting, kidnapping for ransom, and other acts of criminality and banditry, according to experts we interviewed. Officials from an international NGO said that some armed groups control the import of consumer goods in some areas through racketeering. In addition, a UN Group of Experts report noted that some armed groups, such as ADF and FDLR, received funds through international wire transfers.

#### Civilians Feel Unsafe Because of Ongoing Violence

In general, civilians feel unsafe in eastern DRC because they are often targeted by armed groups and Congolese security forces, according to experts we interviewed. The UN Group of Experts 2018 final report stated that civilians faced serious violations of international humanitarian and human rights law. Feelings of insecurity vary depending on the area and the population. For example, the UN Group of Experts reported that some cocoa farmers in North Kivu Province did not farm their fields during 2020 and early 2021 for fear of attack by armed groups and FARDC members. Further, according to polling data from the UN Development Program and Harvard Humanitarian Initiative, no more than 39 percent to 53 percent of civilians in eastern DRC felt safe or very safe walking alone at night from June 2015 through July 2019.

The level of violence in eastern DRC has affected the sense of security among civilians, as demonstrated by the steady increase of internally displaced people and refugees from the region between 2017 and 2021 (see fig. 10). Experts we interviewed said that the number of internally displaced people and refugees because of conflict can indicate the level of insecurity that civilians feel, because the greater the insecurity, the greater the chance that they will flee either to other areas in the country or to other countries.<sup>38</sup> For example, the UN Group of Experts reported that

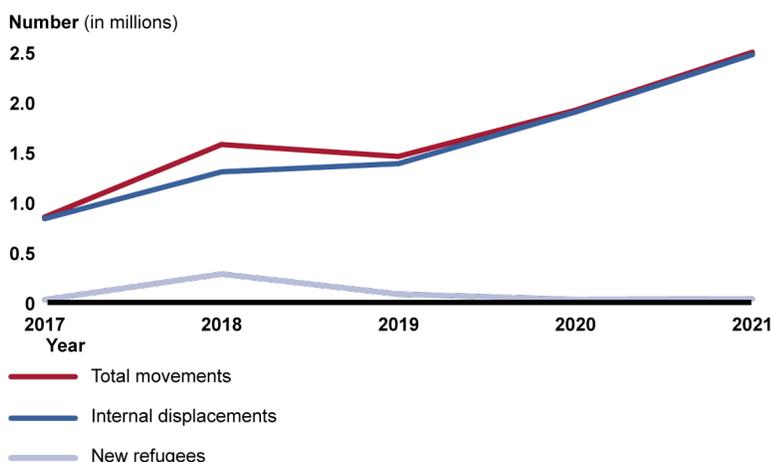
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<sup>37</sup>The UN Group of Experts reported that in 2014 the armed group FDLR forced civilians to mine gold. However, officials from an international NGO said that in general armed groups no longer force civilians to mine, although they continue to benefit from conflict minerals.

<sup>38</sup>In addition, experts from an international NGO told us that at times armed groups would forcibly displace civilians into certain areas in order to loot.

in 2019 violent armed clashes between two armed groups led to massive displacement of civilians to camps and host communities within the DRC.

**Figure 10: Number of Conflict-Related Internal Displacements and New Refugees from Ituri, North Kivu, and South Kivu Provinces of the Democratic Republic of the Congo, 2017–2021**



Source: GAO analysis of data from the Internal Displacement Monitoring Centre and the United Nations High Commissioner for Refugees (UNHCR). | GAO-22-105411

Notes: Data are not available at the provincial level for internal displacements in 2014, 2015, or 2016. The number of internal displacements may be higher than the total number of internally displaced people because some people may move more than once, depending on the situation. The number of internal displacements is likely to be higher than the amount shown here because of access constraints caused by difficult terrain, geographical distance, and conflict and insecurity and under-reporting of displacement events that are smaller-scale, among other reasons, according to the Internal Displacement Monitoring Centre.

Refugees include those registered by UNHCR in Burundi, Djibouti, Ethiopia, Kenya, Rwanda, South Sudan, Sudan, Tanzania, and Uganda and do not include new births.

## Companies Generally Had Similar Findings to Those in the Past 2 Years, with Many Reporting They Could Not Determine the Source of Their Conflict Minerals

The number of companies filing conflict mineral disclosures with the SEC has continued to decrease since 2014. Most companies reported conducting an RCOI, with 66 percent of these companies reporting a preliminary determination regarding the source of their conflict minerals. However, almost half of the companies that went on to conduct due diligence reported not being able to determine whether their conflict minerals had originated in covered countries. For 2021, our analysis and interviews with industry stakeholders indicated that companies continued to use standardized tools and programs, including supplier surveys, when attempting to determine the source of the conflict minerals in their products.

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## The Number of Companies Filing Conflict Minerals Disclosures Has Continued to Decrease since 2014

In 2021, 1,021 companies filed conflict minerals disclosures with the SEC, reflecting a continued decrease in the number of companies that have filed conflict minerals disclosures since 2014, when 1,321 companies filed SEC disclosures. According to SEC officials, this decrease may be due to factors such as mergers and acquisitions among companies and changes in business practices by companies that previously filed disclosures.

In our analysis of a generalizable sample of 100 companies' filings for 2021, we found that more than half of companies reported the specific conflict minerals used in their products. An estimated 68 percent of companies reported using tin, while 56 percent reported using tantalum; 56 percent, tungsten; and 60 percent, gold. An estimated 84 percent of companies filed as domestic companies, while 16 percent filed as foreign companies.

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## Companies Have Increasingly Reported Reasonable Country-of-Origin Inquiry Determinations since 2014

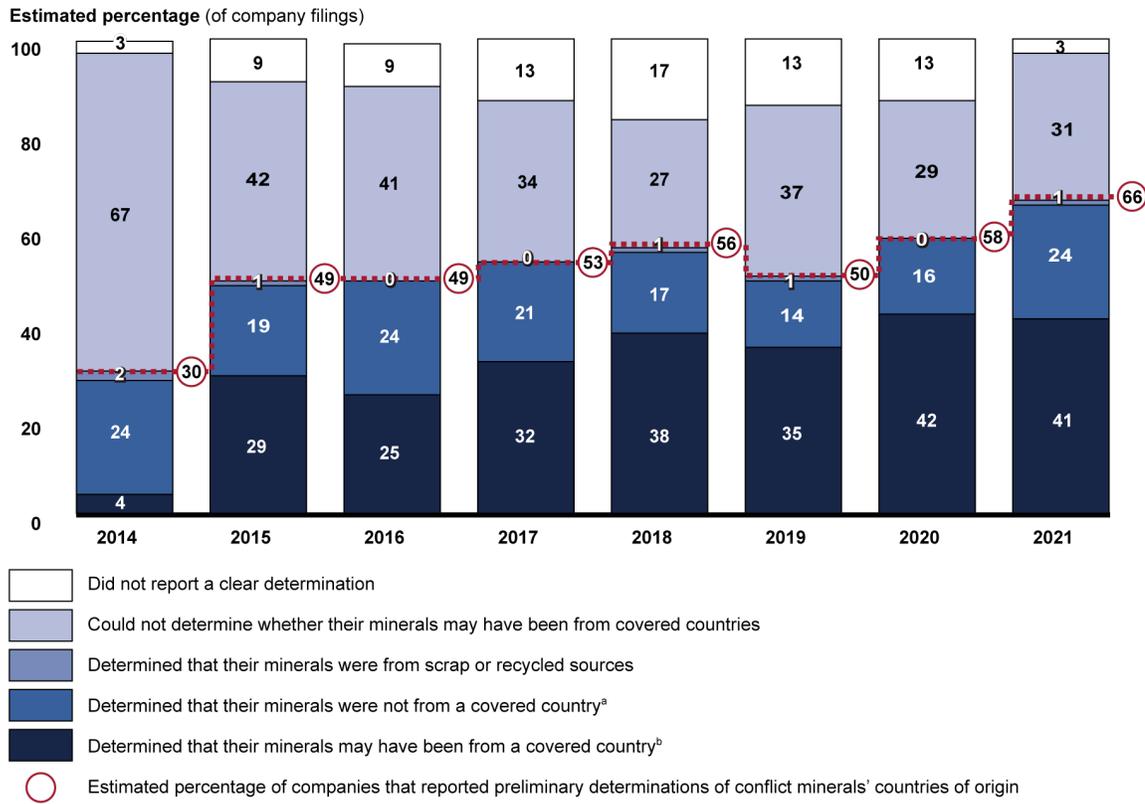
Companies comply with the disclosure rule by conducting an RCOI to preliminarily determine whether any of the conflict minerals used in their products may have originated in any of the covered countries or may not be from recycled or scrap sources. We found that an estimated 97 percent of companies that submitted conflict minerals filings in 2021 reported that they had conducted an RCOI. This percentage is similar to what we found for filings submitted in 2019 and 2020.<sup>39</sup>

We found that the percentage of companies that reported determinations regarding the origins of their minerals following their RCOI increased significantly from 2014 through 2021 (see fig. 11). Specifically, an estimated 66 percent of companies in 2021 reported preliminary determinations regarding the source of their conflict minerals.

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<sup>39</sup>See GAO, *Conflict Minerals: 2020 Company SEC Filings on Mineral Sources Were Similar to Those from Prior Years*, [GAO-21-531](#) (Washington, D.C.: July 12, 2021) and *Conflict Minerals: Actions Needed to Assess Progress Addressing Armed Groups' Exploitation of Minerals* [GAO-20-595](#) (Washington, D.C.: September 14, 2020).

**Figure 11: Source of Conflict Minerals in Products as Determined by Companies' Reasonable Country-of-Origin Inquiries (RCOI), Reporting Years 2014–2021**



Source: GAO analysis of SEC filings. | GAO-22-105411

Notes: From 2014 through 2021, companies reported determinations in response to the Securities and Exchange Commission (SEC) conflict minerals disclosure rule. Data shown are estimates that have a margin of error of no more than plus or minus 10 percentage points at the 95 percent confidence level. Percentages may not sum to 100 percent because of rounding.

<sup>a</sup>Determinations in which companies reported their minerals “were not from a covered country” means the companies determined that the conflict minerals in their products (1) did not come from covered countries or (2) they had no reason to believe the conflict minerals came from covered countries, which comprise the Democratic Republic of the Congo and adjoining countries. The term “adjoining countries” is defined in section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Pub. L. No. 111-203, § 1502(e)(1), 124 Stat. 1376, 2217 (2010).

<sup>b</sup>Preliminary determinations in which companies reported their minerals “may have been from a covered country” means the companies determined that they know or have reason to believe the conflict minerals in their products came from covered countries.

We found that the percentages of companies that reported the various RCOI determinations in 2021 were generally similar to the percentages of companies that reported these determinations in filings submitted in 2020 and 2019. Specifically:

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- An estimated 41 percent of companies that reported conducting an RCOI in 2021 disclosed they had determined preliminarily that some or all of their conflict minerals may have originated in covered countries. This percentage did not change significantly from the 35 percent of companies reporting this in 2019 filings and the 42 percent reporting this in 2020 filings. Because of this determination, these companies were required to conduct due diligence to further investigate the source of their minerals.
  - An estimated 31 percent of companies reported in 2021 that they were unable to determine after their RCOI whether any of their conflict minerals may have originated in covered countries. This finding is also similar to our findings from the prior 2 years, and these determinations required these companies to conduct due diligence.
  - An estimated 3 percent of companies did not report a clear RCOI determination in 2021, which is a statistically significant difference from the prior 2 years. In 2019 and 2020, about 13 percent of companies did not report a clear RCOI determination. According to SEC staff, companies that reported conducting due diligence are not required to report an RCOI determination.<sup>40</sup>
  - An estimated 24 percent of companies reported in 2021 that they had determined, after their RCOI, that none of their conflict minerals originated in covered countries or they had no reason to believe that their minerals originated in covered countries. This finding is statistically different from our finding from the 2019 filings, but similar to our finding from the 2020 filings. Because of this determination, these companies were not required to conduct due diligence.
  - Finally, an estimated 1 percent of companies reported after conducting an RCOI that they had determined that their conflict minerals were from scrap or recycled sources. This finding is similar to our findings from the prior 2 years.

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<sup>40</sup>SEC staff said that if a company conducts due diligence, this indicates to the SEC that the company's RCOI determination was that its conflict minerals may have originated in covered countries and may not have come from scrap or recycled sources.

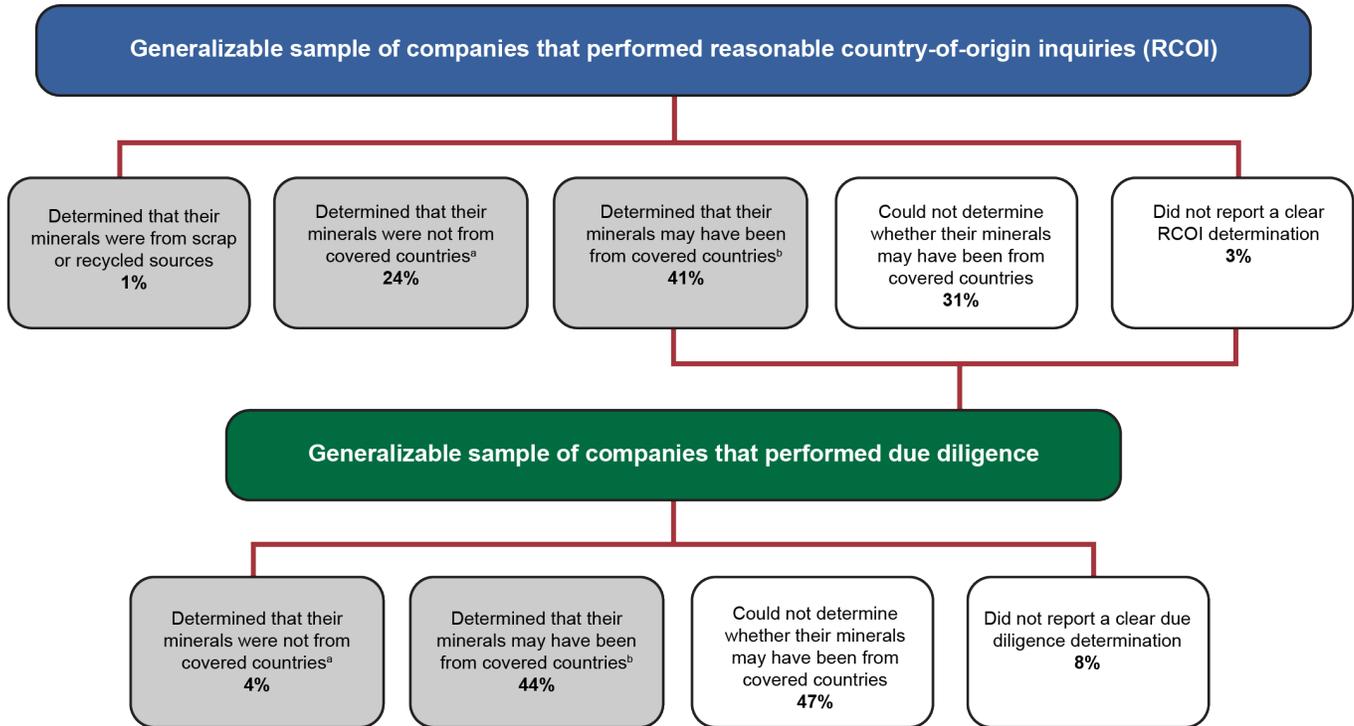
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After Conducting Due Diligence, Many Companies Reported Not Being Able to Determine Whether Their Conflict Minerals May Have Originated in Covered Countries

We found that an estimated 81 percent of companies that submitted filings in 2021 reported that they had conducted due diligence after conducting an RCOI. This percentage is similar to what we found for filings submitted in 2019 and 2020.

According to our analysis, an estimated 47 percent of the companies that conducted due diligence in 2021 reported that they ultimately could not determine whether any of the conflict minerals used in their products may have originated in covered countries (see fig. 12). We also found that an estimated 44 percent of companies reported that their minerals may have originated in covered countries, while an estimated 8 percent did not clearly report that they had determined whether their conflict minerals may have originated in covered countries. An estimated 4 percent of companies reported after conducting due diligence that they had determined that their conflict minerals did not originate in covered countries, and none reported that their minerals were from scrap or recycled sources.

**Figure 12: Companies' Determinations Regarding the Source of Their Conflict Minerals, as Reported in 2021**



Companies that reported they were able to determine the source of their minerals

Source: GAO analysis of SEC filings submitted in 2021. | GAO-22-105411

Note: Companies reported determinations in 2021 in response to the Securities and Exchange Commission (SEC) conflict minerals disclosure rule. Data shown are estimates that have a margin of error of no more than plus or minus 10 percentage points at the 95 percent confidence level. An estimated 0 percent of companies determined, after conducting due diligence, that all of their conflict minerals were from scrap or recycled sources. Percentages may not sum to 100 percent because of rounding.

<sup>a</sup>Determinations in which companies reported that their minerals “are not from covered countries” means the companies determined that the conflict minerals in their products (1) did not come from covered countries or (2) they had no reason to believe the conflict minerals came from covered countries, which comprise the Democratic Republic of the Congo and adjoining countries. The term “adjoining countries” is defined in section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Pub. L. No. 111-203, § 1502(e)(1), 124 Stat. 1376, 2217.

<sup>b</sup>Determinations in which companies reported that their minerals may have been “from a covered country” means the companies determined that they know or have reason to believe the conflict minerals in their products came from covered countries.

As in prior years, very few companies—an estimated 3 percent of the companies that reported conducting due diligence in 2021—reported that they could determine whether the conflict minerals in their products financed or benefitted armed groups in the covered countries. All of the

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companies that were able to make such a determination reported that their conflict minerals did not finance or benefit armed groups.

The Organisation for Economic Co-operation and Development (OECD) released a report in April 2022 examining companies' reporting on due diligence for the mineral supply chain globally.<sup>41</sup> The report found that companies across sectors consistently excel at disclosing mineral sourcing policies and increasingly report on auditing smelters and refiners. In addition, the report found that the percentage of companies whose disclosures demonstrate at least some implementation of the OECD responsible minerals guidance increased from 30 percent in 2014 to 53 percent in 2018.

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## Companies Reported Using Standardized Tools and Programs to Attempt to Determine the Source of Minerals

Our analysis of companies' 2021 filings and our interviews with industry stakeholders indicated that many companies used standardized tools and programs when attempting to determine the source of the conflict minerals in their products. We have previously reported on these tools and programs, developed by entities such as industry associations, international organizations, and NGOs.<sup>42</sup> The standardized tools and programs that companies reported using generally fell into three broad categories (see fig. 13):

- Supplier surveys. Companies generally survey their suppliers located in the "downstream" portion of their supply chains—from first-tier suppliers to smelters and refiners—to collect data about the source of their conflict minerals.
- Smelter and refiner audit programs. These audit programs help companies collect country-of-origin information from smelters and refiners in their supply chain, according to industry stakeholders. These stakeholders said that these audits also provide information to companies regarding whether conflict minerals sourced from a particular smelter or refiner may have benefitted or financed armed groups.

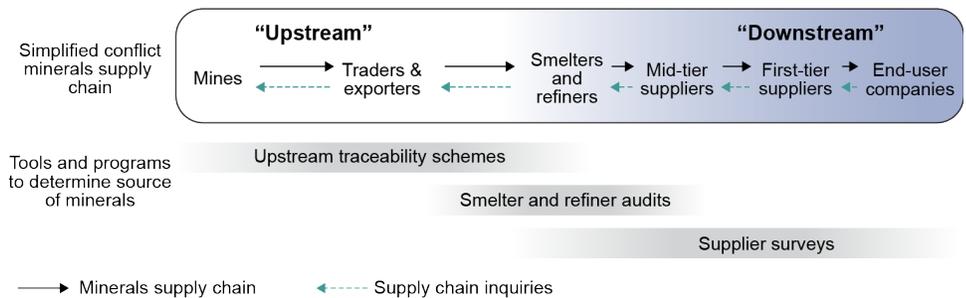
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<sup>41</sup>Organisation for Economic Co-operation and Development, *Monitoring Corporate Disclosure: Assessing Company Reporting on Mineral Supply Chain Due Diligence* (Paris: Apr. 7, 2022).

<sup>42</sup>For example, see 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); GAO, *SEC Conflict Minerals Rule: Companies Face Continuing Challenges in Determining Whether Their Conflict Minerals Benefit Armed Groups*, [GAO-16-805](#) (Washington, D.C.: Aug 25, 2016); and [GAO-21-531](#).

- Upstream traceability schemes. These programs trace conflict minerals through the “upstream” portion of companies’ supply chains—from mines to smelters and refiners—and can help verify that the sale of these minerals did not benefit or finance armed groups, according to industry experts.

**Figure 13: Simplified Conflict Minerals Supply Chain and Standardized Programs and Tools**



Source: GAO analysis. | GAO-22-105411

## Supplier Surveys

We found that over 90 percent of 2021 filings stated that companies conducted a preliminary survey of suppliers to determine whether conflict minerals may have originated in covered countries. Of the companies that conducted a supplier survey, 70 percent reported using the Conflict Minerals Reporting Template.<sup>43</sup>

However, some filings we reviewed and industry experts we interviewed reported challenges related to supplier surveys. An estimated 43 percent of companies’ identified their lack of access to suppliers and complex supply chains as challenges.<sup>44</sup> As we have previously reported, companies may have hundreds of suppliers or more throughout many tiers in their supply chains. Some filings we reviewed and an industry stakeholder we interviewed also noted difficulties getting suppliers to

<sup>43</sup>The Responsible Minerals Initiative developed the Conflict Minerals Reporting Template. The Initiative is an organization that provides companies with tools and resources to make sourcing decisions and support responsible sourcing from conflict-affected and high-risk areas.

<sup>44</sup>According to SEC staff, the SEC rule does not require or prompt companies to identify challenges in their filings, so the proportion of filings that our analysis identified as noting challenges may be smaller than the actual proportion of companies experiencing these challenges.

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complete surveys or provide complete or accurate information. For example, 36 percent of companies that conducted a supplier survey reported a response rate of less than 100 percent. Industry representatives said that companies mitigate these challenges by conducting outreach to suppliers to gather details not provided in survey responses and by educating suppliers about conflict-free sourcing options, including creating and publicizing conflict minerals policies.

### Smelter and Refiner Audit Programs

The filings we reviewed and industry stakeholders we interviewed indicated that companies use data from smelter and refiner audit programs as part of their efforts to determine the source of their conflict minerals. These programs are designed to provide companies with reasonable assurance that conflict minerals supplied by audited smelters and refiners did not finance or benefit armed groups. For example, the Responsible Minerals Assurance Process, which was the smelter and audit program most commonly cited in companies' filings, uses independent third-party assessments of smelters' or refiners' management processes and sourcing practices to validate their compliance with the program's standards for responsible mineral procurement. Industry stakeholders mentioned some limitations relating to data from these audit programs. For example, one industry stakeholder noted that the country-of-origin data that these audit programs provide to companies usually include all of the countries that a particular smelter or refiner sources from, regardless of whether all of those countries are in a particular company's supply chain.

### Upstream Traceability Schemes

Industry stakeholders we interviewed stated that companies' due diligence processes involve the use of upstream traceability schemes.<sup>45</sup> As we have previously reported, these traceability schemes can help companies determine the source of their conflict minerals and may minimize the risk that the sale of those minerals financed or benefitted armed groups. Industry experts explained that traceability schemes report activity by armed groups at mine sites and trace minerals from conflict-free mines to smelters and refiners, among other activities. However, some industry stakeholders noted concerns about the efficacy of traceability schemes, stating, for example, that issues like fraud, corruption, and smuggling persist despite the presence of these schemes. Industry stakeholders we interviewed noted that some companies have

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<sup>45</sup>Traceability schemes primarily monitor minerals as they travel from mines to smelters or refiners. Because downstream companies do not directly participate in this process, we did not track whether companies' filings mentioned traceability schemes.

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started to use blockchain technology tools as part of their upstream traceability efforts.<sup>46</sup> An industry stakeholder explained that this technology can enhance companies' due diligence efforts by allowing them to compile information on their supply chains in the form of a secure digital trail. However, industry stakeholders noted that blockchain tools for minerals traceability are not yet widely available.

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**Some Companies Limited the Information Provided in Their Filings Because of SEC Staff Guidance; Other Companies Are Doing Additional Reporting on Minerals Sourcing Efforts**

Company filings and industry stakeholders indicate that guidance statements issued by SEC staff in 2014 and 2017 may have affected some companies' conflict minerals disclosures, as we reported in prior years. About 21 percent of companies referred to SEC guidance in their 2021 filings. For example, one company noted that its conflict minerals report did not undergo an IPISA because it was no longer required to do so under existing SEC staff guidance. According to the 2014 SEC staff guidance, companies are not required to obtain an IPISA unless they choose to disclose that their products are "DRC conflict free" in a conflict minerals report.

However, industry stakeholders told us that some companies are increasingly undertaking and reporting on responsible minerals sourcing efforts beyond those required by the SEC rule. For example, industry stakeholders told us that some companies are expanding their responsible minerals sourcing programs to include countries beyond the DRC and adjoining countries and minerals and ores beyond the ones specified in the SEC rule, such as cobalt. According to industry stakeholders, in some cases, companies are reporting on these efforts in their filings, even though doing so is not required under the SEC rule.

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<sup>46</sup>A blockchain is a type of distributed ledger technology made up of digital information (blocks) recorded in a public or private database in the format of a distributed ledger (chain). The ledger permanently records the history of transactions that take place among the participants within the network in a chain of cryptographically secured blocks. Distributed ledger technology allows for users across a computer network to verify the validity of transactions potentially without a central authority.

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## Sexual Violence Persists in the DRC and Adjoining Countries, but Governments Have Taken Some Steps to Address It

Studies and Reports from April 2020 to March 2022 Document the Persistence of Sexual Violence in the DRC and Adjoining Countries

Studies and reports published since April 2020 show that sexual violence in the DRC and the region remains a problem.<sup>47</sup> We identified one new population-based survey, for Rwanda, providing comprehensive rates of sexual violence since our September 2020 report. In addition, the UN, State, and others continued to document and report on cases of sexual violence. According to U.S. government and UN reporting, the DRC and adjoining countries have taken some steps to address sexual violence since we last reported on the issue in 2020.<sup>48</sup>

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<sup>47</sup>We last reported on sexual violence in the DRC and adjoining countries in September 2020. See [GAO-20-595](#). That report discussed information on sexual violence that had become available from March 2019 through April 2020. For this report, we reviewed new information that had become available from April 2020 through March 2022. There are two types of information quantifying sexual violence in eastern DRC and adjoining countries: (1) data from population-based surveys and (2) case-file data, such as data collected by international entities, law enforcement agencies, or medical service providers on sexual violence victims. Of the two types of information, data from population-based surveys provide a more appropriate basis for deriving a rate of sexual violence because such surveys are conducted using random sampling techniques and their results are generalizable to the target population from which a representative sample was surveyed. Several factors make case-file information unsuitable for estimating rates of sexual violence. For example, 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. However, case-file data can provide indicators that sexual assaults are occurring in certain locations and can help service providers respond to the needs of victims.

<sup>48</sup>For the purposes of our analysis of new information on sexual violence, we focus on the three countries that adjoin eastern DRC—Rwanda, Uganda, and Burundi.

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One New Demographic and Health Survey for Rwanda from 2021 Showed Rates of Sexual Violence Nearly Identical to Those from the 2016 Survey

With funding from USAID through ICF, the National Institute of Statistics of Rwanda and the Ministry of Health conducted the latest Demographic and Health Survey (DHS) for Rwanda, which was published in 2021.<sup>49</sup> The survey estimated that 23 percent of women and 6 percent of men, ages 15–49, had experienced sexual violence in their lives. In addition, 8 percent of women and 1 percent of men, ages 15–49, reported having experienced sexual violence in the past 12 months. In the previous DHS report for Rwanda, published in 2016, nearly the same percentages of women and men reported having experienced sexual violence both in their lives and in the past 12 months.<sup>50</sup>

We did not identify any new population-based surveys published since April 2020 that provide data on the rates of sexual violence in the DRC, Burundi, or Uganda.<sup>51</sup> The most recent comprehensive information for the DRC was published in 2016, while the most recent information for Burundi and Uganda was published in 2017 and 2018, respectively. Figure 14 shows the publication dates for the population-based surveys with data on rates of sexual violence in the DRC, Rwanda, Uganda, and Burundi published since 2007 that we have identified through our previous work on this issue.

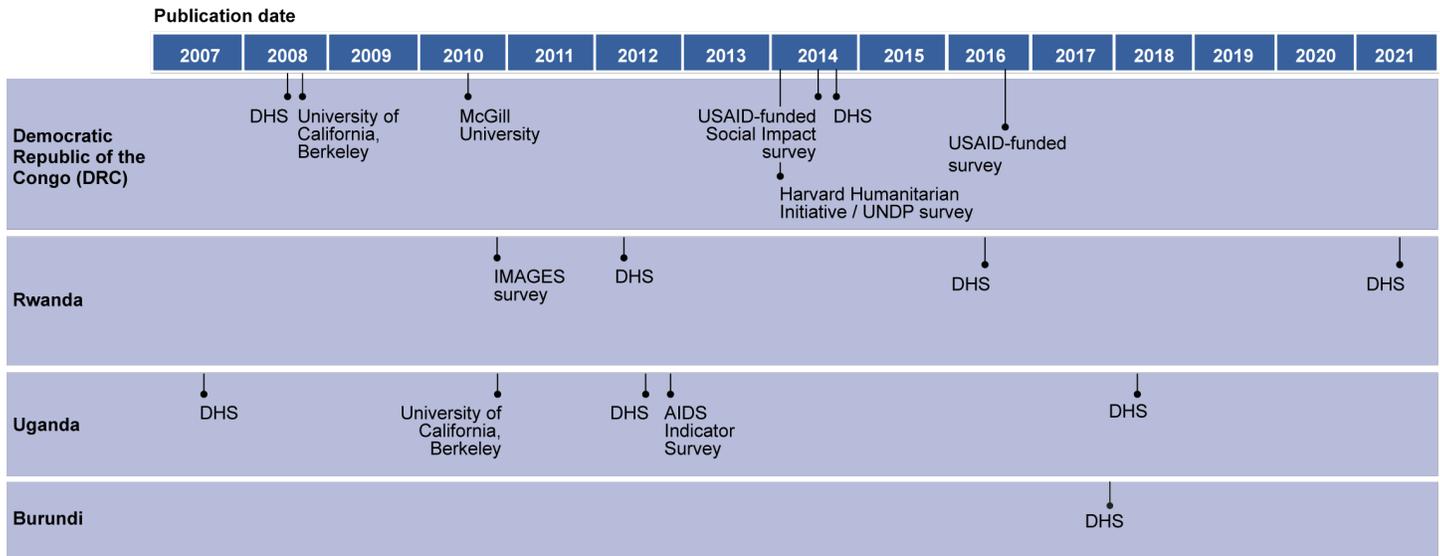
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<sup>49</sup>ICF, a U.S.-based consulting firm, implements the Demographic and Health Surveys (DHS) Program, which has provided technical assistance to more than 400 surveys in over 90 countries. The DHS Program provides capacity building to implementing agencies in host countries through all survey stages, including survey design and sampling, training, fieldwork, data tabulation and analysis, report writing, and dissemination and use of findings.

<sup>50</sup>According to ICF officials, in the 2021 Rwanda DHS data there was no statistically significant change in the number of women and men who had experienced sexual violence ever, or in the last 12 months, compared to the 2016 survey.

<sup>51</sup>USAID officials said that the DHS report for the DRC, planned for publication in 2021, was postponed because of the COVID-19 pandemic and funding issues.

**Figure 14: Population-Based Surveys on Sexual Violence Rates in the DRC, Rwanda, Uganda, and Burundi, by Publication Date**



Legend: AIDS = acquired immunodeficiency syndrome; DHS = Demographic and Health Survey; IMAGES = International Men and Gender Equality Survey; UNDP = United Nations Development Programme; USAID = U.S. Agency for International Development.

Source: GAO. | GAO-22-105411

Notes: The ICF DHS program provides capacity building to host-country implementing agencies through all survey stages, including survey design and sampling, training, fieldwork, data tabulation and analysis, report writing, and dissemination and use of findings. USAID officials said that a 2021 DHS report for the DRC was postponed because of the COVID-19 pandemic and funding issues.

### Several Reports Documented Cases of Sexual Violence in the DRC and Adjoining Countries since 2020

The UN, State, USAID, and Doctors Without Borders have provided additional information, summarized below, about cases of sexual violence in the DRC and adjoining countries since we last reported on this issue in 2020. While this information is unsuitable for estimating rates of sexual violence, it can provide indicators that sexual assaults are occurring in certain locations.<sup>52</sup>

<sup>52</sup>As we have previously reported, several factors make case-file data unsuitable for estimating rates of sexual violence. 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 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. See [GAO-20-595](#).

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## The DRC

- The UN Special Representative of the Secretary-General on Sexual Violence in Conflict reported that in 2020, MONUSCO documented 1,053 cases of conflict-related sexual violence. (See text box below for information on UN agencies working on sexual violence issues in the DRC and adjoining countries.) MONUSCO attributed most of the cases, 66 percent, to non-state armed groups, with the FARDC and national police identified as the perpetrators of the majority of the remaining cases.
- UNHCR reported 7,771 cases of gender-based violence in the DRC in 2021. It reported 1,206 cases for North Kivu Province, down slightly from the 1,248 reported in 2020; 2,740 for Ituri Province, up from the 1,695 reported in 2020; and 1,339 for South Kivu Province, an increase from the 1,043 reported in 2020.<sup>53</sup>
- The UN High Commissioner for Human Rights reported 76 cases of sexual violence in North Kivu Province, 65 in Ituri Province, and 135 in South Kivu Province in July 2021.

### **United Nations (UN) Agencies Working on Sexual Violence Issues in the Democratic Republic of the Congo (DRC) and Adjoining Countries**

#### **United Nations Joint Human Rights Office (UNJHRO)**

UNJHRO, created in February 2008, consists of the MONUSCO Human Rights Division and the former Office of the UN High Commissioner for Human Rights in the DRC. The two offices are fully integrated and UNJHRO functions in response to both offices' mandates.

#### **United Nations High Commissioner for Refugees (UNHCR)**

UNHCR provides protection and assistance to the estimated 529,000 refugees and asylum seekers in the DRC.

#### **United Nations Women (UN Women)**

UN Women is a UN organization delivering programs, policies, and standards that aims to uphold women's human rights and seeks to ensure that every woman and girl lives up to her full potential.

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<sup>53</sup>UNHCR gender and sexual violence data include cases of physical aggression; sexual aggression; denial of resources, services, and opportunity; forced marriage; rape; and psychological abuse related to gender-based violence. According to UNHCR officials, the source of the data on gender and sexual violence provided to us was INTERSOS, a humanitarian organization that works to assist victims of armed conflict. The total number of incidents of gender and sexual violence is likely higher than these amounts because UNHCR's local partners monitor specific territories within each province, according to UNHCR.

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**United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG/SVC)**

SRSG/SVC serves as the UN's spokesperson and political advocate on conflict-related sexual violence. It is the chair of the network United Nations Action against Sexual Violence in Conflict.

**Office of the United Nations High Commissioner for Human Rights (OHCHR)**

OHCHR is the lead UN entity mandated to promote and protect human rights.

**United Nations Commission of Inquiry on Burundi**

The United Nations Commission of Inquiry on Burundi was established to conduct investigations into human rights violations in Burundi since April 2015, among other things.

Source: GAO analysis of UN documents. GAO-22-105411

- In its 2021 annual Human Rights Report, State documented 265 cases of conflict-related sexual violence reported by the UN Joint Human Rights Office (UNJHRO) affecting 258 women and seven men from January 2020 through June 2020—a decrease from the prior 6 months, when UNJHRO documented 398 cases. State attributed nearly 35 percent of this violence to FARDC soldiers and national police.
- In its 2021 annual report, USAID's 5-year Tushinde Ujeuri project to counter gender-based violence in the provinces of North and South Kivu reported reaching 5,848 survivors of gender-based violence, during fiscal year 2021. Among them, the project recorded 31 percent as sexual violence cases (28 percent rape, 3 percent sexual assault). The project recorded the difference as other cases related to gender-based violence, which included physical assault and emotional abuse.
- In a 2021 report, Doctors without Borders (known by the French acronym MSF) included data on the number of survivors of sexual violence who accessed care during 2020.<sup>54</sup> The data showed that 10,810 survivors of sexual violence received medical or psychological care in MSF-supported medical facilities throughout the country in 2020. More than half of survivors who received care from MSF were in the provinces of Ituri, North Kivu, and South Kivu.
- The COVID-19 pandemic may have affected the rates of sexual violence in the DRC, according to officials we interviewed. For example, according to UN officials, curfews implemented as a COVID-19 mitigation strategy led to reports of sexual assaults of women by police if they were out after curfew. According to officials from the Office of the UN Special Representative of the Secretary-General on

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<sup>54</sup>Doctors Without Borders, *Sexual Violence in the Democratic Republic of the Congo: The Critical Need to Address the Needs of Survivors* (July 2021).

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Sexual Violence in Conflict, the pandemic rolled back gender equality in the DRC by increasing women’s burden of caring for family members and made women more vulnerable to sexual violence, including trafficking.

### **Uganda**

- Without enumerating specific cases, State’s 2021 annual Human Rights Report noted significant human rights abuses, including credible reports of lack of investigation and accountability for cases of gender-based violence, such as domestic and intimate partner violence and sexual violence. State reported that rape remained a common problem throughout the country. In addition, State reported that Ugandan authorities were reluctant to investigate, prosecute, or punish perpetrators of rape and other abuses and lacked the required skills to collect, preserve, and manage forensic evidence in sexual violence cases.

### **Burundi**

- A 2021 UN Commission of Inquiry on Burundi report identified cases of individuals detained by the National Intelligence Service and subjected to severe torture, including of a sexual nature.
- Without enumerating specific cases, State’s 2021 annual Human Rights Report noted significant human rights issues, including credible reports of lack of investigation of and accountability for gender-based violence, such as domestic and intimate partner violence and sexual violence. In addition, State reported that while Burundian law prohibits rape, the government did not enforce the law uniformly, and rape and other domestic and sexual violence were serious problems.

### **Rwanda**

- Without enumerating specific cases, State’s 2021 annual Human Rights Report noted that violence against women remained common. In this report, State referenced NGO accounts that this trend possibly increased during the COVID-19 pandemic, although precise data were unavailable.

### **Recently Published Studies Discuss Sexual Violence in the DRC and Adjoining Countries**

Researchers have continued to publish articles and studies on sexual violence in the DRC and adjoining countries since we last reported in 2020. We reviewed 89 abstracts, identified through database searches, and identified 10 articles and studies that we determined were relevant. For example, one study discussed sexual violence against refugees and internally displaced persons in the region. Another study interviewed

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members of armed groups in the DRC on their motivations for sexual violence. Ex-combatants interviewed responded that from a personal moral perspective, rape was not regarded as acceptable behavior. However, one FARDC soldier explained that Mai Mai militia perpetrated rape for superstitious militaristic purposes—believing, for example, that it would make combatants invulnerable to bullets and increase their power. Another study specifically addressed rates of sexual violence in the DRC, highlighting data quality limitations, including both under- and over-counting cases.

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## The DRC and Adjoining Countries Have Taken Some Steps to Address Sexual Violence since 2020

The DRC, Uganda, Burundi, and Rwanda have taken some steps to address sexual violence since we last reported in 2020.

### The DRC

According to USAID officials, the DRC government promoted its 2019 revised National Strategy on Reducing Sexual Violence in November 2021 as part of an annual international campaign, “16 Days of Activism against Gender-Based Violence.” In addition, State’s 2020 annual Human Rights report noted that the DRC government had taken limited steps to prosecute or punish officials who committed abuses, but official impunity was a problem. In its 2021 report, State noted that during the year the DRC government had acted to increase its security forces’ respect for human rights. Police training addressed sexual and gender-based violence, such as mining police training in North and South Kivu Provinces and community and policing programs in Haut-Katanga and Eastern Kasai Provinces. State reported that UNJHRO supported 46 capacity-building sessions on international human rights law, international humanitarian law, and the prevention of conflict-related sexual violence involving 1,705 participants from both the FARDC and the national police. In addition, State reported that a military court in South Kivu ruled on sexual violence cases and sentenced 11 FARDC members to between 4 and 20 years in prison. Furthermore, in its December 2021 report to the UN Secretary-General, MONUSCO reported that DRC judicial authorities had convicted 229 perpetrators of sexual violence, including 36 FARDC soldiers, six Congolese National Police officers, 54 armed group members, and 133 civilians.

### Uganda

According to UN Women, the Ugandan parliament passed an amendment to the Employment Bill stating that all employers are required to put in

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place measures to prevent sexual harassment in the workplace and to prohibit abuse, harassment, or violence against employees.<sup>55</sup>

### **Burundi**

State's 2021 annual Human Rights Report affirmed that Burundi's law prohibits rape against men and women, including spousal rape, with penalties of up to 30 years of imprisonment for conviction. According to State, a 2016 law provided for the creation of a special court for gender-based crimes, made gender-based violence crimes unpardonable, and provided stricter punishment for police officers and judges who concealed violent crimes against women and girls. State reported that the National Police Unit for the Protection of Minors and Morals is responsible for investigating cases of sexual violence and rape. However, State reported that the government did not enforce the law uniformly, and that rape and other domestic and sexual violence were serious problems. State also reported that a Burundi government-operated center provided a full range of services, including legal, medical, and psychosocial services, to survivors of domestic and sexual violence.

### **Rwanda**

State's 2021 annual Human Rights Report noted that police headquarters in the Rwandan capital of Kigali had a hotline for domestic violence. Several other ministries also had free hotlines for reporting gender-based violence. According to State, each of the 78 police stations nationwide had its own gender desk, an average of three officers trained in handling domestic violence and gender-based violence cases, and a public outreach program. In addition, State reported that the government operated 44 one-stop centers throughout the country, which provide free medical, psychological, legal, and police assistance to survivors of domestic violence.

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## **Agency Comments**

We provided a draft of this report to the SEC, State, and USAID for their review and comment. SEC and USAID provided technical comments, which we incorporated as appropriate. USAID also provided written comments, which are reproduced in appendix III.

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We are sending copies of this report to the appropriate congressional committees and to the Chairman of the Securities and Exchange

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<sup>55</sup>An August 2021 press release by UN Women noted that the legal reforms passed by the Ugandan parliament were a key step toward ending violence against women.

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Commission, the Secretary of State, and the Administrator of the U.S. Agency for International Development. In addition, the report is available at no charge on the GAO website at <https://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.

A handwritten signature in black ink that reads "Kimberly M. Gianopoulos". The signature is written in a cursive style with a large, stylized initial 'K'.

Kimberly M. Gianopoulos  
Director, International Affairs and Trade

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*List of Committees*

The Honorable Patrick Leahy  
Chairman  
The Honorable Richard Shelby  
Vice Chairman  
Committee on Appropriations  
United States Senate

The Honorable Sherrod Brown  
Chairman  
The Honorable Patrick J. Toomey  
Ranking Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Ron Wyden  
Chairman  
The Honorable Mike Crapo  
Ranking Member  
Committee on Finance  
United States Senate

The Honorable Robert Menendez  
Chairman  
The Honorable James E. Risch  
Ranking Member  
Committee on Foreign Relations  
United States Senate

The Honorable Rosa L. DeLauro  
Chair  
The Honorable Kay Granger  
Ranking Member  
Committee on Appropriations  
House of Representatives

The Honorable Maxine Waters  
Chairwoman  
The Honorable Patrick McHenry  
Ranking Member  
Committee on Financial Services  
House of Representatives

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The Honorable Gregory Meeks  
Chairman  
The Honorable Michael McCaul  
Ranking Member  
Committee on Foreign Affairs  
House of Representatives

The Honorable Richard Neal  
Chairman  
The Honorable Kevin Brady  
Ranking Member  
Committee on Ways and Means  
House of Representatives

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# Appendix I: Objectives, Scope, and Methodology

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The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) addresses, among other things, trade in conflict minerals.<sup>1</sup> Section 1502 of the act, among other things, required the U.S. Securities and Exchange Commission (SEC) to promulgate regulations containing disclosure and reporting requirements on the use of conflict minerals from the Democratic Republic of the Congo (DRC) and adjoining countries. In 2012, the SEC adopted a disclosure rule for conflict minerals requiring companies to file specialized disclosure reports beginning in 2014 and annually thereafter.<sup>2</sup>

The act also included a provision for us to report annually on the effectiveness of the SEC disclosure rule in promoting peace and security in the DRC and adjoining countries, and the rate of sexual violence in conflict-affected areas of the DRC and adjoining countries.<sup>3</sup> In this report, we describe (1) what is known about progress made toward achieving improved peace and security in eastern DRC from 2014 through 2021, (2) how companies responded to the SEC disclosure rule when filing in 2021, and (3) information published since April 2020 about the rate of sexual violence in eastern DRC and adjoining countries.

To describe progress made toward achieving improved peace and security in eastern DRC from 2014 through 2021,<sup>4</sup> we reviewed literature about measuring these issues to identify potential quantitative and qualitative indicators for the DRC. We searched the internet and databases including Scopus, Proquest, and EBSCO to find potentially

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<sup>1</sup>Pub. L. No. 111-203, § 1502, 124 Stat. 1376, 2213-18 (2010). 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 the Secretary of State determines to be financing conflict in the DRC or an adjoining country. See Pub. L. No. 111-203, § 1502(e)(4). When these ores are processed, they yield the following metals used in industrial and other applications: tantalum, tin, gold, and tungsten, respectively. In this report, the term “conflict minerals” refers to either these ores or these metals.

<sup>2</sup>77 Fed. Reg. 56,274 (Sept. 12, 2012) (codified at 17 C.F.R. § 240.13p-1).

<sup>3</sup>Pub. L. No. 111-203, § 1502(d), as amended by the GAO Mandates Revision Act, Pub. L. No. 114-301, § 3, 130 Stat. 1514 (2016). We are required to report on the effectiveness of the SEC disclosure rule annually from 2012 through 2020, with additional reports in 2022 and 2024. We are also required to report on the rate of sexual violence from 2011 through 2020, with additional reports in 2022 and 2024. This report contributes to our work in response to the annual reporting requirements of Section 1502 of the Dodd-Frank Act. To date, including this report, we have issued 16 related products. For a complete list, see the “Related GAO Products” page at the end of this report.

<sup>4</sup>For the purposes of this report, we consider eastern DRC to be composed of Ituri, North Kivu, and South Kivu Provinces, where the relevant mineral mines are concentrated.

relevant reports and journal articles. Database searches revealed 78 abstracts and of these, we identified six journal articles and reports relevant to measuring peace and security in eastern DRC. Through internet searches, we identified other sources, such as indices designed to measure peace and security. On the basis of these journal articles, reports, and indices, we identified 26 potential quantitative and 20 potential qualitative indicators in five categories—conflict, armed groups, government, civilians, and external actors. We held a roundtable discussion with nine experts from the United Nations (UN), U.S. government, nongovernmental organizations (NGO), and research institutions to help verify and adjust these potential indicators and to provide input on the final selection. We identified these experts using professional judgment to ensure that they represented various organizations and a range of non-generalizable views. In addition, we included participants who were experts in assessing peace and security as well as those who had experience applying these types of indicators to the DRC context.

We collected and analyzed available quantitative data for these indicators to describe how the peace and security situation has changed in eastern DRC since 2014. We focused on data for Ituri, North Kivu, and South Kivu Provinces from 2014 through 2021. Specifically, we analyzed data from the Armed Conflict Location & Event Data Project (ACLED) concerning battles between Congolese security forces and armed groups and battles among non-state armed actors, fatalities caused by violent events, incidents of violence against civilians, and civilian fatalities caused by violent events. We used ACLED data because ACLED gathers non-public information from local conflict observatories in addition to information from media reports and therefore is more likely to capture events that are not covered by the media. Additionally, ACLED includes events that may not have fatalities and estimates the number of fatalities associated with an event when a report notes the occurrence of fatalities without specifying the number. To assess the reliability of these data, we reviewed relevant documents. We found these data to be sufficiently reliable for the purpose of describing conflict trends in these provinces during this period.

We also collected data on the number of conflict-related movements of internally displaced people (IDP) from Ituri, North Kivu, and South Kivu Provinces for 2017 through 2021 from the Internal Displacement Monitoring Centre (IDMC). These data include people who may have moved more than once during this period. Further, we collected data on the number of new refugees from Ituri, North Kivu, and South Kivu Provinces from 2017 through 2021 from the UN High Commissioner for

Refugees (UNHCR). We were unable to determine whether IDPs and refugees from Orientale Province during 2014 through 2016 were from the geographic area that became Ituri Province, so we did not include data for those years. To assess the reliability of these data, we reviewed relevant documents and obtained additional information through written responses from knowledgeable officials. We found the data about conflict-related IDP movements from the IDMC and the data about refugees from UNHCR to be sufficiently reliable for describing trends related to civilian insecurity in eastern DRC.

In addition, we collected data from UNHCR regarding human rights violations in eastern DRC from 2014 through 2021. To assess the reliability of these data, we reviewed relevant documents and obtained additional information through written responses from knowledgeable officials. Because of a change in the methodology that UNHCR used for collecting human rights data during this period, we determined that we could not present information on trends in human rights violations over time. However, we determined that the data were sufficiently reliable to present information on human rights violations in eastern DRC in 2021.

To obtain qualitative information about peace and security in eastern DRC from 2014 through 2021, we conducted 10 semi-structured interviews with knowledgeable UN and U.S. government officials as well as DRC experts from academic and research institutions and NGOs based in the United States, Europe, and the DRC. We selected the participants for these interviews using a snowball methodology that included asking experts to recommend other experts and professional judgment, and their views are not generalizable. To ensure that the experts represented a range of views, we selected experts from a variety of organizations, including research institutions and international NGOs. Interview questions were based on the qualitative indicators discussed during the expert roundtable. Seven of the 10 interviews included more than one participant. We interviewed U.S. government officials based in Kinshasa from the U.S. Department of State's Eastern Congo Unit and the U.S. Agency for International Development's (USAID) Peace and Security Office. We also interviewed UN officials from the UN Group of Experts<sup>5</sup> and the UN Organization Stabilization Mission in the DRC

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<sup>5</sup>A UN resolution in 2004 established the UN Group of Experts on the DRC. The group includes six experts mandated to, among other things, gather and examine information on the impact of conflict minerals traceability efforts, networks supporting armed groups and criminal networks in the DRC, and perpetrators of human rights violations and abuses in the DRC, including those within the security forces.

(MONUSCO). Further, we interviewed international DRC experts from three research institutions based in Europe and the United States, as well as experts from an international NGO working in eastern DRC and two Congolese conflict experts from research institutions in eastern DRC.

In addition, we reviewed literature, including NGO, UN, and U.S. government information and reports, to identify other relevant findings about changes in peace and security in eastern DRC since 2014. We searched the internet and databases including Scopus, Proquest, and EBSCO to find potentially relevant reports and journal articles. Database searches revealed 72 abstracts of reports, journal articles, and book sections, and of these, we identified four journal articles that we used for background information. We also analyzed the UN Group of Experts' annual final reports from 2014 through 2021 to identify trends concerning conflict, armed groups, government actions, and external actors, among other things.

We found that the factors contributing to the conflict aligned with six categories, according to our analysis of USAID's 2021 DRC conflict assessment and our interviews with DRC experts.<sup>6</sup> The conflict assessment's literature review identified nine factors contributing to the conflict, seven of which were emphasized in its key informant interviews. We adapted four of our categories from these seven, folded the youth unemployment category into the economic pressures category, and added a corruption category on the basis of our interviews with experts. We did not include the weak enforcement of land tenure category because, as explained in the conflict assessment, it did not apply as much to the three provinces included in our review. The other two factors identified by the conflict assessment's literature review were (1) climate change or resource scarcity and (2) infectious diseases.

To examine how companies responded to the SEC disclosure rule for conflict minerals when filing in 2021, we downloaded all disclosure reports (Form SD) and analyzed a random sample of 100 out of 1,021 from the SEC's publicly available Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database to create estimates generalizable to the

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<sup>6</sup>International Business and Technical Consultants, Inc., *USAID/DRC Conflict Assessment*, a report prepared at the request of the U.S. Agency for International Development (Feb. 5, 2021).

population of all companies that filed in 2021.<sup>7</sup> On the basis of our prior work, we determined that the EDGAR database was sufficiently reliable for identifying the universe of Form SD filings.<sup>8</sup> Companies filed the Forms SD, along with related conflict minerals reports in some instances, to provide information in response to the SEC disclosure rule. We selected this sample size to achieve a margin of error of no more than plus or minus 10 percentage points at the 95 percent confidence level, which applies to all of our estimates. Because we followed a probability procedure based on random selections, our sample is one of a large number of samples that we might have drawn. Since each sample could have generated different estimates, we express our confidence in the precision of our particular sample's results as a 95 percent confidence interval. This interval would contain the actual population value for 95 percent of the samples we could have drawn.

We reviewed the Dodd-Frank Act<sup>9</sup> and the requirements of the SEC disclosure rule<sup>10</sup> to develop a data collection instrument that guided our analysis of the Form SD filings in our sample. Our data collection instrument was not a compliance review of the Forms SD and conflict minerals reports. The data collection instrument contained a number of questions related to the companies' filings. Among other things, we used the instrument to review companies' filings to identify their determinations of their conflict minerals' origin based on their reasonable country-of-origin inquiry and, if reported, due diligence. We categorized companies according to whether they (1) reported that their minerals came from covered countries, (2) reported that their minerals did not come from covered countries, (3) reported that their minerals came from scrap or recycled sources, (4) reported that they could not determine the origin of their minerals, or (5) did not report a clear determination. For example, we concluded that a company did not report a clear determination if the company made statements related to more than one determination or if it did not mention a determination in its filing. An analyst reviewed the Forms SD and conflict minerals reports and recorded responses to the data collection instrument for all of the companies in the sample. A second analyst also reviewed the Forms SD and conflict minerals reports

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<sup>7</sup>EDGAR listed 1,029 Form SDs. Of these, we identified eight duplicate or amended filings, netting 1,021.

<sup>8</sup>See [GAO-21-531](#).

<sup>9</sup>Pub. L. No. 111-203, § 1502, 124 Stat. 1376, 2213-18.

<sup>10</sup>17 C.F.R. § 240.13p-1.

and verified the responses recorded by the first analyst. The analysts discussed and resolved any discrepancies.

After using the data collection instrument to analyze the sample of filings submitted in 2021, we compared the resulting estimates with our estimates regarding filings submitted in prior years to determine whether there had been any statistically significant changes.

In addition, we interviewed SEC officials and a non-generalizable sample of industry stakeholders to gather additional information on how companies responded to the SEC disclosure rule in their 2021 filings. We conducted 10 industry stakeholder interviews. We selected stakeholders to interview from our previous work in this area and a snowball selection process that included asking members of the population to recommend other members.

To provide information about sexual violence in eastern DRC and adjoining countries from April 2020 through March 2022, we searched research databases to identify studies and official reports. We identified 89 abstracts and from these identified 10 articles and studies relevant to our objective. We also reviewed the 2021 Demographic Household Survey (DHS) for Rwanda and compared the findings on incidence of sexual violence with those reported in the 2016 Rwanda DHS. We conducted interviews with and reviewed documents from State, USAID, the UN Special Representative of the Secretary-General on Sexual Violence in Conflict, and MONUSCO. We also reviewed a recent report by Doctors Without Borders (known by the French acronym MSF). In addition, we obtained recent data on gender-based violence from UNHCR. To assess the reliability of these data, we reviewed relevant documents and obtained additional information through written responses with knowledgeable officials. We found these data to be sufficiently reliable to present the number of UN-recorded cases of gender-based violence in eastern DRC in 2021.

We conducted this performance audit from September 2021 to September 2022 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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# Appendix II: Summary of the Securities and Exchange Commission's Conflict Minerals Rule Disclosure Process

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The Securities and Exchange Commission (SEC) conflict minerals disclosure rule requires certain companies to file a specialized disclosure report (Form SD).<sup>1</sup> Companies must file if they manufacture, or contract to have manufactured, a product or products containing conflict minerals that are necessary to the functionality or the production of those products.<sup>2</sup> The rule also requires each company, as applicable, to conduct a reasonable country-of-origin inquiry (RCOI) to determine whether it knows, or has reason to believe, that its conflict minerals may have originated in the covered countries and may not have been from scrap or recycled sources.

If the company's RCOI shows both conditions to be true of its conflict minerals, the company must exercise due diligence and provide a description of the measures it took to exercise due diligence in determining the source and chain of custody of the conflict minerals.<sup>3</sup> If as a result of this due diligence the company cannot determine that its conflict minerals are "DRC conflict free,"<sup>4</sup> the company must provide a description of the

- facilities used to process the conflict minerals,
- country of origin of the conflict minerals, and

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<sup>1</sup>As adopted, the final rule applies to any issuer that files reports with the 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 that the issuer manufactures or contracts to manufacture. 77 Fed. Reg. 56,274 (Sept. 12, 2012) (codified at 17 C.F.R. § 240.13p-1). For the purposes of this report, we refer to those issuers affected by the rule as "companies."

<sup>2</sup>The Dodd-Frank Wall Street Reform and Consumer Protection Act defines conflict minerals as columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives, or any other mineral or its derivatives that the Secretary of State determines to be financing conflict in the DRC or an adjoining country. See Pub. L. No. 111-203, § 1502(e)(4), 124 Stat. 1376, 2218. Columbite-tantalite, cassiterite, and wolframite are the mineral ores from which tantalum, tin and tungsten, respectively, are processed.

<sup>3</sup>According to SEC staff, consistent with the staff's revised guidance of 2017, the staff will not recommend enforcement action if companies that are required to conduct due diligence do not describe their due diligence efforts. SEC staff issued the revised guidance of 2017 after final judgment in the U.S. Court of Appeals case, Nat'l Ass'n of Mfrs. v. SEC, No. 13-cv-635 (D.D.C. Apr. 3, 2017). See SEC, *Updated Statement on the Effect of the Court of Appeals Decision on the Conflict Minerals Rule* (Apr. 7, 2017).

<sup>4</sup>The final rule states that the term "DRC conflict free" means that a product does not contain conflict minerals necessary to the functionality or production of that product that directly or indirectly finance or benefit armed groups in the covered countries.

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**Appendix II: Summary of the Securities and Exchange Commission's Conflict Minerals Rule Disclosure Process**

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- efforts it made to determine the mine or location of origin with the greatest possible specificity.

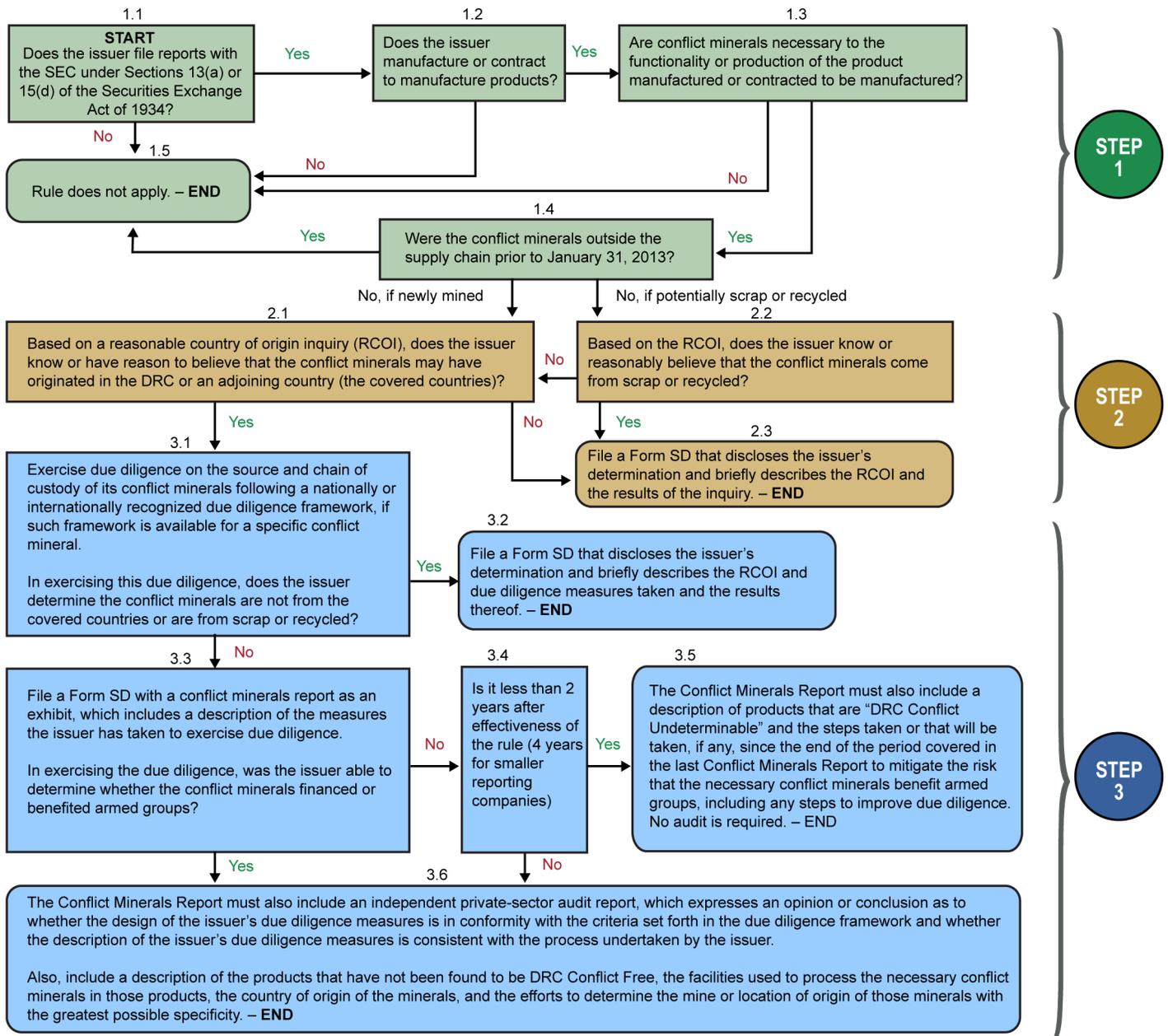
The Form SD provides general instructions for filing conflict minerals disclosures and specifies the information that companies must provide. Companies were required to file under the rule for the first time by June 2, 2014, and annually thereafter on May 31. Figure 15 shows the flowchart included in the SEC's adopting release for the rule, which summarized the conflict minerals disclosure rule at the time of its adoption. The commission has not updated the flowchart to reflect a 2014 legal decision on the rule or SEC staff's related guidance from 2014 and 2017.<sup>5</sup>

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<sup>5</sup>According to SEC staff, the U.S. Court of Appeals in 2014 rejected challenges to the bulk of the SEC conflict minerals rule. However, the court held that Section 1502 of the Dodd-Frank Act and the rule violate the First Amendment to the extent that they require regulated entities to report to the SEC and to state on their website that any of their products have "not been found to be 'DRC conflict free.'" *Nat'l Ass'n of Mfrs. v. SEC*, 748 F.3d 359 (D.C. Cir. Apr. 14, 2014). In addition, SEC staff issued revised guidance, indicating that "in light of the uncertainty regarding how the [Securities and Exchange] Commission will resolve those issues [raised by the Court's decision] and related issues raised by commenters, the Division of Corporation Finance has determined that it will not recommend enforcement action to the Commission if companies, including those that are subject to paragraph (c) of Item 1.01 of Form SD, only file disclosure under the provisions of paragraphs (a) and (b) of Item 1.01 of Form SD. This statement is subject to any further action that may be taken by the Commission, expresses the Division's position on enforcement action only, and does not express any legal conclusion on the rule." See SEC, *Updated Statement on the Effect of the Court of Appeals Decision on the Conflict Minerals Rule* (Apr. 7, 2017). According to the guidance issued by the staff on April 29, 2014, a company required to file a conflict minerals report is not required to conduct the independent private-sector audit unless it describes its products as "DRC Conflict Free" in that report.

**Appendix II: Summary of the Securities and Exchange Commission's Conflict Minerals Rule Disclosure Process**

**Figure 15: Securities and Exchange Commission Flowchart Summary of the Conflict Minerals Disclosure Rule**



Legend: DRC = Democratic Republic of the Congo, Form SD = specialized disclosure report.

Source: Securities and Exchange Commission (SEC). | GAO-22-105411

Note: See original at Rel. No.34-67716. The commission has not revised the flowchart to reflect the decision of the U.S. Court of Appeals for the District of Columbia Circuit on the rule or to reflect statements the SEC staff issued on the effect of the court's decision. According to SEC staff, the

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**Appendix II: Summary of the Securities and  
Exchange Commission’s Conflict Minerals  
Rule Disclosure Process**

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commission had no plans to update the flowchart as of June 2022. SEC staff also noted that the transition period mentioned in steps 3.4 and 3.5 is now complete and thus not applicable. Furthermore, they noted that, should a company decide to submit a conflict minerals report, it would be required to conduct the independent private-sector audit mentioned in step 3.6 if it decided to describe its products as “DRC Conflict Free”—a term that the company is not required to use but may use voluntarily.

# Appendix III: Comments from the U.S. Agency for International Development



August 19, 2022

Kimberly M. Gianopoulos  
Director, International Affairs and Trade  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20226

Re: Conflict Minerals: Overall Peace and Security in Eastern Congo Has Not Improved Since 2014 (GAO-22-105411)

Dear Ms. Gianopoulos:

I am pleased to provide the formal response of the U.S. Agency for International Development (USAID) to the draft report produced by the U.S. Government Accountability Office (GAO) titled, Conflict Minerals: Overall Peace and Security in Eastern Congo Has Not Improved Since 2014 (GAO-22-105411).

USAID remains committed to promoting responsible minerals trade, preventing and responding to sexual and gender-based violence, and promoting peace and security in eastern Democratic Republic of the Congo (DRC). This, and broader U.S. government efforts, align with the U.S.-DRC Privileged Partnership for Peace, Prosperity, and Preservation of the Environment. USAID's recent conflict assessment, mentioned in the report, provides an important analytic foundation to inform our efforts. The report mentions USAID's Tushinde Ujeri project that focuses on countering gender-based violence. In addition, USAID also funds peace and stability programming (e.g., the Partnership for the Development of Eastern DRC, the Community Resilience in Central African Project), responsible minerals trade (e.g., the Commercially Viable, Conflict-Free Gold Project, Sustainable Mine Site Validation Project), and broader good governance programming - notably the Integrated Governance Activity, which promotes transparent and accountable management of mining royalties.

I am transmitting this letter and the enclosed comment from USAID for inclusion in the GAO's final report. Thank you for the opportunity to respond to the draft report, and for the courtesies extended by your staff while conducting this engagement. We appreciate the opportunity to participate in the complete and thorough evaluation of efforts to promote responsible minerals trade and peace and stability in eastern DRC.

Sincerely,

*Colleen R. Allen*

Colleen R. Allen  
Assistant Administrator  
Bureau for Management

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# Appendix IV: GAO Contact and Staff Acknowledgments

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## GAO Contact

Kimberly M. Gianopoulos, (202) 512-8612 or [gianopoulosk@gao.gov](mailto:gianopoulosk@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Ryan Vaughan (Assistant Director), Tom Zingale (Analyst-in-Charge), Daniela Rudstein, Matthew Holubecki, Marc Rockmore, James Boohaker, Debbie Chung, Christopher Keblitis, Aldo Salerno, Jieun Chang, Justin Fisher, Carl Ramirez, and Nicole Willems made key contributions to this report.

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# Related GAO Products

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*Conflict Minerals: 2020 Company SEC Filings on Mineral Sources Were Similar to Those from Prior Years.* [GAO-21-531](#). Washington, D.C.: July 12, 2021.

*Conflict Minerals: Actions Needed to Assess Progress Addressing Armed Groups' Exploitation of Minerals.* [GAO-20-595](#). Washington, D.C.: September 14, 2020.

*Conflict Minerals: 2018 Company Reports on Mineral Sources Were Similar in Number and Content to Those Filed in the Prior 2 Years.* [GAO-19-607](#). Washington, D.C.: September 9, 2019.

*Conflict Minerals: Company Reports on Mineral Sources in 2017 Are Similar to Prior Years and New Data on Sexual Violence Are Available.* [GAO-18-457](#). Washington, D.C.: June 28, 2018.

*Conflict Minerals: Information on Artisanal Mined Gold and Efforts to Encourage Responsible Sourcing in the Democratic Republic of the Congo.* [GAO-17-733](#). Washington, D.C.: August 23, 2017.

*SEC Conflict Minerals Rule: 2017 Review of Company Disclosures in Response to the U.S. Securities and Exchange Commission Rule.* [GAO-17-517R](#). Washington, D.C.: April 26, 2017.

*Conflict Minerals: Insights from Company Disclosures and Agency Actions.* [GAO-17-544T](#). Washington, D.C.: April 5, 2017.

*SEC Conflict Minerals Rule: Companies Face Continuing Challenges in Determining Whether Their Conflict Minerals Benefit Armed Groups.* [GAO-16-805](#). Washington, D.C.: August 25, 2016.

*SEC Conflict Minerals Rule: Insights from Companies' Initial Disclosures and State and USAID Actions in the Democratic Republic of the Congo Region.* [GAO-16-200T](#). Washington, D.C.: November 17, 2015.

*SEC Conflict Minerals Rule: Initial Disclosures Indicate Most Companies Were Unable to Determine the Source of Their Conflict Minerals.* [GAO-15-561](#). Washington, D.C.: August 18, 2015.

*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.

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Related GAO Products

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

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

*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.

*The Democratic Republic of the Congo: U.S. Agencies Should Take Further Actions 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.: September 30, 2010.

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