ICGLR THIRD PARTY AUDIT SUMMARY REPORT

AGRO PASTORALE LEMERA SARL (APL)

DEMOCRATIC REPUBLIC OF CONGO (DRC)

FINAL EXPORTER STATUS
GREEN

Auditors

LML CHARTERED ACCOUNTANTS

Lead Auditor,

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1. Introduction

a. Audit objective

The objective of the ICGLR Regional Certification Mechanism Manual is to provide mineral supply chains that have not directly or indirectly provided support to non-state armed groups and/or public or private security forces engaged in illegal activities and/or serious human rights violations within and between ICGLR Member States with a view to eliminating support to armed groups that sustain or prolong conflicts and/or engage in serious human rights violations.

The objective for third party Auditors was to audit and certify whether APL Sarl, the 3Ts, designated minerals exporter, qualifies or conforms to ICGLR export requirements. And whether APL Sarl abides by the standards to be classified as Certified Mineral Exporter of designated Minerals in accordance with the standards and procedures of ICGLR Regional Certification Mechanism.

b. Auditee

i. General information

The auditee was APL Sarl situated at plot 11 Avenue Kasongo, quarter Ndendere, Bukavu, South Kivu, Democratic Republic of Congo.

ii. Business information

The company owned by a family with Mr. Muyeye Byaboshi Roger being the majority shareholder with Fifty (50%). The rest of the shareholders are his daughters. The company is authorized to trade in Cassiterite, Coltan and Wolframite.

The designated materials audited were the 3Ts (cassiterite (tin ore); Wolframite (tungsten ore); and coltan).

c. Auditor

i. Audit Firm

LML Chartered Accountants from Zambia

ii. Lead Auditor

Makasa Lazarous Luombe

2. Audit Scope

a. Methodology

The audit methodology included the following:

- Literature review
- Risk assessment
- Interviews
- Records review
- Sample selection
- Field visits
- Transport route verification; and
- Capacity review.

Audit work was preceded by preliminary introductory meetings with main Stakeholders such as the Federation of Enterprises in Congo (FEC), an umbrella Private sector Business Association, Provincial Minister of Mines, Director of Division of Mines, Director of Centre for Evaluation and Expert Certification for Precious and Semi-Precious Minerals (CEEC), Director of Assistance and Supervision Service for Artisanal and Small-scale Miners (SAEMAPE) and Director of International Tin Supply Chain Initiative (ITSCI).

b. Overview

The Audit team had opening and closing meetings with the auditee. Auditors had interviews with Mr. Muyeye Byaboshi Roger, the Chief Executive Officer and his management team. Interviews with Cooperatives and Negotiants who supply the minerals to APL were held to the mine sites.

As part of the audit, the audit team visited:

- The office and factory premises located at plot 11 Avenue Kasongo, quarter Ndendere, Bukavu, South Kiv, Democratic Republic of Congo and;

- Seven (07) mine sites located at Kambululu, Kalimbi, Kakenge, Rusumba, Misumari, Fillon 2 and Kishanga.

3. Audit Findings

a. Status Tables

Table 1 Status for Exporter

Status Criteria	Status	Item
Conflict Status	GREEN	1. Non-state armed groups or their affiliates illegally control mine sites or otherwise control transportation routes, points where minerals are traded, and any upstream actor in the supply chain, up to and including the Exporter.
	GREEN	2. Non-state armed groups or their affiliates illegally tax or extort money or minerals at points of access to mine sites along transportation routes or at points where minerals are traded up to and including Exporter.
	GREEN	3. Non-state armed groups or their affiliates illegally tax or extort money or mineral shares from mine site owners, mine site operators, intermediaries, traders, export companies, or any other upstream actors in the Chain of Custody (CoC) up to and including the Exporter.
Conflict Status	GREEN	1. Public or private security forces or their affiliates illegally control mine sites or otherwise control transportation routes, points where minerals are traded, and any upstream actor in the Exporter's supply chain.
	GREEN	2. Public or private security forces or their affiliates illegally tax or extort money or mineral shares from mine site owners, mine site operators, intermediaries, traders, Exporters, or any other upstream actors in the Exporter's CoC.
	GREEN	3. Public or private security forces or their affiliates illegally tax or extort money or minerals at points of access to mine sites along transportation routes or at points where minerals are traded in the Exporter's supply chain.
Human Rights Status	GREEN	1. Children below the minimum working age, as defined in that Member State, are employed at the mine site or the worst forms of child labour, as defined by the ILO, are present at the mine site or in the Exporter's supply chain.
	GREEN	2. Forced labour is practiced in the Exporter's supply chain, or workers are required to work for no compensation; workers are required on certain days of the week to surrender the fruits of their labour to a third-party.
	GREEN	3. Any forms of torture, cruel, inhumane, and degrading treatment are practiced or identified in the Exporter's supply chain.
	GREEN	4. Other gross human rights violations and abuses such as widespread sexual violence are practiced or identified as associated with the Exporter's activities.
	GREEN	5. War crimes or other serious violations of international humanitarian law, crimes against humanity, or genocide are associated with the Exporter.
Formality & Transparency Status	GREEN	1. Payments are made to illegal or criminal organizations by any of the supply chain actors in the Exporter's supply chain.
	GREEN	2. Payments are made to political parties or political organizations, in contravention of a Member State's laws by any of the supply chain actors in the Exporter's Supply Chain.

	GREEN	3. Designated Minerals sourced in a Not Valid (Red) mine site are entering into the Exporters supply chain or being mixed with Designated Minerals produced in a clean supply chain.
Formality & Transparency Status	GREEN	1. Mineral shipments exit the mine without having been registered or recorded by a CoC system that can track the minerals from mine site through the Exporter's supply chain.
	GREEN	2. Government officials (mine officials, secret service, municipal or provincial governments, military units, etc.) extract significant taxation or other payments that are disproportionate to any service provided by supply chain actors in the Exporter's supply chain in a manner not authorized by the Member State's mineral code or mineral regulations.
	GREEN	3. Material from another unknown source is entering into the Exporter's supply chain.
	GREEN	4. Any supply chain actor in the Exporter's supply chain offers, promises, gives, or demands bribes to conceal or disguise the origin of minerals, to misrepresent taxes, fees, and royalties paid to governments for the purposes of mineral extraction, trade, handling, transport, and export.
	GREEN	5. Any supply chain actor in the Exporter's supply chain does not pay taxes, fees, and royalties related to mineral extraction, trade, and export from conflict-affected and high-risk areas (CAHRAs) to governments and fails to disclose such payments in accordance with the principles set forth under the Extractive Industry Transparency Initiative (EITI).
	GREEN	6. Any supply chain actor in the Exporter's supply chain refuses to allow Analytical Mineral Determination (AMD) sampling to be conducted by the ICGLR or Member State.

Table 2 Status for Supply Chain Actors

Status Criteria	Status	Item
Conflict Status	GREEN	1. Non-state armed groups or their affiliates illegally control mine sites or otherwise control transportation routes, points where minerals are traded, and any upstream actor in the supply chain.
	GREEN	2. Non-state armed groups or their affiliates illegally tax or extort money or minerals at points of access to mine sites along transportation routes or at points where minerals are traded.
	GREEN	3. Non-state armed groups or their affiliates illegally tax or extort money or mineral shares from mine site owners, mine site operators, intermediaries, traders, export companies, or any other upstream actors in the CoC.
Conflict Status	GREEN	1. Public or private security forces or their affiliates illegally control mine sites or otherwise control transportation routes, points where minerals are traded, and any upstream actor in the supply chain.
	GREEN	2. Public or private security forces or their affiliates illegally tax or extort money or mineral shares from mine site owners, mine site operators, intermediaries, traders, Exporters, or any other upstream actors in the CoC.
	GREEN	3. Public or private security forces or their affiliates illegally tax or extort money or minerals at points of access to mine sites along transportation routes or at points where minerals are traded.
Human Rights Status	GREEN	1. Children below the minimum working age, as defined in that Member State, are employed at the mine site or the worst forms of child labour, as defined by the ILO, are present at the mine site. Where a Member State has not defined a minimum working age, the standard of the International Labour Organisation (ILO) shall be used.
	GREEN	2. Forced labour is practiced at the mine site; workers are required to work for no compensation; workers are required on certain days of the week to surrender the fruits of their labour to the mine site boss.
	GREEN	3. Any forms of torture, cruel, inhuman, and degrading treatment are practiced or identified at the mine site.
	GREEN	4. Other gross human rights violations and abuses such as widespread sexual violence are practiced or identified as associated with mining activities.
	GREEN	5. War crimes or other serious violations of international humanitarian law, crimes against humanity, or genocide are associated with the Exporter.
Formality & Transparency Status	GREEN	1. Payments are made by the mine site owner or operator to illegal or criminal organizations.
	GREEN	2. Government Payments are made by the mine site owner or operator to political organizations, in contravention of a Member State's laws.

	GREEN	3. Designated Minerals sourced in a Not Valid (Red) mine site are entering into the mine site or being mixed with Designated Minerals produced at the mine site.
Formality & Transparency Status	GREEN	1. Mineral shipments exit the mine without having been registered or recorded by a CoC system that can track the minerals to their next destination beyond the mine site.
	GREEN	2. Government officials (mine officials, secret service, municipal or provincial governments, military units, etc.) extract significant taxation or other payments that are disproportionate to any service provided by the workers or productions of a mine site, in a manner not authorized by the Member State's Mine Code or mineral regulations.
	GREEN	3. Material from another unknown mine site is entering into the mine site or being mixed with the material.
	GREEN	4. Mine site owner, mine site operators, intermediaries, traders, Exporters, or any other upstream actors in the CoC and operating on the mine site offers, promises, gives, or demands bribes to conceal or disguise the origin of minerals, to misrepresent taxes, fees, and royalties paid to governments for the purposes of mineral extraction, trade, handling, transport, and export.[1]
	GREEN	5. Mine site owner, mine site operators, intermediaries, traders, Exporters, or any other upstream actors in the CoC and operating on the mine site, does not pay all taxes, fees, and royalties related to mineral extraction, trade, and export from conflict-affected and high-risk areas (CAHRAs) to governments and fail to disclose such payments in accordance with the principles set forth under the Extractive Industry Transparency Initiative (EITI).
	GREEN	6. The mine owner or operator refuses to allow Analytical Mineral Determination (AMD) sampling to be conducted by the ICGLR or Member State.

[1] *See* OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997); and the United Nations Convention Against Corruption (2004)

Table 3 Status Summary of Non-conformance Findings

SUMMARY OF NON-CONFORMANCES			
Finding	**Status Criteria:**	**Status Criteria Finding:**	**Auditee's Proposed Corrective Action:**
1	System Management	The company relies on the experience of its management to manage the risks. Although management is aware of the OECD Guidelines, the company has not formally developed its own management risk management and due diligence system that are in conformity with the OECD guidelines. As a result of the above, no monthly or annual Due Diligence reports have been produced. The company has not had an external financial audit undertaken. The general record keeping at the company was not satisfactory. We were not provided with the records requested timely, which was indicative of the state of record keeping.	Management is working on implementing the Due diligence and Risk Management system. Management has contracted an external auditor to conduct an audit.
		1.There was no presence on the Mine Police or a private security company on the premises. This compromises the security at the plant processing high value minerals. 2.The miners had inadequate protective clothing. The miners only had safety boots. The tools they were using were also inadequate and they had no identity cards, which is a requirement for any artisanal miner.	The company and cooperatives will make arrangements with the Mine Police or private company for security. Mine site owners and Cooperatives are engaged to provide the miners with appropriate individual protective clothing

4. Audit Conclusion

This was **APL SARL**'s first exporter audit under the revised Regional Certification Mechanism (RCM) third-party audits, which included a process review of the exporter's due diligence management systems and their alignment with the RCM manual and the OECD Due Diligence Guide.

The elements of the management systems are assessed separately and are not included in the overall score of the status criteria. However, any shortcomings identified in the management system have been documented, and a corrective action plan is proposed to enable continuous improvement. The exporter will have to report quarterly to the ICGLR on the status of corrective actions until they are completed. The reason for this approach is due to the limited capacity of exporters to implement a comprehensive management system as required by the RCM, and to allow for continuous improvement as they develop and implement their program.

The team of auditors examined the mineral chain from the Exporter, back up the mineral chain to the minerals' point of origin in a mine site or sites, and included all those actors who mine, buy, sell, transport, or handle the minerals on their journey from mine to export, including but not limited to producers (artisanal and small-scale mining (ASM)), traders, processors, and APL Exporter.

While the exporter scored green on most audit criteria, they did not perform well on the management system audit criteria.

Based on the evidence gathered, **the Exporter status level for APL is GREEN.**