



## ICGLR THIRD PARTY AUDIT AT MMR

### EXECUTIVE SUMMARY

(Published on 27 July 2016)

#### 1. Introduction

##### a. Audit objective (reference to Regional Initiative, RCM)

The objective of the audit is to assess conformity of mineral exporters - in this case, MMR - with the requirements of the ICGLR Mineral Tracking Scheme and Certification Scheme, specifically Appendix 8c of the Certification Manual: Standards and Procedures for Third Party Audits.

##### b. Auditee

###### i. General Information

The company owns eight exploitation licenses, twenty research licenses, and three small mine licenses in the 3Ts, as well as fourteen research licenses in gold<sup>1</sup>. Its operations are scattered across a number of sites covering several of the new provinces which now constitute the former province of Katanga<sup>2</sup>. MMR also purchases minerals, through the cooperatives, from other mine sites. MMR's Congolese head office is located at M'siri Boulevard, 1932, Kampemba town, Lubumbashi City.

The company is the leader of 3Ts exploitation and exportation in Katanga and represents around 75% of 3Ts exploitation. The company has intended to start operating in the gold sector as well but no gold production has been reported to date. MMR has contracts with three leading cooperatives – CDMC, COMIDEK and COMITU – for the management of its mine sites.

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<sup>1</sup>As per the lists submitted in the 2014 EITI report.

<sup>2</sup>In late 2015, Congolese authorities split the province of Katanga into four new provinces: Tanganyika, Upper Lomami, Upper Katanga and Lualaba. This decentralization is likely to result in increased transportation costs and a greater regulatory burden for mining companies.

**ii. Business Information (includes type of mines sourced from LSM and/orASM)**

The company sources tin, tantalum, and – marginally – wolfram from 13 locations (in some cases covering different mine sites). Exploitation is artisanal but two semi-industrial plants started in Kisengo and Kanuka.

Only two mine sites in Katanga are not validated by the DRC government:

- Kabunda, in Manono territory, a red site
- Kahendwa, in Nyunzu territory, a yellow site

This audit does not identify that those two mine sites do provide material to MMR.

**c. Auditor**

**i. Audit Firm**

The audit firm is C.Collin Consulting, a consultancy company operating in audit and risk assessments for the implementation of due diligence standards related to extractive industry, as well as in evaluation and impact studies for international organizations in the field of peace building and governance in fragile countries.

**ii. Lead Auditor**

Cécile Collin was the lead auditor. She benefits from 11 years' experience in international development in unstable countries. She works for six years on due diligence processes and has an in depth knowledge of traceability initiatives and of the 3Ts stakeholders in the Great Lakes. Her experience includes over 45 assessments and evaluations in 27 countries in Asia and Africa on peace building and governance for a broad range of donors, international organizations, NGOs and corporate sector.

**2. Scope of audit**

**a. Methodology (provide a general description of methodology)**

The audit mixed literature review, record review, data collection through semi-structured interviews, focus groups and direct observation.

Interviews were made with MMR and cooperatives staff, staff, negociants and preneurs, miners, as well as external stakeholders.

The **pre audit phase** took place from 20 January 2015 (signature of the contract with Tetrattech) to 3 February 2016. This included a general review of external documents, initial risk assessment and finalization of the audit plan. No documents could be collected from the company during

this phase, because the company indicated that the audit was only authorized by the DRC authorities the day before the start of the field work<sup>3</sup>.

The **field mission** was accomplished between 3<sup>rd</sup> and 12<sup>th</sup> February.

An initial risk assessment was conducted during the pre-audit, based on the literature review. It covered the different Regional Certification Mechanism (RCM) standards. The assessment identified potential issues related to traceability of artisanal mine sites exploited by armed stakeholders, in addition to child labour and illegal taxation. Overall, the company did significant efforts to support due diligence standards and conform with the OECD guidance. A specific incident reporting system has been put in place, and the company has its own tagging system, in addition to iTSCI's one, to track the production at the processing and export levels. Yearly due diligence reports include the company policies in respect to due diligence, risk management plan, some incidents of the previous year. A dedicated team is in charge of due diligence at Lubumbashi level, in addition to an HSE team, and a separate foundation with dedicated staff is in charge of social projects.

**b. Provide a short overview of what was actually reviewed including: records, operations, mine sites, and other entities that were part of the audit.**

MMR offices were visited in Lubumbashi, the headquarters and the first export point; and in Kalémie, the second export point, for minerals from North Katanga. This included visits to the company's warehouses, and to the processing plant in Lubumbashi (there is no equivalent plant at Kalémie as minerals in North Katanga are processed in Kisengo). Facilities were also visited in Kisengo, Kanuka and Mitwaba.

The team visited the following mine sites:

- Kanuka, Kalalalala and the semi-industrial exploitation plant. Kanuka is located in the Malemba Nkulu territory (Upper Lomami province) and close to Manono (1 hour's drive).
- Mitwaba territory, site Kasesa (Upper Katanga province). Mitwaba was prioritized given the potential conflict issues.
- Kisengo, Katoto, sector Quatre and Bujana. Kisengo is in the Nyunzu territory, in Tanganyika province (6 hours' drive from Kalemie).

In 2015, those mine sites are the largest contributors to the overall production (except Malemba Nkulu):

- Kalemie (covering Kisengo and neighbouring sites): 62,23% of the coltan production
- Kanuka: 28,7% of the cassiterite production and 16,8% of the coltan production

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<sup>3</sup> According to MMR, this is a new procedure from the DRC government to better structure various audits undertaken on its territory. This implies that the company cannot share documents and be open to an audit as long as they do not get this authorization.

- Mitwaba: 15,6 % of the cassiterite production

The main transportation routes for exportation are the road between Mitwaba and Lubumbashi, and the road between Kisengo and Kalémie. These two main roads were used by the team to visit mine sites, in order to check potential barriers by security forces, and the level of mining activities. No issue was identified. Police and military barriers were noticed on those roads, as part of their normal function. No presence of other armed groups was indicated on those various roads, in particular in Mitwaba area where MaiMai operate.

The following records were reviewed:

- Purchase and production records, as submitted by MMR to the Mine Division, for 2013, 2014 and 2015.
- iTSCi logbooks at the mine site covering processing and export levels (ad hoc checks for the years 2014 and 2015)
- MMR incident reports 2015
- Recent warehouse records for Dec 2015
- Cash expenses records for May, July, October, November, December 2015 in Lubumbashi, Kisengo, Kalemie and Kanuka.
- Balance accounts for 2013 and 2014.
- Payments to the police (formal receipts) for 2015
- Proof of payments of taxes (mining royalties, taxe rémunératoire pour services rendus, frais de sortie carrière) for 2015.
- Export documents for 2014 and 2105.
- Due diligence reports 2013, 2014, 2015.

The review of the company's capacity was mostly based on the monthly reports submitted to the Mine Division, provided by the company. According to MMR, this is the only source of production figures, and no consolidated information was available on the production trends by site. The due diligence team also indicated that no purchasing of minerals was taking place in Manono or Malemba Nkulu, yet such purchasing was witnessed on the ground – and was recorded in the statistics submitted by MMR to the Mine Division.

In order to triangulate the data, statistics were requested from SAESSCAM (National coordination, Lubumbashi and Kalemie) and CEEC Lubumbashi during the field work and three times afterwards, with relay of the official DRC representatives to ICGLR audit committee, but these have not been provided to date.

### **3. Findings (flag status)**

#### **a. Mine sites and trade routes**

*Summary Table of conformance to RCM status criteria*

<b>CONFLICT</b>	<b>WORKING CONDITIONS</b>	<b>ENVIRONMENT</b>	<b>FORMALITY/TRANSPARENCY</b>	<b>COMMUNITY DEVELOPMENT</b>
	<ul style="list-style-type: none"> <li>- Youth labour, external report of child labour in some sites but general awareness and sensitization to tackle it.</li> <li>- Lack of a system for miner identification.</li> </ul>		<ul style="list-style-type: none"> <li>- General taxation practices by security forces.</li> <li>- Verbal report of unofficial payments to State agents.</li> <li>- Coverage of all sites by iTSCi and minerals traceable but various issues in the technicalities of the traceability processes implementation.</li> <li>- Limited identification of the negociants.</li> </ul>	

*Summary Table of conformance to RCM progress criteria*

<b>CONFLICT</b>	<b>WORKING CONDITIONS</b>	<b>ENVIRONMENT</b>	<b>FORMALITY/ TRANSPARENCY</b>	<b>COMMUNITY DEVELOPMENT</b>
	<ul style="list-style-type: none"> <li>- Mineral price potentially unfair in some places.</li> <li>- Lack of standards for the work of cooperatives, lack of representation within the cooperatives, and limited support and information provided to miners.</li> <li>- Limited occupational health training and equipment made available to / used by the miners.</li> </ul>	<ul style="list-style-type: none"> <li>- Limited follow-up of the environmental impacts</li> <li>- Issue of water pollution in Kisengo and lack of monitoring of the water quality</li> <li>- Some unused pits are not rehabilitated.</li> </ul>		<ul style="list-style-type: none"> <li>- Lack of structured approach to community engagement</li> <li>- General lack of local suppliers or structure for alternative livelihoods in most of the mining areas</li> <li>- Lack of gender mainstreaming in relations to mining activities</li> </ul>



#### 4. Conclusion

AUDIT CONCLUSION:	
<input type="checkbox"/>	The auditor found that the auditee's operations are in conformance with the requirements of the ICGLR Regional Certification Mechanism – Certification Manual.
<input checked="" type="checkbox"/>	The auditor identified non-conformance(s) between the auditee's operations and the requirements of the ICGLR Regional Certification Mechanism – Certification Manual. Non-conformance(s) relate to:
<input type="checkbox"/>	Conflict
<input checked="" type="checkbox"/>	Working Conditions
<input checked="" type="checkbox"/>	Environment
<input checked="" type="checkbox"/>	Formality and Transparency
<input type="checkbox"/>	Community Development
<input checked="" type="checkbox"/>	The Auditee has agreed to address the non-conformance(s), to define a Corrective Action Plan (if necessary) and undergo a follow-up audit of the implementation of corrective actions.
<input type="checkbox"/>	The auditee has <b>not</b> agreed to address the non-conformance(s), to define a Corrective Action Plan (if necessary) and to undergo a verification of the implementation of corrective actions.
	Please refer to the summary on the next page for details.

No evidence was found of issues concerning red or yellow flags which would require the closure of sites or suspension of the company activities. Given the size and diversity of the operations, not all sites could be visited but yet issues were however identified concerning a number of RCM standards, which need to be addressed by the company with robust, well documented follow up in order to strengthen the transparency and accountability of its operations.

The situation in Katanga, considering both the volatile security situation and structural social and governance issues in the country, creates risks in the supply chain. Consequently, there is a need to pursue efforts to strengthen the structure of the supply chain, improve identification of stakeholders and boost processes of control to mitigate these risks. The role of the local civil society in the monitoring of the RCM could for example be strengthened.

A number of issues identified also concern State institutions, including the fact that CEEC and SAESSCAM did not communicate any document to the Audit team. Clear action should be taken to show the commitment of the DRC government to the RCM, notably by taking measures on anti-corruption and bribery, and by ensuring reliable payment of the civil servants. The existence of smuggling networks has not been properly investigated to date.