



***Pilot Study: Advancing Transparency in Artisanal
and Small-Scale Mining and the Mineral Supply
Chains in the Great Lakes Region***

- June 2015 -



The RCS Global/GEUS team would like to formally thank Gerard Nayuburundi and Dominique Kayigire from the Technical Unit on Natural Resources of the Executive Secretariat of the ICGLR as well as Henri Pierre Gebauer and Sandrine Serurakuba from the ICGLR-GIZ support programme for their valuable help and support.

For RCS Global: Nicholas Garrett, Michèle Brühlhart and Nicolas Andres Eslava

For GEUS: John Tychsen



Table of Contents

List of acronyms	5
1 Introduction	10
1.1 Artisanal and Small-Scale Mining	11
1.2 The Standards.....	14
1.2.1 The EITI	15
1.2.2 The RCM	17
2 Burundi Country Report	19
2.1 The ASM sector in Burundi.....	19
2.2 Incentives.....	23
2.3 Linking ICGLR Regional Certification Mechanism and EITI	24
2.4 Key challenges and opportunities to enhance transparency in the ASM supply chain	24
3 Democratic Republic of the Congo Country Report	26
3.1 The ASM sector in the DRC.....	26
3.2 ASM revenues and EITI reporting.....	30
3.3 Incentives for implementation	31
3.4 Linking ICGLR Regional Certification Mechanism and EITI	32
3.5 Key challenges and opportunities to enhance transparency in the ASM supply chain	33
4 Tanzania Country Report	35
4.1 The ASM sector in Tanzania.	35
4.2 Governance of the mining sector	35
4.3 ASM in EITI reporting.....	38
4.4 Linking ICGLR Regional Certification Mechanism and EITI	39
4.5 Key challenges and opportunities to enhance transparency in the ASM supply chain	40
5 Zambia Country Report	42
5.1 The ASM sector in Zambia	42
5.2 Linking ICGLR Regional Certification Mechanism and EITI	47
5.3 Key challenges and opportunities to enhance transparency in the ASM supply chain	47
6 Conclusion	49
6.1 Feasibility of implementing formalisation concepts in the four countries and relevance for ASM transparency.....	49
6.2 Feasibility of EITI-style reporting under RCM.....	51
6.3 The way forward.....	51
7 Recommendations	53
7.1 Recommendations to the ICGLR.....	53
7.2 Country-specific recommendations	57
8 ANNEXES	60
9 Bibliography	67

Table of Figures

Figure 1 - ASM/LSM Distinction..... 12
Figure 2 – ASM Value Chain..... 13
Figure 3 – EITI Countries (October 2014) 15

Table of Boxes

Box 1 - Definitions 13
Box 2 - Materiality Threshold 16

List of acronyms

3T(G)s	Tin, Tantalum, Tungsten (and Gold)
AM	Artisanal Mining
ASM	Artisanal and Small-Scale Mining
AVV	Avances Versées à Valoir sur divers impôts
BGR	German Federal Institute for Geosciences and Natural Resources
CSO	Civil Society Organisation
CTC	BGR's Certified Trading Chains certification system
DF 1502	US legislation with extraterritorial reach <i>Dodd–Frank Wall Street Reform and Consumer Protection Act</i> , Section 1502
DRC	Democratic Republic of the Congo
EITI	Extractive Industries Transparency Initiative
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GSD	Geological Survey Department (Zambia)
GST	Geological Survey of Tanzania
ICGLR	International Conference on the Great Lakes Region
IMCA	Independent Mineral Chain Auditor
iTSCi	ITRI Tin Supply Chain Initiative
LEITI	Liberia EITI
LGA	Local Government Authority (Tanzania)
LSM	Large-Scale Mining
MEM	Ministry of Energy and Minerals (Tanzania)
MEMWD	Ministry of Energy and Mines and Water Development (Zambia)
MoLGH	Ministry of Local Government and Housing (Zambia)
MS	ICGLR Member States
MSG	Multi-Stakeholder Group
NEITI	Nigeria EITI
NSWG	National Stakeholders Working Group of the NEITI
OBR	Burundi Revenue Office
PAYE	Pay-as-you-Earn
PML	Primary Mining Licence (Tanzania)
RCM	Regional Certification Mechanism
RINR / IRRN	Regional Initiative against the Illegal Exploitation of Natural Resources
SSM	Small-Scale Mining
TEITI	Tanzania EITI
VAT	Value Added Tax
TRA	Tanzania Revenue Authority
TTP	Tucson Tanzanite Protocol
ZEA	Artisanal Exploitation Zone
ZEC	Zambia EITI Council
ZEITI	Zambia EITI
ZRA	Zambia Revenue Authority

Executive summary

The objective of this study is to conceptualise the ICGLR's Regional Initiative against the Illegal Exploitation of Natural Resources (RINR)¹ EITI tool by examining the opportunities to enhance transparency in Artisanal and Small-Scale Mining (ASM) and the mineral supply chains in the Great Lakes Region. One avenue examined in this study is to include the ASM mineral supply chains into EITI reporting processes. Secondly, the study aims to identify strategies to strengthen the link between EITI reporting and due diligence in mineral supply chains, as promoted by the ICGLR's Regional Certification Mechanism (RCM). To do so, the study relied on secondary literature review and on interviews conducted with key stakeholders in Burundi², the DRC, Tanzania, and Zambia.

The countries included in this case study (Burundi, the DRC, Tanzania and Zambia) were selected owing to their status as EITI and/or RCM implementing countries. The four countries differ vastly in terms of the structure of their ASM sectors, the degree of ASM formalisation, the presence of capacitated CSOs in the field of mineral governance/transparency, as well as the level of political commitment to implement the EITI and/or the RCM.

In all four countries, both ASM operators and the agencies in charge of regulating and monitoring their activities face capacity constraints to effectively comply with and enforce national legislation. As a result, there are only limited incentives for ASM miners to formalise, obtain legally required licenses and pay all taxes, fees and royalties due to the state. In addition, services are often not provided by Government agencies as foreseen by national legislation, resulting in distrust between ASM stakeholders and institutions and further preventing transparency in the sector. Lastly, differences between neighbouring countries' ASM taxation levels create strong incentives for mineral smuggling and fraud (in concert with other regional processes impacting on local mineral price levels).

In none of the four countries ASM operations have been systematically and continuously included in EITI reporting so far. However, this study found that national EITI processes in several ICGLR Member States have manifested interest in integrating the ASM sector into EITI reporting. So far, materiality threshold set under national EITI processes, above which their payments to Governments would be part of the formal EITI reconciliation process, do not favour the inclusion of ASM into EITI reporting, with the potential exception of countries

¹ The RINR was adopted by the Heads of State and Government of the ICGLR member States in Lusaka (2010). The initiative consists of six tools to fight against the illegal exploitation and trade of natural resources: (1) the set-up of a Regional Certification Mechanism; (2) the harmonisation of legislation; (3) the establishment of a regional database for mine sites, export and trade in minerals in the Great Lakes Region; (4) the formalization of artisanal and small-scale mining; (5) the promotion of the Extractive Industry Transparency Initiative (EITI) ; and the establishment of a Whistle-Blowing Mechanism.

² The fieldwork for the Burundi Case study was conducted in November – early December 2014, before the enactment of Burundi's new mining regulations, issued in December 2014. Therefore the Burundi Case Study is concerned with the 2013 Mining Code as it stood before its amendment by the December 2014 Regulations.

displaying an extractive sector with no LSM presence, as is the case in Burundi. In addition, the EITI reconciliation process focuses on the reconciliation of formal payments, but only part of the overall ASM trade is undertaken formally and thus generates limited formal payments to Governments. The economic feasibility to integrate ASM data into EITI reconciliation exercises from a cost/benefit point of view can therefore be questioned, as current materiality thresholds are set for valid reasons. Avenues to gather the missing data are limited, and building synergies with the various existing certification systems may be the most straightforward way to do so at a reasonable cost.

This report found two options for ASM integration into the EITI in RCM-implementing countries:

The first option in RCM-implementing countries³ is to integrate ASM into EITI contextual reporting and possibly reconciliation by leveraging data (e.g. values, volumes and payments to Governments in line with EITI principles) declared by ASM exporters as part of the process of obtaining an RCM export certificate. This option would be limited to RCM-certified exports in line with the relevant EITI materiality threshold (which could be different from the threshold for ASM, when compared to the industrial mining sector).

In EITI implementing countries where the RCM is not implemented, data could be leveraged that is obtained through the enforcement of the monitoring of the ASM/SSM/PML licences. Licence conditions include the obligation to report production and pay revenue. The information generated would be integrated in the contextual analysis of EITI reports, but payments would only be reconciled if they exceeded the EITI materiality threshold (whether the same or different from the industrial sector threshold).

The second option in RCM-implementing countries⁴ is to integrate the ASM sector in EITI contextual reporting in EITI reports, but not to include the ASM sector in EITI reconciliation processes. Instead, to make Government revenue disclosure of payments from the ASM sector mandatory, alongside the disclosure of payments to Government by ASM exporters as part of obtaining an RCM certificate. There are inherent risk regarding data accuracy and sampling bias in relying on this approach. These risks would require the design of a specific reporting template and methodology in order to bring an acceptable level of quality assurance to the reporting. The mandatory disclosure by exporters and Government would allow for the independent investigation and reconciliation of payments by auditors and/or CSOs without driving up the price of the EITI reconciliation process and/or placing considerable burden on the EITI reconciliation process as a result of the anticipated greater complexity of payments reconciliation by the ASM sector.

The first option would be the most desirable for ICGLR Member States (MS) where the RCM is implemented, as the implementation process would benefit from the recognised

³ It should be recalled that all members of the ICGLR have made a written commitment to implement the six tools of the RINR, these include joining the EITI and the RCM at the MS level.

⁴ *Ibid.*

credibility of the EITI brand and the experience of the EITI process. The second option may also be achievable but its implementation would lack the credibility of the EITI brand. To make effective use of RCM implementation in supporting transparency, the databases capturing RCM data both nationally and at ICGLR level would have to be operational.

The effectiveness of each option in terms of generating useable data that will allow citizens to determine if the country is getting a fair commercial deal for its ASM-produced resources is often directly linked to the success achieved in ASM formalisation. In addition, the additional ASM contextual information provision will allow citizens to have a better understanding of the national ASM sector and its importance as well as its impacts. Under both options it will also provide some much-needed transparency in a sector notoriously obscure. In addition, the expansion of certification as an incentive to formalise otherwise fraudulent trade can help to produce a positive overall fiscal and overall development impact.

The study makes a number of recommendations for the ICGLR, ICGLR Member states, and the countries visited for the pilot study. The full list of recommendations (including specific recommendations for Burundi, the DRC, Tanzania, and Zambia) can be found in this report, starting on page 52.

At the regional and/or international level, the ICGLR should:

- Consider broadening the scope of the RCM to capture non-3TG minerals to widen its applicability to more Member States in line with OECD Due Diligence Guidance on Responsible Mineral Supply Chains.
- Enter into dialogue with the International EITI Secretariat over the desirability of ASM integration into EITI reporting in RCM-implementing countries, including discussions how to best leverage synergies between the RCM and the EITI.
- Encourage its Member States to include ASM in EITI reporting, ensuring materiality thresholds set for ASM or the overall sector are not lowered to the point where EITI implementation becomes too costly or complex for Member States to implement by virtue of data overload.
- Push for the development of a practical guidance for ASM operations on the EITI Principles and their implementation in the day-to-day activities, and make this guidance available for a peer-learning process to make most effective use of different stages of implementation in the different Member States.
- Act as a platform to foster dialogue between the member state ministries, national implementing agencies and mineral supply chain actors on matters related to ASM, the EITI, and RCM, including the organisation of regional peer-learning workshops.
- Operationalise the ICGLR regional database and host Member States dialogue to promote operationalisation of national databases that are fully aligned with the regional database in the type and form of data they contain.

At the same time ICGLR Member States should:

General recommendations:

- Actively encourage and invest in ASM formalisation and facilitate private sector investment.
- As part of investment in ASM formalisation, enforce legislation provisions requiring ASM/SSM licence holders to report and pay.
- Strengthen government institutions interacting with ASM licence holders and operators as well as those involved in monitoring the ASM sector and certification.
- Identify and promote fiscal policies that incentivise the ASM 's participation in the EITI.

Specific recommendations:

- Pilot the EITI at the ASM export stage, and as part of pilot implementation, leverage the EITI process as a platform to build trust between the various ASM sector stakeholders at national and/or sub-national level.
- Use pilot projects to test and pilot the integration of ASM into the EITI reporting requirements of the RCM-implementing trading chains.
- Invest in operationalising the MS' RCM Database of Exporters and ensure it captures relevant data for EITI reporting.
- Produce toolkits and workshops to explain the EITI reporting requirements to ASM stakeholders and disseminate official information on the legal taxes ASM operators should be paying, and the illegal taxes they should not be paying.
- Evaluate other certification, as well as integrated traceability and due diligence schemes and utilise the payment data they provide. This includes, but is not limited to the BSP, CTC, iTSCi, and the Tucson Tanzanite Protocol.
- Promote harmonisation of efforts and regular communication by ensuring participation of stakeholders from RCM institutions in their respective EITI multi-stakeholder group (MSG) and representatives from the EITI MSG in RCM institutions.
- Work with the national implementing agencies to ensure the *Fiches d'Inspection Minière* (Mining Inspection Sheets) and the third party audit tools, in addition to capturing RCM data, capture all the additional data required for EITI reporting.

1 Introduction

So far EITI reporting in most countries focuses on large-scale Oil, Gas and Mining operations leaving aside the artisanal and small-scale mining (ASM) sector and the respective mineral supply chains. However, ASM is a significant economic activity with regard to mineral production and export in many developing countries, including many Member States of the International Conference on the Great Lakes Region (ICGLR). Integrating ASM and its minerals supply chain into Extractive Industries Transparency Initiative (EITI) reporting could therefore shed light on the contribution of this economic activity to government revenues and enhance the overall governance of ASM. This would enable the populations in mining areas to access relevant information and to hold government authorities at different levels (local, provincial and national) to account on how the sector is managed and the revenues are collected, managed and spent.

This pilot study aims at further conceptualising the Regional Initiative against the Illegal Exploitation of Natural Resources' (RINR's) EITI tool by examining possibilities to include ASM and the mineral supply chain into the EITI process and EITI reporting. It shall also propose ways of strengthening the link between EITI reporting and due diligence in the mineral supply chains, as promoted by the ICGLR's Regional Certification Mechanism (RCM).

Currently five ICGLR Member States (Central African Republic, DR Congo, Republic of Congo, Tanzania, and Zambia) are implementing the EITI standard; one of them (Central African Republic) is currently suspended. Several other Member States (e.g. Burundi, Uganda and South Soudan) have signalled their intent to implement the EITI. Although the ASM sector is predominant in many ICGLR Member States, including EITI implementing countries in the region, with regard to mineral production and trade as well as sustaining livelihoods of communities, the potential of ASM and mineral supply chains for Government revenues and development has often been neglected. Including ASM into EITI reporting could therefore contribute to increase the potential of ASM and the mineral supply chain for revenue generation and foster a public debate on ASM revenues and governance of the sector. Previous research has shown that some national EITI processes have included ASM in their reporting or plan to do so in the near future.

This Pilot Study conceptualises how to enhance transparency in ASM mineral supply chains in the African Great Lakes Region (GLR). The focus is two-fold. First, the Pilot Study researches how to integrate ASM into the EITI reporting framework, a framework that is concerned with the broader governance of the sector and includes the reconciliation of formal payments to Governments. Second, the Pilot Study evaluates synergies and implications between a possible integration of ASM into the EITI reporting framework and the ICGLR's RCM. The RCM is a mineral certification scheme that presents strong incentives for ASM formalisation regionally and has an inbuilt reporting requirement, which demands operators to report payments to Governments in line with the EITI reporting framework.

A two-page fact sheet that summarises the key findings complements this final report. Prior to the submission of this Pilot Study, in October 2014, the RCS Global/Geus team submitted

for comment an inception report to GIZ and the ICGLR, which was presented in Bujumbura, Burundi. This was followed up by a presentation of preliminary findings given to the Regional Committee of the ICGLR's RINR in Kampala, Uganda in November 2014. The recommendations in this final Pilot Study build on the findings of the past two deliverables, as well as stakeholder consultations in Burundi, the DRC, Tanzania and Zambia. The standardised questionnaire utilised during the interviews can be found in Annex 1.

The RCS Global/GEUS team proposed the four countries as case studies for the following reasons:

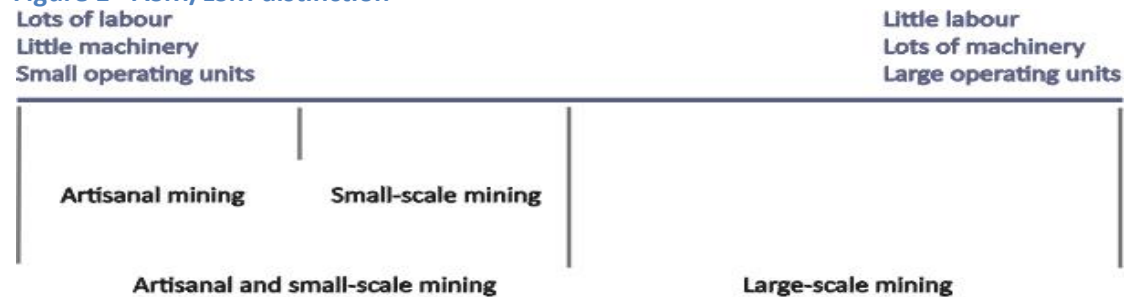
- The DRC, Tanzania, and Zambia are the ICGLR's three EITI-compliant countries under the old EITI standard. They are due for re-validation under the new EITI standard by July 2016 (Tanzania and Zambia) and July 2017 (the DRC). They have important ASM sectors and the DRC, Tanzania and Zambia have undertaken various initiatives to integrate the ASM sector in their EITI processes.
- Burundi is one of the ICGLR countries that has decided to apply for EITI Candidate Country status⁵ and other ICGLR MS have also expressed their interest in the initiative, namely: Uganda and South Sudan. Considering there is no industrial mining sector in Burundi, it could become a pilot country for EITI implementation in the ASM sector only.
- Progress in RCM implementation varies in the four countries: Zambia and Tanzania have not yet taken steps to implement the RCM; significant portions of Zambian production (e.g., Copper, Cobalt) are not affected by the RCM which only considers the 3TGs. Burundi has taken initial steps to set up the ICGLR Regional Certification Mechanism, however has not yet reached the level of practical implementation across all levels. The most advanced country in this process is the DRC, where the RCM is being operationalised in 3T supply chains (presently excluding artisanal gold) and the iTSCi system is operationalised at a broader scale and the Better Sourcing Program (BSP) piloted in tantalum supply chains.

1.1 Artisanal and Small-Scale Mining

ASM is a term that in reality describes a diverse sector that comprises a range of mining related activities that differ in scale and structure. The distinction between artisanal mining (AM) and small-scale mining (SSM) is often based on scale. Artisanal and small-scale mining (ASM) is labour intensive and uses little heavy equipment in comparison to large-scale mining. ASM takes place in small operating units, whereas LSM takes place in large operating units. Each of these characteristics can be represented on a spectrum:

⁵ Communiqué de Presse de la Réunion du Conseil des Ministres du mercredi 12 et jeudi 13 novembre 2014. <http://presidence.gov.bi/spip.php?article5080>, accessed on the 22.01.15.

Figure 1 - ASM/LSM distinction



In addition to scale, a significant distinction between artisanal mining and small-scale mining relates to ownership and control. Small scale refers to ownership or control by an individual or small group of individuals, where others are paid to work. Artisanal refers to a less formal arrangement where family or clanship groups share in proceeds without a formal notion of purchase of labour. The term ASM is used as a collective term for both groups.

ASM is an important sector, not only economically, but also socially, as it often constitutes a lifeline for marginalised population groups. This is particularly the case in many ICGLR countries and in remote areas where formal employment is scarce and means to supplement household income are limited.

As the activity is often carried out informally, seasonally and in remote locations, the absence of robust ASM census and production and trade data is typical. In other cases, advanced SSM licence holders are well known but owing to a lack of enforcement by Governments, legally required payments are not always made. ASM is also often associated with a vast array of social and environmental sustainability issues, including but not limited to:

- Child labour, including some of its worst forms, and forced labour;
- Disregard of occupational health and safety (OHS) in very high risk activities;
- Unsustainable economic migration patterns, which impact negatively what little public infrastructure and service provision there is in the area;
- Creation of a service economy providing services, such as sex work (including by children) or the narcotics trade;
- Financing of illegal armed groups either directly or indirectly, and facilitation of assets laundering;
- Environmental damages, including long term contamination due to mercury use in both rural and urban areas, degradation of watersheds, and deforestation;
- Negative impacts on Human Rights and corruption levels;
- Heightened conflicts with authorities, local populations, and LSM operation

By promoting greater transparency and disclosing important information in the ASM sector, EITI reporting has the potential to mitigate part of these effects via its contribution to better policy making and overall greater awareness.

Box 1 - Definitions

Definitions

“Formal mining”, “informal mining” and “formalization” are used in different ways in the literature; in this report we have used the following definitions, which are more relevant to the EITI context.

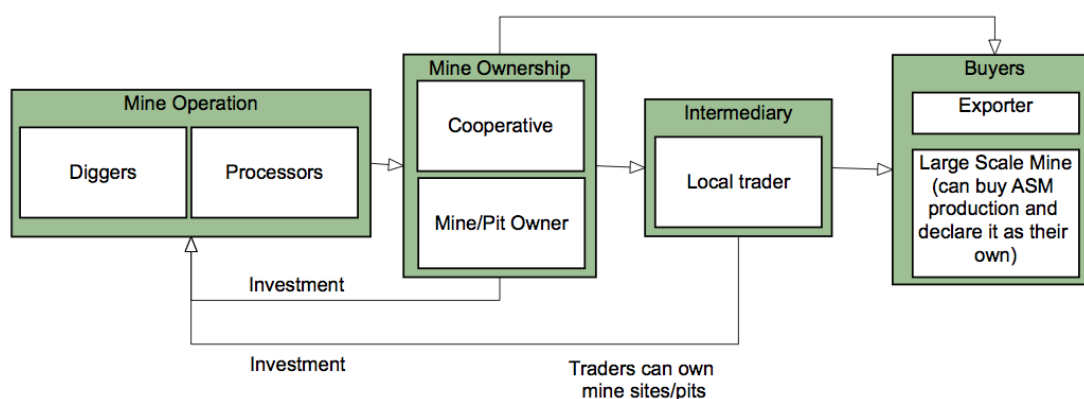
Formal mining: mining operations based on the mining licenses defined in the national legislations, typically Mining Acts or Mining Regulations. They have to report production and pay revenue as per their national legislation

Informal mining: mining operations, not based on a mining license.

Formalization: the authorities efforts to have individuals, groups of persons or an established Association or Cooperative obtain a license in accordance with the national mining legislation and work in line with legal requirements. Authorities use different types of incentives to support this process, such as providing technical and financial support as well as further extension services.

ASM is often a largely informally operating sector and thus by definition operating outside of the purview of the state. In fact, the level of formalisation and the fiscal potential increase considerably along the ASM value chain. To simplify and generalise both a complex context and complex value chain (please refer to figure 1 below), it could be said that: ASM operators sell their product to dealers/traders – sometimes licensed and, if so, by law often citizens - operating close to the mine who themselves usually sell their product to trading houses with a licence to export the product. The trading house will, most of the time, sell the product to an international buyer.

Figure 2 – ASM Value Chain



In the context of many ICGLR countries, significant volumes of ASM-produced minerals are fraudulently exported, though the overall percentage of fraudulent exports differs between high value/low volume metals, such as gold, and low value/high volume bulk minerals, such as tin, tantalum and tungsten (the 3Ts). Therefore, the proportion of the revenue the state receives, compared to what it should receive, is comparatively small.

For the ASM sector to be integrated into processes that focus on formal state revenue reconciliation, such as the EITI, and for such integration to effectively contribute to greater transparency in the sector, further ASM formalisation should be actively incentivised. In addition, Governments should enforce applicable legislation regarding legally required payments.

Formalisation is also of fundamental importance to RCM implementation. In fact, unless operators formalise, they cannot be certified under the RCM. At the same time, RCM implementation is a key incentive for formalisation, as an RCM certificate in theory provides ASM operators with access to markets requiring the performance of Due Diligence standards, where buyers pay world market prices, compared to the discounted prices achieved in grey markets for uncertified 3TG minerals.

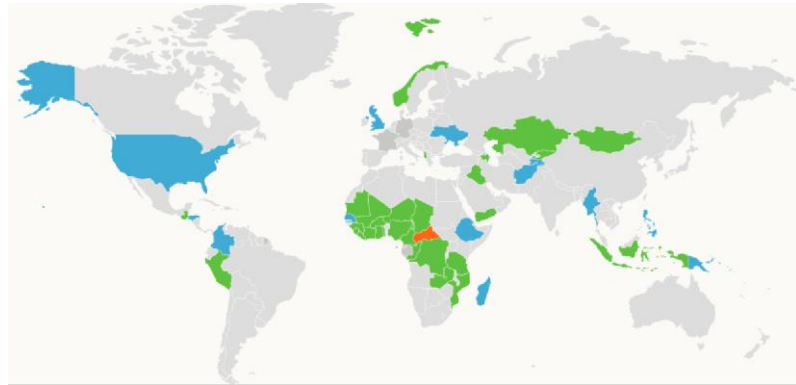
In an attempt to mitigate common risks and impacts associated with the increasing prevalence of informal mining – including but not limited to inadequate environmental management, poor health and safety provision and escalating security challenges – some Governments have stepped up their efforts to formalise the ASM sector. The most significant advantage of such processes for governments is that formalisation allows capturing revenues due to the Government.

The ASM value chain shown above provides different points of collecting state revenue, whether through royalties, licence fees, as well as different taxes. Importantly these different state revenues typically increase with the level of formalisation. The mining stage within the ASM value chain currently presents a comparatively smaller opportunity for state revenue collection, when compared with the export stage. This is due to a significant proportion of ASM value chains – particularly in bulk commodities – formalising at least partly at the export stage. ASM revenues are partly collected at subnational level making it a (potential) revenue for local authorities raising the question of revenue sharing with the central Government; while the revenue raised by these activities is generally marginal compared to the revenues generate by LSM, amounting to only a fraction of the state mining revenues, it can lead to conflict between central and provincial authorities, as is the case in South Kivu, DRC, for example.

1.2 The Standards

This Pilot Study focuses on two supra-national standards that are implemented at the national level through national efforts and legislation: the Extractive Industries Transparency Initiative (EITI) and the Regional Certification Mechanism (RCM) of the International Conference on the Great Lakes Region (ICGLR).

Figure 3 – EITI countries (October 2014)



1.2.1 The EITI

The EITI Standard seeks to ensure full disclosure of taxes and other payments made by oil, gas and mining companies to the governments of EITI-implementing countries.

These payments are disclosed in an annual EITI Report. At a very basic level, the EITI report should allow citizens not only to see how much their government is receiving from their country's natural resources, but also to establish whether the country has received a fair deal for its natural resources. The EITI Standard contains the set of requirements that countries need to meet in order to be recognised, first as an EITI Candidate and ultimately an EITI Compliant country⁶.

In some EITI-implementing countries, discussions have taken place around whether or not to extend the EITI to the ASM sector. In countries where ASM accounts for a significant part of national mineral production, as is the case in the four cases, not including the ASM sector in a transparency process (such as the EITI), deprives citizens of these countries of the information required to determine whether their country is receiving a fair deal for its minerals commercialised in the ASM sector.

To allow for implementation in countries with significantly different extractive industries, the EITI is a flexible standard within its framework, and the exact reporting differs from country to country. The table below summarises the nature of the flows covered by the EITI reports in the case study countries covered in this study (based on their latest issued reconciliation reports), bearing in mind that Burundi has not yet received the EITI candidate country status.

⁶ For more information on the EITI and access to their resources see: <https://eiti.org/>

Revenue Streams Covered	DRC	Tanzania	Zambia
Profits/Taxes	√	√	√
Royalties	√	√	√
Dividends	√	√	√
Bonuses	√		
Licenses and concessions	√		√
State-owned company production entitlement		√	
Other significant benefits to government	√	√	√
Other reporting information			
Includes In-kind Payments	NO	NO	NO
Latest used materiality threshold in current (05.12.14) USD	500,000	~85,000 (150,000,000 TZS)	~315,000 (2,000,000 ZMW)

Importantly, the 2013 EITI Standard Requirements 3 and 4 provide opportunities to relatively autonomous national level EITI MSGs to integrate the ASM sector into EITI reporting, not only from a formal payment reconciliation point of view, but also from a contextual point of view.⁷ This means the EITI, through the MSGs or through peer learning mechanisms as part of the ICGLR RINR, may provide a multi-stakeholder discussion platform within which different stakeholders can discuss and propose solutions for challenges related to mining sector governance.

Box 2 - Materiality Threshold

Materiality Threshold

It would be too burdensome for EITI reports to cover every transaction between the Government and the extractive sector.

To mitigate this burden EITI reporting only reports payments between the companies and the government institutions that are above a defined *Materiality Threshold*, determined by the MSG. Payments under the materiality threshold can be unilaterally disclosed but they will not be reconciled.

The DRC, Zambia and Tanzania are part of a group of twelve countries that have decided to participate in an EITI pilot to disclose the beneficial ownership of the reporting companies; however, at the time of writing, the DRC has not yet decided on the scope and methodology to be used for the disclosure of beneficial ownership⁸. TEITI and ZEITI were at the time of research unable to provide further information with respect to the implementation of the pilot to the visiting consultant.

From a reconciliation point of view, for the EITI to be relevant to the ASM sector it would need to intervene at the point at which significant and concentrated financial flows occur and formal taxes are paid. Current

⁷ EITI Standard Requirement 3 says, “The EITI requires EITI Reports that include contextual information about the extractive industries” and EITI Standard Requirement 4 says, “The EITI requires the production of comprehensive EITI Reports that include full government disclosure of extractive industry revenues and disclosure of all material payments to government by oil, gas and mining companies.”

⁸ For a full list of the participant countries please refer to: <https://eiti.org/pilot-project-beneficial-ownership>, accessed 18 November 2014

formalisation levels would suggest that in most ASM sectors this is currently the export stage, thus requiring a focus on exporters/traders. In fact, only a few EITI implementing countries have included the export stage in EITI reporting, a decision that can be taken by the national MSG.

Exporters are not easily compared to extractive operations. Their activities demand the reporting of different payments to Governments, such as income tax, corporate tax and export levies that may exceed the annual materiality threshold established by the national level EITI MSG (see box 2 on page 18). Of course, they may also not exceed it, as was the case in the DRC and Tanzania in the past, in which case deliberations should be undertaken to establish a separate materiality threshold for the ASM sector, if practically feasible.

Ultimately, the objective of the EITI is to allow citizens to determine if the country and its citizens have received a fair deal for their natural resources. To do so, there is a need for better data, not necessarily more data. A low materiality threshold needs to be weighed up against the usability of data and cost effectiveness of data collection, reconciliation, analysis and presentation. Ensuring the integrity of the data, rather than simply reconciling data that comes with integrity challenges is a key constraint to take into consideration going forward.

A number of research efforts exist on how ASM could be included within the EITI reporting framework (Garrett, 2007; Garrett, 2008; Garrett, *et al.*, 2009). To date all of these studies were conducted under the old EITI standard and at a time when mineral certification systems for 3TGs mined in the DRC and its 9 neighbouring countries were not yet implemented. Thus far only the Central African Republic has included the ASM sector in EITI reporting, doing so by focussing on its rough Diamond production. Liberia (LEITI), Nigeria (NEITI) and Tanzania (TEITI), for example, have taken the initial steps to include ASM or SSM operators paying royalties. *However, the fact that no established good practice framework yet exists on how to integrate the ASM production or export stage into the EITI, suggests that there is scope for a flexible approach, as well as the piloting of different approaches. It will be key to link such approaches to stakeholder incentives to implement the EITI.*

1.2.2 The RCM

The amount of information available regarding ASM production in the GLR has increased through the accelerated and broader implementation of traceability and certification mechanisms such as the ITRI Tin Supply Chain Initiative (iTSCi), the Certified Trading Chains certification system (CTC), the Tucson Tanzanite Protocol, the Better Sourcing Program (BSP), Zambia's national certification system, and the ICGLR's RCM.

Similar to the EITI, the RCM is governed by a set of regional standards, leaving the practical aspects of implementation to each member state.

The RCM is based on two complementary standards: 1) The Standard for the Inspection and Certification of Mine Sites and 2) The Chain of Custody Standard. The scope of these two standards is significantly broader than the scope covered by the EITI principles, with the limitation that the RCM in terms of minerals coverage is only focused on 3TG. The RCM applies to both industrial and artisanal mining operations and, in the early stages of its

implementation, has been focused on ASM operations. For the purpose of this study, emphasis is placed on directly relevant requirements of the RCM, which are:

1. RCM Certification Manual – Appendix 3b-1: Inspection Criteria for Artisanal Mine Yellow Flag Criteria 3.4.5 requires all actors in the mineral supply chain from mine site to exporter to pay the applicable taxes, fees and royalties and disclose such payments in accordance with EITI principles.

Requirement 3.4.5 refers to paragraphs 13 and 14 of the Annex II Model Policy of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, which in turn refers back to the EITI Standard.

2. RCM Certification Manual – Appendix 4b: Chain of Custody Standard for Artisanal Mining

The Chain of Custody (CoC) Standard defines requirements for each step of the in-country supply chain. Reference is made at each point of the supply chain to revenue transparency, requiring all actors to pay applicable taxes, fees and royalties as well as to disclose such payment in accordance with EITI principles and record payment information for each mineral lot exported.

Yellow Flag criteria do not prevent mineral exports under the RCM, provided that the yellow flag finding is addressed within a six (6) months period. The Chain of Custody standard, however, must be implemented by each MS and must be in conformance with Appendix 4 of the Certification Manual.

2 Burundi Country Report

DISCLAIMER: The Burundi case study has been conducted in November – early December 2014, before the enactment of its December 2014 Mining Policy by mines and quarries sectoral group members. The Case Study is concerned with the Mining Code adopted on 15/10/ 2013 as it stood before its amendment by the December 2014 Regulations. Some inconsistencies may thus arise in this analysis, in particular regarding tax rates.

2.1 The ASM sector in Burundi

Burundi's present-day mining sector is mainly composed of gold, wolframite and coltan (cassiterite is minor), as well as construction materials. Prospects for nickel and rare earth elements (REE) are in advanced exploration stage as the official opening of the exploitation mining company activities were launched October 2014.,. Currently, ASM miners undertake 100 per cent of the mineral extraction in the country. The most promising Nickel deposit (Musongati) is expected to start large-scale production in approximately five years' time, subject to typical risk factors applying to implementing a high-investment industrial mining project in a poor-governance local environment (interview with donor representative, November 2014).

In total, it is estimated that the mining sector employs approximately 20,000 individuals, divided equally among the 3TG and construction materials sectors (Midende, 2014). The contribution of the mining sector to the national economy is estimated at 1 per cent for the formal sector and 5 per cent for both formal and informal sectors (interviews with stakeholders, November 2014). According to estimates Gold represents the most valuable export product of Burundi in recent years (estimated more than USD100 million annual export value potentially surpassing coffee and tea, the traditional export mainstays).

Burundi's mining sector, compared to that of its neighbours, is relatively small and, theoretically, "manageable". A mine site in Burundi is defined as 1 ha and thus, one mineral deposit may include several sites. At the time of this study, there were 55 3TG mine sites operated by cooperatives that had completed the registration and approval process and obtained the exploitation permit (interview with BGR, November 2014), representing 50-80 per cent of the active sites in Burundi (interview with BGR and PACT, respectively, November 2014). The remaining sites are currently operating outside of the legal framework.

Legislation of the ASM sector

Burundi has recently revised its Mining and Petroleum Code and promulgated the new Mining Code in law n°1/21 of 15 October 2013, replacing the law n°1/138 of 17 July 1976. The Mining Code is complemented by Ministerial Order n°760/540/1758 of 26 December

⁹See Annex: Questionnaire for fieldwork below for the key questions to be asked during fieldwork

2013 and Ministerial Order n°760/540/1757 of 26 December 2013 (Bararunyeretse, 2014). Mining regulations (« règlement minier ») were still being developed at the time of this study and will play a determining role for the promotion of transparency in the extractives industry and the ASM sector in particular.

Taxes, fees and royalties have been increased significantly by the new Mining Code, creating strong incentives for actors in the mineral supply chain to resort to illegal practices such as under-declaration of mineral production, smuggling of minerals into neighbouring countries and under-declaration of mineral concentration by comptoirs. This issue was raised consistently in all stakeholder interviews. The Government has acknowledged the concern and is looking to alleviate the impact of the Mining Code through the mining regulations, seeking to harmonise legal texts on taxes, fees and royalties with neighbouring countries (interview with the Ministry of Mines, November 2014).

Formalisation

According to the Mining Code of December 2013, ASM miners are no longer allowed to organise themselves in not-for-profit associations but must form cooperatives. The result of this change is that previously applicable tax exemptions for non-profit organisations no longer apply to for-profit cooperatives. However, the lack of capacity of cooperatives to manage accounts and establish adequate record keeping practices presents a significant obstacle for transparency in the ASM sector (interviews with the Ministry of Mines, OLUCOME and COSOC, November 2014).

There are concerns that with the increase in the fees to be paid by cooperatives, there is a tendency to reduce the number of actors in the mining sector as well as to create a relationship of dependency between the individual(s) having registered the cooperative and the ASM miners active on the mine site (interviews with the Mining Chamber and Rainbow Minerals, November 2014). Similarly, the number of comptoirs that are accredited by the Government and have obtained the operating licence has dropped sharply since the enactment of the new Mining Code.

Given the relatively small number of cooperatives and comptoirs that are currently accredited and operate within the legal framework, Burundi would be an ideal country to test the application of EITI principles to ASM operations, as applying a lower materiality threshold than for countries with LSM operations may not be prohibitively costly and part of the required data is gathered through traceability and certification mechanisms.

Governance of the ASM sector

The main institutions governing Burundi's ASM sector are the Ministry of Mines (« Ministère de l'Énergie et des Mines ») which includes the Directorate General of Geology and Mining (« Direction Générale de la Géologie et des Mines »), a Department of Mining and Quarry (« Département des Mines et Carrières ») as well as Laboratory for the Control and Chemical Analysis (« Laboratoire de contrôle et d'analyse chimique » (LACA)).

In addition, a Mining Chamber (“Chambre Sectorielle des Mines”) has been established specifically to represent the ASM sector. However, the Mining Chamber is not considered to be representative of ASM miners in general and there is no clear procedure to elect representatives of the sector to the Chamber (interviews with donor representative, Rainbow Minerals and OLUCOME, November 2014).

Other governmental institutions that are concerned to some degree by the ASM sector include the Ministry of Environment (“Ministère de l’Eau, de l’Environnement, de l’Aménagement du Territoire et de l’Urbanisme”), customs and the Burundi Revenue Authority (“Office Burundais des Recettes” (OBR)) at the national level. In particular OBR would be key to promote transparency in the ASM sector owing to its mandate as tax collector (which it has done efficiently in other sectors) as well as the agency’s general level of capacity and competency. However the institution is relatively young and is still setting up its activities across all sectors of the economy.

Lastly, although Burundi is not a conflict-affected area and the security situation has been largely stable since 2008, there are reports of the national police receiving payments that are not part of their salaries to provide security at mine sites (OLUCOME, 2013).

Revenue collection in ASM mineral supply chains

The Burundian Mining Code of 2013 defines three types of taxes, fees and royalties to be paid: fixed fees (“redevances de droit fixe”), fees related to the superficies (“redevances superficiaires”) and the ad valorem tax. The table below presents an overview of fees on superficies, comparing the old taxation levels to the fees and taxes applicable since December 2013 (Presentation OBR, September 2014):

TABLE 1¹⁰: FEES ON SUPERFICIES FOR ARTISANAL EXPLOITATION LICENCES

MINERAL	ANNUAL FEES OLD MINING CODE	ANNUAL FEES UNDER TWO MINISTERIAL ORDER
Gold	8,000,000 BIF	20,000,000 BIF
Cassiterite	100,000 BIF	5,000,000 BIF
Wolframite	100,000 BIF	5,000,000 BIF
Tantalum	200,000 BIF	10,000,000 BIF

Fixed fees and fees related to the superficies have increased significantly with the revision of the Mining Code. Regarding the ad valorem tax applicable to ASM mining, taxes have increased for precious metal (gold) and have remained the same for base metals.

In addition to the high increase of fixed fees for the accreditation of comptoirs as well as fees on the superficies for ASM miners, Burundi’s taxation level for 3Ts is higher than taxes

¹⁰ Please note that following the issuance of new regulation the “ANNUAL FEES NEW MINING CODE” column is no longer accurate, as new regulations have been issued after the research work was completed.

applied by neighbouring countries, inducing the smuggling of 3Ts to neighbouring countries, particularly Rwanda (interview with Rainbow Minerals, November 2014) . The price paid to miners to informally sell 3Ts is believed to be higher in Rwanda compared to the formal price obtained in Burundi (interview with Rainbow Minerals, November 2014). Furthermore, export prices of 3Ts are up to two to three times higher in Rwanda than in Burundi, resulting in the under declaration of minerals content and/or value; In fact, the mineral value and actual production of 3Ts is significantly under-reported in Burundi (and interview with BGR, November 2014).

In the case of gold, Burundi's domestic production appears to be correctly declared at the export level, however production is under-reported at the level of the mine site. In addition, gold transiting through Burundi, particularly from the DRC, is not declared but directly transported through Bujumbura International Airport (UN Security Council, 2014, interview with BGR and Rainbow Minerals, November 2014).

The lack of incentive for actors in the mineral supply chain to participate in the formal economy is further evidenced by the fact that revenue from the mining sector has dropped in 2014 (interview with OBR, November 2014) despite the increased taxation levels, furthermore the increased taxation levels have further disincentivized ASM miners to formalise. Official figures for the revenue collected from the mining sector are not yet available for the year of 2014.

In this regard, the most significant challenges for the promotion of transparency in the ASM sector are the following:

1. The taxation system in Burundi is based on **self-declaration**; as OBR is a relatively young institution, no investigation has yet taken place of claims made by actors in the mineral supply chain.
2. A significant part of the 3T production (estimated at up to 70 per cent (interview with Rainbow Minerals, November 2014)) is not sold in Burundi but is **illegally transported to and sold in neighbouring countries**.
3. Gold production is **under-declared** at the mine level and gold imports from the DRC are not recorded. The lack of transparency in the gold supply chain is particularly important as the gold sector employs at least half of the 20,000 ASM miners and accounts for ca. 80% of mining sector export revenues in recent years (interview with BGR, November 2014) and Government revenue stemming from taxes, fees and royalties on gold has the potential to largely exceed the revenue from the country's main export products, tea and coffee.
4. The mineral concentration of 3Ts is believed to be **significantly under-reported** by comptoirs and the Directorate General of Geology and Mining crucially lack capacity to verify metal content of the concentrates prior to export.
5. There is **no benefit perceived** by ASM miners or local communities for paying taxes.

ASM revenues and EITI reporting

Burundi is not currently a Member of the EITI, despite having decided to apply for Candidate Country status, or of other transparency mechanisms specific to the extractive sector over and above certification schemes, such as the RCM. The World Bank encouraged Burundi to apply for EITI Candidate status and has stated that Burundi's membership may become a requisite for the country to receive World Bank funding in 2015 (interviews with GIZ, OLUCOME and TAMINCO, November 2014).

Considering that Burundi's full production derives from ASM, a much lower threshold could be applied in order to capture ASM-generated revenue, as long as the costs of EITI implementation are feasible in this context. Tying ASM formalisation in with RCM certification has the potential to offset taxation disincentives by allowing ASM miners to sell their production on the legal market and thus at world prices. Furthermore, it is of critical importance for Burundi to understand that EITI implementation brings significant reputational enhancement that can benefit the country's investment climate and eventually lead to the emergence of a continuum of mining activities, from AM to SSM to medium-scale and large-scale mining.

At the level of civil society and development partners, the World Bank and GIZ project Global Extractives Resources Initiative (GeRI) as well as civil society organisations OLUCOME and CONCEDI are actively working towards Burundi to joining and implementing the EITI. Their participation, alongside a strong political will to strengthen the EITI from the Government are essential to the successful implementation of the EITI and the inclusion of ASM in its reporting.

2.2 Incentives

With the new Mining Code, the Burundian Government has *de facto* established direct incentives against transparency in the ASM mining sector; the Government would directly benefit from increased transparency through increased revenue (interviews with OLUCOME, COSOC, OBR and Rainbow Minerals, November 2014).

In regards to ASM miners, there are currently neither plans nor funding mechanisms available to link a commitment to increased transparency to capacity building support (e.g. training for members of cooperatives, or the provision of tools and PPE). Instead, the only potential incentive for miners to commit to increased transparency would be the better prices they can theoretically gain by selling their product into certified conflict-free markets. However it is not clear if the higher price would be sufficient to offset the difference between the price paid in neighbouring countries and the formal price paid in Burundi, this price incentive would have greater relevance to 3Ts trading than to gold.

Another promising avenue to establish incentives may well be the linkage of mining activities with social and economic benefits for surrounding communities, thereby creating an interest for communities to push for more transparent practices.

2.3 Linking ICGLR Regional Certification Mechanism and EITI

Burundi has started with the implementation of the ICGLR Regional Certification Mechanism and has established the Ministerial Order n°760/CAB/584/2013 in this regard. Recently, Burundi adopted the Mining Inspection Sheet (“Fiche d’Inspection Minière”) to guide the mine site inspections according to the RCM standards. The Ministry of Mines has conducted a number of initial inspections of mine sites (interview with BGR, November 2014), however at the time this study was undertaken, had not yet published a list of validated sites.

Furthermore, the Ministry of Mines has signed a Memorandum of Understanding with ITRI and, after some delays related to the payment of program fees, iTSCi started operations in April 2014. At the time of research for this study, iTSCi had conducted 28 baseline assessments, approved 34 cooperatives and had five comptoirs that are members of the initiative, four who were full members and one who was a provisional member (interview with PACT, November 2014).

Data reported to the Government as part of the iTSCi project includes mineral production as well as taxation, and thus is directly relevant for the objective of furthering transparency in the ASM sector. iTSCi is looking to conduct a pilot project on transparency in Burundi and was in the process of conducting a feasibility study on this subject funded by the World Bank. Such a pilot project would be key to demonstrating the feasibility of the application of EITI principles to the ASM sector with a view to promote adhesion of Burundi to the EITI, as well as to better understand the costs involved in the reporting and reconciliation of payment data.

2.4 Key challenges and opportunities to enhance transparency in the ASM supply chain

Burundi currently faces two main challenges to enhancing transparency in the ASM supply chain:

1. The **level of taxes, fees and royalties** imposed on the ASM mining sector is too high to incentivise legal and transparent practices and therefore it has an overall negative impact on Government revenue.
2. The ASM sector and its regulators **crucially lack capacity** to allow for meaningful formalisation, to achieve safe and efficient extraction methods and to consistently maintain a mutually beneficial relationship with local communities. This results in a negative perception of mining activities by affected communities.

At the same time, there are opportunities to enhance transparency in the ASM sector in Burundi, including:

1. The legal framework and **mining policy are still under development**. The Government has recognised the challenge presented by the level of taxation and thus, the Mining Regulations provide an opportunity to mitigate some of the negative side effects of the current legislation.

2. The commencement of mine site inspections as part of the RCM, as well as the activities of iTSCi, provide both a formal framework for mining activities and regular monitoring of mineral production. Data gathered as part of these mechanisms offers an opportunity for both the Government and civil society to gain a better understanding of reported production levels as well as unusual fluctuations therein and could be used to test the application of EITI principles to the ASM sector in Burundi.
3. Civil society organisations have started to raise awareness about the EITI and already conduct an initial level of monitoring for illegal practices. For example, OLUCOME relies on local monitoring committees at the village level. These committees are not limited to the mineral sector but provide an important resource to help monitor certification and tagging systems.

3 Democratic Republic of the Congo Country Report

3.1 The ASM sector in the DRC

Estimates suggest the DRC's ASM sector produces 80 per cent of the DRC's total mineral production and that it is also a significant contributor to mineral exports (Polinares, 2012). There is significant variation between minerals, for example ASM is estimated to produce upward of 60 per cent of the country's cobalt (Öko-Institute, 2011; World Vision, 2013) and 100 per cent of the country's tantalum. Other significant ASM activities occur in gold (first and foremost), copper, tin, tungsten and diamonds.

ASM is mostly a poverty-driven activity for the miners (*creuseurs*) and is typically hierarchically structured, with various layers of intermediaries. While no comprehensive census data is available and estimates are therefore guesses, rather than informed exercises, CASM data from 2009 estimates that 2 million Congolese are working in ASM, with 10 to 20 more million dependent on their activities (Polinares, 2012). While important as a social safety net, ASM activities come with significant challenges that have been highlighted extensively in various reports on the sector and include a collection of human rights-related challenges, corruption, unsafe working environments, contribution to conflict financing and various others (Pact, 2010, SARW, 2012, Amnesty International 2014).

Under the current DRC 2002 Mining Code, ASM is subdivided into AM and SSM and is defined as follows:

AM: "Any activity by means of which a person of Congolese nationality carries out extraction and concentration of mineral substances using artisanal tools, methods and processes, within an artisanal exploitation area limited in terms of surface area and depth up to a maximum of thirty metres" (DRC Mining Code, 2002). AM are required to operate in Artisanal Mining Zones (Zones d'Exploitation Artisanale – ZEAs). In 2010, ZEAs covered one per cent of the national territory and PEPMs 0.029 per cent (DRC Ministry of Mines, 2010).

SSM: "Any activity by means of which a person carries out permanent small-scale exploitation, requiring a minimum amount of fixed installations, by using semi-industrial or industrial processes, after a deposit has been found" (DRC Mining Code, 2002).

Power relations within the sector tend to disfavour the *creuseurs*, who work on designated ZEAs. These are operated by cooperatives, which sometimes also work on mining concessions typically owned by third parties. As a general rule these cooperatives serve as processing centres for the minerals mined on their concessions and thus play a key role in their further commercialisation. While the use of cooperatives should create safeguards for the *creuseurs*, its distorted implementation often achieves just the opposite (CS Sud-Kivu GTTM, 2014; field observations), leaving the creuseurs worse off than they would be under different commercial structures.

Governance of the ASM sector

The DRC is currently engaged in the process of Mining Code reform, in which CSOs play an important role (ACIDH, 2014). CSOs have been campaigning to enshrine transparency

provisions into the forthcoming revised Mining Code, as has the Action Against Impunity for Human Rights (ACIDH) with the support of the Carter Center (ACIDH, 2014).

In its *Vision 2010-2015*, the Ministry of Mines outlines the direction of its efforts for the 2010-2015 period. Its principal objective is to enhance the contribution of the LSM and ASM sectors to the country's economic development while correcting important failures of the sector. It aims to do so in part by enhancing mining revenue in the short term and aims to strictly impose EITI principles and criteria (DRC Ministry of Mines, 2010).

In the DRC there are various entities of the Ministry of Mines that play a role in the ASM sector, but do not have an exclusive ASM mandate (Pact, 2010):

- The National Minister of Mines: creation of ZEAs, granting and withdrawal of approval for authorised traders for the purchase of artisanal exploitation products, issuing of authorisations for the processing of artisanally mined products.
- The Mine Provincial Authorities: issuance of artisanal miners' cards.
- The Mining Registry or *Cadastre Minier*: registration of ZEAs in the national database, ensuring that mining titles granted to mining companies do not overlap with ZEAs.
- The Geology Directorate: Opening and closing down of ZEAs.
- The Directorate of Mines: compiles and publishes statistics and information about the production and sale of products from mines and quarries, controls and inspects SSM and AM operations, receives and processes the applications for approval of authorised traders, issues its opinion at the opening of ZEAs; issues its opinion on the applications for approval of authorised traders for AM mineral substances.
- The Department in Charge of the Protection of the Mining Environment: definition and implementation of the mining regulations regarding environmental protection with regard to the rules governing AM miners.
- The *Cellule Technique de Coordination et de Planification Minière* (CTCPM): developing and adapting new techniques to improve artisanal mining, collating all statistics on artisanal mining production, collating and publishing legal and regulatory texts that are issued concerning the artisanal mining sector.

There are also two institutions that are dedicated to the ASM sector specifically (Pact, 2010):

- The CEEC – *Centre d'Expertise, d'Evaluation et Certification* (Centre of Expertise, Evaluation and Certification, which also holds some LSM responsibilities): certifies the value, quantity and appropriate taxation of all minerals prior to export, provides technical support to comptoirs, négociants and foundries through monitoring and control of mineral and financial flows, is tasked to fight fraud. The CEEC is widely considered to be a relatively more capacitated organisation (interview, donor representatives and civil society representatives, Kinshasa, November 2014).

- The SAESSCAM – Service d'Assistance et d'Encadrement du Small Scale Mining (ASM Assistance Service)¹¹. Despite its portfolio of activities that ought to benefit ASM miners, SAESSCAM intervention is not always viewed positively. The institution faces considerable challenges carrying out its mandate, including, but not limited to (Pact, 2010) the fact that the agency lacks a sufficient number of suitably capacitated agents and the fact that agents have multiple roles to play, including tax collection.

In light of the many challenges the organisation faces, SARW (2012) and other stakeholders have gone as far as to suggest that SAESSCAM should either be closed or reorganised (including privatisation or full provincial decentralisation (Pact, 2010)). However at the same time, specific SAESSCAM offices are noted as being well trained and very diligent in their work, namely: Kolwezi and Goma (Pact, 2010). If prudently collected, the information collected by SAESSCAM has the potential to be useful for reporting and monitoring purposes.

Formalisation

ASM's precise contribution to the DRC's fiscal revenues remains very low, as a result of widespread informality and underdeveloped record keeping capacity both at operator and GoDRC level. However, levels of formalisation vary not only by minerals, but also geographically. For example, ASM gold production in Orientale is noted as being organised enough to allow for the creation of partnerships and pilot projects (PAC, 2013), which contrasts with perhaps lesser-organised regions such as the Kivus. Much ASM produced 3T minerals in eastern DRC are exported formally and a greater level of formalisation is incentivised through the implementation of certification schemes, such as the ICGLR's RCM, CTC and the Better Sourcing Program.

This variation suggests that particular areas are better suited to formalisation and pilot implementation of processes that support formalisation and increasing transparency along the ASM value chain. Similarly, record keeping is a key part of operating formally and standards vary considerably by cooperative.

In addition to sector-specific impediments and opportunities for ASM sector development and formalisation, there are also external factors to consider. These include, but are not limited to:

- The fluctuation of ASM sector development and dynamics with international market prices (including migration from mining one mineral to another, depending on price), including the effects of extra-territorial legislation.
- GoDRC effectuated suspension of mining activities.
- The availability of and safety of pre-financing, as most pre-financing deals are undertaken outside of the formal Congolese banking system.

¹¹ Full information on SAESSCAM's mandate can be accessed on:

<http://www.saesscam.cd/SAESSCAM/pages/creation.php>

Taking these external factors into consideration, the need to adopt a multi-faceted strategy to achieve greater transparency in ASM value chains becomes apparent.

Revenue collection in ASM mineral supply chains

Estimates of fiscal revenues from ASM production and exports are rare and incomplete, with, for example, revenues from the trade in 3Ts from the Kivu provinces estimated at USD 4 million in 2008 (Garrett and Mitchell, 2009). Establishing accurate and more recent figures is a key gap in current knowledge.

Illegal taxation remains a significant challenge. Cooperatives, for example, are easy targets for requests by the authorities for extra-legal payments, which seriously undermines the cooperatives' business case. For example, an audit of a cooperative in Maniema (Kampene) suggests that cooperatives have to pay more than 100 per cent in taxes without even having sold the production (interview with BGR official, Kinshasa, November, 2014). This level of extra-legal taxation suggests that there will be strong opposition from those benefitting from current practices to a more streamlined and transparent approach to revenue collection and reporting thereof.

Typical illegal taxes include, but are not limited to: taxes to enter and leave the mines; payments to work in the actual pits; payments to have minerals registered; payments to the police and the traditional chiefs. One of the biggest sources of 'tax' is the product share demanded by the State Owned Enterprises from the AM miners working on their sites, up to 30 per cent of all production (Pact, 2010).

The categories of tax applicable to ASM are laid out in the Mining Regulations. The Mines and Finance Ministries, through an inter-ministerial decree, jointly determine the rate, the base and methods of collection of the duties, taxes and fees applicable to small-scale miners, to dealers and to approved trading posts as well as the applicable penalties for contravention (PACT, 2010).

Bodies responsible for ASM-related tax collection in the DRC are the DGI (Tax General Directorate), DGRAD (General Directorate for Administrative and Domain Revenues) and OFIDA/DGDA (General Customs and Excises Directorate); they are overseen by the IGF (the auditor general's office). However, a recent study undertaken for PROMINES (Pact, 2010) shows that 12 different tax payments are legally required along the value chain from mine to export in the DRC. This is an unnecessarily large number of tax payments to an unnecessarily fragmented number of mining tax collection authorities, which creates a plethora of transaction opportunities that agents from different revenue collection agencies can benefit from. Taxation at the export stage generates greater value, due to the aggregation of mineral shipments and the bulk export of minerals (except gold, which is rarely exported formally). Keeping taxation activities in a more concentrated geographical area, and taxing greater values of payments, make the export stage a relatively more material and potentially efficient stage in the ASM minerals value chain in terms of the reconciliation of payments to

the GoDRC and the receipt of payments to GoDRC by the different state organisations implicated in formal revenue collection.

According to participants at the ICGLR-OECD-UNGoE Forum in Kinshasa in November 2014, the principal state institution in charge of collecting export fees is the CEEC. This differs from the field survey conducted by PACT (2010), quoted above. The CEEC does however appear to be in charge of collecting data on export volumes and values, as well as the amount of taxes paid at the export stage (interview, donor representative, Kinshasa, November 2014). For official 3T exports these data are disclosed on ICGLR certificates issued by CEEC for export lots. This suggests that the CEEC is a key institution to partake in any process that has the objective to make promote greater transparency around payments to the GoDRC and GoDRC revenues from the ASM sector.

3.2 ASM revenues and EITI reporting

The DRC EITI

The DRC became an EITI Candidate Country in 2007 and was declared a Compliant Country by the EITI Board on July 2014, after being suspended between 2013 and 2014. To date it has published five Reconciliation Reports, and the 2012 report is expected for publication in December 2014 (EITI Website, 2014).

The EITI process in the common EITI report for the years 2008-2009 already included the ASM sector in EITI reporting. The GoDRC, through the *Arrêté ministériel N°0186/CAB.MIN/MINES/01/2012 du 23 mars 2012*, has established a rule for mandatory disclosure of information under the EITI process. It includes exporters of mineral products (comptoirs) that were produced through ASM. The validation of that EITI report found the payments made to be immaterial and the comptoirs were left out of subsequent EITI reports (interviews with various stakeholders, Kinshasa, November 2014). When comptoirs were included in the reporting significant discrepancies were uncovered, based on the flows declared by the comptoirs 88.3 and 92.47 per cent of these were not declared by the State Institutions in 2008 and 2009 respectively (calculations based on the flows report in the EITI reconciliation report 2008-2009).

Currently the EITI Technical Secretariat in Kinshasa has commissioned a study to determine how exactly the ASM sector could be integrated into the EITI. The EITI Technical Secretariat expects the study to be finalised by December 2014 (interview, EITI Technical Secretariat, Kinshasa, November 2014).

Materiality of payments is a key consideration under the EITI and the question of whether or not to integrate ASM revenues into EITI reporting should consider the financial sense behind such integration, the incentives for stakeholders to support such integration and their incentives to contribute to effective implementation, as well as the expected outcome of such integration. There is a good reason why the current materiality threshold for EITI reporting is set at USD 500,000 (interview EITI Technical Secretariat, Kinshasa, November 2014). The payment threshold means the EITI process still captures the vast majority of

formal payments to the GoDRC, making a reconciliation and EITI process validation not only practically feasible, but also financeable. A USD500,000 threshold captures 99.75 per cent of the revenues declared in the 2011 EITI Reconciliation Report. However, a large volume of mineral production and exports produced by ASM is left out. Lowering the payment threshold substantially enough to capture more payments to the Government from the ASM sector would lead to significantly higher reconciliation, validation and data interpretation costs in the context of an only marginal increase in the overall values of payments to Governments captured by the process (interview with CTCPM, and EITI Technical Secretariat, Kinshasa, November 2007).

The work conducted by Congolese CSOs as part of EITI implementation, either jointly or individually, across the country includes: the dissemination of EITI/DRC reports, albeit to only limited areas due to a lack of financial resources. GIZ is now testing possible EITI implementation in ASM in North Kivu and South Kivu, and as part of such efforts, finances CSOs to participate in EITI debates and scoping studies (commentary received from GIZ representative, Kinshasa, November 2014). Finally, various CSOs evaluate the EITI process on a quarterly basis and make recommendation on its implementation (SARW, 2014).

3.3 Incentives for implementation

The incentives for stakeholders to support integration and contribute to effective implementation are paramount to the eventual success or failure of any attempt to integrate the ASM sector into EITI reporting. The following paragraphs look at businesses, communities, the GoDRC and civil society.

Businesses

Cooperatives and business owners are incentivised to participate in the RCM and EITI in ASM implementation, as it could allow them to obtain access to investment and international conflict-free markets, as well as achieving a reduction in the illegal taxes levied upon them. It is important to note here that many business and cooperatives in the 3T business are already indirectly reporting some of their payments to the Government to ITRI through the data collected by the iTSCi scheme. ITSCi, in turn, updates the GoDRC on their activities. In addition, the RCM gathers data at the mine site and export level that is available to the Ministry of Mines as part of the RCM certification process.

Communities

Communities, some of which include the *creuseurs* themselves, have much to benefit from knowing how much operators pay the GoDRC. So called “Basket Funds” set up with the provincial Governments in North Kivu and South Kivu that benefit from multi-stakeholder oversight, are supposed to leverage funds provided through all forms of mining for local development, including infrastructure development (interview with BGR representative, Kinshasa, November 2014). For example, in cassiterite and tantalum, operators pay a fixed amount of USD 124 per tonne into the funds (ibid.).

Government

The incentives for the DRC Government organisations to participate meaningfully in the process over and above those already mentioned in the Introduction to this Pilot Study are less straightforward. ASM revenues are a considerable source of extra-legal payments and other forms of predation on revenues otherwise due to the state. That said, tax collection agencies can improve subnational revenue collection if strong anti-corruption oversight is implemented across Government tax collection agencies, the number of agencies in tax collection is reduced and overall record-keeping and reporting capacity is improved.

Civil society

Civil society would particularly benefit from the cooperation among the ASM sector's stakeholders the EITI process would foster and the additional information that would become available to civil society as part of implementation, allowing civil society to do a more effective job in the monitoring of the sector.

Regional EITI Antennas

Under the EITI process, five regional EITI antennas were established in key producing provinces, but these are currently closed (interview with GIZ representative, Kinshasa, November 2014). There are a number of explanations for the establishment of these antennas and their closure. On paper, the antennas are a useful way to bring the EITI process closer to provincial level tax authorities, which could be a significant advantage in the context of EITI implementation in the ASM sector, as the ASM sector pays taxes both at the mine level and at the export level (see chapter on taxation above). Views between donor representatives on the utility of the antennas in the context of integrating the ASM sector into EITI reporting differ. If the EITI antennas re-open it will be important that these are managed with a view to upholding the integrity of the EITI process and to link to the existing RCM implementation.

3.4 Linking ICGLR Regional Certification Mechanism and EITI

Of the studied countries, the DRC is the most advanced in terms of RCM implementation and there are significant synergies between RCM and EITI implementation (see further below). The DRC regularly carries out mine site inspections and the Ministry of Mines publishes lists of validated "green" mine sites. The Government has also started issuing ICGLR certificates at the export level; however, so far the Chain of Custody system has not yet been audited independently for conformance with the requirements of Appendix 4 as required by the Certification Manual, Sections 4.2 and 4.3.

The GoDRC has translated the ICGLR's standard for mineral certification into law by adopting the Manual for the Certification of Ores in the Tin Industry in the DRC, Principles, Guidelines and Standards (Version 0 of 22 February 2011) and the Manual for the Certification of Ores in the Gold Industry in the DRC (Version 0 of 22 February 2011). As discussed in the general part of this report, EITI reporting provisions are a yellow flag criterion under the RCM.

The key challenge in using data generated by the RCM for EITI reporting purposes is the availability of existing data to the public, due to confidentiality concerns and existing agreements between ITRI and the GoDRC as well as the fact that the ICGLR database, where such data is supposed to be stored and processed, is not yet fully operational.

However, there are also opportunities for synergies and collaboration:

- EITI implementation in the DRC already relies on CSO efforts and has created a high level of trust between all stakeholders and a good degree of collaboration within the DRC's MSG and outside of the MSG between all stakeholder groups. Certification of 3Ts has seen the establishment of civil society platforms with representations in neighbouring countries, or local monitoring committees established within the iTSCI scheme. Associating representatives from these organisations with the MSG would not only benefit the exchange of information domestically, but may also provide an opportunity to share good practices in governance of the mining sector regionally.
- There is significant scope to take advantage of synergies arising from the need for outreach for the RCM and existing sub-national outreach activities of the DRC EITI, as well as leveraging established EITI forums for discussion of issues related to RCM implementation.
- Once the RCM export certificates gain recognition from the Conflict-Free Sourcing Initiative (CFSI), they will further incentivise the formalisation of ASM activities in the DRC and the GLR, as it will provide access to better paying conflict-free markets.
- ICGLR export certificates and the according documentation must state the value of each lot exported and the taxes due at export, which would serve to fight under-declaration, which is a key constraint to the integrity of reconcilable data under an EITI process, if an effective verification mechanism (e.g. mass balance audit) is applied.

3.5 Key challenges and opportunities to enhance transparency in the ASM supply chain

The RCM implementation in theory already establishes the data on formal payments to the GoDRC from certified operators' activities along the domestic 3TG ASM value chain until the point of export, by virtue of the export certificates providing values, grades and volumes and the certification standard requiring the reporting of payments in line with the EITI principles. However, there are no formal provisions within the RCM that would make it mandatory for the GoDRC to publish revenues received from certified operators. This is a key limitation of the certification standards with respect to furthering transparency in the ASM sector. That said, this is the stage where the EITI process could play a useful role, as those GoDRC revenue collection agencies that are already accustomed to participation in the EITI process, including the CEEC, would only need to undertake marginal additional work to achieve the publication of revenues received.

Whether the reconciliation would need to be part of a formal EITI process or could simply be undertaken informally by civil society will largely depend on the financial sense behind such integration, the incentives for stakeholders to support such integration and their incentives

to contribute to effective implementation, as well as the expected outcome of such integration, as elaborated further above in this case study.

Should a reconciliation process not be the preferred way forward, it is important to highlight that the information established through RCM implementation would go a long way to significantly enrich the DRC EITI reports' contextual information. While current discussions at the DRC's EITI Technical Secretariat level look at the compilation of contextual information as a quantitative data analysis, RCM implementation would provide important data to allow for a qualitative analysis of key issues and debates within the ASM sector, which would be very helpful for stakeholders to understand.

4 Tanzania Country Report

4.1 The ASM sector in Tanzania.

Tanzania is endowed with a variety of minerals, including gold, gemstones, base metals, coal and other industrial minerals. Both artisanal and small-scale miners (ASM) and world-class large-scale mining (LSM) operators conduct mineral exploitation.

Despite the presence of LSM operations, ASM remains the greatest employer in Tanzania's mining industry, employing slightly over 680,000 people (492,810 men and 187,575 women), while the total number of people employed by LSM is estimated at 12,000 people. Since 2004 the Government has set aside special areas of more than 589,613 ha specifically for ASM activities (Baseline Survey on ASM Activities, Draft MEM 2012).

Most ASM miners are itinerant and have at least two working seasons during the year. During the wet season many engage in agriculture, and venture into mining areas during the dry season. In ASM communities, households combine different activities for a livelihood, although mining is the most significant cash income earner for the households.

A typical division of labour in a gold producing area will consist of claim holder(s), pit owner(s) permanent casual labourers, service providers, and mine workers. Although the amount of gold produced by the ASM sub-sector is much smaller than LSM's, it gives very large economic benefits and support system to over half a million of miners and their families, and contributes to a significant extent to the allocation of resources to the rural economy.

However, income disparities are common: at ASM sites, supervisors take the lion's share, while the production team, including drillers and haulers, receives very little as compared to their contribution in terms of manpower. A common situation for all minerals produced is that underpaid miners are at the beginning of the chain, while supervisors and brokers form the middle part of the chain and have better incomes.

4.2 Governance of the mining sector

Ministry of Energy and Minerals

The Ministry of Energy and Minerals (MEM) has a Department of Mineral Resources headed by a Commissioner, which in turn has five sections (at the headquarters) and eight "Zonal Offices" (Regional offices) all headed by Assistant Commissioners. Each of the Zonal Office is supported by a number of "Resident Offices" (District Offices), which in turn are headed by a "Resident Mines Officer". The level of activities in the respective area determines the number of resident mines offices in each Zone. In total, the country has 22 field offices, eight of them Zonal Offices and 14 Resident Mines Offices (Baseline Survey on ASM Activities, Draft MEM 2012 + interviews).

The administration of the mining sector is carried out centrally under the jurisdiction of the Commissioner for Minerals based in Dar-es-Salaam. The administration works both through the Assistant Commissioner for Small-scale Mining based in Dar-es-Salaam and through the regional offices at the Zonal level. The Zonal Mines Officer is responsible for the overall administration management of the mining activities in that “Zone”, the licensing of ASM mineral rights (Section 55 of the Mining Act, 2010), the provision of technical assistance to PML holders and the provision of assistance regarding applications to the Small Grant Facility administrated by MEM (Baseline Survey on ASM Activities. Draft MEM 2012 + interviews).

The Mining Act and PML Licenses

The Mining Act of 2010 does not provide a definition of ASM. In Section 4 Small-Scale Miners are defined as those operating under a Primary Mining Licence (PML) whose capital investment is less than USD 100,000 or its equivalent in Tanzania Schilling (TZS). A PML for building materials covers a maximum of five hectares and PMLs for other commodities a maximum of 10 hectares. Section 15 and 16 give a definition of “Designated Areas”, which are areas to be exclusively used by small-scale miners who have a Primary Mining Licence (PML), (see Sections 54-58 of the Mining Act). Since 2004 the Government has set aside more than 589,613 ha specifically for ASM activities.

The Cadastre Office in MEM has issued 36,074 Primary Mining Licences to 27,815 licence holders, which total 3.899 km² (as of 15 July 2014, Cadastre Office). The current computerised cadastre system publishes existing applications and existing licenses on <http://portal.mem.go.tz/map/>.

Geological Survey of Tanzania (GST)

GST is a government agency under the Ministry of Energy and Minerals. The GST has the obligation to assist PML holders with geological and exploration assistance.

Stamico

Stamico is a public corporation formed in 1972 with the aim of conducting exploration, mining, production, processing, sorting, cutting, reserving, distribution and selling of minerals in Tanzania. Stamico has recently been provided funding to assist the PML holders with technical assistance, such as: drilling, processing techniques and exploration methodology.

Formalisation of the AM and SSM sector

The formalisation of the SSM sector is done through the issuing of PML licences to individuals or groups of persons (Associations). The staff visits informal mining operations from the relevant zonal office, which assists with the application for licences. The incentive for formalisation for ASM miners is the possible economical support from the Small Grant Facility, and the technical support from the zonal office of MEM and Stamico as well as from the GST.

Revenue collection in the mining sector

Revenue collection in the mineral sector (LSM and ASM) involves the following institutions (4th Reconciliation Report. TEITI July 2014):

Ministry of Energy and Minerals (MEM) – collects royalties for production, licence fees, application fees, export permit fees.

Tanzania Revenue Authority (TRA) – collects corporate tax, VAT, Pay-as-you-Earn (PAYE), import duty, etc..

Local Government Authorities (LGA) – collects local levies, service levies, and local taxes.

The owner of a PML has to report its production, and based on this number, pay the appropriate royalties, taxes, fees and so on. The legal system for reporting production and collecting revenue are in place but there is a lack of available resources for enforcement at the zonal office level. Based on interviews with different stakeholders it is estimated that between 15 and 20 per cent of the PML holders actually are active and that only 100-300 actually report their production and pay the monies due.

A number of the interviewed stakeholders pointed out the following constraints leading PML holders to not pay revenue:

1. Lack of sufficient human and financial resources in MEM and TRA to enforce the legislation.
2. The relation between the PML holder and the buyer is built on trust. Similar trust between PML holders and the authorities should be built.
3. Legislation may be overwhelming for PML holder that employs diggers who do not have sufficient training to comply with complex requirements related to environment, health, labour, tax, security and other areas.

Including ASM revenues in EITI reporting

TEITI Secretariat

The EITI International Board accepted Tanzania as an EITI-implementing country on 16 February 2009 and it was declared compliant on 12 December 2012.

The TEITI-Multi Stakeholder Group (MSG) was established to lead the implementation of the EITI in Tanzania. The TEITI Secretariat supports the TEITI-MSG, which is responsible for the daily coordination and implementation of activities under the guidance of the TEITI-MSG.

To date, four annual EITI reports have been published, covering the period from the 1 July 2008 to 30 June 2012. Each report demonstrates the yearly improvements in relation to the number of reporting companies and the total revenue reported. Work towards the fifth reconciliation report has been initiated and a Scoping Study Report is under development to cover the period of 1 July 2012 to 30 June 2013. The report is to be published in June 2015.

The Scoping Study for the fourth annual report included both companies and exporters. The information provided to the Scoping Study and related to the 2012 tax collection were

limited to payments received by the Tanzania Revenue Authority (TRA), the Ministry of Energy and Mines (MEM) and the Tanzania Petroleum Development Corporation (TPDC).

Materiality threshold

Details on the taxes, fees and levies covered by the Scoping Study for the fourth reconciliation report cover the 101 extractive companies (in the mining and petroleum sectors, as well as exporters) that were audited. The materiality threshold has been set up at TZS 150,000,000 (approximately USD 86,000 as of December 2014); 43 of the 101 companies reported represent 98.79 per cent of the total revenue collected from the Extractive Companies. The involved exporters and PML holders did not reach the materiality threshold. In economic terms the exporters are not important; however they do provide important information on the mining sector. Therefore, the audit in the fourth reconciliation report includes only 43 companies.

The TEITI Secretariat does not have a comprehensive database of all extractive companies operating in the sector. The data are provided by TRA, MEM and TPDC and collected through the yearly Scoping Study. The materiality threshold is then decided and the audit initiated, which form the basis for the Reconciliation Report.

4.3 ASM in EITI reporting

In 2012 TEITI has already initiated its outreach to the ASM sector with the objective of incorporating this sector into the EITI process and potentially including it in future TEITI reports. Indeed, the TEITI intends to include some information regarding the ASM sector in its fifth Reconciliation Report.

The TEITI would have the following possibilities in the short and long run:

- Report data from PML holders reporting their production and paying their taxes.
- Report data from SSMs involved in the Tanzanite Certification Mechanism (see below).
- Increased resources given to the Zonal offices by the MEM, thus allowing for an increased number of visits to PML holders and the possibility to discuss ways to have PML holders report production and pay revenue. Complementary incentives such as support from Small Grant Facility, increased extension services for MEM and Stamico as well as from the Geological Survey of Tanzania (GST) would support the process.

Incentive for the government to include ASM into the EITI

Despite the fact that the included LSM companies pay 98.79 % of total revenue, ASM remains the greatest employer in the country's mining industry. Inclusion of ASM in the EITI reporting would thus provide all interested parties with a better understanding of the structure of the mining sector.

TEITI intends to explore the possibility to report on the ASM sector and the exporters. Members of the TEITI-MSG interviewed expressed the view that the TEITI decision to initiate reporting of the few PML holders reporting would put pressure on MEM to increase its legislation enforcement activities.

Incentives for the ASM sector to be included in EITI.

The interviews with the stakeholders did not provide any strong arguments for the inclusion of the ASM sector or PML holders in the EITI sector.

Amongst the incentives for PML holders to report production and payments are the possibility to obtain access to economic support through small-grant facilities, and loan facilities (revolving funds) as well as technical support, which may improve the outcome of the mining activity undertaken.

CSOs are participating actively in the EITI process, are members in the MSG in TEITI and are putting pressure on the PML holders to start reporting and pay revenue

4.4 Linking ICGLR Regional Certification Mechanism and EITI

In 2013, representatives from Tanzania visited the DRC, Rwanda and Burundi to learn about their experiences in implementing the RCM. Tanzania has a very early version of a work plan for the possible establishment of a national certification mechanism for 3TG under the RCM. However, the amount of 3T mined in Tanzania is very limited. The Mining Act and Mining Regulations are currently under review and regulation compliancy with RCM is planned for April 2015 (interview John Nayopa, 30 October 2014).

Nevertheless, a number of certification mechanisms are in place or under development in Tanzania for other minerals, and provide improved possibilities for inclusion of data from the ASM sector into TEITI reporting.

The Tucson Tanzanite Protocol

In 2001 a number of articles in leading US newspapers claimed that Al Qaeda controlled the Tanzanite mining. Consequently, the market for Tanzanite collapsed, and especially so in the USA. In reaction, the Government of Tanzania contacted American jewellery importers, and the establishment of the Tucson Tanzanite Protocol (TTP) was announced on February 9th 2002. The TTP ensures relevant labour legislation, safety regulations and best mining practices are adhered to at all times (interview with John Netopia).

The TTP is a cooperative effort by the government of Tanzania and all of the industry's major stakeholders. The TTP certification is managed from an MEM unit established in Melalani

with a number of inspectors visiting mining sites and providing the background for the certification. The certification had a slow start but during the last two to three years an increasing number of PML holders have been included in the initiative.

In general, the PML holders mining Tanzanite sell to a broker, who in turn sells to a dealer. The dealer needs a certificate for the tanzanite to obtain an export licence. The one LSM (Tanzanite 1) and a few PML sell directly to a Dealer. The majority of these dealers are included in the TEITI Scoping Study.

It should be noted that the TTP does not include a requirement to disclose payments of taxes, fees and royalties in accordance with the EITI; however, the TTP licence holders have to prove they pay the relevant taxes in order to obtain the certificate and the information produced in the process is in line with EITI requirements. Furthermore, with the RCM being limited to the 3TG, there is no requirement for these certifications to be aligned with the ICGLR RCM Standards.

4.5 Key challenges and opportunities to enhance transparency in the ASM supply chain

Enhancing transparency in ASM supply chains in Tanzania.

The **owners of a PML** have to report its production and pay the appropriate taxes; thus the legal systems for reporting production and collecting revenue are in place. As noted above, there are a number of capacity-related constraints that prevent PMLs from actually reporting their production and paying royalties and other taxes.

The brokers are licensed by MEM, and they are to report the flows of commodity. However, the field research results suggest that in reality very few report and the main challenge is the enforcement capacity of the MEM and its ability to obtain accurate statistics.

The major **dealers** (exporters) report to TEITI; the revenues for the major dealers are included in the Scoping Study for the fourth TEITI reconciliation report (TEITI, June 2014). In addition to other taxes and export levies, dealers participating in the TTP process are paying royalties included in the Scoping Study. TEITI will further develop its contact with the exporters and increase the number of exporters included in the respective Scoping Study.

Practical ways to gather ASM-related revenue data

The responsibility for the gathering of ASM-related revenue data lies with the MEM and its control of the Zonal offices. The process of gathering revenue data from the ASM sector could be strengthened through:

- The continued inclusion of more Tanzanite miners in the TTP.
- Increasing the resources allocated to the Zonal offices, to allow them to visit the PML holders and monitor their production, and through this the payment of taxes.
- The introduction of the ICGLR RCM for 3TGs in Tanzania will provide an opportunity to monitor the production through the implementation of mine inspections and chain-of-custody standards.
- Further development of the dialogue with the dealers and brokers.

Potential pilot implementation:

1. The MEM should select a test area and allocate increased staff to enforce the legislation and provide technical support as a means to increase incentives for PML holders to report on production and payments of taxes. The increased payment of taxes should cover the costs for the increase in staff. Idrisa Katela, who manages the World Bank Program, mentioned preliminary plans to have a test area around Geita, where some PML were reportedly paying taxes.
2. The TTP has been making good progress in increasing certification in the region mining tanzanite. The MEM should increase resources to ensure the TTP will cover more PML holders reporting on production and paying taxes.
3. The implementation of the RCM for 3TGs might benefit from a pilot project in one or two Zonal regions. Lessons learned in implementing the RCM, especially from the DRC, should be included in these considerations. The MEM and the World Bank are currently in discussions at the moment for a gold-mining initiative in an area around Geita.

5 Zambia Country Report

5.1 The ASM sector in Zambia

The Mineral Resources Development Policy (MRDP), which is a revision of the 1995 Mining Policy, draws heavily on Zambia's Vision 2030 (Zambia Vision 2030, December 2006), which provides the blueprint for achieving accelerated growth aimed at raising the standards of living of the people of Zambia.

Despite contributing 9 per cent of GDP, the mining sector's tax contribution to the treasury is very low at 1.1 per cent of the GDP. This is mainly due to the incentives that were granted to LSM companies through Development Agreements between 1995 and 2008. In addition, the contribution to the economy of the SSM sector, which is dominated by Zambians, was insignificant. Thus the potential of the sector to contribute to economic development has not been fully realised. (MRDP, 2013).

Section 7.6 of the MRDP states: *"To develop the small-scale mining sub-sector Government will undertake the following measures:*

- *Encourage the use of appropriate, affordable and safe-technology;*
- *Build capacity in Regional Mining offices to enhance their service delivery;*
- *Collaborate with small-scale miners' associations;*
- *Disseminate information to raise awareness on occupational safety, health and environmental risks, and provide occupational health and safety guidelines for small-scale mining;*
- *Improve the system of information flow for the mining sector to sensitize and create awareness, especially for artisanal and small-scale miners and rural population, on the opportunities present and the regulations governing the sector; and*
- *Facilitate small-scale miners' access to finance for the development of the sub-sector."*

SSM in Zambia causes a number of environmental and health problems such as land degradation, siltation, deforestation and chemical pollution, which are well described in the literature (Tychsen, ed., 2008).

Experience from the SSM sector in Zambia shows that in many cases SSM licences are not active. Some licence holders keep it as a future investment. Other licence holders cannot obtain the credit required and/or do not have sufficient technical knowledge, and therefore they postpone the mining activity. Many gemstone licence holders in Zambia are currently not active, mainly due to the aforementioned financial/technical constraints.

The economic characteristics of the ASM sector in Zambia are currently limiting the potential of the sector to contribute to the country's economic development, both on the macro and micro levels. There seems to be a need for linking the obtainment of mining licences more adequately to the financial and technical capacity of the applicants, in order to develop their mine sites. In addition, the enforcement of the legal aspects of mining operations should be improved (Tychsen, ed., 2008).

Governance of the mining sector

The Mines and Minerals Development Act No. 7 of 2008 provides the legislation covering exploration, mining and the processing of minerals, while the relevant tax laws govern the fiscal regime of the mining sector. The MMEWD shall undertake the policy's implementation monitoring and evaluation on an annual basis, with the involvement of all stakeholders.

The Ministry of Mines, Energy and Water Development (MMEWD)

The MMEWD has a head office in Lusaka and a regional minor department in Kibwe (mining safety) and minor Mining Bureaus in six of the provinces. The administration of the ASM sector is carried out centrally under the jurisdiction of the Deputy Minister for Small-Scale Mining assisted by the Director of Mines and his staff.

The Mining Act of 2008

The mining industry in Zambia is governed by the Mines and Minerals Development Act 2008, which recognises the distinction between SSM and AM:

Small Scale Mining Licences: relate to areas not exceeding 400 hectares and have duration of 10 years, renewable.

Artisans Mining Rights: give the right to local people to mine, on an artisanal scale, an area not exceeding 5 hectares for a period of 2 years, non-renewable.

Gemstone Licences: holders may carry out mining operations over an area not exceeding 400 hectares for a period of not more than 10 years.

The Cadastre Office in MMEWD has issued 358 small-scale mining licences to 262 licence holders and 44 artisanal mining rights to 36 holders, as reported in the fourth reconciliation report (ZEITI, 2014). The numbers for 2013 are 372 small-scale mining licences to 264 licence holders, and, 76 artisanal mining rights to 61 licence holders (Communications with Director of Mining, MMEWD).

The Geological Survey Department (GSD)

The GSD is a government agency under MMEWD, and hosts the ZEITI. GSD is responsible for the certification of gemstones as well as other commodities. To do so, the GSD has the necessary laboratory facilities to evaluate the most common commodities mined in the country. GSD is involved in the geological assistance to AM and SSM provided by MMEWD.

Economic support from Government

In 2006, the government established a revolving fund to provide loans to the holders of a mining licence. The concept was a loan of 50,000 Kwacha, with an agreement to pay back 65,000 Kwacha within three years. Participants interviewed indicated that very few actually paid back the loan, and the revolving fund was closed.

Currently, the Citizen Empowerment Economic Commission (Citizen Empowerment Act of 2006) can provide up to 30,000 Kwacha as a loan to SSM licence holders and other legal businesses. Some of the interviewees claimed that this amount was too small for the investments to have any effect in the sector. The concept of micro-credits has been

discussed, but the amount available through each credit is too low to have an effect in the mining sector.

Formalisation of the Artisanal Mining (AM) sector

The formalisation of the AM sector may be achieved in two steps.

First, the AM operators are convinced to organise themselves and apply for Artisanal Mining Rights, giving them the right to mine for a period of two years, non-renewable. After the initial two years, they should move on and apply for a Small-Scale Mining Licence, valid for 10 years, renewable. Those interviewed agreed that the lack of resources to visit the AM sites and discuss formalisation, as well as resources to provide technical support were key challenges for MMEWD.

Formalisation of the Small-scale Mining (SSM) Sector

The formalisation of the SSM sector is achieved through the issuing of Small-Scale Mining licenses to individuals or groups of persons. The persons interviewed agreed that the challenge for MMEWD were lack of resources to enforce the legislation and monitor production and revenue payment; and to provide technical and financial support to increase production.

Revenue collection in the mining sector

Revenue collection in the mineral sector involves the following institutions (ZEITI, 2014):

Ministry of Mines, Energy and Water Development (MMEWD) – collects royalties for production, licence fees, application fees, and export permit fees.

Zambia Revenue Authority (ZRA) – collects corporate tax, VAT, pay-as-you-earn (PAYE), import duty, and so on.

Ministry of Local Government and Housing (MoLGH) – collects local levies, service levies and local taxes.

Holders of an SSM licence have to report their production and pay the appropriate royalties, taxes and fees. The legal system for reporting production and collecting revenue are in place but the resources available for enforcement are far too limited. Based on interviews with different stakeholders it is estimated that 15 to 20 per cent of the SSM licence holders are active and that only a smaller percentage are actually reporting production and paying taxes.

A number of the interviewed stakeholders pointed out the following constraints leading SSM holders not to pay revenue:

- Lack of sufficient human and economic resources in MMEWD and ZRA to enforcement the legislation.
- The relationship between the SSM and the buyer is built on trust. Similar trust between SSM and the authorities should be built.
- Legislation may be overwhelming for SSM holder that employs diggers who do not have sufficient training to comply with complex requirements related to environment, health, labour, tax, security and other areas.

EU-funded project in the sector

The consulting company PMTC in Lusaka – part of the Ecorys – expects to receive funding for a four-year project from the EU to carry out an in-depth analysis of the revenue in the mining sector in Zambia, and to provide recommendations for improvement. The project name is "*Enhancing tax collection from the mining sector through effective regulation and monitoring of mineral production*". This project will:

- Build capacity within MMEWD to re-establish physical presence on the ground to monitor contracts and audit programmes in the mines throughout the mining cycle (exploration-mining-processing-export).
- Introduce effective data-management and data sharing.

Norway currently supports the ZRA in the field of revenue collection from mining, which will be an important complementary action to the project where synergies will be explored. Furthermore, GIZ supports ZRA in the department for small business, which possibly includes SSM licence holders.

Including ASM revenues in EITI reporting ZEITI Secretariat

Zambia became a candidate country in May 2009 and became fully compliant on 19 September 2012.

The ZEITI-Multi Stakeholder Group (MSG) called Zambia EITI Council (ZEC) was established to lead the implementation of the EITI in Zambia. The ZEITI Secretariat supports the ZEC, which is responsible for the daily coordination and implementation activities under the guidance of the ZEC.

To date, four annual EITI reports have been published. Each report demonstrates the yearly improvements in relation to the number of reporting companies and the total revenue reported. The 5th and 6th reports, covering 2012 and 2013 respectively, will be published in the near future.

The Scoping Study for the fourth annual report covering the period from the 1 January to the 31 December 2011 included the LSM sector, some SSM companies and a few processing plants. The information provided in the Scoping Study is related to the 2011 tax collection. For the years 2009 and 2010 the tax collected by ZRA represented 98.4 per cent of the total; taxes collected by the MMEWD represented 0.4 per cent of the total; and taxes collected by the Ministry of Local Government and Housing (MoLGH) represented 1.2 per cent of the total.

Materiality threshold

Details on the taxes, fee and levies covered by the Scoping Study for the fourth reconciliation report includes 131 extractive companies. The materiality threshold was set at 2,000,000 Zambian Kwacha (approximately USD 317,000 as of December 2014), representing 99.78 per cent of the total revenue collected by ZRA from 27 extractive companies (mining). The involved SSM operators did not reach the materiality threshold.

Therefore, the audit in the 4th reconciliation report does not include any SSM and covers 27 companies.

ZEITI database

The ZEITI Secretariat does not have a comprehensive database of all extractive companies operating in the sector. The data for the annual reports are provided by ZRA, MMEWD and MoLGH and is collected through the yearly Scoping Study. ZEITI has, in its 2014-16 work plan, included the development of a database connected to the ZRA and MMEWD. ZEITI has a number of spreadsheets for day-to-day work, which will be accessible through the website from 2015/16.

SSM in EITI reporting

ZEITI has already included some of the larger SSM licence holders in its Scoping Study for the fourth report. The challenge is that the Scoping Study can only include those SSM licence holders reporting production and paying taxes. The 5th and 6th reconciliation report will soon be published and the Scoping Study Report for these contains a few more SSM operations than the previous report.

The ZEITI would have the following possibilities on the short and long run:

1. To report data from the SSM holders actually reporting production and taxes paid.
2. To report data from SSMs involved in the Zambian Certification Mechanism managed by GSD (gemstones only).
3. MMEWD to allocate more resources to increase the number of visits to SSM holders and discuss ways to have these licence holders report production and pay taxes. Some incentives would bolster the initiative, such as support from Small Grant facility or increased extension services for MMEWD and GSD.

Incentive for government to include ASM in EITI

In economic terms, the present materiality threshold ensures that 99.78 per cent of the total revenue collected by ZRA from 27 extractive companies is included in the EITI report. A number of the government officials interviewed agree that the amount of revenue from SSM will be limited compared to LSM, but it will still contribute to the economy and it is the government's role to enforce the legislation. An improved inclusion of SSM would provide the government with a better overview of the content and the size of the mining sector.

In economic terms the SSM operators are not significant, and the total potential revenue from the nearly 400 SSM licences is unknown. However, ZEITI intends to explore the possibility to include ASM and SSM in EITI reporting and has already increased the amount of information disclosed in the 5th and 6th reports.

Incentives for SSM to be included in EITI

The interviews with the stakeholders did not provide any strong arguments for the inclusion of the ASM sector or SSM holders in the EITI sector.

The incentives for SSM holders to participate is the possibility to obtain access to economic support through small-grant facilities, loan facilities (revolving funds) as well as technical support, which could improve the outcome of the mining activity.

CSOs have been participating actively in the EITI process and are members in the ZEC in TEITI. They have been putting pressure on the SSM licence holders to start reporting and pay revenue.

5.2 Linking ICGLR Regional Certification Mechanism and EITI

Zambia is interested in expanding the use of certification. This provides a possibility for the government to improve the statistics on production and improve revenue collection for the AM and the SSM sector.

Certification in Zambia

Zambian exports from the AM and SSM sector are mainly composed of gemstones. Commodities like copper, manganese and cobalt mined by SSM licence holders are sold directly to smelters owned by LSM companies, which handle the export formalities. A number of people interviewed mentioned that this has created an on-going dispute with the government about whom to report to, and, to whom to pay revenue.

In order to obtain an export licence for gemstones or sell to an exporter, an AM or SSM producer needs a certificate from the GSD. The certification process includes the laboratory testing of the stone's type, quality and origin. Furthermore, the stone has to originate from a licensed operation; the licence holder has to prove taxes have been paid. GSD issues around 300 certificates per year, and interviewed stakeholders have admitted that GSD does not always have the funding needed to visit the mining area to carry out controls on the origin of the stones, and instead had to transfer these costs to the miners. The people buying and selling gemstones need to have a "Gemstone Seller License" from MMEWD.

RCM for 3TG in Zambia

Zambia has no intentions at the moment to implement the ICGLR RCM.

5.3 Key challenges and opportunities to enhance transparency in the ASM supply chain

Enhance transparency in AM supply chain in Zambia

The enhancement of transparency in the AM sector is achieved through formalisation and the issuing of artisanal mining rights, followed by regular contact and assistance with technical issues. This will build trust and lead to an SSM licence.

Enhance transparency in SSM supply chain in Zambia.

The **owners of an SSM** licence have to report their production and pay the appropriate level of taxes. The legal systems for reporting production and collecting revenue are in place;

however, as noted above, there are a number of capacity-related constraints that prevent SSMs from actually reporting their production and paying royalties and other taxes.

The **brokers** are licensed by MMEWD through a “Gemstone Seller’s Licence”; they have to report their flows of commodities. In reality, very few report and the current challenge is to enforce the fulfilment of their obligations under their licences.

The major **exporters/dealers** require an export licence; they are also reporting the amounts they export and paying the export levies. At the moment this is not captured in the Scoping Study for the ZEITI Compliance reports.

Practical ways to gather AM and SSM-related revenue data

This responsibility lies with the MMEWD, which unfortunately is centralised and with limited presence in the mining areas. The gathering of revenue data from the SSM sector could be strengthened through the following measures:

1. Help to solve disputes regarding copper, manganese and cobalt reporting between SSM licence holders and smelters.
2. Increase the resources in MMEWD and ZRA to enforce the legislation through an increased monitoring of SSM mining sites in order to obtain production statistics and through this the revenue payment.
3. Increase the resources available to the GSD for visiting mining sites in order to ensure the “proof of origin” of the certified stones.
4. Further develop the dialogue between the government and the SSM licence holders, and, build trust.

Potential pilot implementation:

It was suggested by a number of interviewees that it should be a win-win situation for the MMEWD to increase the resources to monitoring of the SSM mining sites. MMEWD could select 1-2 provinces for:

- Regular visits to mining sites
- Provision of technical assistance to mining sites
- Provision of loans to the SSM licence holders

This could constitute some of the elements necessary to build trust among the licence holders. If this extra effort results in increased production statistics and increased levels of tax payment, then the additional investment will be recovered.

6 Conclusion

The case study countries are vastly different in terms of the structure of their ASM sectors, the level of formalisation, the presence of capacitated CSOs in the field of mineral governance/transparency, as well as levels of political commitment to implement the EITI and/or the RCM. Countries also differ in the degree and type of mining taxation and regulation. Differences in neighbouring countries' sector taxation regimes create strong incentives for smuggling and fraud; negative activities that are also unwittingly encouraged by regulations and taxation levels viewed as too stringent, such as in the case of Burundi.

6.1 Feasibility of implementing formalisation concepts in the four countries and relevance for ASM transparency

It has been observed in all countries that both the ASM miners and the agencies in charge of regulating their activities and issuing certificates lack capacity to function to the required standard. As a result, ASM miners lack the skills that will allow them to formalise and to seek certification. This lack of capacity also translates into insufficient record keeping and fiscal management and thus a limited ability to report taxes paid and revenues received.

On the side of the governmental agencies, these shortcomings translate into a lack of capacity to implement regulations, carry out mine site inspections and audits to monitor the mineral value chain, and provide assistance to ASM miners. The fact that government agencies are unable to fill their mandate to regulate and provide technical and financial assistance to the ASM sector complicates dialogue between stakeholders. Furthermore this lack of capacity from the government agencies prevents them from providing both incentives for formalisation, and disincentives toward informality to ASM miners. Acting as a dialogue platform, the national EITI process can play a role in building collaboration and trust between ASM sector stakeholders, especially through the integration of ASM stakeholders into the MSG and by conducting workshops with ASM stakeholders.

Feasibility of including the ASM sector in EITI reporting

Distrust between ASM miners and government institutions does not incentivise implementation of the EITI for ASM miners, and has led some ASM miners to voice an opinion along the lines of *"if they ask for this now, what will they ask for afterwards?"*, thus not encouraging ASM integration into EITI reporting.

In addition, ASM operations have not reached the current material thresholds in the three EITI validated countries included in this study and thus ASM miners generally consider EITI reporting requirements only applicable to LSM operations. This also raises the question of the economic feasibility to integrate ASM data into EITI reconciliation exercises from the point of view of costs involved versus the only marginally greater percentage of taxes covered by the respective EITI report.

One of the consequences of the current levels of informality is that many ASM operators are unsure about the legal taxes to be paid and to whom they should be paid; consequently

there is also a lack of data reported, a fact that is further compounded by a lack of trust that often characterises the relationship between the Governments and other ASM stakeholders.

Avenues to gather the missing data are limited. Building synergies with the various existing certification systems is the most straightforward way to collect data at a minimum cost. Data collected through the RCM can be complemented by other certification and/or due diligence schemes such as iTSCi, BSP, CTC, or the Tucson Tanzanite Protocol.

When necessary, dissemination of ASM contextual information through EITI can be used to bypass the previously identified limits to EITI reconciliation. Information could be unilaterally gathered at strategic chokepoints such as smelters and export houses, at the same time as tax information; information could also be obtained through the implementation of provisions for the mandatory disclosure by State agencies of payments to Government made by the ASM sector.

As noted throughout this report, EITI reporting focuses on formal payment reconciliation (next to contextual/contract transparency), a mission statement at odds with a mostly informal ASM sector. Countries interested in integrating the ASM sector into EITI reporting thus have three choices as to how to integrate ASM revenues into the EITI:

1. Focus on reconciliation of payments from exporters, in addition to disclosing information on ASM through the diffusion of contextual information, as per the 2013 EITI Standard;
2. Further formalise the ASM sector in order to allow for revenue reporting also at the production stage, in addition to disclosing information on ASM through the diffusion of contextual information, as per the 2013 EITI Standard; or
3. Disclose information on ASM through the diffusion of contextual information as per the 2013 EITI Standard, as well as unilaterally reported payments to Government from the ASM sector.

The disclosure of contextual information included in the 2013 EITI Standard offers rooms for the disclosure of important information for the governance of the ASM sector that could not be captured by financial flows (including but limited to production information or dissemination of beneficial ownership), and has the potential to help improve sector governance, if implemented effectively.

As contextual information provision is a new aspect to EITI reporting introduced under the 2013 EITI Standard. As of now, there is no formal guidance or best practice defining the exact nature of the information to be disclosed through the provision of contextual information. Similarly there is no universally recognised best practice or guidance on how to implement quality assurance to ensure data quality. These two elements are key elements of the usefulness of contextual information provision; further research should be undertaken to ensure these elements are properly understood and a suitable template for EITI reporting of ASM is designed.

6.2 Feasibility of EITI-style reporting under RCM

Both the RCM and EITI work towards the strategic goal of increasing transparency in the mineral sector using a set of standards and independent third party assessments of the level of compliance with these Standards.

There are some key differences in the scope and methodology of the two systems that need to be considered when evaluating synergies and implications between a possible integration of ASM into the EITI reporting framework and the RCM implementation. Most importantly, the RCM certification and EITI validation scope are different, ICGLR MS are not necessarily EITI Member countries and the RCM does not have a materiality threshold.

Irrespective of these key differences, there are four major areas of complementarity between the two systems; two at the national level and two at the regional level (to be developed):

1. The RCM requires reporting according to EITI standards. Compliance is independently verified and data on mine sites, ownership as well as licence to operate is systematically collected for publication. Theoretically, this means the RCM could provide 50 per cent of the information necessary for payment reconciliation. Governments could then supply the remaining 50 per cent of the information, or alternatively ASM information could be disclosed unilaterally as contextual information. While this seems to be a straightforward process, there are at this stage no formal provisions to ensure Governments share the information they receive from the RCM.
2. There is likely a significant overlap of Governmental and non-Governmental institutions involved in the RCM and EITI, thereby creating the possibility to establish direct channels of communication and ensuring the harmonisation of efforts. This is particularly relevant for outreach and awareness raising activities, where the EITI MSGs may rely on the presence of inspectors, auditors and other implementing agencies at certified mine sites.
3. On the regional level, the RCM provides two high-level monitoring tools:
 - a. First, the Independent Mineral Chain Auditor (IMCA) has the mandate to investigate topics related to mineral transparency and is a regional function covering ICGLR MS and may be leveraged to report on EITI-related issues as well.
 - b. Second, the RCM provides a bottom-up whistleblowing mechanism to detect irregularities throughout the certification process. Although not operational yet, the whistleblowing mechanism is a regional tool as well and may be integrated into the EITI multi-stakeholder approach.

6.3 The way forward

This report found two options for ASM integration into the EITI in RCM implementing countries.

The first option is to integrate ASM into EITI contextual reporting and reconciliation by leveraging data (e.g. values, volumes and payments to Governments in line with EITI principles) declared by ASM operators as part of the process of obtaining an RCM export

certificate. This option would be limited to RCM-certified exports in line with the relevant EITI materiality threshold (which could be a different one for ASM, when compared to the industrial mining sector, as per MSG decision). In countries where the RCM is not implemented, data could be leveraged that is obtained through the enforcement of the monitoring of the ASM/SSM/PML licenses. Licence conditions include the obligation to report production and pay revenue. The information generated would be integrated in the contextual analysis of EITI reports, but payments would only be reconciled if they exceeded the EITI materiality threshold (whether the same or different from the industrial sector threshold). Strengthened enforcement by the authorities, combined with trust building and incentive measures, would increase the reporting and payment of revenue in general.

The second option in RCM implementing countries is to integrate the ASM sector in EITI contextual reporting in EITI reports and to complement the disclosure of payments to Government by ASM operators as part of obtaining an RCM certificate with making Government revenue disclosure mandatory. The mandatory disclosure by operators and Government would allow for the independent investigation and reconciliation of payments by auditors and/or CSOs without driving up the price of the EITI reconciliation process.

The first option is the most desirable for ICGLR Member States (MS) where the RCM is implemented. The second option, while implementable in theory, crucially misses the brand power lending credibility to the EITI reconciliation process and appropriate penalties. It could also produce a data overload that risks being impossible to manage and can lead to data misinterpretations by stakeholders. Both options, and in particular the second option, will require the design of appropriate ASM reporting templates as well as data quality assurance processes for contextual information and unilaterally declared flows; further research is necessary to that effect.

Both options, in order to make effective use of RCM implementation for EITI reporting, require the databases capturing RCM data both nationally and at ICGLR level to be operational. Both options also require significant success in ASM formalisation to combat fraudulent trade and produce a positive overall fiscal and development impact. The recommendations on the next sections are based on this perspective.

7 Recommendations

Recommendations are classified into three categories: recommendations for the ICGLR, general recommendations to ICGLR Member States, case-country specific country recommendations.

7.1 Recommendations to the ICGLR

At the regional/international level

1. Consider broadening the scope of the RCM to other minerals and metals to broaden its applicability to Member States that are not endowed with large 3TG sectors, but have significant ASM sectors. This is particularly with a view to leveraging RCM implementation to incentivise ASM formalisation.
2. Hold a forum on ASM formalisation and through expert engagement and the provision of an ASM formalisation guideline, encourage Member States to invest in ASM formalisation and facilitate private investment in ASM. This is particularly with a view to facilitate RCM and EITI in ASM implementation.
3. Continue to advocate for and assist Member States with the implementation of the six tools of the RINR to create incentives for the formalisation of ASM activities and promote transparency in the mineral sectors in all ICGLR Member States through the implementation of the EITI and the RCM. This includes leveraging the RCM's IMCA and whistleblowing mechanism to include EITI-related issues.
4. Enter into dialogue with the International EITI Secretariat over the desirability of ASM integration into EITI reporting in RCM-implementing countries, including the synergies between the two processes. There may be opportunities for the EITI to support the implementation of the RCM. In line with the EITI's Principles to increase transparency over payments and revenues in the extractive sectors, the EITI Report may provide valuable information for implementing parties of the RCM, in particular regarding the legal framework and fiscal regime governing the extractive industries as well as the distribution of revenues from the extractives industries.
5. Encourage Member States to include ASM in EITI reporting and encourage them to set materiality thresholds conducive to cost effective and meaningful EITI implementation in the ASM sector, including reconciliation. These thresholds may differ by country and may be set in complementarity to the EITI materiality thresholds set for the industrial mining, as well as oil and gas sectors. The MSG in country should agree the final ASM threshold. The aim is to produce not only more data but also better data.
6. Encourage the international EITI Secretariat (or alternatively the MS EITI Secretariat) to develop practical guidance for ASM operations on the EITI Principles and their implementation in the day-to-day activities, and make this guidance available for a peer-learning process to make most effective use of different stages of implementation in the different MS. The RCM does not currently offer such guidance and does not explain how EITI Principles apply to ASM operators. The ICGLR can play an important role in the creation of such guidance by representing all the MS that are part of the EITI.

At the level of national implementing agencies and mineral supply chain actors

1. The ICGLR should act as a platform to foster dialogue between the member state ministries, national implementing agencies and mineral supply chain actors on matters related to ASM, the EITI, and the RCM. Specifically, this may include the organisation of regional peer-learning workshops on the following topics:
 - a. Formalisation of ASM operators and provision of incentives to licence holders to report production and revenue payments.
 - b. Implementation of national or mineral-specific certification mechanism, including but not limited to the RCM.
 - c. Initiatives to integrate ASM in EITI reporting.
2. Implement the ICGLR regional database and host MS dialogue to promote the use of national databases that are fully aligned with the regional database in the type and form of data they contain.

General recommendations to RCM implementing Member States

On the formalisation and transparency in the ASM sector, Member States should:

1. Strengthen government institutions interacting with ASM licence holders and operators as well as those involved in monitoring the ASM sector and certifications. This may include:
 - a. Provision of additional human and economic resources to improve capability to enforce legislation on the reporting and payment of revenue and capabilities to provide technical and financial support as an incentive for formalisation of the sector.
 - b. Commitment of sufficient financial and human resources to agencies in charge of monitoring the application of legal requirements by ASM operators, including the implementation of the RCM and other certification mechanisms.
 - c. Implementation of pilot zones for increased government monitoring of ASM activities, whereby increased taxes received may be used to finance the increased resources required for monitoring.
 - d. Conduct trust-building exercises with ASM stakeholders to foster good relationships between government institutions and the licence holders, including for example access to small grants or technical assistance for ASM operators or licence holders.
 - e. Establish self-financing mechanisms within the EITI to fund EITI activities and operations.
2. Strengthen CSOs interacting with ASM licence holders and operators as well as those involved in monitoring the ASM sector and certifications. This may include:
 - a. Provision of training and economic resources to improve capability to provide technical support as an incentive for formalisation of the sector.
 - b. Commitment of sufficient financial and human resources to CSOs monitoring the application of legal requirements by ASM operators, including the implementation of the RCM and other certification mechanisms.

- c. Conduct trust-building exercises with ASM stakeholders to foster good relationships between CSOs, government institutions and the licence holders, including for example access to small grants or technical assistance for ASM operators or licence holders.

On the integration of ASM in the EITI

1. Pilot the EITI at the ASM export stage where ASM produces significant revenue. Reconciling information from official exporters of ASM is the first, and the simplest, step into capturing significant revenue from the ASM sector.
2. Effectively use the EITI reports to disseminate contextual information about the ASM sector as well as non-reconciled flows if the MSG chooses not to reconcile ASM flows.
3. Use the EITI as a platform to promote trust, in particular the EITI MSG can be used as a communication forum for mining stakeholders to inform, connect with, and give a voice to the ASM sector. Furthermore, the countries with an MSG could use this as a means to improve ASM licence holders' capacity to report and pay revenue, by providing toolkits and training on how to do so.
4. Produce toolkits and workshops to explain the EITI reporting requirements to ASM stakeholders. These toolkits and workshops should be used to disseminate official information on the legal taxes ASM operators should be paying, and to whom they should be paying them, as well as information on what are informal (and likely illegal) payment demands that should be rejected and reported.
5. Evaluate other certification schemes, and when appropriate, use the payment data they provide, to leverage for EITI implementation in ASM. This includes the: CTC, Better Sourcing Program, iTSCi, and the Tucson Tanzanite Protocol.

On the linkages of the RCM with the EITI

1. Implement pilot projects in RCM relevant trading chains, where the minerals covered by the RCM produce significant revenue and where ASM formalisation levels are amenable to pilot implementation. These pilot projects will be key for the determination of ASM-specific materiality thresholds, should EITI MSGs agree to have ASM-specific materiality thresholds. Pilot projects should also be used as an opportunity to monitor the work of mines inspectors through ICGLR provisions: the IMCA and the whistleblowing mechanism.
2. Promote harmonisation of efforts and regular communication by ensuring participation of stakeholders from RCM institutions in EITI MSG and representatives from EITI MSG in RCM institutions.
3. Work with the national implementing agencies to ensure the *Fiches d'Inspection Minière* (Mining Inspection Sheets) and the third party audit tools capture all the data required under the EITI. This includes: independently verified data on mine sites, beneficial ownership, licence to operate and value of each exported lot.
4. MS should ensure that the RCM certificates clearly state all the payments made to Government institutions by certified operators in the context of the shipment at hand.

5. Invest in the implementation of the national RCM database and ensure it captures data relevant to EITI reporting, as well as support efforts of MS to agree on publication modalities. Where national capacities are limited, contract out management and data analysis function to third party through an externally handled tender process that is in line with international procurement standards.

General recommendations to non-RCM-implementing Member States

On the formalisation and transparency in the ASM sector, Member States should:

1. Strengthen government institutions interacting with ASM licence holders and operators as well as those involved in monitoring the ASM sector and certifications. This may include:
 - a. Provision of additional human and economic resources to improve capability to enforce legislation on the reporting and payment of revenue and capabilities to provide technical and financial support as an incentive for formalisation of the sector.
 - b. Commitment of sufficient financial and human resources to agencies in charge of monitoring the application of legal requirements by ASM operators, including the implementation of the chosen certification mechanisms.
 - c. Implementation of pilot zones for increased government monitoring of ASM activities, whereby increased taxes received may be used to finance the increased resources required for monitoring.
 - d. Conduct trust-building exercises with ASM stakeholders to foster good relationships between government institutions and licence holders, including for example access to small grants or technical assistance for ASM operators or licence holders.
 - e. Establish self-financing mechanisms within the EITI to fund EITI activities and operations.
2. Strengthen CSOs interacting with ASM licence holders and operators as well as those involved in monitoring the ASM sector and certifications. This may include:
 - a. Provision of training and economic resources to improve capability to provide technical support as an incentive for formalisation of the sector.
 - b. Commitment of sufficient financial and human resources to CSOs monitoring the application of legal requirements by ASM operators, including the implementation of the RCM and other certification mechanisms.
 - c. Conduct trust-building exercises with ASM stakeholders to foster good relationships between CSOs, government institutions and the licence holders, including for example access to small grants or technical assistance for ASM operators or licence holders.

On the integration of ASM in the EITI

1. Pilot the EITI at the ASM export stage where ASM produces significant revenue. Reconciling information from official exporters of ASM produce is the first, and the simplest, step into capturing significant revenue from the ASM sector.
2. Effectively use the EITI reports to disseminate contextual information about the ASM sector as well as non-reconciled flows if the MSG chooses not to reconcile ASM flows.
3. Use the EITI as a platform to promote trust, in particular the EITI MSG can be used as a communication forum for mining stakeholders to inform, connect with, and give a voice to the ASM sector. Furthermore, the countries with an MSG could use this as a means to improve ASM licence holders' capacity to report and pay revenue, by providing toolkits and training on how to do so.
4. Produce toolkits and workshops to explain the EITI reporting requirements to ASM stakeholders. These toolkits and workshops should be used to disseminate official information on the legal taxes ASM operators should be paying, and to whom they should be paying them, as well as information on what are informal (and likely illegal) payment demands that should be rejected and reported.
5. Evaluate certification schemes, and when appropriate, use the payment data they provide, to leverage for EITI implementation in ASM. This includes first and foremost the RCM¹², but also the: CTC, Better Sourcing Program, iTSCi, and the Tucson Tanzanite Protocol.

7.2 Country-specific recommendations

Burundi

In addition to the general member state- level recommendations listed above, the Republic of Burundi and its institutions should:

1. Conduct a scoping study for EITI implementation, the payments to be reported and the appropriate materiality threshold, making use of recent studies on the mining sector in Burundi.
2. Implement a pilot project with RCM inspections (if feasible in collaboration with the iTSCi) to record payments, report these to the Government and conduct a reconciliation exercise linked to iTSCi baseline assessments on production capacity and/or conduct a baseline study of production capacity to capture under-declaration of production.
3. Provide training and increase resources available to OBR investigators and MEM mine inspectors to increase their capacity and effectiveness.
4. Continue to support CSOs and local monitoring mechanisms to raise awareness about the EITI. This should include the harmonisation of whistleblowing mechanisms of the ICGLR or other certification mechanisms and integrated due diligence and traceability schemes such as iTSCi and the BSP with existing local monitoring committees.

¹² It should be recalled that all members of the ICGLR have made a written commitment to implement the six tools of the RINR, these include RCM implementation at the MS level.

5. Support the establishment of a pilot basket fund to channel revenue from formal ASM operations back into local communities and strengthen community engagement.

Democratic Republic of the Congo

In addition to the general member state-level recommendations listed above the Democratic Republic of the Congo and its institutions should:

1. Streamline the ASM mineral chain taxation structure to reduce number of agencies involved and number of payments to be made to reduce corruption opportunities and facilitate data gathering and (potentially) reconciliation under EITI in ASM implementation.
2. Consider using the new flexibility afforded to the MSGs in the 2013 EITI Standards to contextually report on exporters and others ASM producers that do not reach the EITI's current materiality threshold.
3. Draw on the findings of this and the current ASM in EITI Scoping Study commissioned by the DRC EITI Secretariat to establish most feasible EITI in ASM piloting areas and trading chains. Choose at least one RCM relevant trading chain for pilot implementation.
4. Determine an EITI reporting materiality threshold for ASM, based on a detailed analysis of the ASM taxation regime and a clear census study of tax payments. The materiality threshold determination should critically be informed by the indicators for ASM integration into the EITI elaborated in this Pilot Study: the financial sense behind such integration, the incentives for stakeholders to support such integration and their incentives to contribute to effective implementation, as well as the expected outcome of such integration.
5. Ensure the relevant tax collection agencies are part of RCM audits to ensure there is mutual learning with respect to the application of the EITI reporting requirements.
6. Sustain CSO monitoring of RCM and EITI in ASM implementation, both by ensuring CSOs' continued participation in the EITI's MSG, and CSO operational capacity building for the two processes.

In addition, general recommendations made by a past PROMINES study (Pact, 2010) on ASM taxation remain valid.

Tanzania

In addition to the general member state-level recommendations listed above, the United Republic of Tanzania and its institutions should:

1. Consider using the flexibilities afforded to the national level MSGs under the 2013 EITI Standard to contextually report on SSM exporters and others ASM producers that do not reach TEITI's current materiality threshold.
2. Increase the human and technical resources at MEM and TRA to enforce the legislation.
3. Implement and maintain a comprehensive database of all operating extractive companies and minerals, oil and gas exporting companies (where these differ from the extractive companies). Data would be provided by the TRA, MEM and TPDC and will be

collected through the yearly Scoping Study. The TEITI should ensure that this database is coordinated with the database in the RCM certification scheme.

4. Conduct a scoping study on the implementation of the RCM in a province of one of the MEM zones, to support the MEM draft work plan for a possible implementation of the RCM.

Zambia

In addition to the general member-state-level recommendations listed above the Republic of Zambia and its institutions should:

1. Consider using the flexibilities afforded to the national level MSGs under the 2013 EITI Standard to contextually report on SSM exporters and others ASM producers that do not reach ZEITI's current materiality threshold.
2. Increase the human and technical resources at MMEWD and ZAR to enforce legislation.
3. Implement and maintain a comprehensive database of all operating extractive companies and minerals, oil and gas exporting companies (where these differ from the extractive companies). Data would be provided by ZRA, MMEWD, and MoLGH and is collected through the yearly Scoping Study. The ZEITI should ensure that this database is coordinated with the database in the RCM certification scheme. The new PMTC project funded by EU should provide assistance to ZEITI to achieve this objective.
4. Conduct, through the MMEWD, a scoping study on the possible improvements to the present certification in GSD.

8 ANNEXES

Questionnaire for fieldwork

<u>Research Sections</u>	<u>Question</u>	<u>Comments / Observations Evidence / Examples</u>
<u>Who are you</u>	<ul style="list-style-type: none"> • What are your organisation’s activities and responsibilities in your country (keep short)? • What are your specific activities related to ASM, the RCM and/or the EITI (keep the interview focused on the core content of the TOR)? • What are the main challenges you are facing in implementing these activities? 	
<u>ASM Formalisation</u>	<ul style="list-style-type: none"> • Which institutions administer the ASM sector in your country (keep focus on formalisation, e.g. financial, economic, organisational administration)? • How is ASM defined in your country and how is the sector organised? • How do these institutions administer the ASM sector? • What is the capacity of these institutions to administer the ASM sector and what is their performance (read: establish key challenges)? • What is the level of formalisation of ASM in your country? • In terms of formalisation, do you see key differences and/or specific challenges in the structure of the different ASM sectors (e.g. base metals, gold, gemstone)? • Are your Government and/or donors within your country providing any incentives (e.g. technical assistance, grant facilities, extension services, accession to mining titles etc.) to ASM to form associations/cooperatives? • Does your country assess the contribution of ASM to the local economy? What are the major challenges? • Are there any initiatives to move ASM to SME level (as opposed to cooperative) with a view to establish greater royalties + income tax revenue? • Are there any issues obstructing formalisation processes (e.g. legal issues? Political economy issues, e.g. vested interests trying to infiltrate cooperative management structures? Economic issues, e.g. are there unrealistic fees and/or other demands made at central/local level etc.) and what could be 	

<u>Research Sections</u>	<u>Question</u>	<u>Comments / Observations Evidence / Examples</u>
	possible incentives?	
<u>EITI</u>	<ul style="list-style-type: none"> • What are the key challenges and opportunities of the EITI process or EITI accession with regard to ASM in your country? • Who manages the EITI process in your country? (Do you have an independent EITI country secretariat? – In which Ministry?) • How are revenues generated by ASM or export of ASM minerals collected and distributed? • Has the national level EITI multi-stakeholder group (MSG) decided to integrate the country’s ASM sector into EITI reporting? • If yes, what are the key criteria the MSG has established and what are the key challenges facing the implementation of this process? • If no, what are the current reporting materiality thresholds for companies participating in the EITI? (E.g. what is the benchmark figure over and above which companies have to report?) • If no, what are your suggestions for the inclusion of the ASM sector in EITI reporting to become a reality? • What are the greatest challenges in achieving this aim? 	
<u>ICGLR RCM</u>	<ul style="list-style-type: none"> • What is the level of implementation of the RCM in your country? What are the key challenges and opportunities? • How do you see certification mechanisms for ASM link with and support the implementation of EITI in your country? Do you see complementarity between the two approaches? • Who owns EITI related data on all levels of the supply chain and how is it shared in your country? • Where do you see opportunities to raise awareness of EITI among ASM communities and support the implementation of the Standard? 	
<u>Incentives for and benefits of EITI</u>	<ul style="list-style-type: none"> • Are there currently any incentives for ASM miners, traders or exporters to implement the EITI? • Are there currently any incentives for State institutions to promote transparency in the extractives industry? 	

<u>Research Sections</u>	<u>Question</u>	<u>Comments / Observations Evidence / Examples</u>
<u>implementation</u>	<ul style="list-style-type: none"> • What, if any, are the perceived benefits for actors in the ASM sector or State institutions of improved transparency? • Who are the actors in your country that would benefit most from the implementation of the EITI? How are they able to support the process? • Do you see opportunities to create incentives or benefits for the ASM sector or State institutions to implement the EITI? • If yes, what would be required to create those? What are the obstacles to create those incentives and benefits? 	
<u>Recommendations for the Future</u>		

List of stakeholders interviewed

Burundi

DATE	Stakeholder Interviewed	Institution
10 Nov 2014	Mr. Damien Mbonicuye, Director General	TAMINCO
10 Nov 2014	Mr. Noel Nsabiyabandi, Speaker	Mining Chamber
11 Nov 2014	Eng. Niragira Jean Berchmans, Permanent Secretary	Ministry of Energy and Mines
11 Nov 2014	Mr. Jean Claude Nzigamasabo, Director for Investigation on Internal Taxes and Customs	Burundi Revenue Authority (OBR)
11 Nov 2014	Mr. Venant Bacinoni	ABUCO-Association Burundaise des Consommateurs / COSOC
12 Nov 2014	Dr. Philip Schütte,	BGR-ICGLR
12 Nov 2014	Mr Daniel Ngendakuriyo, National Coordinator GeRI Project	GIZ
13 Nov 2014	Prof Midende, Director General / Researcher	Rainbow Minerals (rare earth), ex-Minister of Mines of Burundi
13 Nov 2014	Mr. Gaspard Kabura, Coordonnateur National	ICGLR National Coordination Mechanism, Burundi
13 Nov 2014	Mr. Yves BAWA, Director	PACT
14 Nov 2014	Ms. Denise Kandondo,	OLUCOME – Observatoire de Lutte contre la Corruption et les Malversations Économiques

DRC

DATE	Stakeholder Interviewed	Institution
3 Nov 2014	Mr. Hamouli Baudouin, National Coordinator	ICGLR National Coordination Mechanism, DRC
3 Nov 2014	Mr. Jean-Claude Katende, National President	ASADHO
4 Nov 2014	Mr. Uwe Näher, Project Director Mine Products Certification	German Federal Institute for Geoscience and Natural Resources (BGR)
4 Nov 2014	Mr. Cyrpien Birhingwa Mugabo, Coordinator	CENADEP
4 Nov 2014	Ms. Barbara Rippel, Head of Project: Projet D'Appui à la Bonne Gouvernance dans le Secteur Minier (BGSM)	GIZ
5 Nov 2014	Mr. Paul Yenga Mabolia, Coordinator	PROMINES
5 Nov 2014	Mr. Henri-Pierre Gebauer, Technical Advisor to the ICGLR	GIZ-ICGLR
6 Nov 2014	Prof. Dona Kampata Mbwelele, Coordinator	CTCPM
6 Nov 2014	Ms. Lydia Kalele Kiayima, In Charge of Mining Cooperatives	SAESSCAM
6 Nov 2014	Ms. Magali Mander, Advisor: Projet D'Appui à la Bonne Gouvernance dans le Secteur Minier (BGSM)	GIZ
6 Nov 2014	Mr. Claude Kanda Kadimanshi, Administrative and Financial Representative	EITI DRC
27 Nov 2014	Mr. Joseph Ikoli, DRC Representative	RINR Steering Committee

Tanzania

DATE	Stakeholder Interviewed	Institution
15 Oct 2014	Mrs. Lyydia Kilpi. Country Officer for Tanzania.	EITI Secretariat
29 Oct 2014	Mr. Idrisa Yahya Katela, Project Manager	Ministry of Energy and Minerals, Sustainable Management of Mineral Resources Project (WB)
29 Oct 2014	Mr. Bubelwa Kaiza	Publish What You Pay
29 Oct 2014	Mr. Athuman Kwariko, Programme Coordinator	TEITI
29 Oct 2014	Mr. Benedict Mushingwe, National Coordinator	TEITI
30 Oct 2014	Mr. John Nayopa	ICGLR Steering Committee against Illegal Exploitation of Natural Resources. Tanzania
30 Oct 2014	Ms. Koleta Njelekela, Manager of Marketing and Public Relations Dept Mr. Tiberius Kaduma, Mining Processing Engineer	Stamico
30 Oct 2014	Mr Fredy Mahobe Assistant Commissioner for SSM Development	Outgoing Assistant Commissioner for SSM Development
30 Oct 2014	Mr. Jesper Jønsson, Head of Economic, Environment and Social Management	COWI (Consulting Company)
31 Oct 2014	Mr. Alfred Anthony Mwaswenya, Small-scale Miner	SSM Miner
31 Oct 2014	Mr. Semkae Kilonzo	Member of the Policy Forum, which is represented in the TEITI-MSG
31 Oct 2014	Mr. Innocent Shiyo, Acting Director, ICGLR National Coordinator for Tanzania	Department of Regional Cooperation, Ministry of Foreign Affairs & International Cooperation
31 Oct 2014	Mr. Silas Olang,	NRGI

Zambia

DATE	Stakeholder Interviewed	Institution
3 Nov 2014	Mrs Gertrude Phiri	Federation of Small-Scale Miners Association of Zambia
3 Nov 2014	Mr. Siforiano Banda, EITI National Coordinator Mr. Kaonka Mazada, Deputy National Coordinator Mr. Siforiano Banda, Communication Officer	ZEITI Secretariat
3 Nov 2014	Mr. Chipilauka Mukotu, Acting Director	Geological Survey Department (GSD)
3 Nov 2014	Mrs Michelle Naambo, Senior Gemologist	Geological Survey Department (GSD)
3 Nov 2014	Mr. Hartford Mumba, Director	Martford Mumba Natural Gemstone Exporters
4 Nov 2014	Mr. Mooya Lumumba, Director of Mines	MMEWD
4 Nov 2014	Ambassador Solomon Mumbi, National Coordinator	ICGLR National Coordination Mechanism, Burundi
4 Nov 2014	Mr. Edward Lange, Country Coordinator Zambia	Southern Africa Resource Watch
4 Nov 2014	Mr. Marriot Nyanga, Coordinator CSO-EITI Forum Mr. Humprey Kaoma, Environment Africa Trust	Members of the ZEC representing the CSO-EITI Forum-Lusaka
4 Nov 2014	Mr. Thomas Schaef, Country Director Zambia	GIZ
5 Nov 2014	Mrs Kotutu Chimuka. Consultant PMTC	PMTC will soon initiate a EU funded project to look at revenue issues in Zambia
5 Nov 2014	Mr. Ackim Mwape, Zambian representative at the ICGLR Steering Committee against Illegal Exploration of Natural Resources	Department of Natural Resources & Environmental Protection
5 Nov 2014	Mrs Michelle Naambo, Senior Gemologist	Geological Survey Department (GSD)

9 Bibliography

ACIDH (Action Contre l'Impunité pour les Droits Humains), 2014, *Renforcer la Transparence dans la Gestion du Secteur Minier en République Démocratique Du Congo: Propositions au Projet de Loi Modifiant et Completant la Loi N°007/2002 du 11 Juillet 2002 Portant Code Minier*

Amnesty International, 2014, *Profits and Loss: Mining and Human Rights in Katanga, Democratic Republic of the Congo*

Bararaunyeretse, Prudence, 2014, *Les exploitants miniers burundais à l'épreuve de la fiscalité et de la responsabilité sociale*

van Bockstael, Steven and Vlassenroot, Koen, 2012, *A farmer's best friend? : Artisanal Diamond Mining and Rural Change in West and Central Africa*

Bomani Report, 2008, *Report of the presidential mining review committee to advise the government on oversight of the mining sector*

BSP (Better Sourcing Program), 2014, *The Better Sourcing Standard*

Channel Research, 2013, *ITSCI Governance Assessment, Burundi*

CAC 75, 2010, *République Démocratique du Congo, Comité Exécutif de l'Initiative pour la Transparence des Industries Extractives Rapport de Validation*

Campbell, Bonnie, 2013, *Modes of Governance and Revenue Flows in African Mining*

COSOC (Coalition de la Société Civile de la Région des Grands Lacs Contre L'Exploitation Illégale des Ressources Naturelles), 2013, *Magazine Décembre 2013*

CS Sud-Kivu GTTM, 2014, *Contribution de la Société Civile Du Sud Kivu à La Definition des Informations Contextuelles pour le Rapport ITIE-RDC 2012*

Dorner, Ulrike, Franken, Gudrun, Liedtke, Maren and Sievers, Henrike, 2012, *Artisanal and Small-Scale Mining (ASM)*

EITI DRC, 2012, *Rapport de l'Administrateur Indépendant de l'ITIE sur les Revenus 2008-2009: Secteur Minier Industriel et Comptoirs*

EITI DRC, 2013a, *Rapport ITIE-RDC 2011: Secteur des Hydrocarbures*

EITI DRC, 2013b, *Rapport ITIE-RDC 2011: Secteur des Mines*

EITI International Standard, 2013, *The EITI Standard*

Garrett, Nicholas, 2007, *The Extractive Industry Transparency Initiative (EITI) & Artisanal and Small-Scale Mining (ASM): Preliminary Observations from the Democratic Republic of the Congo (DRC)*

Garrett, Nicholas, 2008, *Certified Trading Chains in Mineral Production & The Extractive Industry Transparency Initiative: Synergies and Scope for Collaboration*

Garrett, Nicholas, Carstens, Johanna, Lintzer, Marie, Priester, Michael, and Hentschel, Thomas, 2009, *Implementing Transparency in the Artisanal and Small Scale Mining Sector*

Garrett, Nicholas and Mitchell, Harrison, 2009, *Beyond Conflict, Reconfiguring approaches to the regional trade in minerals from Eastern DRC*

Garrett, Nicholas, 2013, *Artisanal Mining and Conflict Financing in Eastern Democratic Republic of Congo (DRC); Coping, Conflict and Shadow Economy Actors and the Impact of the 'Conflict Minerals' Campaign*

GIZ-CIRGL, *Programme de formation sur l'IRRN: Plate-Forme ITIE d'Apprentissage par les Pairs*

EU Mining Sector Diversification Program (MSDP), 2006, *Gender Baseline Study: A sustainable livelihoods perspective on women and their families in the non-traditional mining sector of Zambia*

EU Mining Sector Diversification Programme (MSDP), 2006, *Environment*

EU Mining Sector Diversification Program (MSDP), 2006, *Mining Business and Mineral Extraction Technologies.*

Hinton, J and S. Wagner, 2010, *Gender and Artisanal Small scale Mining: (ASM) A Case Study in Mererani, Tanzania Pilot Study Report, World Bank*

ICGLR a, *ICGLR Regional Certification Mechanism (RCM) Certification Manual*

ICGLR b, *ICGLR Regional Certification Mechanism (RCM) Certification Manual Appendices*

ICGLR, 2012, *ICGLR Model Law RINR: Prevention and Suppression of the Illegal Exploitation of Minerals in the Great Lakes Region*

ICGLR, 2013, *Audit Methodology/Template for the Third Party Exporter Audits of the ICGLR's Regional Certification Mechanism*

Jønssen, J.B., and D.F. Bryceson, 2009, *Rushing for Gold: Mobility and Small-Scale Mining in East Africa*, *Development and Change* 40, no.2

Mboko Dj'Andima, Jean-Marie, 2007, *Code Général des Impôts*, Presses Universitaires du Congo, Kinshasa

Midende, Gilbert, 2013, *Exploitations Minières Artisanales du Burundi sur la Période 2009 – 2013*

Ministry of Energy and Minerals of Tanzania SMMRP project, 2008, *Baseline Survey on Artisanal and Small-scale Mining Activities and Preparation of an ASM database*

Ministry of Energy and Minerals of Tanzania, 2009, *The Mineral Policy of Tanzania*

Ministry of Energy and Minerals of Tanzania, 2010, *Mining Act*

Ministry of Mines, Energy and Water Development (MMEWD) of Zambia, 2008, *The Mines and Minerals Development Act*

Ministry of Mines, Energy and Water Development (MMEWD) of Zambia, 2014, *Mineral Resource Development Policy*

Ministry of Mines of the DRC, 2010, *Vision 2010–2015*

Ministry of Mines of the DRC, 2011a, *Manual For The Certification Of Ores In The Gold Industry in the Democratic Republic Of The Congo: Principles, Guidelines and Standards*

Ministry of Mines of the DRC, 2011b, *Manual For The Certification Of Ores In The Tin Industry in the Democratic Republic Of The Congo: Principles, Guidelines and Standards*

Mthembu-Salter, 2014, *Baseline Study Two: Mukungwe Artisanal Mine, South Kivu, Democratic Republic of Congo*

Nzigamasabo, Jean-Claude, *Institutional coordination and cooperation mechanisms developed: case of Burundi*

Office Burundais des Recettes, 2014, *ITC/EC/WBG International Conference 2014 on Taxation of Extractive Industries, Working Group 7, Brussels, 9-11 September 2014*

OLUCOME, Association Burundaise des Consommateurs and Commission Episcopale Justice et Paix C.E.J.P., 2013, *Rapport Enquête pilote sur le processus d'exploitation minière et la mise en œuvre de l'initiative régionale sur la lutte contre l'exploitation illégale des ressources naturelles au Burundi*

Öko-Institut, 2011, *Social impacts of artisanal cobalt mining in Katanga, Democratic Republic of Congo*

Parliament of the DRC, 2002, *Loi n° 007/2002 du 11 Juillet 2002 Portant Code Minier / Law no. 007/2002 of July 11, 2002 Relating to the Mining Code (DRC Mining Law 2002)*

PAC, 2013, *Tracking, Certifying and Exporting Artisanal Gold from Eastern DRC Interim Report to the Public-Private Alliance for Responsible Minerals Trade (PPA)*

PAC, 2014, *All that Glitters is Not Gold: Dubai, Congo and the Illicit Trade of Conflict Minerals*

PACT, 2010, *PROMINES Study: Artisanal Mining in the Democratic Republic of Congo*

PACT, 2011, *Field Implementation of iTSCi Katanga: Status Report April-September 2011*. Available at: http://solutions-network.org/site-solutionsforhope/files/2011/11/iTSCi-Katanga-Quarterly-Report-Apr_Sept-2011_Public.pdf

Republic of Burundi, 2013, *Loi n°1/21 du 15 Octobre 2013 portant Code Minier du Burundi*

SARW (Southern Africa Resource Watch), 2012, *Conflict Gold to Criminal Gold: The New Face of Artisanal Gold Mining in Congo*

SARW (Southern Africa Resource Watch), 2014, *EITI Implementation in the Member States of the International Conference on the Great Lakes (ICGLR)-Promoting EITI in the ICGLR and Identifying Regional Peer-Learning Fields*

TEITI, 2012, *Scoping Study Report for the year ended 30 June 2010. Preparation for the 3rd Reconciliation Report*

TEITI 2013, *Scoping Study Report for the year ended 30 June 2011. Preparation for the 4th Reconciliation Report*

TEITI, 2014, *Reconciliation Report (4) for the Period 1 July 2011 to 30 July 2012*

Tychsen, et. Al, 2008, *ASM Handbook for Zambia*

Tychsen, et al., 2011, *Nigeria Extractive Industries Transparency Initiative (NEITI): Scoping Study on the Nigerian Mining Sector*

Tychsen, et al., 2012, *Strategic Environmental and Socio-economic Assessment (SESA) of the Tanzanian Sustainable Management of Mineral Resources Project*

UNECA, 2002, *Compendium on Best Practices in ASM in Africa*

United Nations Security Council, 2014, *Letter dated 22 January 2014 from the Coordinator of the Group of Experts on the Democratic Republic of the Congo addressed to the President of the Security Council*

World Bank, 2012, *Addressing Upstream Risks in Responsible Mineral Supply Chain Initiatives: the Role of the World Bank's Communities and Artisanal and Small-Scale Mining (CASM)*

World Vision, 2013, *Child Miners Speak: Key Findings on Children and Artisanal mining in Kambove, DRC*

ZEITI, 2014a, *Fourth Reconciliation Report based on financial year 2011*

ZEITI, 201b, *Scoping Study for the Years 2012 and 2013 - Draft version*

ZEITI, 2014c, *Annual report 2013*