



6TH MEETING OF THE ICGLR-OECD-UN GoE FORUM ON RESPONSIBLE MINERAL SUPPLY CHAINS

13th - 15th November 2013

Kigali, Rwanda

Summary Report

The multi-stakeholder ICGLR-OECD-UN Group of Experts Forum is a platform for governments, the private sector, international organisations and civil society to share experiences on implementation of supply chain due diligence for responsible sourcing of minerals from conflict-affected and high-risk areas. The Forum enables stakeholders to constructively tackle due diligence challenges and work towards consensus-based solutions. Forum meetings are conducted under the Chatham House Rule: "When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed."

I. Introduction

The 6th meeting of the ICGLR-OECD UN GoE Forum on Responsible Mineral Supply Chains was held for the first time in Africa's Great Lakes region, in Kigali, Rwanda from the 13th to the 15th November 2013. A total of 320 participants attended the Forum, with high representation from local government officials (with the exception of the Democratic Republic of the Congo, which was represented by only one official), in-region private sector companies and local civil society organisations. Of note was the high-level participation at Ministerial and Ambassador levels, and the strong support from international organisations active in the region, including the African Development Bank, the European Union, the IMF, UNECA, UNDP and the UN Group of Experts on the DRC and Cote d'Ivoire. The Forum was also well-represented by industry from OECD countries, Asia (China, India, Malaysia, and Thailand) and the Middle East (UAE). There was positive feedback from all participants that the meeting was held in-region, and consensus that Forum meetings should be alternated between one meeting a year in Paris and another in the Great Lakes region or some other strategic location, for example in Asia for outreach purposes.

II. Meeting structure and objectives

The three day meeting was facilitated by representatives of the OECD, the ICGLR (International Conference on the Great Lakes Region), partner countries and members of the OECD Multi-stakeholder

Steering Group (MSG). The annotated agenda, presentations given during the meeting and background materials are online on the OECD website.¹

The goals of the 6th Forum meeting were to:

- Understand the successes, challenges and opportunities in implementing the Guidance in the supply chains for tin, tantalum and tungsten (3T) and gold, in the African Great Lakes region
- Resolve previously discussed implementation challenges particularly with regards to risk management for fraud, unknown or incomplete provenance information in the 3T supply chain
- Promote pilot initiatives including existing or planned closed-pipe projects for gold and 3T, and engagement in the region
- Strengthen Great Lakes-based on-the-ground due diligence programmes, regional certification and foster increased coordination and mutual support
- Strategize on incentives for responsible mining and trade in areas of conflict and high-risk

III. Highlights of discussions from each day

a. DAY 1

The first day provided a high-level overview of political, security and due diligence efforts in the Great Lakes region. Forum members were given an update on the security factors in the region from the UN Group of Experts on the DRC. Participants were informed that despite the recent defeat of M23 rebels; the situation still remains dynamic. Gold mining is taking place in post-conflict areas in Orientale, however armed groups (e.g. FRPI, Mai Mai and ADF) continue to pose a threat. In North Kivu, armed groups such as ADF, Mai Mai, and FDLR are said to be present in gold mining areas. In Maniema, reports were optimistic for establishing responsible and conflict-free mining and trade. It was noted that there are currently no armed groups operating in Maniema, but smuggling of minerals continues to be a problem, particularly in gold where it is estimated that almost all artisanal gold in the DRC is smuggled out. The FDLR and other armed groups in the DRC continue to be a destabilizing element and are involved in mining and trade of minerals (particularly gold) in some places in North and South Kivu, and are also reported to be present in some mining areas in North Katanga. There were also reports of continued FARDC presence in mining areas throughout North and South Kivu. Reports of large-scale smuggling of 3T minerals were said to also be an on-going issue especially in North Kivu, although armed group involvement in production and trade of 3Ts has generally decreased. The UN Group of Experts on the DRC final report on the DRC is due in mid-January 2014.

The Forum gained insight into economic dimensions of the UN Peace, Security and Cooperation Framework, acknowledging the role of economic integration in the peace process. Participants also heard from the contributions of the ICGLR on their activities and challenges. Progress has been made in regional implementation of frameworks, with harmonisation of legal instruments through the application of the 2011 model law. However it was noted that national-level implementation progress of the Regional Certification Mechanism (RCM) varies considerably across ICGLR member states: while some member states have moved ahead significantly, others have yet to undertake initial efforts in the process. The ICGLR has taken first steps in setting up the necessary framework and support for a regional ICGLR Audit Committee. Operationalising the regional third party audit system as well as the office Independent Mineral Chain Auditor and the regional Technical Unit at the ICGLR Secretariat are critical next steps to

¹ See the meeting webpage: <http://www.oecd.org/daf/inv/mne/icglr-oecd-un-forum-kigali-2013.htm>. For presentations, please refer to <http://www.slideshare.net/OECD-DAF/tag/3TGKigali>

verify the accuracy and credibility of national-level RCM implementation as well as for the RCM system as a whole, which aspires to represent an acceptable OECD Guidance-compliant due diligence framework. The Forum also heard about the progressively growing cooperation in regional data sharing and the Analytical Fingerprint (AFP) process setup. With regards to artisanal mining, it was acknowledged that formalisation is an important first step to encourage due diligence and enable successful participation in the RCM. On transparency and due diligence initiatives in the extractives sector, it was noted that ICGLR member states are keen to benefit from EITI's peer learning system. Five ICGLR member states plan to be EITI approved in the second half of 2014. (*Note: Tanzania is already part of the EITI*)

National updates from the Great Lakes Region on implementation of responsible mineral sourcing

Participants recognised that national regulations in the DRC and Rwanda are generally consistent with the OECD Due Diligence Guidance and ICGLR Regional Certification Mechanism, but more is needed to scale-up initiatives, build capacity, ensure consistency of implementation, harmonize practices at provincial level in the DRC, and attract international business to the region despite the risks. Participants noted the need to strengthen monitoring efforts in both the DRC and Rwanda, and civil society raised concerns about the transparency of mine site inspections in Rwanda, with only four mine site inspection results (out of approximately 50) published to-date. Civil society also noted that chain of custody evaluations of iTSCi in DRC against RCM standards had not yet been carried out while the results of the evaluation in Rwanda have not been published, and that there is a 3-month time delay before data on export is reconciled with production data under iTSCi systems in the DRC and Rwanda. In Tanzania, a project to install scanners along major roads and airports to identify smuggled materials has been launched. It is thought that this could incorporate a future whistle blowing mechanism.

Implementation of due diligence in the gold supply chain by ICGLR countries (other than Rwanda and the DRC)

Burundi: Gold and 3T mining in Burundi is predominantly artisanal and greater efforts need to be made to sensitise the mining cooperatives to due diligence and formalise the sector. Plans are underway to install chain of custody systems, with ongoing discussions with representatives of iTSCi and other possible traceability providers, albeit with a focus on 3Ts whereas viable concepts for gold have not been presented. It was noted that a sustainable funding mechanism was needed to operationalize a traceability system and to implement the RCM in Burundi.

Tanzania: Gold mining in Tanzania is approximately 40 tonnes a year, of which 36 tonnes are from large-scale industrial gold mining, and 4 tonnes (10%) are from artisanal mines. It was noted that there are on going consultations within the government to adapt the legal framework to include the Regional Certification Mechanism, and that there was a desire for technical assistance to support this work. It was also highlighted that while Tanzania has a law in place for artisanal mining, with over 14 sites demarcated for artisanal miners, minerals from ASM are still not fully traceable. ASM gold goes primarily to Dubai and India via Dar-es Salaam and Nairobi and these international ports are a major cause of concern. India was said to have strict gold importation requirements, and some participants noted the hope that Dubai would follow suit. However, participants acknowledged the progress made by the Dubai Multi-Commodities Centre (DMCC) to implement an audit programme for all its refiners based on the OECD Guidance. Tanzania is putting in place a major formalisation programme in ASM using credit schemes through banks as well as installing scanners at major airports to detect contraband gold. The first national certificates (to be harmonized with ICGLR requirements at a later stage, due to pending operationalization of regional-level RCM elements under the responsibility of the ICGLR) are expected in December 2013 and will start with industrial gold mining companies (e.g. World Gold Council members).

Uganda:The Ugandan government update was presented by a 3rd party representative. The RCM is currently not part of Ugandan mining law and regulations. However, it was noted that information on Ugandan export procedures is shared. While proof of origin declaring the provenance of minerals is required, this information is not widely shared or readily available. Participants recognised the ongoing and serious concerns about gold smuggling between the DRC and Uganda, and the need for increased implementation of due diligence by Ugandan gold trading entities, and monitoring at all borders and places of import and export.

South Sudan: South Sudan is a recent addition to the ICGLR, having joined approximately a year ago. The challenges in implementing due diligence in South Sudan are formidable given the wide open borders and ethnic groups that routinely cross these borders as well as a weak national institutional framework. It was noted that South Sudan is still in the very early stages of engaging with the RCM and due diligence concepts.

3T Best Practice Paper on risk management for fraud, unknown or incomplete provenance information

Progress was made in discussions on best practice approaches to risk management for fraud in the tin, tantalum and tungsten (3T) mineral supply chain, risks discovered after minerals have been traded, and existing stocks of minerals held at mine sites, but agreement was not yet reached. The primary challenge in this regard was attributed to overcoming commercial risk while publicly disclosing risk management, even if risk management is done in accordance with the OECD Guidance and stakeholder support. A small group of interested stakeholders will seek to agree on an approach on the above prior to the May 2014 meeting of the Forum.

b. DAY 2

The second day of the Forum began with a focus on **due diligence activities in Rwanda**. The Forum recognised that significant progress had been achieved in Rwanda, with substantial investments to ensure that all 3T minerals are tagged leaving Rwanda. Rwanda has also made significant efforts to integrate the Regional Certification Mechanism (RCM) which has been part of Rwanda's legal framework since March 2012. The first Regional (ICGLR) Mineral Export Certificate, based on national verification of mine site inspections and chain of custody tracking associated with the shipment, was issued to a shipment from Rutongo Mines on 5 November 2013. The focus now is on scaling up and building confidence in the system. It was also acknowledged that the iTSCi system had enabled the progress in Rwanda to date, but nonetheless is capital intensive and considered by some to be cost prohibitive. Rwanda has approximately 547 "mine sites" (iTSCi definition; note that this definition differs from the ICGLR definition), and approximately 100 on-site government agents plus 10 iTSCi staff in Kigali. In addition the Analytical Fingerprint (AFP) database contains data from 300 individual production sites sampled by Rwandan authority representatives (accredited and monitored by BGR) from 2011-2013; the data is available to be employed within the regional ICGLR audit and risk assessment framework. Participants encouraged Rwanda to publish RCM mine site inspection results, iTSCi mine site baseline assessments, and RCM chain of custody evaluations, and to address issues with reconciling data on mine site production and trade prior to export. Participants also encouraged Rwanda to continue to improve its monitoring efforts to prevent any cross-border smuggling of minerals, which was reported to still be an ongoing source of concern. Industry representatives note the challenges for Rwanda now are to scale up and roll-out certification to more complex supply chains and also smaller mining companies.

Participants learned about different ways in which **artisanal miners in gold** are being approached to formalize and be part of the formal supply chain for gold. The Fairmined approach uses a premium to

offer miners a better price for their minerals. The PAC (Partnership Africa Canada) project, which is a pilot supported by the Public Private Alliance (PPA), is offering tools and technical know-how to help artisanal miners recover more gold in exchange for employing due diligence concepts. The PAC project is operational in an area of 200,000 to 250,000 miners and approximately 11,000 of these have been registered and participate in the project. The project operates on the assumption that miners will cooperate and be part of a formalized system to benefit from the technical know-how and tools which enable them to recover up to 30% more gold. Some participants suggested during the session that a refiner-NGO entity could act as a buying house for all ASM miners (taking out the role of comptoirs), with 10% of profits funneled back to pay for the system. Participants also learned from a Swiss-based refiner about the existing challenges in performing due diligence on gold ASM supply chains.

The afternoon was dedicated to **field visits to mines around Kigali as well as visits to the Rwanda Natural Resources Authority (Geology and Mines Department), mineral traders/exporters and the Gisozi Genocide memorial in Kigali**. This was another innovation of the 6th Forum and was encouraged and supported by the Government of Rwanda and the Rwandan Mining Association. Participants acknowledged the usefulness for Forum members to experience what due diligence means on the ground. Feedback from these visits were largely positive, with the majority of participants saying they found these visits useful to put the challenges and opportunities of due diligence into context and to be a useful example to initiate more peer-learning in the region.

c. DAY 3

The final day of the meeting provided an opportunity for members to hear about a number of the most pertinent issues to both gold and the 3T supply chains including the **Worst Forms of Child Labour in the mining sector**, as well coordination between the multiple **audit and assurance programmes** along the supply chain. Participants also had an **update from DRC's ICGLR National Coordinator** as well as DRC private sector and NGO participants on how due diligence is progressing in the DRC. This session on the DRC, originally planned for Day 1, was postponed to the last day to accommodate the participation of the ICGLR national coordinator for the DRC. Participants also discussed how **successful pilots and due diligence schemes could be scaled up** to enable wider implementation of due diligence and the need to do this in a financially sustainable way. The final session of the Forum was focused on the possible **future strategic direction of the Forum**. This session allowed for reflection on what the Forum has achieved to date and to consider how the Forum might develop and be structured in the future.

Worst Forms of Child Labour in the mining sector

For the first time in the meetings of the Forum a session at plenary level was dedicated to a discussion on the Worst Forms of Child Labour in the mining sector. The Forum agreed to look further into risk management for the Worst Forms of Child Labour in mining, drawing on the recommendations provided by interveners in the Forum meeting (Human Rights Watch, Pact, NELICO, and Alliance for Responsible Mining). The Forum agreed that it would work with an informal working group of interested stakeholders to provide recommendations on risk management based initially on suggestions from the panellists. If possible, a draft good practice paper on the matter may be presented to the Forum for consideration in May 2014.

Strengthening on-the-ground due diligence and alignment of efforts in the DRC

Participants recognised that the Government of the DRC had made significant advances to implement and support due diligence, including but not limited to the adoption of the ICGLR RCM and OECD Due Diligence Guidance into its legal framework, tripartite validation of 3TG mine sites in DRC based on ICGLR

and OECD principles, preparation for a mine site inspection process based on RCM standards and implementation of chain of custody systems (specifically iTSCi) in several hundred 3T mines in Katanga, Maniema and South Kivu. It was acknowledged that iTSCi system had led much of on-the-ground implementation efforts to date, specifically with regards to setting up traceability and exporting conflict-free tin and tantalum. The challenges in due diligence implementation in the DRC however are still significant especially in terms of security and the number of mines to support, as well as the need for harmonisation and alignment of the institutional framework between at the level of the provinces and at the national level. Further, there is little funding to implement new chain of custody or traceability systems even in sites which have been validated as “green” or “yellow” according to standards. Participants noted that since due diligence is risk-based, traceability and chain of custody systems could be appropriately tailored to the level of risk associated with the mines, thereby keeping costs more manageable. Civil society noted that chain of custody evaluations of iTSCi and other systems in DRC had not yet been carried out consistent with the ICGLR RCM, and that there is a 3-month time delay before data on export is reconciled with production data under iTSCi systems in the DRC.

Expanding current efforts and implementing new due diligence programmes in the Great Lakes region

Participants recognised that various stakeholders have a role to play. The private sector is responsible for funding their own due diligence, and is encouraged to share costs throughout the supply chain, including downstream. International investors should also become involved in supporting due diligence, as part of their socially responsible or impact investment agendas. For a limited period of time, donors could continue to channel start-up support to national and regional efforts or private sector efforts that directly intersect with building national capacity, such as RCM mine site inspections, regional multi-stakeholder monitoring committees, administration of chain of custody or traceability systems, and data management. Due diligence systems need to be credible and financially sustainable to take root and flourish. The Forum should assess how the various on-the-ground due diligence programmes may be scaled-up and self-sustainable in more depth at the next Forum in May 2014.

Audits and mutual recognition

Participants heard from auditors active along the supply chain in both 3T and gold, and it was clear that many questions remain on audits and assessment, and if and how different audits complement each other. It was broadly agreed that an informal Working Group be constituted to encourage communication and alignment of auditors in order to advance mutual support, harmonisation and improvements of the various audit schemes, standards, and concepts.

Strategic vision of the ICGLR-OECD- UN GoE Forum

The Forum noted that there was still significant work to be done to implement due diligence in the 3T and gold supply chains in the Great Lakes Region and expand work to other conflict-affected areas. Participants however also recognised that other natural resources may be linked to conflict, and that it may be useful to foster cross-learning between the implementation of the OECD Due Diligence Guidance in the 3T and gold supply chains, and work done on other natural resources and in other forums, without prejudging the outcomes of such exchanges. In particular, participants noted on-going work on precious stones that may be directly relevant to the implementation of the OECD Due Diligence Guidance. A separate and independent multi-stakeholder working group on precious stones will complete a stocktaking report in March/April 2014 that may call on the OECD to consider expanding the OECD Guidance to precious stones supply chains. Participants also noted that the Forum should look to begin assessing effectiveness of due diligence efforts in 2015 and beyond, as well as an independent assessment of the effectiveness of the Forum in reaching its goals.

In terms of the locations for future Forum meetings, there was positive feedback from all participants that the meeting was held in region, and consensus that Forum meetings should be alternated between one meeting a year in Paris and another in the Great Lakes region or some other strategic location, for example such as in Asia for outreach purposes.

IV. Summary conclusions

Participants welcomed having the meeting in Africa's Great Lakes Region and participating in visits to mine sites in Rwanda (organized in the afternoon of 14 November as well as after the Forum on 16 November for interested participants), and recommended repeating the practice for future events. Participants agreed to have the next meeting of the Forum on **26-28 May 2014 at the OECD Conference Centre in Paris**, and welcomed the invitation by the DRC Government to host the November 2014 Forum meeting.

Participants recognized that regional economic integration is a key part of the peace process for the Democratic Republic of the Congo. The implementation of the OECD Due Diligence Guidance is a concrete example of the private sector contribution to peace building. Broader efforts should also be taken to:

- Improve regional coherence of mining investments and national infrastructure schemes, including through tax and fiscal harmonization, and by enhancing competition across ICGLR countries;
- Build government capacity to regulate the mining sector and intra-region trade in mining products;
- Enhance investment promotion efforts with a view to strengthening backward and forward linkages between MNEs, their local suppliers, and among African enterprises; and
- Tackle harmful tax competition, tax evasion and transfer pricing.

There was interest from the UN, ICGLR and ICGLR countries to collaborate further with the OECD on a regional Investment Policy Review of the African Great Lakes mineral sector, as part of the broader efforts on stabilisation, peace-building and state-building, and as a contribution to the implementation of the Peace, Security and Cooperation Framework for the DRC and Region as per the declaration of Addis Ababa of February 2013.

Participants noted that national-level implementation of the OECD Due Diligence Guidance and the ICGLR Regional Certification Mechanism is happening with some positive results, but still varies considerably across ICGLR countries and at the regional level. Outside the DRC and Rwanda, many ICGLR governments are still working on implementing national legislation for the ICGLR Regional Certification Mechanism, setting up chain-of-custody systems, and putting in place a framework for mine site inspections. ICGLR governments called for more funding and technical assistance from donors to advance implementation efforts on the ground. Donors noted the needs to develop self-sustainable due diligence financing schemes as well as for increased coordination to make existing support more effective. Regional-level RCM implementation efforts by the ICGLR need to be intensified and streamlined to scale with national-level progress in order to provide credible independent oversight on the various national processes.

Participants recognised that national regulations in the DRC and Rwanda are generally consistent with the OECD Due Diligence Guidance and ICGLR Regional Certification Mechanism, but more is needed to scale-up initiatives, build capacity, harmonize practices at provincial level in the DRC, verify national-level RCM standard and process compliance consistency (notably through operationalizing pending

regional-level ICGLR oversight mechanisms), and attract international business to the region provided that risks are managed responsibly. In the DRC, there is little funding to implement new chain of custody or traceability systems, although iTSCi has stepped up implementation in Maniema, and new non-iTSCi systems are emerging in North Kivu and Orientale (Partnership Africa Canada project in gold). Participants noted the need to strengthen monitoring efforts in both the DRC and Rwanda, also at the regional level. Some civil society organisations raised concerns about the transparency of mine site evaluations in Rwanda, with only four mine site inspection results published to-date. Civil society also noted that chain of custody evaluations of iTSCi and other systems in DRC has not yet been carried out as required by the ICGLR RCM.

Participants discussed how the various on-the-ground due diligence programmes might be scaled-up and self-sustainable. Participants recognised that various stakeholders have a role to play. Private sector is responsible for funding their own due diligence, and are encouraged to share costs throughout the supply chain. International investors should also become involved in supporting due diligence, as part of their SRI or impact investment agendas. Donors could channel support (e.g. seed-funding) to national efforts or private sector efforts that directly intersect with building national mining sector governance capacity, such as ICGLR mine site inspections, regional multi-stakeholder monitoring committees, administration of chain of custody or traceability systems, and data management. The May 2014 Forum will provide the opportunity to look at the issues in more depth.

Progress was made in discussions on best practice approaches to risk management for fraud in the mineral supply chain, risks discovered after minerals have been traded, and existing stocks of minerals held at mine sites, but agreement was not yet reached. The primary challenge in this regard was attributed to overcoming commercial risk while publicly disclosing risk management, even if risk management is done in accordance with the OECD Guidance and stakeholder support. Some participants expressed a serious concern that the private sector did not fully understand their pre-existing responsibility to report on due diligence under Step 5 of the OECD Guidance. Other participants expressed surprise that other stakeholders do not understand business risks and the agreed limitation of reporting commercial information in the OECD Guidance.

The Forum noted that there was still significant work to be done to implement due diligence in the 3T and gold supply chains in particular artisanal gold, in the Great Lakes Region and expand work to other conflict-affected and high-risk areas, but that other natural resources may be linked to conflict. A parallel multi-stakeholder working group on precious stones will complete a stocktaking report in March/April 2014 that may call on the OECD to consider expanding the OECD Guidance to precious stones supply chains.

IV. Recommendations

- ICGLR, OECD and others (e.g. UNECA, SADC) should explore ways to boost the national and regional enablers for responsible business, such as by encouraging regional economic integration, and by possibly conducting an investment and trade policy review of the mining sector with a focus on Burundi, DRC, Rwanda and Uganda.
- The Forum and its members should further examine and report back on existing and potential incentives for responsible sourcing from the region. The Forum should partner with international investors to sensitize and raise awareness of improvements which have occurred in the region, for example in the World Economic Forum.

- Donors and international business should continue to support ICGLR activities at the national (member state) and regional level, including setting up the regional oversight mechanisms (third party audits, the Independent Mineral Chain Auditor's office, as well as efficient RCM management including data analysis) required to verify compliance and consistency of RCM implementation, as well as to establish informed alignment efforts with private sector initiatives.
- Rwanda and the ICGLR Secretariat are encouraged to publish mine site baseline inspection results and the chain of custody baseline evaluation report (to be followed up by a representative evaluation in due course), while the DRC and the ICGLR Secretariat are encouraged to facilitate a chain of custody evaluation in line with RCM standards within the next 6 months, and improve provincial and national coherence of implementation efforts. Private sector companies should cooperate with national certification efforts to ensure due diligence programmes are mutually supportive, but should also not wait for government certification to implement due diligence and responsible sourcing.
- The ICGLR Secretariat is encouraged to install a permanently operative management framework for regional RCM implementation and taking note of the coordinated roles and responsibilities of the various procedural elements (i.e., the Steering Committee on Natural Resources, the Technical Unit, the Audit Committee, and the Independent Mineral Chain Auditor's office).
- Forum should seek out partnerships with other natural resource governance programmes, and large-scale industrial mining operators, and support harmonisation of provincial level mining sector taxes and clarity on mining titles in the DRC.
- The Forum should assess how the various on-the-ground due diligence programmes may be scaled-up and self-sustainable (including issues of seed-funding and cost-sharing) in more depth at the next Forum in May, which may include understand how to tailor due diligence implementation programmes to the risk associated with certain areas.
- The Forum should look to begin assessing effectiveness and long-term sustainability of due diligence efforts in 2015 and beyond.
- The Forum should create an informal working group to encourage communication and alignment of practices among audit systems in various industry and multi-stakeholder implementation programmes, given that there remains numerous questions on audits and assessments along the supply chain.
- The Forum should look further into risk management for the Worst Forms of Child Labour in the mining sector, drawing on the recommendations provided by interveners in the Forum meeting: Human Rights Watch (HRW), Pact, NELICO, and Alliance for Responsible Mining (ARM).

END