



**Upstream Pilot Implementation
of the OECD Due Diligence
Guidance for Responsible Supply
Chains of Minerals from Conflict-
Affected and High-Risk Areas**

**Baseline Report on the
Supplement on Tin,
Tantalum, and Tungsten**

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Introduction

The present baseline report is the first in a cycle of three reports on the implementation by upstream companies of the Supplement on Tin, Tantalum and Tungsten of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (hereafter “the Guidance”). The objective of this report is to understand where upstream companies currently stand with the implementation of due diligence.

The pilot implementation phase of the Guidance focuses on Africa’s Great Lakes Region and is being carried out during the period August 2011 – August 2012. A final report on the implementation of the Guidance will be submitted by the OECD Secretariat to the OECD Investment Committee and the Development Assistance Committee by the end of 2012. Drawing on lessons from the ground, the final report on the implementation phase will identify due diligence challenges and share best practices, and any tools used by companies to implement the Guidance.

The Terms of Reference of the pilot implementation phase were adopted at the 5-6 May 2011 ICGLR-OECD-UN meeting on the implementation of due diligence. In accordance with the Terms of Reference, the present report does not attribute any activity or information to any participating companies, unless they otherwise agree.

Section I provides a detailed and chronological description of the research methodology underlying the findings of the report.

Section II presents high level findings on production and trade of the 3Ts in Eastern DRC.

Section III describes the participants in the OECD Guidance pilot implementation phase and presents the high level findings to date. This section further reports on detailed findings, illustrative examples of due diligence practices and challenges, structured according to the five steps and sub-steps of the OECD Guidance.

Section IV contains a set of recommendations to a wide range of stakeholders in the pilot implementation phase.

Annex I describes the production and trade of the 3Ts in Eastern DRC, supported by a statistical analysis of 3Ts mineral production and exports. Annex II reproduces the iTSCi incident report.

Section I - Methodology

The research for this report was carried out by two IPIS¹ consultants, further referred to as ‘the team’, working in close consultation with the OECD Secretariat. The drafting phase of the report was preceded by a phase of methodological preparation followed by desk based research and outreach to participants, and finally a field mission in the Democratic Republic of Congo (DRC) and Rwanda.

After the 5-6 May 2011 ICGLR-OECD-UN GoE² meeting on the implementation of the OECD Guidance, questionnaires on due diligence implementation were prepared for the different levels in the upstream supply chain (namely mining companies and cooperatives, mineral exporters (‘comptoirs’), international concentrate traders & mineral re-processors and mineral refiners/smelters. 51 companies volunteered to participate in the pilot individually or through ITRI’s³ supply chain initiative (iTSCi), and questionnaires were sent to them in early August 2011. Only one participant sent responses within the deadline (end of August). To date, eight additional written responses have been received by the team.

The next phase consisted of a field mission from 6 to 30 September 2011. Due to time constraints it was decided to limit the mission to the DRC and Rwanda, where 39 of the 51 participants are based. The rationale behind the itinerary of the field mission was to maximise engagement with participants. Hence, the team spent a week in Goma (the capital of North Kivu), 5 days in Bukavu (the capital of South Kivu), 3 days in Kalemie (the capital of Tanganyika District in north Katanga), for a visit to the coltan mine of Mayi Baridi where the team witnessed bagging and tagging operations under iTSCi, 3 days in Lubumbashi (the capital of Katanga) and 3 days in Kigali (the capital of Rwanda). During the mission, the team met individually with 25 participants. The information obtained during these meetings complements the data contained in the received responses to the questionnaires. Both bodies of data form the basis of the section on measures taken by upstream industry to carry out due diligence.

Besides meeting with participants, the team conducted about 30 semi-structured interviews on 3T production and trade in eastern DRC and on current efforts by the DRC government and donors to create enabling conditions for due diligence in eastern DRC. The interviewees represented the following categories of stakeholders: international donors and organizations; local civil society; the main DRC government agencies overseeing the mining sector. The first category included the UN Group of Experts, Bundesanstalt für Geowissenschaften und Rohstoffe (BGR), MONUSCO, the US Embassy in the DRC and Promines.⁴

The second category consisted of 5 civil society organizations (CSOs) specialized in mining issues in Goma and Bukavu. In the third category, the team held meetings with the heads and, in some cases senior staff, of the CEEC, SAESSCAM and Division des Mines bureaux in Goma, Bukavu, Kalemie and Lubumbashi.⁵ Finally, the team also met the provincial Mining Ministers of North Kivu and Katanga. Time constraints did not allow the team to similarly engage with the Rwandan authorities. As a consequence, the present report does not contain a detailed description of 3T production and trade in Rwanda.

¹ International Peace Information Service is a Belgium based research institute, which studies the exploitation of natural resources in Central Africa.

² International Conference of the Great Lakes Region – Organisation for Economic Cooperation and Development – United Nations Group of Experts.

³ International Tin Research Institute.

⁴ MONUSCO is the UN peacekeeping mission in the DRC. PROMINES is a technical assistance project of the World Bank, co-funded by the UK Department for International Development (DFID), to work with the DRC government to restructure the Congolese mining sector.

⁵ Centre d’Evaluation, d’Expertise et de Certification. Service d’Assistance et d’Encadrement du Small Scale Mining. The CEEC, SAESSCAM and the Division des Mines are the main governmental agencies overseeing the DRC mining sector.

During meetings with the CEEC, SAESSCAM and the Division des Mines, the team requested statistical data on 3T production and trade for 2010-2011. SAESSCAM and the Division des Mines in Kalemie, and the CEEC in Lubumbashi were not able to furnish statistics. The other bureaux visited did provide statistics on production and trade, which vary widely in terms of levels of disaggregation. For instance, the CEEC in Goma provided aggregated export and production totals, while the Division des Mines in Goma furnished export totals per comptoir, including the destination of the exports.

It should be noted that the interpretation of government statistics has certain methodological limits. Although the bulk of 3T minerals in Eastern DRC are extracted from a limited number of large mines, the region also counts hundreds of smaller mines scattered over an immense territory. The spatial distribution of sites and the generally very poor condition of road infrastructure, greatly drive up the cost of on-site government control, a task mainly conferred to SAESSCAM and the Division des Mines. The large discrepancy between this cost and available budgets for mining sector oversight, causes structural capacity problems and incentives for corruption. Hence, a considerable amount of production level data is not captured by government and production statistics have limited reliability, among other reasons because they often are only recorded in trading towns catering to several mines. An accurate and detailed picture of production patterns can only be provided by comprehensive site-specific research. However, the most recent such endeavours date from June-August 2009 for the Kivus and July 2010 for Katanga and Maniema.⁶

Export statistics are more reliable. These statistics are captured mainly by the CEEC and the Division des Mines at the level of exporting companies. As these are based in the provincial capitals, government representatives can be deployed on their premises with relative ease.

⁶ These studies were carried out under the IPIS mapping project. See: <http://www.ipisresearch.be/mapping.php>

Section II - High level findings on production and trade of the 3Ts in the DRC

Production and trade of the 3Ts⁷ in the Kivus and Maniema over the last year has been deeply affected by two major events. First, President Kabila in September 2010 decreed that all exploitation and export of minerals from the provinces were suspended until further notice. The decree referred to “*the link between the illegal exploitation and the illicit trade of mineral resources, the proliferation and trafficking of arms by Mafia and armed groups, and the recurrent insecurity in the provinces of Maniema, North Kivu and South Kivu*”.⁸

Second was the announcement by GESI/EICC⁹ in September 2010 that 1 April 2011 would be the date “*after which smelters seeking to be assessed “CFS compliant” must show documentation from a credible in-region (Democratic Republic of Congo and surrounding countries) sourcing program verifying their conflict-free sources.*”¹⁰ CFS (Conflict free smelter) compliance refers to an audit program for smelters devised by GESI/EICC to determine whether their status is ‘conflict-free’ or not. This status determines sourcing decisions of end-users regarding 3T minerals. The audit program came about in response to the Dodd-Frank Wall Street Reform and Consumer Protection Act, which was passed by US Congress in July 2010.

Mining and trading of 3T minerals in the Kivus and Maniema follows the ‘comptoir model’. Trading houses in Goma and Bukavu economically are the strongest link in the local supply chain, but they confine their activities to rudimentary processing and exporting. Their absence from production sites, which are all mined with artisanal methods by ten thousands of ‘creuseurs’, leads to open pipelines with numerous intermediaries. The complexity of these supply chains greatly drives up the cost of government control, increases the challenges related to due diligence by their clients and, in the absence of a traceability system in place, makes it hard to satisfy current end-user demands in terms of assurances regarding the ‘conflict-free’ nature of minerals from the region. This is coupled with poor development at mining community level where basic facilities are often lacking and working conditions are dangerous and unhealthy.

Comptoirs from an international business perspective are small and medium size enterprises, but they are major players in the local economy. While their disconnection from the international market since the ban does not properly take into account the fact that ‘clean’ supply chains and responsible business

⁷ The metals tin, tantalum and tungsten are commonly referred to as ‘the 3Ts’. The corresponding minerals extracted in the DRC respectively are cassiterite, coltan and wolframite.

⁸ Decree nr. 705 of 20 September 2010, quoted in: Fini les mineraux de sang et fini la guerre! Le président Joseph Kabila a décidé et au ministre des mines d’appliquer!, L’Avenir, 22 September 2010.

⁹ Global e-Sustainability Initiative (GESI)/Electronics Industry Citizenship Coalition (EICC). GESI was established in 2001 to further sustainable development in the ICT sector. It is a membership organization bringing together leading ICT companies, industry associations and NGOs. Members include high-profile companies manufacturing products such as mobile phones. GESI set up an Extractives Workgroup in 2008 in cooperation with the EICC. The EICC was founded in 2004 and is an ICT membership organization aiming at enhancing corporate social responsibility policies in the global electronic supply-chain through use of a code of conduct. Its membership consists of 45 global electronics companies such as electronics manufacturers, software firms, ICT firms and manufacturing service providers.

¹⁰ GeSI and EICC Announce Update to Conflict-Free Smelter Program, April 22, 2011. <http://www.gesi.org/Media/PressReleaseFullstory/tabid/104/smld/503/ArticleID/75/reftab/61/t/GeSI%20and%20EICC%20Announce%20Update%20to%20Conflict-Free%20Smelter%20Program/Default.aspx>; The mentioned sourcing program had been piloted at the Kalimbi mine in Nyabibwe, South Kivu before the ban. The program was developed by ITRI, a global tin industry association, and involved tagging and bagging of minerals to ensure traceability and a sound chain of custody under a system called iTSCI. Since the ban outlawed all mineral exploitation, iTSCI was forced to leave the Kivus and established itself in Katanga province to meet the 1 April deadline there. As iTSCI to date is absent from the Kivus and Maniema, exporters cannot sell 3T minerals to their former clients because smelters refuse untagged materials from the region.

practices certainly existed, the near standstill of the trade also has severely negative impacts. The export of minerals is the main foreign currency earner in a region that largely depends on imports of basic necessities. A shortage of US dollars hence leads to inflation. Second, tax revenues from mining have dwindled spectacularly in the Kivus, causing hardship for a middle-class of public servants and negatively impacting the few public services that exist, the latter including the very mining sector oversight which is needed to create 'clean' supply chains. Thirdly, comptoirs have laid off virtually all their employees and stopped providing work to the large numbers of daily workers in the sector. They also stopped injecting cash in the upstream supply chain, which causes major unemployment or severe income cuts at all levels. Finally, the rotation rate of planes and trucks to and from mining areas has significantly decreased. As transport firms carry in cargoes of basic necessities, the current slowdown of the mineral trade causes massive inflation in mining areas. As the mining sector is the engine of the local economy, these impacts spill over to other sectors as well.

The current trade disruption is reflected in the statistics analysed in Annex 1. After a short peak in March 2011 during the stock evacuation phase, official exports of Kivus and Maniema minerals to date fluctuate around a mere 10% of pre-ban levels. Only three Chinese owned comptoirs have continued to export minerals to Hong Kong and China.

A key question is whether production levels have decreased to the same extent. Statistical data does not allow for a reliable quantification of recent and current production, but does show a few trends, which require comprehensive site-specific research to be adequately interpreted. Since 2010, even before the ban, official coltan exports from South Kivu and wolframite exports from both Kivus dropped to insignificant levels. If these data do not match with a production standstill, such minerals are either being stocked or fraudulently exported. Equally striking is that cassiterite production volumes recorded since April 2011 in Walikale near the large Bisie mine, are much higher than export volumes over the same period. Thirdly, in South Kivu statistics, cassiterite production increased sevenfold between late April and August.

The common perception in the region is that since the mining ban, fraudulent exports have dramatically increased. Smuggling operations are mainly attributed to poorly integrated ex-CNDP¹¹ units in the FARDC¹², which have over the last two years expanded control over both Kivus. Undeclared exports are commonly believed by Congolese stakeholders to go to Rwanda through the countries' porous borders. On the Congolese side, vigorous measures to combat fraud are taken mainly in North Kivu, where the Mines Minister assumes leadership on the issue. This has led, among other things, to a close follow-up by the North Kivu and Maniema authorities of suspicious mineral flows coming from Maniema and Walikale. On the Rwandan side, the government since March 2011 has prohibited the import, transport and export - of untagged materials in and from the Rwandan territory. In addition, the Rwandan authorities recently created political momentum for enhanced cooperation by handing back a sizeable quantity of seized minerals to the DRC.

¹¹ Congrès National pour la Défense du Peuple. This former rebel group was integrated into the national army after a peace deal in 2009.

¹² Forces Armées de la République Démocratique du Congo, the Congolese regular army.

In terms of security, the most notable phenomenon is the process called 'régimentation', through which since March 2011 the FARDC were vacated from mining areas. However, the security vacuum has not been filled by a timely and efficient deployment of Mining Police. In some mining areas this has led to non-state armed groups taking control.

In Katanga, the provincial authorities, through a series of measures since the end of 2009, steered away from the *comptoir* model. As a result, Kivu *comptoirs* lost their dominant position to a single company operating under a new model, which combines professional exploration, buying operations and exports with semi-mechanized artisanal production on a large scale. The recently installed exporter/producer model across the 3T sector in central and north Katanga, is a model of vertical integration of production down to processing and exporting.

This model allows for the formation of closed pipelines, which greatly simplifies traceability and the creation of sound systems of traceability or chain of custody. To this end, iTSCI installed itself in the province since March 2011 and has kept expanding its operations since. To date, the exporter/producer model has also yielded positive outcomes in terms of development. The company has refurbished part of the road network in the region and has invested in basic facilities like schools, hospitals, drinking water and electricity supplies. Finally, it has constructed a tin smelter, which will create added value in the country.

Although the model described concurs with the vision of the Congolese authorities regarding development of the 3T sector, it cannot be transposed to the Kivus overnight on a similar scale, as the security situation there is far less stable.

The statistics show that the exporter/producer model has allowed the Katangese 3T sector to flourish since 2010. Exports continue to grow since minerals from Katanga are accepted by traditional traders and smelters, thanks to the introduction of traceability systems through iTSCI. In 2011, cassiterite exports from Katanga reached about one third of pre-ban volumes in North Kivu, while coltan exports are equally on the rise.

The main agencies overseeing the mining sector in Katanga are missing out on one of the great advantages of the iTSCI system, namely the potential to control the trade through detailed and accurate production and export statistics. The main reason for this is a lack of equipment for data transmission from the mines to the offices, between local bureaux like those in Kalemie to Lubumbashi, and between different agencies.¹³

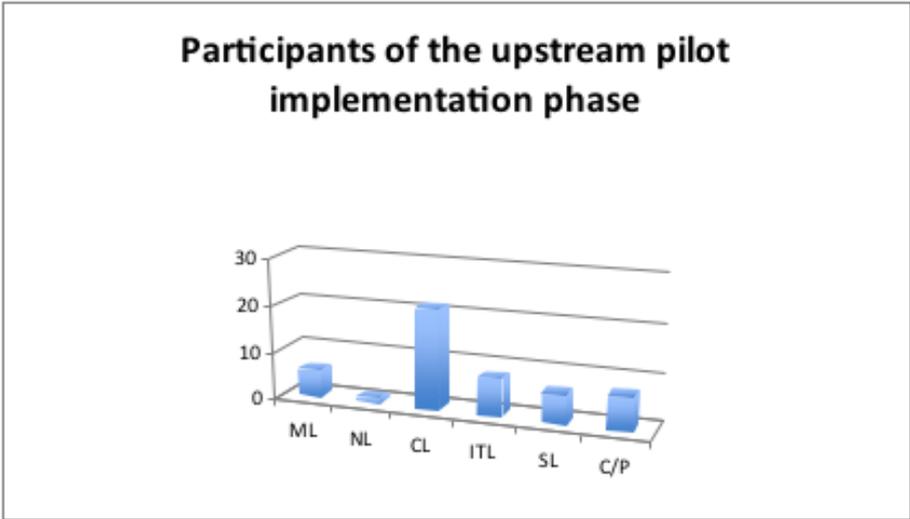
¹³ For instance, the provincial head of SAESSCAM reported that none of the SAESSCAM offices in north Katanga are connected to the internet. His service disposes of only 135 staff to oversee 32,000 creuseurs operating at 116 sites in central and northern Katanga. Staff there has no jeeps and only three motorcycles. Data contained in: Synthèse sur les activités d'exploitation artisanale SMEs depuis 2010 jusqu'à 2011 secteur nord Katanga, SAESSCAM, 25 September 2011.

Section III - Measures taken by upstream industry to carry out due diligence

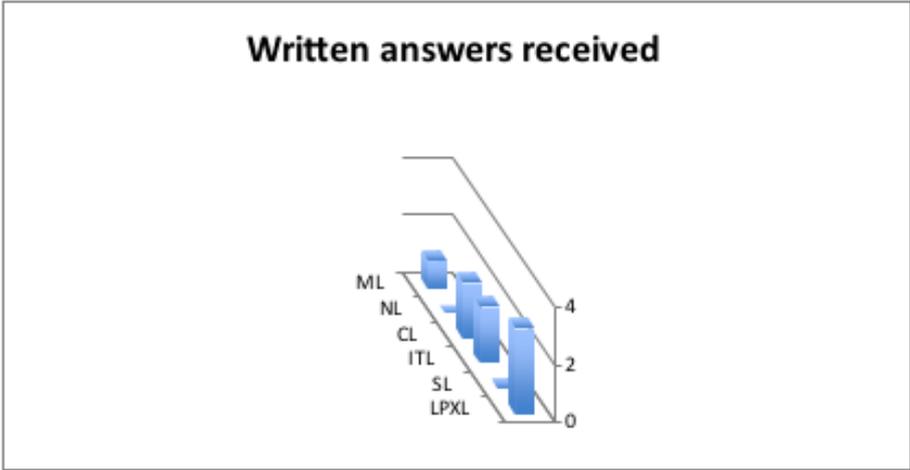
A. Description of the participants

During its first reporting cycle, the OECD upstream pilot implementation phase has counted 51 participants:

- 3 mining companies based in DRC and Rwanda.
- 8 comptoir/producers based in Katanga and Rwanda
- 3 cooperatives or federations of cooperatives representing artisanal miners, based in North Kivu, Katanga and Rwanda. One of the participating cooperatives also represents the négociants in the region.
- 1 association of négociants based in North Kivu
- 22 comptoirs in North Kivu, South Kivu and Katanga, DRC
- 8 international concentrate traders based Europe, Canada, South Africa and Rwanda.
- 6 smelters based in China, Japan and Malaysia

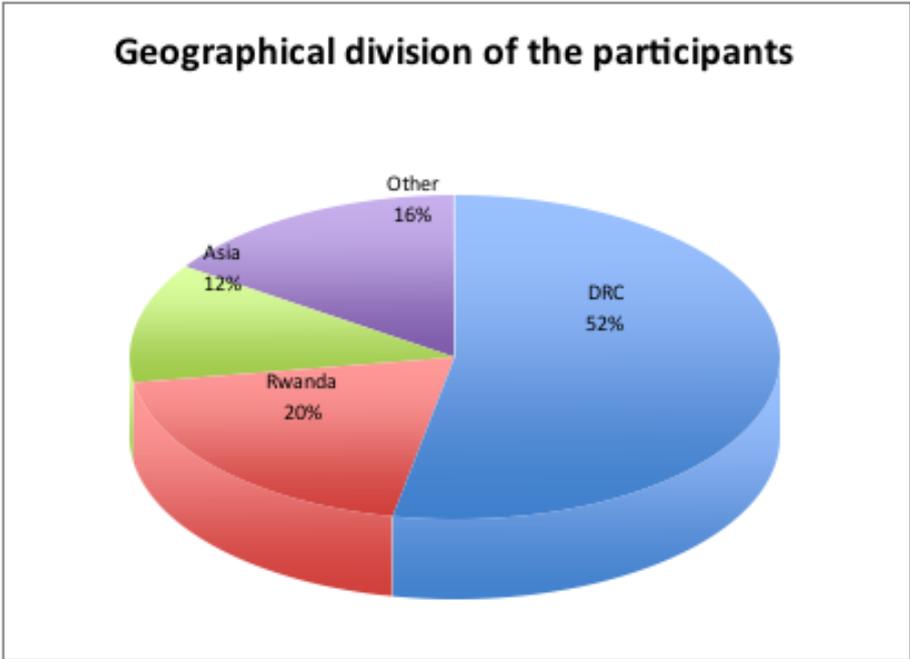


In August 2011, IPIS sent out a questionnaire to 48 upstream participants to enable the collection of comparable information and to identify common challenges and best practices in implementing due diligence. The number of written responses to the questionnaires was low. Three of the 51 participants did not receive the questionnaire in advance, because they only signed up for the pilot phase when the field mission of the team had already started. Only 8 participants out of the 48 who received the questionnaire by email, provided written responses.



The main source of information on how upstream companies are carrying out due diligence, was collected through field research at miner, négociant, comptoir and international trader level. From 6 to 30 September 2011, IPIS undertook a field mission to the Great Lakes region, where 39 of the 51 participants are based. During this mission, IPIS engaged with 25 of those 39 participants. These individual working sessions proved to be a useful and necessary tool to assist companies to implement the OECD Guidance and to develop a general understanding of the due diligence concept. Due to time constraints, field research in Asia has not been undertaken during the first reporting cycle. A gap of information therefore persists at smelter-level which will be filled during the second reporting cycle as a priority.

Only six out of the 51 participants of the upstream industry are based in Europe (5) and Canada (1). The largest group of participants is based in DRC (27), followed by Rwanda (10), China (4), Japan (1), Malaysia (1), South Africa (1) and Burundi (1). Communication both with participants based in Africa and Asia has proven difficult. While with Asian participants the challenges in communication are mainly due to linguistic barriers and cultural factors, the African participants are often lacking reliable infrastructure to ensure fluent communication.



B. High level findings

- *Overall, the intensity of the measures taken to carry out due diligence according to the OECD Guidance varies in the different provinces of DRC and Rwanda.*

Following the decision of downstream actors of the mineral supply chain no longer to accept non-tagged minerals, many participants in North and South Kivu where iTSCi is not yet present are facing ‘a de facto embargo’ on their minerals, and have been officially inactive since April 1st. The participants from both Kivus therefore did not only find it hard to apply due diligence measures, but also questioned the benefit of this exercise. While comptoirs signed up to the pilot implementation phase in large numbers, the response rate to the questionnaire was only around 5%. During its field mission however IPIS visited 16 comptoirs in North and South Kivus. The general atmosphere amongst the comptoirs is one of desperation. At the time of our visit most of them had been technically unemployed for over a year. In this context it is very hard to motivate people to start implementing due diligence. Comptoir claim they can not implement due diligence if there is no trade and international traders do not want to buy from comptoirs as long as they do not implement due diligence, which leads to a chicken and egg situation.

- *More dissemination and promotion of international due diligence expectations is necessary.*

Capacity building to help companies “know and show” the due diligence measures they take would not only benefit upstream actors, but would also contribute to trust-building amongst actors in the supply chain, a necessary step to revive mineral trade in the Great lake Region. During its field mission, IPIS spent a lot of time sensitizing actors to the Guidance. Especially in the Kivu provinces, many companies signed up for the pilot project, but did not take further action. Generally, people who were familiar with the Guidance, were the ones who had attended the workshop in Goma on the 17th of March, organized by the OECD Secretariat. This workshop was generally considered very useful, and follow-up training would be welcome.

- *Confusion regarding key-concepts of the Guidance persists.*

Where companies have already undertaken more measures to carry out due diligence, like Katanga and Rwanda, some confusion regarding certain concepts of the Guidance like ‘chain of custody’, ‘traceability’, ‘risk management’ and ‘risk-mitigation’ remains. Overall, there is an overemphasis on traceability, while the other equally vital components of a sound due diligence process are overlooked. Sometimes due diligence and traceability are wrongly used as synonyms. Generally the option of establishing a chain of custody is overlooked, as it is mistakenly understood that the Guidance exclusively requires a traceability system.

- *Generally, upstream companies are counting too much on the iTSCi scheme for exercising due diligence and are passing over the recommendations of the Guidance which require individual efforts.*

Although companies are encouraged to make agreements and partnerships with external parties to help them implement the OECD Guidance, they cannot outsource their responsibility to implement the Guidance. Despite the fact that the iTSCi scheme can help upstream companies operationalise some elements of the Guidance, like for example traceability or risk assessments, the final responsibility for the overall conformance with the Guidance rests with individual companies. A company thus cannot claim it is actively implementing due diligence merely by the virtue of being an iTSCi member.

C. Government and donor efforts to create an enabling environment for due diligence in the Kivus and Maniema

Participants in the Kivus have been affected by the Presidential ban on mining and the ensuing refusal by downstream actors in the mineral supply chain to accept untagged minerals since 1 April 2011, a situation referred to by many DRC stakeholders as a ‘*de facto* embargo’. In response to the impasse in the 3T sector of the Kivus and Maniema, the DRC central and provincial authorities, with support from donors, are deeply engaged in efforts at creating an enabling environment for due diligence by private sector stakeholders. These efforts have led to a number of legal initiatives and the creation of policies and coordinating bodies. This is reflected in two pilot projects, namely the Centres de Négoce (CdN) and the Certification Nationale to implement the ICGLR certification mechanism at country level. The ICGLR certification manual was adopted at the 5th meeting of the ICGLR Steering Committee held in Bujumbura from 7 to 9 November 2011. ICGLR countries welcomed the harmonisation of the ICGLR regional certification mechanism (RCM) with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas in accordance with the Lusaka Declaration. The integration of the standards on the modalities of contributing to conflict as the basis for the categorisation of mine sites and third-party independent audits of exporters should provide assurance to downstream buyers that certificates are issued and independent third party audits are conducted in line with international expectations. Recognising that upstream actors in the supply chain need to carry out due diligence in order to become certified, ICGLR countries also welcomed the support the OECD is providing towards creating a conducive environment for the successful implementation of the six tools of the ICGLR Regional Initiative on Natural Resources, including the regional certification mechanism.¹⁴ In particular, a company that satisfies RCM chain of custody (tracking) requirements would automatically discharge Step 1(C) of the Guidance. ICGLR independent third-party audits of mineral exporters could be relied upon by smelters while carrying out their risk assessments, while the Independent Mineral Chain Auditor could perform the function of the grievance mechanism recommended under the Guidance, as an early warning risk assessment system.

However, as none of the above initiatives are fully operational, it is impossible to assess at this stage their concrete impact on due diligence practices of participants. Nonetheless, these efforts hold considerable potential for the near future and therefore merit a description and analysis of the current state of affairs and challenges. Such analysis well illustrates the challenging environment in the Kivus and Maniema with regard to due diligence implementation.

The general description and analysis is presented in the following sub-sections, while aspects relevant for specific sets of due diligence recommendations are included under the pertaining sub-sections on the various steps of the OECD Guidance.

Policies, coordinating bodies, legal framework and certification and traceability initiatives in the DRC

Coordinating bodies

In the DRC, several working groups, hosted by the Ministry of Mines, coordinate traceability and certification efforts. These include a working group on statistics, one on certification (composed of BGR and experts from government agencies CAMI¹⁵, SAESSCAM, CEEC, CTCPM¹⁶, COCERTI), a commission to combat fraud and the Groupe Thématique des Mines, which is composed of the

¹⁴ Recommendations and decisions from the 5th Meeting of the ICGLR Steering Committee against the Illegal Exploitation of Natural Resources, Bujumbura, 10 November 2011.

¹⁵ Cadastre minier

¹⁶ Cellule technique de coordination et de planification minière

Minister's cabinet, CEEC, CTCPM, Commission de Certification, COCERTI and the Geological Service, as well as Belgium, Germany (through BGR/GIZ), the US (USAID), the EU (under the Programme d'Appui à la Gouvernance or PAG), UK (DFID), MONUSCO, the EITI National Coordinator, the World Bank and ITRI. Germany has detached a permanent BGR representative to the Ministry of Mines and has an office in Bukavu functioning, among other things, as a liaison bureau for other donors in Eastern DRC.¹⁷

Legal framework

The basic legal instrument surrounding governance of the DRC mining sector is the Code Minier (2002) and accompanying Règlement Minier (2003). Over the last two years, the Congolese authorities have supplemented the Code with a number of new legal tools related to traceability, certification and due diligence.

BGR in 2010 assisted the Congolese government with drafting a traceability manual, outlining procedures – and accompanying official documents – for products derived from small scale mining from extraction to export, to be applied by economic actors and by the relevant government agencies at every point in the supply chain. This manual updates, streamlines and supplements procedures, which are already to a considerable extent applied in the 3T sector in Eastern DRC.

The manual acquired legal force through a ministerial ordinance in October 2010. Further, the legal basis for the iTSCI tagging and bagging operations in the country, is laid by a Protocole d'Accord concluded in June 2010 between the Mines Ministry and ITRI. Another recent and important legal instrument are the 'Actes d'engagement solennel' signed by all mining sector stakeholders¹⁸ in the Kivus and Maniema prior to the lifting of the suspension on 10 March 2011. Under these 'Actes', stakeholders, including from the private sector are, among other things, required to contribute to the formalization, traceability and certification initiatives by the Congolese government and the International Conference of the Great Lakes Region. Finally, with a 'note circulaire' of the national Mines Minister in September 2011 the recommendations regarding the five step due diligence framework of the OECD Guidance have equally entered the realm of legal requirements under DRC legislation.¹⁹ The document further stipulates that, within 45 days of issuance, a mission will be effected to verify whether economic actors are implementing the recommendations.

In order to oversee the application of new laws and measures at the provincial level, in March 2011 the DRC Mines Minister called for the creation of 'Commissions de suivi des activités minières' in the Kivus and Maniema. The Commissions are presided by the respective provincial Mines Ministers, convene at least once a month and report to the provincial Governors. These Commissions are comprised of the signatories to the 'Actes d'engagement', with a representative of the private sector acting as vice-President and the involvement of civil society through specially created platforms of NGOs working on mining related issues.

In terms of donor funded programmes, which are much needed as the DRC Mining Ministry operates on an annual budget of only USD 6 million²⁰, the main project designed to accompany the

¹⁷ For example, the EU recently provided logistic and communication material (jeeps, motorcycles, printers, etc.) to the CEEC and SAESSCAM in the Kivus and Maniema under the Programme d'Appui à la Gouvernance through the BGR office in Bukavu. The BGR office equally stores the mobile spectrometers that will be used for sample analysis at the Centres de négoce.

¹⁸ Signatories are governmental stakeholders (Mines Minister, provincial Governors, SAESSCAM, CEEC, Administration des Mines, Cadastre Minier); civil society; economic actors (artisanal miners, cooperatives, négociants, comptoirs, transport firms).

¹⁹ Note circulaire n°002/CAB.MIN/MINES/01/2011 du 6 sept. 2011 relative à l'application obligatoire des directives et recommandations du Guide du Devoir de Diligence de l'OCDE et de la Résolution 1952 (2010) du Conseil de Sécurité de l'ONU dans le secteur minier congolais.

²⁰ IPIS interview with senior mining official on 25 September 2011, Lubumbashi.

government's traceability and certification measures, is the World Bank and DFID funded Promines project, with a budget of USD 90 million. While the project was approved in July 2010, actual disbursement of funds, channeled through Promines by unilateral donors, has started only very recently. Hence, the execution of the project is mostly in the preparatory phase.

The first priority for Promines is to ensure the qualification of mining sites according to the criteria contained in Annex II of the OECD Guidance and that traceability is in place at validated sites.

Traceability initiatives: Centres de Négoce (CdN)

The CdN project was launched in 2009 and is jointly executed by the Congolese government and the UN Stabilization Mission in the DRC (MONUSCO). The project aims at setting up five mineral trading centers²¹ in the Kivus. The underlying idea is to create choke-points, catering to qualified mines, where minerals are sold, bought, analysed and taxed, while traceability procedures are properly applied. A fixed transport route (by air or over land) is to link the trading posts to regional hubs such as Bukavu or Goma. MONUSCO is tasked with, among other things, the rehabilitation of roads towards the centers and with training elements of the Mining Police. These should replace army units to secure sites and access roads to and from the centers.

For the CdN to become operational, the mines surrounding them first have to be qualified by joint validation teams, an exercise that is planned to take place in three-monthly cycles.²² Procedures and principles are based on the DRC Certification Manual, which is aligned with procedures and standards of regional certification as outlined by the ICGLR, which in turns has been harmonised with the OECD Guidance. The composition of the mission teams, displays a well-thought of balance. Relevant Congolese government agencies, namely the administration des mines, SAESSCAM, the Mining Police and the Cabinet du Ministre Provincial des Mines fulfil their mandate of mining sector oversight; MONUSCO guarantees UN endorsement and provides security to the team and logistical support; the private sector (representative appointed by the FEC) and civil society put a major component of due diligence in practice, namely regular on-the-ground-checking of mine site compliance with Annex II of the OECD Guidance. The civil society representative, to be appointed by platforms of NGOs working on mining issues, contributes on-the-ground knowledge and experience, and performs a watchdog function, indispensable for the credibility of the endeavour. BGR participation constitutes a layer of international, independent checking and offers scientific guarantees (samples collection for fingerprinting).

To date, four centers have been built: at Mugogo (near Bukavu, South Kivu), Isanga and Itebero (Territoire of Walikale, North Kivu) and Rubaya (Territoire of Masisi, North Kivu). The CdN of Mugogo and Isanga, however, still lack depots for 3T minerals. Another challenge the project faces, is the geographical location of the centers, which in some cases is not expedient.²³

²¹ The Congolese authorities expect much from this project and hopes are to replicate the CdN at numerous other locations once the pilot phase has proven their worth. In North Kivu, 6 to 7 locations are foreseen in Walikale and Masisi, and approximately 10 in the Lubero and Butembo areas. In South Kivu the aimed for number is 16, while the Congolese authorities estimate the total need for CdN at 72 for the entire country.

²² N° CAB.MIN/MINES/02/0379/2011 Transmission Termes de Référence des équipes conjointes pour la validation des Mines, Kinshasa, 18 April 2011

²³ The reason is that the locations were chosen primarily because the Congolese government owned the land. For instance, the center of Itebero is located at the border of Kahuzi-Biega national park, where all mining is prohibited; the center in Numbi, which awaits construction, does have a number of small sites in the vicinity, but, despite project intentions, cassiterite from the big mine in Nyabibwe will most probably not be transported there, as this would imply a significant detour from the road to Bukavu on an impracticable route.

A major challenge is timely training and deployment of Mining Police units.²⁴ Police deployment, however, has been far too slow and inefficient. In the case of the Bisie mine, which formerly produced about 70 % of North Kivu's cassiterite, the security vacuum was filled by Mayi Mayi Cheka.²⁵ While shortly before, all illegal taxation barriers around Bisie had finally disappeared, Cheka currently raises a monthly tax on miners and local community members. Moreover, insecurity around the area caused the mine site qualification mission for the CdN of Isanga, planned for mid-August, to be cancelled.

So far, two such missions have been executed, one for the CdN of Mugogo and one for Rubaya in late June-July and August respectively.²⁶ The resulting reports have not been published, as they await endorsement by the national Minister of Mines. Therefore, it is not possible at this stage to perform a detailed analysis on the extent to which the underlying standards, principles and methodology correspond with the OECD Guidance.

An important lesson learned concerns the legal issue of artisanal exploitation on concessions granted to private title holders. Since the creation of the Cadastre Minier in 2003, mining areas in the DRC are almost entirely covered by exploration and exploitation permits held by private or parastatal companies and that, under the Mining Code, artisanal mining is only allowed in specially designated zones (ZEAs or Zones d'exploitation artisanale). Because ZEAs are rare²⁷, not physically delineated and in most cases ill suited for artisanal exploitation, most artisanal mining in the country occurs at locations where it is *de facto* illegal.

On the other hand, companies holding titles do not often conduct actual exploration on their concessions for security or other reasons, which, unless they can officially invoke *force majeure*, should lead to expiration of the titles within a timeframe set by the Mining Code, according to procedures which are to be applied by the Cadastre Minier. In the framework of current and upcoming qualification of mining sites, it is therefore urgently needed that the Cadastre clarifies and updates mining titles.²⁸ In some cases, companies have concluded a formal agreement with artisanal miners.²⁹

According to several officials, the legal insecurity surrounding artisanal exploitation and Cadastre permits is stalling endorsement by the national Minister of Mines of the qualification of sites around Mugogo, which are for the most part located on concessions granted to a company. Endorsement by the Minister could expose the Congolese state to legal liabilities unless an agreement with the title holder can be reached. These legal risks, which can be expected to occur frequently in the framework of future mine site qualification endeavours, will equally affect decisions regarding the possible involvement of donors and the establishment of iTSCI at mining sites³⁰.

This in turn points at another number of major challenges. Due to the requirements imposed on smelters under the CFS program, the introduction of iTSCi in the region has become an absolute precondition for the trade to resume. The financial cost of the iTSCi system, however, is considerable. The price iTSCi currently charges in Katanga and Rwanda³¹ is USD 500/T of minerals. This price is

²⁴ Through a process called *régimentation*, FARDC units have since March 2011 been vacated from mining areas in the Kivus. This provided a window of opportunity to deploy civil authorities and Mining Police in a bid to restart production and trade under proper security arrangements.

²⁵ Mayi Mayi Cheka on 13 August 2011 kidnapped three mining police cadres at the mine and took control of the area, which equally includes the gold mine of Omate.

²⁶ The missions fulfill a need for site-specific research in order for the EDRC mining sector to steer away from negative categorical judgements and perceptions – and corresponding policies or downstream sourcing decisions - regarding militarization and criminalization.

²⁷ Reportedly there are three in North Kivu, seven in South Kivu and one in Katanga.

²⁸ This is indeed stipulated in the Actes d'engagement of CAMI and of the Mines Minister himself.

²⁹ An example is the Bisie mine where the title holder entered into a formal agreement with a mining cooperative.

³⁰ According to several senior officials interviewed during the team's mission, the issue is currently causing reticence among donors and iTSCi to become involved at validated sites qualified around Mugogo.

³¹ In Rwanda, implementing state agency OGMR charges an extra USD 200/T.

fixed, even though the price of tin is currently plummeting in the context of the global economic slowdown.³² Many predict that the creuseurs will be the main victim of this aspect of formalization, as it would result in them receiving lower prices.³³ Second, operating the iTSCI system and applying the traceability manual of the government in the region will overstretch current capacities of the overseeing state agencies and will require considerable means in terms of human resources, financial resources, equipment and training.

Certification Nationale

Due to the magnitude of the challenges involved, the pathway to the resumption of normal trade will most probably pass through a gradual increase of pilot mines. To this end, the DRC disposes of another tool than the CdN, namely the Certification Nationale. Unlike the CdN qualification missions, the national certification initiative is not *a priori* restricted to specific geographical areas. Hence, the legal issue concerning artisanal exploitation on company held concessions can be taken into account before pilot sites are selected. In a first phase, these sites will be located in South and North Kivu.³⁴

The Certification Nationale is designed to implement the Regional Certification Mechanism (RCM) of the ICGLR at DRC level. The key elements of the RCM are chain of custody tracking from mine site to export; regional mineral tracking via a database; independent third-party audits; an independent mineral chain auditor.

As already pointed out, chain of custody tracking is currently being done through the involvement of iTSCI. Concerning the database, the Congolese Ministry of Mines has set up a working group to coordinate transmission of statistics to the ICGLR Secretariat in Bujumbura, while the ICGLR has hired a data collection coordinator and is currently engaged in the process of developing data sharing protocols for member states.³⁵ The independent auditor will be recruited after the formation of an audit committee, scheduled for early November 2011,³⁶ and will be mandated to launch investigations in ICGLR member states concerning illegal exploitation or trade of natural resources.³⁷ Such investigations can be triggered by a whistle-blowing mechanism, which will be installed to allow for anonymous signalling of irregularities in the mining sector, possibly sanctioned by, among other things, the invalidation of mine sites. To perform the necessary watchdog function, a regional civil society platform has been created, comprising CSOs from Burundi, Uganda, DRC and Rwanda.³⁸

The third party audit system has, with financial support from BGR and coordination by the DRC Working Group on Certification, already been piloted in Eastern DRC in early September 2011.³⁹ The audit involved an on-site visit to the important cassiterite mine of Nyabibwe by an independent auditor, accompanied by local CSO Bureau d'Etudes Scientifiques et Techniques (BEST), which contributed its field experience related to mining issues in the region. Interviews were held with stakeholders across the supply chain, from artisanal miners through cooperatives down to comptoirs. Anticipating the final report, the DRC Working Group on Certification (WGC) on 30 September 2011 announced that the auditor noted no military presence on site, no child labour and no presence of

³² The tin price at the London Metal Exchange plummeted from USD 33,000 in April to USD 19,000 in September 2011.

³³ Every comptoir spokesman with whom the team raised this issue, confirmed that this would be the most likely scenario.

³⁴ IPIS interview with mining official on 25 September 2011, Lubumbashi.

³⁵ E-mail from ICGLR consultant to IPIS on 25 August 2011.

³⁶ E-mail from ICGLR consultant to IPIS on 19 October 2011.

³⁷ IPIS interview with the BGR Deputy Project Manager of the Congo Mineral Certification Project on 14 September 2011, Bukavu.

³⁸ Atelier régional de formation et de mise en place de la plateforme de la société civile pour la participation au processus de mise en oeuvre de l'Initiative Régionale de Lutte contre l'Exploitation Illégale des ressources Naturelles dans la Région des Grands Lacs, Bujumbura, du 17 au 18 août 2011.

³⁹ See : http://mines-rdc.cd/fr/index.php?option=com_content&view=article&id=185

women.⁴⁰ However, as publication of the final audit results is pending, it is not possible at this stage to perform a detailed comparative analysis of the audit principles, standards and methodology based on the Certified Trading Chains standards for the DRC (CTC DRC) with the OECD Guidance. It is expected that the Certified Trading Chains standards for the DRC will be harmonised with the standards on contributing to conflict contained in the OECD Guidance before further audits take place.

The original certification action plan of the DRC, validated by the Mines Minister, foresaw a comprehensive certification exercise to have taken place by the end of 2011. However, the mining ban and the ensuing obligations regarding tagging have caused a one-year delay. Next third-party audits based on the updated CTC DRC standards, involving CSOs BEST, Cenadep and OGP, will probably take place soon in Lulingu (territoire Shabunda, South Kivu), Misisi (territoire Fizi, South Kivu) and Rubaya (North Kivu).⁴¹ Under the Certification Nationale, such audits are due to take place every three years. These will be supplemented with two other layers of checking: Yearly internal audits by the Ministry of Mines and the whistle-blowing mechanism designed for rapid responses to local dynamics, through MONUSCO informants.

In addition to the qualification missions executed under the CdN project and the Certification Nationale, a comprehensive exercise of mine site qualification and accompanying cartography is to start shortly under a partnership between the Cadastre Minier (CAMI) and IPIS, a Belgian research institute. This project will last 18 months and aims at capacity building and a technology transfer towards CAMI to ensure continuity of qualification efforts in the future.

⁴⁰ Idem.

⁴¹ IPIS interview with the BGR Deputy Project Manager of the Congo Mineral Certification Project on 14 September 2011, Bukavu. IPIS interviews with representatives of CSOs BEST, OGP and Cenadep between 14 and 19 September 2011, Bukavu.

D. Detailed findings on Due Diligence Implementation

STEP I: Establish Strong Company Management Systems

a) Adopt and Commit to a supply chain policy

A	Adopt and commit to a supply chain policy for minerals originating from conflict-affected and high-risk areas
I.A.1	<p><i>Adopt and commit to a policy commitment setting forth principles for common reference on mineral extraction, transport, handling, trading, processing, smelting, refining and alloying, and export, against which the company will assess itself and the activities and relationships of supplier.</i></p> <p>This policy should be consistent with the standards set forth in the model supply chain policy in Annex II.</p>
I.A.2	<p><i>Adopt and commit to a clear and coherent management process to ensure risks are adequately managed.</i></p> <p>The company should commit to the due diligence steps and recommendations outlined for the various levels identified in the OECD Guidance.</p>

(1) Findings

The 8 respondents to the questionnaire (1 cooperative, 1 comptoir, 3 comptoir/producers and 3 international traders) declare they have either adopted a supply chain policy or committed to the Model supply chain policy in conformity with Annex II of the Guidance.

Sixty percent of them indicate that their conflict mineral supply chain policy has been provided to iTSCi and that “it is likely that all member company policies will be published on the iTSCi website”. At the moment of writing, iTSCi does not have its own website yet. Information on the project can be found on the ITRI website. Any company that wishes to become a full iTSCi member needs to adopt a supply chain policy in conformity with the OECD Model Policy of Annex II.⁴² When a company applies for membership, it will need to send its corporate policies, including its mineral supply chain policy, to the iTSCi Secretariat. These documents will then be sent to the Risk Assessor and the Steering Committee, which will assess them and make recommendations and suggestions. At the moment of writing, members of the program are not made public yet, nor can their policy be found online.

Half of the respondents have a website. Half of these have an ethical policy available on line on the issue of conflict minerals. The other fifty percent of companies with a website say they will publish their supply chain policy ‘soon’, even though presently their websites are under construction.⁴³ Other companies do not have a website. As some companies only refer to an ethical clause in their contracts with suppliers when answering the questions on the adoption of a supply chain policy, it is unclear whether they have also adopted a separate policy.

⁴² iTSCi membership Programme Agreement Summary, p.2

⁴³ For an example see phoenix-metal.com

Illustrative examples

One of the international traders visited has developed a list of 12 ethical fundamentals of the company, including

9. *“We agree to comply with the OECD ‘Model Supply Chain Policy’, set under Annex II of the OECD ‘Due Diligence Guidance for Responsible Global Supply Chains of Minerals from Conflict-Affected and High-Risk Areas’ (the “OECD Guidance”). All our Suppliers are issued a copy of the OECD Guidance and committed to adhering to its requirements, which we, as a company and a group, whole heartedly support”.*

Currently these principles were posted in the offices of the company and communicated to suppliers. At the moment the company does not have a website but is considering creating one.

(2) Challenges

General

While iTSCi requires companies to adopt a supply chain policy, the purpose of adopting a policy goes much further than merely fulfilling the prerequisite of becoming an iTSCi member. A policy commitment will only provide a meaningful basis for embedding a company’s responsibility to respect human rights and not contribute to conflict when it is publicly available and communicated internally and externally to all personnel, business partners and other relevant stakeholders.

Comptoir level

Since comptoirs are local small and medium enterprises, most are not necessarily familiar with corporate social responsibility issues. The idea of adopting a supply chain policy was new to them. None of the comptoirs we spoke to have a company website. It was suggested they could consider including a supply chain policy into the company code of internal rules, yet this would not guarantee communication to their suppliers and the public. A simple solution for this problem could be that instead of having each company to create its own website, membership and supply chain policies could be published on the website of the FEC (*Fédération des Entreprises du Congo*).

Various participants have indicated that the OECD Guidance allows more progressive development, while the CFS program requires much higher standards in a short timescale. Different interpretations of the notion “armed groups” led to confusion. On the other hand, some participants also believed that the Model policy of Annex II contains expectations that may be difficult to influence within the short timescales (6 months) allowed for improvement. Explicit references were made to the use of cash and the standards set for child labor.

QUESTIONS ON THE GUIDANCE FROM UPSTREAM COMPANIES

How does the policy relate to child labour?

The model supply chain states that companies should not tolerate nor by any means profit from, contribute to, assist with or facilitate the commission by any party of the worst forms of child labour. Article 3 of ILO Convention No. 182 has defined the worst forms of child labour as:

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Situations in which children are trafficked to mine sites where they are forced to work in slavery-like conditions will thus be regarded as one of the worst forms of child labor and cannot be accepted. During the Congolese war thousands of children were abducted and forced to become child soldiers. In the East, these children were often forced to work in the mines that supported the local militias on moments they were not fighting.¹ As armed groups are still active in the eastern region of DRC, a risk of children being forced to work into mines still persists. Risk of hazardous child labor as described under (d) are likely to be common at mine sites. If children work in mines, they often carry out dangerous tasks such as go down in underground tunnels nearly as wide as their bodies, or carrying bags of minerals that are heavier than their body weight.

Often however, children also accompany their parents to the mine simply because they are too young to stay at home or there is no school in the surroundings. The mere presence of these children should not be seen as a trigger to suspend all trade, although nor should it be seen as a normal and entirely acceptable situation. When the presence of children in a mine site is reported, the nature of their presence should be determined and adequate risk mitigation measures should be taken.

QUESTIONS ON THE GUIDANCE FROM UPSTREAM COMPANIES

What does it mean to have a policy that includes a policy commitment setting forth common principles on the extraction and trade of minerals, along with a management process?

In general, the answers to the questionnaires made it clear that there is confusion about recommendation A. “*Adopt and commit to a supply chain policy*”. According to the guidance, a supply chain policy has two aspects (1) *a policy commitment setting forth common principles* and (2) *a clear and coherent management process to ensure risks are adequately managed*. In the responses most companies either do not mention the second aspect or describe how they have appointed people responsible in their company for due diligence. It thus seems that ‘the coherent management process’ referred to in recommendation A, is confused with the need to structure internal management systems of recommendation B. The model policy of Annex II covers two aspects: a policy commitment (an ethical principle of the company) and a recommended management principle (which aims to ensure the company lives up to its ethical principles). To give an example:

→ the policy commitment

Regarding direct or indirect support to non-state armed groups:

We will not tolerate any direct or indirect support to non-state armed groups through the extraction, transport, trade, handling or export of minerals.

→ the management recommendation

Regarding risk management of direct or indirect support to non-state armed groups:

We will immediately suspend or discontinue engagement with upstream suppliers where we identify a reasonable risk that they are sourcing from, or linked to, any party providing direct or indirect support to non-state armed groups.

When asked whether risk management processes are explicitly included in their supply chain policies, companies often answer that their supply chain policy makes reference to the OECD Guidance, but that the risk management processes are not described in detail in the policy, as they would be too complex. It is therefore essential that besides stating an ethical principle, companies also state how they will respond to identified risks of any reasonable inconsistency between a factual circumstance and a standard set forth in the supply chain policy.

Structuring internal management systems

B	Structure internal management systems to support supply chain due diligence
I.B.1	<i>Assign authority and responsibility</i> to senior staff with the necessary competence, knowledge and experience to oversee the supply chain due diligence process
I.B.2	<i>Ensure the availability of resources</i> necessary to support the operation and monitoring of these processes.
I.B.3	<i>Put in place organizational structure and communication processes</i> that will ensure critical information, including the company policy, reaches relevant employees and suppliers.
I.B.4	<i>Ensure internal accountability</i> with respect to the implementation of the supply chain due diligence process.

(1) Findings

The necessity to structure internal management systems depends on the size of a company. Most companies have assigned responsibility to a member of their staff to oversee the supply chain due diligence process, including the traceability component. Some companies also indicated to have an ‘ad hoc’ system in place, in which any purchase made from the Great lakes region, must be approved by a Group Board Director. Other larger companies such as Phoenix Metal in Rwanda have appointed a team of two staff members who are in charge of traceability issues. These persons sometimes visit the mine sites. The company MMR has created a due diligence and procedure department (DDP). Within the company, they have identified both personnel responsible for the day-to-day implementation of due diligence and others to take overall responsibility on due diligence within the management structure. To ensure that critical information reaches relevant employees and suppliers, the DDP department frequently organises workshops and meetings that heads of departments and suppliers usually attend. Like Phoenix Metal, MMR has also distributed copies of the OECD Guidance and of their company policy to all relevant employees and has included relevant responsibilities in their job descriptions when applicable.

Illustrative examples

Some companies have made important investments to support supply chain due diligence. Phoenix Metals has provided their staff in charge of due diligence with telephones, cars and GPRS. They also developed a new procedure to store tags when receiving ores for which they invested in scales and bar-code readers to scan tags.

In order to ensure that critical information reaches suppliers, most companies incorporate their policy into their contracts. Some companies also ask suppliers to sign a supply note that confirms the source of the minerals and the non-involvement of armed groups. Also Phoenix Metals has incorporated its ethical code into the commercial contracts with their suppliers and provided us with the following abstract:

Toute marchandise livrée chez Phoenix Metal Ltd devra être dûment taguée suivant la procédure donnée par l'OGMR et celle de Phoenix Metal Ltd.

Le Fournisseur s'interdit toute activité de trading et/ou de collecte de minerais dont l'origine ne serait pas celle de leur gisement.

Le Fournisseur s'engage à n'exploiter que des gisements officiels et reconnus par le ministère des mines dans ses attributions et l'OGMR.

Le Fournisseur s'engage à travailler en toute transparence et accepte toutes les visites et audits que le client jugera nécessaire.

(2) Challenges

In response to questions regarding resources, most companies indicate 'to be small and have limited resources'. Some actors expressed concerns that the significant financial and human resource burden put on companies will drive them to choose other sources of minerals. The importance of internal communication within the company seems generally to be underestimated. Sixty-six percent of the respondents did not undertake any action to implement this recommendation. Only one company considered the idea of organizing a session for employees when we spoke to them.

c) Establishing a system of controls and transparency over the mineral supply chain

	<i>For local mineral exporters only</i>
C I.C.1	Collect and disclose the following information to immediate downstream purchasers, who will then pass them down the supply chain, and to any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals from conflict-affected and high-risk areas

- a. all taxes, fees or royalties paid to government for the purposes of extraction, trade, transport and export of minerals.
- b. any other payments made to governmental officials for the purposes of extraction, trade, transport and export of minerals
- c. all taxes and any other payments made to public or private security forces or other armed groups at all points in the supply chain from extraction onwards
- d. the ownership (including beneficial ownership) and corporate structure of the exporter, including the names of corporate officers and directors; the business, government, political or military affiliations of the company and officers
- e. the mine of mineral origin
- f. quantity, dates and method of extraction (artisanal and small-scale or large-scale mining);
- g. locations where minerals are consolidated, traded, processed or upgraded
- h. the identification of all upstream intermediaries, consolidators or other actors in the upstream supply chain
- i. transportation routes

(1) Findings

Requirement I.C.1 sums up the nine types of information that any comptoirs (local mineral exporter) must obtain with every lot of minerals he acquires. Nevertheless, in supply chains where there are no 'comptoirs' as such, and the international trader does the local exporting, this same information will have to be collected by them.

As the team's work with Kivu comptoirs did not move beyond the stage of explaining and raising awareness on the OECD Guidance and Questionnaire, it was not possible to collaborate on making an inventory of official documents kept by comptoirs. Such exercise would have enabled a comptoir-by-comptoir in-depth analysis of the extent to which existing administrative procedures generate documented evidence on the issues listed under Step I.C.1 of the Guidance.

The local processors and exporters in Katanga and Rwanda are relying on iTSCi for the collection of all this information either through logbooks or risk assessments.

(2) Challenges

Much of the information is collected through the iTSCi logbooks. As such the mine of origin (e), the quantity, dates and method of extraction (f), locations where minerals are consolidated, traded, processed and upgraded (g) and the identification of all upstream intermediaries, consolidators or other actors in the upstream supply chain (h) should be available from the tagging and logbook system. This is however not the case for requirements a-d and i.

<i>Collected through the iTSCi logbooks</i>
The mine of origin (e)
The quantity, dates and method of extraction (f)
Locations where minerals are consolidated, traded, processed and upgraded (g)
The identification of all upstream intermediaries, consolidators or other actors in the upstream supply chain (h)

Government oversight at the export level of the supply chain is relatively strong. As comptoirs are located in the provincial capitals, their activities can be checked with relative ease. The main intervening agencies are the CEEC and the Division des Mines. A representative of both agencies witnesses the commercial transactions between comptoirs and négociants at the comptoirs' premises and delivers the necessary paperwork. This paperwork includes documents related to the payment of taxes and documents generated by government oversight upstream, where SAESSCAM and the Division des Mines are the main intervening agencies.

The challenges for an efficient implementation of requirement I.C.1 are two-fold. First, it will have to be clarified which information can or cannot be collected and disclosed by the iTSCi system. Secondly, it will have to be determined which official documentation can provide the necessary information and will be accepted by down-stream sourcing partners in the supply chain.

	<i>For international concentrate traders only</i>
I.C.2.1	Incorporate the disclosure requirements of requirement I.C.1.1 into commercial contracts with local exporters.
I.C.2.2	<p>Collect and disclose the following information to immediate downstream purchasers, who will then pass them down the supply chain, and to any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals from conflict-affected and high-risk areas</p> <ol style="list-style-type: none"> a. all export, import and re-export documentation, including records of all payments given for the purposes of export, import and re-export and all taxes and any other payments made to public or private security forces or other armed groups b. the identification of all immediate suppliers (local exporters) <ul style="list-style-type: none"> all information provided by local exporter

(1) Findings

At the level of international traders, participants are also relying on iTSCi for the collection of all this information.

Few respondents explicitly listed the disclosure of the elements listed in C.1.1 in their contracts. Most international traders and smelters declare they require their suppliers to warrant that all minerals are conflict-free or declare that they only buy from suppliers who committed to the iTSCi program.

In relation to the identification of immediate suppliers, participants stated that “they know their local suppliers as they are in direct business with them”. While they thus might comply with the recommendation to “collect” this information, they seem reluctant to disclose this information to immediate downstream purchasers or any institutionalized mechanisms.

(2) Challenges

Participants indicate it is unlikely that suppliers will be willing to disclose information on taxes and payments to their customer. From a trader’s perspective, the disclosure of suppliers’ contact details to customers cannot be justified, as it is regarded as commercially sensitive. At the same time, participants indicate that they would be willing to disclose this kind of information to an industry program. Disclosure of information is vital for downstream companies to be able to carry out due diligence and to build credibility into their own systems. Some participants indicate that information on ownership and payments of official taxes are requested from companies when they join iTSCi.

	<i>For Smelters/Refiners only</i>
C	Establish a system of controls and transparency over the mineral supply chain.
I.C.3.1	Incorporated the disclosure requirements of I.C.1.1 and I.C.2.2 into commercial contracts with international concentrate traders, mineral re-processors and local exporters.
I.C.3.2	Maintain the information generated by the chain of custody and/or traceability system outlined below for a minimum of five years, preferably on a computerised database and make it available to downstream purchasers and to any institutionalised mechanism with the mandate to collect and process information on minerals.

(1) Findings

For smelters and refiners, there is an additional requirement to maintain the information generated by the chain of custody and/or traceability system for a minimum of five years. The database should be preferably computerised and should be available to downstream purchasers and any institutionalised mechanism mandated to collect and process this information.

iTSCi has developed a computerised on-line database, which is held on a secure server in Canada hosted by IBM. Before being delivered, all tags and logbook numbers are pre-loaded into the database in order to associate them with a specific location when allocated to approve mine sites or processors. Once the logbooks are filled in, they are sent back to London where the data collected is manually entered into the database. The database will not be public, however the iTSCi risk assessor and auditor will have full access to all information. Governments and institutionalized mechanisms can obtain access upon request and once there is an agreement on the terms and confidentiality on further release of that information.

Illustrative examples

Only MMR and Phoenix Metals, two local processing and exporting companies who are in the process of operationalising their own smelter facility, have developed their own database. Both systems work with scanners connected to a computer, which can scan the barcodes of the iTSCi tags, and save all information in an accompanying database.

C	Establish a system of controls and transparency over the mineral supply chain.
I.C.4.1	Introduce a chain of custody and/or traceability system that generates the following information on a disaggregated basis for the minerals from a “red flag location of mineral origin and transit”, preferably supported by documentation: mine of mineral origin; quantity and dates of extraction; locations where minerals are consolidated, traded or processed; all taxes, fees, royalties or other payments made to governmental officials for the purposes of extraction, trade, transport and export of minerals; all taxes and other payments made to public or private security forces or other armed groups; identification of all actors in the upstream supply chain; transportation route
I.C.4.2	Make all information gained and maintained pursuant to the due diligence standards and processes contained in this Guidance available to downstream purchasers and auditors and to any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals from conflict-affected and high-risk areas.

(1) Findings

To gain more control and transparency over the supply chain, all upstream companies should introduce a chain of custody or a traceability system. To ensure traceability all but two respondents to the questionnaire use the bagging and tagging system of iTSCi.

The iTSCi logbooks contain information on the mine of origin, the quantity, dates and method of extraction, locations where minerals are consolidated, traded, processed and upgraded and the identification of all upstream intermediaries, consolidators or other actors in the upstream supply chain. It is however unclear how companies collect and disclose information regarding taxes, fees, royalties or other payments made to governmental officials, taxes and other payments made to private or public security forces or other groups and transportation routes. Information regarding security or other risk alerts at companies/mines or transport routes within the supply chain are provided to other members by iTSCi. Additionally auditors and risk assessors of iTSCi have access to the information.

Many participants seem to think that traceability of minerals, currently implemented in the region by the iTSCi scheme, is a necessary component of due diligence. Yet, ‘bagging and tagging’ itself is just one way to operationalise the recommendation on traceability.

QUESTIONS ON THE GUIDANCE FROM UPSTREAM COMPANIES

What are the differences between a “chain of custody” and “traceability” systems, and how do they relate to due diligence?

Throughout the interviews and processing the answers to the questionnaires for the baseline report, there has been confusion between the notions “chain of custody and/or traceability” and due diligence. It should be understood that:

- *Chain of custody* refers to the paper trail documenting the sequence of entities, which have custody of minerals as it moves through a supply chain.
- *Traceability* refers to physical tracking of minerals at all points of the trading chain, from their mine of origin to their point of export.
- *Due Diligence*. Due diligence is an on-going, proactive and reactive process through which companies can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts (including risk of contributing to conflict and serious human rights abuses) as an integral part of business decision-making and risk management systems.

In order to identify and address actual or potential risks, companies will have to know the origin of the minerals they are buying. Traceability or chain of custody is thus one of the necessary components of credible risk-based due diligence.

As part of the current efforts by the Congolese authorities to create an enabling environment for traceability and due diligence, the government has developed a traceability manual, which outlines procedures – and accompanying official documents – for products derived from small scale mining from extraction to export, to be applied by economic actors and by the relevant government agencies at every point in the supply chain.¹ If fully applied, procedures and accompanying official documents would create an auditable paper trail from the mine to the point of exit out of the country. The documents generated would cover all issues listed under Step I.C.1 except, of course, possible illegal payments to officials, security forces or armed groups.

Another project, which will facilitate the efforts upstream companies to establish a chain of custody or a traceability system, is the creation of the Centres de Négoce. As explained in section C of this section, the aim of this project is to build mineral trading centers, which would create choke points, catering to qualified mines, where minerals are sold, bought, analysed and taxed, while traceability procedures are properly applied. A fixed transport route (by air or over land) is to link the trading posts to regional hubs such as Bukavu or Goma. MONUSCO is tasked with, among other things, the rehabilitation of roads towards the centers and with training elements of the Mining Police. These should replace army units to secure sites and access roads to and from the centers.

(2) Challenges

One of the challenges over the next few months will be to ensure a widespread dissemination of the DRC traceability manual, and the systematic and reliable implementation of the procedures by private actors and government officials of the DRC. It is not clear whether upstream actors will make use of the official trading points.

The iTSCi traceability system is the only traceability system currently being used by many upstream actors of the mineral supply chain. According to participants who submitted the questionnaires, there are aspects of the iTSCi scheme, which should be reconsidered. Generally the systems in place increase management fees and delays business activities. Often SAESSCAM (DRC) or OGMR (Rwanda) staff are not present on the mine site, and miners have to wait or queue for long times in order to get their bag tagged. This is a direct loss of income for miners because they could spend this valuable time mining. For the buyers it means that fewer minerals are available to purchase per day and they can process less. Small suppliers consider that the work required to put in place the iTSCi traceability system is too high in comparison to their monthly production. Companies also indicate that tags are often stolen or government officials are bribed.

C	Establish a system of controls and transparency over the mineral supply chain.
I.C.4.3	Avoid, where practicable, cash purchases and ensure that all unavoidable cash purchases of minerals are supported by verifiable documentation and preferably routed through official banking channels.
I.C.4.4	Support the implementation of the principles and criteria set forth under the Extractive Industry Transparency Initiative (EITI).

Almost all international traders who are based outside of the region state they do not buy minerals in cash. Some of them consequently say that measures to avoid cash purchases are not necessary. Others explain they use letters of credit (L/C) and telegraphic transfers (TT Remittance). While the L/C is a form of documentary credit, the TT Remittance is the equivalent of a cash payment that can be credited directly to the seller's account. Locally based traders on the other hand, indicate they are very concerned that diggers get paid and are given a fair price for the minerals they sell. Therefore they provide cash to their negotiant as per agreement, as they have experienced serious delays with banking transactions, and issues with banks cash availability.

Almost none of the participants in the implementation phase seem to be familiar with the Extractive Industry Transparency Initiative. Most upstream actors believe these requirements are more applicable to large company structures rather than the small local companies. ASM is an important worldwide economic sector. In the DRC alone, an estimated 12,5 million people depend on ASM for their livelihoods.⁴⁴ ASM could potentially provide important macro-economic contributions. However, since the sector continues to be informal, most revenues are lost through unofficial channels, bypassing the states' fiscal apparatus, which deprives the country of the funds needed for development and leaves artisanal miners and communities impoverished.⁴⁵ Within the artisanal mining sector, the implementation by cooperatives of artisanal miners of the EITI principles and criteria could help to increase transparency regarding licences fees, tax payments and export charges.

⁴⁴ N. Garrett, *The Extractive Industry Transparency Initiative (EITI) & Artisanal and Small-Scale Mining (ASM). Preliminary Observations from the Democratic Republic of Congo (DRC). 22 October 2007.*

⁴⁵ idem

Both the avoidance of cash purchases and the support for the EITI implementation fall outside of the mandate of iTSCi, and thus initiatives for the executing these recommendations will have to come from the companies themselves.

**QUESTIONS ON THE GUIDANCE FROM
UPSTREAM COMPANIES**

What does “avoid cash payments” mean for companies operating in a cash-based economy?

The Guidance recommends that all upstream companies avoid cash purchases where practicable. It does not, however, recommend that companies refuse payments in cash. It recommends that cash purchases be supported by verifiable documentation and that actors in the supply chain be sensitized to use official banking channels where possible. The documentation of payments is crucial to build a chain of custody on the mineral supply chain, which should be verifiable through a paper trail.

Overall, it should well be understood that due diligence is an on-going, proactive and reactive process. As detailed in Step 3(D) of Annex I, companies should conduct an additional risk assessment on those risks requiring mitigation after the adoption of the risk management plan. If within six months of the adoption of the risk management plan there is no significant measurable improvement to prevent or mitigate the risks of bribery and fraudulent misrepresentation of the origin of minerals, money-laundering and payment of taxes, fees and royalties to governments, companies should suspend or discontinue engagement with the supplier for a minimum of three months. Suspension may be accompanied by a revised risk management plan, stating the performance objectives for progressive improvement that should be met before resuming the trade relationship.

Strengthening of company engagement with suppliers

D	Strengthen company engagement with suppliers. A supply chain policy should be incorporated into contracts and/or agreements with suppliers. Where possible, assist suppliers in building capacities with a view to improving due diligence performance.
I.D.1	Establish, where practicable, long-term relationships with suppliers as opposed to short-term or one-off contracts in order to build leverage over suppliers.
I.D.2	Communicate to suppliers their expectations on responsible supply chains of minerals from conflict-affected and high-risk areas, and incorporate the supply chain policy and due diligence processes set out in this Guidance into commercial contracts and/or written agreements with suppliers which can be applied and monitored, including, if deemed necessary, the right to conduct unannounced spot-checks on suppliers and have access to their documentation.

I.D.3	Consider ways to support and build capabilities of suppliers to improve performance and conform to company supply chain policy.
I.D.4	Commit to designing measurable improvement plans with suppliers with the involvement, if relevant and where appropriate, of local and central governments, international organisations and civil society when pursuing risk mitigation.

(3) Findings

The participants based outside the Great Lakes region indicate they try to conclude as many long-term contracts with suppliers as possible. When asked how participants communicate their expectations on responsible supply chain, most actors say their suppliers are iTSCi members, or that they encourage membership of iTSCi. Some international traders are of the opinion that NGOs or international organizations should assist suppliers to build their due diligence capacities. According to others, iTSCi, the joint industry mechanism that they support, will provide much of the information required under the OECD Guidance. Additionally, the iTSCi staff also assists in awareness raising and training, not only for the industry, but also for government agents.

d) Establishment of a company-level, or industry-wide, grievance mechanism as an early-warning risk-awareness system.

E	Establish a company-level, or industry-wide, grievance mechanism as an early-warning risk-awareness system.
I.E.1	Develop a mechanism allowing any interested party (affected persons or whistle-blowers) to voice concerns regarding the circumstances of mineral extraction, trade, handling and export in a conflict-affected and high-risk area. This will allow a company to be alerted of risks in its supply chain as to the problems in addition to the company fact and risk assessments.
I.E.2	Provide such a mechanism directly, or through collaborative arrangements with other companies or organisations, or by facilitating recourse to an external expert or body (<i>i.e.</i> ombudsman).

(1) Findings

Companies are asked to develop a mechanism allowing any interested party (which can be an affected person or whistle-blower) to voice concern regarding the circumstances of mineral extraction, trade, handling and export in a conflict-affected and high-risk area. These mechanisms should allow companies to be alerted of risks in their supply chain, in addition to the company fact and risk assessments. Most participants seek to implement this recommendation through the ombudsman of the iTSCi membership scheme. This system, which is being set up at the moment, is expected to handle cases of grievances between operators and members.

In addition, iTSCi also plans to set up an Advisory Panel.⁴⁶ The function of this Panel is not to receive complaints, but to give advice to the Risk Assessor and the Steering Committee. Nevertheless, it is useful to mention the Panel in this context, as “any third party may approach the Advisory Panel if they wish to provide information of relevance to the Program or about its Members”.⁴⁷

Illustrative examples

Only one company based in the region indicated they are working on their own grievance mechanism. As the areas where their operations and sales occur are rural and the people there are often illiterate, they think it is not feasible to implement a grievance mechanism based on a mailbox where people can drop in letters or an email system. They consider the idea of choosing a reliable person with a high morality, to which people can go to talk or complain more appropriate and will implement this system soon.

(2) Challenges

While it is possible that concerns regarding the circumstances of extraction, trade, handling and export of minerals will be brought to the attention of the iTSCi ombudsman, the nature of the iTSCi grievance mechanism differs from the one suggested by the OECD guidance. It should also be noted that companies could use the whistle blowing mechanism of the ICGLR or report to the ICGLR Mineral Chain Auditor to operationalise this recommendation.

One of the concerns raised, is that the information provided through a grievance mechanism might be difficult and/or costly to verify, as many rumors circulate without primary evidence.

⁴⁶ iTSCi provisional membership agreement 2011: 12. 6.6.2 “The Advisory Panel will comprise of representatives of independent NGO’s, other stakeholders, industry groups and government representatives (whenever relevant) operating in the relevant implementing countries and with an in-depth knowledge of the mining sector.”

⁴⁷ iTSCi provisional membership agreement 2011: 12. 6.6.7

STEP II: Identify and Assess Risks in the Supply Chain

a) Identification of the scope of risk assessment of the mineral supply chain

II.I.A	Identify the scope of the risk assessment of the mineral supply chain.
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(1) Findings

Under the second step of OECD Guidance, upstream companies are expected to review the information generated in step one, to identify and assess risks in their supply chains regarding the circumstances of extraction, trading, handling and export of minerals from conflict-affected and high-risk areas

As a first step to limit the exposure to potential risks, most participants only buy minerals that are tagged under the iTSCi system, and/or at least encourage their suppliers to join the iTSCi so they are subjected to the risk assessment procedure of iTSCi. iTSCi does not start tagging before having completed baseline mine studies and is currently not working in areas where armed groups are still active.

In a way, iTSCi indeed manages risk by ‘gate-keeping’ which companies can participate in the program. When a mining entity approaches iTSCi with a request to participate, iTSCi personnel visits the mine site to verify there are no serious violations such as human rights abuses or direct or indirect support to armed groups. Once confirmation is received, the tagging can start already. So only after the tagging has begun, a first ‘mine and transportation baseline study’ is conducted by local iTSCi personnel or contracted local experts.

The Centres de Négoce and Certification Nationale in accordance with ICGLR standards aligned with the OECD Guidance are expected to generate lists of red (invalidated), orange (requiring a six-month risk management process) and green (validated) mines in the Kivus and Maniema. These will constitute important, additional in-country information for companies when carrying out their risk assessment.

(2) Challenges

Some actors wrongly assume that buying tagged minerals means that risks are non-existent and risk assessments become redundant. However, risks of contamination of sources and fraud remain. Due to this risk of contamination of clean minerals with conflict minerals, DRC neighbouring countries are therefore caught by red flags. Various international traders have indicated they are increasingly offered minerals from neighbouring countries of the DRC, which are not likely to originate in such countries.

b) Mapping of the factual circumstances of the company’s supply chain and assessment of the risks.

II.I.B	Map the factual circumstances of the company’s supply chain(s), under way and planned.
II.I.B.B	Establish an on-the-ground assessment team (hereafter “assessment team”) in the conflict-affected and high-risk areas of mineral origin and transit to generate and maintain information on suppliers and the circumstances of mineral extraction, trade, handling and export.
II.I.B.A	Create enabling conditions for an effective risk assessment.

(1) Findings

Under step II of the OECD guidance, companies are asked to map the factual circumstances in their supply chain and consider as risk any reasonable inconsistency between a factual circumstance and the standards contained in Annex II. To help companies assess risk, the OECD guidance contains a Guiding Note for Upstream Company Risk Assessments.

It is recommended that companies establish an on-the-ground assessment team in the conflict-affected and high risk areas of mineral origin and transit to generate and maintain information on suppliers and the circumstances of mineral extraction, trade, handling and export.

The mine site qualification missions under the Centres de Négoce (CdN) project in the Kivus, which are to take place on a three-monthly basis, are carried out by teams composed of various stakeholders. The teams comprises representatives of the main government agencies overseeing the mining sector, the UN (MONUSCO), the private sector, BGR and civil society. This composition meets some of the basic criteria described in the Guiding Note For Upstream Company Risk Assessment (independence, competence). On the other hand, as the publication of the mission reports is pending, the team could not assess to what extent the applied methodology, principles and standards are consistent with the Guidance. Finally, it should be noted that the CdN qualification missions are limited to the production level and do not assess the supply chain further downstream. The latter, however, is included in the audit of the Nyabibwe mine under the Certification Nationale. The auditor has indeed made an assessment of the entire trading chain, including producers, middlemen and comptoirs. Publication of the audit results is still pending.

Illustrative examples

- One of the comptoirs based in South Kivu said it had established a partnership with the NGOs BEST and OGP. The team did not receive a detailed description of this collaboration, but considered that it nonetheless holds potential in terms of establishing a link between the comptoir and on-the-ground fact-finding.
- Only Phoenix Metals and MMR were willing to list the exact mines of origin of their minerals. Phoenix Metals also explained that it always checks whether the tags are from OGMR, and make estimations of the production of each mine for a certain period of time. In its laboratory it also compares the analysis of the current offer with the previous production at the same mine. One of the problems it encountered is that differences of weight between the mine and the comptoir occur, which indicates there is a problem of calibration of the balances in the mines.

c) **Assess risks in the supply chain.**

II.I.C	Assess risks in the supply chain. The company should assess the factual circumstances of the supply chain against the model supply chain policy on a qualitative basis to determine risks in the supply chain.
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(1) *Findings*

At the moment, most companies are waiting for the baseline mine studies of the iTSCi risk assessor. The reports of the validation missions of the Centres de Négoce and Certification Nationale will also constitute a good basis of information to carry out the risk assessment in the DRC. As explained above, these projects led by the DRC Government should result in the generate lists of red (invalidated), orange (required to enter a risk mitigation process) and green (validated) mines in. These will constitute important, additional in-country information for companies when assessing the risk in their supply chain.

Risk Assessment through the iTSCi scheme

Within its programme iTSCi has foreseen three types of risk assessments:

1. A mine and transportation route baseline study, which validates the mine site and checks the general capacity and production circumstances.
2. A company assessment (e.g. personnel, management, financial, involvement of state actors, involvement of security forces, production rate) with the objective 'to assess whether the company corporate, institutional, financial and/ or political connections through a company's operation, management board are involved in financing conflict'.
3. A macro-level risk assessments, which monitor the general situation of the countries in which the iTSCi system is operational.

These risk assessments are made when iTSCi agrees to start working in a specific country (and afterwards on an annual basis), and mainly give information on the risks that may jeopardise iTSCi. The full version of this reports are transmitted to the iTSCi Steering Committee, while only key

findings are shared with iTSCi member companies. The only public document is the annual risk assessment report, which is a compilation of company and risk general risk assessment. The aim of this report, which will be published at least once a year by the iTSCi Secretariat, is to educate readers on risk for iTSCi.

Overview of the iTSCi Risk Assessments

Mine and Transportation Route Baseline Study	
Function/objective	Validates that the mine site meets the OECD DDG and/ or CFS requirements (e.g. 'risk managed' and / or 'conflict free'); Checks general capacity and production circumstances
Informs about	Situation at the mine site (e.g. social and financial aspects, involvement of Government officials and security forces as well as the trading situation at the mine site).
Main sources	Key informant interviews, observation
Responsible	Programme Operators, local iTSCi staff, local stakeholder committees, risk assessor
Reports to	iTSCi Steering Committee, key findings to member companies
Timing/ frequency	Starts after a mine has shown its interest and local iTSCi staff have performed an initial assessment
Company profile and company risk assessment	
Function/objective	Assesses whether the company corporate, institutional, financial and/ or political connections through a company's operation, management board are involved in financing conflict.
Informs about	Company (e.g. personnel, management, financial, involvement of state actors, involvement of security forces, production rate)
Main sources	Field visits, mine and transportation route baseline study, local iTSCi staff, documents sent by the companies, observations, reports by other organisations (e.g. UN)
Responsible	Risk Assessor
Reports to	iTSCi Steering Committee, Company (parts of the assessment, via Steering Committee and via debriefings during field visits), key findings to member companies
Timing/ frequency	After a company has signed the membership agreement; initially (and then at least annually)
Macro-level risk assessment	

Function/ objective	Monitors the general situation
Main information	Diversity of risk that may jeopardise iTSCi
Main sources	Programme Operator's reports, field visits, company risk assessment, reports by other organizations (e.g. UN, NGO's, state)
Responsible	Risk Assessors
Reports to	iTSCi Steering Committee, key findings to member companies
Timing/ frequency	After iTSCi agrees to starts in a specific country (and then at least annually)
Annual risk assessment report (compilation of company and general risk assessment)	
Function/ objective	To educate readers on risk for iTSCi; transparency
Main information	Risk for iTSCi
Main sources	All different kinds of risk assessments described above
Responsible	Risk Assessor (though the Secretariat will publish it)
Reports to	The public
Timing/ frequency	At least once a year

Source: iTSCi Guidance documentation

The mine and transportation baseline study

As explained above, when a mining entity applies for iTSCi membership, iTSCi personnel visits the mine site to verify there are no serious violations such as human rights abuses, or direct or indirect support to armed groups. Once confirmation is received, the tagging can start. Once the tagging has begun, a first 'mine and transportation baseline study' is conducted by local iTSCi personnel or contracted local experts. As shown in the table below, these mine baseline studies aim to give a precise description of the physical, governmental, trading, social, security and financial situation at the mine.

Situation at the mine site	Information/ Questions
Physical situation	<p><u>General information about the mine site:</u> Annual production, monthly production; number of diggers, washers, other producers, and transporters; weight, daily, monthly (for 2011), annual (for 2010, 2009, and 2008) production in kg for cassiterite, coltan, and wolframite; summary and short explanations of the mine development plan (if there is one)</p> <p><u>Information about the individual mine:</u> Name of the mine; the minerals found; its GPS coordinates; the name of the responsible person; names, telephone numbers and positions of each cooperative member present; how many diggers; how many teams; the daily, monthly, and annual production in kg.</p>
Trading situation	<p>Traders present at the mine site; how many minerals were transported and how much they were valued at? Method of transport and destination of the shipment.</p>
Governmental situation	<p>Names, numbers, position, and contact info of any involved Government official present at the mine or other points of trade.</p>
Social situation	<p><u>Customary or traditional authorities:</u> Name and contacts; roles regarding mineral exploitation;</p> <p><u>Health and safety system:</u> If it exists: voluntary or obligatory; if obligatory: what is the penalty for someone who does not participate? Who participates in this system? How many people and how frequently? Do people adhere to the system, who adheres to the system?</p> <p><u>Civil society groups</u> located in the vicinity of the mining zone (such as NGO's, women's' groups, church groups, etc.): Group title; activities; name and contact of the responsible party.</p> <p><u>Vulnerable groups:</u> Are children working in the mine? Is this allowed or forbidden? How many and what age are the children (boys, girls)? What kind of work do they do and how much do they earn per day? Are there schools near the mine site? Are there support programmes for vulnerable groups near the site?</p>
Security situation	<p><u>Police presence:</u> What type of police; number of agents; number of armed agents; how long there has been a police presence? Name of the commander, his rank; how many commanders there are at the site, and their contact information; involvement of police agents in the mineral chain, whether they control any part of the chain or whether they receive a tax on the minerals; if so, who receives taxes, how much are the taxes worth, and how frequently do they receive taxes?</p> <p><u>Presence of a private security force:</u> Name of the company; name and contact information for the director; number of agents; name and contact information for the person in charge of the mine site. Does this company have a contract? With whom? Describe their responsibilities and activities. Has this security force been involved in mining? Do they control the mine site or receive taxes on the product? If so, who receives the taxes? When? What is the value of the tax and how often do they receive them?</p> <p><u>Army presence</u> Region, brigade, battalion, section, etc.; number of agents; date of deployment; name and rank of the commander; number of commanding officers; contact information for commanding officer. Have any soldiers been involved in mining? Do they control the mine</p>

	<p>site or receive taxes on the product? If so, who receives the taxes? When? What is the value of the tax and how often do they receive them?</p> <p><u>Other armed groups:</u> Are there currently any armed groups at or close to the mining sites? Which group? Where was it located? When was the group seen there? Are there any armed groups that are already present at the mining sites? Which groups? Where are they located? When were they there? Are any of the armed groups already involved in mining, do they control the mines, or do they receive taxes for the products?</p> <p><u>All security forces:</u> Have there been any occurrences of human rights violations, rape, or any other negative treatment by the security force at the site? If so, when did it occur? What measures were taken and by whom?</p>
Financial situation	All taxes and other payments (legal or illegal) received at the mine site or at another point of the mineral's transport; include all payments made to the state, traditional authorities, organisations, private individuals or groups, private security forces, and other armed groups; name of the tax/ payment; paid by whom; paid to whom; place (mine, en route, depot, etc.); paid in case, in minerals, in kind? Value; basis for estimating value; frequency of payment; penalty for non-payment? Was there a receipt? Was the payment made? What is the penalty for non-payment?
Interviewed person	Name, role, contact information, age, sex, job (at the mine), daily production; length of time working in ASM; duration at this mine; dependents; profession; daily income and expenses; names of previous mine (s) worked at.
Further observations	Anything else of notice

Source: iTSCI Guidance documentation

The company profile and company risk assessment

Any company wishing to become a full iTSCi member needs to undergo an initial risk assessment. This risk assessment is carried out during a period of provisional membership during which trade can continue. At the time of writing, the list of provisional members and full members is not public yet. The transition from provisional membership to full membership should take about two months. The company has one month to send the following documentation to the iTSCi Secretariat:

- Status of the company and its subsidiaries/ joint venture
- Contract with the respective government
- Registration documents
- Licence documents
- Organisational chart of the executive management, including year of incorporation and nationality
- Reporting documents to relevant authorities and ministries
- Declaration to the tax authorities for past 3 years
- Financial audit documents and contact details of the auditors for 3 years
- Corporate policies if available
 - Company policy for supply chain to suppliers
 - Ethics, social responsibility, anti-corruption
 - Health Safety and Environment
 - Others

- Contracts with subcontractors and employees
- Yearly production and trading volume as per the company records (general and by site)
- Other production records available
- Details on grievance mechanism
- Risk management plan (Not a requirement for initial membership, but will be check as part of the risk assessment)
- Report on supply chain due diligence (Not a requirement for initial membership, but will be check as part of the risk assessment)

This documentation is sent to the risk assessor, which has 20 days to review and send a report to the iTSCi Secretariat and Steering Group, who will take a decision upon membership within 10 days. As the mine baseline studies, these reports will not be public, yet key findings will be disclosed to iTSCi member companies.

The macro risk assessment

The macro risk assessment monitors the general situation of a country where iTSCi operates. The report indicates the diversity of risk that may jeopardise iTSCi. This annual publication, which will be based on the monthly reports of PACT and the incident reports, will create an interesting source of information for the companies when assessing the risk in their supply chains. It can however not replace the individual risk assessment reports of the company.

(2) Challenges

Challenges regarding the iTSCi Risk Assessments

At the time of writing, the key information and findings from the risk assessment are still being finalized for publication, so it is not possible to evaluate the content of these documents.

One international trader based in the Great Lakes region indicated that the risk of the sale of tags to non-approved mines, or infiltration of minerals on approved mine sites, or military presence along transport routes, are risks that should be considered under the iTSCi scheme.

STEP III: Design and implement a strategy to respond to identified risks

a) Report findings to designated senior management

A	Report findings to designated senior management , outlining the information gathered and the actual and potential risks identified in the supply chain risk assessment.
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(1) Findings

Under step III of the Guidance, companies are recommended to ensure that findings of the risk assessment are reported to the designated senior management. When reporting on how they implemented this requirement, most companies referred to the iTSCi incident reporting protocol. The scheme has a trial incident reporting form in place that will be used to alert relevant persons in the supply chain to possible risks and possible actions. The incident reporting system will form part of the iTSCi risk assessment framework. The specific risk management procedures are developed by iTSCi and will be discussed below.

b) Devise and adopt a risk management plan.

B	Devise and adopt a risk management plan.
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(1) Findings

Under step 3 of the Guidance companies should look at the risks that are identified in step 2 of the Guidance. Any reasonable inconsistency between the factual circumstances and the standards contained in Annex II of the OECD Guidance should be regarded as giving rise to risks. When a risk is identified, it will need to be managed according to one of the following three options:

- Continue trade throughout the course of measurable risk mitigation
- Temporarily suspending trade while pursuing risk mitigation
- Disengaging with a supplier in cases where mitigation appears not feasible or acceptable.

(2) Challenges

During the first cycle of this pilot phase, no company has shared its risk management plan with the team.

If the company has identified which mines it is sourcing from in the DRC, the reports of the validation missions of the projects of the Centres de Négoce and Certification Nationale will offer valuable information as the basis for devising a risk management plan. For reasons explained in section C of this section, the projects are not yet operational but, besides the audit of Nyabibwe, two mine site qualification missions have been carried out under the CdN project. As the audit and qualification mission reports were not available to the team, it was not possible to verify compliance of applied standards, principles and methodology with the OECD Guidance.

QUESTIONS ON THE GUIDANCE FROM UPSTREAM COMPANIES

Why should we report the findings of the risk assessment to senior management, and will the iTSCi reporting protocol do this for us?

Making sure the report findings are designated to the senior management is a question of structuring of internal management systems and can only be implemented by the company itself. The reporting system under the iTSCi reporting protocol is a way of primary mapping of the factual circumstances and risk assessments.

How do I know which risk management strategy to use after I identify risks?

The risk management strategy that applies in a particular scenario should correspond to the management principle that is adopted in the supply chain policy of the company.

In the event of the direct or indirect support to non-state armed groups, a company should manage the risk by disengaging with the supplier;

→ the policy commitment

Regarding direct or indirect support to non-state armed groups:

We will not tolerate any direct or indirect support to non-state armed groups through the extraction, transport, trade, handling or export of minerals.

→ the management principle

Regarding risk management of direct or indirect support to non-state armed groups:

We will immediately suspend or discontinue engagement with upstream suppliers where we identify a reasonable risk that they are sourcing from, or linked to, any party providing direct or indirect support to non-state armed groups.

As recommended under point B.2.b of step 3 of the Guidance, the company should publish the supply chain risk assessment and the supply chain management plan, and make them available to local and central authorities, upstream companies, local civil society and affected third parties.

When developing risk management measures upstream companies are expected to consult with suppliers and affected stakeholders. Risk management measures will always be company and context specific.

- c) **Implement the risk management plan, monitor and track performance of risk mitigation, report back to designated senior management and consider suspending or discontinuing engagement with a supplier after failed attempts at mitigation.**

C	Implement the risk management plan, monitor and track performance of risk mitigation, report back to designated senior management and consider suspending or discontinuing engagement with a supplier after failed attempts at mitigation.
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(1) Findings

Despite the fact that companies have not systematically devised and adopted risk management plans, some good examples of risk management have been already elaborated.

Risk management regarding security related issues

Illustrative example

To avoid the recurring situation in which badly paid security forces impose illegal taxes on artisanal miners, the idea of creating a sort of trust or similar fund has been considered amongst companies. The idea would be that every company makes a contribution to a fund, through which the salaries of security forces could be paid directly.

Risk management regarding adverse impacts for artisanal miners

The difficulty in a mineral supply chain where minerals are extracted artisanally is that the miners often work in an informal and non- or semi-organised setting. Few artisanal miners' cooperatives are in place and, when they exist, they often lack credibility. Cooperatives and other associations are often seen as just another layer of exploitation in the supply chain. Even though the status of cooperatives is well established in Congolese law, the reality on the ground does not reflect the legal framework. Artisanal miners thus have little incentives to join the cooperatives, which, in turn, are not representative of the miners.

Illustrative example

During its field mission IPIS attended a workshop about the linkages between certification and due diligence initiatives and the living conditions of artisanal miners. The private sector, civil society and government authorities were represented. During the meeting, there was general consensus regarding the capabilities of certification and due diligence mechanisms to improve the working conditions of artisanal miners. In this way, artisanal miners could benefit from being identified and recognized, and gain access to financial credit and better information. Minerals could be sold at fair market prices and the state would be able to collect taxes and eradicate fraud, etc.

The International Labour Organisation (ILO) has organised training for cooperatives in Katanga in the past, and CENADEP has done an excellent job in establishing diamond cooperatives in Province Orientale.¹ According to a study done for PROMINES by Pact, these two projects provide good groundwork for further interventions.

(2) *Challenges*

During interviews, representatives of cooperatives explained it was very challenging to administer the miners, giving the constant fluctuation of the number of active miners in any given mine. Thousands of miners can and do move from one mine to another, often simply because of rumors of the presence of more or richer minerals. Some cooperatives try to encourage the settlement of the artisanal miners and to encourage their fidelity. The cooperatives often pay the miners' Carte de creuseur, and provide safety and technical equipment that give the miners the possibility to extract more minerals in a shorter period of time. In some places, support given to the creation of schools around the mines has encouraged miners' families to settle down there.

Illustrative example

Some companies are making efforts to improve the conditions for artisanal miners and to give them incentives to settle down in certain areas. . MMR has also tried to improve living conditions in the villages around the mines. For example, MMR has installed streetlights, which work on solar energy in the villages. And, as the prices of basic necessities such salt, cooking oil or soap can be very expensive in remote mining areas, the company is importing these products from the cities, and then re-selling them at affordable prices.

MMR, indicates to only work with one supplier, a cooperative that unites both artisanal miners and negociants over the whole province. So far their collaboration has been successful and they both aim at maintaining a long-term relationship. Both companies have organised collective workshops together with iTSCi representatives. At the moment an amendment is being drafted stating that their supplier will comply with all the OECD recommendations. Once it is finished it will be added to the current contract. Phoenix Metals has tried to create fidelity by assisting their suppliers. They have created a technical team that goes to the mining sites to give training and advise on how to extract minerals more efficiently, on security issues and human rights. In order to facilitate the work of their suppliers they are bringing in compressors and jack hammers, individual and collective protection equipment, a water pump and pipes, a generator, etc. To communicate its expectations on responsible supply chain of minerals to its suppliers, they have distributed the OECD guidance and their company ethical policy to all its suppliers. They also have written agreements and contracts with suppliers, but indicated that the best way to convince suppliers is to have verbal discussions with them. So far they have integrated the OECD Guidance into 70% of their contracts, but continue to sensitize their partners on consequences brought by minerals extracted from conflict regions and the need to implement the OECD Guidance. In order to improve the performance of their suppliers Phoenix Metals has developed an incident reporting form. If they field notice some problem regarding security, traceability, human rights or corruption, they have to fill in an incident form, in which a corrective action is indicated. On the following page an example is shown on two incidents regarding security. Firstly the team noticed women who were working without protection equipment and babies on their back, and secondly they remarked that there was not enough light in the galleries.

	FICHE INCIDENT	Fiche n° 1
Mine / Coopérative : SIMON		

IDENTIFICATION DE L'INCIDENT

Fiche ouverte par : RRZ	Fonction : DG	Date :	Visa :
Nom du Gisement :	Problème découvert le :		
Localisation du gisement :	En présence de : ITRI		

DESCRIPTION DE L'INCIDENT

Incident relatif au défaut de traçabilité
 Incident relatif à la corruption
 Incident relatif au manque de sécurité
 Incident relatif aux non respect des droits de l'homme

Niveau comme détaillé dans iTSCi Incident Reporting Protocol

Level 1 Level 2 Level 3

Détails : présence de femmes sans équipements de sécurité et avec des bébés dans le cas. problème d'éclairage dans les galeries.

ACTION CORRECTIVE

Engagement d'une action corrective : Oui Non Date :

Action mise en place	Responsable	Date	Signature
envoi d'une lettre de Reconnaissance de meilleur conduite.	Gerard		

Nécessité prévenir OCDE : Oui Non

Si oui : Date du mail

CONTRÔLE RESULTAT DE L'ACTION CORRECTIVE

Satisfaisant <input checked="" type="checkbox"/>	Non satisfaisant <input type="checkbox"/>	Contrôlé par	Date	Visa
Observations :		Telemagne.		

The mobility of the miners is also one of the reasons why the current system of artisanal mining cards is not effective, since cards are linked to specific mines.

Illustrative example

Currently a new system based on the experience of the Diamonds for Development Initiative is being considered. Under this system, access to mines would be dependent upon a special badge, which is different for every mine.

Risk mitigation regarding bribery and transparency on taxes, fees and royalties paid to Governments

Under the iTSCi bagging and tagging system, government agents of SAESSCAM (DRC) and OGMR (Rwanda) are mandated with the task of attaching the tags to the mineral bags. As these tags are worth high prices on the parallel market, state agents will inevitably receive tempting offers to sell the tags illegally.

Illustrative example

To reduce the risk that government agents, who are often badly or irregularly paid, get involved in the illegal sale of tags, MMR is providing basic needs, such as food and housing, for the agents.

- d) Undertake additional fact and risk assessments for risks requiring mitigation, or after a change of circumstances.**

D	Undertake additional fact and risk assessments for risks requiring mitigation, or after a change of circumstances.
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As a first step, the iTSCi programme has developed an incident reporting protocol, which outlines the procedures for responding to risks reported in the supply chain. This protocol categorizes three levels of seriousness of risk, outlining who should be informed in each case. Local and provincial stakeholder committees are informed in all cases. In the most serious cases, international NGO’s may also play an advisory role. Incident reports generated by iTSCi contain recommendations for actions to mitigate risks and improve performance, to be followed up either by the authorities, project staff or relevant companies. These improvement plans would then be checked for success during the regular risk assessment/audit reporting on the project. An example of the iTSCi Incident Report can be found in Annex II.

Overview of the different levels of risks under the iTSCi reporting protocol

Type of Risk	Examples of Severity of Risks
Incidents relating to the iTSCi tagging system	Level 1 (high) iTSCi team members are threatened or attacked
	Level 2 (medium) Tags or logbooks go missing (stolen or lost) or are deliberately destroyed; Tags are reportedly offered for sale by traders or others for minerals outside the system; Minerals from an unapproved source is suspected of, or proven to be, entering the iTSCi system
	Level 3 (low) Tags or logbooks are accidentally damaged; Errors and/or inconsistencies are discovered in tag allocation or logbooks; State agents are failing or refusing to cooperate with the iTSCi system; Significant changes in production or trade levels occur at a mine or depot
Incidents relating to corrupt behaviour	Level 1 (high)
	Level 2 (medium)
	Level 3 (low) State agents are reported to be charging money for tags or tagging at iTSCi mines; State agents, traditional authorities, mine owners, traders, or others demand money or other benefits from iTSCi staff; Evidence of non-payment of formal taxes or unofficial payment to government agents; iTSCi team members are bribed or coerced by state agents, mine owners, traders, security forces or any others; An iTSCi member organization is allegedly engaged in corrupt behavior related to iTSCi
Incidents relating to non-state armed groups and state security services	Level 1 (high) The presence of, or the occurrence of any incident which involves a non-state armed group, or any person suspected to be linked to a non-state armed group, at/near an iTSCi mine or trade route; The FARDC attack people or become installed at/near an iTSCi mine or trade route
	Level 2 (medium) The FARDC are seen or reported to be present at/near an iTSCi mine; iTSCi tagged material is illegally taxed or taken by the police or FARDC at the mine, at road blocks, or in depots

	Level 3 (low)
Incidents relating to human rights or other abuses	<p>Level 1 (high)</p> <p>People are reported to be attacked, tortured or subjected to degrading treatment at/near an iTSCi mine or trade route;</p> <p>People are reported to be raped or sexually abused at/near an iTSCi mine or trade route;</p> <p>People are reported to be forced or obliged to work for the military, police, state officials, traditional authorities, or others</p> <p>Children under the age of 18 are reported to be working as miners or prostitutes in iTSCi mines</p>
	<p>Level 2 (medium)</p> <p>Children under the age of 15 are reported to be working in iTSCi mines in heavy labour;</p> <p>Minerals are reported to be entering the iTSCi system from a National Park or Protected Area</p>
	<p>Level 3 (low)</p> <p>Cave-ins or other accidents occur in iTSCi mines resulting in injuries or deaths</p>

Source: iTSCi Guidance documentation

STEP IV: Carry out independent third-party audits

- a) **Plan an independent third party audit of the smelter/refiner’s due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.**

	<i>For Smelters/Refiners only</i>
A	Plan an independent third party audit of the smelter/refiner’s due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.

(1) Findings

If a smelter is audited, it should give access to all documentation and records of supply chain due diligence. At the time of writing, these audits have not taken place yet.

Besides the audit foreseen for smelters under step 4 of the Guidance, iTSCi has also planned an annual audit of the iTSCi programme as a whole. This audit is twofold; during the first part the auditor will verify whether all iTSCi participants are complying with the iTSCi rules. This means that the participants have to comply with the OECD Guidance. In a second part of the audit, iTSCi’s performance as a programme in ensuring the traceability of conflict minerals will be verified.

Furthermore the Global e-Sustainability Initiative (GeSI) and Electronic Industry Citizenship Coalition (EICC) have developed a conflict free smelter programme (CFS). The CFS is a voluntary program in which an independent third party evaluates a smelter’s procurement activities and determines if the smelter demonstrated that all the materials they processed originated from conflict-free sources.⁴⁸

⁴⁸ <http://www.eicc.info/documents/Conflict-FreeSmelterFAQ.pdf>

At the time of writing, 91 smelters and refiners are participating in the programme.⁴⁹ 70 of them are active in the 3T sector. The largest group are tin smelters (45), followed by tantalum (21) and tungsten (5). So far, nine tantalum smelters are considered to be ‘conflict free’ under the programme.

STEP V: Report annually on supply chain due diligence

V.A	Annually report or integrate, where practicable, into annual sustainability or corporate responsibility reports, additional information on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.
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(2) Findings

Companies are expected to report publicly on due diligence, so as to generate public confidence in the measures companies are taking. As most of the upstream companies are not accustomed to publishing an annual CSR report, this is a new exercise for them. The first annual reports will probably appear at the end of the year.

⁴⁹ <http://www.conflictreesmelter.org/CFSindicators.htm>

Section IV - Recommendations

Donors, in partnership with the national and provincial authorities in the DRC, should step up the pace of their interventions. These should be targeted towards a rapid restart of 3T trade in the Kivus and Maniema, and capacity building of state agencies in Katanga.

The most pressing needs are:

- Training, deployment, equipment and decent salaries for the government agencies mandated to oversee and support the 3T sector at the production level. The main agencies concerned are SAESSCAM, the Mines Administration and the Mines Police. In Katanga, these measures should, among other things, translate into reliable production statistics generated by the iTSCI system.
- The number of qualified sites in the Kivus and Maniema must increase rapidly. This requires a fast solution to the control of Mayi Mayi Cheka of the Bisie mine in the vicinity of the Centre de négoce of Isanga. This equally requires a rapid increase of sites qualified under the Certification Nationale.
- Dormant mining titles need to be weeded out and agreements between title holders and artisanal producers operating on their concessions need to be facilitated. In parallel, comptoirs should consider to obtain mining permits and engage in the creation of closed pipelines from production to export.
- The application of the iTSCi scheme at validated sites needs to be co-funded by donors or cost-effective alternatives should be explored.
- Civil society groups in the Kivus and Maniema need funding to fulfill their commitments under the ‘Actes d’engagement’ with the authorities, in particular with regard to awareness raising and support given to traceability and certification initiatives. Civil society should equally be strongly involved in projects surrounding socio-economic development at mining community level, and in monitoring observance by other stakeholders of the ‘Actes d’engagement’. Further, civil society should be able to perform its watchdog function to carry out risk assessments.
- In the Katangese 3T sector, there is a gap in terms of civil society involvement and oversight, especially at the local level. Capacity building is needed and credible civil society participation should be included in the local traceability follow-up committees.
- Invalidation of mines for security or socio-economic reasons should be supplemented by appropriate accompanying risk mitigation measures. For instance, security sector reform efforts should target the problem of illegal taxation by FARDC in or around mines. Risk mitigation surrounding child labour and gender issues should focus on providing alternatives, such as projects around schooling and agricultural development. Stakeholders should ensure transparency and communication on risk mitigation efforts.

Annex 1: Production, trade and statistical analysis of 3T minerals in Eastern DRC.

3T supply chains in the Kivus and Maniema: the 'comptoir model'

Local exporters ('comptoirs')

At the most downstream end of 3T supply chains in the Kivus and Maniema are local trading houses called 'comptoirs'. Before the mining ban, North Kivu in 2010 counted 29 comptoirs engaged in exports of 3T minerals, while in South Kivu there were seven. All of those, with one or two exceptions, are based in the provincial capitals of Goma and Bukavu, respectively. In South Kivu, four comptoirs did not renew their license during the ban. As described in the Annex on statistics, all comptoirs officially ceased their minerals-related activities⁵⁰ during the ban, many evacuated stocks between 10 March and 1 April 2011, and only five are found in official records on exports after 1 April 2011.

Before the ban, 3T minerals from Maniema, where roads are virtually non-existent, were for the most part airlifted from airstrips scattered over the province to be exported from Goma and Bukavu. Only three Kivu comptoirs had a presence in the province, while a number of other Kivu comptoirs bought Maniema minerals from middlemen. During the stock evacuation phase, six Kivu comptoirs managed to export 3T minerals from Maniema. In the post-March period, the Maniema authorities have struggled to curb fraudulent exports, and implement measures aimed at increasing the province's tax revenues from mining.

In economic terms, comptoirs are the most powerful link in the supply chains from the region. As mining is the main economic activity in the region, comptoirs locally are among the strongest private sector players and providers of formal jobs. From an international business perspective, however, the comptoirs are small-to-medium sized enterprises that compete over a share in 3T exports officially totalling about USD 100 million for both Kivus in the eight months preceding the ban in 2010. These exports are all transported eastbound towards the Kenyan port of Mombasa or the Tanzanian port of Dar es Salaam. Before the ban, comptoirs were usually in business with just one client each, who would buy all their materials. These clients were international traders, often based in Belgium or Rwanda, or in some cases smelters.

Comptoirs, with one or two exceptions, are not engaged in production and do not own exploration or exploitation permits. Their absence at the mining level leads to open pipelines with numerous intermediaries, which complicates government efforts at establishing traceability and sound chains of custody, and due diligence practices of the comptoirs themselves.

Since comptoirs mainly invest the bulk of profits in the provincial capitals or abroad, the mineral wealth in most mining areas contrasts poignantly with the lack of basic facilities and dangerous, unhealthy working conditions, which causes some civil society groups in the region to be opposed to mining altogether.

On the other hand, the current disconnection of comptoirs from the global 3T market has severely negative impacts on people's livelihoods in the region. The export of minerals is the main foreign currency earner in a region that largely depends on imports of basic necessities. A shortage of US dollars hence leads to consumer price inflation. Mining is also the main source of tax revenues, accounting, for instance, for 60 % of government income in North Kivu.⁵¹ Mining tax income has dwindled spectacularly in the region, causing hardship for a middle-class of public servants and

⁵⁰ Some comptoirs are also engaged in exports of agricultural products (coffee, tea, dairy products).

⁵¹ IPIS interview with the North Kivu Mines Minister on 10 Sept. 2011, Goma.

negatively impacting the few public services that exist, the latter including the very mining sector oversight needed to create 'clean' supply chains. Thirdly, *comptoirs* have laid off virtually all their employees and stopped providing work to the large numbers of daily workers in the sector. They have also stopped injecting cash in the upstream supply chain, which has caused major unemployment and/or severe income cuts at all levels. Finally, the rotation rate of planes and trucks to and from mining areas has significantly decreased. As transport firms carry in cargoes of basic necessities, the current slowdown of the mineral trade causes massive inflation in mining areas. As the mining sector is the engine of the local economy, these impacts spill over to other sectors as well.

Artisanal producers ('creuseurs')

At the most upstream end, the supply chain starts with artisanal extraction by groups of miners, locally called 'creuseurs'. Creuseur is a generic term for labourers executing a range of specialized sub-tasks⁵², who organize themselves accordingly at pit level and are usually headed by a so-called 'PDG'⁵³. It is official government policy to organize creuseurs into cooperatives in a bid to formalize the sector. Cooperatives receive full licenses by the national Mines Ministry, but, pending this endorsement, many operate under a provincial license. According to the South Kivu authorities, the province in February 2011 counted 46 cooperatives.

Often, groups of creuseurs seek a sponsor ('petit négociant') before they start excavating a new pit, to provide basic necessities and equipment in return for a share of production. Creuseurs are often young men, attracted by the hope for quick cash or the lack of alternative livelihoods, and generally are a very mobile social group. New mineral finds can mobilize thousands of creuseurs in a matter of weeks. At the big Bisie mine in North Kivu, for instance, a small fraction of the creuseurs are local people⁵⁴, while the vast majority of miners currently working in northern Katanga come from the Kivus. For many, artisanal mining is not a permanent activity, but is carried out on a seasonal basis, or during school holidays or in combination with other activities.

Estimating total numbers of creuseurs is therefore difficult and can only be derived from site-specific research, which can in turn only provide a snapshot at a certain point in time. During the latest large scale research project on production sites in the Kivus, which covered the majority of 3T mines, 20,000 creuseurs of 3T minerals were counted, a number to be considered as an absolute minimum.⁵⁵ Such figures will remain highly conjectural unless a reliable census system for creuseurs is put in place. The current registration system consists of issuing licenses in the form of a 'carte de creuseur'.

Depending on the road infrastructure in the vicinity of the mines, the extracted minerals are transported on foot by porters or in vehicles to nearby airstrips or trading towns. Négociants then ensure that the minerals are trucked or airlifted to Goma and Bukavu. Transport is effected by independent transport firms or, in some cases, airline or truck companies owned by *comptoirs*.

Local middlemen ('négociants')

Négociants form the link between the production level and the export level, buying minerals at or in the vicinity of mines, organizing transport and selling the materials to the *comptoirs*. Under Congolese law, négociants need to be licensed and receive a 'carte de négociant'. The head of the Mining Division of North Kivu estimates their number in the province at 130. The South Kivu authorities put their number at 218. Négociants are a poorly researched link in the supply chain. Hence, their trade practices and the precise nature of their relationship with *comptoirs*, in particular their degree of independence from *comptoirs* is insufficiently known.

⁵² For instance buttressing mine shafts with wooden poles, washing minerals, transporting etcetera.

⁵³ Président-directeur général

⁵⁴ IPIS interview with NGO representative on 12 September 2011, Goma.

⁵⁵ IPIS internal records from the 2009 mapping project in the Kivus. See: <http://www.ipisresearch.be/mapping.php>

3T supply chains in Katanga: the ‘ exporter/producer model’

The outlook of the 3T sector in Katanga has changed drastically over the last two years. Until late 2009, the provincial authorities paid little attention to 3T mining and trade, which occurs in the remote areas of central and northern Katanga, mainly in the Territoires of Mitwaba, Manono, Malemba, Luena, Kalemie and Nyunzu. The 3T sector followed the *comptoir* model: minerals were all mined artisanally and the trade was dominated by Kivu *comptoirs*, buying the products from *négociants* and shipping them by plane or truck for export through Goma and Bukavu. Consequently, the 3T sector largely escaped control by the Katangese government, which lost out on revenues, and statistics were lacking.

With international pressure on ‘conflict minerals’ mounting, the Katangese authorities feared reputational damage for the mining sector in their own province, which thrives on large-scale copper/cobalt exploitation and massive foreign investment in the southern Copperbelt. Driven by a vision of industrial development coupled with socio-economic benefits provided by the private sector, the Katangese government promoted the vertical integration of production down to processing and exporting, allowing for the creation of closed pipelines and a solid chain of custody. This was possible because of relatively strong governance in the province, founded on the popularity of governor Moïse Katumbi, and because of the relatively stable security situation in the province, where rebel groups are absent⁵⁶.

The first of these measures was the issuance in October 2009 of an ordinance by the governor imposing a tax of USD 5/kg on transfers of cassiterite and its by-products to other provinces. As this in practice doubled the price for *comptoirs*, former trade routes to the Kivus were curbed to Lubumbashi, while export taxes now started accruing to the Katangese treasury. In response, two Kivu *comptoirs* established offices in Lubumbashi but soon saw their day-to-day activities thwarted by the local authorities.

The reason was that the Katangese government had found a preferential partner in a company called Mining Mineral Resources (MMR). MMR is wholly owned by Somika, a Lubumbashi-based, Indian-owned mining and processing company that over the last decade has grown into a significant player in the Katangese copper and cobalt sector. Backed by its parent company, MMR has many times more human and financial resources than Kivu trading houses. This has allowed the company to engage in a large-scale exploration programme in central and northern Katanga, mechanize artisanal mining at a number of sites, install trading posts all over the region and build smelting facilities to locally add value to minerals. MMR’s financial strength has also further enabled the company to comply with social obligations imposed by the provincial authorities in terms of infrastructural and social development.

The partnership between the provincial government and MMR was formalized in a contract dated March 2010. MMR is currently engaged in production at the mines of Mayi Baridi (coltan), Kisengo (coltan), Busanga (cassiterite) and Mitwaba (cassiterite). At MMR mine sites, the mining cooperative CDMC organizes artisanal production and has a team of *négociants* buying the minerals at pit level, where tagging procedures are executed by SAESSCAM, in the presence of a representative of the administration des mines, and with the assistance of iTSCI staff.⁵⁷ The *creuseurs* receive free CDMC membership cards, while MMR provides housing and safety equipment, and prepares the sites, using heavy duty machinery to remove the overburden. To fulfill its social obligations, MMR has a policy to

⁵⁶ With the exception of Bendera in the north of the territoire of Kalemie, where FDLR and Mayi Mayi Yakutumba control certain zones.

⁵⁷ The team witnessed these operations at the mine of Mayi Baridi, near Kalemie. The team also visited the MMR depot in Kalemie and the MMR plant near Lumumbashi where the iTSCI system is further operationalized.

dedicate 10 % of investment capital to local development.⁵⁸ The company has invested in schools, hospitals, power plants and drinking water supplies in a number of mining areas.

In addition, MMR has installed 12 twelve trading posts covering the entire region where coltan and cassiterite are produced.⁵⁹ The company's policy is not to accept untagged materials, while all transport is effected by MMR itself, with self-owned or hired trucks and pick-ups. As MMR does not make use of planes, it has been obliged to refurbish roads and bridges across the region, which benefits the local population, which has gained better access to markets to sell agrarian products.

Minerals from the territories of Kalemie and Nyunzu are exported from Kalemie town by boat on Lake Tanganyika to either Kigoma in Tanzania or Mpulungu in Zambia. From Kigoma, materials go to the port of Dar es Salaam, while the trajectory from Mpulungu runs to Johannesburg and then the port of Durban, in South Africa. Minerals from other territories are transported by road, river and rail to exit DRC at the Kasumbalesa⁶⁰ border crossing with Zambia, after which they continue their way to Durban.

From MMR production sites, the company is able to organize a closed pipeline, which has convinced Motorola and AVX Corporation, a manufacturer of electronic components, to buy extracted coltan under a project named 'Solutions for Hope'. In late August, AVX announced that it had taken the first delivery under the project, a shipment of coltan containing over 2 tons of tantalum.⁶¹ MMR staff further announced that in October they will start producing ingots with 98 % tin contained at their smelting facility, which has a production capacity of 300T per month and is located in the Somika plant near Lubumbashi.⁶² The company also has plans to build a second furnace, which will be able to produce pure tin. MMR has been audited twice by an independent auditor against the OECD Due Diligence Guidance. Observers included GIZ⁶³, BGR, and the Congolese Government.

A further step in the radical overhaul of the Katangese 3T sector has been the installment of iTSCI since March 2011. By July 2011, the iTSCI system was up and running at 17 sites across the province, and during the team's mission iTSCI staff were visiting new sites at the request of the Katangese authorities. The latter aim at 100 % coverage by iTSCI of 3T production and have prepared an ordinance which prohibits the transfer of untagged 3T minerals through the province.⁶⁴

This ordinance further obliges comptoirs to transform themselves into processing entities, engage in social projects and become members of iTSCI. The requirement regarding social projects has already been implemented. A recent decision by the Governor further raised the bar for comptoirs operating in his province, by obliging them to contribute USD 500,000 to a social fund.⁶⁵ To these investment requirements should be added the operational cost charged by iTSCI, which currently stands at USD 500/T of minerals, even though the tin price has been plummeting since April 2011.⁶⁶

Finally, in parallel with the cited ordinance, the Katangese government is preparing another ordinance

⁵⁸ A brief on MMR projects and activities. Democratic Republic of Congo, no date, Lubumbashi, p. 31.

⁵⁹ *Idem*

⁶⁰ The Katangese government only allows mineral exports from Kalemie port and Kasumbalesa.

⁶¹ <http://tantaluminvestingnews.com/1846/avx-commits-to-solutions-for-hope-project-through-use-of-conflict-free-drc-tantalum-ore/>

⁶² IPIS interviews with MMR staff during visit to the Somika plant and smelter on 24 September 2011, Lubumbashi.

⁶³ Deutsche Gesellschaft für Internationale Zusammenarbeit

⁶⁴ Projet d'arrêté provincial n°...Katanga du...portant dispositions pratiques pour assurer la traçabilité des flux des matières de l'exploitation artisanale sur toute l'étendue de la province du Katanga.

⁶⁵ IPIS interview with representatives of Kivu comptoirs on 13 September 2011, Goma.

⁶⁶ The tin price on the London Metal Exchange plummeted from USD 33,000 in April to USD 19,000 in September 2011.

to formalize the ‘Comité provincial de pilotage du système iTSCI’.⁶⁷ This committee is to strengthen oversight of the iTSCI system by a host of government agencies, including the security forces. In addition, committees with a similar mandate will be installed at the local level.

Statistical Analysis of 3T mineral production and exports in Eastern DRC

Table 1: Export statistics of 3T minerals in North and South Kivu 2007-2009

Exports (metric tons)	2007	2008	2009
North Kivu			
cassiterite	10172	13331	10543
coltan	74	87	281
wolframite	719	548	304
South Kivu			
cassiterite	4731	6004	4652
coltan	354	440	187
wolframite	455	168	81

Source: *De Koning, Ruben*, Conflict Minerals in the DRC. Aligning Trade and Security Interventions, SIPRI, Policy Paper 27, June 2011, p. 8.

North Kivu

Table 2: Export statistics of 3T minerals in North Kivu 2010-2011

Exports (in metric tons)	2010 (Jan.-10 Sept.)	2011 (10-31 March)	2011 (1 April-31 Aug.)
North Kivu			
coltan	236	53.9	27.6
cassiterite	6689	1148	357
wolframite	38.4	12.1	22

Source: Division des Mines, Goma.

Coltan

After a short-lived boom in 2000, coltan over the last decade has, according to official records, been exported in rather small quantities. Coltan in North Kivu is extracted mainly as a by-product of cassiterite, or for its own sake at a number of mining sites mainly located in the territory of Masisi.

Official exports in 2010, before the mining ban, amounted to 236T, valued by the DRC authorities at USD 3.4 million. This represents only about 5 % of the export value of cassiterite, which is the main 3T mineral extracted in the province. While in absolute terms coltan exports are of minor economic significance, there was a rising trend in official figures over the years preceding the ban, which is confirmed by the 2010 total. Only three – out of 29 - comptoirs exported coltan shipments in 2010, which went to trading partners in Hong Kong and China. Two of these comptoirs are Chinese owned and one is Congolese owned.

During the stock evacuation phase, another 53.9T were exported by the same companies, all to Hong

⁶⁷ Projet d'arrêté provincial n°...Katanga du...portant institution, organisation et fonctionnement du comité provincial de pilotage du système iTSCI au Katanga.

Kong. Between 1 April and 31 August 2011, the Division des Mines only recorded two more exports of 27.6T (untagged) coltan in total, valuing USD 846,000. These exports were effected by Chinese owned comptoirs and, again, went to Hong Kong traders.

These figures show that average monthly coltan exports from North Kivu in the post-March period (5 months) have dropped by 82 % compared to the pre-ban average in 2010. Given the lack of reliable production statistics, only site-specific research can determine whether this steep decline of exports is matched by a proportional decline in production. Such research was carried out at the Masisi coltan mines in August 2011 within the framework of the Centre de Négoce project led by the UN peacekeeping mission (MONUSCO).⁶⁸ The resulting report, however, has not been made public as it awaits endorsement by the national Minister of Mines.

Cassiterite

Table 3: Production statistics recorded by the SAESSCAM bureaus near the Bisie mine in March-August 2011

Production (metric tons)	2011 (March-Aug.)
Ndjingala bureau	602
Mubi bureau	1.274

Source: SAESSCAM, Goma

Over the last decade, cassiterite has been by far the most important mineral in official records on the North Kivu mining sector. Cassiterite mining took place at numerous small sites in the south of the territory of Walikale, near or in the National Park of Kahuzi-Biega (where all mining is illegal), and in the territory of Masisi. The Bisie mine further north in Walikale accounted for approximately 70 % of cassiterite production in the province and yielded an average of 500-600T of cassiterite per month.

In 2010, before the mining ban, 25 North Kivu comptoirs officially exported 6,689T of cassiterite (January – 10 September), valued at USD 66.7 million. Without the ban, the export volume would probably have reached about the same level as in 2009 (10.543T) and the export tax base would have augmented to USD 100 million or more.

During the stock evacuation phase, a total of 1,148T cassiterite left Goma, valued at USD 19.3 million. Between 1 April and 31 August 2011, exports of (untagged) cassiterite amounted to 357T, valued at USD 3.4 million. Again, Chinese-owned comptoirs accounted for the bulk of these exports (87 %), which were bought by traders in Hong Kong and China. The remaining 13 % were exported by an Indian-owned and a Congolese-owned comptoir. While stock sales of comptoirs went to traditional buyers, the post-March period clearly shows the emergence of an alternative downstream circuit for exports of untagged material.

The post-March decline in average monthly exports compared to pre-ban figures amounts to 92 %. The bureaus of SAESSCAM in Njingala and Mubi, two trading towns near the large Bisie mine, however registered a total production of 1,876T cassiterite between March and August 2011. This is more than five times the amount exported over the same period, a gap which can only be attributed to major methodological flaws in the compilation of data by SAESSCAM, stock build up or fraudulent exports.

⁶⁸ See Section III C

Wolframite

IPIS in 2009 identified only two sites in North Kivu where wolframite was extracted: One in the territory of Lubero, and one in Masisi.⁶⁹ Since 2007, official wolframite exports have dwindled from 719T to 38.4T in 2010 (value USD 278,000). The cause for this decline of official exports merits further research. Only one comptoir exported a shipment of wolframite during the stock evacuation phase. Between 1 April and 31 August 2011, only one further wolframite shipment was registered to an unrecorded destination.

South Kivu

Table 4: Export statistics of 3T minerals in South Kivu 2010-2011

Exports (metric tons)	2010 (Jan.-10 Sept.)	2011 (10-31 March)	2011 (1 April-15 Sept.)
South Kivu			
coltan	8.7	20.8	0
cassiterite	3.221	293	305
wolframite	6.7	0	0

Source: CEEC and Division des Mines, Bukavu

Table 5: Production statistics of 3T minerals in South Kivu 2010-2011

Production (metric tons)	2010 (Jan.-10 Sept.)	2011 (March-July)
South Kivu		
coltan	0	3
cassiterite	1.381	300
wolframite	9.5	17.7

Source: CEEC, Bukavu

Coltan

IPIS in 2009 identified approximately ten sites in South Kivu where coltan was mined, mostly as a by-product of cassiterite: two in the territory of Kalehe, one in Shabunda, four in Mwenga and two in Fizi.⁷⁰ Official coltan exports in 2010 (January until 10 September) – effected by two comptoirs - amount to an implausibly low 8.7T, as opposed to 187T the previous year and 440T in 2008 (see Table 1).

In March 2011 two comptoirs evacuated 20.8T of coltan stocks in total, valued by the Congolese authorities at USD 233.916. Until September 2011, no more coltan exports were recorded.

The export figures suggest that the coltan trade in the province had come to a virtual halt even before the mining ban. Production figures furnished to the team show the same pattern. Part of the explanation is certainly that Kivu traders in 2010 lost their dominant position in the coltan trade from northern Katanga due to a series of regulations by the Katanga authorities. These coltan flows consequently stopped going through Bukavu. However, this does not account for the near annihilation of domestic production and exports in official records since 2010. Again, only site-specific research can clarify this phenomenon.

⁶⁹ Internal records of the IPIS mapping project. See: <http://www.ipisresearch.be/mapping.php>

⁷⁰ *Idem*

Cassiterite

Table 6: Production statistics of cassiterite in South Kivu March-August 2011

2011 Cassiterite production (metric tons)	
South Kivu	
March	52.6
April	23.3
May	43.7
June	93
July	120.4
August	159.4

Source: SAESSCAM, Bukavu

Although IPIS in 2009 counted high numbers of artisanal cassiterite miners on the island/territory of Idjwi, the island in Lake Kivu does not appear in statistical tables the CEEC furnished to the team. The main territories for cassiterite mining in 2010-2011, according to these statistics were Shabunda - 660T before the mining ban in 2010, Kalehe (528T), Walungu (108T) and Mwenga (85T). The 2010 official production total amounts to 1,381T.

Pre-ban South Kivu cassiterite exports in 2010 amounted to 3,221T, valued at USD 31 million. This is about half the volume of North Kivu cassiterite exports over the same period, a ratio concurring with that of previous years. Five comptoirs exported over 99 % of the minerals. Exports went almost entirely to an Asian smelter, the remainder being bought by traders in Kigali.

Exports, by the same comptoirs, during the stock evacuation phase amounted to 293T, valuing almost USD 5 million. After this period, only two Chinese-owned comptoirs kept exporting, to unspecified destinations in Hong Kong and Beijing.

This again confirms the emergence of an alternative downstream supply chain for untaxed, post-March exports. By mid-September, these exports amounted to 305T, putting the monthly average in 2011 at 55T, compared with 402T in 2010 before the ban. Similarly as in North Kivu, only about 10 % of pre-ban volumes of the province's main export product appears in official records.

The key question once more is whether production has dropped accordingly. However, the lack of statistics on Idjwi and uncertainties related to the methodology underpinning production figures furnished to the team, do not allow for meaningful comparisons between production and exports during the post-March 2011 period. Monthly production statistics between April and August 2011 do, however, show a steeply rising trend, from 23T to 159T respectively (see Table 6). To explain this trend and deepen insight on current production patterns, on-site visits and research are needed.

Wolframite

In 2009, IPIS identified an important number of sites where wolframite was extracted, scattered over the Territoires of Idjwi, Mwenga and Walungu. Official exports, as in North Kivu, have been in steep decline between 2007 (455T) and 2009 (81T). In 2010 before the ban, only one export (6.7T) left Bukavu. In 2011, no further exports have been recorded. However, in 2011 production figures furnished to the team, four sites in Walungu are reported to have produced 17.7T of wolframite, the bulk of it in June and July.

Maniema ⁷¹

Table 7: 3T exports of Maniema minerals through Goma during the 2011 stock evacuation phase

Exports (metric tons)	2011 (10-31 March)
Maniema through Goma	
cassiterite	473
coltan	1.4

Source: Division des Mines, Goma

The province of Maniema is landlocked, and has an extremely dilapidated road network. In 2009, the Division des Mines recorded a total of 2,578T of cassiterite production, 142T of wolframite and only 9T of coltan.⁷² The main 3T mining areas to date are the territory of Punia, with Kasese as its main mining area, the territory of Kailo and the area of Kalima in the territory of Pangi.⁷³ In terms of security, the province is far more stable than the Kivus, except for the territory of Lubutu in the north of the province, where significant 3T production occurs in areas with a strong Mayi Mayi presence. Minerals from Kasese are airlifted to Goma and Bukavu, while materials from the other areas are airlifted to the same towns, or transported per road or river to Kisangani, the capital of Province Orientale, and hence to Goma.

Before the mining ban, Maniema materials were exported from Goma and Bukavu by Kivu comptoirs. Three comptoirs had buying offices in the provincial capital of Kindu and/or Punia, while a number of négociants sold minerals to other Kivu comptoirs. This trade pattern is confirmed by statistics from the stock evacuation phase, when 473T cassiterite was exported from Maniema through Goma by 6 comptoirs.

The team does not dispose of statistics on exports through Bukavu during the stock evacuation phase nor on exports originating from Maniema during the post-March period.

Katanga

Table 8: 3T export statistics in Katanga 2010-2011

Exports (metric tons)	2010	2011 (Jan.-Aug.)
Katanga		
coltan	152	147
cassiterite	3345	2309

Source: Division des Mines, Lubumbashi

⁷¹ As the team's itinerary was determined by the presence of participants in the OECD pilot project, the province of Maniema was not visited during the field mission.

⁷² The latest field research project on Maniema's mining sites was carried out in the summer of 2010. This paragraph is based on the resulting report: *Spittaels, Steven*, The Complexity of Resource Governance in a Context of State Fragility: An Analysis of the Mining Sector in the Kivu Hinterlands, IPIS/International Alert, November 2010, Chapter 2. The report explains among other things why extreme caution is in order when assessing production figures from the province.

⁷³ IPIS interview with member of the UN Group of Experts on 27 October 2011, Antwerp.

Table 9: 3T production statistics in Katanga 2009-2011

Production (metric tonnes)	2009	2010	2011 (Jan.-June)
<i>Katanga</i>			
cassiterite	635	3714	1754
coltan	N.A.	179	104

Source: SAESSCAM, Lubumbashi

The figures provided to the team show that there are few competitors remaining to MMR. Since 2010, MMR has been the only trader with a coltan export license. In 2010, the company exported 152T and by the end of August 2011 the export total stood at 147T. According to SAESSCAM, cassiterite production in 2009 amounted to a mere 635T and climbed to 3,714T in 2010. The 2010 figure aligns with the export total over the same year of 3,345T in the table of the Division des Mines. This is about one third of average annual cassiterite exports in the years before the mining ban in North Kivu and 80 % of production in South Kivu. MMR in 2010 accounted for 92 % of exports. The remainder were exported by a South Kivu trading house and a Katanga comptoir.

In 2011, SAESSCAM offices in the province recorded production totals of 104T coltan and 1,754T cassiterite until June. Most of coltan production (65T) occurs in the territoires of Kalemie and Nyunzu, where the MMR coltan mines are located. Most of the remainder (51T) is produced in the territoire of Manono. Most cassiterite is produced in the territoire of Manono (505T), followed by Luena (480T), Mitwaba (442T) and Malemba (297T). By the end of August 2011, cassiterite exports, according to the Division des Mines, totalled 2,309T with MMR accounting for 85%. The remainder was exported by two Goma based comptoirs and one local comptoir.

Annex II: The iTSCi Incident Report

iTSCi Incident Report				
<p>Instructions:</p> <ol style="list-style-type: none"> 1. Use the iTSCi Incident Category Chart to determine the Level of the Incident 2. Complete the incident report form and send it to your Project Manager within 24 hours 3. Clearly state if the information is based on rumor or it has been verified, and by whom 4. This incident report form is CONFIDENTIAL and should be submitted to your iTSCi Project Manager only 5. Fill in a separate report form for each incident 6. If there is not enough room on the form, use blank sheets to continue and attach them to the report 	Name of reporter			
	Date of report			
	Province			
	Territoire			
	District			
	Date of incident			
	Location of incident			
	Time of incident			
	Number of extra pages attached to this report			
Indicate which category of incident occurred by marking the appropriate box(es) below with ✓				
	Tagging	Corruption	Security	Human Rights
Level 1				
Level 2				
Level 3				
Incident Details				
Who was involved ?				
What happened ? (Give an impartial account based on reliable information sources)				

Source: iTSCi Guidance documentation



www.oecd.org/daf/investment/mining