



## PILLAGE:

# SWISS BUSINESSMAN UNDER CRIMINAL INVESTIGATION FOR WAR CRIMES COMMITTED IN THE DRC

## PRESS KIT

December 2019



**OPEN SOCIETY  
JUSTICE INITIATIVE**

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## **PILLAGE: SWISS BUSINESSMAN UNDER CRIMINAL INVESTIGATION FOR WAR CRIMES IN THE DRC**

**TRIAL International and the Open Society Justice Initiative (OSJI) welcome the opening of a formal criminal investigation by the Office of the Attorney General of Switzerland into Christoph Huber, a Swiss national active in the mining sector. Huber is suspected of having committed pillage in the Democratic Republic of the Congo, a war crime under Swiss law. Both organizations had been investigating the case since 2013, and had filed a criminal complaint (*dénonciation pénale*), backed by numerous pieces of first-hand evidence, in November 2016.**

The Office of the Attorney General (OAG) has now confirmed having opened criminal proceedings against Swiss businessman **Christoph Huber**, Bloomberg revealed today. The OAG is investigating the alleged illegal trade of minerals in Democratic Republic of the Congo (DRC) during the armed conflicts of the Second Congo War (1998-2003), following the TRIAL International/OSJI *dénonciation*.

*“Our investigations unveiled corporate documents, as well as internal paperwork belonging to the RCD Goma, which demonstrate Christoph Huber’s business dealings with the armed group”, said **Bénédict De Moerloose**, head of TRIAL’s International Investigation and Litigation program. “At a time when the public increasingly demands of corporate actors that they respect and protect human rights, the opening of an investigation into a Western businessman conducting illegal trade in a conflict zone sends a strong signal to the whole mining sector”.*

According to **Ken Hurwitz**, head of the Open Society Justice Initiative’s Anticorruption program, *“Too many conflicts around the world are fueled by the illegal sale of pillaged resources into global markets. Yet the international businesses and business people involved are rarely, if ever, prosecuted. The Swiss are to be applauded for taking on the hard work of pursuing this complex and important case.”*

### **IN BED WITH A VIOLENT ARMED GROUP**

Among other material, the organizations uncovered that the 52-year old Huber was in a direct business relationship with the **RCD-Goma**, a violent armed group controlling a large portion of Eastern Congo during the Second Congo War. If Huber is found to have illegally exploited and appropriated natural resources from a conflict zone, he could be held accountable for the war crime of pillage, a crime prohibited by international humanitarian law, and **punishable by Swiss law** by a prison sentence of not less than three years.

In 2001, the company represented by Huber was granted a mining concession by RCD Goma, which included guarantees of protection by soldiers of the armed group, although the RCD-Goma was not the owner of the mines. The concessions did not last long, but he was still able to acquire tons of cassiterite and wolframite during the time when he held concessions. Beforehand, Huber had already been involved in the trade of minerals from the region at least since 1997, including with Swiss companies.

Both organizations call upon the OAG to promptly complete its investigation.

Holding a trial would constitute a historical precedent. Indeed, it would be the first time in Switzerland that an economic actor would be on trial for the war crime of pillage, although this practice, in particular the looting of raw materials in conflict zones, has in the past decades reached alarming proportions.

TRIAL International is a non-governmental organization fighting impunity for international crimes and supporting victims in their quest for justice. TRIAL International takes an innovative approach to the law, paving the way to justice for survivors of unspeakable sufferings. The organization provides legal assistance, litigates cases, develops local capacity and pushes the human rights agenda forward.

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## BACKGROUND INFORMATION



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### THE SECOND CONGO WAR

Between 1998 and 2003, the Second Congo War raged in the Eastern part of the Democratic Republic of the Congo (DRC), with a series of armed conflicts involving several States and around twenty armed groups, reaching an estimated death toll of 6 million.

### THE RCD-GOMA

4 | The armed group *Rassemblement congolais pour la démocratie* (RCD) played a particularly important role during the Second Congo War. Created during the summer of 1998 and supported by both Ugandan and Rwandan armies, the RCD directly attacked the central government. In 1999, it divided into two, with the RCD-Goma, the more powerful of the two groups, based in Goma.

With an armed force of several thousand men, the RCD-Goma rapidly took control of a great portion of the Eastern part of the DRC, including the provinces of North and South Kivu and Maniema, where it exercised a State like power, controlling administrations and collecting taxes and ruling by terror. Indeed, according to the United

Nations, in the territory controlled by the RCD-Goma, their armed forces have “massacr[ed] defenceless civilian populations with machetes, knives and guns, causing thousands of victims.” (Report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón, in accordance with resolution 1999/56 of the Commission on Human Rights, 18 January 2000, p.7)

The RCD’s war efforts were sustained by the **illegal exploitation of natural resources**. As the NGO Global witness reported: “Control and exploitation of these trades enabled the RCD-Goma to finance its crippling occupation of North and South Kivu –an occupation

characterised by widespread human rights violations against the civilian population.” (Global witness, Afrimex, UK), **Complaint to the UK National Contact Point under the Specific Instance Procedure of the OECD Guidelines for Multinational Enterprises**, 20 February 2007, p.4.)

According to the **United Nations Group of Experts** at the time, “RCD-Goma has designed a fiscal system based mainly on the mining sector. About six different forms of tax exist in this sector, and they are applied on approximately eight different types of minerals, including the most important (coltan, gold and diamond).” However, the **revenues collected by the RCD did not benefit the population at all.** |

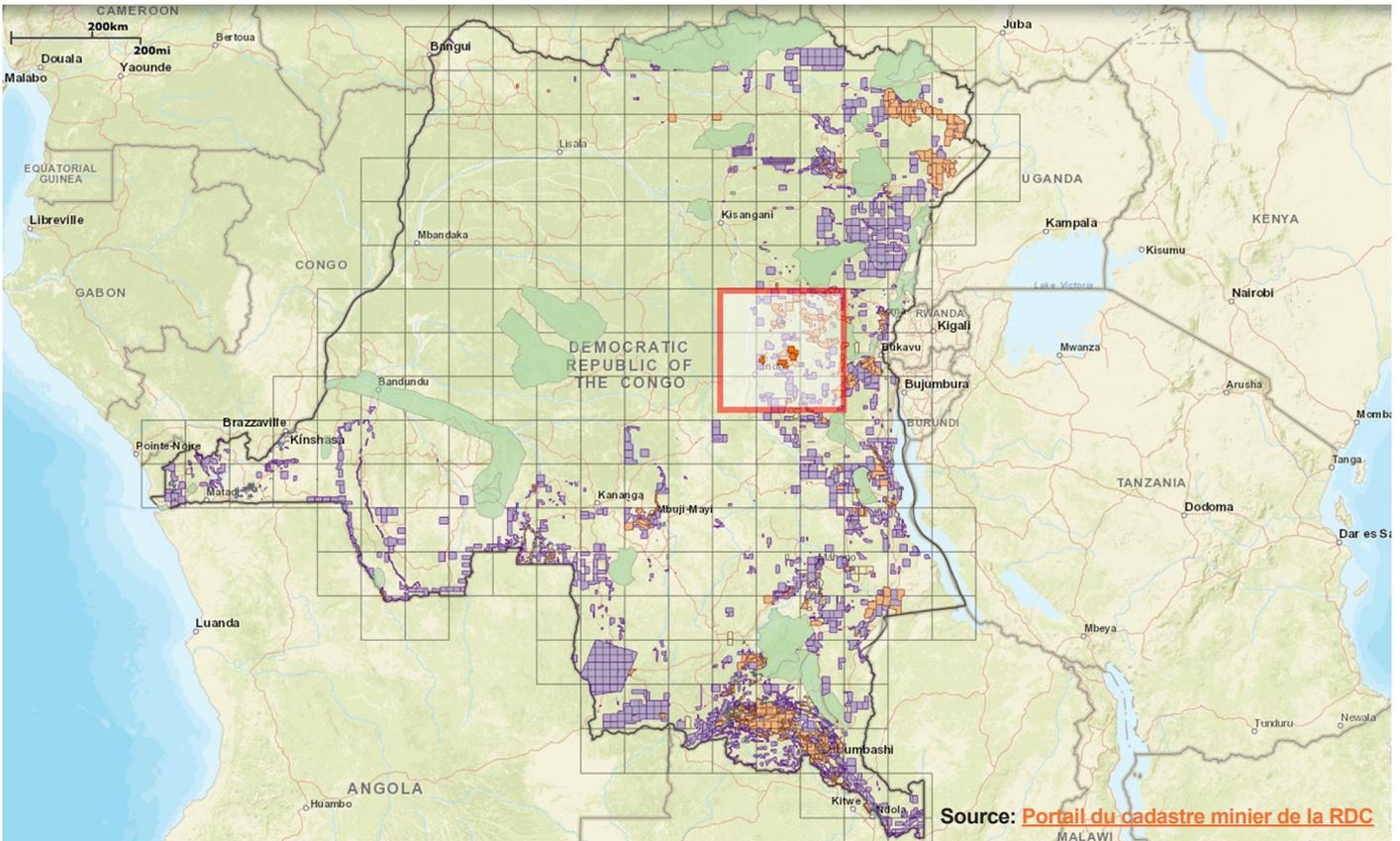
### LINK BETWEEN MINERAL RESOURCES AND THE ARMED CONFLICT

The conflict was heavily fueled by illegal exploitation of natural resources, considered by the United Nations as “a driving force behind the war” (**United Nations Office of the High Commissioner for Human Rights, Mapping document, §733**). The UN also concluded that “the abundance of natural resources in the DRC and the absence of regulation and responsibility in this sector has created a particular dynamic that has clearly contributed directly to widespread violations and to their perpetuation and that both domestic and foreign state-owned or private companies could bear some responsibility for these crimes having been committed.” (**Mapping of the UN OHCHR, §42**) |



©UN Photo / Sylvain Liechti

# BACKGROUND INFORMATION



## THE EX-SOMINKI

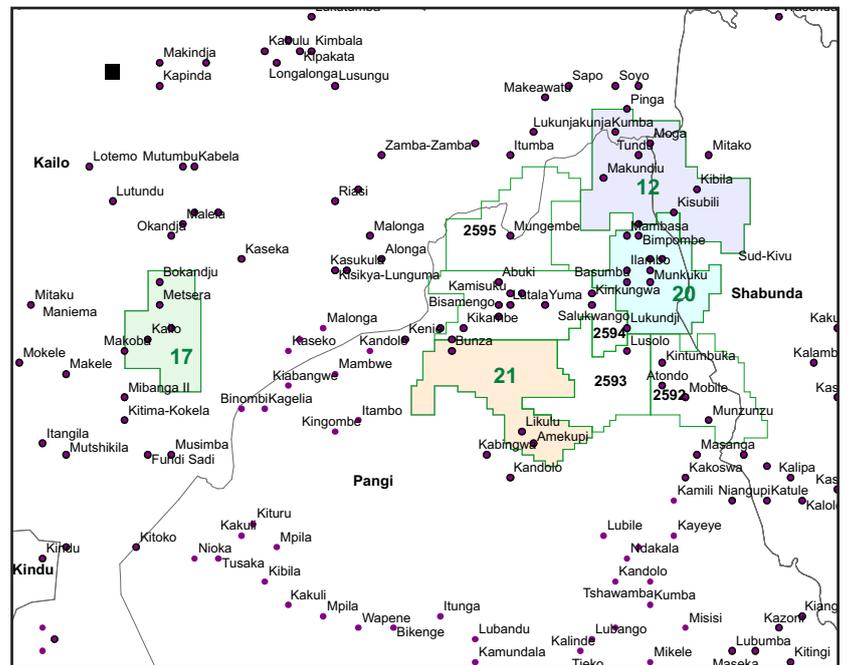
When conquering North and South Kivu and Maniema in 1998, the RCD took control of the *Société minière et industrielle du Kivu* (SOMINKI), a company belonging to the State and owning numerous mining concessions of **coltan**, **cassiterite** and **wolframite** on over 100'000 km<sup>2</sup>.

In February 2001, **Christoph Huber** signed an agreement with an entity specifically appointed by the RCD-Goma to manage the assets of the ex-SOMINKI (the "Management Interim Committee ex-SOMINKI"). This agreement, granted the Rwandan company represented by Christoph Huber, **Medivals Minerals Ltd**, four concessions in the provinces of Maniema and South Kivu, amounting to around 1'100 km<sup>2</sup>, along with mineral treatment facilities.

These mining concessions contained deposits of cassiterite and wolframite. Medivals Minerals Ltd would pay a royalty of 20% of the average price of cassiterite. The contract also mentioned that security was to be provided by RCD's armed forces.

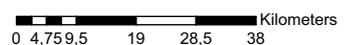
The agreement was approved by RCD-Goma's highest authorities, with a decision dated 1<sup>st</sup> of March 2001. |

## CONCESSIONS GRANTED TO MEDIVAL MINERALS LTD



Province	Territoire	Localite	PE	Concession PE	Area (km <sup>2</sup> )
				Concession PE 12	370.75
				Concession PE 17	184.38
				Concession PE 21	299.41
				Concession PE 20	248.31
<b>TOTAL</b>					<b>1102.85</b>

DATUM WGS 84



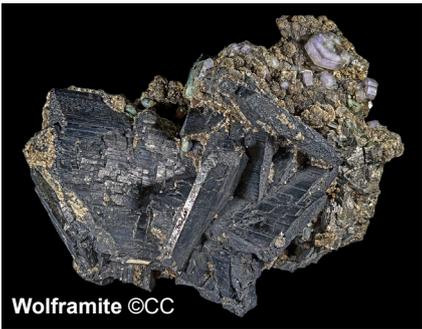
# BACKGROUND INFORMATION

## EASTERN DRC MINERALS



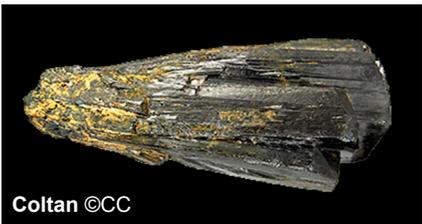
Cassiterite ©CC

**CASSITERITE** is a tin oxide mineral. Tin is widely used by the industry, from joining pipes or electric circuits to preserving food.



Wolframite ©CC

**WOLFRAMITE** is an iron manganese tungstate mineral, among the most important tungsten ore minerals. Tungsten can be isolated from the ore and can be used for building incandescent light bulb filaments, X-ray tubes, as well as highly penetrating projectiles in its military application.



Coltan ©CC

**COLTAN** (*short for columbite-tantalite*) is a metallic ore from which are extracted the elements niobium and tantalum. Tantalum is used to manufacture components of cellphones, laptop computers...

### CHRISTOPH HUBER

M. Huber is described by the United Nations Group of experts as “a Swiss businessman who has been widely cited by various government officials and in public reports as having been involved in the large-scale transport of coltan out of the Democratic Republic of the Congo and Rwanda during the period of the Rwandan-backed RCD-Goma rebel occupation in eastern Democratic Republic of the Congo during the period 1998-2003” (Final Report of the United Nations Group of Experts on the DRC, 23 November 2009, p.44).

The concessions held with Medivals Minerals Ltd were not the first or last of Mr. Huber’s alleged dealings in minerals from the region. Indeed, numerous reports (from the UN and news media) include allegations of Mr. Huber’s trading in conflict minerals from 1997 onwards, through companies such as Finconcord, Finmining and Raremet. (*L’Hebdo, Coltan / Congo : le sale trafic d’un Suisse*, 4 avril 2002 ; *Final Report of the United Nations Group of Experts on the DRC*, 23 November 2009) |

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The RCD-Goma collected taxes from concessions granted to foreign companies within the territory under its control. But the revenues did not benefit the population.



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# BACKGROUND INFORMATION

LINK BETWEEN THE RCD-GOMA  
AND CHRISTOPH HUBER

Reçu le 14 mars  
091/CPG/sec

**REPUBLIQUE DEMOCRATIQUE DU CONGO**  
*Rassemblement Congolais pour la Démocratie*  
**R. C. D.**

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**ARRETE INTERDEPARTEMENTAL**  
**N° 001/RCD/CE/DFBP/DTME/2001 DU 12 MARS 2001**  
**PORTANT APPROBATION DU PROTOCOLE D'ACCORD DU**  
**22/02/2001 CONCLU ENTRE LE COMITE PROVISOIRE DE**  
**GESTION DE L'EX-SOMINKI ET LA SOCIETE MEDIVAL**  
**MINERALS LIMITED**

- LE CHEF DE DEPARTEMENT DES FINANCES, BUDGET ET PORTEFEUILLE ;
- LE CHEF DE DEPARTEMENT DES TERRES, MINES ET ENERGIE ;

Vu le Protocole d'accord du Rassemblement Congolais pour la Démocratie tel que modifié à ce jour ;

Vu le Règlement Intérieur du Rassemblement Congolais pour la Démocratie tel que modifié à ce jour ;

Vu la résolution portant acte constitutionnelles applicables pendant la guerre ;

Vu la Décision n° 001 du ; nomination des membres du Rassemblement Congolais pour la

Vu telle que modifiée et l'Ordonnance - Loi n° 81-013 ( Législation Générale sur Hydrocarbures ;

Vu l'Ordonnance n° 67-416 du 2<sup>e</sup> Règlement Minier ;

Vu la Décision n° 023 du abrogation de la Décision

## ARRETEMENT :

### Article 1 :

Est approuvé le Protocole d'Accord signé le 22/02/2001 entre le Comité Provisoire de Gestion de l'ex-SOMINKI et la Société Medival Minerals Limited dans le cadre de la gestion et de la relance des activités de l'entreprise ex-SOMINKI.

### Article 2 :

Les autorités civiles et militaires sont priées, chacun en ce qui la concerne, de l'exécution du présent Arrêté interdépartemental qui entre en vigueur à la date de sa signature.

Fait à Goma, le **01 MAR 2001**

Le Chef de Département des  
Terres, Mines et Energie

Le Chef de Département  
des Finances, Budget

**REPUBLIQUE DEMOCRATIQUE DU CONGO**  
*Société Minière et Industrielle du Kivu*  
**SOMINKI**  
**COMITE PROVISOIRE DE GESTION (CPG-S).**

N/Réf. : 056 / CPG/P/SOM/NK/2001. Goma, le **12 MAR 2001**  
V/Réf. :

Medival Minerals Ltd  
à **GOMA**

Messieurs,

Concerne : Liste des concessions, usines de traitement et des immeubles concernés.  
(Art.9 du Protocole d'Accord du 22/02/2001)

Nous avons l'avantage de vous donner, ci-joint, en application des articles 1<sup>er</sup> et 9 du protocole du 22/02/2001, la liste des concessions, usines de traitement et des immeubles concernés :

**I. CONCESSIONS**

C69	MOGA, ULINDI
C101	KALIMA I
C102	KALIMA II
C71	KAILO, LONIOMA, OKE, KITSHA

## II. USINES DE TRAITEMENT

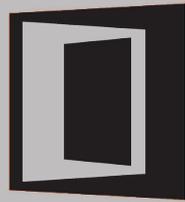
1. Epuration KALIMA  
Capacité(mois) 134 tonnes de SnO2  
26 tonnes de WO3.
2. Epuration KAILO  
Capacité (mois) 16 tonnes de SnO2  
5 tonnes de WO3

Comme il a été convenu, les conditions effectives de mise à disposition seront discutées dès que votre première équipe sera arrivée à KALIMA. Il en sera de même pour les modalités d'utilisation des pistes d'aviation par COMAIR.

Veuillez agréer, Messieurs, l'expression de nos meilleurs sentiments.

Pour le Comité Provisoire de Gestion/ex-SOMINKI

C.C. : Président du RCD  
- Secrétaire Général du RCD  
- DTME  
- DFBP  
- DG Kalima  
- Chrono ✓



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