



September 2020

CONFLICT MINERALS

Actions Needed to Assess Progress Addressing Armed Groups' Exploitation of Minerals

Why GAO Did This Study

Armed groups in eastern DRC continue to commit severe human rights abuses and to profit from the exploitation of “conflict minerals,” according to State. Provisions in the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act required, among other things, that State, USAID, and the SEC take certain actions to promote peace and security. In 2011, State created the U.S. conflict minerals strategy in consultation with USAID to address armed groups’ exploitation of conflict minerals. In 2012, the SEC also promulgated regulations containing disclosure and reporting requirements for companies that use conflict minerals from covered countries. The act also included a provision for GAO to annually assess, among other things, the SEC regulations’ effectiveness in promoting peace and security.

In this report, GAO examines, among other things, how companies responded to the SEC conflict minerals disclosure rule when filing in 2019 and the extent to which State and USAID assessed progress toward the U.S. conflict minerals strategy’s objectives and goal. GAO analyzed a generalizable sample of SEC filings, reviewed documents, and interviewed U.S. officials

What GAO Recommends

State, in consultation with USAID, should develop performance indicators for assessing progress toward the strategic objectives and goal of the U.S. conflict minerals strategy. State and USAID concurred with GAO’s recommendation.

View [GAO-20-595](#). For more information, contact Kimberly M. Gianopoulos at (202) 512-8612 or gianopoulosk@gao.gov.

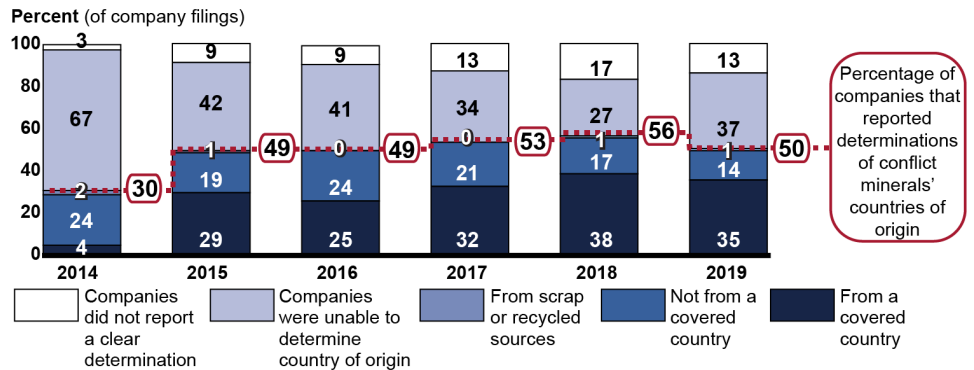
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What GAO Found

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 (RCOI), and depending on the preliminary determination, perform due diligence to determine the source and chain of custody of their conflict minerals—gold and specific ores for tantalum, tin, and tungsten. After conducting RCOI, an estimated 50 percent of companies filing in 2019 reported preliminary determinations as to whether the conflict minerals came from the Democratic Republic of the Congo (DRC) or adjoining countries (covered countries) or from scrap or recycled sources. The percentage of companies able to make such preliminary determinations increased significantly between 2014 and 2015, and has since leveled off, as shown below.

Source of Conflict Minerals in Products as Determined by Companies’ Reasonable Country-of-Origin Inquiries, Reporting Years 2014-2019



Source: GAO analysis of Securities and Exchange Commission filings. | GAO-20-595

However, fewer companies reported such determinations after conducting due diligence. In 2019, an estimated 85 percent of companies made preliminary determinations that required them to then perform due diligence. Of those companies, an estimated 17 percent determined that the minerals came from covered countries—a significantly lower percentage of companies making that determination than the 37 percent reported in 2017 or the 35 percent in 2018. Since 2014, companies have noted various challenges they face in making such determinations; however, SEC staff told GAO that they did not know what factors contributed to the decrease in 2019. We will examine this issue during our future review.

While the Department of State (State) and U.S. Agency for International Development (USAID) have implemented the U.S. conflict minerals strategy since 2011, they have not established performance indicators for all of the strategic objectives. For example, they have no such indicators for the objectives of strengthening regional and international efforts and promoting due diligence and responsible trade through public outreach. Without performance indicators, the agencies cannot comprehensively assess their progress toward achieving these objectives or the overall goal of addressing armed groups’ exploitation of conflict minerals.

Contents

Letter		1
	Background	5
	Companies Made Similar Preliminary Determinations of Conflict Minerals' Origin After RCOI as in Past Years, but Fewer Made Final Determinations after Due Diligence	12
	State and USAID Implement the U.S. Conflict Minerals Strategy through Various Activities, but Lack Performance Indicators to Comprehensively Assess Progress	23
	No New Comprehensive Surveys Have Been Published on the Rate of Sexual Violence in Eastern DRC and Adjoining Countries, but Some New Information Is Available	31
	Conclusions	39
	Recommendation for Executive Action	40
	Agency Comments	40
Appendix I	Objectives, Scope, and Methodology	44
Appendix II	Summary of the Securities and Exchange Commission's Conflict Minerals Rule Disclosure Process	49
Appendix III	Rates of Sexual Violence in the DRC, Burundi, Rwanda, and Uganda, 2007-2020	53
Appendix IV	Comments from the Department of State	57
Appendix V	Comments from the U.S. Agency for International Development	59
Appendix VI	GAO Contact and Staff Acknowledgments	61
Related GAO Products		62

Tables

Table 1: U.S. Agencies' Reported Conflict Mineral Activity by Strategic Objective and Sub-Objective from October 2018 through March 2020	24
Table 2: Nationwide Demographic Household Survey (DHS) Rates of Sexual Violence in the Democratic Republic of the Congo (DRC), Burundi, Rwanda, and Uganda, by Percentage, 2007-2020	56

Figures

Figure 1: The Democratic Republic of the Congo and Adjoining Countries (Covered Countries)	7
Figure 2: Flowchart of GAO Analysis of Companies' Determinations for Their RCOIs and Due Diligence for Filings Submitted in 2019	15
Figure 3: Source of Conflict Minerals Determined by Companies' Reasonable Country-of-Origin Inquiries, Reporting Years 2014-2019	17
Figure 4: Artisanal Gold Miners at a USAID Program Site in Eastern Democratic Republic of the Congo	27
Figure 5: U.S. Agencies' Performance Indicators for Conflict Minerals Strategic Goal, Objectives, and Sub-Objectives, as of June 2020	29
Figure 6: Villages Surveyed for U.S. Agency for International Development (USAID) Program in Eastern Democratic Republic of the Congo	33
Figure 7: Securities and Exchange Commission Flowchart Summary of the Conflict Minerals Disclosure Rule	51
Figure 8: Population-Based Surveys on Sexual Violence Rates in Eastern DRC, Burundi, Rwanda, and Uganda, by Publication Date	54

Abbreviations

DHS	Demographic and Health Surveys
Dodd-Frank Act	2010 Dodd-Frank Wall Street Reform and Consumer Protection Act
DRC	Democratic Republic of the Congo
EDGAR	Electronic Data Gathering, Analysis, and Retrieval
Form SD	Specialized Disclosure Report
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
SEC	Securities and Exchange Commission
SEC disclosure rule	SEC conflict minerals disclosure rule
State	Department of State
USAID	U.S. Agency for International Development
UN	United Nations

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September 14, 2020

Congressional Committees

Over the past 2 decades, the United States and the international community have sought to improve security in the Democratic Republic of the Congo (DRC). However, according to the Department of State (State) and the United Nations (UN), conflict has persisted and contributed to severe human rights abuses and the displacement of people. State also reported that armed groups from the DRC and neighboring countries, as well as members of the countries' national armies and police, engaged in the conflict continue to commit human rights abuses, including sexual violence. They also profit from the exploitation of the mining and trade of "conflict minerals"—in particular, tin, tungsten, tantalum, and gold—from the eastern region of the DRC.

The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act¹ (Dodd-Frank Act) addresses, among other things, trade in conflict minerals.² Section 1502 of the act required several U.S. agencies, including the Securities and Exchange Commission (SEC), State, and the U.S. Agency for International Development (USAID), to take certain actions to implement the conflict minerals provisions of the act.³ Notably, the act required the SEC to promulgate disclosure and reporting regulations regarding the use of conflict minerals from the DRC and adjoining countries (in this report collectively referred to as "covered countries").⁴ In response, the SEC adopted a conflict minerals disclosure

¹Pub. L. No. 111-203, § 1502, 124 Stat. 1376, 2213-18.

²The 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). Columbite-tantalite, cassiterite, and wolframite are the mineral ores from which tantalum, tin, and tungsten, respectively, are processed.

³The act also requires the Department of Commerce to report, among other things, a list of all known conflict minerals processing facilities worldwide. Pub. L. No. 111-203, § 1502(d).

⁴The 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."

rule (SEC disclosure rule) in August 2012.⁵ The SEC required companies to file specialized disclosure reports for the first time by June 2, 2014, and annually thereafter by May 31.⁶

The act also required State, in consultation with USAID, to submit a U.S. conflict minerals strategy to appropriate congressional committees to address the linkages between human rights abuses, armed groups, mining of conflict minerals, and commercial products.⁷ The act required the strategy to include, among other things, a plan to promote peace and security in the DRC.⁸ State and USAID developed the strategy in 2011 and subsequently implemented activities to achieve its goal.⁹ According to State, the strategy and the SEC disclosure rule share the intent of promoting peace and security in the DRC and adjoining countries.

The Dodd-Frank Act also included a provision for us to report annually on, among other things, two items:

- beginning in 2012, the effectiveness of the SEC disclosure rule in promoting peace and security in the DRC and adjoining countries, and

⁵77 Fed. Reg. 56,274 (Sept. 12, 2012) (codified at 17 C.F.R. § 240.13p-1).

⁶As 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 manufactured or contracted to be manufactured. For the purposes of our report, we refer to those issuers affected by the rule as “companies.”

⁷Pub. L. No. 111-203, § 1502(c).

⁸Pub. L. No. 111-203 § 1502(c)(1)(B).

⁹State and USAID, *U.S. Strategy to Address the Linkages between Human Rights Abuses, Armed Groups, Mining of Conflict Minerals, and Commercial Products* (April 2011).

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- beginning in 2011, the rate of sexual violence in war-torn areas of the DRC and adjoining countries.¹⁰

In this report, we (1) examine how companies responded to the SEC disclosure rule for conflict minerals when filing in 2019;¹¹ (2) identify the activities State and USAID have undertaken to implement the U.S. conflict minerals strategy and examine the extent to which they have assessed progress toward its objectives and goal; and (3) provide recent information on the rate of sexual violence in eastern DRC and adjoining countries.

To examine how companies responded to the SEC disclosure rule for conflict minerals when filing in 2019, we downloaded disclosure reports from the SEC's publicly available Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database. We determined that the EDGAR database was sufficiently reliable for identifying the universe of specialized disclosure reports (Form SD). To verify the completeness and accuracy of the EDGAR database, we reviewed relevant documentation, interviewed knowledgeable SEC officials, and reviewed prior GAO reports on internal controls related to the SEC's data systems.

We randomly sampled 100 Forms SD out of a total of 1,083 submitted to create estimates generalizable to the population of all companies that filed in response to the SEC disclosure rule.¹² We selected this sample

¹⁰Pub. 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 in Section 1502 of the Dodd-Frank Act. To date, we have issued 11 reports in response to these requirements. See Related GAO Products at the end of this report.

¹¹Conflict minerals disclosures filed with the SEC in a given year contain information about conflict minerals used in the previous year. For example, for this report we reviewed disclosures that companies filed with the SEC in 2019 about conflict minerals used in 2018. All years cited in this report are calendar years, unless otherwise noted.

¹²The number of Form SD filings we downloaded from the SEC's public EDGAR site on September 4, 2019, varies slightly from EDGAR's reported number of 1,089 Form SD filings submitted during calendar year 2019 as of May 2020. Our number is lower because we excluded two filings from our analysis of filings submitted in 2019 that covered minerals used in 2017, not 2018; a filing from a company that determined its products did not contain conflict minerals; and three filings that companies submitted after September 4, 2019.

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 unless otherwise noted. 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 Form SD filings. We also interviewed a range of stakeholders—including representatives from the private sector, the DRC government, and nongovernmental and international organizations—in Washington, D.C. and during an industry conference in Santa Clara, California to obtain additional perspectives on meeting disclosure requirements.

To review the activities that State and USAID have implemented to achieve the goal of the U.S. conflict minerals strategy and the extent to which they assess progress toward the goal, we analyzed documents and interviewed officials from State, USAID, and international nongovernmental organizations. We also evaluated how State and USAID assess progress against key elements GAO has previously identified for effective foreign assistance strategies.¹³ These key elements include, among others, identifying performance indicators and assessing agencies' progress toward strategic objectives and goals using such information.

To provide information about sexual violence in eastern DRC and adjoining countries published in 2019 and early 2020, we searched research databases to identify academic articles.¹⁴ We also interviewed and obtained key documents from researchers and representatives of State, USAID, nongovernmental organizations, and several UN agencies. See appendix I for more information on our objectives, scope, and methodology.

¹³GAO, *Foreign Assistance: Better Guidance for Strategy Development Could Help Agencies Align Their Efforts*, [GAO-18-499](#) (Washington, D.C.: July 12, 2018).

¹⁴The Dodd-Frank Act directs GAO 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 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 conducted this performance audit from September 2019 to September 2020 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.

Background

History of Conflict and the Role of Conflict Mineral Mining in the DRC and the Region

Since gaining its independence from Belgium in 1960, the DRC has undergone political upheaval and armed conflict. From 1998 to 2003, the DRC and eight other African countries fought in what some have called “Africa’s World War,” which resulted in the death of an estimated 5 million people in the DRC, according to State. In 1999, the UN deployed a peacekeeping mission to the DRC, and since then the United States and the international community have sought to improve security in the country. However, violence continues to plague eastern DRC—including numerous cases of sexual violence reported by the UN—often perpetrated against civilians by nonstate armed groups and some members of the Congolese national military and police. State and the UN have also documented that armed groups and local government officials perpetrate sexual violence in adjoining countries, including Burundi, Rwanda, and Uganda.

In 2019, the UN reported that state and nonstate armed groups, as well as criminal networks, continued to tax or control mining activities in eastern DRC.¹⁵ Armed groups use revenue from the illegal taxation and sale of conflict minerals to survive and to purchase arms and ammunition. The UN also reported that armed groups traffic minerals to neighboring countries, including Burundi, Rwanda, and Uganda. Some of the nonstate armed groups continue to grow, sometimes recruiting from and expanding to neighboring countries, according to the UN.

Uses of Conflict Minerals

Various industries, particularly in manufacturing, use the four conflict minerals—tin, tungsten, tantalum, and gold—in a variety of products. For example:

¹⁵UN Security Council, *Midterm Report of the Group of Experts on the Democratic Republic of the Congo*, S/2019/974 (December 2019).

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- Tin is used to solder metal pieces and is found in food packaging, steel coatings on automobile parts, and some plastics.
 - Tungsten is used in automobile manufacturing, drill bits, cutting tools, and other industrial manufacturing tools and is the primary component of light bulb filaments.
 - Most tantalum is used to manufacture capacitors that enable energy storage in electronic products, such as cell phones and computers, or to produce alloy additives used in turbines in jet engines.
 - Gold is used as money reserves, in jewelry, and by the electronics industry, including in cell phones and laptops.

SEC Disclosure Rule for Conflict Minerals

In August 2012, the SEC adopted its disclosure rule for conflict minerals in response to Section 1502(b) of the Dodd-Frank Act.¹⁶ In its adopting release for the rule, the SEC noted that Congress sought to accomplish the goal of helping to end the human rights abuses which the DRC conflict caused by using the act's disclosure requirements to increase public awareness of the sources of companies' conflict minerals and promote the exercise of due diligence on conflict mineral supply chains.¹⁷ 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 map in figure 1 shows the countries covered by the SEC disclosure rule, including the DRC and its 26 provinces.

¹⁶77 Fed. Reg. 56,274.

¹⁷77 Fed. Reg. 56,274. According to the SEC, when the SEC proposes or adopts a set of rules, those rules are published in a document called a "proposing release" or "adopting release."

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



Source: GAO, based on United Nations map data. | GAO-20-595

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), which included Angola, Burundi, Central

African Republic, the Republic of the Congo, Rwanda, Tanzania, Uganda, South Sudan, and Zambia, at the time that the Securities and Exchange Commission (SEC) issued its disclosure rule for conflict minerals. Pub. L. No. 111-203, § 1502(e)(1), 124 Stat. 1376, 2217. For the purposes of the disclosure rule, the SEC refers to these countries adjoining the DRC, along with the DRC itself, as “covered countries.”

The SEC disclosure rule addresses the four conflict minerals named in the Dodd-Frank Act originating 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 a Form SD and a conflict minerals report must include. The conflict minerals report is applicable in a number of instances, for example, if a company after exercising due diligence has reason to believe its conflict minerals came from covered countries (for more information, see appendix II).

The rule outlines a process for companies to follow, as applicable, to comply with its requirements. The process broadly requires a company to:

1. determine whether it manufactures, or contracts to be manufactured, products with “necessary” conflict minerals;
2. conduct a reasonable country-of-origin inquiry (RCOI) concerning the origin of those conflict minerals; and
3. exercise due diligence, if appropriate, to determine the source and chain of custody of those conflict minerals, adhering to a nationally or internationally recognized due diligence framework, if such a framework is available for these necessary conflict minerals.¹⁸

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.’” Following an appellate court decision that found that a portion of the disclosure required by the SEC violated the First

¹⁸A company is required to perform due diligence on source and chain of custody 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 be from scrap or recycled sources.

Amendment,¹⁹ 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.”²⁰ According to the 2014 SEC staff guidance, companies are not required to obtain an independent private-sector audit unless they choose to disclose that their products are “DRC conflict free” in a conflict minerals report.²¹

In April 2017, after the final judgment in the case,²² the SEC staff issued revised guidance indicating that, due to uncertainty about how the SEC commissioners would resolve issues related to the court ruling, the staff determined that it would not recommend enforcement action to the commission if companies did not report on specified disclosure

¹⁹According 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 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).

²⁰See 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.

²¹Under the SEC disclosure rule, an independent private-sector audit 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 audit 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.

²²The 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.

requirements for due diligence.²³ However, 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.²⁴ 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.

According to SEC staff, the 2017 guidance is temporary but still in effect, pending the commission's review of the rule. As of June 2020, review of the rule was on the SEC's long-term regulatory agenda, which means, according to SEC staff, that any action would likely not take place until after June 2021.²⁵ For a summary of the process for the SEC disclosure rule, see appendix II.

U.S. Conflict Minerals Strategy

In 2011, State and USAID developed the *U.S. Strategy to Address the Linkages between Human Rights Abuses, Armed Groups, Mining of Conflict Minerals, and Commercial Products* (U.S. conflict minerals strategy). According to section 1502(c) of the Dodd-Frank Act, State and USAID are to include a plan in the U.S. conflict minerals strategy that promotes peace and security in the DRC by supporting the efforts of the

²³The updated guidance specifically stated 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 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).

²⁴See Jay Clayton, SEC Chairman, *Statement Regarding SEC Staff Views* (Sept. 13, 2018).

²⁵The *Unified Agenda of Federal Regulatory and Deregulatory Actions* is published semi-annually and generally includes regulatory actions, such as notices of proposed rulemaking and final rules, that executive agencies plan to issue within the next 12 months.

covered countries' governments and international entities, such as the United Nations Group of Experts on the DRC.²⁶

State and USAID are the lead agencies for coordinating and implementing the strategy, which includes five objectives for U.S. efforts:

1. **Promoting an Appropriate Role for Security Forces.** This objective aims to end the commercial role of the DRC security forces in the minerals trade and to make the security forces more effective within their appropriate, limited role in monitoring and securing trade.
2. **Enhance Civilian Regulation of the DRC Minerals Trade.** This objective aims to increase the capacity of DRC civilian authorities involved in overseeing the minerals trade, particularly in the east.
3. **Protect Artisanal Miners and Local Communities.** This objective aims to reduce the vulnerability of men and women to forced labor, exploitation, and violence in local communities directly and indirectly engaged in the mining sector.
4. **Strengthen Regional and International Efforts.** This objective aims to support the implementation and coordination of national, regional, and international efforts to promote monitoring, certification, and traceability—particularly the Great Lakes regional initiative—as well as the harmonization of due diligence guidance developed in various forums.²⁷
5. **Promote Due Diligence and Responsible Trade through Public Outreach.** This objective aims to encourage, through public outreach, all stakeholders to take steps at the local, regional, and international level to promote responsible trade in minerals.

²⁶Pub. L. No. 111-203, § 1502(c). A UN resolution in 2004 established the United Nations 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 human rights violations and abuses—including abuses that the Congolese national military and police commit.

²⁷The International Conference on the Great Lakes Region is an inter-governmental organization established in 2007 and includes 12 member states: Angola, Burundi, Central African Republic, Republic of the Congo, Democratic Republic of the Congo, Kenya, Uganda, Rwanda, Republic of South Sudan, Sudan, Tanzania and Zambia. The member countries work together to implement regional projects and protocols to attain peace, security, political stability, and development in the Great Lakes Region.

Companies Made Similar Preliminary Determinations of Conflict Minerals' Origin After RCOI as in Past Years, but Fewer Made Final Determinations after Due Diligence

The Number of Companies that Filed Conflict Minerals Disclosures in 2019 Decreased from the Past 2 Years

In 2019, 1,083 companies filed conflict minerals disclosures, fewer than the 1,117 that filed in 2018 and the 1,165 that filed in 2017.²⁸ We analyzed a generalizable sample of companies' 2019 filings and found that an estimated 84 percent of the companies filed as domestic companies, while 16 percent filed as foreign. This domestic-to-foreign ratio is similar to the one in 2018 and 2017.²⁹ In addition, most companies reported the specific conflict minerals used in their products. Overall, an estimated 72 percent reported using tin; 63 percent, tantalum; 63 percent, tungsten; and 68 percent, gold—percentages similar to 2018 and 2017. In 2019, an estimated 25 percent of the companies did not specify the minerals they used.

²⁸According to SEC officials, this decrease may be attributable to a variety of factors, such as mergers and acquisitions among electronics and semiconductor companies, privatization of companies, or changes in business practices by companies previously required to file disclosures.

²⁹Our generalizable sample of 100 filings for 2019, 2018, and 2017 resulted in confidence intervals of plus or minus 10 percent, at the 95 percent confidence level, except where noted. When we compare estimates across these years and call them "similar in number," we mean that the difference between the numbers is not statistically significant at the 95 percent confidence level. For our analyses of 2018 and 2017 filings, respectively, see GAO, *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); and GAO, *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).

Half of Companies Made Preliminary Determinations of Conflict Minerals' Origin in 2019, but the Majority Performing Required Due Diligence Could Not Make Final Determinations of Origin

As previously mentioned, the companies follow a process to comply with the SEC disclosure rule. Part of this process requires companies to conduct an RCOI concerning the origin of the conflict minerals used in their products. Depending on their preliminary determination after performing an RCOI, some companies are then required to perform due diligence to determine the source and chain of custody of the conflict minerals.

As part of their RCOIs, companies generally request their suppliers complete a survey that the companies compile and review. The information that suppliers include in the surveys helps the companies make a preliminary determination. To perform due diligence, most companies generally follow steps outlined in the due diligence framework that the Organisation for Economic Co-operation and Development (OECD) developed.³⁰

Our analysis of the generalizable sample found an estimated 98 percent of companies that filed conflict minerals disclosures indicated they had conducted RCOIs.³¹ For the companies that completed RCOIs, we found an estimated 50 percent made preliminary determinations as to whether the conflict minerals in their products came from covered countries or from scrap or recycled sources. As shown in figure 2 below, of these companies that made preliminary determinations, an estimated 14 percent determined their minerals were not from covered countries, and an estimated 1 percent determined their minerals were from scrap or recycled sources.³² Therefore, an estimated 15 percent of companies

³⁰Organisation for Economic Co-operation and Development, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, Third Edition* (Paris, France: OECD Publishing, 2016). The OECD framework includes five steps: (1) establish management systems, (2) identify and assess risk in the supply chains, (3) design and implement a strategy to respond to identified risks, (4) carry out an independent third-party audit of supply chain due diligence, and (5) report on supply chain due diligence. The OECD guidance is for use by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas and, according to the OECD, is one of the international frameworks available to help companies meet their due diligence reporting requirements.

³¹Two companies in our sample conducted due diligence, but either did not mention an RCOI or the description of their RCOI lacked sufficient clarity for us to determine whether the company completed an RCOI.

³²Preliminary determinations in which companies reported their minerals "are not from covered countries" means the companies determined that the conflict minerals in their products did not come from covered countries, or they had no reason to believe that the conflict minerals came from covered countries.

made preliminary determinations that did not require performing due diligence.

The remaining companies, an estimated 85 percent, made preliminary determinations that required them to then perform due diligence. As previously mentioned, a company is required to perform due diligence on source and chain of custody if it knows or has reason to believe that its conflict minerals may have originated in the covered countries and may not be from scrap or recycled sources.³³ During their RCOIs, an estimated 35 percent of companies made preliminary determinations that their minerals may be from covered countries and 37 percent were unable to make a determination.³⁴ In addition, based upon our review of companies' filings, we found that an estimated 13 percent of companies did not report a clear determination for their RCOIs.

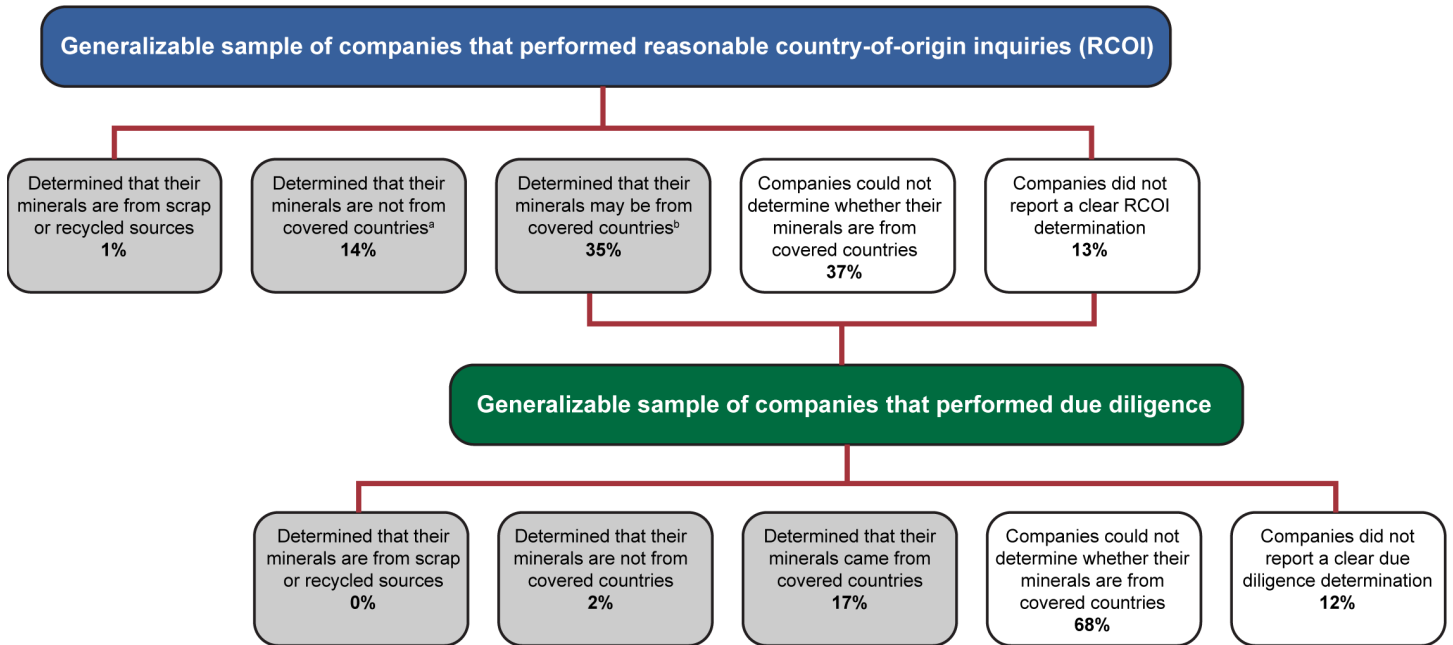
Figure 2 also shows that, of the subset of companies that then went on to perform due diligence, an estimated 68 percent were unable to make a final determination on the source and chain of custody of the conflict minerals. We estimated that a little over 19 percent of companies performing due diligence made determinations as to whether the conflict minerals in their products came from covered countries or from scrap or recycled sources. In addition, based upon our review of companies' filings, we found that an estimated 12 percent of companies performing due diligence did not report a clear determination.³⁵

³³While the rule only addresses these two potential outcomes from the RCOI, our analysis of company filings since the rule took effect in 2014 shows that every year many companies report that, after performing the RCOI, they were unable to determine the source of their conflict minerals.

³⁴Preliminary determinations in which companies reported their minerals may be "from a covered country" means the companies determined that they know or have reason to believe that the conflict minerals in their products came from covered countries.

³⁵We could not identify the determinations made by seven companies in our sample after their due diligence efforts. For example, one company made statements related to more than one determination. We also could not identify the determination made by three companies after their RCOIs or due diligence efforts.

Figure 2: Flowchart of GAO Analysis of Companies' Determinations for Their RCOIs and Due Diligence for Filings Submitted in 2019



Companies that were able to determine the origin of their minerals

Source: GAO analysis of SEC filings submitted in 2019. | GAO-20-595

Note: Companies reported determinations in 2019 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 due to rounding.

^aPreliminary determinations in which companies reported their minerals “are not from covered countries” means the companies determined that (1) the conflict minerals in their products 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 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act. Pub. L. No. 111-203, § 1502(e)(1), 124 Stat. 1376, 2217.

^bPreliminary determinations in which companies reported their minerals may be “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.

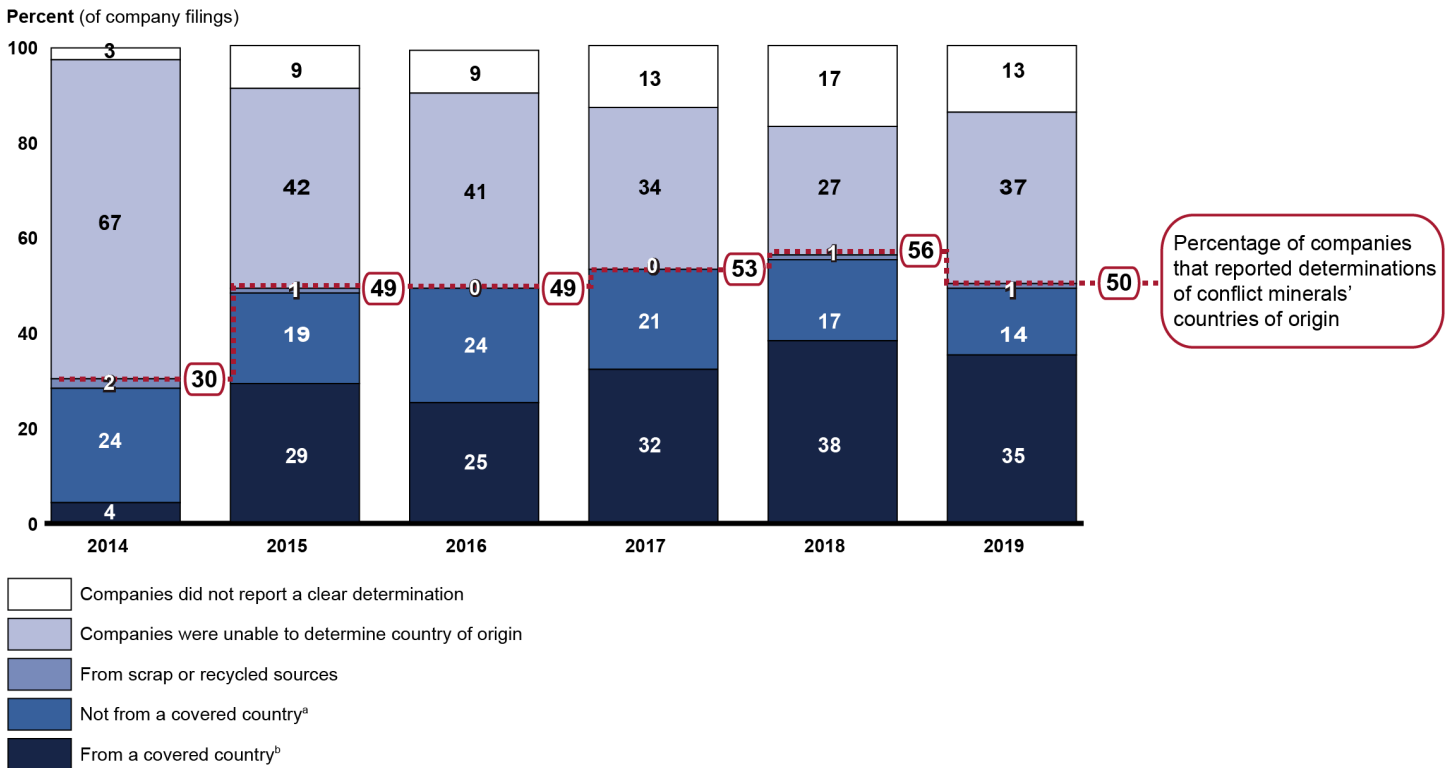
The Percentage of Preliminary Determinations Reporting Conflict Minerals' Origin After RCOI Increased Significantly between 2014 and 2015 and Has Since Remained Largely Unchanged

In the filings submitted in 2019, an estimated 50 percent of companies made preliminary determinations as to whether the conflict minerals in their products came from covered countries or from scrap or recycled sources. This percentage is slightly lower than, but not significantly different from, the percentage of companies that made such determinations for their RCOIs in the past 2 years—56 percent in 2018 and 53 percent in 2017.

As shown in figure 3, we found a significant increase in the percentage of companies able to make such a determination between 2014 and 2015, while the percentages have remained similar from 2015 to 2019. In August 2016, we reported that the increase in companies that were able to make these determinations in 2015 was a result of their direct suppliers including more information in the surveys companies distributed as part of their RCOIs.³⁶

³⁶The SEC required companies to file under the SEC disclosure rule for the first time by June 2, 2014, and annually thereafter by May 31. As we reported in 2016, the 19 percent increase between 2014 and 2015 was statistically significant at the 95-percent confidence level. 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).

Figure 3: Source of Conflict Minerals Determined by Companies' Reasonable Country-of-Origin Inquiries, Reporting Years 2014-2019



Source: GAO analysis of SEC filings. | GAO-20-595

Note: Companies reported determinations in 2014 to 2019 in response to the Securities and Exchange Commission (SEC) conflict minerals disclosure rule. The SEC required companies to file under the SEC disclosure rule for the first time by June 2, 2014, and annually thereafter by May 31. 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 due to rounding.

^aPreliminary determinations in which companies reported 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 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act. Pub. L. No. 111-203, § 1502(e)(1), 124 Stat. 1376, 2217.

^bPreliminary determinations in which companies reported their minerals may be “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.

A Significantly Lower Percentage of Companies That Performed Due Diligence Determined Their Minerals Came from Covered Countries Than the Last 2 Years

Of the companies that performed due diligence (a subset of the companies that conducted RCOIs as shown in figure 2), an estimated 17 percent reported in 2019 that they determined their conflict minerals came from covered countries. This percentage of companies that made that determination in 2019 was significantly lower than the estimated 35 percent that did so in 2018 and the estimated 37 percent in 2017. Since 2014, companies have noted various challenges, as discussed below, that they face in making such determinations. However, SEC staff told us that they did not know what factors contributed to the decrease in 2019. We will examine this issue during our future review.

An estimated 68 percent of companies that performed due diligence reported in 2019 that they could not confirm the source of the conflict minerals in their products. This percentage is similar to the estimated 61 percent of companies that were unable to confirm the source of their minerals in 2018, but significantly higher than the estimated 47 percent that were unable to do so in 2017.

The majority of companies—an estimated 93 percent—that were required to conduct due diligence reported using the OECD due diligence guidance. This percentage is similar to the 89 percent in 2018 and 87 percent in 2017. Companies used the OECD guidance to perform due diligence on the source and chain of custody of the conflict minerals in their products. The remainder of the companies reported using non-OECD guidance or did not specify the guidance they used, if any.

As in prior years, almost all the companies that performed due diligence also reported that they could not determine whether the conflict minerals in their products had financed or benefited armed groups. In 2019, five companies in our sample determined that the minerals in their products had not financed or benefited armed groups in covered countries. One of these companies described its products as “DRC conflict free,” which triggered the requirement to file an independent private-sector audit report. This company was the only one in our sample that filed an independent private-sector audit report. Overall, SEC officials said that approximately nine companies filed independent private-sector audit reports in 2019, compared with 14 in 2018 and 16 in 2017.

Some Companies Reported in Their 2019 Filings Taking Actions to Improve Supply Chain Data, but Many Continued to Report Difficulties in Determining the Country of Origin

Our review of a generalizable sample of filings from 2019 found that some of the companies reported taking various actions to improve the collection of supply chain data as part of their RCOIs and due diligence efforts.³⁷ For example, in 2019, an estimated 69 percent of companies reported further investigating facilities in their supply chain to better understand the source of their minerals. Many companies stated in their filings that they communicated and engaged with their suppliers to improve the quality of the data suppliers included in their responses to company surveys. Companies also noted they plan to contact those suppliers who indicated they might be sourcing conflict minerals from covered countries to obtain more information about the processing facilities—such as smelters and refiners—that supply such minerals.

In addition, an estimated 16 percent of companies reported that they would stop sourcing from their suppliers. Many of these companies stated in their filings that they would stop sourcing from suppliers that obtain their minerals from processing facilities whose operations might benefit armed groups in covered countries.³⁸ However, a company reported in its filing that it is difficult to identify alternative suppliers for some of their products and another company we interviewed said it is costly and time consuming to establish a relationship with a new supplier. An estimated 10 percent of companies reported in their 2019 filings that they would continue sourcing from their suppliers, but some of them reported they would work with them to improve the quality of their data and increase their survey responses.

An estimated 63 percent of companies also reported taking other actions to improve how they collected supply chain data. These actions included educating suppliers about conflict-free sourcing, creating and publicizing conflict minerals policies, and participating in organizations that promote

³⁷The actions companies reported taking to improve supply chain data collection in 2019 were similar to what companies reported in the samples of filings we reviewed in previous years.

³⁸We have previously reported that state and nonstate armed groups have reportedly profited from conflict minerals through illegal taxation at mines or along trading routes, control of mining areas, pillaging, and forced labor. According to OECD guidance, if a smelter or refiner sources conflict minerals from conflict-affected and high-risk areas—including the DRC or adjoining countries—they may be directly or indirectly benefitting armed groups unless they conduct due diligence to verify whether their supply chain involves the risk of such armed group interference. See GAO, *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.: Aug. 23, 2017).

responsible sourcing of minerals. For example, some industry participants we interviewed and companies' filings we reviewed reported supporting the Responsible Minerals Assurance Process, a program that audits participating smelters or refiners. The audits verify that the processing facilities are not directly or indirectly financing conflict or human rights abuses, also known as responsible sourcing.³⁹ Twenty-four companies reported in their filings that they encourage their direct suppliers to source from processing facilities the program has identified as having systems and processes that support responsible sourcing, which ultimately assists companies to confirm information about their supply chains.

Despite these efforts to improve supply chain data, we found, as we reported in past years, that many companies cited difficulties in determining the country of origin of conflict minerals. For example, an estimated 76 percent of companies mentioned in their filings they lacked access to their suppliers and had a complex supply chain. Over half the companies reported being distant in the supply chain from the source of the conflict minerals in their products, with various levels of suppliers between the mine that extracted the minerals and the supplier that directly provided them.⁴⁰ For example, one company reported that its supply chain includes about one thousand different suppliers, which made it difficult for the company to identify suppliers other than the most direct ones. Company and industry representatives whom we interviewed also told us that companies face these challenges. In addition, an estimated 22 percent of companies reported that some of their suppliers did not respond to their survey requests. Some company and industry participants—including a smelter—also told us in interviews that some of their suppliers did not respond to survey requests.

³⁹The Responsible Minerals Assurance Process is a program of the Responsible Minerals Initiative, which 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.

⁴⁰We previously reported on the difficulties companies filing SEC conflict minerals disclosures cited when accessing information from their various levels of suppliers. For example, processing facilities—such as smelters and refiners—depend on paper documentation from miners and exporters for information on the source and chain of custody of conflict minerals, which could be falsified by smugglers or incomplete. In addition, the steps to process conflict minerals may take place in multiple facilities located in different regions of the world and facilities may combine the conflict minerals they purchase from various suppliers. Combining conflict minerals from various sources further complicates the due diligence efforts of companies to identify the origin of conflict minerals because it adds points in the supply chain where fraud and error could occur. See [GAO-16-805](#).

An estimated 42 percent of companies also reported that they received incomplete or incorrect information in suppliers' survey responses. Seventeen companies stated in filings that their direct suppliers provided information about the sources of all their available minerals rather than those of the specific minerals in the products they provided to the companies. A company we interviewed said that receiving information about all of the suppliers' minerals may result in the company doing additional due diligence on smelters and refiners that do not provide conflict minerals for their products. Twenty-four companies also mentioned in filings that they received insufficient information from their suppliers to determine the countries of origin of all the conflict minerals in their products.

Some Companies Noted That SEC Staff Guidance on Due Diligence Reporting Requirements Affected How They Filed

As we have reported in past years, companies continue to mention SEC staff guidance in their filings. For instance, eight companies reported in 2019 that they are not required to describe their products as "DRC conflict free" and seventeen reported that they are not required to file an independent private-sector audit if they select not to describe their products "DRC conflict free," citing SEC staff guidance issued on April 29, 2014. As mentioned earlier, 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." After the final judgment in the case, the SEC staff issued revised guidance in 2017 indicating that it determined it would not recommend enforcement action to the commission if companies did not report on specified disclosure requirements for due diligence.

Two companies also mentioned the SEC staff's 2017 revised guidance to explain why they did not describe their due diligence efforts in their 2019 filings. The two companies performed RCOIs and were unable to determine the source of their minerals, which then required them to perform due diligence.⁴¹

Companies have cited similar reasons as to why they did not report on due diligence in the past 2 years. For example, one of the companies in our generalizable sample of filings submitted in 2018 cited the SEC staff's 2017 revised guidance as the reason it did not report on due diligence

⁴¹Based on our review of the companies' filings, one company completed due diligence; however, we could not identify whether the second company completed due diligence.

efforts, despite having performed an RCOI and determined it had a reason to believe the minerals in its products may have come from covered countries.⁴² In addition, we reported that three companies in our sample of filings submitted in 2017 cited this revised guidance and other statements the SEC staff had issued as a rationale for not reporting on due diligence activities.⁴³ According to the 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.

Although these companies noted that SEC staff guidance affected how they reported on due diligence, an estimated 94 percent of companies included a description of their due diligence efforts in their 2019 filings, which is a similar percentage to prior years. Some industry representatives we interviewed also told us that companies have developed similar filings to those submitted in past years, and plan to continue implementing similar due diligence activities. In addition, some companies and industry representatives we interviewed said that companies would continue to file as they have in the past in response to the SEC disclosure rule because of the pressure companies face from non-profit organizations and consumers to identify the source of their conflict minerals. One company also said it would continue to implement similar due diligence activities to address the upcoming European Union reporting requirements scheduled to take effect in 2021.⁴⁴

⁴²See [GAO-19-607](#).

⁴³See [GAO-18-457](#).

⁴⁴The European Union regulation containing these reporting requirements includes annual reporting on due diligence regarding conflict minerals supply chains. The regulation requires European Union companies to ensure that they import tin, tungsten, tantalum, and gold from conflict-free sources only, according to the European Commission's Directorate-General for Trade website.

State and USAID
Implement the U.S.
Conflict Minerals
Strategy through
Various Activities, but
Lack Performance
Indicators to
Comprehensively
Assess Progress

State and USAID
Implement Strategic
Objectives through
Projects and Diplomatic
Outreach

State and USAID officials reported they have continued implementing the 2011 U.S. conflict minerals strategy through specific activities that contribute to the five key objectives of the strategy.⁴⁵ State and USAID intend these five objectives to achieve the overarching strategic goal of addressing the linkages between human rights abuses, armed groups, mining of conflict minerals, and commercial products.⁴⁶ Most of the five objectives have two or more associated sub-objectives.

Some of these sub-objectives focus on activities related to the SEC disclosure rule reporting process, such as promoting due diligence and responsible trade through public outreach, and establishing clear due diligence guidance for companies. Table 1 shows the sub-objectives and

⁴⁵We previously reported on the agencies' activities to implement the strategy in 2015. See GAO, *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.: Aug. 18, 2015).

⁴⁶According to State officials, the U.S. conflict minerals strategy and the SEC disclosure rule share the intent of promoting peace and security in the DRC and adjoining countries.

objectives the agencies reported their activities contributed to from October 2018 through March 2020.⁴⁷

Table 1: U.S. Agencies' Reported Conflict Mineral Activity by Strategic Objective and Sub-Objective from October 2018 through March 2020

Objective	Sub-Objective	Department of State (State)	U.S. Agency for International Development (USAID)
1. Promoting an Appropriate Role for Security Forces	1a. Promote Accountability through Training and Prosecutions	✓	✓
	1b. Advocate for Demilitarization of Key Mining Sites	✓	—
	1c. Strengthening Payment Systems for Security Forces	✓	—
	1d. Training for Police along Key Trade Routes and Points of Export	✓	—
2. Enhance Civilian Regulation of the Democratic Republic of the Congo Minerals Trade	2a. Increased Presence of Civilian Mining Authorities in Eastern Democratic Republic of the Congo	—	✓
	2b. Institutional Strengthening and Regulatory Reforms	✓	✓
	2c. Improved Access to Data on Control of Mines	—	✓
3. Protect Artisanal Miners and Local Communities	3a. Reducing the Vulnerability of Communities near Mining Sites	✓	✓
	3b. Strengthening and Formalizing the Artisanal Mining Sector	✓	✓
4. Strengthen Regional and International Efforts	4a. Support Regional Efforts to Address the Illicit Trade	✓	—
	4b. Harmonizing Traceability Schemes and Domestic Regulations	—	—

⁴⁷According to State, eight other agencies conduct activities that reinforce the U.S. approach to the conflict minerals strategy, but those activities are not formally part of the strategy. The other agencies are the SEC; the Departments of Commerce, Labor, and the Treasury; the U.S. Geological Survey; the Environmental Protection Agency; U.S. Customs and Border Protection (CBP); and the Federal Bureau of Investigation. One example of an activity these agencies conduct is the Department of Commerce's production of reports listing known conflict minerals processing facilities as required under the Dodd-Frank Act. Pub. L. No. 111-203, § 1502(d)(3)(C). We reported on this activity in 2016; see [GAO-16-805](#). Another example of a supporting activity that State identified is one that CBP conducts. Specifically, CBP in 2019 issued a withhold release order on artisanal gold from eastern DRC being imported into the United States, which means that any importer of this commodity will have its shipment held until CBP can verify it was not sourced with forced or child labor. CBP modified the order in 2020 to admit gold imported by one company, based on a review of that company's due diligence program, among other things.

Objective	Sub-Objective	Department of State (State)	U.S. Agency for International Development (USAID)
	4c. Establishing Clear Guidance to Companies on Due Diligence	✓	—
	4d. Support Monitoring Efforts	—	—
5. Promote Due Diligence and Responsible Trade through Public Outreach		✓	—

Legend: ✓ = conducts activities in this category; — = does not conduct activities in this category.

Source: State and USAID. | GAO-20-595

Note: State and USAID officials said they had no activities that contribute to the sub-objectives to harmonize traceability schemes and domestic regulations and support monitoring efforts because they had determined these were not priority sub-objectives for the planning period covering fiscal years 2018-2022.

State and USAID reported undertaking a variety of efforts to contribute to the strategy's objectives. State reported that its activities, including industry outreach, diplomatic efforts, and police training and reform efforts, contributed to 10 sub-objectives, as shown in the table above. For example, State described attending conferences to engage with and encourage actors in the private-sector supply chain who utilized conflict minerals to adhere to due diligence guidance for responsible supply chains of minerals. State efforts also include activities conducted through the U.S. Mission to the United Nations, such as encouraging the UN peacekeeping mission in the DRC to play a more active role in countering armed groups, and advocating for the DRC government to use a disarmament, demobilization, and reintegration process for armed groups. In addition, State's Bureau of International Narcotics and Law Enforcement Affairs allocated more than \$1.7 million to fund an 18-month project beginning in September 2019 that includes efforts to improve and expand Congolese civilian law enforcement capabilities and strengthen

police procedures and organizations. Some of these efforts focused on illegal mining.⁴⁸

USAID reported contributing to six sub-objectives, as shown in table 1, through two projects in eastern DRC that began in December 2018. These projects represent the majority of the funding spent on implementing the U.S. conflict minerals strategy in fiscal year 2019 and the first quarter of fiscal year 2020, according to State and USAID officials. The projects are:

- **Commercially Viable, Conflict-free Gold Project.** This project in eastern DRC, implemented by the non-profit organization Global Communities, has a total award amount of about \$11.9 million over 5 years. It focuses on scaling up exports and sales of conflict-free, artisanal gold from eastern DRC by developing market linkages with responsible gold buyers, particularly in North America and Europe.
- **Sustainable Mine Site Validation Project.** This project in the eastern DRC provinces of North and South Kivu, implemented by the non-profit organization Pact, has a total award amount of about \$3.7 million over 4 years. It focuses on validating mines as being free of armed group control and child labor.⁴⁹

USAID officials took the photograph in figure 4 during a December 2019 site visit to learn about work performed for both projects.

⁴⁸According to State and USAID officials, there is no funding account dedicated to conflict minerals. In addition to the more than \$1.7 million funds from the International Narcotics Control and Law Enforcement accounts, State funded a 1-year sole source award for nearly \$300,000 in fiscal year 2019 for the Public-Private Partnership Alliance for Responsible Minerals Trade using the Diplomatic Engagement account. According to State officials, the remaining efforts to implement the strategy are diplomatic activities funded with representational and Diplomatic Engagement funds. USAID funded its current activities in the DRC to implement the strategy using funds from the Economic Support Fund account.

⁴⁹USAID reported conducting five other projects in fiscal years 2019 and 2020 that USAID did not develop to implement the strategy, but considered as complementary to the strategy. For example, USAID began a 5-year program in 2017—implemented by IMA World Health—to counter gender-based violence, including sexual violence, in parts of eastern DRC's North and South Kivu provinces. In addition, USAID started a 5-year good governance program in 2017 that includes helping a local government establish systems for managing mining royalties in a transparent and accountable way.

Figure 4: Artisanal Gold Miners at a USAID Program Site in Eastern Democratic Republic of the Congo



Source: U.S. Agency for International Development (USAID). | GAO-20-595

Note: An artisanal gold miner is using a stone to manually separate gold particles from soil in December 2019.

State and USAID Lack Performance Indicators Needed to Comprehensively Assess Progress in Achieving Conflict Minerals Strategy's Objectives and Overarching Goal

As the lead agencies for coordinating and implementing the U.S. conflict minerals strategy, State and USAID lack performance indicators needed to comprehensively assess progress toward achieving the strategy's objectives and overall goal. Our prior work has identified key elements for effective foreign assistance strategies. These key elements include, among others, identifying performance indicators and assessing agencies' progress toward strategic objectives and goals using such

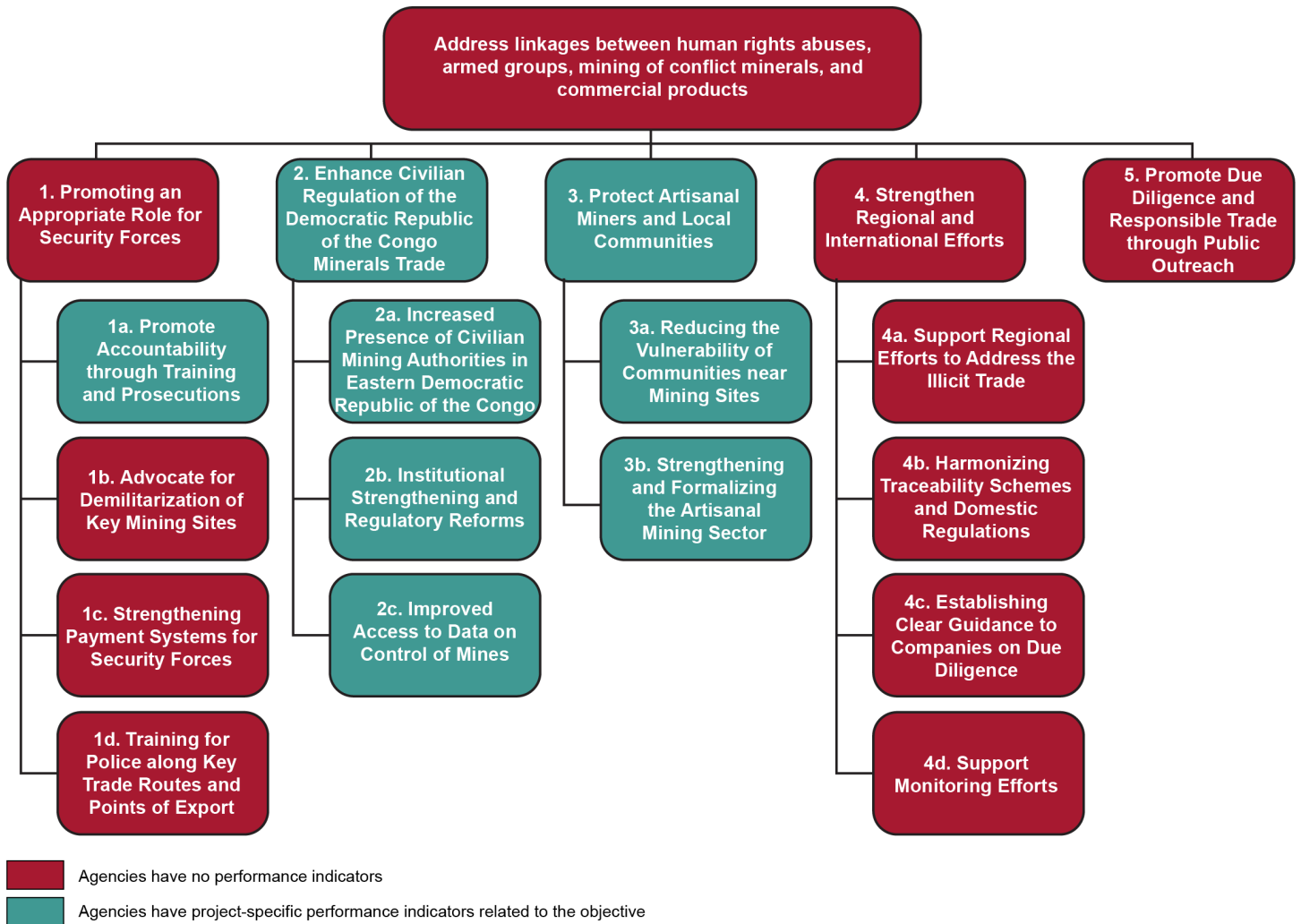
information.⁵⁰ We also found that well-defined performance indicators link to the strategic objectives and planned actions, and have baselines and targets for achieving discrete tasks within a specific time.

USAID has established performance indicators for its two projects that currently support the U.S. conflict minerals strategy. According to State and USAID, they use the indicators for these two projects to assess progress toward the strategy's objectives. For example, as part of its Mine Site Validation project's activities in support of the strategy's second objective, USAID monitors the number of mines that the DRC government has validated as conflict-free with USAID assistance, with a target of 200 mines to validate over the project's lifetime. However, USAID's two projects support only certain portions of the strategy. Specifically, USAID officials stated that the two projects support six of the 14 sub-objectives within three of the five objectives in the strategy.⁵¹ In addition, the USAID indicators track performance for only the life of these projects and not long-term progress in achieving the strategy's objectives. These project-specific indicators may show progress on a project that supports a strategic objective, but USAID did not design the indicators to assess progress toward the strategy's objectives and goal over time. State and USAID, moreover, do not have performance indicators that enable them to assess progress in achieving the other sub-objectives and objectives in the U.S. conflict minerals strategy (see figure 5).

⁵⁰[GAO-18-499](#).

⁵¹The strategy does not establish any sub-objectives for Objective 5, so we include the overall objective as the 14th sub-objective in our count. In 2015, USAID reported implementing projects related to the remaining two objectives—objectives 4 and 5. See [GAO-15-561](#).

Figure 5: U.S. Agencies' Performance Indicators for Conflict Minerals Strategic Goal, Objectives, and Sub-Objectives, as of June 2020



Source: GAO analysis of Department of State, and the U.S. Agency for International Development information. | GAO-20-595

Note: While green indicates the agencies have project-specific indicators related to the sub-objectives, those indicators do not address all activities conducted to implement those sub-objectives. In addition, neither agency has identified indicators designed to track long-term progress in achieving the strategy's objectives.

Although State is responsible for conducting a number of activities in support of the strategy, it has not established any performance indicators to evaluate how those activities contribute to the strategic objectives. State officials told us they have not established such performance

indicators because of difficulties in measuring activities' results. For example, State officials said any information from their police reform activities, such as the number of police who received State-funded training, would be of limited use to measure progress State had made toward the related strategic objectives. However, State and USAID, in their performance and accountability reporting, have developed targets for diplomatic, development, legal, and conservation activities that are similarly complex and difficult to measure. For instance, in their *Fiscal Year 2020 Annual Performance Plan*, State and USAID provided quantitative targets for measuring progress against their performance goal related to increasing energy exports, security, and access.⁵²

State officials also said that creating indicators and setting targets related to training for the DRC army and monitoring its activities and routes around mining sites would involve cooperation with the UN, which is in charge of the peacekeeping mission. State officials said that State has no control over such training and monitoring and cannot reliably use UN information to track progress because of concerns about timeliness and completeness of data. However, our past work has highlighted strategies agencies can use when faced with the challenge of having limited control over external factors that might affect a program's outcomes.⁵³ These strategies include having stakeholders help to develop practical and broadly accepted performance indicators.

Without established performance indicators for all the sub-objectives and objectives in the U.S. conflict minerals strategy, State and USAID do not have a complete picture of their performance in carrying out those objectives. Without such indicators, State and USAID also cannot comprehensively assess their progress toward the overall strategic goal of addressing the linkages among human rights abuses, armed groups, the mining of conflict minerals, and commercial products. In addition, they lack important information on whether their activities in support of the strategy are achieving intended results, and what adjustments they need to make in response. State officials noted that working with USAID to

⁵²See Department of State and U.S. Agency for International Development, *Fiscal Year 2020 Annual Performance Plan and Fiscal Year 2018 Annual Performance Report for the U.S. Department of State and the U.S. Agency for International Development* (Washington, D.C.: February 2019). For example, by the end of fiscal year 2020, U.S. government assistance will support countries' adoption of 161 energy sector laws; policies; regulations; or formally proposed, adopted, or implemented standards.

⁵³GAO, *Managing for Results: Measuring Program Results That Are Under Limited Federal Control*, [GAO/GGD-99-16](#) (Washington, D.C.: Dec. 11, 1998).

develop performance indicators might help the agencies assess, identify, and make any needed adjustments to the strategic sub-objectives and objectives that would keep the strategy current.

No New Comprehensive Surveys Have Been Published on the Rate of Sexual Violence in Eastern DRC and Adjoining Countries, but Some New Information Is Available

No New Comprehensive Survey Information Has Been Published

We did not identify any new population-based surveys providing comprehensive rates of sexual violence in eastern DRC, and the three countries that adjoin that region: Burundi, Rwanda, or Uganda since our September 2019 report. Since 2011, we have reported on sexual violence rates derived from population-based surveys for the DRC, Burundi, Rwanda, and Uganda, as well as on available rates for populations in provinces and territories within each of the countries. For example, we have reported on sexual violence rates specific to eastern DRC (which consists of the provinces of Ituri, Maniema, North Kivu, and South Kivu). The most recent comprehensive information for eastern DRC and Rwanda is from 2016, while the most recent information for Burundi is from 2017, and for Uganda is from 2018.⁵⁴ For information on population-based surveys containing sexual violence rates published since 2007, see appendix III.

⁵⁴According to State's human rights report for 2019, Ugandan government statistics found that more than one in three girls experienced sexual violence during childhood. Most of the girls did not report the incidents because they feared shame or embarrassment. ICF told us it is conducting a new, USAID-funded, demographic household survey in Rwanda, which it plans to publish in 2021.

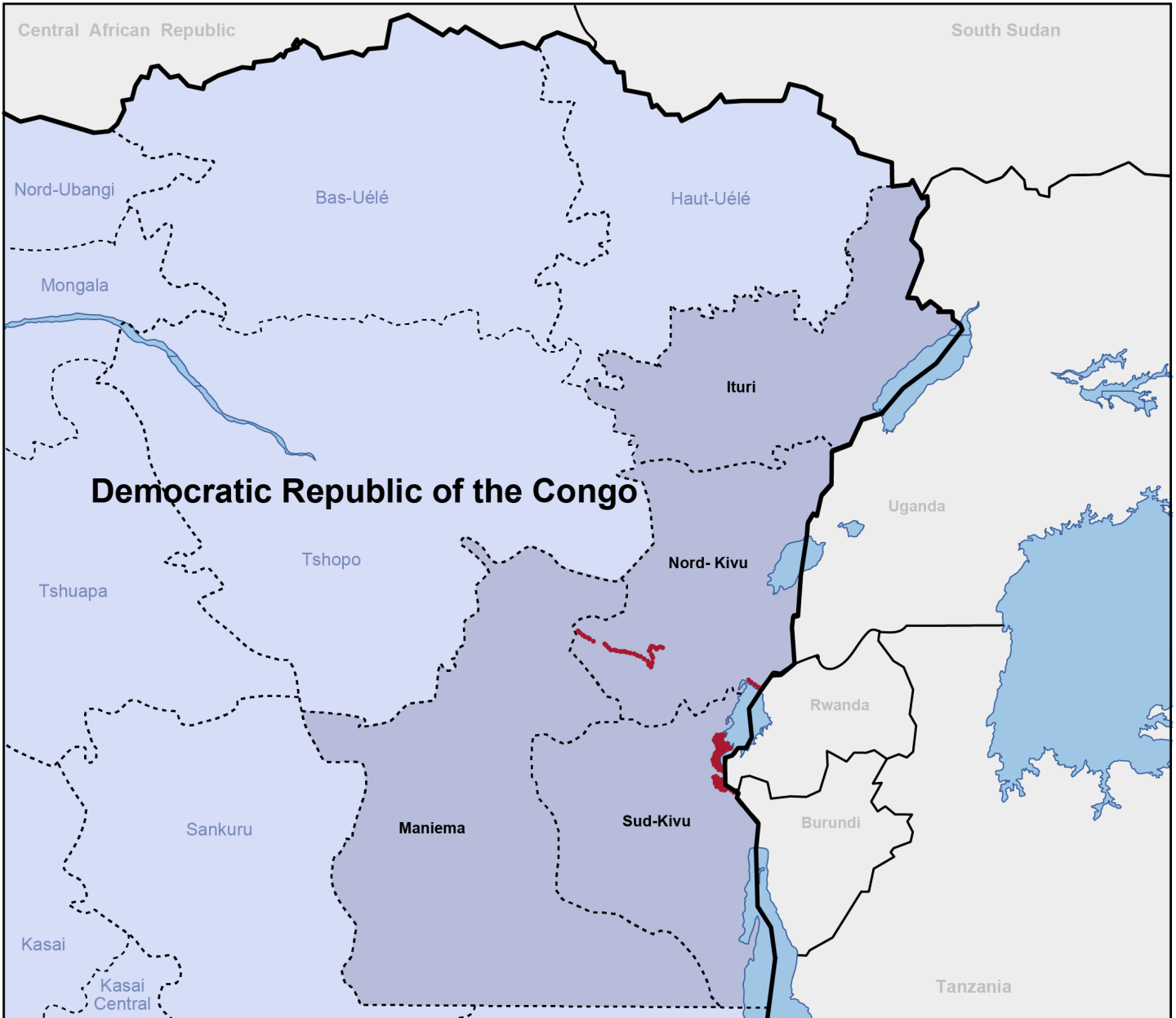
USAID-Funded Study Provides Information on Sexual Violence in Some Eastern DRC Villages

While we did not identify comprehensive rates that were generalizable to the population of eastern DRC or adjoining countries, we identified a population-based survey that is generalizable to some villages in eastern DRC. As part of a baseline study for a USAID program, NORC, a University of Chicago research institute, conducted a survey that includes data on the prevalence of sexual violence for 192 villages.⁵⁵ The survey, based on data collected in 2018, intended to measure, among other things, sexual violence in villages within eastern DRC that USAID might select to provide future services. Therefore, the survey results are not generalizable to the population of eastern DRC as a whole, but rather only to the 192 villages shown in the figure below.⁵⁶

⁵⁵The University of Chicago conducted this survey to assess the impact of selected aspects of USAID's program, coordinated by IMA World Health. The program began in 2017 and aims to reduce gender-based violence, including sexual violence, in parts of eastern DRC's North and South Kivu provinces.

⁵⁶The survey did not randomly sample these 192 villages. Instead, it specifically selected two provinces and four health zones based on determinations about safety and accessibility and then selected the 192 villages within them for similar reasons. The study randomly selected the households and individuals within the 192 villages.

Figure 6: Villages Surveyed for U.S. Agency for International Development (USAID) Program in Eastern Democratic Republic of the Congo



- Villages surveyed in 2018
- Eastern Democratic Republic of the Congo Provinces

Source: GAO presentation of USAID information. | GAO-20-595

The survey's findings included the following sexual violence rates:

- An estimated 29 percent of women and men surveyed in the 192 villages reported that they had experienced sexual violence in their lifetime, regardless of whether the perpetrator was a partner or not.⁵⁷
- An estimated 16 percent of women and men in the 192 villages reported that they had experienced sexual violence in their lifetime, perpetrated by a non-partner.⁵⁸

⁵⁷This estimate has a 95 percent confidence interval that extends from 27 to 31 percent.

⁵⁸This estimate has a 95 percent confidence interval that extends from 14 to 17 percent.

New Case-File Information Is Available about Sexual Violence in DRC, Burundi, and Uganda

Periodic Reporting of Case-File Information on Sexual Violence in the DRC and Adjoining Countries

United Nations (UN) entities and the Department of State (State) report periodically on case-file information, while the U.S. Agency for International Development (USAID) periodically receives such information from an implementing partner. For example:

- **The United Nations Joint Human Rights Office in the Democratic Republic of the Congo** reports annually on human rights violations in the Democratic Republic of the Congo (DRC), including sexual violence.
- **The Office of the United Nations High Commissioner for Human Rights** reports annually on human rights violations in the DRC, including sexual violence; the office also monitors human rights issues in Burundi, Rwanda, and Uganda.
- **State** reports annually on human rights practices in countries around the world, including the DRC and each of its adjoining countries.
- **USAID** receives annual and quarterly reports containing case-file information from a 5-year program that began in 2017 to counter gender-based violence in parts of eastern DRC's North and South Kivu provinces.

Source: UN, State, and USAID. | GAO-20-595

Since our 2019 report, we identified new case-file information. UN entities, State, and a USAID-funded program have produced additional case-file information about instances of sexual violence in the DRC, Burundi, and Uganda that occurred in 2018 and 2019.⁵⁹ While State's annual human rights report for 2019 noted that child sex trafficking occurred in the Rwandan mining industry, we found no case-file numbers for Rwanda.⁶⁰ Case-file information includes data collected by international entities (see sidebar for examples), law enforcement agencies, or medical service providers on sexual violence victims. As we have previously reported, although this information is unsuitable for estimating rates of sexual violence, it can provide indicators that sexual assaults are occurring in certain locations and can help service providers

⁵⁹The United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict reports annually on cases of conflict-related sexual violence in several countries, including the DRC and Burundi, using information from the United Nations Stabilization Mission in the Democratic Republic of the Congo and the United Nations Population Fund, among others. According to a representative of that office, while the UN typically issues the report in March or April of each year, it delayed the 2020 report publication date due to the Coronavirus Disease 2019 global pandemic. The UN published its 2020 report on sexual violence after we had completed data collection for our report.

⁶⁰Department of State, *Rwanda 2019 Human Rights Report* (Washington, D.C.: Mar. 11, 2020).

respond to the needs of victims.⁶¹

New Information on the DRC

UN entities, State, and a USAID-funded program countering gender-based violence in North and South Kivu provinces have produced new case-file information pertaining to sexual violence in the DRC. UN entities reported the following information:

- **United Nations Joint Human Rights Office in the Democratic Republic of the Congo** confirmed and documented at least 1,299 victims of sexual violence (1,052 women, 231 children, and 16 men) between January and December 2019. State agents, such as the DRC army and police, and nonstate armed groups perpetrated the majority of these cases.⁶²
- **The Office of the United Nations High Commissioner for Human Rights (OHCHR)** reported 963 cases of conflict-related sexual violence (726 women, 234 children, and 3 men) between June 2018 and May 2019.⁶³
- **The United Nations Children’s Fund** reported having assisted 3,318 children (3,193 girls and 125 boys) who were victims of sexual exploitation between January and June 2019, according to State.

⁶¹For example, service providers only record case-file information when victims of sexual violence seek medical or other available services. According to UN officials and researchers, service providers collecting these data rely on victims visiting hospitals, clinics, or government or UN offices, which depends on victims’ access to these locations and interest in coming forth to report victimization. For additional information about the factors that make case-file information unsuitable for estimating rates, see appendix III and *The Democratic Republic of the 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).

⁶²United Nations Joint Human Rights Office in the DRC, *Analysis of the Human Rights Situation in 2019* (New York, N.Y.: Jan. 29, 2020).

⁶³According to the UN, the term “conflict-related sexual violence” refers to rape, sexual slavery, forced prostitution, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls, or boys, directly or indirectly linked to a conflict. The link to conflict may include situations that, for example, involve: (a) a perpetrator affiliated with a state or nonstate armed group; (b) a victim who is an actual or perceived member of a political, ethnic, or religious minority group or is targeted on the basis of actual or perceived sexual orientation or gender identity; (c) state collapse; (d) displacement or trafficking; or (e) violations of a ceasefire agreement. The term also encompasses trafficking in persons in situations of conflict for the purpose of sexual violence or exploitation.

State noted that the South Kivu Panzi Hospital reported 700 cases of rape in the adjacent eastern province of Maniema between March and June 2019.

An implementing partner of USAID also reports case-file information as part of its program that addresses sexual and gender-based violence. We last reported case-file information related to this program through December 2018.⁶⁴ The implementing partner reported providing legal, medical, and psychosocial services to 4,094 adult and children victims (including 3,497 female victims and 597 male victims) of sexual or gender-based violence in North and South Kivu provinces between January and October 2019.⁶⁵

New Information on Burundi

State's annual human rights report for 2019 provided some case-file information on sexual violence in Burundi. The report noted that the government's Humura Center had recorded 878 cases of sexual and gender-based violence in Burundi, from January to early September 2019. This organization provides survivors of sexual and domestic violence with legal, medical, and psychosocial services.⁶⁶

New Information on Uganda

UN High Commissioner for Refugees' periodic reporting included some case-file information on sexual violence in Uganda. Specifically, the Commissioner reported 4,822 incidents of sexual and gender based violence in 13 refugee-hosting districts from January to October 2018.⁶⁷

⁶⁴[GAO-19-607](#).

⁶⁵IMA World Health coordinates this program, the same one for which NORC is conducting a survey, as noted earlier in this report. IMA World Health, *Counter Gender-Based Violence Program Annual Report (Fiscal Year 2019)* (Washington, D.C.: U.S. Agency for International Development, Oct. 31, 2019).

⁶⁶Department of State, *Burundi 2019 Human Rights Report* (Washington, D.C.: Mar. 11, 2020).

⁶⁷United Nations High Commissioner for Refugees, *October 2018 UNHCR Monthly Protection Update: Sexual and Gender Based Violence*, in the United Nations High Commissioner's Operational Portal, accessed June 29, 2020, <https://data2.unhcr.org/en/documents/details/67162>. Although the UN published this study prior to our 2019 report, we did not identify it during our literature review for that work so we are reporting it as new information here.

UN and State Reported Some Governments Have Taken Steps to Address Sexual Violence, but Barriers Remain to Reporting or Addressing Sexual Violence

Efforts and Barriers in the DRC

UN entities and State reported that the DRC government has taken steps to address sexual violence in the country, but the UN also notes increases in the number of reported incidents. According to UN and State reports and officials we interviewed, the DRC government has taken steps to address sexual violence. For example, the United Nations Joint Human Rights Office in the DRC reported the DRC government adopted a national plan of action to end sexual and gender-based violence perpetrated by the military and the police. Furthermore, State reported that the DRC government has taken actions that resulted in the conviction of some members of nonstate armed groups and DRC soldiers for sexual violence. For example, the DRC requested an International Criminal Court investigation into war crimes—including sexual slavery and rape—that an armed group leader committed in the eastern DRC province of Ituri between 2002 and 2003. As a result, the court convicted that leader in July 2019 and sentenced him to 30 years in prison in November 2019. In addition, the United Nations Joint Human Rights Office in the DRC reported that, in 2019, the DRC courts sentenced 10 DRC soldiers, seven members of nonstate armed groups, one warlord, and others to prison for committing crimes including sexual slavery and rape in eastern DRC.

However, the UN Joint Human Rights Office in 2020 reported an increase in the number of victims of conflict-related sexual violence from 2018 to 2019. The UN and State both reported challenges to addressing sexual violence in 2019, including armed groups committing sexual violence against people living in mining communities in eastern DRC, and a lack of investigations and prosecutions of armed groups, the DRC army, and police who committed sexual violence.

Efforts and Barriers in Burundi

The UN Commission of Inquiry on Burundi did not identify any steps taken by the government of Burundi in 2019 to address the country's human rights issues, including sexual violence. Instead, the Commission reported that the government, as in previous years, continued to deny the Commission access to the country. The Commission also reported, based on interviews with witnesses and victims, that high-level civilian, military

and, police officials continued to commit grave human rights violations, including sexual violence. According to State, non-governmental organizations also reported these Burundian officials had committed sexual violence in 2019. Moreover, the Commission reported that human rights violations, including sexual violence, continued to occur in Burundi, particularly after the May 2018 constitutional referendum and during preparations for the 2020 presidential election.

Efforts and Barriers in Rwanda

State reported that the Rwandan government took some steps to address sexual violence, but state security forces and civilian officials continued to go unpunished for abuses in 2019. State reported that the national government continued a campaign against gender-based violence. It also reported that each police station had a gender desk and other resources available for victims of gender-based violence. However, State also noted that while the government occasionally took steps to prosecute or punish officials who committed abuses, including in the security services, such individuals continued to commit abuses with impunity. OHCHR reported that in Rwanda the UN remains concerned about sexual violence against girls in school and the lack of reporting due to fear of reprisal.

Efforts and Barriers in Uganda

OHCHR reported, as of May 2019, that Ugandan law and law enforcement continued to demonstrate shortcomings in addressing sexual violence. State reported some steps in Uganda to address sexual violence, such as some local governments outlawing marriage before the age of consent. However, it reported that rape remained a common problem throughout the country, and the government did not effectively enforce laws to prevent it. For example, according to State, there were cases in which police officers simply dismissed rape accusations or took bribes from alleged perpetrators to stop their investigations and pressure victims into withdrawing the cases. At a national level, State reported that the government was reluctant to punish civilian and security service officials who committed human rights abuses. State also reported on alleged incidents of groups of 100 people forcibly dragging girls out of their houses to subject them to female genital mutilation.

Conclusions

The exploitation of the mining and trade of conflict minerals in the eastern DRC has contributed to instability, violence, displacement of people, and severe human rights abuses. As we have previously reported, section 1502 of the Dodd-Frank Act and the actions it requires of U.S. agencies—including the promulgation of a conflict minerals disclosure rule—are part of the U.S. policy response to the crisis. State and USAID have also made improving security in the DRC a priority through the implementation of the U.S. conflict minerals strategy, which has the overall goal of

addressing the linkages between human rights abuses, armed groups, mining of conflict minerals, and commercial products. According to State officials, the U.S. conflict minerals strategy and the SEC disclosure rule share the intent of promoting peace and security in the DRC and adjoining countries.

While U.S. agencies have implemented activities since 2011 as part of the strategy, they cannot attest to the strategy's success or failure in addressing armed groups' exploitation of conflict minerals. As the lead agencies for coordinating and implementing the strategy, State and USAID have not identified the performance indicators needed to comprehensively assess progress for the strategy's sub-objectives and objectives over time. As a result, State and USAID do not know how much progress they have made toward achieving the overall strategic goal of addressing the linkages between human rights abuses, armed groups, mining of conflict minerals, and commercial products.

Recommendation for Executive Action

The Secretary of State, in consultation with the Administrator of USAID, should develop performance indicators that would enable State to assess progress toward the strategic objectives and goal of the U.S. conflict minerals strategy going forward. (Recommendation 1)

Agency Comments

We provided a draft of this report to the SEC, State, and USAID for comment. State and USAID concurred with our recommendation, and their comments are reproduced in appendices IV and V respectively. The SEC also provided us with technical comments, which we incorporated as appropriate.

We are sending copies of this report to appropriate congressional committees and to the Chairman of the Securities and Exchange Commission, the Secretary of State, and the Acting Administrator of the U.S. Agency for International Development. The report is also available at no charge on the GAO website at <http://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. 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 VI.

A handwritten signature in black ink that reads "Kimberly M. Gianopoulos". The signature is written in a cursive, flowing style.

Kimberly M. Gianopoulos
Director, International Affairs and Trade

List of Committees

The Honorable Richard Shelby
Chairman

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

The Honorable Mike Crapo
Chairman

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Chuck Grassley
Chairman

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

The Honorable James E. Risch
Chairman

The Honorable Robert Menendez
Ranking Member
Committee on Foreign Relations
United States Senate

The Honorable Nita Lowey
Chairwoman

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

The Honorable Eliot Engel
Chairman
The Honorable Michael McCaul
Ranking Member
Committee on Foreign Affairs
House of Representatives

The Honorable Richard Neal
Chairman
The Honorable Kevin Brady
Republican Leader
Committee on Ways and Means
House of Representatives

Appendix I: Objectives, Scope, and Methodology

In this report, we (1) examine how companies responded to the Securities and Exchange Commission (SEC) disclosure rule for conflict minerals when filing in 2019;¹ (2) identify the activities the Department of State (State) and the U.S. Agency for International Development (USAID) have undertaken to implement the U.S. conflict minerals strategy and examine the extent to which they have assessed progress toward its objectives and goal; and (3) provide recent information on the rate of sexual violence in eastern Democratic Republic of the Congo (DRC) and adjoining countries.

To address our first objective, we downloaded the specialized disclosure reports (Form SD) from the SEC's publicly available Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database. To verify the completeness and accuracy of the EDGAR database, we reviewed relevant documentation, interviewed knowledgeable SEC officials, and reviewed prior GAO reports on internal controls related to the SEC's data systems. We determined that the EDGAR database was sufficiently reliable for identifying the universe of Form SD filings.

We downloaded 1,083 Form SD filings and any associated conflict minerals reports included in EDGAR.² Companies filed the Forms SD, along with related conflict minerals reports in some instances, to provide information in response to the SEC disclosure rule.³ We randomly sampled 100 Forms SD out of 1,083 total submissions to create estimates generalizable to the population of all companies that filed 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 our estimates unless otherwise noted. Because we followed a probability

¹Conflict minerals disclosures filed with the SEC in a given year contain information about conflict minerals used in the previous year. For example, for this report we reviewed disclosures that companies filed with the SEC in 2019 about conflict minerals used in 2018. All years cited in this report are calendar years, unless otherwise noted.

²A Form SD may include a conflict minerals report, if applicable. The number of Form SD filings we downloaded from the SEC's public EDGAR site on September 4, 2019, varies slightly from EDGAR's reported number of 1,089 Form SD filings submitted during calendar year 2019 as of May 2020. Our number is lower because we excluded two filings from our analysis of filings submitted in 2019 that covered minerals used in 2017 not 2018. We also excluded a company that determined that its products do not contain conflict minerals. Our sample also does not include three filings that companies submitted after September 4, 2019.

³77 Fed. Reg. 56,274 (Sept. 12, 2012) (codified at 17 C.F.R. § 240.13p-1).

procedure based on random selections, our sample is only 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 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)⁴ and the requirements of the SEC disclosure rule⁵ 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 required, due diligence. We categorized companies based on whether companies (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, GAO concluded that a company did not report a clear determination if the company made statements related to more than one determination or if they did not mention a determination in their filings. 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 and verified the responses recorded by the first analyst. Analysts met to discuss and resolve any discrepancies.

After using the data collection instrument to analyze the sample of filings submitted in 2019, 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 officials from the SEC, State, and USAID about the SEC disclosure rule and their understanding of how companies are responding to the rule. We also interviewed representatives from the private sector, the DRC government, and nongovernmental and international

⁴Pub. L. No. 111-203, § 1502, 124 Stat. 1376, 2213-18.

⁵17 C.F.R. § 240.13p-1.

organizations in Washington, D.C., and during an industry conference on conflict minerals to gain additional context and perspectives.

To address our second objective, we reviewed the *U.S. Strategy to Address the Linkages between Human Rights Abuses, Armed Groups, Mining of Conflict Minerals and Commercial Products*, which State and USAID developed in 2011, and State's and USAID's websites. The agencies' websites provided additional information about the activities they are implementing to address the strategy. We reviewed the request for proposals for USAID's activities implemented as part of the strategy, as well as progress reports related to monitoring and evaluation of those activities. We examined several State and USAID documents including the *Fiscal Year 2020 Annual Performance Plan* to identify any performance indicators related to assessing progress toward the strategy's goal.⁶ We also reviewed *States' 2018 DRC Integrated Country Strategy* and USAID's *2014-2021 DRC Country Development Cooperation Strategy* to identify activities the agencies are implementing that contribute to the strategy's goal and whether the agencies incorporated the strategy within their broader strategic plans. Further, we reviewed the Dodd-Frank Act to determine what requirements it established regarding the strategy.⁷

In addition, we interviewed State and USAID officials in Washington, D.C. to obtain information on their progress in implementing the U.S. conflict minerals strategy, as well as to ask SEC, State, and USAID officials about how the strategy relates, if at all, to the SEC disclosure rule.⁸ We asked State and USAID about the activities they have implemented from October 2018 through March 2020 to address the strategy. We also asked State and USAID to identify which strategic sub-objectives and objectives their activities address, and how they assess progress in achieving the strategy's goal. We evaluated how State and USAID assess progress toward the strategy's goal against key elements GAO has

⁶Department of State and U.S. Agency for International Development, *Fiscal Year 2020 Annual Performance Plan and Fiscal Year 2018 Annual Performance Report for the U.S. Department of State and the U.S. Agency for International Development* (Washington, D.C.: February 2019).

⁷Pub. L. No. 111-203, § 1502.

⁸We previously reported on the agencies' activities to implement the strategy in 2015. See GAO, *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.: Aug. 18, 2015).

previously identified for effective foreign assistance strategies.⁹ These key elements include, among others, identifying performance indicators and assessing agencies' progress toward strategic objectives and goals using such information.

To address our third objective, we identified and assessed any information on sexual violence in eastern DRC, Burundi, Rwanda, and Uganda published or which had become available from March 2019 through April 2020 and would not have been part of our most recent report on the topic.¹⁰ We discussed the collection of sexual violence–related data in the DRC and adjoining countries, including population-based survey data and case-file data, with State and USAID officials and with representatives of nongovernmental organizations and researchers. We obtained data from ICF, an organization which implements the Demographic Household Surveys in the DRC, Burundi, Rwanda, and Uganda.¹¹ We also obtained sexual violence estimates from a University of Chicago research institute, NORC, which conducted a survey in 192 villages in eastern DRC as part of a baseline study for a USAID program.

In addition, we searched research databases, including MEDLINE and Scopus, to identify academic articles containing any additional information on sexual violence published in March 2019 through April 2020. Through these searches, we identified an initial list of 53 articles, which we then narrowed down to a priority list of five studies by considering a variety of

⁹GAO, *Foreign Assistance: Better Guidance for Strategy Development Could Help Agencies Align Their Efforts*, [GAO-18-499](#) (Washington, D.C.: July 12, 2018).

¹⁰See GAO, *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). We identified this information about sexual violence in eastern DRC and adjoining countries in response to a provision in the Dodd-Frank Act that GAO submit an annual report that assesses the rate of sexual and gender-based violence in war-torn areas of the DRC and adjoining countries. Pub. L. No. 111-203, § 1502(d). 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 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.

¹¹ICF implements the Demographic Household 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.

factors pertaining to the studies' relevance to our third objective. These factors included (1) whether the study included rates, particularly related to the nation-wide rate of sexual violence in the DRC and region-wide rate in eastern DRC; (2) whether the study included case-file information; (3) whether the study contained data from 2011 or later; (4) whether the study focused on a subset of a broader population; (5) the geographic scope of the study; and (6) whether the study included original research. We reviewed the priority list of five articles and determined that none of them met our criteria for inclusion. We also interviewed the United Nations (UN) Special Representative of the Secretary-General on Sexual Violence in Conflict, and obtained information from various UN entities such as the UN Joint Human Rights Office and the UN Group of Experts on the DRC.

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

The Securities and Exchange Commission (SEC) conflict minerals disclosure rule requires certain companies to file a specialized disclosure report (Form SD).¹ 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.² 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 be 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,
- facilities used to process the conflict minerals,
- country of origin of the conflict minerals, and
- efforts it made to determine the mine or location of origin with the greatest possible specificity.³

The Form SD provides general instructions for filing conflict minerals disclosures and specifies the information that companies must provide.

¹As 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 our report, we refer to those issuers affected by the rule as "companies."

²The 2010 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.

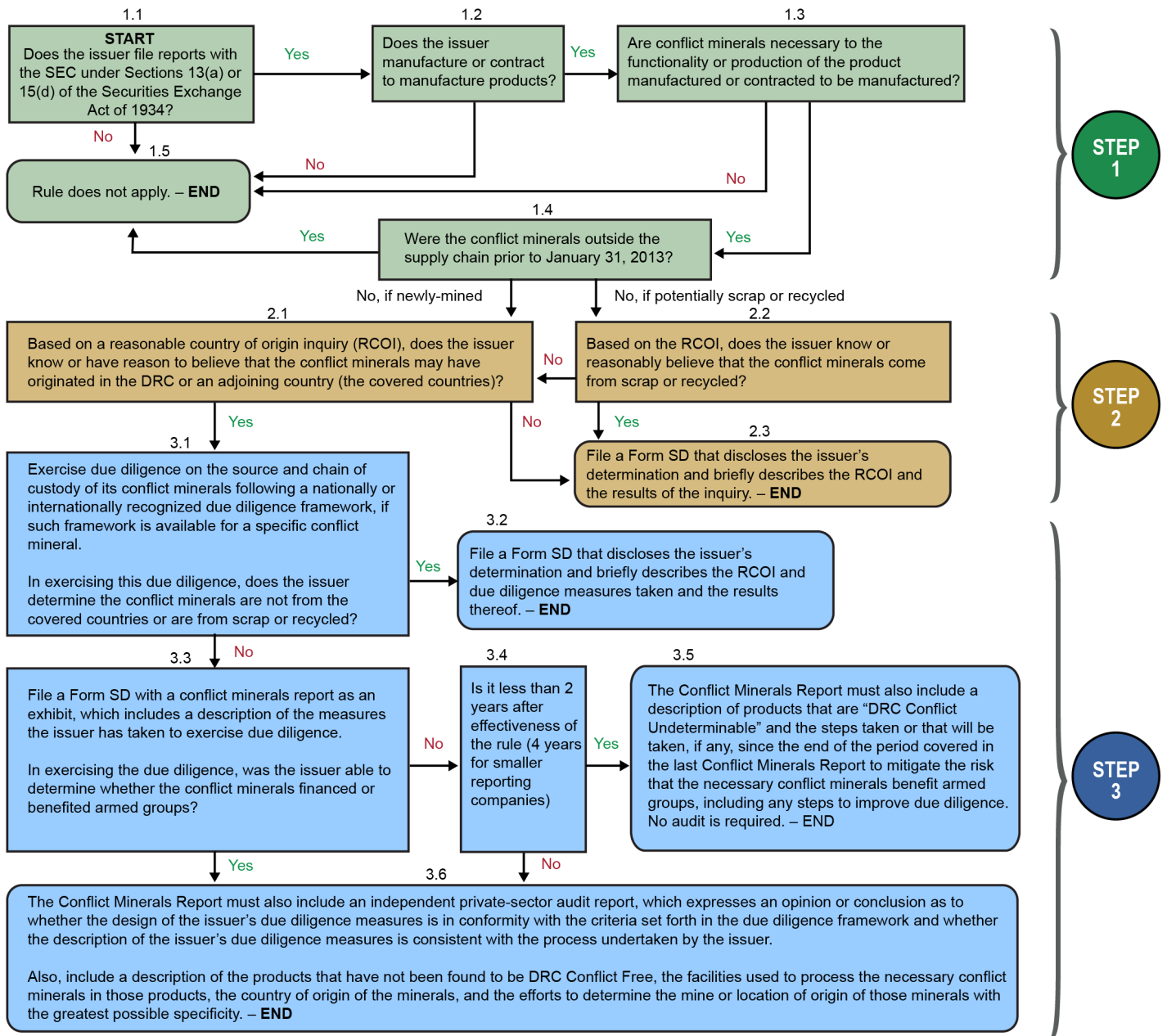
³According to the SEC staff, consistent with the staff's revised guidance of 2017, the staff will not recommend enforcement action if companies that are required to conduct due diligence do not describe their due diligence efforts. The SEC staff issued the 2017 revised guidance after final judgement 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).

Companies were required to file under the rule for the first time by June 2, 2014, and annually thereafter on May 31. Figure 7 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 2017.⁴ According to SEC staff, the commission had no plans to update the flowchart as of June 2020.

⁴According 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 7: 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-20-595

Note: The flowchart was included in the SEC's 2012 release adopting the conflict minerals rule (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

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

on the effect of the court's decision. According to SEC staff, the commission had no plans to update the flowchart as of June 2020. 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: Rates of Sexual Violence in the DRC, Burundi, Rwanda, and Uganda, 2007-2020

Since 2011, we have reported on population-based surveys containing sexual violence rates in eastern Democratic Republic of the Congo (DRC) and three adjoining countries: Burundi, Rwanda, and Uganda.¹ 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. Both types of information can be under-representative for a number of reasons. For example, the United Nations (UN) and Department of State (State) report that fear of retaliation, shame, and stigma have prevented sexual violence victims from reporting incidents in several countries.²

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

¹The Dodd-Frank Wall Street Reform and Consumer Protection Act included a provision for GAO to submit an annual report that assesses the rate of sexual and gender-based violence in war-torn areas of the DRC and adjoining countries to appropriate congressional committees. Pub. L. No. 111-203, § 1502(d), 124 Stat. 1376, 2216-17 (Dodd-Frank Act). 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 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. Although warfare between the DRC and its neighbors has officially ended, conflict, especially in the eastern part of the DRC, has persisted.

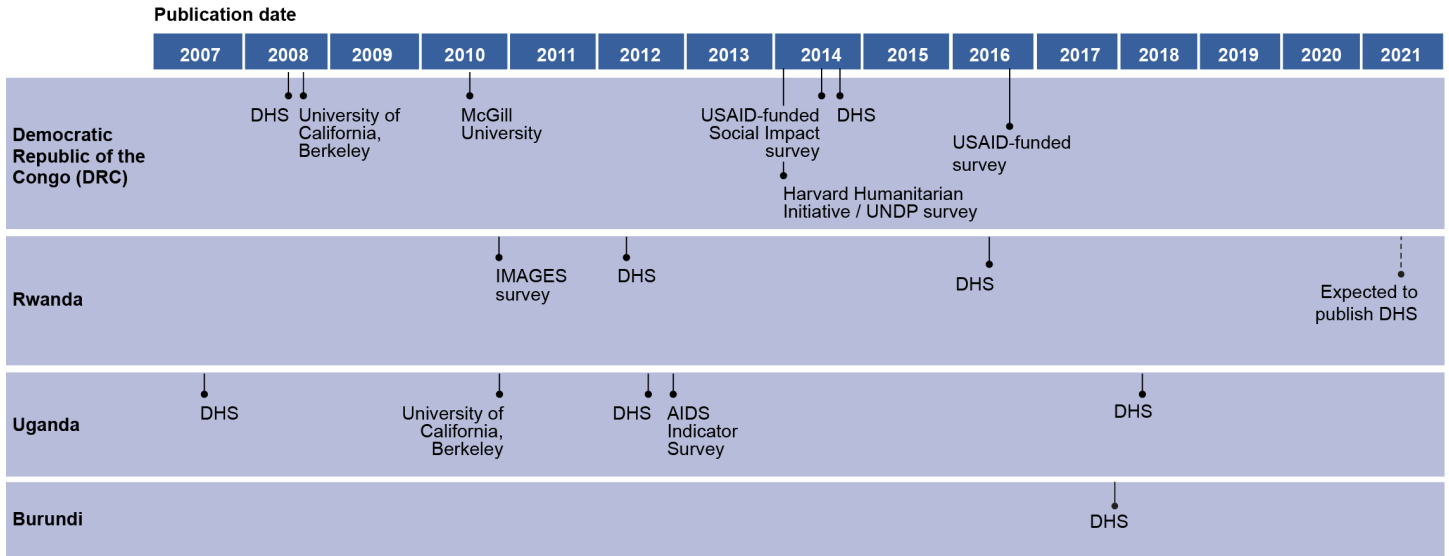
²State’s 2019 Country Human Rights Reports noted that in the DRC most survivors of rape did not pursue formal legal action due to insufficient resources, lack of confidence in the justice system, family pressure, and fear of subjecting themselves to humiliation, reprisal, or both. The report on Uganda noted that, according to the Ugandan government, most victims did not report the incidents because they feared they would be shamed or embarrassed. State’s report for Rwanda noted that although authorities encouraged reporting of domestic violence cases, most incidents remained within the extended family and were not reported or prosecuted. The UN Commission of Inquiry for Burundi reported that perpetrators told victims they would kill the victim or her family members if she reported her rape. The same report noted the trauma caused by such violence prevented victims from coming forward, as did fear of stigmatization.

Appendix III: Rates of Sexual Violence in the DRC, Burundi, Rwanda, and Uganda, 2007-2020

information unsuitable for estimating rates of sexual violence.³ 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.

Figure 8 shows the publication dates for the population-based surveys we have reported on since 2011, starting with surveys published in 2007.

Figure 8: Population-Based Surveys on Sexual Violence Rates in Eastern DRC, Burundi, Rwanda, and Uganda, 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-20-595

Note: Previous GAO reports showed a DHS for Rwanda in 2010. This year's figure shows the date as 2012 because, while the data were collected in 2010, the final report was published in 2012. Similarly, previous GAO reports showed the AIDS Indicator Survey for Uganda in 2011. This year's figure shows the date as 2012 because, while the data were collected in 2011, the final report was published in 2012.

³For example: (1) case-file data are not based on a random sample of a population, and therefore the results of analyzing these data are not generalizable; (2) case-file data are not aggregated across various sources, and the overlap among different reports can be unclear; and (3) time frames, locales, and definitions of sexual violence may not be consistent across case-file data collections.

The governments of the host countries conducted the Demographic and Health Surveys (DHS) in the figure above with technical assistance from ICF and funding from the U.S. Agency for International Development (USAID).⁴ To make the data from these surveys easily accessible, ICF maintains an online tool, STATcompiler, which includes thousands of comparable indicators, such as sexual violence estimates, for DHS surveys across countries and over time. ICF adds data to the STATcompiler as soon as ICF publishes the final country report for each survey. Table 2 shows the STATcompiler information on sexual violence rates for DRC, Burundi, Rwanda, and Uganda.⁵

⁴ICF implements the 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.

⁵As we previously reported, limitations and challenges exist to using population-based surveys to gather data and estimate rates of sexual violence, particularly in war-torn areas like eastern DRC. For example, poor infrastructure and insecurity can limit access to some areas, leading to under coverage, and the unwillingness of some victims to discuss such difficult experiences can lead to underreporting.

Table 2: Nationwide Demographic Household Survey (DHS) Rates of Sexual Violence in the Democratic Republic of the Congo (DRC), Burundi, Rwanda, and Uganda, by Percentage, 2007-2020

Country	Report Publication date	Estimated rate of sexual violence reported by women (percentage)	
		12 months	Lifetime
DRC	2014	16.3	27.0
	2008	25.9	33.0
Rwanda	2016	7.6	22.4
	2012	20.7	22.5
Uganda	2018	12.7	21.9
	2012	16.6	30.6
Burundi	2007	19.9	39.0
	2017	12.7	23.1

Source: DHS Program's STATcompiler. | GAO-20-595

Notes: Table shows data available in STATcompiler as of May 2020, going back to 2007. Survey participants were ages 15 to 49. 12 months refers to whether a person reported experiencing sexual violence in the past 12 months. "Lifetime" refers to whether a person reported experiencing sexual violence at any time in their life. The original DHS reports for Burundi (2018), Rwanda (2016), and Uganda (2007, 2012 and 2016) included estimates for men. However, according to ICF, the collection of these data is not a standard element of the DHS Program and therefore not currently included in STATcompiler. The estimates are less comparable across countries because the topic is only included in a survey if the host country requests it and the framing of the questions related to male victims varies across countries.

We compared the most recent estimates for each country with estimates from prior years to determine whether there had been any statistically significant changes and determined:⁶

- The decreases in the 12 month and lifetime sexual violence rates in the DRC from 2008 to 2014 are significant.
- The decrease in the 12 month sexual violence rate in Rwanda from 2012 to 2016 is significant; the decrease in the lifetime sexual violence rate is not significant.
- The decreases in the 12 month and lifetime sexual violence rates in Uganda from 2012 to 2018 are significant.

⁶We calculated the statistical significance at a 95 percent confidence level. The dates we refer to here are those USAID published the DHS reports, not the dates ICF conducted the surveys.

Appendix IV: Comments from the Department of State



United States Department of State
Comptroller
Washington, DC 20520

AUG 18 2020

Thomas Melito
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Mr. Melito:

We appreciate the opportunity to review your draft report, "CONFLICT MINERALS: Actions Needed to Assess Progress Addressing Armed Groups' Exploitation of Minerals" GAO Job Code 103721.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

Sincerely,

A handwritten signature in blue ink that reads "Jeffrey C. Mounts".

Jeffrey C. Mounts

Enclosure:
As stated

cc: GAO – Kimberly M. Gianopoulos
EB – Christiaan Luigi
OIG - Norman Brown

Department of State Comment on GAO Draft Report

**CONFLICT MINERALS: Action Needed to Assess Progress Addressing
Armed Groups' Exploitation of Minerals**
(GAO-20-595, GAO Code 103721)

Thank you for the opportunity to comment on the GAO draft report, entitled
*"CONFLICT MINERALS: Action Needed to Assess Progress Addressing Armed
Groups' Exploitation of Minerals"*

**Recommendation 1: The Secretary of State, in consultation with the
Administrator of USAID, should develop performance indicators that would
enable State to assess progress toward the strategic objective and goal of the
U.S. conflict minerals strategy going forward.**

The Department of State agrees with this recommendation. We will seek to
develop performance indicators as part of any review and update to the strategy.

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



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: Actions Needed to Assess Progress Addressing Armed Groups' Exploitation of Minerals (GAO-20-595)

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: Actions Needed to Assess Progress Addressing Armed Groups' Exploitation of Minerals* (GAO-20-595).

The report contains one recommendation for USAID to support the Secretary of State to develop indicators that would enable the Department of State to assess the progress toward the strategic objective and goal of the U.S. conflict minerals strategy going forward. USAID remains committed to robust monitoring and evaluation of our activities and will support State to develop performance indicators as part of any review and update to the strategy.

I am transmitting this letter and the enclosed comments 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 our contributions to promoting responsible minerals trade.

Sincerely,

Frederick M. Nutt
Frederick Nutt 8/14/20
Assistant Administrator
Bureau for Management

Enclosure: a/s

**COMMENTS BY THE U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT ON
THE DRAFT REPORT PRODUCED BY THE U.S. GOVERNMENT
ACCOUNTABILITY OFFICE (GAO) TITLED, *CONFLICT MINERALS: ACTIONS
NEEDED TO ASSESS PROGRESS ADDRESSING ARMED GROUPS' EXPLOITATION
OF MINERALS* (GAO-20-595)**

The U.S. Agency for International Development (USAID) would like to thank the U.S. Government Accountability Office (GAO) for the opportunity to respond to this draft report. We appreciate the extensive work of the GAO engagement team, and the specific findings that will help USAID achieve greater effectiveness in promoting responsible minerals trade.

There was one recommendation for the Department of State that implicates USAID: “The Secretary of State, in consultation with the Administrator of USAID, should develop performance indicators that would enable State to assess progress toward the strategic objective and goal of the U.S. conflict minerals strategy going forward.”

USAID agrees with this recommendation. We will support the Department of State to develop performance indicators as part of any review and update to the strategy, in addition to continuing our robust monitoring and evaluation of our activities.

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

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

Staff Acknowledgments

In addition to the individual named above, Joyee Dasgupta and Ryan Vaughan (Assistant Directors), Katherine Forsyth (Analyst-in-Charge), Katya E. Rodriguez, James Boohaker, Taylor Bright, Jieun Chang, Michael E. Clements, Justin Fisher, Christopher Keblitis, Benjamin Licht, Grace Lui, and Aldo Salerno made key contributions to this report. Marc Castellano, Julia Jebo Grant, Timothy Young, and Erica Stuke provided additional assistance.

Related GAO Products

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.

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