

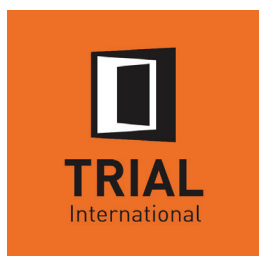


## PILLAGE:

ONGOING INVESTIGATION FOLLOWING THE  
DENUNCIATION OF A SWISS BUSINESSMAN  
FOR WAR CRIMES IN THE DRC

### PRESS KIT

December 2019



**OPEN SOCIETY  
JUSTICE INITIATIVE**

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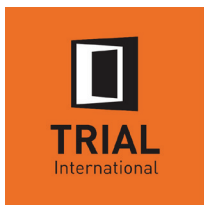
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## **PILLAGE: ONGOING INVESTIGATION FOLLOWING THE DENUNCIATION OF A SWISS BUSINESSMAN FOR WAR CRIMES IN THE DRC**

**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 following the filing of their denunciation against Christoph Huber, a Swiss national active in the mining sector. Backed by numerous pieces of first-hand evidence collected during their investigation of the case since 2013, the criminal denunciation filed in November 2016 by both organizations suspects Huber of having been involved in pillage in the Democratic Republic of the Congo (DRC), a war crime under Swiss law.**

In March 2018, the Office of the Attorney General (OAG) decided to investigate the alleged illegal trade of minerals in the DRC during the armed conflicts of the Second Congo War (1998-2003), following TRIAL International and OSJI's criminal denunciation.

*“At a time when the public increasingly demands from corporate actors that they respect and protect human rights, the opening of an investigation presumably in connection with the conduct of illegal trade in a conflict zone potentially involving a Western businessman sends a strong signal to the whole mining sector”, said **Bénédict De Moerloose**, head of TRIAL's International Investigation and Litigation program.*

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### **APPARENT BUSINESS WITH AN ARMED GROUP**

During their investigation, the organizations uncovered, among other evidence, elements highlighting the existence of a business relationship between M. Huber and the **RCD-Goma** (Goma faction of the *Rassemblement congolais pour la Démocratie*), an armed group accused of war crimes and controlling large portions of Eastern Congo during the Second Congo War. In 2001, the company represented by Huber would have been granted four mining concessions by an official body of RCD-Goma, whose armed forces were militarily occupying the area where the relevant mines were located. According to the agreement granting these mining concessions, their award involved protection guarantees by troops of the armed group.

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 investigating in connection with the denunciation of this complex and important case.”*

If the ongoing investigation was to establish the involvement of Mr. Huber in the illegal exploitation and appropriation of natural resources from a conflict area, he could be held liable for the war crime of pillage, a crime prohibited by international humanitarian law, and punishable under Swiss law by a prison sentence of no less than three years. Both organizations call upon the OAG to promptly complete its investigation.

Should this investigation lead to a trial, it would constitute a historical precedent. Indeed, it might be the first time in Switzerland that an economic actor would be on trial for accusations of 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.



## BACKGROUND INFORMATION



### THE SECOND CONGOLESE WAR

Between 1998 and 2003, the Second Congolese war raged in the Eastern part of the Democratic Republic of the Congo, 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 Congolese 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 exercising a **reign of 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 Commission on Human Rights resolution 1999/56*)

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**, 20th February 2007.)

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.*” However, the **revenues collected by the RCD did not benefit the population** at all. |

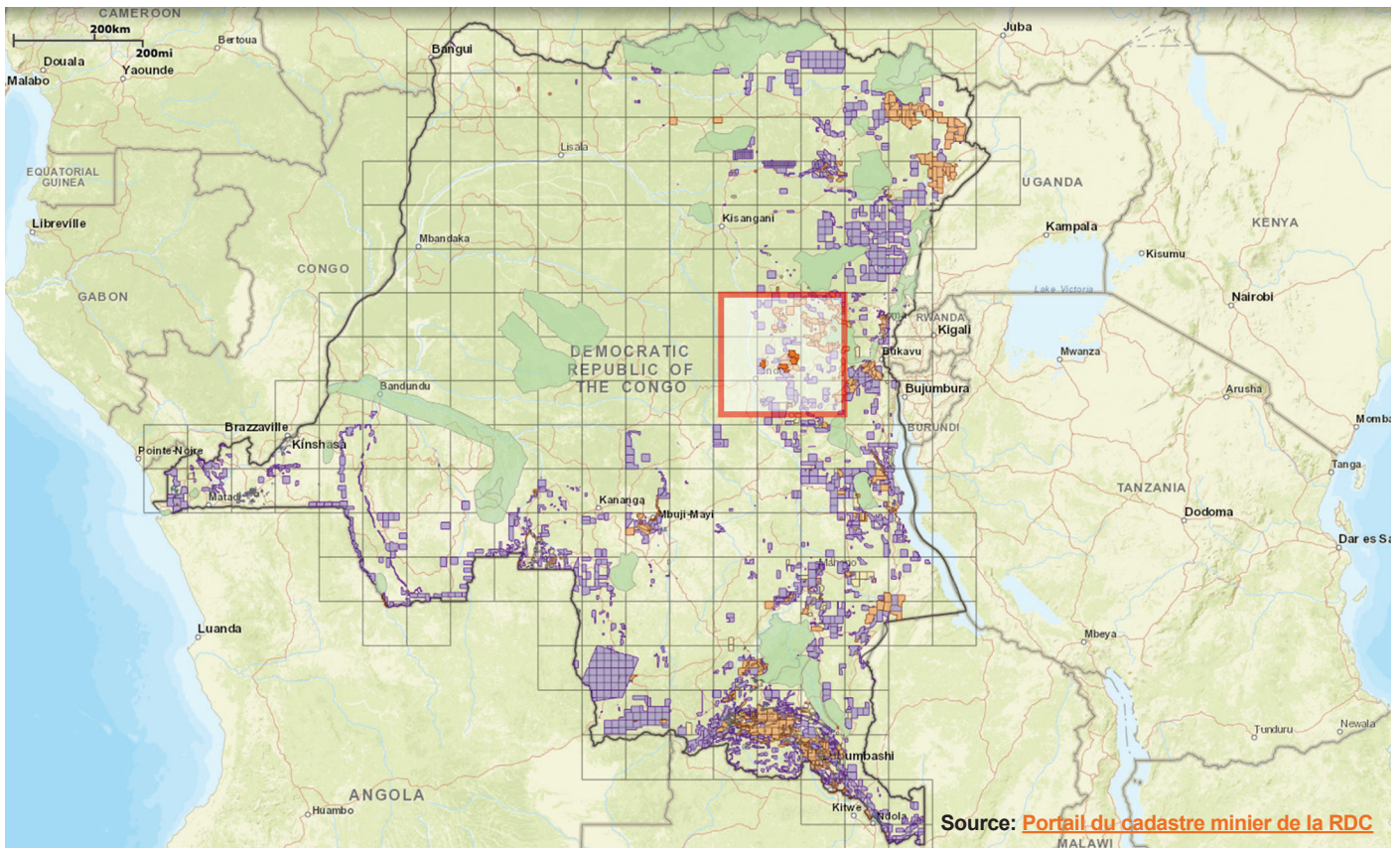
### LINK BETWEEN MINERAL RESOURCES AND THE ARMED CONFLICT

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 document, §42**) |





## BACKGROUND INFORMATION



### THE EX-SOMINKI

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

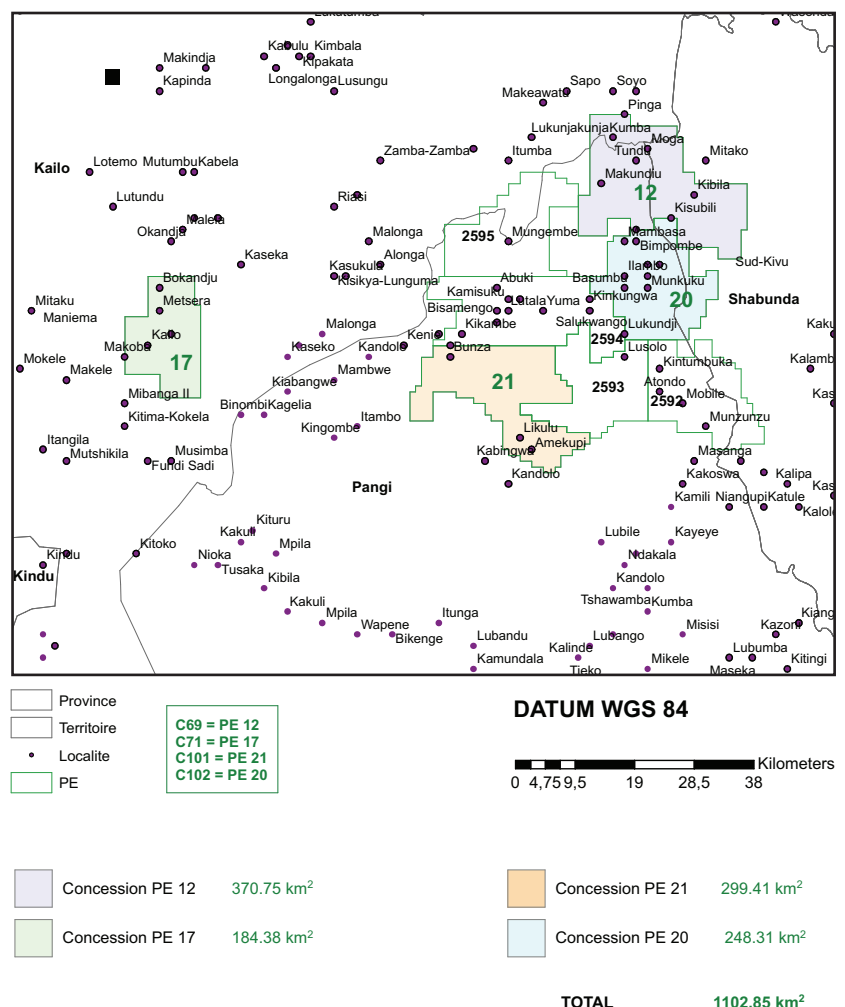
In February 2001, **Christoph Huber** signed a contract with the Sominki granting the company **Medivals Minerals Ltd**, based in Kigali, four concessions in the provinces of Maniema and South Kivu, representing around 1'100 km<sup>2</sup>, as well as mineral treatment facilities.

These mining concessions were cassiterite and Wolframite. Medivals would pay a royalty of 20% of the price of cassiterite. The contract also mentioned the fact that security was going to be provided with the support of RCD's army.

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

### CONCESSIONS GRANTED TO MEDIVAL MINERALS LTD

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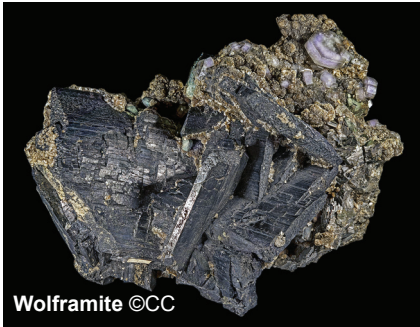
# BACKGROUND INFORMATION

## EASTERN DRC MINERALS



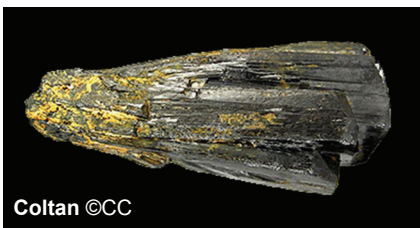
Cassiterite ©CC

**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 portable telephones, personal 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.”

The concessions held with Medivals were not the first or last of Mr Huber’s alleged dealings in minerals from the region. Indeed, numerous reports (from the UN, from NGOs and from 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*, Congo: le sale trafic d’un Suisse, 4 avril 2002, *Rapport du Groupe d’experts sur l’exploitation illégale des ressources naturelles et autres richesses de la République démocratique du Congo*, 23 novembre 2009, S/2009/603.) |

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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.

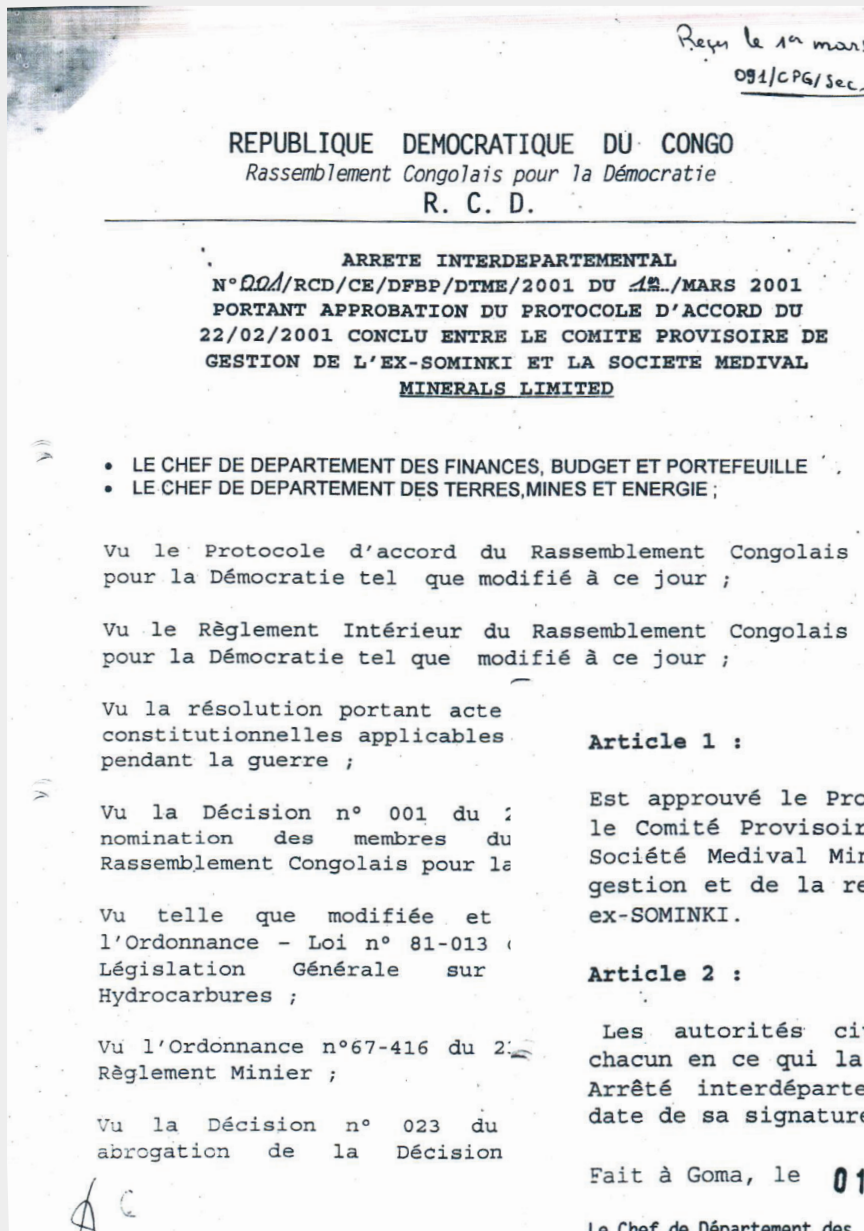


©Guy Oliver/IRIN



## BACKGROUND INFORMATION

LINK BETWEEN THE RCD-GOMA  
AND CHRISTOPH HUBER



### 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.

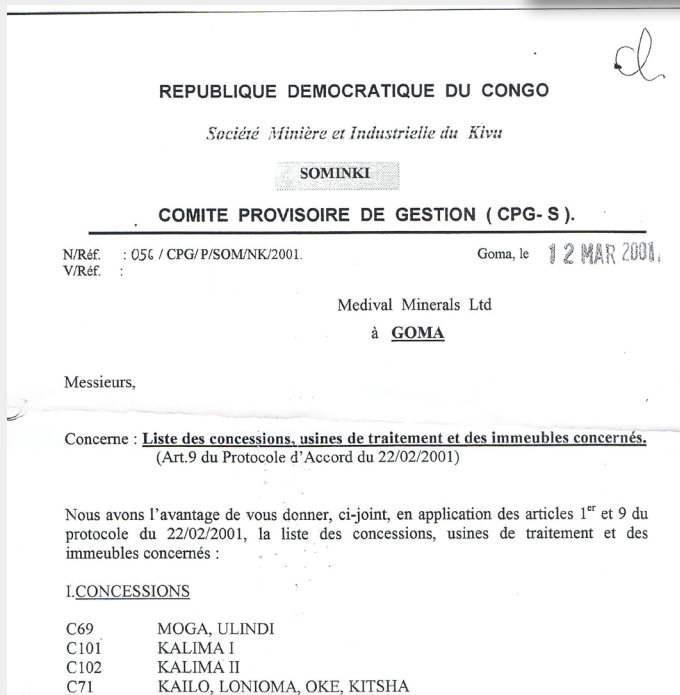
#### Article 2 :

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



### II. USINES DE TRAITEMENT

1. Epuration KALIMA  
Capacité (mois) 134 tonnes de SnO<sub>2</sub>  
26 tonnes de WO<sub>3</sub>.
2. Epuration KAILO  
Capacité (mois) 16 tonnes de SnO<sub>2</sub>  
5 tonnes de WO<sub>3</sub>

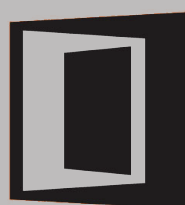
Comme il a été convenu, les conditions effectives de mise à disposition seront discutées dès que votre première équipe sera arrivée à KALIMA. Il en sera de même pour les modalités d'utilisation des pistes d'aviation par COMAIR.

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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