



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

**Draft for BGR/ ICGLR**

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with contributions from the ICGLR Audit Committee***





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Estelle Levin Ltd. (ELL) is a specialist consultancy dedicated to responsible mining and sourcing. Working from concept to implementation, in all cases we help our clients transform their ideas, businesses and operations into something more sustainable not just for them, but for their stakeholders too. We provide world-class research, advisory and capacity-building services to leading brands and small businesses from along the value chain (mining, trading, manufacture, retail), governments, aid agencies, and NGOs. We stand amongst the world's foremost development consultancies with expertise on Artisanal and Small-scale Mining (ASM) and developing highly tailored and context-specific responsible sourcing systems for artisanal minerals, especially from fragile economies. Conflict minerals have been a core specialism for ELL since 2003; we investigate the issues, design the initiatives addressing them, educate stakeholders on these, and support companies in implementing conflict minerals management systems. You can find out more about us at [www.estellelevin.com](http://www.estellelevin.com) and [www.asm-pace.org](http://www.asm-pace.org).

### **Authorship**

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### **About This 'Third Party Audit Methodology/Template'**

This first complete draft third party audit methodology/template is for review by BGR prior to submission to the ICGLR's Audit Committee for their consideration in advance of the Audit Committee meetings in Nairobi, in October 2013.

## **About The BGR Module of the German Support Program to the ICGLR**

BGR and GIZ were jointly commissioned by BMZ to implement a support program to the ICGLR, focusing on the ICGLR secretariat and associated regional bodies as well as national stakeholders in several ICGLR member states (Rwanda, Burundi, Tanzania). The BGR module runs from 2011-2015 and includes two components, (1) introduction of the Analytical Fingerprint (AFP) method in the Great Lakes Region, including full skills and technology transfer, and (2) supporting the implementation of the Regional Certification Mechanism and the formalization of artisanal mining in Rwanda and Burundi.

## **About The ICGLR Audit Committee**

The ICGLR Audit Committee represents an independent regional body with tripartite representation of in-region and international civil society, industry, and government. It fulfills two key functions as defined in the manual of the Regional Certification Mechanism (RCM) namely (1) coordinating and monitoring the ICGLR third party audit system to be implemented in ICGLR member states and (2) monitoring the existing RCM standards and procedures and, as systems evolve, proposing adjustments, if necessary. The ICGLR Audit Committee works independently from the ICGLR secretariat and reports to the Steering Committee of the Regional Initiative on Natural Resources (made up of representatives from all member states). The complementary roles and responsibilities of the ICGLR Audit Committee, the ICGLR secretariat, and the Independent Mineral Chain Auditor serve to verify and provide assurance on RCM implementation elements under the responsibility of individual ICGLR member states (that is, mine site inspections, mineral traceability/chain of custody management, mineral export certification).

## Abbreviations and Acronyms

3Ts	Tin, tantalum and tungsten
AFP	Analytical Fingerprint
ARM	Alliance for Responsible Mining
ASM	Artisanal and Small-scale Mining
ASMO	Artisanal and small-scale Mining Operator
BGR	Bundesanstalt für Geowissenschaften und Rohstoffe ( <i>German Federal Institute for Geosciences and Natural Resources</i> )
B2B	Business-to-business
B2C	Business-to-consumer
BMZ	Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung ( <i>German Federal Ministry for Economic Cooperation and Development</i> )
CEEC	Centre d'expertise, d'évaluation et de certification (DRC)
CFGS	Conflict-free Gold Standard (WGC)
CFS	Conflict-Free Smelter (Assessment Programme)
CFSI	Conflict-Free Smelter Initiative
CFSP	Conflict-Free Smelter Programme
CM	ICGLR Certification Manual
CMI	Conflict Mineral Initiative
CoC	Chain of Custody
CoP	Code of Practice
CSR	Corporate Social Responsibility
CTC	Certified Trading Chains
DFA	Dodd-Frank Wall Street and Consumer Protection Act (Dodd-Frank Act)
DGAG	Dubai Gold Advisory Group
DMCC	Dubai Multi Commodities Centre
DRC	Democratic Republic of the Congo
ELL	Estelle Levin Ltd
EICC	Electronic Industry Citizenship Coalition
FLO-Cert	Inspection and certification body for labelled fairtrade products
FM	Fairmined
FSC	Forest Stewardship Council
FT	Fairtrade
GeSI	Global e-Sustainability Initiative
GDS	Good Delivery Standard
GIZ	German International Cooperation
GLR	Great Lakes Region
GMD	Geology and Mines Department (Rwanda)
IAASB	International Auditing Standards Board
ICGLR	International Conference on the Great Lakes Region
ICMM	<i>International Council on Mining and Metals</i>

ILO	International Labour Organisation
IMCA	Independent Mineral Chain Auditor
ISAE	International Standard on Assurance Engagement
ISO	International Organisation for Standardisation
iTSCi	ITRI's Tin Supply Chain Initiative
LBMA	London Bullion Market Association
LSM	Large-scale mining
MONUSCO	United Nations Organisation Stabilisation Mission in the DRC
MoU	Memorandum of Understanding
NGO	Non-governmental Organisation
OECD	Organisation for Economic Co-operation and Development
OECD-UN Guidance	OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas
OEM	Original Equipment Manufacturer
RCM	Regional Certification Mechanism (ICGLR)
RCOI	Reasonable Country of Origin Enquiry
RGG	Responsible Gold Guidance
RINR	Regional Initiative against the Illegal Exploitation of Natural Resources
RJC	Responsible Jewellery Council
RW	Rwanda
SAESSCAM	Service d'Assistance et d'Encadrement du Small Scale Mining (DRC)
SEC	Securities and Exchange Commission (US)
T.I.C.	Tantalum-Niobium International Study Centre
UAE	United Arab Emirates
UN	United Nations
UNGoE	United Nations (Security Council's) Groups of Experts of the Democratic Republic of the Congo
UNSC	United Nations Security Council
WGC	World Gold Council

## Glossary

<b>Phrase</b>	<b>Definition</b>
<b>1<sup>st</sup> party audit</b>	<i>The audit is conducted by the person or organisation that is undergoing evaluation, e.g. internal audits, peer reviews. (ISEAL 2007, Module 1: 24)</i>
<b>2<sup>nd</sup> party audit</b>	The audit is conducted by a person or body that is related to, or has an interest in the person or organisation being evaluated, such as a client or purchaser of products from the organisation. e.g. Buyer, Trade Association, Paid Consultant (ISEAL 2007, Module 1: 24)
<b>3<sup>rd</sup> party audit</b>	The audit is conducted by a person or body that is independent of the person or organisation being evaluated, and of user interests in that person or organisation. (ISEAL 2007, Module 1: 24)  It is generally understood to be acceptable for the audited party to pay the independent, accredited auditor, as per normal professional consulting practice, provided that the fee is not related in any way to the outcome of the audit itself.
<b>Accreditation</b>	Certification of an individual's or organization's competence, authority or credibility in a specified subject or areas of expertise, and of the integrity of an agency, firm, group, or person, awarded by a duly recognised and respected accrediting organisation. (www.businessdictionary.com)
<b>Assurance</b>	Assurance is the process by which conformance with a normative document is achieved.
<b>Audit</b>	<i>A process for verifying that the requirements of a normative document (e.g. law, policy, standard) have been met. "A systematic, documented process for obtaining records, statements of fact or other relevant information and assessing them objectively to determine the extent to which specified requirements are fulfilled. (adapted from ISO 17000)" (ISEAL Assurance Code, p. 5)</i>
<b>Certification</b>	<i>A procedure involving assessment, monitoring and written assurance that "a business, product, process, service, supply chain or management system conforms to specific requirements" (ISEAL Impacts Code, p.5) Certification can be undertaken by means of a 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> party audit. In the case of the RCM certification is part of standard export documentation and a validation that a specific mineral shipment has been mined, traded, and handled in accordance with the requirements of the ICGLR's Regional Certification Mechanism.</i>
<b>Conflict minerals</b>	<i>This term is used differently in different discourses. In general terms, conflict minerals may be minerals whose production, trade and/or transport provide(s) benefit, typically financial, to illegal armed groups, they may be minerals with attached conflict risks such as human rights abuses or corruption, or they may mean simply a given mineral (as per the Dodd-Frank Act or the ICGLR's Regional Certification Mechanism).</i>  <i>Under the Dodd-Frank Act, conflict minerals are defined as: (A) columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives; or (B) any other mineral or its derivatives determined by the Secretary of State to be financing conflict in the Democratic Republic of the Congo or an adjoining country." (Dodd Frank Act, Section 1502 (e) (4)) Under this definition, any coltan, cassiterite, wolframite or gold from anywhere in the world must be subject to due diligence in accordance with the US Securities and Exchange Commission Regulation associated with the DFA, to determine if it is from the DRC or adjoining countries as a basis for determining if materials are 'DRC Conflict-Free' or 'Not DRC Conflict-Free'.</i>

	<p>By contrast, the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD-UN Guidance) does not define 'conflict minerals' but rather ties the definition to metals from specific geographies, namely: "Conflict-affected and high-risk areas are identified by the presence of armed conflict, widespread violence or other risks of harm to people. Armed conflict may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars, etc.</p> <p>"High-risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. Such areas are often characterised by widespread human rights abuses and violations of national or international law." (OECD DDG, p. 13)</p> <p>The OECD-UN Guidance has supplements for the 3Ts (tin, tantalum and tungsten) and Gold; other mineral supplements may be developed in time.</p> <p>The RCM handbook equates its 'designated minerals' with the 'conflict minerals' as per the US Dodd-Frank Act and the minerals targeted by the OECD-UN Guidance. See 'Designated minerals'.</p>
<b>Designated minerals</b>	<p>Appendix 1 of the RCM provides a List of Designated Minerals. These are:</p> <ol style="list-style-type: none"> <li>1. Gold: Metals (including derivative metals), minerals, ores and mineral concentrates that contain gold (Au)</li> <li>2. Cassiterite: Metals (including derivative metals), minerals, ores and mineral concentrates that contain tin (Sn) (cassiterite and other tin minerals)</li> <li>3. Wolframite: Metals (including derivative metals), minerals, ores and mineral concentrates that contain tungsten (W) (wolframite and other tungsten minerals)</li> <li>4. Coltan: Metals (including derivative metals), minerals, ores and mineral concentrates that contain niobium (Nb) or tantalum (Ta) (coltan, columbite, tantalite, niobite, pyrochlorite and other Nb-Ta minerals)</li> </ol> <p>"Explanatory Note: The current list of Designated Minerals consists of gold, cassiterite, wolframite, and coltan. These are the same four minerals designated as 'Conflict Minerals' under the US Dodd-Frank act." They are not strictly the same as those targeted in the OECD-UN Guidance, which, if strict wording was applied, targets the metals contained in the minerals (tin, tantalum, tungsten, and gold) rather than the parental minerals (cassiterite, coltan, wolframite, and gold). However, this is mainly a semantic question; the commodities (minerals) the OECD-UN Guidance and supplements actually refer to in practice corresponds to the Dodd-Frank definition.</p>
<b>Downstream</b>	<p>The downstream segment of the supply chain encompasses the refiner to the retailer and all tiers in-between. In the case of metals, this is typically component manufacturer (e.g. jewellery wire), product manufacturer (e.g. OEM, bench jeweller), retailer (e.g. jewellery retailer, electronics retailer)</p>
<b>Due diligence</b>	<p>"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 as an integral part of business decision-making and risk management systems." (OECD-UN Guidance, Gold Supplement, p. 6-7)</p>
<b>Issuer</b>	<p>An issuer is a legal entity that develops, registers and sells securities for the purpose of financing its operations. Under the SEC Conflict Minerals Rule and Dodd-Frank Act US issuers are obliged to submit an annual 'conflict minerals' report stating whether or</p>



	<i>not there is mineral in their products that is DRC Conflict-Free, Not DRC Conflict-Free or Undeterminable.</i>
<b>Limited assurance</b>	<p><i>Limited assurance results from any audit where insufficient evidence has been collected to conclude that the outcome of the audit would not be materially affected by other evidence that may exist (but which has not been collected and reviewed). In this context, conclusions drawn from the audit are derived solely from the information reviewed.</i></p> <p><i>This means that the assurer is able to attest that s/he did not find anything in obvious non-compliance with a standard. (Negative statement is possible; positive statement is not possible)</i></p> <p><i>“The level of assurance engagement risk is higher in a limited assurance engagement than in a reasonable assurance engagement because of the different “nature, timing or extent of evidence-gathering procedures. However in a limited assurance engagement, “the combination of the nature, timing and extent of evidence gathering procedures is at least sufficient for the practitioner to obtain a meaningful level of assurance as the basis for a negative form of expression.” (International Framework for Assurance Engagements 2005, p. 18; see also World Gold Council 2012b, p. 11)</i></p>
<b>Reasonable assurance</b>	<p><i>Reasonable assurance requires the accumulation of sufficient audit evidence that the auditor can conclude that the outcome of the audit would not be materially affected by evidence that has not been collected and reviewed. In this context, conclusions drawn from the audit, while derived from the information reviewed, also cover other non-reviewed information. [Adapted from: International Auditing Standards Board (IAASB) 2005</i></p> <p><i>This means that the assurer is able to attest that s/he can conclude that the system is in compliance with a standard. (Positive statement is possible)</i></p>
<b>Risk</b>	<i>Risks are the “potentially adverse impacts of a company’s operations, which result from a company’s own activities or its relationships with third parties, including suppliers and other entities in the supply chain. Adverse impacts may include harm to people..., or reputational damage or legal liability for the company..., or both.” (OECD DDG, p.13)</i>
<b>Risk assessment</b>	<p><i>“The systematic evaluation of the degree of Risk posed by an activity or operation. The process of using the results of Risk analysis to rank and/or compare them with acceptable Risk criteria or goals.” (RJC Certification Handbook 2009, p. 33)</i></p> <p><i>A company assesses risk by identifying the factual circumstances of its activities and relationships and evaluating those facts against relevant standards provided under national and international law, recommendations on responsible business conduct by international organisations, government backed tools, private sector voluntary initiatives, and a company’s internal policies and systems.” (OECD-UN Guidance, p. 13-14.)</i></p> <p><i>Risk assessment underpins effective risk management.</i></p>
<b>Upstream</b>	<i>The upstream segment of the supply chain encompasses the miner to the refiner and all tiers between. In the case of conflict minerals from the Great Lakes Region this would typically include a trader, processor, exporter, international trader and refiner, or for large-scale mining, a mining company. Transportation companies also have important roles in handling the mineral in the upstream segment and so tend to be subject to due diligence requirements also.</i>
<b>Verification</b>	<i>“Confirmation by an Accredited Auditor, through the assessment of objective evidence,</i>

	<p><i>that the provisions of the [normative document] have been fulfilled. The results of Verification are used as the basis for a decision on Certification.” (RJC Certification Handbook 2009, p. 34)</i></p>
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## Table of Contents

<b>1. Introduction</b>	<b>13</b>
1.1 Context of the ICGLR third party audit .....	13
1.2 Scope of the ICGLR third party audit.....	13
1.3 Development of the ICGLR third party audit methodology/template.....	14
<b>2. Methodological Principles</b>	<b>15</b>
2.1 Accuracy and reproducibility .....	15
2.2 Beyond the checklist.....	15
2.3 Professional Skepticism .....	16
2.5 Evolution/revision of the third party audit methodology/template .....	16
2.6 Trialing of the third party audit methodology/template.....	16
<b>3. Audit Process</b>	<b>17</b>
3.1 Accreditation of auditors.....	17
3.2 Commissioning/funding/responsibility for implementation of audit .....	17
3.3 Composition of audit team.....	17
3.4 Scheduling/planning of audit.....	17
3.5 Audit.....	18
3.6 Follow-up/action following audit.....	18
3.7 Arbitration/appeals system following audit.....	18
3.8 Management of the database of audit results.....	19
3.9 Publication/dissemination of audit report/audit outcome .....	19
3.10 Evolution of audit procedures/process, and ICGLR Standards.....	19
<b>4. Practicalities</b>	<b>19</b>
4.1 Assistance in the field for the auditor .....	19
4.1.1 <i>Linguistic capacity of the audit team – translation/interpretation</i> .....	20
4.2 Transportation in the field.....	20
4.2.1 <i>Flexibility in schedule</i> .....	21
4.3 Safety of the audit team.....	21
4.4 Safety of personal informants .....	22
4.5 Photographic evidence – field visits and documentary records.....	23
4.6 Liaison with local authorities .....	24
4.7 Advance notice of the third party audit site visit .....	24
4.8 Differences in the trading chain between Member States.....	24
<b>5. Audit Methodology</b>	<b>25</b>
5.1 Literature Review.....	26
5.2 Risk Assessment.....	26
5.3 Representative sampling – records.....	27
5.4 Representative sampling – mine sites .....	27
5.5 Records review .....	28
5.5.1 <i>Exporter</i> .....	28
5.5.2 <i>Mine-site</i> .....	30
5.5.3 <i>Traders/négociants</i> .....	31
5.6 Interviews.....	32
5.6.1 <i>Interviews at the exporter site</i> .....	33
5.6.2 <i>Interviews at the mine-site</i> .....	33

5.6.3 Interviews along the transportation route.....	34
5.6.4 Other interviews.....	34
5.7 Field Visits .....	35
5.8 Transportation route verification.....	36
5.9 Capacity review .....	36
5.10 Traceability tools: the Analytical Fingerprint (AFP) .....	37
5.11 Reporting.....	37

**Annex A – Issues directly related to the third party audit**

**Annex B – Important issues relating to the RCM**

**Annex C Itinerary for ICGLR Third Party Audit Methodology Field Research**

**Annex D Risk Assessment Checklist**

**Annex E Exporter Checklist**

**Annex F Mine Site Checklist**

**Annex G Transportation Route/CoC Checklist**

## 1. Introduction

### 1.1 Context of the ICGLR third party audit

The ICGLR third party audit is an integral component to the ICGLR Regional Certification Mechanism (RCM). The RCM system is designed to deliver the OECD-UN Guidance assurance that downstream actors require for their sourcing of 3TG minerals from the ICGLR region. The RCM focuses on all supply chain operators upstream of the export point, including large-scale mines, ASM, traders, processors and refiners/smelters. At a regional level, the key RCM elements are the regional data analysis of mineral flows, the third party audit system overseen by the ICGLR Audit Committee, the Independent Mineral Chain Auditor (IMCA), and the ICGLR whistle-blowing mechanism. At the national level, the RCM concerns itself with inspection and classification of mine sites as green-, yellow-, or red- flagged for sourcing purposes; establishment and implementation of CoC (traceability/due diligence) management systems; mineral export certification; data management and exchange. The RCM is an 'umbrella' certification system which allows states the latitude to use whichever chain of custody systems are most appropriate for supporting traceability of their mineral supply chains, subject to their compliance to the ICGLR RCM standards. The ICGLR third party audit "assures independent verification that the entire mineral chain from mine site to exporter remains in compliance with ICGLR regional standards."<sup>1</sup> The ICGLR third party audit process is determined and overseen by the ICGLR Audit Committee, which is made up of representatives from MS governments, local and international industry, local and international civil society.

### 1.2 Scope of the ICGLR third party audit

The ICGLR third party audit is focused on the mineral exporter. However, its remit also includes the complete supply chain from the point of export back upstream to the mine site, including both traders and all relevant transportation routes.<sup>2</sup> This may involve the inspection of multiple mine site suppliers<sup>3</sup> as well as complicated trading chains between the mine site and the exporter. The audit annually verifies exporter compliance with ICGLR RCM standards as applicable for a given section of the supply chain - so, export, Chain of Custody and mine site. The audit also has a risk assessment role investigating, evaluating and reporting on the 'conflict environment', where applicable, for consideration by the Audit Committee.

The third party audit report ascribes a flag status to the auditee – red flag (major non-compliance, suspension from exporting for six months), yellow flag (probationary, six month grace period), and green flag (full compliance). The audit report may also alter the status of mine sites, which have been inspected during the course of the third party audit.

The third party audit takes its place within a broader third party audit process, ranging from accreditation of the third party auditor all the way through to the evolution and progressive development of both the third party audit methodology and the procedures themselves which govern the audit.

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<sup>1</sup> ICGLR Certification Manual (CM), 8

<sup>2</sup> Indeed, as part of the ICGLR third party audit methodology/template there is a requirement that the third party auditor describe in detail the supply chain in the audit report. See Section 5.2, below.

<sup>3</sup> In the case of exporter entities, which source from many mine sites, the audit inspects a sample of those suppliers. See Section 5.4, and Annex A, A.9, below.

### **1.3 Development of the ICGLR third party audit methodology/template**

This third party audit methodology/template was developed at the request of the ICGLR Audit Committee. It is designed to provide methodological guidance to ICGLR third party auditors. It employs a social accounting methodological framework, so focused on impact on stakeholders, and is aligned with ISO 19011:2002.

This third party audit methodology/template is not intended as a prescriptive, or static template. This is the first iteration of what should be an evolving methodology for the ICGLR third party audit. It is designed with the intention that it should be amended and progressively improved over time – evolving just as the ICGLR Standards and operational environment for the audit are likely to evolve.<sup>4</sup> It should be deployed as a tool complementary to the ICGLR RCM Certification Manual and the Appendices to the Certification Manual.

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<sup>4</sup> See Section 2.5, below.

## 2. Methodological Principles

### 2.1 Accuracy and reproducibility

Key goals for the ICGLR third party audit template are accuracy and reproducibility. Reproducibility implies that any significant changes to the reported results in successive audits would be attributable to modified management processes and performance of the auditee, and/or the auditee's supply chain, rather than different auditors' divergent interpretations of the audit criteria. Representativeness of the audit sample is also critical for reproducibility.

Inevitably there may be differences in audit results, which come about as a result of dissimilarities in auditor preferences and expertise.<sup>5</sup> Also, the very process of sampling, albeit as representative as possible, may subsequently produce differing results for successive audits. It is very important that the wording of the audit standards, also as articulated in the various checklists, and the general guidelines of the audit do not leave excessive latitude for divergent interpretations by different auditors.<sup>6</sup>

### 2.2 Beyond the checklist

Checklists for the risk assessment, exporter, mine-site checklist, and transportation route checklist are integral to the third party audit.<sup>7</sup> They are, however, a tool only, and do not amount to the sum-total of the audit methodology.

The checklists set out the audit criteria against which the auditor can verify the auditee's compliance. However, the audit must be more than just a checklist to be completed by rote and the checklists require more than a ticking of the boxes in the affirmative or negative. They should be treated as a summary of the issues to be investigated, and oblige the auditor to anchor the findings with detailed observation, and tangible corroboration.

Evaluation of the auditee's compliance with the standards as set out in the audit checklist will be based upon empirical evidence acquired during the audit research. The expectation is that the auditor will approach the assignment with a continuous questioning engagement with the facts on the ground. Given the complexity of the subject, and the interests involved, the audit must involve forensic, in-depth research and analysis; and must satisfy the Audit Committee that it has not simply been a 'tick-box exercise'.

Furthermore, while this third party audit methodology/template is in no way prescriptive, and assumes a high level of auditor competence, it is designed to assist the auditor in moving beyond questions formulated directly from the checklists. The auditor should have sufficient expertise and experience to be able to *glean* the information required for verification of compliance with the audit criteria detailed in the checklists. This compels a more circumspect approach than the posing of direct questions based upon specific checklist criteria. Questioning may well need to be tangential, circling

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<sup>5</sup> This underlines the importance of the Audit Committee's role in accreditation of the auditor. Cf. Annex A, **A.3**, for discussion of third party auditor accreditation.

<sup>6</sup> It is critical that the Audit Committee define status criteria for the red- and yellow-flag status regarding the exporter and the transportation route/Chain of Custody. This is crucial for reproducibility. Cf. Section **3.6**, below, and Annex A, **A.12**.

<sup>7</sup> The composition of these third party auditor checklists depends upon the designation by the Audit Committee of status criteria for red- and yellow-flag status pertaining to the exporter and the transportation route/CoC. Cf. Section **3.6**, below, and Annex A, **A.12**, for discussion of this urgent issue.

around the subject, employing indicators, noting lacunae or discrepancies for subsequent follow-up and triangulation with other interlocutors.<sup>8</sup>

## 2.3 Professional Skepticism

The audit template, and by inference the recommended mindset for the auditor, draws upon the auditing principle of 'professional skepticism'.<sup>9</sup> Professional skepticism does not imply an inveterate distrust of all interlocutors, nor a conflictual or confrontational approach to auditing. However, it does denote the suspension of judgment, until adequate and sufficient evidence is gathered with which to draw an appropriate conclusion. This empirical approach implied by professional skepticism is also crucial for both the audit's integrity and its reproducibility.

Professional skepticism involves an alertness and sensitivity to unusual circumstances; resistance to over-generalization when drawing conclusions; commitment to evidence-based assumptions; and resolution to follow audit procedures in order to reach the appropriate conclusions.<sup>10</sup> The auditor's professional skepticism, with its continuous questioning engagement with facts on the ground, should be allied with a commitment to in-depth research and analysis.

## 2.5 Evolution/revision of the third party audit methodology/template

The third party audit template is conceived as a constantly evolving model for ICGLR third party audits. It should not be static or unchanging. Rather, as successive audits reveal unforeseen issues and challenges, the audit template should evolve and be improved, adapting to changing circumstances.<sup>11</sup> This parallels what will probably prove to be a process of evolution and adaptation for the ICGLR RCM Standards, on which the third party audit template is based – just as the external regulatory environment in end user countries alters and matures, or as the facts on the ground in the region transform the operational environment. It will thus require ongoing engagement from the Audit Committee to review, revise and adapt the template periodically. The Committee may wish to agree a fixed period between reviews, such as every 12 months for the first three years, moving to every 24 months thereafter.<sup>12</sup>

## 2.6 Trialing of the third party audit methodology/template

It is recommended that this third party audit methodology/template be trialed in the field prior to its first formal operationalization to test its capacity for reproducibility. It is envisaged that two accredited audit teams would simultaneously trial the audit template on the same auditee and its

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<sup>8</sup> Cf. Section 5.6, below.

<sup>9</sup> "An attitude that includes a questioning mind, being alert to conditions which may indicate possible misstatement due to error or fraud, and a critical assessment of audit evidence", 2012 IAASB Handbook ISA 200

<sup>10</sup> The distinction between limited and reasonable assurance should here be a key consideration regarding the auditor's appropriate conclusions. Cf. **Glossary**, above, for this distinction, and definitions for limited and reasonable assurance. Given the specific context of this audit assignment, investigative techniques, allied with professional skepticism, may be more likely to lead to reasonable assurance, as opposed to limited assurance.

<sup>11</sup> This evolutionary aspect has been a major factor in the advancement and resilience of other due diligence schemes such as iTSCi and CFSP (see Analysis Report) as well as in the Rwanda mine site inspection manual under the RCM.

<sup>12</sup> However, given this early inception period for the third party audit and the fast-moving, fluid dynamic of external regulatory regimes, it might be advisable for the Audit Committee, at least initially, to be prepared to adopt a more proactive approach to the review of procedures, responding as and when is necessary. Cf. Annex A, **A.8**.



related supply chain, in order to test the third party audit template's accuracy and reproducibility, as part of the Audit Committee's due diligence ahead of its implementation.<sup>13</sup>

### **3. Audit Process<sup>14</sup>**

It is important to remember that the third party audit template, with its checklists, takes its place as just one stage within the greater third party audit process, for which the ICGLR Audit Committee is ultimately responsible<sup>15</sup>. This process will involve:

#### **3.1 Accreditation of auditors**

Accreditation is undertaken by the ICGLR Audit Committee, or an outside agency, as mandated by the Audit Committee. It is carried out according to the criteria detailed in the Appendices to the ICGLR Certification Manual.<sup>16</sup> Accreditation will last for three years (after which re-accreditation is required).<sup>17</sup>

#### **3.2 Commissioning/funding/responsibility for implementation of audit**

The contractual commissioning of the audit, responsibility for implementation and management supervision of the audit, with the attendant logistics of funding modalities, deliverable scheduling, quality control, and payment.<sup>18</sup>

#### **3.3 Composition of audit team**

Composition of the audit team is particularly consequential, in terms of achieving reproducibility, and thus third party audit integrity and credibility. Supervision and verification of the audit team's composition is needed to ensure a consistent level of expertise and skill-set for third party auditors. The Appendices to the ICGLR CM set out in detail the standards and qualifying characteristics of the independent third party auditors.<sup>19</sup>

#### **3.4 Scheduling/planning of audit**

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<sup>13</sup> It's also important to note that Appendix 8a to the ICGLR CM stipulates that, as part of the auditor accreditation process, the "Accreditation body staff shall carry out at least one witnessed assessment, where staff of the Accreditation Body accompanies the Third Party Auditor on a site assessment using the applicable ICGLR standards. The Accreditation Body staff shall collect objective evidence to assist in the determination of Third Party Auditor staff competence." The trialing of the third party audit methodology/template has a different objective to the test audit as described above. However, the two processes share the issue of funding; namely, how will these audits be funded? Cf. Annex A, **A.1.2**, for discussion of this issue.

<sup>14</sup> The structure of the audit process outlined below extrapolates from the ICGLR CM (and Appendix 8 to the ICGLR CM), as well as following the management concepts outlined in ISO 19011:2002.

<sup>15</sup> And which, in itself, is integrated into the overarching RCM framework with oversight responsibilities distributed among national authorities, the third party audit system, the Independent Mineral Chain Auditor (IMCA), and the ICGLR secretariat.

<sup>16</sup> Cf. Annex A, **A.3**, for discussion of accreditation issues.

<sup>17</sup> Cf. Appendix 8b to the ICGLR CM.

<sup>18</sup> Cf. Annex A, **A.1**, for discussion of the commissioning, funding modalities and management supervision of the audit.

<sup>19</sup> Cf. Appendix 8b to the ICGLR CM.

As part of the management supervision of the audit, approval of the auditor's scheduling/planning of the audit must be approved,<sup>20</sup> as well as verification of compliance with insurance requirements, and itinerary risk analysis (see Section 4.3, below).<sup>21</sup>

### **3.5 Audit**

The third party audit is to be carried out by an accredited auditor, following the methodology of the ICGLR third party audit template, and pursuant to the ICGLR RCM Standards.

### **3.6 Follow-up/action following audit**

The outcome of the audit is the designation of the flag status of the exporter, and a recommendation to the Member State for changing the flag status of any upstream supplier (including mine sites) that were assessed as part of the audit. The designation of flag status rests on the extent of (non-) compliance and may lead to the suspension of exports for the exporting entity in the case of red flag status, a six-month probationary period allowed to yellow-flag status, and no consequences for green-flag status.

In cases of red- or yellow-flag status ascription, the Auditor must prepare a set of recommended corrective actions to be implemented by the auditee (and potentially its suppliers) within a specified time-frame in order to alter the flag status to green, where possible. This Corrective Action Plan must be agreed with the Auditee<sup>22</sup> and should be submitted to the Audit Committee and the Auditee as part of the Audit Report.

It should be noted that, as the Appendices to the ICGLR CM currently stand, only mine-sites have criteria for the designation of red- and yellow- flag status. It is a matter of some *urgency* that this be addressed by the Audit Committee, as the focus of the third party audit is on the exporter, taking in the whole supply chain from exportation point to the mine site. Without definitive ascription of the status criteria for both the exporter and the transportation route, the third party auditor would not be able to complete the assignment.<sup>23</sup>

There will also need to be management supervision of follow-up audits whether for the lifting of the red-flag suspension, or the correction of the yellow flag condition.

### **3.7 Arbitration/appeals system following audit**

In the case of a dispute regarding findings by a third party audit, a recognized and transparent arbitration/appeals system, which can adjudicate any such dispute, is necessary.<sup>24</sup>

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<sup>20</sup> Cf. Annex A, A.1.1, for discussion of management supervision of the audit.

<sup>21</sup> It might also be advisable for the Audit Committee to require third party auditors, as part of their audit plan, and so prior to the onset of the audit, to present a detailed methodological framework – so including evidentiary standards, interview methodologies and evidence gathering guidelines.

<sup>22</sup> The Audit Committee may wish to be involved in the approval of the Corrective Action Plan for the auditee; or it may choose to delegate this function to the ICGLR Secretariat, or whatever entity is responsible for management supervision of the third party audits. Cf. Annex A, A.1.1.

<sup>23</sup> Cf. Annex A, A.12, for discussion of the exporter and transportation route/CoC status criteria issue.

<sup>24</sup> Cf. Annex A, A.4.1, for discussion of the arbitration/appeals system issue.

### 3.8 Management of the database of audit results

Following completion of the audit, and its acceptance by the Audit Committee, the findings of the audit need to be inputted into the ICGLR Database of Exporters. Also, it is recommended that there be a historical database of non-redacted, previous third party audits accessible to third party auditors.

### 3.9 Publication/dissemination of audit report/audit outcome<sup>25</sup>

As per the ICGLR Certification Manual, the ICGLR Secretariat/Committee shall advise the exporter, as well as the government of the Member State in which the exporter operates, of the audit outcome with a copy of the audit report. The ICGLR Secretariat Committee shall also “advise the general public at large, via the internet, or such other means and media as may be required or desirable.” The ICGLR CM currently requires full transparency and public accessibility to the contents of third party audits. This requirement may need to be revised by the Audit Committee. The issue is discussed further in Annex A, A.6, below.

### 3.10 Evolution of audit procedures/process, and ICGLR Standards

As per the ICGLR certification Manual, the Audit Committee shall “develop, and review and revise from time to time the requirements and procedures for Third Party Audits”.<sup>26</sup>

## 4. Practicalities

### 4.1 Assistance in the field for the auditor

The ICGLR Appendices to the Certification Manual stipulate that the audit team includes “at least one member with deep expertise in the region – preferably a person either native to the region or with years of experience living and working in the region.” Inevitably, however, that person will not necessarily have a sufficiently comprehensive knowledge of respective individual mine-sites, transportation routes, the changing security situation, cultural particularities (e.g. role of the respective *chefferie* in the immediate region of the mine-site), to serve as a local facilitator or guide. Thus, it is advisable for the audit team to be accompanied by at least one other person who has prior knowledge of the particular mine-sites and regional/local issues, on a micro-level. This could be a partner from civil society and/or a representative of local government, national/provincial mining authority, etc.

It is important for roles to be clearly designated. The local expert is a facilitator who will provide assistance to the audit team, rather than assuming any responsibility for conducting the audit per se.<sup>27</sup> Also, the audit team must recognize the possibility that this facilitator may have a particular agenda, or latent bias, whether conscious or not. For example, this might include, in the case of a representative from a national/provincial mining authority, a personal investment in an audit outcome, which does

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<sup>25</sup> Cf. Annex A, A.6, for discussion of the publication/dissemination issue.

<sup>26</sup> Cf. Annex A, A.8, for discussion of the evolution of audit procedures and requirements.

<sup>27</sup> Definitive clarification of this absolute separation of responsibilities may also be in the interests of the facilitator, in terms of his/her relationship with business interests and/or the national government subsequent to publication of the audit findings. This clarification will in part be the responsibility of the auditor, and should be made clear by the audit team.

not reflect negatively on his/her respective institution, potentially particularly relevant if the third party audit were to discover that previous mine site inspections by the national/provincial mining authority or the export certification process had been inadequate. This again underlines the need for the auditor to maintain a *constant* professional skepticism. It also means that selection of this facilitator must be done pending due diligence of a candidate's standing and interests in the local region and an assessment of how their respective perceived position might influence access to certain individuals, organizations, places, and types of information.

#### **4.1.1 Linguistic capacity of the audit team – translation/interpretation**

The ICGLR Appendices to the Certification Manual require that the audit team possess “linguistic skills appropriate to each country or region to be audited.” However, it is conceivable that occasionally the audit team will require translation/interpretation capacity, perhaps especially at mine-sites when interviewing miners, when conducting research regarding transportation routes, or when reviewing certain documents or records. Depending upon the individual composition of the team, and their respective linguistic skills, the Audit Committee should require when necessary that the auditor's team be supplemented with a translator/interpreter, who will as far as possible be a neutral actor in any dialogue with interlocutors, and who will be perceived as such (see Section 4.4, below). Provision for this capacity should be built into the planning of the audit, before arrival in the field.

Moreover, besides the perceived neutrality of the interpreter, another criterion should be the interpreter's capacity to operate successfully within the very specific context of ASM mining and supply chains. This goes beyond direct translation. The interpreter needs to be able to explain concepts and processes in ways accessible to ASM miners, transporters, and traders. This may well also extend to background explanations, which can contextualize questions posed by the auditor. Thus, it is possible that the interpreter would need to have background knowledge of the mining milieu/supply chain and the processes involved therein.<sup>28</sup>

#### **4.2 Transportation in the field**

The ICGLR RCM, and thus the third party audit, has a regional remit, with the intention to extend itself eventually throughout the ICGLR Member States. As a result there will inevitably be significant variations between respective countries' geographical scale,<sup>29</sup> topography, infrastructure, and transportation links.

In some countries, transportation to mine sites might be significantly more onerous than in others – not least due to disparity in distances to be traversed, let alone transportation infrastructure (existence/state of roads, and frequency, or safety, of air or water-borne transport). Also, different security considerations, affecting transport options, may prevail in different regions and Member States.

This means that logistical planning of the field visits is of great importance to the viability of the third party audit. The auditor will need to take the specificities of transport links into detailed account when planning the schedule of the audit. Information should be gathered from ICGLR partners on the

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<sup>28</sup> Given this particular skill-set required by potential interpreters, it might be advisable for the Audit Committee to consider the organization of a pool of accredited interpreters for third party audits. Cf. Annex A, A.3.1, for discussion of interpreter accreditation.

<sup>29</sup> E.g. Shabunda, one of the eleven territories and communes of South Kivu Province in the DRC, covers approximately the same surface area as Rwanda, one of the ICGLR Member States,

ground, in the region (e.g. national/provincial mining authorities, civil society, international NGO's, UN/MONUSCO presence) – as *prior preparation* to the audit field visit.

Nevertheless, despite the most systematic planning, unforeseen contingencies can and almost inevitably will disrupt the audit team's transport arrangements.<sup>30</sup> So, it is highly recommended that the audit committee require of the third party auditor not only a pre-planned schedule and itinerary for the audit, but also a detailed alternative schedule/itinerary involving alternative transport routes. This preparation will save time in the field: whenever an unforeseen contingency prevents access to the respective mine-site along a particular transport route, the audit team will be able to switch immediately to the alternative route, with minimal time spent attempting to research substitute means of access.

Moreover, it is *absolutely critical* that relative difficulty of access does not preclude certain mine-sites or transportation routes from inclusion in an audit's representative and/or risk-based sample. Whatever entity is responsible for management supervision of the third party audit<sup>31</sup> needs to be particularly sensitive to this potential issue during the process of approval/verification of the auditor's representative and/or risk-based sample.

#### 4.2.1 Flexibility in schedule

Even in the case of deployment of alternative transport routes, it is important that both the ICGLR audit committee and the prospective auditor be sensitive to the potential likelihood that, depending upon the circumstances of a particular auditee and the associated mine sites and mineral transportation routes, there will need to be a degree of latitude and flexibility in the audit schedule. This built-in contingency will inevitably impact on the audit's proposed duration and cost. However, it will sometimes be necessary, and overall more cost-efficient, in order for the audit team to have the time, and thus opportunity, to be able to complete the audit with the required thoroughness, in the event of any unforeseen contingency.

#### 4.3 Safety of the audit team

It is recommended that the ICGLR audit committee stipulate clear and rigorous requirements for the safety of auditors. As indicated in the Appendices to the ICGLR Certification Manual, the audit team should possess a thorough knowledge of the local conditions prevailing, especially with regard to recent conflicts, and insecurity issues. As part of the desk-based, background literature review and ongoing risk assessment, the audit team should have thoroughly updated its pre-existing knowledge about the region, so as to take into account any recent or current developments.

In the field, the audit team should also make a conscious effort to inform itself, in some circumstances on a daily basis, as to the current security status of any transportation routes it plans to take. This information can be relatively easily gathered through contact with UN/MONUSCO, national/provincial mining authorities, local government, civil society, international organizations present on the ground, as well as exporters, suppliers/traders and transporters themselves. Intelligence should be comprehensive, and gleaned through a process of triangulation from a number of sources, as opposed to relying upon one individual source.

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<sup>30</sup> These might include flight cancellations (especially relevant in the DRC, where time-efficient transport often depends upon air links), severance of road links by local conflict and concomitant insecurity, inclement weather or mechanical breakdown delaying water-borne transport.

<sup>31</sup> Cf. Annex A, A.1.1, for discussion of management supervision of the audit.

Probably the greatest risk to the audit team will be related to the choice of transport. Road vehicles should be in good condition, with properly functioning mechanics and brakes. Drivers should be experienced and ideally come with recommendations from ICGLR partners on the ground. Auditors should be cognizant of and fully observe any local, regional or national restrictions/curfews pertaining to travel after dusk or in the very early morning. Regarding air travel, it is also recommended that the Audit Committee require auditors not to use any airlines on the EU aviation blacklist. It should also be a requirement that the auditors individually have comprehensive personal and professional insurance for the duration of their assignment.<sup>32</sup> Evidence of this personal/professional insurance should be provided to the audit committee, prior to the onset of the assignment, in tandem with the detailed schedule/itinerary with alternatives, (see Section 4.2, above).

Moreover, as part of the third party auditor's scheduling/planning of the audit, it is recommended the Audit Committee stipulate as a prerequisite that the auditor should also provide an itinerary risk analysis prior to the onset of work in the field.<sup>33</sup> As discussed above, the itinerary risk analysis should also be an ongoing process when the audit team is in the field.

#### 4.4 Safety of personal informants

According to the Appendices of the ICGLR Certification Manual,

*"At all times, auditors shall strive to protect the physical safety and well-being of interview subjects. Where advisable, either for physical safety of interview subjects or in the interests of full and frank disclosure, interviews should be conducted in a safe location, away from the interview subject's place of employment."*

Safety of personal informants is of paramount importance and should be an ethical baseline governing the conduct of the audit. Sensitivity to the potential risks, which might be incurred by their interlocutors, should be a foremost consideration for the audit team. Moreover, the third party audit ultimately depends upon the willingness of interlocutors to share information freely with the auditors. Thus, it is crucial for the operational efficacy and viability of current and future third party audits that interlocutors retain trust in both auditors and the audit process.

As per the ICGLR Appendices, for publication in the report, "names can be kept confidential to protect the physical safety of the interview subject". While it should always be the auditor's responsibility to keep, as an internal record, a list of interview subjects, with date and place of interview,<sup>34</sup> in certain cases, the auditor may also adopt the Chatham House Rule to maintain confidentiality (whereby neither the identity nor the affiliation of the speaker may be revealed, though the contents of the discussion can be disseminated).<sup>35</sup> In other situations, it might be possible for the auditor to provide anonymity to the interlocutor, while publishing in the report the interlocutor's affiliation. The auditor

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<sup>32</sup> This is particularly important as most insurance policies have country-specific policies, sometimes requiring payment of an additional supplement, for certain destinations.

<sup>33</sup> The itinerary risk analysis could be part of the background, desk-based risk assessment component of the third party audit. Verification of this itinerary risk analysis would be the function of whatever entity responsible for the management/supervision of the audit. In a subsequent iteration of this third party audit methodology/template, the Audit Committee could request a draft itinerary risk analysis template.

<sup>34</sup> The audit team should have both a moral and contractual (with the ICGLR Audit Committee) obligation that the security and confidentiality of this internal record be maintained throughout its assignment in the field, and beyond.

<sup>35</sup> The auditor should make the distinction between the Chatham House Rule, which allows for publication of the contents of the discussion, and a more restrictive case of absolute confidentiality whereby the interlocutor requests that not only his/her identity but also his/her views are kept confidential. Although such information would be ineligible for publication in the report, it might be highly useful as the background and orientation for further investigation.



must be transparent and proactive in offering and explaining to each interlocutor these varying degrees of confidentiality and seeking consent for reporting identity and/or affiliation or neither.<sup>36</sup> This forms part of the standard consent procedure that should take place at the outset of any formal interview, and the decision on the degree of confidentiality should also be revisited for confirmation at the end of each interview.

The issue of confidentiality is also relevant to that of interpretation and linguistic capacity of the audit team (see Section 4.1.1, above). While the audit team should have linguistic capacity relevant to the region, it is quite likely that, at the mine site level, interpretation may be required in the case of interviews with individual miners. In that case, it is important to bear in mind, as discussed in Section 4.1, above, that the field assistant/guide/facilitator might not be an absolutely disinterested party, and/or most likely might not be *perceived* as such by the interlocutor, which could in turn inhibit the interview. This reinforces the need for an interpreter or translator, who can function as neutrally as possible, *and* be perceived as such.

Due to the occasional sensitivity of the subject and potential vulnerability of the interviewee, the auditor should always attempt to conduct interviews on a one-to-one basis, “in a safe location”. In practice, it may be extremely difficult to conduct interviews “away from the subject’s place of employment”, not least because most mine sites are relatively remotely located, and also due to the fact that a very visible effort to find a interview location far from the place of employment could counterproductively attract attention, and so rebound on the interviewee.<sup>37</sup> However, the auditor should ensure a discreet meeting room, or place, for the conduct of interviews, for all interlocutors (so as not to attract attention to any particular interview subject), and out of earshot. On the other hand, in some cases, it can be beneficial, as well as time-efficient, to employ group interviews, focus groups and/or roundtables. For example, a roundtable when interviewing civil society representatives can provoke and further animate discussion; while a focus group made up of individual miners or mining company/mine site management at a particular mine site is often useful as it allows the dialogue to be almost self-correcting, with factual errors being flagged and corrected by others in the group.<sup>38</sup>

#### 4.5 Photographic evidence – field visits and documentary records

Auditors should back up their impressions and notes with photographic evidence as much as possible. This can be used later both as memorial tool for the writing of the report, and illustratively in the body of the report – as well as potential empirical evidence in the case of a disputed finding.

In addition, while auditors should always attempt to secure hard or soft copies of documentary records, in certain situations records will only be available in the original physical ledgers or bindings in which they were recorded by the respective entity. There may also be no copying facilities at the sites, or electricity. In this case, auditors should be as comprehensive as possible in scanning or photographing handwritten and paper records on site. This might particularly be the case with tagging logbooks, whether for the exporter/processor, *négociant* or mine site operator, or financial records,

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<sup>36</sup> The storage/safe-keeping of confidential information is a critical issue. While unified archiving of confidential information might be possible, it may be that security flaws would make this unfeasible, as is currently the case with UN GoE (Personal Communication with Enrico Carisch, 3 October, 2013). Cf. Annex A, A.7, for discussion of this issue.

<sup>37</sup> It should be emphasized that the auditor should always err on the side of caution when selecting subjects for interview, as well as in conducting interviews. The third party audit is not part of a judicial process, and does not have the resources to provide witness protection to interlocutors. In certain circumstances, it is conceivable that the auditor should refrain from interviewing when there seems to be likelihood that the interlocutor may be victimized as a result of consenting to the interview.

<sup>38</sup> In the case of interviews undertaken during mine site visits, the auditor should also deploy one-to-one interviews with a representative sample of individual miners, particularly when touching upon sensitive subjects.

transaction records, Chain of Custody records, company/staff/payroll records, tax payments, etc. A sufficiently representative sample should be scanned or photographed (see Section 5.3, below). The record review should “take place in the actor’s normal place of business”. While this is obviously the case, the review of records need not be confined to the initial viewing in the “actor’s place of business”. The audit team can also examine the photographic or scanned copies of the records at its leisure; and, if necessary, return to the place of business for further examination in situ.

#### 4.6 Liaison with local authorities

In the field, auditors should liaise with local authorities and, in certain circumstances, representatives of the police or security forces. Besides being a basic courtesy, and serving to obviate potential problems during the course of the field visit, this may also be an opportunity to identify possible interlocutors for interview, especially in the context of the security/recent conflict situation as part of the ongoing risk assessment. Again, a process of triangulation, through interviewing/canvassing as many sources as possible, will build up a potentially more representative and accurate picture of the overall situation.

Moreover, in the DRC, contact with local authorities might also include interaction with representatives of the local *chefferie*. This would be particularly useful when the auditor is attempting to gauge the compliance of the mine-site or transportation route in terms of legal or illegal payments.<sup>39</sup>

For liaison with local authorities and representatives of the police and security forces, it is important that the ICGLR Audit Committee furnish the audit team, prior to the onset of the audit, with the appropriate documentary evidence of ICGLR accreditation for the third party audit, with an ‘*ordre de mission*’<sup>40</sup> (mission order).

#### 4.7 Advance notice of the third party audit site visit

The auditor needs to give advance notice of the audit team’s site visit, whether to the exporter, mine-sites, or trader/*négociant*. This is important to ensure that the requested staff members are available on site for interview, and that the requisite documents are available for review. Also, some financial records might not be kept on site, instead for example at the office of the company accountant. On the other hand, in order to guard against possible tactics of dissimulation at the mine site,<sup>41</sup> the audit team is advised to provide a minimal period of forewarning ahead of the mine site visit. Alternatively the audit team could make an initial unannounced visit to the mine site, in an attempt to verify the genuine production capacity of the mine-site. If prospective interviewees were not available at that initial visit, a subsequent visit could be arranged with sufficient forewarning to the mine-site operator.

#### 4.8 Differences in the trading chain between Member States

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<sup>39</sup> Cf. Annex B, B.1, for discussion of legal vs. illegal/licit vs. illicit payments.

<sup>40</sup> This may also require an ‘*ordre de mission*’ from the relevant national/provincial mining authority. This is to avoid confusion and potential disruption of the audit mission, since national security forces as well as UN/MONUSCO are not always aware that the ICGLR is an inter-governmental organization, thus representing and implementing the will of its Member States. The Audit Committee or ICGLR Secretariat may well see fit to draw up a generic document which fulfills this purpose. Its deployment would also likely facilitate the auditor’s requests to conduct interviews with potential interlocutors.

<sup>41</sup> In non-compliant mine-sites, these might include bringing in extra minerals from other mine sites in order to deflect the auditor’s attention from discrepancies in the mine site capacity review – cross-checking whether the volume of minerals produced/traded/exported is consistent with the capacity of the mine-site.



Besides geographical and topographical differences between Member States, there are significant differences between the respective trading chains of certain Member States.

The most significant difference concerns the role of intermediaries or traders/*négociants*. In Rwanda “briefcase traders” of minerals operate,<sup>42</sup> but illegally as they are outside the iTSCi traceability system, which has become the requirement for all minerals produced and traded in the country. However, in the DRC *négociants* play a very central and continuing role, and are legally allowed to do so. Exporters do not buy directly from mine sites. Rather they buy from *négociants* or traders, who in turn often source from other *négociants* along an extended trading/supply chain back to the mine site. In principle, only *négociants* furnished with their own ‘*carte de négociant*’ can trade. However, in practice the representatives of *négociants* do also trade. Moreover, as *négociants* trade and aggregate minerals from different sources, it becomes increasingly difficult to establish provenance. This extended trading chain makes traceability of minerals from the point of export back to the mine-site sometimes tenuous. The risk is that minerals from certified mine sites might be mixed with minerals originating from non-certified mine-sites, though against DRC regulations. Those mine-sites and exporters which are part of the iTSCi tagging program in DRC do not generally pose a problem, thanks to the iTSCi traceability system.

However, a major issue in both the DRC and Rwanda is that iTSCi does not evaluate whether a mine site has been certified according to RCM standards, but instead employs its own criteria as the main reference for iTSCi certification. Thus, it is possible that while iTSCi-tagged minerals may have been mixed in a way compliant with iTSCi standards, the minerals may partly come from a mine site which has not been certified according to RCM standards, thus red-flagged as non-certified. This would mean that the mixed minerals would not be eligible for the ICGLR export certificate, despite their compliance within the iTSCi system. National mining authorities need to be sensitized regarding this risk.<sup>43</sup>

## 5. Audit Methodology<sup>44</sup>

The third party audit involves the following methodological steps:

- Literature review
- Risk assessment
- Representative sampling - records
- Representative sampling – mine-sites
- Records review
- Interviews
- Field visits – exporter, traders/suppliers, mine-sites
- Transportation route verification

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<sup>42</sup> “Briefcase traders” are often held partly responsible for the continuing problem of stolen minerals within Rwanda. While it may be moot whether it is the “briefcase traders” themselves who are the drivers for mineral theft, or rather the miners who supply the “briefcase traders”, it is clear that they facilitate the internal circulation of illicit minerals. This issue of the internal circulation of illicit minerals is distinct from that of externally sourced/smuggled minerals. However, it should be noted that internal circulation of illicit/stolen minerals threatens to undermine the credibility of national certification systems, which in turn would reflect negatively on the credibility of the ICGLR RCM, which depends upon the respective national certification systems for its implementation at the national level.

<sup>43</sup> Cf. Annex B, **B.3**, for discussion of this issue.

<sup>44</sup> The audit team is advised to set itself a 24 hour time limit for the writing up, and, in the more confidential or sensitive cases, encoding all interviews, phone calls and other audit-related interactions. Besides streamlining the work-flow, this will also assist in the cumulative triangulation and cross-referencing from different sources.

- Capacity review
- Optional traceability tool deployment - the Analytical Fingerprint (AFP)
- Reporting

## 5.1 Literature Review

As background, desk-based research, third party auditors will review all relevant publications.<sup>45</sup> These include, but are not limited to:

- Local and international media,
- Recent UN reports (UN agencies, DPKO/MONUSCO, UN GoE)
- Previous ICGLR third party audits, IMCA investigations and whistle blowing information from within the RINR
- EITI reports
- Recent NGO reports, both local and international
- Academic publications and corporate publications<sup>46</sup>
- Government and national/provincial mining authority regulations and publications regarding a sometimes fluid regulatory regime
- National/provincial mining authority mine site inspection reports
- Governance assessments, baseline studies, recent audits and audit summaries by the various operational traceability and certification systems (e.g. iTSCi and CTC) in the region.

The literature review serves two purposes: firstly, it should raise information that may inform a compliance decision for items on the checklists. Secondly, it will build the auditor's understanding of the operating environment, key stakeholders (and thus informants to engage), and prevalent risks and their likelihood, as the basis for developing tactics for questioning on sensitive issues successfully.

As per the Appendices to the ICGLR Certification Manual, the literature review should form part of the audit report.

## 5.2 Risk Assessment

According to the Appendices to the ICGLR Certification Manual, risk assessments of exporters<sup>47</sup> should pay particular attention to the suggested questions posed in PART C of the OECD-UN Guidance 'Guiding Note for Upstream Company Risk Assessment'. The risk assessment should be both part of the background, desk-based preparation for the audit's research in the field, and an *ongoing* aspect of the auditor's field work, involving interviews with field-based actors such as UN/MONUSCO personnel, national/provincial mining authorities, civil society platforms, security forces, etc.

The risk assessment should also involve supply chain mapping in terms of which organizations supply the exporter where they are based, and exactly what is traded from them (and in what volumes.). The risk assessment is a particularly important contextual component of the third party audit.

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<sup>45</sup> It is assumed as a given that the accredited auditor would also be fully familiar with relevant risk assessment, audit & due diligence guidance (e.g. OECD-UN Guidance, CFSP, WGC, LBMA, RJC, Fairtrade, Fairmined, IFC Standards, Equator Principles all relevant ISO norms, etc.)

<sup>46</sup> "notably, corporate risk review documents required by the OECD", Appendix 8c of the ICGLR CM

<sup>47</sup> An ICGLR third party audit risk assessment of the exporter would also involve risk assessment of the mine-site suppliers, traders, and transportation routes, up to the exportation point.

The risk assessment should form part of the audit report.

### 5.3 Representative sampling – records

Following the Appendices to the ICGLR Certification Manual, “auditors shall inspect a large enough percentage of the records in order to justify general conclusions about the totality of the record set.”<sup>48</sup> The records review is a key component of the third party audit. It should necessarily be as exhaustive as possible. However, it is highly likely that, in some circumstances, especially when auditing the largest exporting entities with the broadest range of suppliers, the audit team will not be able to make a detailed review of every record, given inevitable budgetary and time constraints. If this is the case, the auditor should be able to make a justification in the report for the consequent representative sampling of the records.<sup>49</sup> This will also have implications for the level of assurance the auditor is able to give. If the scope of the records review is not as exhaustive as would be necessary for the auditor to say with confidence that the exporter is in compliance with the RCM Standard, then a limited assurance statement will have to be issued, where s/he can state that nothing could be found that would suggest that the auditee is *not* in compliance. See glossary on ‘limited assurance’ and ‘reasonable assurance’ for further information.

Where representative sampling of records is required, it is recommended that the auditor prioritize the review, *inter alia*, of records pertaining to transactions with the mine sites selected for the representative and/or risk-based sample,<sup>50</sup> including both upstream transactions with suppliers/*négociants*/transporters or mine site operators, as well as consolidation of the minerals for onward downstream exportation. This is intended to ensure a review of all records concerning the supply chain between the exporter and the representative sample mine sites, including the respective transportation routes.

### 5.4 Representative sampling – mine sites

As an alternative to a fixed percentage for sample size, which might prove problematic when faced with an audit of a particularly large-scale exporting entity, the auditor could be required to inspect, as the minimum, the first three most significant suppliers to the exporter, in terms of volume and value, as well as two further mine sites selected at random from the first two quartiles of supplier mine sites, in terms of volumes and values of productions.<sup>51</sup>

Alternatively, sample size could be decided on an ad hoc basis, with the auditor required to propose a representative sample, and justify his choice, as part of the audit plan, and subject to approval by the Audit Committee, or whichever body is responsible for management supervision of the third party audit. In addition to the issues of representative sampling and sample size, there could also be risk-based selection of mine sites. In certain circumstances, subject to the third party audit’s risk assessment, risk-based selection should be incorporated as part of the sampling process. There should

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<sup>48</sup> Appendix 8c, ICGLR CM

<sup>49</sup> Cf. Annex A, A.9, for discussion of the issue concerning representative sampling of records and mines sites.

<sup>50</sup> This should include at least the first three most significant suppliers to the exporting entity, in terms of volume and/or value, plus two further mine sites selected at random from the first two quartiles of mine sites, in terms of volumes and values of production, as indicated in Section 5.4.

<sup>51</sup> Cf. Annex A, A.9, for discussion of representative sample size

be a requirement for the third party auditor to evaluate whether risk-based selection would be advisable, as part of the risk assessment.<sup>52</sup>

Moreover, in the case of an exporter who deals in and exports more than one mineral and/or all 3Ts, the sample of suppliers should also include each of the minerals exported.

## 5.5 Records review<sup>53</sup>

Records for review should include, but not be limited to:

### 5.5.1 Exporter

#### a. Exporter

- Registration of business, shareholding and ownership documents
- License document
- Management organigram, clearly designating responsibilities

#### b. Operations

- Company policies re: due diligence (e.g. as per annex II of the OECD-UN Guidance)
- Due diligence reports following from exporter's internal mine site inspections
- Company policies relevant to ICGLR progress criteria
- Company risk assessment
- Procedures for delivery of minerals
- Procedures for processing of minerals
- Procedures for export of minerals

#### c. Personnel

- Employment contracts (with special attention to due diligence compliance clauses, if applicable. Is there delineation of responsibilities in staff contracts? Is compliance mentioned in the contract?)

#### d. Contracts

- List of all suppliers, with contact details
- List of all customers, with contact details
- Contracts with suppliers (mine site operators/traders/négociants)
- Contracts for security providers
- Payment to security providers
- Contracts for transportation

#### d. Authorities

- Reports of all issues as exchanged with national/provincial mining authorities
- Correspondence & reports/minutes of all meetings with police & security forces (especially regarding transportation route issues)

#### e. Material & Financial Accounting

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<sup>52</sup> In this case, the audit plan would be submitted after the desk-based literature review and the background, desk-based risk assessment.

<sup>53</sup> The documents listed for records review are aligned with the documentation required of upstream companies by the OECD-UN Guidance.

- Production and processing records
- Stock records, over intervening 12 months
- Reports of physical verification of stock
- Transaction records for all mineral purchases, over last 12 months
- Transaction records for all mineral exports, over last 12 months
- Financial auditing reports
- Payment receipts
- Bank account statements
- Tax returns – national, provincial and local government taxes and royalties, where applicable

f. Other

- National/provincial regulatory regime export compliance documents
- Traceability records (e.g. iTSCi tagging log books, exporter database of tag numbers)
- Procedures for analysis of mineral samples
- Analytical reports
- Documentation of consumables and equipment usage
- Incident reports of security providers
- Certification records (ICGLR and others, e.g., Certificate of Origin)
- Customs records
- Delivery notes
- Off-take or pre-financing agreements with buyers
- Contract with shipper<sup>54</sup>

Due to trading chain and regulatory differences between the respective Member States, there will be variations in the number and nature of records and documents for the auditor to review.<sup>55</sup>

In the DRC, the auditor should also specifically request the following:

- All correspondence, invoices, payment receipts from CEEC<sup>56</sup>
- All correspondence, invoices, payment receipts from OCC<sup>57</sup>
- All correspondence, invoices, payment receipts from DGDA<sup>58</sup>
- All correspondence, invoices, payment receipts from the provincial Division des Mines
- Receipts for all administrative paperwork required for export<sup>59</sup>

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<sup>54</sup> Off-take or pre-financing agreements with buyers as well as shipping contracts are not theoretically subject to the third party audit as the ICGLR RCM does not cover the supply chain between the exporter and smelter. However, this focus on the due diligence of the downstream buyer could be included in the ICGLR third party audit as supplementary information, which would assist potential coordinated coverage through harmonization and alignment with other certification schemes.

<sup>55</sup> For example, the paper trail for mineral export from the DRC is significantly more extensive than that involved in mineral export from Rwanda: there are more government agencies playing a mineral export regulatory role in the DRC than in Rwanda.

<sup>56</sup> *Centre d'Evaluation, d'Expertise et de Certification des Substances Minérales Précieuses et Semi-Précieuses*. DRC government entity, under the authority of the Ministry of Mines, responsible for the evaluation and certification of minerals produced in the DRC.

<sup>57</sup> *Office Congolais de Contrôle*. DRC government regulatory entity, dedicated to the protection of consumers and the environment

<sup>58</sup> *Direction Générale des Douanes et Accises*. DRC government entity – Customs.

<sup>59</sup> In DRC these might include the following:

1. Frais analyse CEEC : \$ 140
2. Frais analyse OCC : \$ 300
3. Autorisation d'exportation (div. Mines) : \$ 150
4. Frais de dépôt (div. Mines) : \$ 234
5. Bulletin mercuriale : \$ 10
6. Certificat d'origine : \$ 125

- Central Bank export licenses

## 5.5.2 Mine-site

### a. Mine-site Operator

- Registration of business, shareholding and ownership documents
- Management organigram, clearly designating responsibilities

### b. Due Diligence

- Company policies re: due diligence
- Due diligence reports
- EIA, where applicable
- Company policies relevant to ICGLR status and progress criteria

### c. Personnel

- List of all staff, both permanent and temporary
- List of all sub-contractors
- List of all sub-contractor staff
- Employment contracts (with special attention to due diligence compliance clauses, if applicable. Is there delineation of responsibilities in staff contracts? Is compliance mentioned in the contract?)

### d. Contracts

- Contracts with sub-contractors
- Contracts with traders/*négociants*/exporters
- Contracts for security providers
- Payment to security providers
- Contracts for transportation

### e. Authorities

- All communication with national/provincial mining authorities
- Correspondence & reports/minutes of all meetings with police & security forces (especially regarding transportation route issues)

### f. Financial and Material Accounting

- Production and processing records
- Mine-site stock records, over intervening 12 months
- Reports of physical verification of stock
- Transaction records for all mineral sales, over last 12 months
- Financial auditing reports
- Payroll documents
- Payment receipts
- Bank account statements
- Tax returns – national, provincial and local government taxes and royalties, where applicable<sup>60</sup>

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<sup>60</sup> Besides the issue of non- or under-payment of taxes, the auditor should also be alert to that of over-payment of taxes. While arguably not strictly speaking a breach of ICGLR RCM Standards, over-payment by, for example, a mine site operator should alert the auditor to a potential oversight in the respective national mine inspection process. If the latter has not identified the over-payment, it might beg a question about the overall integrity and thoroughness of that particular mine site's supervision by the national authorities.

- Traceability records (e.g. iTSCi tagging log books, mine-site database of tag numbers)
- Staff/subcontractor insurance records
- Internal risk assessments

g. Other

- Mining license
- Government mine site inspection data / history
- Documentation of land title
- Geological and AFP reports
- Records on consumables and equipment usage
- Mine plan
- Reports of miner-community interactions
- Reports by local communities (e.g., labor inspector)
- List of payments/purchases for subcontractors (this is not on the payroll)
- Incident reports of security providers
- Staff/miner training records
- Delivery notes

### 5.5.3 Traders/négociants

a. Trader

- Ownership documents
- Trader/négociant license
- Management organigram, clearly designating responsibilities

b. Due diligence

- Company policies re: due diligence
- Due diligence reports
- Company policies relevant to ICGLR progress criteria

c. Personnel

- List of all staff, both permanent and temporary
- Employment contracts (with special attention to due diligence compliance clauses, if applicable. Is there delineation of responsibilities in staff contracts? Is compliance mentioned in the contract?)

d. Contracts

- Contracts with mine-site operators
- Contracts for transportation
- Contracts with exporters

e. Authorities

- All communication with national/provincial mining authorities
- Correspondence & reports/minutes of all meetings with police & security forces (especially regarding transportation route issues)

f. Material & Financial Accounting

- Transaction records for all mineral purchases and sales, over last 12 months
- Financial auditing reports
- Payroll documents



- Payment receipts
- Bank account statements
- All administrative payment receipts, including payments to *chefferie*
- Tax returns – national, provincial and local government taxes and royalties, where applicable
- Traceability records (e.g. iTSCi tagging log books, mine-site database of tag numbers)

g. Other

- Local authority reports

## 5.6 Interviews

Semi-structured qualitative interviewing is an integral aspect of the research required for the third party audit. Interviews should be extensive and complementary to the analysis of quantitative data involved in the records and capacity reviews.

As discussed in Section 2.2, above, the auditor should use the checklists as a reference for the criteria to be verified, and **not** as a script for interview questions.

The interview is a data-gathering tool. It will provide testimonial evidence, which can then be used as a pointer to track down documentary and/or physical evidence.

In terms of interview techniques, this third party audit methodology/template does not advocate a prescriptive schematic for each and every interview. On the contrary, the auditor should be expected to adapt interview technique and approach on a case-by-case basis for each and every exchange. Indeed, in some circumstances an engagement involving direct questioning regarding compliance with the audit criteria might be more appropriate. However, it is the auditor's responsibility, and also presumably within his professional competence, to gauge what approach or techniques might be required.

Some basic interviewing principles might include:

- Attempt to establish a rapport with the interviewee. This, and an empathetic manner, might put him/her at a relative degree of ease and make more likely the disclosure of relevant information
- Avoid close-ended questions, which invite the response of Yes/No
- Open-ended questions are preferable, allowing the interviewee to reveal additional information and points of sensitivity – sometimes inadvertently through omission of data which has already been established through interview triangulation with other subjects
- Be comfortable with extended silences, expectant pauses. These may encourage the interviewee to follow up them with further information
- Avoid leading questions – these are counter-productive and risk over-determining the interlocutor's response
- Move incrementally from simple to complex questions, routine to difficult, anodyne to sensitive
- Employ a progressive questioning technique – from the general to the increasingly specific
- Use active listening techniques – including words of encouragement; physical signs of encouragement (e.g. nodding affirmatively, maintaining direct eye contact, other body language); mirroring what the interviewee has just said through repeating or restating in one's own words; following up/probing in order to encourage the interviewee to expand on what he/she has just said



- Maintain a studied neutrality in demeanor when necessary – e.g. if an interviewee were inadvertently to reveal sensitive information, the interviewer should not alert him/her to this through animated note-taking or sudden perking up of interest
- Employ situational interviewing techniques. These involve postulating a hypothetical situation, in terms accessible to the interviewee, as an alternative to a more direct line of questioning
- Ask questions about other actors in the supply chain, whether hypothetically situational or real. The interviewee may gratefully take up the opportunity to deflect attention onto other operators

In general, it is advisable to formulate a trajectory to the questions to be posed, as part of the preparation for the interview, so as to lead to the critical issues through a tangential or lateral approach. Besides helping to establish a comfort zone for the interviewee, this can contribute to the inadvertent disclosure of important information.

It is recommended to establish in one's mind what might be the potential indicators of a non-compliant situation.

To take one hypothetical example - rather than asking immediately or directly about the presence of armed groups at a particular mine site, the auditor might prepare for the interview by researching the history of the area, the impact of the conflict on the local population. Deploying this historical approach, the auditor broaches the subject of armed groups, in a historical rather than current context, enquiring about when the armed groups left the mine site area, rather than directly asking whether armed groups are still currently active in the area. The auditor would note any discrepancies in the interviewee's historical narrative, any lacunae or contradictions. Furthermore, through a process of cross-referencing and triangulation with the accounts of other interviewees, the auditor would then be able to judge whether the testimonial evidence merited likelihood or need for further research into the presence of armed groups in the area.

### **5.6.1 Interviews at the exporter site**

Interviewees should include, but not be limited to:

- CEO/Managing Director of exporting entity
- Production manager
- Warehouse/mineral storage manager/foreman
- Due diligence manager
- Lab manager (in-house or contractor)
- Staff involved in exporter's mine site inspection
- Administration manager
- Financial manager/accountants
- Marketing managers
- National/provincial mining authority agents, based on site (& iTSCi agents<sup>61</sup>, where applicable)
- Security guards
- Technical employees
- Customs agents with specific responsibility for the exporter, where applicable

### **5.6.2 Interviews at the mine-site**

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<sup>61</sup> That is, GMD tagging managers in Rwanda.

- CEO/Managing Director of mine-site operator; mine coordinator/manager, where applicable
- Government management representative, in cases of joint ventures with the state
- Cooperative president, where applicable
- Financial manager/accountant
- Human resources manager
- Mineral store manager
- Mining production manager
- Mine site sub-contractor manager (particularly relevant in Rwanda)
- Mining foremen/mining team leaders
- Any women or children on site, not involved in mining
- Any women or children, involved in mining
- ASM miners (in focus groups, and one-to-one)
- National/provincial mining authority agents, on site (and outside, see 5.6.4)
- Local government representatives in the locale
- Local police and/or security forces
- Community leadership, church leaders
- Women in the local community, near the mine-site
- Civil society in the locale
- Customary chiefs, or their representatives, where applicable
- Miner organizations (unions, associations), where applicable

### 5.6.3 Interviews along the transportation route

- Pilots of airplanes and helicopters involved in mineral transportation
- Managers and administrators of transport companies
- Drivers of trucks, taxis/other vehicles, and motorbikes used for mineral transportation
- Porters involved in transportation
- Traders and *négociants* who play a role in the chain of trading along the transportation route
- Local authorities in trading centers along the transportation route
- Security guards accompanying minerals in transit (especially relevant in the case of industrially mined gold)
- Police or security forces along the transportation route
- Customs/border control personnel

### 5.6.4 Other interviews

General	DRC-specific	Rwanda-specific
Civil society actors (including media – local journalists)	<i>Comité de Suivi</i> (key stakeholders re: the mining sector)	GMD personnel with responsibility for the region covering the respective mine sites selected for inspection
PACT – responsible for iTSCi implementation in both the DRC and Rwanda	Provincial administrators at government mining agencies, e.g. Division des Mines, CEEC, SAESSCAM	RBS personnel with responsibility for the mining sector
Personnel working in the national Certification Unit responsible for ICGLR certification	MONUSCO/UN and other international agencies	
Law enforcement entities responsible for interdiction of	<i>Police des Mines</i>	

illicit internal circulation of minerals and smuggling		
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## 5.7 Field Visits

The auditor will examine the exporter sites, selected mine-sites, trading centers, as well as the routes used to transport the minerals between the respective sites. The auditor will use site visits to examine records, conduct qualitative semi-structured interviewing, hold focus groups and employ direct observation.

Field visits need to be in-depth, and of several days duration for larger mine-sites and exporter sites. The longer the duration of the mine-site visit the more difficult it will be for fraudulent operators to sustain a dissimulation regarding the mine-site's capacity (see Section 4.7, above). Budgetary and time constraints will obviously preclude the auditor from staying in one location for days on end.<sup>62</sup> However, as a work-around, the auditor (or respective members of the audit team, if the audit team has chosen to split up to cover more sites) could return **unannounced** to the mine-site for subsequent follow-up inspections during the audit team's assignment in the region. This would effectively mean staggering the mine-site's inspection over a number of visits.

During field research at mine sites, the auditor should take measurements (e.g. depth/size of pits and tunnels) and thus estimate the volumes of mined ore (stockpiles, tailings, overburden, etc.) This will enable the auditor to semi-quantify mine production volumes/tonnage. Estimated mine production volumes/tonnage can in turn be used to estimate production per miner per day, which will be critical for the capacity review (see Section 5.9, below).

The auditor should provide detailed descriptions of the mining, trader and exporter context. These should include, but not be limited to:

- Availability of water and electricity at the mine site
- Functionality of processing/mining equipment
- Fluctuation in number of workers on site. This should involve both documentary examination and direct observation (e.g. if the mine site personnel records were to claim a significant payroll, while direct observation indicated notably fewer miners on site, this anomaly should be explored)
- Accessibility to the mine site during dry and rainy season as a basis for production capacity evaluations
- General accessibility of transportation routes to the mine site, and transportation options for mineral egress from the site (e.g. if the only means of access to the site are by foot, claims of multiple tonnage monthly production might merit further examination)
- Storage of minerals at the mine site (e.g. if the mine site declares a large monthly production capacity, whereas the mineral storage facilities are limited, or insecure. This should alert the auditor to a possible irregularity)
- In the case of iTSCi-tagged minerals, organization, storage and security of the iTSCi tags (this consideration would also apply to the field visit to the exporter)<sup>63</sup>

<sup>62</sup> However, in certain circumstances (e.g. when the audit team has several members), the audit team should be prepared to split up to cover more ground and thus achieve a more comprehensive overview of the auditee's operations, transportation routes, and suppliers.

<sup>63</sup> In the case of an iTSCi-certified exporter, the auditor should also check whether there are separate storage facilities, for minerals at the pre-processing and post-processing/export stages.

- In the case of iTSCi tagged minerals, are the tags fastened loosely or tightly?<sup>64</sup>
- Does the mine site operator employ regular, documented physical verification of stock (this would also be applicable to the field visit to the exporter)
- Presence of people not involved in the mine site operations on site (e.g. who are they? What are they doing? Why are they there?)
- Organization of the mine-site operator's and/or exporter's record-keeping. Are the documentary records comprehensive and appropriately filed? (e.g. if the records are incomplete and/or physically dispersed throughout the exporter's premises without clear rationale, this might be cause for concern)
- In the case of an exporter which claims in its records to have itself provided the transportation of the minerals from a particular mine site to the exportation point, is there any evidence of such a transport capability at the exporter site? If not, is there any documentary evidence for the rental/contracting of such transportation services

The auditor should keep photographic and written records of the audit team's observations on field visits. The respective checklists will also be a crucial tool.

## **5.8 Transportation route verification**

While the third party audit is primarily focused on the onus of the exporter, transportation routes are integral to the issue of the exporter's compliance.

This should be not just scoping the transportation route, but also stopping on the way, meeting with *négociants* and local *comptoirs* along the route.<sup>65</sup>

The audit team should follow the same transportation routes between the selected mine-sites and the exporting entity. These routes should be closely examined, particularly looking for the erection of barriers and checkpoints where illegal tariffs might be exacted from the traders/transporters.

The auditor should examine the financial records and other records of transportation companies employed between exporter and selected mine-sites.

## **5.9 Capacity review**

The capacity review involves cross-checking whether the volume, tonnage and grades of minerals produced/traded/exported is consistent with capacity of the selected mine-site. Capacity review is a key aspect of the auditor's activities during the field visits.

For example, if the selected mine site has allegedly had a fluctuating monthly production of between, say, one and eight tons of a certain mineral (such an oscillation might well generate an alert on the part of the auditor), sustained direct observation at the mine site should contribute to being able to ascertain whether this claimed production is feasible, through examination of the tunnels, mineral stocks, the number of miners on site, combined with analysis of employment and payroll records. Field visit direct observation and documentary observation, as suggested in Section 5.7, above, will be key determinants for the capacity review.

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<sup>64</sup> The iTSCi tags should be fastened tightly. If loosely fastened, this might well be an indicator they are being re-used to satisfy cursory police inspections of smuggled mineral shipments. Cf. Annex B, **B.4**, for discussion of this issue.

<sup>65</sup> This is especially the case in the DRC, where the trading chain often involves multiple intermediary transactions, along the transportation route, between the mine-site, traders and the exporter.

Another aspect of the capacity review is to examine whether a trader is known to the operators of mine-sites where the trader claims to have sourced minerals; and whether the volume of minerals the trader claims to have purchased is corroborated by the mine-site operators or miners.

The capacity review will involve quantitative data analysis as well as qualitative interviewing and direct observation.

A hypothetical example of the challenges faced by the auditor, and the role of the capacity review in tandem with other investigative techniques might be as follows: a smuggling operation could source low-grade mixed (cassiterite-coltan) concentrate in one country, then discard some of the low-grade mixed concentrate at the exporter level, while replacing with high-grade coltan concentrate smuggled in from another country. With the weights balanced, there would be no way to control this through tagging of the minerals from the supposed mine site suppliers. The third party auditor should be alert to such hypothetical scenarios. Through a combination of capacity review of supplier mine sites, examination of supply chain integrity, forensic documentary analysis, extensive interviewing, as well as the deployment of traceability tools, such as the Analytical Fingerprint (AFP), the auditor should be able to detect such dissimulation.

## **5.10 Traceability tools: the Analytical Fingerprint (AFP)**

In some cases the auditor will see fit to use the Analytical Fingerprint (AFP) technology, which will allow the forensic verification of minerals' provenance/origin in cases where a given mine has been included in the AFP reference database (similar to a DNA test).<sup>66</sup> This is intended for selective, rather than universal use, and would probably be most suited when an alert has been raised, or when there is need for further verification following an incident, and/or in case of lack of adequate documentation. Should the auditor want to follow up on the usage of AFP control sampling, he/she should liaise with the AFP Management Unit at the ICGLR secretariat in Bujumbura for further information on its feasibility and instructions regarding control-sampling procedures.

## **5.11 Reporting**

According to the Appendices to the ICGLR CM, the audit report should be submitted within 30 days following completion of the field visits. However, there is currently no provision for any draft report review process by the auditee. It is recommended that there be a proviso for the draft report review.<sup>67</sup> Therefore, the 30-day deadline for the final submission of the report may need to be revised by the Audit Committee.

The audit report should include detailed observations and empirical corroboration for all findings of compliance and non-compliance, according to the ICGLR Standards.<sup>68</sup>

The third party audit report should include an executive summary. This should include essential details regarding the auditee, the circumstances of the audit, mapping of the supply chain, sample of

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<sup>66</sup> For more information, please see the AFP Reference Manual, available at [www.bgr.bund.de/mineral-certification](http://www.bgr.bund.de/mineral-certification) or through the ICGLR AFP Management Unit ([AFP@icglr.org](mailto:AFP@icglr.org) or contact the head of unit, [arthemie.ndikumana@icglr.org](mailto:arthemie.ndikumana@icglr.org))

<sup>67</sup> Cf. Annex A, A.4, for discussion of the audit draft report review issue.

<sup>68</sup> While the Appendices to the ICGLR CM state that "the Auditor may structure the Audit report as it may deem logical and appropriate", the Audit Committee might want to consider whether the next iteration of this third party audit methodology/template should also include a draft audit report outline, as guidance for third party auditors. Besides providing additional clarification for third party auditors, such a structured outline might also contribute to the objective of third party audit reproducibility.

sites inspected, the respective flag status for individual status criteria, including justifications in each case for the ascription of that flag status, as well as values (0-4)<sup>69</sup> for each of the Progress Criteria, including justifications for each value.<sup>70</sup>

It is the auditor's responsibility to keep all field notes (including spreadsheets, checklists, photographs, written observations) for a period of five years.

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<sup>69</sup> Cf. Appendix 3b to the ICGLR CM for scoring of Progress Criteria

<sup>70</sup> In a future iteration of this third party audit methodology/template the Audit Committee might see fit to require the inclusion of a draft executive summary template for the third party audit.