Sida Helpdesk on Human Security

UNIVERSITY OF BRADFORD
MAKING KNOWLEDGE WORK

STHLM POLICY GROUP

SAFERWORLD

Conflict Minerals in the DRC and Great Lakes Region

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Section A

The Assignment

Sida requested the Helpdesk to present a ‘snapshot’ and analysis of the problem of conflict minerals in the Great Lakes region, and particularly of the Democratic Republic of Congo (DRC). In anticipation of instructions in the forthcoming country/results strategy for the DRC, Sida will use the report in order to identify possible Swedish efforts in the field. Sida requested that report should be presented with both a perspective on the Great Lakes region in general, as well as a more detailed analysis of the situation in DRC in a regional perspective.

Within this overall framework, and recognising the constraints of this ‘quick’ Helpdesk study, Sida requested that the Report (which should, as always, apply a gender perspective) should include discussion of the following issues.

<u>Analysis of the current situation</u>:

- Scope / dimensions of the problem and its impact in the Great Lakes, e.g. on governance at the local, provincial and national levels, the economy, girls, boys, women and men, as well as on conflict dynamics and regional relations; including possible agents of change and spoilers in DRC (including "Comité Pilotage Provincial and the Comité Local de suivi”);

- Are there positive impacts? Discussion and examples of what characterizes a situation where the mining is beneficial for the local population (including examples of initiatives (external or national/local) that have had positive effect on the situation in DRC);

- Examples of alternative sources of income for the concerned local populations in DRC; including discussion of where there are indications of interest for alternative sources of income (that are conflict and gender sensitive);
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- Are there governance initiatives (including on transparency) that aim to facilitate a transition to "non-conflict mineral extraction” in DRC and the Great Lakes in general?

- An initial outline donor-mapping, to the extent possible within the contraints of this short desk-based study, indentifying which donors (with national presence) are supporting relevant initiatives, either at policy level or in the field.

<u>Analysis of future options, including</u>:

- Identify present gaps and needs and priorities for future action by Sweden and its partners (including geographical areas that current efforts focus on, and where interventions are lacking).

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Section B: Conflict Minerals in the DRC and Great Lakes Region

Introduction

This Section B presents our substantive Report on our analysis and suggestions relating to all of the issues that the Helpdesk was requested to address in the Terms of Reference for this task (within the time and resource constraints available).

Mineral resources have been at the centre of policy and research narratives about the Great Lakes and the 'Congo crisis' for well over 15 years. This is well-justified, but debates have also been significantly shaped by international campaigns relating to other conflict areas. For example, Western lobby groups mobilised around 'blood diamonds' campaigns at the turn of the century, shifted their attention to tantalum, a previously obscure mineral used in high-technology products. Over the years this broadened to include tin, tungsten and gold. But the broad terms of the international public policy debates have stayed very similar, and in fact excessively polarised.

On the one side there are major claims about the dividends of 'cleaning up' the mineral exploitation and trade sector. For example, one of the most prominent advocates, the Enough Project, has claimed that regularisation of the mining sector will 'change the incentive structure away from violence and illegality towards security and rule of law', and make mining 'the main engine for economic development'.[1] It is widely argued that non-state armed groups and inter-state meddling in the great Lakes Region could both be addressed by cutting their 'lifeline' of inadequately regulated or illicit mineral exploitation and trading.

On the other side, there are numerous critical observers that strongly criticise such claims. For example, a recent open letter claimed that regulatory measures had left ten million Congolese 'in abject poverty facing dire living conditions', while doing little to achieve their core objectives. Headlines in the *Guardian,* the *Washington Post* and *Foreign Policy* assert that the main result has been 'incredible hardship for the miners and their families'.

The Helpdesk's own analysis is that both extreme poles in this public debate should be avoided. The realities, and the policy and programming dilemmas and priorities, are better placed in a complex middle-ground. The so-called 'conflict minerals' challenges are real and need to be tackled; but they are also complex and embedded in wider political-economic processes in ways that mean that there are serious risks that politics and programmes to tackle them may not only be ineffective but also could do unintentional harm. This study aims to examine the issues and dilemmas within this overall framework of understanding.

This Report is organised in a way that aims to address all of the issues and questions highlighted in the Terms of Reference for the study, in a way that is both coherent and relatively accessible within the space available. It is organised into four main Parts.

1. **Scope and stakes** of the problem. Issues addressed include: what are the positive and negative impacts of the minerals trade in the Great Lakes; and by what criteria should policy interventions be assessed?

2. **The policy landscape**. Issues addressed include: who is doing what where; and what are the roles of international donors in supporting locally-led initiatives?

3. **Summarising emerging outcomes**. This section aims to examine lessons from experience, taking stock of the relatively high levels of initiatives and programmes pursued during the five years since 2009-10 - what have we learned?

4. **Options for engagement.** This section aims to discuss, and provide some suggestions, issues and priorities for futhre policy engagement and programming; including priorities or gaps where Sweden and its partners could usefully contribute. It further explores issues rlating to what effective, realistic, conflict and gender sensitive programmes and inititives might look like in this issue area in DRC.

1. Scope and stakes

1.1 On mineral exploitation in the Great Lakes Region

Figure 1 provides a snapshot of the mining sector for the Democratic Republic of the Congo and some of its neighbouring countries.

Figure 1: The mining sector in national perspective[2]

	DRC	Rwanda	Burundi	Uganda
% of GDP	13%	2%	<1%	<1%
% of exports	99%	32%	<5%	<5%

It is immediately apparent who is the ‘odd one out’ here, even without adjusting the official numbers upwards to account for the considerable smuggling that takes place (In reality the expert figures in Figure 1 need to be adjusted upwards for the DRC; and downwards for its neighbours). In fact the DRC’s mining sector has always had special significance for the country. Industrial mining was at the centre of ‘Zairinisation’ and ‘radicalisation’ initiatives of the Mobutu regime, along with extremely high levels of corruption. The sector’s collapse from the 1970s onward is usually cited as a leading indicator of economic free fall when the Mobutu regime was in its period of decline and end. The tentative economic recovery of this sector over the last decade, conversely, is often taken as a bellweather of the DRC’s overall economic outlook.

By contrast, or as consequence, the DRC’s neghbours typically perceive the mining sector through a ‘Congo lens’. International attention to ‘conflict minerals’ was first sparked by massive looting of mineral resources during the Second Congo War (1999-2003), transferred through Rwanda and Uganda. The flagrancy of these activities led the Security Council to mandate a Group of Experts on ‘the illegal exploitation of natural resources and other forms of wealth in the Democratic Republic of the Congo’. This panel issued three reports from 2001 to 2003 which engendered huge controversy, and in turn gave rise to several parliamentary Commissions of Inquiry, notably in Belgium and the United Kingdom.[3] International, particularly Western, civil society groups also took up the cause. Organisations with dramatic names like Fatal Transactions, Global Witness and the Enough Project led campaigns aimed at consumers, featuring titles like ‘no blood on my cell phone’ in Belgium and ‘conflict-free campuses’ in the United States.

All this led up to a substantial number of international initiatives from 2008 onwards (which we return to in detail in Part 3). Most of them explicitly targeted the Great Lakes as a whole, either by name or by designation as a ‘high-risk’ region. But ongoing violence in the DRC always remained at the centre of concern. Indeed the most best-known measure, the United States Dodd-Frank Act, directly targets the DRC and its ‘neighbouring’ countries. Several major international buyers such as Intel have specific statements on their DRC procurement policies. The modern incarnation of the UN’s Group of Experts continues to issue detail reports each year on smuggling across the country’s borders.

It is worth underlining, however, that the neighbouring countries of DRC have their own interests; particularly direct neighbours Rwanda, Burundi and Uganda but also numerous other countries in Central or Southern Africa. For example, while still small in absolute terms, mining is now Rwanda’s largest export sector by far, producing twice the earnings of coffee and tea combined. It is also important to recall that Uganda’s mining sector also once accounted for 30% of export earnings, and the sector has recently been experiencing a modest resurgence. How to manage that growth has attracted particular attention in the Karamoja region, already among the most marginalised in the country and with a history of inter-communal conflict and cross-border complications with Kenya and South Sudan.[4] Burundi, for its part, has identified mining as a priority target for economic growth. It has taken a series of recent steps to improve the business environment including a new mining code; a recent Economic Reform Support Grant from the World Bank to work on the supporting bureaucratic infrastructure; and preliminary work on responsible supply chains.

The common thread that ties all this together is geological circumstance. Alongside other resources the Great Lakes region hosts significant deposits of tantalum, tin, tungsten and gold, often abbreviated as **3TG**. These minerals are grouped together because they share two common attributes:

(i) they are generally found in alluvial or placer deposits that can viably be extracted using hand tools and shallow-pit mines; and
(ii) they are valuable enough that it is economically viable to transport them in small quantities in light vehicles, aircraft, and even on foot in the initial stages of the supply chain.

The consequence is that the vast majority of the mining sector in all four countries is **artisanal and small-scale mining (ASM).** The World Bank has estimated that this accounts for close of 90% of production even in the DRC, with its (much-diminished) industrial mining sector for copper and cobalt.[5] Ambitions for industrial mining in neighbouring countries remain even more embryonic, despite considerable potential.

ASM is labour-intensive and characterised by low levels of mechanisation. Individual sites vary dramatically in size, with number of workers at a site ranging from a few dozen up to several thousand. Operations can scale up or scale down very rapidly as conditions on the ground change, to the extent that labour force estimates for even the same mine are often wildly inconsistent.[6]

These features have permitted rapid growth despite a paucity of investment, and indeed growth during the virtual collapse of DRC's formal economy in the Second Congo War and its aftermath. However ASM also poses special difficulties. Sites are dispersed, and they need not lie on established road networks or nearby urban centres. The result for the DRC in particular:[7]

> *The opaqueness of the mining sector is not simply due to deliberate concealment and fraud, nor to the problems caused by the continued presence and activities of armed groups. The problem starts with the existence of huge gaps in available information about the geography of production.*

A 2013 mapping exercise counted 800 mining sites across the DRC area loosely referred to as 'eastern Congo', comprising an area of not much under 500,000 km^2. The vast majority of these were not accessible by all-weather road, and many not by road at all. Moreover, the total number of sites is widely assessed actually to be considerably higher than 800.[8]

A related factor is that operators are small and weakly institutionalised. Even in Rwanda, where production is much more geographically concentrated, the Government has issued no fewer than 548 permits for exploitation amongst an estimated workforce of 34,000. Most of these sites are in the production range of 1-5 tons per month.[9] For the DRC no such useful official statistics exist, as few individual miners are registered nor are provisions of the Mining Code for 'artisanal mining zones' respected. Instead a fascinating ethnographic literature on self-organisation of individual sites has developed.[10]

1.2 Stakes

The 'Congo crisis' lies at the heart of recent initiatives around conflict minerals. There is a large literature on its origins, drivers and consequences, but for present purposes we can summarise by noting that the DRC's eastern provinces:

- Host the most expensive UN peacekeeping mission in history, with cumulative expenditure of well over USD 10 billion. Current authorised strength is over 20,000 uniformed personnel, including a unique 'intervention brigade' tasked with offensive operations.
- Have featured in the top ten humanitarian appeals in the world for a full decade, with total appeals from 2006-14 of USD 7.4 billion. The 2015 edition 'headlines' malnutrition for four million children, and sanitation and health services for 11.75 million people.[11]

Many strong claims have been made about the contribution of mineral exploitation to this situation. The first attempt at United States legislation on the issue referred to 'the deadly conflict *over* minerals in eastern Congo'.[12] One lobby group claimed, in the same year, that regularisation of the mining sector would, by itself, 'change the incentive structure away from violence and illegality towards security and rule of law'.[13]

Over time such claims have attenuated and more sober assessments now note four major categories of impact for ASM in the Great Lakes region: conflict and security; governance; economic stakes; and human rights and community impacts. In the Helpdesk's assessment, these are the four key dimensions that need to be taken into account in policy-making and programme design in the sector; in the DRC and neighbouring Greal Lakes countries.

1.2.1 Sustaining armed conflict

The 'resource curse' that can be associated with abundant natural resource endowments is a widely researched phenomenon. There is considerable evidence that the risks of adverse consequences are heightened in fragile or conflict-affected countries characterised by weak governance, serious social divisions, and/or weak security and access to justice.

The particular characteristics of the natural resources in question have also been shown to be very relevant. Unfortunately. the mineral endowments of the Great Lakes region are a textbook case of what political geographers now call 'lootable resources'; which tend to substantially increase such risks. Most of the valuable mineral resources in this region are both spatially fixed in remote areas, and 'easily accessible to governments and rebels alike with minimal bureaucratic infrastructure'.[14]

This is the primary theme of the current debate on 'conflict minerals'. It is entirely valid. For a decade, the UN Group of Experts has submitted annual reports on the quite remarkable variety of means by which non-state armed groups in the DRC profit from mineral resources.[15] These include, but are not limited to, the physical control of mining sites; taxation at points of extraction, along transportation routes, and at points of exchange and export; and ownership stakes in transport, export and support service providers.

The pattern continues to the present day. The Democratic Forces for the Liberation of Rwanda (FDLR), the highest-profile of all Congolese armed groups, is still engaged in gold mining in North and South Kivu. In doing so it competes and collaborates with a confusing array of local militias, the precise balance of forces changing year-to-year. Over the last two years since 2013,groups affiliated with Cheka Ntabo Ntaberi and William Amuri 'Yakutumba' have deliberately blocked the expansion of responsible mining initiatives for 3T and gold, respectively.[16] One recent supply chain evaluation for 3T mining area of Rubaya in North Kivu noted no fewer than ten different groups which had historically been active in the area, before concluding (optimistically?) that activity had stopped 'a few weeks prior to this assessment'. It added that 'close regular monitoring of the context' remained prudent.[17]

At the same time, the argument that ASM constitutes a 'lifeline' for armed groups should not be over-stated. In reality, mineral resources are just one element in a wider pattern of militarised / criminalised economic activity in eastern DRC and its neighbourhood, and armed groups rely upon the trade as just one amongst many sources of income. To take one example, the FDLR's involvement with ASM has waxed and waned over the years. After it was dislodged from 3T mining areas in North Kivu 2009-10 by the Congolese army, it continued to diversify its income sources to include timber, cannabis, and taxes on road transport and subsistence agriculture. The *Mouvement de 23 Mars*, which succeeded in capturingthe city of Goma in 2012, had little involvement with ASM. Instead they relied upon transport and household taxes, extensive business holdings, and support from inside Rwanda. The groups which supplanted it in international notoriety in 2013 and 2014, the separatist *Kata Katanga* and the Islamist Allied Defence Forces respectively, made at most peripheral use of mineral resources.[18]

In considering links with conflict, it is also important to highlight the history of **regional interference**. In practice, security and economic motives have been intertwined with intervention by DRC's neighbours since the start of the Second Congo War. Paul Kagame famously referred to the Rwandan army's involvement in the DRC as a 'self-financing war', with researchers alleging that the institution's 'Congo desk' paid for some 80% of its total operating expenses.[19] Uganda, acting through its proxies further north, was also heavily involved although on a decentralised, opportunistic basis with 'big men' inside the UPDF. These activities were reflected in considerable 'ghost' exports declared by neighbouring countries but rarely suggested to be actually produced there.[20]

Such direct involvement has mostly ceased. However considerable smuggling still occurs of 3TG from the Congo into Rwanda, Burundi, Uganda and even Tanzania.[21] (As noted above, in reality the expert figures in Figure 1 need to be adjusted upwards for the DRC; and downwards for its neighbours.) This pattern contributes to already rather frosty relationships within the International Conference on the Great Lakes and impedes its effectiveness. Tensions are particularly notable between the DRC and Rwanda, where up to present mutual accusations were still being traded of support for rebel groups.

1.2.2 Governance

Effective governance of ASM poses a difficult challenge, against which the countries of the Great Lakes have very variable resources and capacities. Figure 2 summaries with some widely used indices of governance capability. These are percentile rankings, with the first three relative to all other countries in the world, and the last relative to other countries in sub-Saharan Africa.[22]

Figure 2: Selected governance indicators (2014)

	DRC	Rwanda	Burundi	Uganda
WGI Effectiveness	1	55	15	33
WGI Regulatory Quality	10	53	22	45
TI Corruption Perceptions	11	69	9	19
IIAG Public Management (within Africa)	33	81	25	64

Combining Figures 1 and 2 leads us to the crux of the problem so far as the DRC is concerned. A 2014 open letter on 'conflict minerals' from a group of Congolese and international activists put this in stark terms:[23]

> *Setting up the required systems and procedures to regularly access and audit thousands of artisanal mining sites in isolated and hard-to-reach locations spread across an area almost twice the size of France would be a challenge for any government. In the eastern DRC, where road infrastructure is poor to non-existent and state capacity desperately low, the enormity of the task is hard to overstate.*

The most serious problem has been that the 3TG minerals that are 'lootable' for armed groups are also lootable by soldiers and police deployed in far-flung locations. In 2010 President Kabila publicly denounced the 'mafia' that had become involved in mining, and called on them to set aside either their mining interests or their uniforms. The case he likely had in mind was a 2009 *rapprochement* with the previous rebel group 'National Congress for the Defence of the People' (CNDP) which 'rapidly integrated' their troops into the national army and left them in control of the most lucrative mining areas in North Kivu. But this was merely the most egregious and overt case. Smaller-scale and less systematic exploitation by state security and other agencies has been documented in painstaking detail for many other locations, with tactics equally as diverse as those employed by non-state armed groups.[24] At a practical level this has contributed to the very slow progress on security sector reform over the last decade (often referred to as the 'priority of priorities' for eastern Congo). It is clear that resistance to initiatives for redeployment and rationalisation of the command structure have occasionally been driven by profit motives, alongside more legitimate grievances about the organisation of the institution.[25]

The corollary of widespread military involvement is limited formalisation of the sector. The first step of a major capacity-building project launched with the World Bank and DFID in 2010 was simply to map mining areas. The vast majority of sites inventoried were not legally gazetted as artisanal mining zones; nor have more than a tiny fraction of miners themselves met basic registration requirements.[26] Meanwhile at the point of export, a conservative estimate was that at least half of 3T minerals left the country illegally up until 2009-10, and were not reflected in official statistics. The corresponding figure for gold was close to 100%.[27]

Across DRC's borders, this smuggled production has to be received and then exported. This requires organized criminal networks. There is credible evidence that they include senior figures in the Rwandan, Burundian and Ugandan militaries, along with licensed exporters and some civilian oversight agencies.[28] There is also evidence of significant corruption in domestic mining operations in Burundi and Uganda, although this is usually overshadowed politically by controversies in oil exploration.[29]

1.2.3 Economic issues

We have already noted that the mining sector is prioritised in national development strategies across the Great Lakes countries. For the DRC, much of this will depend upon increasing formalisation of the sector. As noted in the previous section, the DRC loses half or more of potential export tax revenue due to 3T smuggling, and virtually all of it for gold.

With regard to local livelihoods, Figure 3 sets out the best available estimates of how many people depend primarily upon activity in the ASM sector for their livelihoods.

Figure 3:
Estimated ASM workforce[30]

DRC	>500,000 (?)
Rwanda	34,000
Burundi	>10,000
Uganda	>150,000

For the DRC , the most honest overview acknowledges directly that 'nobody knows' the true figure.[31] Published estimates of the workforce range from 500,000 to 2,000,000, with an extrapolated figure of those 'depending' on ASM thus between two and ten million.[32]

For the workforce in Congolese ASM, we know roughly the following:

- Concentration in mining sites is a form of local urbanization with complex effects for the agricultural economy.[33]

- The two main alternative livelihoods identified by miners are agriculture and informal trading. There is a substantial financial premium for ASM over both these activities, and participation is generally driven by financial motives.[34]
- There are high levels of local specialization. Many mining areas import food rather than growing it, and research suggests that in areas like Walikale, Kamituga and Mongbwalu more than 70% of the population depend on income from mining.[35]
- Many individual miners are consequently specialized. One study of gold miners found that 87% in Ituri and 84% in South Kivu had five or more years in the trade.[36] However, seasonal or demand-driven spikes in employment are also common in some areas.

Data on women's roles is scarce. Some assessments, most notably a Government-World Bank project in 2010, assert that women comprise more than 40% of ASM workers, but this appears to be a generalisation from elsewhere in sub-Saharan Africa.[37] Other site-specific research has found proportions as low as 6-10%, as for gold-miners in Ituri, or broadly that women are 'barred' from mining in the Bisie mine in Walikale.[38]

The differences may well reside in what is 'counted', as it is clear that women are concentrated at other parts of the value chain than digging—sorting, washing, transport and trade. It is also clear that they are over-represented in support services in mining areas, such as petty retail and food vending. In both regards there is anecdotal evidence that financial earnings are significantly lower than for diggers, but little systematic investigation to date.[39]

Of course, some of these inter-relationships between ASM and economic issues have changed along with the international policy environment for 3TG exploitation from 2010 onwards. We examine emerging outcomes in this regard in Part 3 below.

Human rights & community impacts

It is frequently observed that **labour conditions** in Congolese ASM are highly exploitative. In this regard one 2010 study that commented on 'poor (or non-existent) standards of health and safety' can represent the findings of many others.[40] Mine accidents are common; and hazardous chemicals are widespread in gold mining with particularly severe consequences for example, for womens' reproductive health. Child labour is also common, although estimates of prevalence vary wildly according to location and also to investigators..

Potential **vulnerability of women** in mining areas also needs consideration. We have already seen that mining areas are remote, peri-urban settings where traditional rural lifestyles have been more or less broken down. They are also characterised by higher-than-average militarisation and armed group activity. This has sometimes been described as a 'confluence of key factors' for forced prostitution and sexual violence.[41] However, there is very little research on this question, and in particular no comparison of mining areas with other peri-urban environments. International Alert has asserted a plausible middle ground:[42]

> *Sexual violence is not directly connected with the mining economy, but with the lack of security and the reigning anomie in the areas outside the law where the Kalashnikov is king. Against this background, the mine milieu is more protected than the isolated villages without defence, which*

are exposed to exactions of every kind by those carrying weapons. On the other hand, they are major centres of prostitution [in connection with the mining economy and militarised environment].

An important area in relation to community impacts that is attracting increasing attention is the tension between **industrial and artisanal exploitation**. Under Congolese law, there is a near-total mismatch between the areas that are actually artisanally exploited, and the areas that are designated for this purpose (*zones d'exploitation artisanale*).[43] In fact a high proportion of ASM occurs on or adjacent to industrial mining concessions that have granted by national authorities but, for the most part, not yet exploited at an industrial scale. There is accordingly a combination of substantial sunk costs by minrs, high local dependence by their communities, and extremely insecure property rights.

These tensions have quickly escalated in those areas (still a small minority) where concession holders have actually started up operations. Strikes and demonstrations have typically followed, often escalating into violent clashes between mining cooperatives and security forces. Some notable cases have included:[44]

- AngoGold Ashanti at the Mongbwalu gold concession in Ituri district.
- AlphaMin Resources at the Bisie cassiterite mine in North Kivu.
- Mwangachuchu Hizi International (MHI) at the Rubaya cassiterite mine in North Kivu.
- CASA Mining Limited at the Misisi gold mines in South Kivu.

The recurring themes of these disputes tend to be: Closed-door negotiations with little community consultation; limited prospects for local employment; heavy-handed and inadequately accountable private security; the lack of capacity (and often interest) of Congolese security forces to peacefully manage civil dissent. In some cases, displaced artisanal workers and their communities have collaborated with armed groups to resist 'encroachment'.[45]

2. The Policy and Aid Environment and Actors

2.1 Introduction and framework

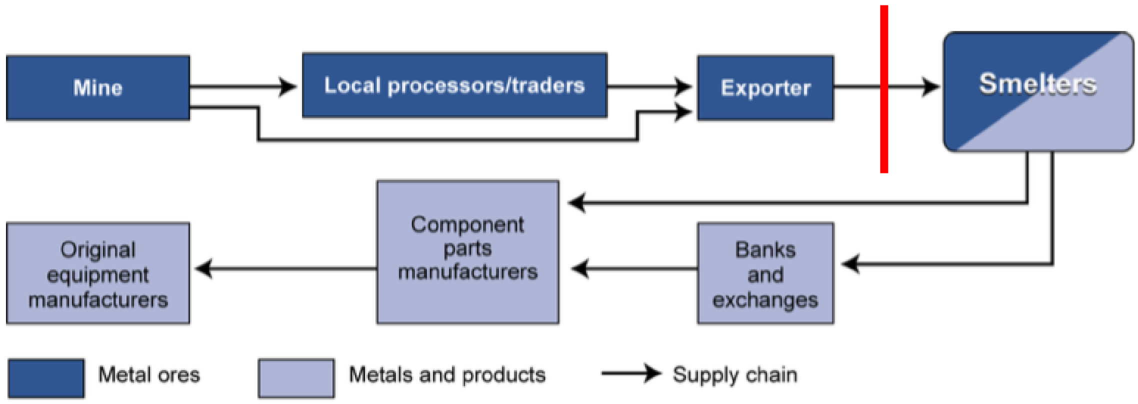
There have been a large and wide array of initiatives and programmes in this mineral expoitation sector since 2009-10. These often overlap, and are referred to with an 'alphabet soup' of acronyms and abbreviations that can become highly confusing. One recent article noted that 'the number of supply chain monitoring initiatives alone … has become almost as dizzying as the list of armed groups involved in the conflict.'[46]

In this Part 2 of this Report, we outline, and at least partially map, recent and current intiatives and programmes relating to 'conflcit minerals, and enhancing regulation of mineral exploitation and trade, in the DRC and its Great Lakes region neighbours. We first summarise efforts to regularise the minerals trade. We then identify and outline some complementary initiatives to facilitate regularisation and mitigate its unintended impacts.

A simple and useful overall way to conceptualise types of initaitives and programmes is to distinguish between interventions on the 'supply side' in the Great Lakes countries themselves; and those on the 'demand side' for buyers outside the region. These correspond to the left and right sides of the thick red line in Figure 3 below.

Figure 3: Simplified supply chain for minerals originating in the Great Lakes

Source: Government Accountability Office (2014)



The theory of change underlying most initiatives is then divided into the following. On the supply-side, credible processes to 'trace, audit and certify' will allow identification and marketing of 'conflict-free' minerals. On the demand-side, buyers will shift away from non-certified minerals through either goodwill or fear of public criticism. This in turn should create a market incentive for:

- reduced involvement of non-state armed groups and government security forces;
- compliance with national regulatory and taxation regimes; and
- greater respect of labour, gender and community rights along the supply chain.

There are many assumptions for each link of this chain to be valid and operative . Whether they are in fact operative is hotly debated amongst actors in the sector, a point to which we return in Part 3 below. For now we focus on the initiatives themselves and how far they have been rolled out.

2.2 Demand-side initiatives

As noted above, there has been substantial lobbying activity on demand-side initiatives from the early 2000s onwards. The fruits of this labour in the Great Lakes region have mostly been realised in a burst of activity over the last 5-6 years. The most notable initiatives include:

Industry initiatives. The most significant for the Great Lakes Region is the Conflict-Free Smelter Program (CFSP), an initiative by two electronics industry bodies (ECCC / GeSI) that supports annual audits to identify those smelters which use only 'conflict-free' 3T ores. The smelters are targeted as the key bottleneck in Figure 3, as there are a relatively small number operating internationally. The idea is that end-users can then opt to use only 'conflict-free' smelters that have met audit standards. Some of the biggest 3T buyers have committed to doing exactly this, including Apple and Intel.

Alongside CFSP, there are a number of initiatives targeting the gold market. These include responsible sourcing guidance issued by the London Bullion Market; the Dubai Multi-Commodity Centre; and the World Gold Council. All define due diligence criteria for the supply chain. However enforcement has been relatively difficulty since the the market is much less concentrated than it is for 3T, with thousands of buyers of varying scale and connections. (We return to this point in Part 3.4.)

Regulatory measures. The first major initiative in this area came from the United States, in the form of section 1502 of the (otherwise unrelated) Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. This law directed the US Securities and Exchange Commission (SEC) to require US-listed companies to disclose annually their use of 3TG from the DRC or any adjoining country.

The SEC has since specified that companies must conduct a 'reasonable country of origin inquiry' to identify if minerals it uses are sourced from a designated country. If so, it must file a Conflict Minerals Report to the SEC.[47] This report discloses the due diligence measures taken for the company's supply-chain. If the company wishes to declare its products 'DRC conflict free' it must then obtain a third-party audit of those measures.

At the time of writing the **European Parliament** is considering its own initiative in this area. The current draft regulation, proposed by the Committee on International Trade, would permit importers of 3TG into the European Union to voluntarily self-certify as a 'responsible importer'. Such self-certification would entail a series of due diligence measures for 3TG sourcing from 'conflict zones' anywhere in the world.[48] The proposed regulation has been heavily criticized as too tentative and vulnerable to circumvention by advocacy groups and some members of the European Parliament, including the Committee on Development. It remains to be seen what the final outcome will be.

The **OECD's Due Diligence Guidelines** date from May 2011 and were the product of extensive consultations involving the OECD governments, the ICGLR and a variety of other stakeholders.[49] These are voluntary guidelines targeted at companies using 3TG from 'conflict-affected and high-risk areas'. Over time they have become a *de facto* reference point, mentioned as an internationally accepted framework in both the SEC rule under the Dodd-Frank law, and the proposed EU regulation.

In practice the OECD Guidelines comprise steps for 'risk-based due diligence'. This means that buyers must assess and mitigate risks along the entire supply chain depicted in Figure 3, including the 'chain of custody' in-between the individual stages. The enumerated risks then include serious human rights abuses; direct and indirect support to non-state armed groups; illegal involvement of public or private security forces; bribery and fraudulent misrepresentation of origin.

2.3 Supply-side initiatives

The key question for all of these regimes is thus **how to exercise 'due diligence' along the supply chain**. Asserting that a smelter is 'conflict-free' under the CFSP, or that a company's products are 'DRC conflict-free' under the Dodd-Frank law, requires (i) a responsible supply chain on the ground, avoiding the types of risks identified by the OECD, and (ii) periodic audits to that effect.[50]

There are a number of initiatives to 'trace, audit and certify' minerals transferred from within the DRC and its Great Lakes neighbours to the satisfaction of intenational buyers. The most significant are as follows.

ICGLR certification. The International Conference on the Great Lakes Region adopted a mandatory protocol on the illicit exploitation of natural resources in 2006. This, in turn, gave rise to a Regional Initiative against the Illegal Exploitation of Natural Resources (RINR). The core element of RINR is a regional certification mechanism for 'conflict-free' 3TG, with the export of uncertified minerals prohibited. The criteria for 'conflict-free' 3TG are broadly similar to those set out in the OECD Guidelines, and need to be tracked back through the supply chain and chain-of-custody in like fashion.[51] (In practice, harmonised with BGR and iTSCi processes.)

The core elements of the ICGLR process have been incorporated into national legislation in the DRC and Rwanda. Both now issue ICGLR certificates, and export of 3TG without a certificate is illegal. (Other countries in the region have yet to create a national system.) At regional level a RINR auditing system is still in its infancy, having accredited some third-party auditors but not yet established a proposed Independent Mineral Chain Auditor.

In the DRC, in-country certification is carried out by Joint Assessment Teams led by Ministry of Mines and including civil society representatives, BGR and the UN peacekeeping mission. Independent assessments have noted that these have struggled to achieve adequate coverage on the ground, a point we return to in Part 3.[52] As a result it remains to be seen whether national certification will be accepted on the international market in those cases where a third-party system like iTSCi has not been rolled out. *Major partners:*

- *At the level of ICGLR: GiZ; Partnership Africa-Canada; African Development Bank, ITRI.*
- *In-country certification: USAID (via Pact); German Federal Institute for Geosciences and Natural Resources (BGR).*

ITRI Supply Chain Initiative (iTSCi). This is a system initially set up by the International Tin Research Institute, but now used for all 3T ores. The process is essentially that 'upstream' entities—mining concerns, transporters and exporters—apply for iTSCi membership. They then undergo an initial risk assessment for types of risks identified in the OECD Guidelines; establish a 'bag and tag' system for chain-of-custody verification; and agree to periodic third-party audits. In practice it follows the model of a closed pipeline, whereby iTSCi-member minerals are kept physically separate from non-certified sites.

On the ground, the iTSCi system has been rolled out for nearly all 3T production in Rwanda; and for a minority fraction of 3T in the DRC. In practice it is accepted as meeting the requirements for an ICGLR certificate in both countries, and is the only traceability system mentioned by name in the OECD Guidelines. As a result several analysts have noted that it has a de facto monopoly on (credible) supply chain certification.

Certified trading chains, a project piloted in Rwanda from 2009-11 and then (tentatively) in the Congo.[53] It entails standards for 3TG mines, analogous to the risks set out in the OECD Due Diligence Guidelines, along with a system for baseline and periodic audits against those standards. On the ground it has largely been supplanted by the iTSCi system, although some elements of the approach are still in use within the Congolese national certification process. *Major partners: German Federal Institute for Geosciences and Natural Resources (BGR).*

***L'or juste* pilot initiative.** In general trading chains initiatives for gold are much less developed. The most recent activity is a pilot project (2013-14) supported by Partnership Africa-Canada, covering some 11,300 artisanal producers in Orientale Province. It aimed to establish legal 'purchasing channels', with miners receiving technical assistance to offset increased costs and reduced marketability. The project evaluation concluded that it failed to attract much interest from exporters, who had negative financial incentives to sell through legal channels in the absence of much pressure from the buyer side for 'conflcit – free' gold. It was also noted that the scale of production was too small to justify the transaction costs for most operators to establish a separate channel.[54]

Centres de Négoce. This was a focused initiative to establish four secure trading sites in North and South Kivu. It was extensively supported by the UN peacekeeping mission (MONUSCO) at the behest of the Security Council, and linked with training for the Mining Police present on-site. One of the sites (Rubaya) has been rolled into an iTSCi-system 'closed pipeline' in North Kivu, while the effectiveness of the others will depend on rollout of a certification initiatives for the full value chain.[55] *Major partners: MONUSCO, Peacebuilding Fund, Canada (DFAIT), DFID.*

2.4 Complementary measures

It is frequently observed that the measures surveyed above have not been accompanied by much attention to costs of adjustment and probable structural unemployment. Indeed in late 2014 a group of the most prominent advocates of the 'conflict minerals' responded to this criticism by agreeing with it—complaining that international partners did little to help 'deliver or finalize many of the other critical reforms in governance, gold and 3T mining, and have been very late in providing livelihood programs for Congolese mining communities'.[56] However there are a few exceptions to the rule, of which the most notable are the following.

Support to Congolese institutions. The World Bank / DFID project PROMINES launched in 2010, with the objectives of improving the legal status, working practices and economic return of artisanal mining in the DRC, whilst reducing negative impacts on society, security and the environment. In practice it focused on capacity building for key agencies (the Ministry of Mines and SAESSCAM, responsible for artisanal mining); tax collection and transparency; and allocation of mining revenues within the government.[57] The programme is due to wrap up in 2015 but remarkably few documents are currently available to provide insight into lessons learned. (The World Bank's current ratings are 'moderately unsatisfactory' for overall progress.). Going forward USAID has flagged capacity-building for the national and provincial Ministries of Mines as an objective for 2015-19, albeit so far unfunded.[58]

The closed pipelines. There are several high-profile initiatives that couple traceability under the iTSCi system with modest social / environmental investments. These include:[59]

- *Solutions for Hope: Tantalum from three mines in North Katanga, and (as of 2014) the Rubaya area in North Kivu. Originally launched by AVX and Motorola and now including an array of major buyers.*
- *Conflict-Free Tin Initiative. This comprises one site in South Kivu (Kalimbi/Nyabibwe), employing a few hundred miners, with expansion planned to another site in Maniema. Partners include the Dutch government and an array of high-profile buyers.*
- *The 'Partnership for Social and Economic Sustainability': Tantalum from several mines in North Katanga. An initiative of KEMET, a major international buyer.*

It is clear that these initiatives are successfully putting Congolese ore into the international market, and have undergone several audits finding broad compliance with the OECD Due Diligence Standards[60]. There has not, however, been much serious analysis of livelihoods and social impacts to date. (The Public-Private Alliance for Responsible Minerals Trade had recently tendered for an evaluation to this effect as at time of writing.)

Consultation and local oversight. The Congolese government has established provincial 'follow-up committees' (*Comités de suivi*), chaired by the Ministry of Mines and bringing together state services, civil society, BGR and MONUSCO. These are intended to provide general oversight and coordination of partners working on due diligence initiatives. There is some early evidence of a positive contribution in mediating disputes, for example between cooperatives and the mining company MHI in the Rubaya area of North Kivu.[61]

There are related initiatives for local-level 'surveillance groups' by the Congolese NGOs Save Act Mine and the Peace and Governance Observatory. These aim to provide input into the provincial follow-up committees, and act as an independent source of information on risks for third party auditors.[62] It is also worth in this regard a program for public information and sensitisation work around due diligence initiatives, executed by Pact International / Search for Common Ground.

Support to alternative livelihoods. There are no initiatives at major scale to support alternative livelihoods in the mining sector. However several larger programmes include mining areas in their remit to some extent, most notably:

- *USAID's Community Recovery and Livelihoods Project ($20m, 2011-), targeting marginalised and vulnerable communities in general.*
- *The World Bank's Eastern Recovery Project ($70m, 2015-) project includes support to temporary employment and agricultural value chains.*

Another intervention that should be mentioned is Pact International's CREDO program. This supported the work noted above of the Peace and Governance Observatory, and provided some support to alternative economic opportunities in several mining areas. Activities targeted about two hundred participants and were directed to literacy training and organisation for community development.[63]

3. Emerging Outcomes: Lessons from Experience

About five years have now elapsed since the launch of many of the major initiatives outlined in Part 2 above. At this point we ask: What do the early results look like, and what has been learned?

To address these questions, we will in turn examine the '3T' and the 'G' of conflict minerals agendas, as early outcomes look quite different for these two sectors. A good starting point is practical experience, as illustrated by comparing the Rutongo cassiterite mines of central Rwanda versus the Bisie cassiterite mine about 245km to the north-west, in the Walikale territory of North Kivu.

3.1 Rutongo vs. Bisie

The Rutongo mines employ about 4,000 workers and produce about 100 tonnes of tin concentrate per month.[64] Ore is weighed and tagged shortly after extraction, following the iTSCi protocol. These bags are transferred to a local upgrading plant, and then re-bagged and re-tagged for export. A dedicated transport fleet, distinct from transport serving other mining sites, takes the bags to the exporter in Kigali, Phoenix Metals. Prior to export Phoenix pays mining royalties of 4% of export value, along with levies of 2-4% to cover due diligence costs of ITRI/ITSCI and the Geology and Mines Department. It then receives a ICGLR Certificate from the Rwanda Natural Resources Authority, and ships via 24-tonne containers to the port of Dar es Salaam. For the year 2013, for example, mine workers were paid at USD 2.3-5.8 per kilogram, or 25-40% of the average export price of USD 12.50.

The Bisie cassiterite mines are significantly bigger, maybe twice the size, but look very different. The area is best-known for the Congolese army forcibly evicting the FDLR in 2009 and taking over widespread taxation and in some cases direct mineral exploitation. A plan was announced not long after this eviction to implement iTSCi verification but was never implemented. In June 2013 the local association wrote a plaintive letter to Government authorities pointing out the situation:[65]

> *Our greatest wish is to welcome the Joint Assessment Teams with open arms so that they can validate the mine sites. We guarantee them safety and tranquility in the exercise of their task, which is very beneficial to our socio-economic interests …*
>
> *If this does not happen on time, the minerals produced in this groupement will escape the official circuit through fraud and smuggling, which will lead to a loss of revenue for the population, for the province of North Kivu, and for the entire DRC.*

However from 2011 onwards the Bisie mines remained 'red-flagged' under national legislation and export was thus illegal. Trade shifted to buyers who were not averse to untagged minerals, but who also expected substantial discounts. Local estimates are that trade dropped by 75% over the course of 2010-11, with the prices received by miners declining from $7-8 per kilogram to $2-3.[66] Meanwhile international officials and activists have continued to debate about to the exact degree of involvement of the Congolese army and local armed groups such as the Nduma Defense of Congo.[67]

What accounts for such differences in outcomes? It is perhaps not difficult to explain. In Rwanda, there have been no active armed groups for over a decade. The last significant activity anywhere in the country was a small FDLR incursion in 2004, and the last serious incursion by the same group in 2001.[68] Even these came nowhere near the Rutongo mines, which sit about an hour's drive away from Kigali on the main road to Uganda. The Rwandan Geology and Mines Department is well-organised and absorbs the costs for mine inspections and supply chain verification from levies at the point of export, with borders tightly controlled and smuggling very low.

In contrast in Bisie, DRC the circumstances are rather more difficult. The area has been at the centre of serious violence for the last decade (and previously). Physically visiting it requires a flight by light aircraft or an arduous trip by convoy over the course of more than a day to the town of Walikale. An OECD evaluation explained the practicalities from that point:[69]

> *Since Bisië is located in a remote corner of the province, the validation team would have had to walk more than 50 km in the forest, facing the risk of encountering Mayi Mayi rebels en route. It was suggested to replace this long hike with a helicopter flight, yet this option would negate the purpose of the validation mission, which is not simply concerned with a spot-check of mine sites, but also with thorough controls of trading routes.*

This last factor is particularly crucial. Securing supply routes from taxation by armed groups or the national security forces is a nearly unsolvable problem for remote areas like Bisie. Even if it were possible to secure the vicinity from armed groups and demilitarise the area, it would also be necessary to trace forwards through that first stage of the supply chain on foot, and then via the long transport links back to Goma. Under such circumstances, an abrupt ‘green’ certification of seven sites by the Congolese Ministry of Mines near the end of 2014 was received with high scepticism. Would international buyers in the new climate believe the national process was credible? Would it stand up to site audits and chain-of-custody evaluations like those conducted in Rwanda?

At present the verdict of international markets is unknown. But the two cases illustrate a striking trend over the last five years: the separation of the 3T market into two tiers.

This two-tier process is roughly summarised in Figure 4. After the burst of initiatives in 2010-11, it turned out that buyers could shift their behaviour quite quickly. Once they decided they wanted supply chain due diligence, they were free to take their business to whoever could offer it. Mining sites like Bisie abruptly found themselves in the bottom left quadrant, with demands from buyers they were not equipped to meet. In practice ‘responsible’ buyers largely exited the North Kivu market, a trend widely referred to in-country as the ‘de facto embargo’. Exporters selling Bisie cassiterite found themselves pushed towards other buyers who did not ask questions about certification, at a significant discount from the prices that previously prevailed.

Figure 4: Outcomes matrix for governance initiatives

Buyer observes due diligence

Credible certification of supply chain

	Y	N
Y	Licit trade	Supplier exit
N	Buyer exit	Shadow trade

By contrast, some mining areas were well-positioned to offer credible certification of the supply chain. Sites like Rutongo could count on favourable conditions on the ground, and strong engagement from the national government. As a result, Rwanda as a whole has enjoyed uninterrupted market access since 2010, and indeed captured a good deal of 3T market share from the Congo.[70]

Switching to the buyer perspective: the Malaysia Smelting Corporation was the biggest buyer of Congolese tin until 2010. During the 2010-11 embargo it pulled out of buying from the Kivus, citing commitments made in the Electronics Industry Citizenship Coalition, and now buys only from Rwanda and iTSCi-certified mines in Katanga. A similar trend has been observed for other buyers including Minerals Supply Africa, Clepad and MSC.[71] *In a very crude sense, then, there are emerging ‘winners’ and ‘losers’ from the initiatives summarised in Part 2. We now proceed to review the positive and negative impacts for these two groups*.

3.2 Virtuous circles?

There are several areas that have been well-positioned to meet supply chain due diligence requirements. They are roughly as follows:

Rwanda has largely escaped reputational contagion by 'conflict minerals', and has enjoyed effectively unrestricted market access. Exports of 3T have roughly tripled since 2010 to about USD 230M, with prices per kilogram closely tracking prices on the international spot market. Studies suggest close to 100% participation of legal mines and exporters in the iTSCi system.[72]

iTSCi-certified mines 3T in Congo. These include over 80% of sites in North Katanga and the larger sites in Maniema province; plus one site each in South Kivu (Kalimbi / Nyabibwe) and North Kivu (Rubaya). Expansion studies have also recently been conducted for the Lemera area of South Kivu; and for several more sites close to the Rubaya site.

On balance, the record in these areas is positive. Third-party audits have found broad compliance with the OECD due diligence guidelines: ruling out the worst forms of labour exploitation, and significant exploitation by armed groups or security forces. In DRC it is clear that the latter groups still engage in informal taxation and disguised or corrupt ownership arrangements, but this appears to be both covert and relatively unsystematic.[73] (Probably the most serious allegations have regarded 'leakage' of untagged minerals via networks of covert buyers.[74]) A research report from 2013 summarised fairly:[75]

> *The fact that such incidents persist even in a mine as closely watched as Kalimbi shows that it is hard to create a 'conflict-free' supply chain in the short term in a volatile environment like the Kivus. It is therefore important to realise that any path towards a totally conflict-free supply chain is long and complex. A continuous and progressive development plan is considered more advisable. 'Risk mitigation' seems to be a more adequate requirement for the time being.*

The record with respect to local economies is more mixed. The research largely agrees that prices in certified mines are well above the 'embargo prices' available in sites like Bisie, and that there has been significant movement of miners from uncertified to certified sites. However prices are still well-short of those prevailing prior to 2011, notwithstanding favourable movements in world market prices. This has given rise to considerable tension at the point of production, with miners' expectations often frustrated. (One notable incident in this regard was for the Conflict-Free Tin Initiative, where sub-standard cassiterite ore led to quite poor local prices.)

A recurring factor in this regard has been that exporters with the iTSCi 'stamp of approval' initially found themselves with a buying monopoly, including WMC in South Kivu and MMR in Katanga. This resulted in relatively low prices relative to world spot price.[76] Some analysts believe that this will improve with the entry of new ITRI-member exporters into the market from 2014 onwards, but as at the time of writing this remains to be seen.

It is not clear that working conditions or gender equality concerns have improved. The most careful research on this question looked at four iTSCi sites and found that 'optimistic statements regarding working conditions must be balanced with scepticism'.[77] In this regard it should be noted that better labour conditions are a declared aim of the closed-pipeline projects noted in Part 2.3 (such as 'Solutions for Hope'), but their performance in this regard has so far been outside the scope of 'due diligence' assessments.

There are also some emerging issues that should be noted for areas with certified supply chains.

Cross-border smuggling: The coincidence of major export growth in Rwanda with widespread smuggling of uncertified 3T ores out of the Kivus has given rise to obvious suspicions. The UN Group of Experts has flagged certain trading companies as involved in smuggling Congolese minerals into the 'certified' supply chain in Rwanda.[78]

Violent Clashes over exploitation rights. The re-establishment of licit mining has sometimes prompted violent clashes between mining concerns over a now-scarcer resource. In the Nyabibwe mine in South Kivu, for example, two rival mining cooperatives have fought repeatedly; in the Rubaya mine the company MHI has clashed with local cooperatives. In Bisie, meanwhile, the sudden 'green-flagging' of some mines in late 2014 has been linked by many with the start of exploration initiatives by Alphamin Resources, the Canadian company which holds the industrial concession. This situation has prompted frequent strikes and demonstrations, along with allegations that traceability initiatives are aimed at removing artisanal miners from the area.[79]

Sustainability. Many assessments have noted that the capacity of Congolese agencies to keep up with the pace of certification initiatives has become a serious bottleneck—and certainly would be so for any more rapid expansion.[80] From a financial standpoint it should also be noted:

- Inspections by the Joint Assessment Teams which conduct certification in the Congo are underwritten directly by international donors (BGR and USAID).
- In Rwanda, there are concerns that levies of 2-4% of export price to sustain due diligence may leave exports uncompetitive in world markets.

3.3 Life 'beyond the pale'

It is clear that certification initiatives have picked the low-hanging fruit, i.e. those areas where the security environment is relatively permissive, and supply routes to the point of export are short enough that a 'closed pipeline' is feasible. The corollary is that a large number of sites—in fact the vast numerical majority of sites in the Congo—which are 'beyond the pale, pressured into either illegality or collapse'.[81]

One recent estimate is that national certification measures have so far reached just 5-6% of the thousand-plus ASM sites in eastern Congo [82] Another is a total of 72,000 artisanal miners, which would represent somewhere between 5 and 15% of the workforce depending on which figures one uses.[83] Excluded include:

- Most 3T sites in the Kivus and Ituri. The four iTSCi-system sites noted above are so far the *only* sites that produce ore that can legally be exported.
- Several more remote sites in Maniema and Katanga that have so far been uneconomical for certification due to small size and/or distance.

The case of Bisie in DRC illustrates what the ASM sector looks like in these areas. Generally speaking—production and trade still occur, but at reduced volume and at 'embargo prices'. It is this situation that has led to headlines of a population 'in abject poverty facing dire living conditions'; and 'incredible hardship for the miners and their families'.[84] To date, there is little systematic research on indicators such as household income in areas 'under embargo'. The limited evidence that is available suggests the following:

- High levels of localised dependence on mining have led to considerable drops in income in affected areas. This has been associated with some out-migration.

- Research in South Kivu found anecdotal evidence of diminishing school enrolment and increasing malnutrition. Transport links with remote mining areas had also virtually ceased once lucrative minerals trade dried up, making these communities unviable in terms of access to agricultural products and basic goods.[85]
- Comparative research across seven mining areas in North Kivu, South Kivu and Maniema found a negative trend on access to social services for uncertified areas.[86]

3.4 The Gold Sector

The 'G' in '3TG' has received much less attention in internationally-supported supply-side initiatives. To illustrate, a typical lobby briefing in 2013 compared 'signs of progress' in the 3T sector, versus an 'almost complete absence of checks in the gold trade'.[87] More specifically, there is no equivalent to the iTSCi certification system, and chain-of-custody documentation remains extremely weak. Typically, export houses 'buy indiscriminately from mining areas that are entirely or partly controlled by armed groups', largely because the conventional estimate is that that 98% or 99% of exports are illegal and in no need of 'conflict-free' certification.[88]

Initiatives to develop a due diligence system remain at an early stage. The 'just gold' pilot project outlined in Part 2.3 offered technical assistance to miners in exchange for adherence to legal sales channels. But It failed, in large part because 'the incentives for large negociants — a captive feeder market and increased gold volumes — appear to be insufficient to compensate for the lower price on offer in the legal chain'. Unlike 3T, international buyers have shown scant willingness to pay extra for gold bearing an ICGLR certificate.[89]

The gold sector accordingly remains hugely problematic in terms of the core stakes set out in section 1 above. Indeed, many observers have suggested that DRC is in the midst of a 'historic gold rush' to offset losses from efforts to better control 3T production—both by miners, and by those exploiting them.[90] As one indication, the most comprehensive mapping to date of artisanal gold-mining sites found that more than half were under *direct* control by non-state armed groups or the Congolese army.[91] This includes widespread taxation, as for groups like the Raia Mutomboki in South Kivu and the Allied Defence Forces in North Kivu. There are also recurring allegations that army commanders are still in physical control of gold mines in North Kivu, right up to the recently-suspended chief of land forces, Gabriel Amisi.[92]

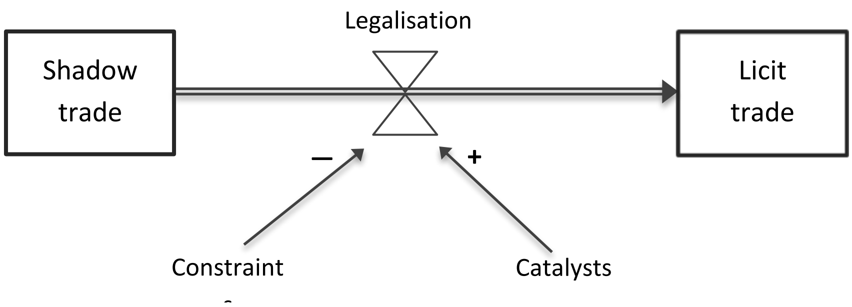
4. Options for engagement

This section aims briefly to explore the implications of our analysis presented in this Report for possible options and priorities relating to programme support by Sida and its partners in the DRC concerning the ‘conflict minerals’ agenda. It is necessarily brief and limited in its objectives at this stage. However, we stand ready to elaborate on these issues on request. In this context, we understand that Sweden’s development co-operation country strategy DRC for 2014-18 is not yet finalised – at least the Helpdesk is not aware of it. Thus although our discussion aims to take broadly into account what we understand to be Sweden’s likely Results Areas in the DRC, it is not yet useful for us to develop our discussion of possible options substantially.

4.1 Framing overall options for support

Building on sections 1-3 of this Report, we can broadly conceptualise the conflict minerals space as in Figure 5. Here the left side roughly corresponds to the situation of Bisie mine in the DRC, and the right side to that of the Rutongo mines in Rwanda. In between is the flow rate between the two categories, in effect the rate of legalisation – which is presently a key goal for internationally-supported policy and programming initiatives.

Figure 5: Transformation of minerals trade



A key conclusion of the Helpdesk’s analysis in this report is that this flow rate from shadow trade towards legalised trade cannot realistically be expected to be high in the DRC. Thus the proportion of mineral trade in the illicit or ‘shadow’ area will almost certainly remain considerably bigger than the legal certificated trade, at least in the medium term. The kinds of constraints on effective formalisation/legalisation on most sites in DRC, such as we identified in Bisie mine, are not amenable to rapid policy intervention. Indeed the first iTSCi certification in North Kivu came about only because of a major political realignment—the defeat of the M23 in late 2013. Progress in other parts of the Kivus will depend in large part on similar, hopefully less dramatic, realignments.

It is important to note that, despite many other similarities, this conclusion does not apply so clearly in Uganda and Burundi, and it does not apply in Rwanda. Thus, overall options and priorities in this sector in the DRC discussed below should not be straightforwardly applied to its neighbours.

Realistically, the above conclusion relating to the DRC implies three broad options for overall approach towards programming to help to address the ‘conflict minerals’ issue in this country.

1. **Mitigate harm in areas 'beyond the pale' (in terms of credibility of certification etc)**
   - Support to alternative livelihoods in 'embargoed' 3T-producing areas. This needs to be locally assessed, but in most cases would relate to the agricultural sector and petty trade.
   - Transport and communication infrastructure to *désenclave* affected areas, although with caution for the high levels of risk and expense in this sector.
   - Proceed in the gold sector only with caution. There is still relatively little buyer-side pressure and as yet no clear model for 'what works' in-country.

2. **Support efforts to address emerging risks for the licit sector**
   - Labour rights & wage issues: Technical support and access to credit for producing entities. Another route is capacity building for organising and bargaining of miners' cooperatives, but with caution given a history of co-optation and violent clashes.
   - Consultation mechanisms for legitimacy & local adjustment of due diligence interventions; and also to manage tensions between industrial and artisanal mining. The provincial *Comités de Suivi* are one such forum, but are often quite distant from the issues.
   - Local 'whistle blower' and oversight mechanisms, with emphasis on the ability to organise effectively and find policy entry points with international buyers & the national government.

3. **Support 'catalytic' aid to support <u>longer-term</u> formalisation and regulation of the sector**
   - Build Capacity of key agencies, notably SAESSCAM, and national / provincial Ministries of Mines. Building a more robust national certification process and more competent technical services.
   - Closing the gap between 'legalisation' and 'formalisation'. Addressing the many mismatches between the legal regime for ASM and realities on the ground to help improve security of investment in the sector.
   - (If regional political readiness improves) Assist with unfinished business for the ICGLR's regional certification initiative: the independent auditor and audit committee.

Note that these options *do not* include recommendations to support efforts to achieve rapid and extensive spread of supply-side formalisation in the DRC in the hope of substantial short or medium term gains. This is not only unrealistic, but also would require great care to ensure adequate conflict sensitivity and to mitigate risks of doing inadvertant harm at community levels.

4.2 Further comments on areas of possible focus for Sweden/Sida

Depending on the scale of Sweden's aid resources and capacity that may be allocated to addressing 'conflict mineral'-related issues in the DRC, a good case can be made for a Swedish strategy that enables support to be provided across all three of the above recommended overall option areas. All are worthy of support, and there are likely to be good opportunities to achieve useful synergies.

All three of the options outlined above are positioned in the important centre ground of the unduly polarised international policy debate on how best to respond to the 'conflict minerals' issue in the Great Lakes R overall and particularly in the DRC – as outlined in the introduction to Section B. This is, in our strong view, the responsible and realistic area of positioning for Sweden and other international donors. It is important to contribute to developing a more constructive overall framing of these debates, and wider recognition on both sides of the tensions, risks and opportunities that really exist.

However, it implies that Sweden should consider how best to communicate clearly how and why it will/may adopt the above recommended approaches to its programme support activities in this sector; in order (i) to mitigate risks of misunderstandings or misrepresentation by actors on one or other pole of the lobbyist debate; and (ii) to aim to influence its donor or implementation partners to promote wider improvements in policy and programming in this sector in the DRC.

In each of the three broad approaches recommended above, it is particularly important to promote and ensure **conflict sensitivity** of policies and programmes that are supported by Sweden, and also more widely by the donor and NGO community. As noted in the body of this Report, it is noteworthy that many programmes designed to address ‘conflict minerals’ do not appear in practice at the design or implementation phases to have ensured that they have systematically identified and mitigated risks that their programmes may unintentionally contribute to conflict risk factors. As discussed, this is serious. For example, many programmes do not appear to have systematically identified and mitigated risks of contributing to tensions that arise in the process of formalising ASM, including competition over the emerging licit trade and the displacement of artisanal by industrial-style exploitation. The ‘gold rush’ that has followed intense scrutiny of 3T ores is also having unpredictable effects. Sweden not only needs to ensure conflict sensitivity in the programmes it supports, but also seize opportunities to influence wider programme design and implementation.

In relation to gender - and womens’ and girls’ security, equality and empowerment - perhaps the most noteworthy finding from our study is how little reliable information is available about the relevance, significance and impacts of ASM in relation to gendered roles, and in relation to women’s and girl’s employment, health, security or empowerment. The literature includes some assertions and claims, many of which appear superficially credible, but we do not recommend that Sida relies on these in their present state. Probably the situation varies considerably by locality. This implies a need for these differences to be properly researched, and carefully monitored during programme inception and implementation, with capacities for review and programme revision to enable emerging opportunities to address women’s equality, discrimination, income or security issues to be taken (and emerging risks to be mitigated).

Within this framework, we recommend that Sida/Sweden specially considers ways of ‘mainstreaming’ engagement with ASM issues and ‘formalisation processes’ in its programmes designed for other possible Results Areas, including women’s health, employment and SME start-ups, agricultural or forestry activity, roles in environmental sustainability, and in wider development activities. If one of the future Results Areas includes prioritisation of improving womens’ and poor community participation and empowerment in community development processes, then a strong case could be made for programmes specifically targeted on communities engaging in ASM activities.

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