

Certified Trading Chains in Mineral Production
&
The Extractive Industry Transparency Initiative

Synergies and Scope for Collaboration

by

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for the

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Methodology: This is a desk-based research study that draws on interviews with industry experts, on BGR project documentation, on EITI publications, as well as on the author's previous work on mining policy and artisanal and small-scale mining issues in the Great Lakes Region.

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Acronyms

AM	Artisanal Mining
AMO	Artisanal Miners Organisation
ASM	Artisanal and Small-Scale Mining
BGR	German Federal Institute for Geo-Science and Natural Resources
CASM	Communities and Small-Scale Mining Secretariat (World Bank)
CSO	Civil Society Organisation
CTC	Certified (Mineral) Trading Chain
DFID	UK Department for International Development
DRC	Democratic Republic of the Congo
EITI	Extractive Industries Transparency Initiative
GFG	German Federal Government
GTZ	German Technical Cooperation
GoRwanda	The Government of Rwanda
ICGLR	International Conference on the Great Lakes Region
KPCS	Kimberley Process Certification Scheme
LSM	Large-Scale Industrial Mining
NCP	National Contact Point
NGO	Non-Governmental Organization
PPA	Partnership Programme Agreement
SME	Small and Medium sized Enterprise
SSM	Small-Scale Mining
TA	Technical Assistance

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Executive Summary

The German Federal Government (GFG) hopes to steer the development of a G8 endorsed third party mineral certification system that can be used to guarantee the origin and ethical quality of stanniferous metals mined and traded throughout Central Africa, and possibly globally (Levin, 2008). To this effect the GFG is establishing a pilot project in Rwanda with the name *Certified Trading Chains in Mineral Production (CTC)*.

CTC should fit into the already existing international architecture of initiatives aiming to improve governance of the extractive industries at large¹. It is therefore sensible to explore at an early stage the opportunities for collaborating with existing initiatives to maximise synergies, reduce costs and bureaucracy, and increase legitimacy and reach². The purpose of this report is to help the GFG (more specifically its implementing agency, the Federal Institute for Geosciences and Natural Resources (BGR)) to understand synergies and the scope for collaboration between the CTC pilot project and the Extractive Industries Transparency Initiative (the EITI), which it supports both financially and politically.

Certification Systems are developed through three phases: initiation, building support and gaining political legitimacy. The critical stage, according to Cashore is the quest for political legitimacy (as outlined in Conroy, 2007: 21-2, and quoted in Levin, 2008: 5). CTC is in the “quest for political legitimacy” stage, which is underlined by its active outreach towards successfully established initiatives. The EITI is one of them. Even though Rwanda is currently not an EITI candidate country, the EITI is of particular interest to CTC implementation for the following reasons:

- a) The EITI has significant credentials in furthering transparency in natural resource sectors and it enjoys widespread political support. This means it is politically an important initiative to engage with. It also means CTC can learn from the experience of the EITI both technically and operationally, which will help CTCs more efficient and effective implementation.
- b) Critics may argue that the two initiatives are distinctly different as a result of CTC’s focus on the ASM sectors and the EITI’s focus on the oil, gas and industrial mining sectors. The EITI does indeed currently focus on implementing the long debated methodology in oil, gas and industrial mining; however, it welcomes debate on possible future avenues to further transparency in the extractive industries at large, including the ASM sectors. This includes the concrete possibility of a national EITI exploring the option of implementing the methodology in national ASM sectors.
- c) The trade of ASM production is often informal and directly interlinked with the global economy. Both CTC and the EITI provide incentives for companies and governments to support good natural resource governance in host countries. Capitalising on synergies between CTC and the EITI will reinforce this incentive structure and help to weave a finer web of global initiatives counterbalancing a global economy that states find increasingly harder to regulate, thus ultimately resulting in better natural resource governance in host countries.

¹ Examples are: IRMA (Initiative for Responsible Mining Assurance), ARM (Association for Responsible Mining), the Madison Dialogue, the DDI (Diamond Development Initiative), the (Earthworks) Solutions Centre, CASM (Communities and Small Scale Mining Network), the World Bank, the makeITfair Campaign, ITRI, the Global e-Sustainability Initiative (GeSi), and the Electronics Industry Citizenship Coalition (EICC), et cetera (Levin, 2008)

² For a detailed discussion of this theme, please refer to Levin (2008), pp. 30

- d) German development cooperation in the Great Lakes Region is placing significant emphasis on increasing transparency in the regions' mineral sectors. The GFG is one of the main supporters of the EITI. The theme of this report is therefore strategically important to German development cooperation, as it suggests opportunities for more efficient and effective engagement.

The report is divided into three parts. **Part 1** introduces the CTC pilot project. **Part 2** introduces synergies and scope for collaboration with the EITI. **Part 3** concludes and makes recommendations.

Part 1: The CTC Pilot Project in Rwanda

Part 1 introduces the CTC pilot project in Rwanda, discusses challenges and opportunities for CTC implementation and introduces international governance models for the CTC process.

The CTC pilot project in Rwanda is taking a phased approach from voluntary towards mandatory assurance of social and environmental performance by moving step by step from a CSR system of governance and assurance to third party verification to possibly government regulations (Levin, 2008). The CTC pilot project in Rwanda is guided by four principal objectives.

1. The first objective is to help manage the trade of minerals in conflict regions. The project intends to do this by bringing greater transparency to the value chain and providing an economic incentive for belligerents and others to move their activities into the formal sphere (Levin, 2008).
2. The second objective is to encourage the creation of more equitable political economic relations that bring benefits to all stakeholders, namely governments, landowners, concession-holders (companies), and local communities as a basis for socio-economic development and poverty alleviation (Levin, 2008). The CTC pilot thus requires producers to adhere to minimum environmental, social and labour standards and will audit and assure their performance in these regards (Levin, 2008).
3. The third objective is to serve the interests of responsible stanniferous metals buyers by providing them a reliable source whose origin and ethical quality is assured (Levin, 2008).
4. The fourth objective is to build capacity and promote models of good governance (Levin, 2008). Certification schemes cannot replace government regulation of natural resource sectors. They require compliance with national laws and regulations and generally involve authorities in the design of the system and ongoing monitoring of organisations' compliance with those aspects of the standard that relate to national legislation (Levin, 2008). Through this role, they can help develop the capacity of government agencies to fulfil their governance obligations (Levin, 2008).

A Draft Standard has been developed for the CTC pilot project, which includes 20 standards for company compliance³. An independent certifier, who chooses between five levels of compliance, will measure compliance with the 20 standards and determine how close the

³ The draft standards are derived from specific provisions in the 'integrity instruments' developed and managed under the authority of the Organization for Economic Cooperation and Development (OECD). These include the *Guidelines for Multinational Enterprises* (2000) and the *Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones* (2006).

audited company comes to fully meeting the standards, and thus whether it will be certified, or not (Freedman, 2008)⁴.

The national level management structures and the international governance structures of the CTC process have yet to be determined. Basic requirements of the CTC Programme are that it should be simple, financially independent and sustainable over time, legitimate amongst key stakeholders, productive (i.e. it realises its objectives), and applicable in a variety of contexts (universalism) (Levin, 2008). CTC faces a number of challenges in this regard, but it can also capitalise on a number of opportunities that arise from the context of the Rwandese minerals sector. They include organizational and institutional aspects, legal aspects, political economy aspects, and development assistance aspects.

In order to be able to highlight broader synergies between CTC and the EITI, **Part 1** of this report suggests three theoretical scenarios for the international governance of the initiative. They are:

- Multi-Stakeholder Initiative, which draws on the international governance structures of the EITI
- Donor Programme
- Voluntary CSR Standard, which draws on the international governance structure of the OECD Guidelines for Multinational Enterprises

Part 2: CTC and the EITI

Part 2 of this report first introduces the EITI, and discusses related initiatives inspired by the EITI that are at varying degrees of the conceptual stage. They are the ‘EITI+ concept’, the ‘EITI++ concept’ and the ‘EITI in ASM concept’. Following this introduction, contact points are established between the CTC pilot project, which arise from the different stages of the industrial and artisanal and small-scale mining sector value chains the initiatives intervene at, as well as the CTC Draft Standard developed for the Rwanda pilot project. The CTC Draft Standard makes specific references to the EITI in Standard 17, which requires implementing companies to *meet fiscal obligations required by host government law and publish all payments made to government in accordance with the standards of the EITI*. The implementation of Standard 17 as part of CTC puts in place and enhances the capacities of some of the fundamental governance structures required for EITI, ‘EITI+ concept’, ‘EITI++ concept’ implementation, and the potential implementation of the ‘EITI in ASM concept’ in particular. However, it is important to note that small-scale mining (SSM) company and artisanal miners organisation (AMO) adherence to Standard 17 does not equate to EITI implementation. This would entail the necessary national EITI structures to be in place – inclusive of the active participation of Rwandan civil society – and the government actually publishing the amount of payments it receives from the AM and SSM sectors. Following on from this discussion the principal synergies, mutual benefits and scope for collaboration between CTC, the EITI, the ‘EITI+ concept’, the ‘EITI in ASM concept’ and the ‘EITI++ concept’, are highlighted, which manifest themselves in the following areas:

- Enhancing Government Capacity and Control Functions
- Finding Civil Society Stakeholders to participate in CTC
- Enhancing Civil Society Capacity
- Building Trust and Mutual Knowledge with the Private Sector
- National Level Process Management
- National and Sub-National Level Learning and Trust Building
- Data Gathering and Auditing
- Information Exchange

⁴ The choice of a number corresponding to a compliance level is justified with an in-depth discussion of the evidence for why one choice was made instead of another (Freedman, 2008).

- Shared and/or Co-hosted Conferences
- International Secretariat Location and Mutual Learning
- Formal Representation
- Public Information Campaigns
- Establishing the ‘EITI in ASM concept’

Beyond the discussed synergies between CTC and the EITI, the ‘EITI+ concept’, the ‘EITI++ concept’ and the ‘EITI in ASM concept’, there may also be scope for a more formal integration of CTC into other already existing processes targeting the extractive industries. A discussion of the options of a more thematically orientated integration approach as opposed to a more regionally orientated integration approach would be a useful subject for a follow-up study.

Part 3: Conclusion

There are a number of contact points between the initiatives along the mining sector value chains. Further contact points result from CTC’s Standard 17. Despite these contact points it is currently not a realistic option to formally integrate the two initiatives. A formal integration of CTC into the EITI would significantly extend the responsibilities of the EITI Secretariat. This is due to the CTC Draft Standard’s wider focus, incorporating environmental and social standards, which would overload the EITI Secretariat’s capacities, and dilute effort away from the EITI’s core focus, thus jeopardizing the effectiveness of the core EITI. Should the CTC Draft Standard become more concentrated on transparency provisions, a more formal integration of the two initiatives could become a more realistic and desirable option.

Despite the lack of a realistic formal integration of the two initiatives, the result of this study is nevertheless a positive one. The study has been able to establish that there are synergies between the two initiatives, which leave scope for collaboration in specific areas. It is important to note that synergies vary between the different initiatives, with the largest overlap identified with the ‘EITI+ concept’, the World Bank’s ‘EITI++ concept’, and the ‘EITI in ASM concept’ – all of which would be of highest relevance on the national level, if they were to develop beyond the conceptual stage. The recommendations made on page 39 onwards have been developed with the objective to create first opportunities for CTC and the EITI to collaborate, where possible and politically feasible.

Introduction

1. The German Federal Government (GFG) hopes to steer the development of a mineral certification system that can be used to guarantee the origin and ethical quality of stanniferous metals mined and traded throughout Central Africa, and possibly globally (Levin, 2008). The mineral certification system fits into the already existing international architecture of initiatives aiming to improve governance of the extractive industries at large⁵. However, it is one of the only ones focussing on the developmentally and economically highly relevant, yet recalcitrant artisanal and small-scale mining (ASM) sectors. It is sensible to explore opportunities for coordinating with and/or piggybacking onto other certification schemes, to maximise synergies, reduce costs and bureaucracy, and increase legitimacy and reach⁶.

2. The purpose of this report is to help the German Government (more specifically its implementing agency, the Federal Institute for Geosciences and Natural Resources (BGR)) to understand synergies and the scope for collaboration between its pilot project *Certified Trading Chains in Mineral Production* (CTC) and the Extractive Industries Transparency Initiative (the EITI), which it supports both financially and politically.

Background

3. At the G8 summit in Heiligendamm the GFG presented the case for the certification of mineral trading chains in ASM sectors to both further transparency in natural resource sectors and to support the adherence to social and ecological minimal standards in natural resource production. The G8 Summit Declaration stated that “certification systems can be a suitable instrument in appropriate cases for increasing transparency and good governance in the extraction and processing of mineral raw materials and to reduce environmental impacts, support the compliance with minimum social standards and resolutely counter illegal resource extraction”⁷. The G8 endorsed Germany’s initiative as part of an effort to work together with extractive industries operating in developing countries to assume greater responsibility for reducing poverty and preventing conflicts. The GFG decided to implement the certification scheme, choosing Rwanda as the location for a pilot project⁸. This pilot project aims to certify the direct mineral trading chain between a local mineral producer and a mineral processor in an industrialized country, ensuring that the trading chain takes the mineral from site to market with positive social and economic outcomes (Freedman, 2008).

Rationalising the Choice of the Great Lakes Region

4. In 2002 the United Nations had found that the plunder of natural resources and other forms of wealth of the DRC was fuelling the regional conflict in the Great Lakes Region (UN, 2002). Of particular concern at the time was the coltan trade. Following a fall in coltan prices in 2002, militant forces turned their attention to controlling the production and trade of other stanniferous metals. Today stanniferous metals continue to be mined and controlled by militant forces, including renegade battalions from the Congolese armed forces (Garrett and Mitchell, 2008). The proceeds from the sale of these metal ores enable rogue elements to influence the local political economy, and thus prolong regional instability. Many responsible private sector actors have disengaged from the region and are unlikely to return until there is

⁵ Examples are: IRMA (Initiative for Responsible Mining Assurance), ARM (Association for Responsible Mining), the Madison Dialogue, the DDI (Diamond Development Initiative), the (Earthworks) Solutions Centre, CASM (Communities and Small Scale Mining Network), the World Bank, the makeITfair Campaign, ITRI, the Global e-Sustainability Initiative (GeSi), and the Electronics Industry Citizenship Coalition (EICC), et cetera (Levin, 2008)

⁶ For a detailed discussion of this theme, please refer to Levin (2008), pp. 30

⁷ G8 Summit (2007), Articles 80 – 87

⁸ Please refer to Section 1.1 for an overview of the Rwandese mining sector.

peaceful stability, opportunities for constructive re-engagement in the midst of ongoing violence, or assured 'ethical' mineral sources (Levin, 2008).

Finding a Solution

5. A key strategy for restoring social order and peace is to reconfigure political economic relations around mining and trading at the local level to move control of the resource from armed forces to more appropriate stewards, namely government, civil society, and the responsible private sector. There are three ways of doing this: structural adjustment, sanctions, and certification (Levin, 2008).

Structural Adjustment

6. Structural adjustment involves the re-writing of mining legislation and regulations, the restructuring of institutions, and the reconfiguration of responsibilities and relations between these institutions in terms of how they govern and manage the exploitation, trade, and ownership of the mineral resources. There must also be *incentives* for people to change their behaviour and work in and through this new, formal environment. This takes time and resources. Structural adjustment alone is therefore not enough to produce mining sectors in conflict areas that are sufficiently formalised and rationalised to allow responsible buyers to return to the region in the near term (Levin, 2008).

Trade Sanctions

7. Trade sanctions used to be a popular intervention by the international community to stem the flow of 'conflict commodities'. Over time, they have proven not to be an ideal solution to the development problem. This is for the following reasons: historically, sanctions have rarely punished the real violators or achieved their goal without concomitant strategies to ensure effective targeting; they are hard to invoke successfully (Freedman, 2008). Disengagement from mineral supply chains penalises vulnerable people who rely upon mining and associated service industries for their livelihoods and survival (Levin, 2008). Disengagement by companies with a CSR profile who seek to manage brand reputation opens a space for less responsible buyers to benefit from the commercial opportunity afforded by ongoing international demand for these minerals (Levin 2003, as outlined in Levin, 2008).

8. Recent pressure from NGO campaigns (e.g. makeITfair) and exposure of the supply chain relations between particular buyers and Congolese markets (Garrett & Mitchell, 2008) have forced end users, such as electronics companies, to confront their partial responsibility for the social and ecological problems produced by the mining and trade of stanniferous minerals used in their products (Levin, 2008). In turn, these big brands are putting pressure on to mid-chain operators to 'clean up' their sourcing⁹. Whilst a voluntary boycott of 'tainted commodities' is the easiest response for these operators, buyers with a more progressive CSR mind-set could constructively engage, using their buying power to effect positive social and environmental change in the mineral supply chains – this is where mineral certification comes in (Levin, 2008).

Certification

9. Certification of a mineral's origin can offer these buyers a source, which, at the very minimum, guarantees that they are conflict-free. Certification of how the minerals were mined and traded offers a guarantee as to the *ethical quality* of the mineral too, which provides further brand protection and reduces moral liabilities (Levin, 2008). Miners benefit because of direct improvements in their labour conditions and terms of engagement, while host states maintain an economic climate in which reputable foreign companies may want to invest (Freedman, 2008). The critical function certification fulfils is that it marginalizes actors, who undermine good practice, whilst it provides responsible players with the

⁹ Telephone Interview with Paivi Poyhonen, FinnWatch (part of makeITfair), 29 August 2008

opportunity to join and benefit from the scheme, if they wish to do so. In these ways, certification can help producers, buyers and end users, not only avoid and curtail the supply of “tainted commodities,” but provide them with positively “good commodities” that are also helping bring peace and development to the Great Lakes Region (Freedman, 2008).

10. Certification Systems are developed through three phases: initiation, building support and gaining political legitimacy. The critical stage, according to Cashore is the quest for political legitimacy (as outlined in Conroy, 2007: 21-2, and quoted in Levin, 2008: 5). CTC is in the “quest for political legitimacy” stage, which is underlined by its active outreach towards successfully established initiatives. The EITI is one of them. Even though Rwanda is currently not an EITI candidate country, the EITI is of particular interest to CTC implementation for the following reasons:

- a) The EITI has significant credentials in furthering transparency in natural resource sectors and it enjoys widespread political support. This means it is politically an important initiative to engage with. It also means CTC can learn from the experience of the EITI both technically and operationally, which will help CTCs more efficient and effective implementation.
- b) Critics may argue that the two initiatives are distinctly different as a result of CTC’s focus on the ASM sectors and the EITI’s focus on the oil, gas and industrial mining sectors. The EITI does indeed currently focus on implementing the long debated methodology in oil, gas and industrial mining; however, it welcomes debate on possible future avenues to further transparency in the extractive industries at large, including the ASM sectors. This includes the concrete possibility of a national EITI exploring the option of implementing the methodology in national ASM sectors.
- c) The trade of ASM production is often informal and directly interlinked with the global economy. Both CTC and the EITI provide incentives for companies and governments to support good natural resource governance in host countries. Capitalising on synergies between CTC and the EITI will reinforce this incentive structure and help to weave a finer web of global initiatives counterbalancing a global economy that states find increasingly harder to regulate, thus ultimately resulting in better natural resource governance in host countries.
- d) German development cooperation in the Great Lakes Region is placing significant emphasis on increasing transparency in the regions’ mineral sectors. The GFG is one of the main supporters of the EITI. The theme of this report is therefore strategically important to German development cooperation, as it suggests opportunities for more efficient and effective engagement.

Report Structure

11. This report is divided into three parts that are respectively divided into subsections. **Part 1** introduces the CTC pilot project in Rwanda. Drawing on Jim Freedman’s study *Assessing Corporate Social Responsibility against International and National Standards* and Estelle Levin’s study *Certified Trading Chains in Mineral Production – Towards Technical Assistance*, both produced for the CTC pilot project in Rwanda, **Section 1.1** provides background on the CTC pilot project. Building on the author’s previous work on artisanal mining in the Democratic Republic of the Congo¹⁰, **Section 1.2** discusses the challenges and opportunities facing CTC implementation in Rwanda, a theme that is discussed in detail in Levin (2008). **Section 1.3** provides a preliminary overview of models that may be suitable for

¹⁰ Please compare: Please compare: Garrett, N. (2008a); Garrett, N. (2008b), Garrett, N. et al (2008); Garrett and Mitchell (2008); Garrett, N. (2007)

the international governance of CTC.

Based on Part 1, **Part 2** discusses synergies and the scope for collaboration between the CTC pilot project and the EITI. **Section 2.1** introduces the EITI, and also discusses the 'EITI++ concept' and the 'EITI in ASM concept' concepts. **Section 2.2** introduces synergies and areas for collaboration between CTC and the EITI (including 'EITI+ concept', 'EITI++ concept', and 'EITI in ASM concept') and CTC.

Part 3 is divided into **Section 3.1**, which concludes and **Section 3.2**, which makes recommendations.

Part 1: The CTC Pilot Project in Rwanda

Section 1.1: Background on the CTC Pilot Project in Rwanda

12. The CTC pilot project in Rwanda's aim is to establish a third party certification system to assure the origin and ethical quality of stanniferous metal production and trade in Central Africa¹¹. In order to achieve this the Rwanda project is taking a phased approach from voluntary towards mandatory assurance of social and environmental performance by moving step by step from a CSR system of governance and assurance to third party verification to possibly government regulations¹². This is the most pragmatic approach given the short timeframe until the implementation is due to commence in 2009. Hopefully it will provide buyers with sufficient assurance to be able to confidently source from CTC engaged mines, based on the fact that the mines are engaged in a process to ensure continual improvement (Levin, 2008).

13. On its way to achieve its aim, the CTC pilot project in Rwanda is guided by four principal objectives. The first objective is to help manage the trade of minerals in conflict regions. The project intends to do this by bringing greater transparency to the value chain and providing an economic incentive for belligerents and others to move their activities into the formal sphere (Levin, 2008).

14. The second objective is to encourage the creation of more equitable political economic relations that bring benefits to all stakeholders, namely governments, landowners, concession-holders (companies), and local communities as a basis for socio-economic development and poverty alleviation (Levin, 2008). This mirrors other donors' approaches to the minerals sectors of the Great Lakes Region, which take the view that the minerals can be an important driver for peace and development through growth, provided the right incentive structures are in place (Sunman & Bates, 2007). The CTC pilot project aims to prove this correct. The certification scheme will therefore also require producers to adhere to minimum environmental, social and labour standards and will audit and assure their performance in these regards. This is the 'ethical quality' aspect (Levin, 2008).

15. The third objective is to serve the interests of responsible stanniferous metals buyers by providing them a reliable source whose origin and ethical quality is assured (Levin, 2008).

16. Given the state of mineral governance in Central Africa, the CTC project holds capacity building and promotion of models of good governance as a fourth objective (Levin, 2008). Certification schemes cannot replace government regulation of resource sectors. They require compliance with national laws and regulations and generally involve authorities in the design of the system and ongoing monitoring of organisations' compliance with those aspects of the standard that relate to national legislation (Levin, 2008). Through this role, they can help develop the capacity of government agencies to fulfil their governance obligations; they may even provide models for the development of national or local regulation based on experience of what aspects of the multi-stakeholder certification scheme does and does not work in the local context (Levin, 2008).

¹¹ There are three levels of independence in assurance, as explained by ISEAL (2007, Module 1: 24). Third party assurance is defined as 'a person or body that is independent of the person or organisation being evaluated, and of user interests in that person or organisation. Certification and accreditation bodies most often carry out third party audits' (Levin, 2008).

¹² The decision to use the CTC Standard's as the basis for developing mining and trading regulations rests with the GoRwanda and may or may not be an outcome of the project.

17. Lessons learned in Rwanda will be used to modify and improve the universal scheme and help ensure it can be successful in the more challenging context of DRC. Experience shows that the devil is in the detail; the journey towards successful implementation has thus only just begun.

The CTC Draft Standard

18. The developed CTC Draft Standard includes 20 standards for company compliance¹³. An independent certifier, who chooses between five levels of compliance, will measure compliance with the 20 standards (Freedman, 2008)¹⁴. **Table 1** sets out the standard's requirements, the issue each requirement addresses, and the primary beneficiary¹⁵.

Table 1: Overview of the CTC Standard (from Levin, 2008)

Requirement	Based upon:	Issue	Primary Beneficiary
1. Maintain salary or payment levels equal to or greater than those in comparable enterprises within Rwanda.	OECD Guidelines, IV. 4 (a)	Salaries	Employees only (no ASM)
2. Ensure that no child labourers work on company sites.	OECD Guidelines, IV. 1 (b) Rwandan Law (Labour Code Articles 63-66)	Child labour	Consumer Children (longer-term)
3. Support workers' organizations and collective bargaining.	OECD Guidelines, IV. 1(a) OECD Risk Awareness Tool, 3.2 Rwandan Law (Labour Code, Article 143)	Collective bargaining	Employees
4. Provide essential protective and production services to support the work of artisanal miners.	OECD Guidelines II. 2. OECD Risk Awareness Tool, 7.	Health & Safety	ASM

¹³ The draft standards are derived from specific provisions in the 'integrity instruments' developed and managed under the authority of the Organization for Economic Cooperation and Development (OECD). These include the *Guidelines for Multinational Enterprises* (2000) and the *Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones* (2006).

¹⁴ The choice of a number corresponding to a compliance level is justified with an in-depth discussion of the evidence for why one choice was made instead of another. The sum of all compliance levels for all 20 standards gives a composite score that can be expressed as a percentage of the maximum score; this in turn gives an overall assessment for how close the company comes to fully meeting these standards (Freedman, 2008).

¹⁵ The original draft standard was developed as a template for discussion (Freedman 2008). This draft standard was modified following on-site observations, interviews with mine managers and district officials, and consultation with key government departments in Rwanda (Freedman 2008). The current standard is designed specifically for Rwanda, and not necessarily as the basis for a universal standard. *If BGR desires a universal certification system, then it is suggested that the existing standard is used in the interim until the standard is revised following the international and local consultations set out below* (Levin, 2008). For a summary of key observations for ensuring the standard is effective in meeting its objectives and has credibility with relevant stakeholders, please refer to Levin (2008), pp.19

Requirement	Based upon:	Issue	Primary Beneficiary
5. Ensure occupational health in all company operations.	OECD Guidelines, IV. 4 (b) Rwandan Law (Labour Code, Article 132)	Health & Safety	ASM
6. Provide training for employees and contractors on safety, health and effective use of on-site facilities.	OECD Guidelines, II. 8	Health & Safety	Employees Contractors Possibly ASM?
7. Avoid all dealings, through joint ventures or partnerships, with commercial entities engaged in criminality, corruption or violent conflict. [This should include sub-contractors]	OECD Guidelines, II. 10 OECD Risk awareness Tool, 5.	Conflict minerals	Society ¹⁶
8. Provide sufficient and adequately trained security forces.	OECD Risk Awareness Tool, 2.2 Voluntary Principles on Security and Human Rights	Security	Company ¹⁷ Society
9. Ensure that security forces are trained in implementing security tasks in ways that protect and promote human rights.	OECD Guidelines, II. 2. OECD Risk Awareness Tool, 2.2 Voluntary Principles on Security and Human Rights	Security	Society Company
10. Undertake security risk assessments.	OECD Risk Awareness Tool, 2.2 Voluntary Principles on Security and Human Rights	Security	Company Society
11. Interact regularly with communities and local governments to address grievances and other common concerns.	OECD Risk Awareness Tool, 7	Stakeholder engagement	Community ¹⁸
12. Support local enterprises to supply company	OECD Risk Awareness Tool, 7	Local sourcing	Community

¹⁶ Society means society-at-large.

¹⁷ The Company is only identified when the gains are material.

¹⁸ Community means neighbouring, local communities.

Requirement	Based upon:	Issue	Primary Beneficiary
operations.	Forest Stewardship Council Principle 5.4 MCEP, No. 9. (e) iii.		
13. Implement integrated development programs in nearby communities for livelihood security, social and physical infrastructure and capacity building.	OECD Guidelines, II. General Policies, no. 3 OECD Risk Awareness Tool, 7	Local development	Community
14. Obtain free, prior and informed consent before acquiring land or property.	OECD Guidelines, II. 5 ILO, Indigenous and Tribal People's Convention, Para 169.	Consent	Community
15. Actively oppose bribery and fraudulent payments.	OECD Guidelines, VI. 1, 2, 3, 4 EITI, Criteria 1 and 3	Bribery & Corruption	Society
16. Refuse requests for contributions associated with political causes or campaigns.	OECD Guidelines, VI. 6 OECD Risk Awareness Tool, 2.3 OECD Guidelines, II. 11	Bribery & Corruption	Society
17. Meet fiscal obligations required by host government law and publish all payments made to government in accordance with the standards of the Extractive Industries Transparency Initiative (EITI)	OECD Guidelines, X. Rwandan Law no. 17/2002 of 10/05/2002 updated by Law no. 33/2003 of 06/09/2003, Articles 19 and 63. EITI Criteria 3	Bribery & Corruption	Society
18. Carry out an environment impact assessment as the basis for developing an environmental management and protection plan and strategy	OECD Guidelines, V., 1, 1(a), and 3 Rwandan Law, Organic Law no 04/2005 or 08/04/2005, Articles 67 & 95, and Projet de Loi sur les Mines et les Carrières, Article 146.	Environment	Society Community
19. Properly treat or dispose of hazardous material and	OECD Guidelines, V. 6 & 6b	Environment	Society Community

Requirement	Based upon:	Issue	Primary Beneficiary
waste from its site(s)	Rwandan Law, Organic Law No. 04/2005 of 08/04/2005, article 60, and Projet de Loi sur les Mines et les Carrières, Article 146.		
20. Makes provision for the full cost of rehabilitation upon closure. [Rehabilitation should be ongoing]	OED Guidelines, V.	Environment	Society Community

19. BGR has found a mining company in Rwanda, which is willing to participate in the pilot project. Natural Resource Development (NRD) Rwanda produces cassiterite, wolfram and coltan. NRD owns five mining concessions, whose 4-year term began on 29th January 2007. It has 110 regular employees and allows approximately 1100 artisanal miners to mine its concession and ‘sell’ their findings to the company (Freedman, 2008).

Table 2. Natural Resource Development Rwanda Concessions (from Freedman, 2008)

Concession Name	Size (hectares)	Principal Resources	Estimated No. of Artisans working	Approx. monthly production per worker (Kgs)	District and Location in Rwanda
Giciye	10,025	Wolfram Coltan Cassiterite	70	250	Nyabihu (Northwest)
Rutsiro	12,000	Wolfram Cassiterite	250	600	Rutsiro (Northwest)
Sebeya	6,426	Wolfram Cassiterite	40	300	Rutsiro (Northwest)
Mara	497	Coltan Cassiterite	Not in production	Not in production	Karongi (Southwest)
Nemba	13,160,000	Cassiterite	730	7,095	Begesera (Southeast)

20. The following brief overview of Rwanda’s mining sector contextualises NRD’s operations.

The Rwandese Minerals Sector

21. Rwanda’s extractive industries are still in their infancy, but there is scope for upgrading both in the mining and gas¹⁹ sectors. Rwanda’s mining sector includes a number of private operators that focus on the ASM of coltan, cassiterite and wolfram. All operations rely on groups of artisanal miners, with teams sometimes digging for a week or two without collecting any ore. Monthly and daily production levels vary greatly between groups as some groups produce 20 kilos in a month while others as much as 1000 kilos. The difference has

¹⁹ There is a methane gas deposit beneath Lake Kivu, a lake bordering the Democratic Republic of the Congo, for example.

typically to do with the quality of the vein where the artisanal team is working and this in turn depends on the groups' capacity to find it which ultimately, depends on the provision of services to artisanal workers such as earth moving equipment, explosives used to loosen rock and debris and good quality tools and safety equipment for working efficiently underground. In reality there are diverse performances, diverse levels of investment, diverse levels of production and different levels of social commitment, which impact on production performances (Freedman, 2008).

22. The level of transparency in the sector is not particularly high, with the government leaving it up to the producers to forward their production figures to the Ministry of Land, Environment, Forestry, Water and Natural Resources (Freedman, 2008). Mineral export figures in excess of domestic production figures imply that Rwanda remains an important transit country for minerals from the neighbouring and unstable Kivu Provinces in the Democratic Republic of the Congo, where mineral production remains at least partly under the control of armed groups (Garrett and Mitchell, 2008).

23. Rwanda's state mining company has recently been replaced as the sole operator by an array of private investors. Some of these new operators work closely with local communities; they pay taxes and have turned out to be better corporate citizens than the state company preceding them (Freedman, 2008). Others have a tendency to neglect their social and state obligations. The GoRwanda's priority is for mining companies to generate revenue (Freedman, 2008). The real developmental challenge is for the artisanal mining sector to achieve a substantial socio-economic contribution. Currently it does not contribute sufficiently to macro-economic stability, particularly with respect to fiscal revenues and local development (Garrett, Levin, Mitchell, 2008).

24. At the inception of privatization in 2005, mining production had declined steadily for more than 15 years and seemed incapable of recovering. The figures in Table 3 are drawn from a selection of years to show the trend: production in 2005 at the state-owned operations was a fraction of what it had been in 1989. Today all but two of the eight REDEMI concessions are in private hands (Freedman, 2008)

Table 3 Production of Cassiterite, Coltan and Wolfram in Rwanda: 1989, 1996 and 2005 (in kilograms) (from Freedman, 2008)

PRODUCT	1989	1996	2005
CASSITERITE	1,050,500	138,160	215,247
COLTAN	37,600	32,510	8,245
WOLFRAM	183,500	22,426	86,833

Source: REDEMI production statistics 1989 - 2007²⁰

25. Today, the only output record for Rwanda's mining sector comes from export statistics kept by the Banque Nationale du Rwanda. These are not easy to compare with the earlier REDEMI production figures since they include, not just production inside Rwanda, but the export of all minerals including ore that is imported from elsewhere and re-exported. The tonnage of ore exported is far more than the tonnage of ore produced on Rwandan territory (Freedman, 2008)

²⁰ REDEMI production includes output at 8 concessions plus a small amount purchased by independent buyers from smaller, artisanal managed concessions.

26. The GoRwanda may well be pleased with the sector's revenue generation. Increased wolfram production combined with an increase in cassiterite prices seems to have contributed to an increase in overall mineral export revenues by 48 per cent since 2005. Freedman suggests that a more balanced view is that production at some wolfram concessions has increased while production at cassiterite and coltan sites has not (Freedman, 2008)²¹. An alternative explanation is the redirection of Congolese coltan and cassiterite via different trading routes (Levin, 2008). The majority of cassiterite exports from DRC do in fact transit via Uganda towards the Kenyan and Tanzanian ports of Mombasa and Dar es Salaam (Garrett, 2008a).

Section 1.2: Challenges and Opportunities for CTC Implementation in Rwanda

27. Basic requirements of the CTC Programme are that it should be simple, financially independent and sustainable over time, legitimate amongst key stakeholders, productive (i.e. it realises its objectives), and applicable in a variety of contexts (universalism) (Levin, 2008). Please refer to the parallel report *Certified Trading Chains in Mineral Production – Towards Technical Assistance* by Estelle Levin of Resource Consulting Services for a detailed discussion of national level CTC implementation. This section provides an overview of challenges and opportunities for the pilot implementation to achieve these requirements that arise from the context of the Rwandese minerals sector. The section focuses on observations, which are of immediate relevance to **Part 2** of this report, which introduces synergies between CTC and the EITI. They are:

- Organizational / Institutional Aspects
- Legal Aspects
- Political Economy Aspects
- Development Assistance Aspects

Organizational / institutional Aspects - Challenges:

Typology of AM organisation

28. Artisanal mines can feature complex authority structures, combining modern and customary spheres and it is not always clear which bodies/institutions are relevant and legitimate (Garrett, 2008). AM communities are seldom organised and democratically represented and thus lack the voice to articulate their demands and needs, which prevents them from participating meaningfully in reform efforts (Garrett, 2008b). CTC can engage efficiently and effectively with SSM companies and artisanal miners organisations (AMOs) with at least a minimum of administrative capacity. AMOs with minimum administrative capacities do currently not exist and would first have to be developed.

Organizational / institutional Aspects - Opportunities:

LSM and SSM Administrative Capacity and Engagement with AM

29. The CTC process encourages the transition of AM to SSM, by providing incentives for companies to engage artisanal miners on their concessions, and to help to organise and upgrade the miners' activities. Existing LSM and SSM companies, as well as exporting *comptoirs* tend to have at least minimum administrative capacities, which makes them

²¹ An alternative explanation is the redirection of Congolese coltan and cassiterite via different trading routes (Levin, 2008). The majority of cassiterite exports from DRC do in fact transit via Uganda towards the Kenyan and Tanzanian ports of Mombasa and Dar es Salaam (Garrett, 2008)

suitable partners for CTC. Their proactive private sector engagement with AM would facilitate CTC implementation, while it would enable them to achieve a higher score under the CTC Draft Standard. From a business perspective it makes more sense to engage with regular AMOs than to risk operational efficiency through small-scale conflicts with entire resident AM populations, as is increasingly the case in the DRC (Garrett, 2008b). Increased foreign investment into AM and SSM, as well as positive fledgling AM formalization attempts make it likely that the number of suitable partners for CTC implementation will further increase in the future.

Legal Aspects - Challenges

Unsupportive Legal Structures

30. AM is often informal and ruled by customary law, of which aspects can differ across contexts, and which therefore require local research and engagement prior to CTC implementation. Rwanda does not yet have a *Mining Code* and the *Projet de Loi sur les Mines et Carrières*, which is the template for developing it does not provide for artisanal mining²². This means there are no statutory legal provisions for AM, which renders AM an illegal activity, even though it may technically be treated as an a-legal activity, since it is not actively prosecuted (Garrett, Mitchell, Levin, 2008). This translates into liability issues arising for institutional or private actors proactively working with AM, which is an obstacle to proactive private sector engagement with the AM sector. The lack of a legal space for the sector also minimises its developmental potential, as it facilitates the involvement of predatory actors and makes the miners vulnerable to exploitation and human rights abuses (Garrett, 2008). Creating a legal space for AM is the basis for the sector's effective formalization, regulation and upgrading through investment. A higher degree of formalization would provide an entry route for the multiple AM stakeholders to engage one another, which would have positive implications for sectoral reform initiatives. Planning reliability, as provided by applicable and adequate statutory law that provides security of tenure, is also important to investment decisions. Investment into AM can aid the upgrading to small-and medium-scale mining and the adherence to statutory law. A proliferation of organised AMOs and SMEs would facilitate CTC implementation, due to their administrative capacities and base in statutory law.

31. A caveat is that merely enacting a *Mining Code* may not necessarily improve the situation of the AM sector. Experience from the DRC demonstrates that: if AM provisions in the Mining Code are ignorant of the realities of the AM sector, the *Mining Code* is at risk of becoming a parallel rule system that is largely ignored by the majority of AM operators (Garrett, 2008a). The enactment of a *Mining Code*, which makes adequate provisions for the AM sector, and which is applicable and enforceable should thus be the basis on which CTC implementation is built. A detailed discussion is beyond the scope of this report, however, Tanzania's mining policy is illustrative in its provisions for ASM. The objectives of Tanzania's minerals policy are to: regularize and improve ASM, to ensure that mining wealth supports sustainable economic and social development; minimize or eliminate the adverse social and environmental impacts of mining development; promote and facilitate mineral and mineral-based products marketing arrangements; and alleviate poverty especially for ASM. The policy also specifies strategies which are in line with the requirements of ARM's Standard Zero, which seeks to empower artisanal gold miners, through addressing issues, such as access to credit, women and children issues, human resources development, health and safety, environmental and social sustainability, strengthening community participation, rationalising ASM, establishing formal market systems, and so on²³. On this basis it is also in line with objectives of poverty alleviation and attending to social and environmental issues.

²² Telephone interview with Jim Freedman, 17th July 2008 (Levin, 2008). The author has not been able to assess this document.

²³ Interview with Estelle Levin, 12/4/2008

Limited Capacity to Apply and Enforce

32. Drawing on the experience from the DRC, the issue of applying and enforcing the *Mining Code* are distinctly different to those of enacting the *Mining Code* (Garrett, 2008a). Application and enforcement capacities lie at the heart of CTC implementation. While the GoRwanda's institutions have significantly higher capacities than those of their Congolese neighbours, the capacities to apply and enforce a *Mining Code* countrywide leave room for improvement.

Lack of a Claims System

33. A parallel claims system for thus far undiscovered mineralization could provide a direct route to economic formalization of AM. Its absence prevents many artisanal miners from instantly joining the formal economy following a mineral find. The enactment of a parallel claims system in the *Mining Code* would open up avenues for more widespread local ownership, distribute the benefit of AM more evenly, and provide a statutory basis for upgrading to SSM. Following investment into claims, emerging companies and AMOs could be considered for CTC implementation.

Legal Aspects - Opportunities

Development of a Mining Code

34. The GoRwanda driven *Projet de Loi sur les Mines et Carrières* was due to be reviewed in 2007 and seeks to establish a *Mining Code* for Rwanda²⁴. If this *Mining Code* takes into account the realities of the AM sector, and is applied and enforced, it could signify a departure from customary law on the production and trading levels. The principal goal would be to create a legal space for artisanal miners to operate in without fear of prosecution and extortion. This would deepen the reach of statutory law beyond the trading centres and those SSM operators, who currently adhere to statutory law provisions, which would in turn increase the number of suitable operators for CTC implementation

Political Economy Aspects - Challenges

Vested Interests

35. The coordination aspect of CTC implementation in AM would involve not only building trust among companies, AMOs and civil society representatives, but also mediating the political interests of the government and its national and provincial level institutions. It is a challenging political task to balance all of these interests. CTC implementation would have to navigate the following challenges in particular:

- Foreign mineral purchasing and processing companies continue to buy minerals from SSM companies, exporting *comptoirs*, and on the open market without conducting proper due diligence of their suppliers. This means that not all buyers are interested in the ethical credentials of the mineral. Likewise, not all sellers have an interest in improving practice, particularly if they are part of – or aligned with – elites that profit from the current trading structure. This weakens CTCs business case, because rogue sellers are likely to continue to find a market.
- On the local and provincial levels, there are a significant number of players, who are currently active in the AM and SSM trading chains, whose profit interests will be under threat by CTC. These are in particular customary authorities, smaller *comptoirs* (exporting buyers) and *négociants* (middlemen), as well as government officials, who profit through petty corruption.

²⁴ Interview with Jim Freedman, 17/4/2008

- On the national level, CTC implementation is at risk of falling prey to corruption in government services. This is one reason to allow for multi-stakeholder oversight of the process.

36. Overall, there are ‘spoilers’ in modern and customary spheres capable of derailing CTC implementation. CTC implementation thus also carries a risk of conflict in the short to medium term, as ‘spoilers’ may try to violently secure their interests and increased transparency means ordinary people may violently air their grievances, resulting from their newfound insights.

Limited Civil Society Capacity

37. There are a number of technical aspects involved in monitoring and reporting the performance of private sector companies and the GoRwanda in the implementation of CTC. The meaningful involvement of civil society in the development and implementation of the CTC project is thus vital to its success²⁵. In order to do so, national CSOs require operational freedom and political, technical and financial support for them to be able to understand the issues related to CTC better and to participate efficiently and effectively in its implementation. This is currently not always the case (Freedman, 2008 and Garrett, 2008a).

Limited Government Capacity

38. State institutions remain undercapacitated, which could hamper their ability to take an effective and accountable part in the CTC process, particularly on the provincial and local levels. The Bureau of Standards in Rwanda (*Office Rwandais de Normalisation*) has been identified as a government agency to potentially house the national CTC process²⁶. The Bureau of Standards presently tests products exported from Rwanda to guarantee their quality for foreign consumers and, as well, tests imports to protect local consumers. Certifying mining production could be added to the similar functions that it already performs. The quality of the work the ORN can do and its capacities have not yet been fully assessed.

Political Economy Aspects - Opportunities

Donor attention on capacity building of state institutions

39. Capacity building of state institutions has a positive impact on the national CTC governance structure. Higher capacities on the provincial level open up the opportunity to focus a potential CTC implementation strategy on the sub-national level, either by region or mineral, reflecting the sub-national diversity of the ASM sectors. Mineral-specific CTC implementation is a prudent way forward, given mineral-specific ASM structures and buying networks with varying degrees of informality.

Private Sector Interest in Improving Corporate Governance

40. With foreign financial backing, and increasing international scrutiny and tougher legal prosecution mechanisms, some SSM companies and *comptoirs* have expressed an interest in engaging with the idea of improving corporate governance, which means CTC will find a receptive audience, if its merits are deemed appropriate and sufficient by the private sector.

Development Assistance Aspects - Challenges

New Geographies

41. China and other new geographies are expanding their interests in the minerals sectors across Africa. The exact role of these countries as buyers of AM minerals and investor in SSM companies is still not entirely clear (Garrett et al, 2008). China continues to operate on a

²⁵ Please refer to Levin (2008), pp. 44 for a detailed discussion.

²⁶ Freedman, J. (2008)

‘we respect your sovereignty’ basis, which means Chinese companies are not necessarily likely to support or participate in the implementation of CTC.

Development Assistance Aspects – Opportunities

Interest in Reform Solutions

42. As a result of buoyant mineral prices and the need for mineral inputs to sustain the high growth rates in emerging economies, foreign direct investment is increasing in SSM companies and *comptoirs*. Donors play an important role in contributing to the improvement in governance of natural resources sectors. The direct engagement with the private sector through partnership programme agreements (PPAs), for example, is a notable initiative, so long as PPAs do not replace companies’ regular CSR work²⁷. Next to the private sector and donors, civil society shows an increasing interest in mining sector reform, with the CASM Network, for example, providing expertise where possible. Civil Society’s contribution to the process is an important part of the ‘checks and balances’ required to increase the chances of success of a sustainable reform process. It is therefore important that civil society is provided with the necessary freedom to operate and supported in its attempts to expand its ASM knowledge and operational capacity.

43. An implementation scenario for CTC in Rwanda would have to take these opportunities and challenges into consideration. It is important that challenges and opportunities are not regarded in isolation of each other, and engagement with them is sequenced with a wider engagement strategy addressing some of the structural causes of the challenges, such as insecurity and poverty.

Section 1.3: International Governance of CTC

44. The final international governance structure of CTC has not been decided yet. This section introduces three possible international governance structures of CTC, which have specific process management implications and serve to facilitate the discussion of the synergies between CTC and the EITI in **Part 2**. The scenarios are:

- Multi-Stakeholder Initiative
- Donor Programme
- Voluntary CSR Standard

45. CTC aims to help build a framework in which the trade in artisanally mined minerals can function to the benefit of the producer country. A basic precondition for the approach to function is that national level implementation be nationally owned and driven. CTC’s international governance structure can therefore be designed in a way that allows it to focus on generating support for the initiative and ensuring that implementing countries and companies receive appropriate support where and when needed. At the same time the international governance structure needs to be elaborated enough to be able to hold up the credibility of the process.

Multi-stakeholder Initiative

46. Drawing on the international governance structure of the EITI, the following paragraphs introduce a hypothetical formal governance structure for a multi-stakeholder initiative that

²⁷ PPA’s in particular provide an effective engagement platform and I would like to draw the reader’s attention to (Garrett et al, 2008), *Strategic Conflict Assessment for the DRC’s Minerals and Mining Sector*, commissioned by DFID and GTZ, for an in-depth discussion. The SCA also provides a discussion of current donor initiatives in the DRC, some of which are replicable in Rwanda.

would require sufficient funding as a basis for sustainability²⁸. The governance structure comprises a Board and a Secretariat. A Multi-Donor Trust Fund finances it.

The Board

47. The Board would have responsibility for the overall development, strategic direction, and credibility of CTC, as well as for outreach and advocacy, and would make recommendations on these issues. The Board would also oversee and direct the work of the CTC Secretariat.

48. The structure of the board would mirror the multi-stakeholder characteristic of CTC, consist of an independent Chair and include:

- representatives of implementing countries
- representatives of supporting countries
- representatives of civil society organizations
- representatives of artisanal miners and or associations
- representatives of producing companies or company associations
- representatives of purchasing companies or company associations
- representatives of an investment company or company associations

49. In addition, staff members of international organizations, for example, the World Bank, the UNECA, the ICGLR or any other relevant stakeholders could be invited to attend Board meetings as observers. Observers would not be able to vote, but could provide input into the discussions preceding a decision making process.

50. The Board would take on a number of key functions within CTC, such as considering policy issues affecting CTC, particularly those that arise from CTC implementation. Members of the Board may, within reason, seek the advice of the Secretariat on specific policy issues, including commissioning research as appropriate. The Board would assess the status of countries and companies implementing CTC. This role would include approval of certifiers (prepared by the Secretariat – see below) and agreeing validation / certification reports.

The Chair of the Board

51. The Chair of the Board would lead the deliberations of the Board seeking to maintain collaborative relationships between members and key participants, including governments, companies, civil society, investors and international institutions. The Chair would be a voting member of the Board; and, if a majority voting system is agreed, then the Chair would have the casting vote in the case of a tie.

52. The Chair would:

- Ensure that the multi-stakeholder nature of the Initiative is maintained and fully reflected in CTC at all levels.
- Represent CTC to the political and business world at the highest levels, with a view to further building commitment to implementing good practice in artisanal mining and preventing proceeds from artisanal mining reaching unsavoury elements, and to attract the necessary funding from governments, companies and other institutions.
- Provide direction to the Secretariat in order to implement the strategies defined by the Board.
- with the support of Board members and other relevant parties be responsible for the appointment and supervision of Head of the Secretariat, including operational guidance and performance review.

²⁸ The suggested structure is modelled on the structure of the EITI as suggested by the International Advisory Group (IAG) in their Final Report dated September 2006.

- work with Board members between Board meetings on issues that require Board approval/consideration. The Board would agree a process where the Chair can consult on significant issues in a streamlined manner to ensure that action can be taken quickly when required.

The Secretariat

53. The day-to-day running of CTC would be steered by a Secretariat, which would be responsible for:

- Communicating with stakeholders
- Sharing lessons learned or other pertinent information
- Nominating certifiers
- Managing approved certifiers
- Helping the host governments to organise CTC conferences

54. The Secretariat would also play a role in supporting implementation. It would not need to provide direct support to the implementing governments, as this would ideally be undertaken by other organisations, including the World Bank and other supporting countries. However, the Secretariat would have the important role of liaising with the Board, the World Bank and other supporting countries and organisations, to ensure countries and companies in need of support are receiving it. This would involve the Secretariat encouraging supporting countries and institutions to focus on particular areas, or to take into account the findings of certification reports. The Secretariat would also play a role in conducting CTC outreach and advocacy.

55. Given the imminent implementation of CTC in Rwanda and expected implementation in DR Congo by 2009, the Secretariat could initially be established within BGR. It should be clear from the outset that this is a temporary solution, with the aim being to establish an independent Secretariat at an early, but realistic date. Given that the CTC is bound to grow organically from its initial starting point of two countries, one full-time position should be created at the Secretariat, with a view to increasing its capacities when needed.

The Multi-Donor Trust Fund

56. A Multi-Donor Trust Fund is an arrangement whereby the World Bank manages funds on behalf of multiple donors. Standard World Bank Rules and Procedures govern it. The aim of a Multi-Donor Trust Fund would be to broaden support for and implementation of CTC by supporting in-country CTC structures and to finance the international architecture of CTC.

57. This section outlined a relatively formal multi-stakeholder structure, which would provide the CTC process with credibility amongst stakeholders, and which would significantly increase its political weight and its sustainability in the long-term²⁹. However, this does not mean that a multi-stakeholder initiative is necessarily required. If CTC will be designed as an independent process, is a multi-stakeholder initiative the most feasible model? The replication of the EITI model could work for CTC. But the question remains as to whether it is excessive organisational effort. It is likely that civil society would equally support a donor programme managed on the national level, so long as the developmental case is understood, and national level management structures have been designed and approved by a multi-stakeholder consultation programme, with civil society taking on a monitoring function. In addition, the long-term interest of the private sector in the scheme will have to be sufficiently high for a multi-stakeholder initiative to be sustainable³⁰. While initial private sector consultations have

²⁹ Interview with Peter Eigen, EITI Chairman, May 2nd 2008

³⁰ Interview with Jonas Moberg, Head of the EITI Secretariat, May 3rd 2008

resulted in positive feedback and a genuine interest by the private sector to participate in CTC, questions remain over the long-term.

Donor Programme

58. CTC could be managed as a donor programme with a responsible working group and/or Secretariat overseeing the process. This entity would have the same responsibilities as outlined in paragraphs 53 and 54 for the Secretariat of a multi-stakeholder initiative.

Voluntary CSR Standard

59. Drawing on the international governance structure of the OECD Guidelines for Multinational Enterprises ('the Guidelines'), the following paragraphs introduce a hypothetical formal governance structure for a voluntary CSR standard.

60. The institutional set-up for promoting and implementing CTC could consist of two main elements: a National Contact Point (NCP) and an International Secretariat that conducts multi-stakeholder consultations at regular intervals to review and refine its operations. The NCP could be the government's implementing agency or office, responsible for encouraging implementation and observance of the standard on the national level. The NCP would be responsible for ensuring that the CTC Standard is well known and understood by the national business community and other interested parties.

61. The NCP would:

- Handle enquiries about the standard;
- Discuss matters related to the standard and assists in solving problems that may arise in this connection;
- Gather information on national experiences with the standard and reports annually to the Secretariat.

62. Because of the central role it plays, the effectiveness of the NCP is a crucial factor in determining how influential the standard is in each national context. While it is recognised that governments should be accorded flexibility in the way they organise NCPs, it is nevertheless expected that NCPs would function in a visible, accessible, transparent and accountable manner. These four criteria would guide NCPs in carrying out their activities.

63. The Secretariat is the body responsible for overseeing the functioning of the standard and is expected to take steps to enhance its effectiveness where and when possible. The responsibilities are the same as those outlined in paragraphs 53 and 54 for the Secretariat of a multi-stakeholder initiative.

64. As the standard is addressed to companies, labour and civil society input is especially important. The Secretariat would regularly consult with multiple (including external) stakeholders on matters relating to the standard, whilst all stakeholders would have the opportunity to request consultations with the NCPs on issues related to the standard. The advantage of a voluntary CSR standard is that it could easily be expanded to other countries and companies, which express an interest in implementation without one having to build up multi-stakeholder committees in each implementing country.

65. This section completes the discussion of the CTC pilot project in Rwanda. Building on this discussion, **Part 2** of this report is dedicated to the discussion of the synergies and scope for collaboration between CTC and the EITI.

Part 2: CTC and the EITI

Section 2.1: The EITI

66. Since its announcement at the World Summit on Sustainable Development in 2002, the EITI has evolved into a globally recognized voluntary good governance tool for greater revenue transparency in the extractive industries in resource-rich countries. The following paragraphs introduce the EITI and two related concepts inspired by the EITI – the ‘EITI++ concept’ and the ‘EITI in ASM concept’.

Background

67. The EITI works to build multi-stakeholder partnerships in order to increase the accountability of governments and companies through the verification and full publication of company payments and government revenues in the extractive sectors. The academic literature that serves as the theoretical underpinning for the EITI suggests that countries, which heavily depend on income from natural resources, tend to produce political systems with weak institutions, patronage-based modes of function and in consequence have a higher risk for the outbreak of violent conflict – the ‘resource curse’³¹. It is argued that almost exclusive reliance on external sources of income such as the export of natural resources ‘divorces’ the political system from its citizens because governments do not rely on tax and the negotiation processes surrounding taxation³². Building on this line of argument, an increase in revenue transparency is meant to provide civil society with information about the country’s income, and as a next step, how the government is utilizing these resources. The mere provision of this information might be one part of a strategy aimed at inducing the negotiation processes that result in a more accountable and responsive government, which translates into better governance and therefore reduce conflict in the long-term (Garrett et al, 2008). Good governance is one key to converting large revenues from extractive industries into economic growth and poverty reduction.

Benefits of the EITI

68. The EITI provides a number of benefits for implementing countries, companies and investors, as well as civil society³³.

Benefits to implementing countries

69. The main benefit for implementing countries is an improved investment climate. EITI implementation sends a clear signal to investors and the international financial institutions that the government is committed to greater transparency. EITI also assists in strengthening accountability and good governance, as well as promoting greater economic and political stability. This, in turn, can contribute to the prevention of conflict based around the extractive industries³⁴.

³¹ The most prominent proponent of this argument and a supporter of the EITI from the academic sphere is Paul Collier. See: Collier, Paul (2007) *The Bottom Billion – Why the Poorest Countries Are Failing and What Can Be Done About It*. Oxford University Press.

³² ‘When citizens are untaxed by governments, they have less power over them: they may have less information about government activity, weaker incentives to monitor government behaviour, and fewer instruments at their disposal to withdraw support from governments; accordingly, resource-dependent states may have little compulsion to respond to the demands of their citizens or create structures that engage their citizens.’ Humphreys, Macartan (2005)

³³ <http://eitransparency.org/eiti/benefits>

³⁴ Ibid.

Benefits to companies and investors

70. EITI implementation benefits to companies and investors centre on mitigating political and reputational risks. Political instability caused by opaque governance is a clear threat to investments. In extractive industries, where investments are capital intensive and dependent on long-term stability to generate returns, reducing such instability is beneficial. Transparency of payments made to a government can also help to demonstrate the contribution that their investment makes to a country³⁵.

Benefits to civil society

71. Benefits to civil society come from increasing the amount of information in the public domain about some of the revenues that governments manage on behalf of citizens, thereby making governments more accountable³⁶. Civil society does, however, not only benefit, but CSO participation in the EITI is important, particularly in its implementation at the national level where such a multi-stakeholder initiative is often difficult to realize³⁷.

72. In light of these benefits, the EITI can be considered an important ingredient in the development-orientated management of natural resources and it has to be credited with raising international awareness that transparency in oil, gas and mining revenues is vital to preventing corruption in resource dependent countries³⁸. More importantly, however, the EITI has achieved bringing together companies, investors, governments, civil society and international institutions to promote the shared vision of transparent revenue flows from the natural resource sectors supporting growth and development.

The EITI and ASM concept

73. The CTC pilot project discussed in **Part 1** is geared towards the ASM sectors. The EITI understands that it may have a role to play in progressing transparency in ASM sectors. The EITI could have a role to play in the state's interaction with ASM on such matters as license fees, tax payments and export revenue. It is important not to assume that just because ASM does in many countries not yet contribute significantly to formal economic accumulation that the EITI is not relevant (Garrett, 2007). To the contrary, the EITI could be an important tool to ensure that more ASM revenue flows through official channels and that this additional state revenue will be published.

74. In 2007 the EITI Secretariat commissioned Nicholas Garrett to produce a report that highlights key challenges and opportunities for EITI implementation in the DRC's ASM sector³⁹. The report was envisioned to contribute to both ongoing deliberations on the need for clearer evidence of the benefits of the EITI for broader governance reform and to discourses on how to further the implementation of the EITI in the mining sector, particularly in mining-dependent countries. Focussing purely on the DRC, the report suggests that if the country's general reform process progresses and a minimum enabling environment can be established, the EITI can play a role in the country's ASM sector (Garrett, 2007).

75. The development of an implementable EITI strategy in ASM would not only be a significant contribution to welfare generation, but it would also lend the EITI added credibility as it would allow it to engage economic sectors, which in many mining dependent countries are not only of economic importance, but present a complex developmental

³⁵ <http://eitransparency.org/eiti/benefits>

³⁶ <http://eitransparency.org/eiti/benefits>

³⁷ African Development Bank (2007), African Development Report 2007: Natural Resources for Sustainable Development in Africa, ADB, Chapter 5.

³⁸ Ibid.

³⁹ Garrett, N. (2007), *The EITI and ASM*, EITI

challenge (Garrett, 2007). The EITI recognises this high relevance of ASM, with the caveat that the challenges outlined for the CTC pilot project in Section 1.2 of this report are equally applicable to the implementation of the ‘EITI in ASM concept’.

76. The EITI Secretariat currently assigns EITI implementation in ASM a comparatively ‘low priority’ in its portfolio of activities⁴⁰. The low prioritisation stems from two interlinked issues: Firstly, it has not yet been credibly demonstrated how EITI implementation in ASM could work, particularly in light of the sometimes grand scale of ASM and the low levels of formalization of the sector⁴¹. Secondly, the implementation of the ‘EITI in ASM concept’ through the EITI’s international governance structure may overload the EITI Secretariat and dilute effort away from the EITI’s core focus, which are oil, gas and (industrial) mining⁴². The EITI does however believe that if a third party would be able to drive the ‘EITI in ASM concept’ process, then the implementation of the ‘EITI in ASM concept’ would be a step worth considering on the national level⁴³.

77. Approaching the idea of implementing the ‘EITI in ASM concept’ from a more general level, it is clear that an implementation strategy would have to determine which mineral supply chains are most suitable for implementation, and how to achieve transparent revenue flows at different levels of the value chain.

78. In a value chain that comprises Mining → Trading → Exporting, implementation scenarios would work ‘upstream’. This implies that scenario A would tackle revenues at the exporting level; B would tackle revenues at the exporting and trading levels; C would tackle revenues at all three levels. The sense of these scenarios depends in actuality on precisely what the ‘revenue map’ of the value chain looks like in the implementing country, and what the level of revenue is that the state is supposed to collect at the mining level, trading level, and exporting level.

79. There are two general considerations of importance. They are whether 1) it is possible and desirable to levy taxes on some of the very small traders and individual operators at the mining level, and whether 2) it is feasible and sufficient to merely focus on the larger operators at the export stage. From a developmental perspective it may not necessarily make sense to tax the numerous small operators at the mining level⁴⁴. Many individual operators hardly generate enough income to sustain their livelihoods, and the main concern should be that a larger percentage of the entire revenue the AM sector produces is retroceded to the community level, and that labour conditions improve⁴⁵. From a practical perspective it is clear that there will be far fewer operators with higher turnovers to deal with at the exporting level than at the mining level. It would therefore be pragmatic to start with implementation scenario A that includes the CTC pilot project’s target group, which are the exporting buyers and producers.

The EITI ++ concept

80. In a recent development, the World Bank Group, in collaboration with other partners, has indicated in initial discussions its willingness to increase its commitment to taking a more holistic, integrated approach in its support to interested countries in their efforts to translate natural resource wealth into sustainable development (see **Box 1**)⁴⁶. This concept, which is a

⁴⁰ Interview with Jonas Moberg, Head of EITI Secretariat, 8/5/2008

⁴¹ Interview with Jonas Moberg, Head of EITI Secretariat, 8/5/2008

⁴² Ibid.

⁴³ Interview with Peter Eigen, EITI Chairman, 28/4/2008

⁴⁴ Interview with Peter Buchholz, BGR, 5/5/2008

⁴⁵ Interview with Markus Wagner, BGR, Hanover, 31/3/2008

⁴⁶ The World Bank (2008), Taking an EITI ++ Approach to Encourage Better Management of Non-Renewable Natural Resources, unpublished document

separate initiative to the EITI, has been given the preliminary working name ‘EITI ++’. It attempts to intervene along the entire chain of managing natural resources - from awarding contracts, to monitoring operations, collecting taxes, improving resource extraction and economic management decisions, and spending resources effectively for sustainable growth and poverty reduction⁴⁷.

Box 1: Indicative EITI++ Concept Issues

AREA	Selected Key Issues
Award of contracts and licenses	Sector law and basic regulations, including social/environmental Role of state enterprises Licensing /bidding procedures Fiscal terms, including price risk sharing Community interests
Regulation and monitoring of operations	Regulatory authority (approval/monitoring/enforcement) Participatory monitoring with community groups Audit procedures
Collection of taxes and royalties	Revenue collection Disclosure of revenue flows
Revenue extraction, economic mgt	Depletion rates/extraction decisions Macro management (e.g, Dutch disease) Savings decisions and institutions (volatility/future generations) Fiscal sustainability, link to budget and MTEFs
Sound sustainable development	Revenue sharing Public expenditure management improvements (all levels of government) Prioritized public investments Appraisal of projects (economic, social, environmental) Benefits to resource rich regions Monitoring of investments Complementary private investment Economic diversification
Cross cutting issues	Political economy considerations Institutional arrangements and capacity Governance and demand side accountability mechanisms

81. The EITI supports this World Bank initiative, as it acknowledges that the EITI currently only affects a narrow but focused segment of the value chain. However, the EITI’s product - credible information about the payments to governments from the extractive industries - should be the centrepiece from where a more comprehensive approach can start⁴⁸. It is important to protect the integrity of the EITI, including its essential multi-stakeholder governance, as a critical building block in the ‘EITI ++ concept’ approach. The EITI is ready to participate in further discussions about the practical implementation of this new initiative,

⁴⁷ Particular attention is thereby needed to understanding the political economy framework, including the various drivers (including mechanisms such as voluntary codes; institutions such as audit agencies, and constituent groups such as journalists, parliaments, and citizens groups) that influence the climate for sound governance.

⁴⁸ Interview with Peter Eigen, EITI Chairman, 23/4/2008

but there may be a need to consider an alternative name to the ‘EITI ++ concept’ that would avoid giving the impression that the EITI is a minor version of the more integrated approach proposed by the World Bank⁴⁹.

82. The following section establishes contact points and highlights synergies that could arise between CTC and the EITI, the ‘EITI+ concept’, the ‘EITI++ concept’ and the ‘EITI in ASM concept’.

Section 2.2: Contact Points and Synergies

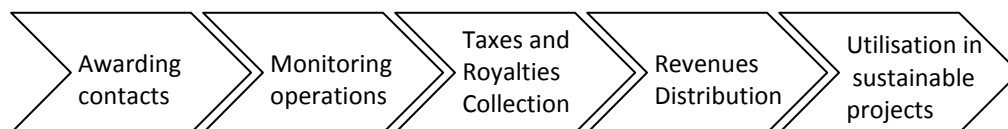
83. In order to assess the synergies between CTC and the EITI, the ‘EITI in ASM concept’ and the EITI++ concept’, it is first and foremost important to establish where the initiatives have contact points.

Establishing the Contact Points

84. In order to establish the main contact points between the different initiatives, it is important to take into consideration where they intervene in the mining value chains. It is hereby necessary to distinguish between the general value chain in the industrial mining sector and the AM and SSM sector value chains.

The Industrial Mining Value Chain

85. The industrial mining value chain comprises the following stages:



86. While CTC’s development is currently geared towards ASM, it may also be applicable for industrial mining operations in the future. In the industrial mining value chain, CTC would intervene at the ‘monitoring of operations’ and ‘collection of taxes and royalties’ stages and has the potential, if embedded in national law, to also affect the ‘awarding of contracts’ and the ‘domestic distribution of revenues’ stages. Based on the discussion of the EITI in Section 2.1, it can be established that CTC’s primary contact point with the EITI is at the ‘collection of taxes and royalties’ stage.

87. The World Bank initiative with the preliminary working name ‘EITI++ concept’ aims to intervene across the entire value chain, but it is as yet not clear, when and how exactly the ‘EITI++ concept’ will be implemented and what the success rate might be. In theory it overlaps with CTC in the ‘monitoring of operations’ and ‘collection of taxes and royalties’ stages, as well as the ‘awarding of contracts’ and ‘domestic distribution of revenues’ stages, if CTC will be embedded in national law.

88. Beyond the World Bank’s ‘EITI++ concept’ initiative, there have been a number of national level EITI driven attempts to extend the focus of the EITI on the national level that could result in further synergies. Nigeria, for example has advocated an ‘EITI+ concept’ that goes beyond the core focus of the EITI, and which may serve as a national strategy for other EITI implementing countries. ‘The EITI+ concept’ includes the following dimensions:

1. Reconciliation of Payments
2. Capacity building
3. Financial audits of companies and government
4. Process audits
5. Public information campaigns

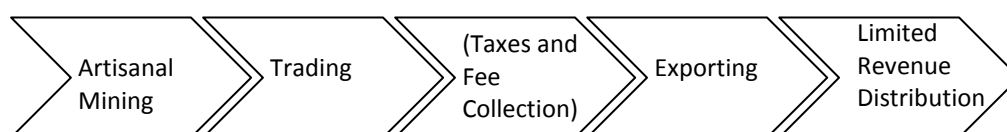
⁴⁹ EITI (2008), Press Release 13/4/2008, <http://eititransparency.org/taxonomy/term/9>

89. It is important to highlight here that Nigeria is merely applying the ‘EITI+ concept’ to its oil and gas sectors and that the implementation of the ‘EITI+ concept’ in the country’s mining sector has not commenced⁵⁰. The EITI Secretariat is clear about the fact that it aims not to dilute effort away from the core task of the EITI, which is the reconciliation of payments and revenues. Nigeria’s initiative will thus not result in the core of the international EITI process extending beyond its current focus. In theory, however, the ‘EITI+ concept’ would have contact points with CTC in all five of the dimensions introduced above.

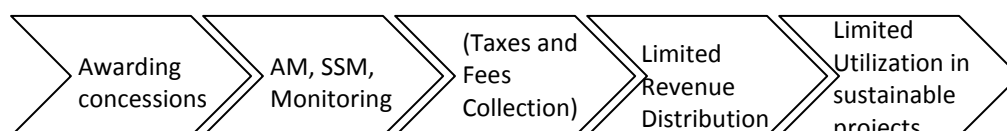
The AM and SSM Value Chains

90. The AM and SSM value chain differs considerably from the industrial value chain. It is here, where more contact points emerge between CTC and the ‘EITI in ASM concept’.

91. The AM Value Chain comprises the following stages:



92. The SSM Value Chain comprises the following stages:



93. As stated in section 2.1, the EITI does currently not intervene in the AM and SSM value chains. The ‘EITI in ASM concept’ is an idea that is still at the conceptual stage, with the EITI assigning it a low priority internationally. On the national level, however, the implementation of the ‘EITI in ASM concept’ – and therefore in the AM and SSM value chains - could be managed as part of an extended sectoral focus of the EITI, so long as it is externally driven. In other words it is a realistic option, if it could be managed by the CTC process, or by the ‘EITI++ concept’ initiative, for example. The main contact points between CTC and the ‘EITI and ASM concept’ would depend on the depth of implementation of the ‘EITI in ASM concept’, as discussed in Section 2.1. At the very least, the two initiatives would overlap at the ‘Taxes and Fees Collection’ stage.

The CTC Draft Standard

94. This sub-section develops the argument from the more general discussion of the contact points to the more specific overlaps by revisiting the CTC Draft Standard developed for the pilot project in Rwanda as introduced in **Section 1.1**. The draft standard makes specific references to the EITI in Standard 17, which implies that an implementing company or AMO is required to: *meet fiscal obligations required by host government law and publish all payments made to government in accordance with the standards of the EITI*. The implementation of Standard 17 as part of CTC puts in place and enhances the capacities of some of the fundamental governance structures required for EITI, ‘EITI+ concept’, EITI++ concept’ implementation, and the potential implementation of the ‘EITI in ASM concept’ in particular.

95. Standard 17 adherence would be a significant step towards the regularization of both SSM company and AMO trading activities, and increase the direct contribution of the ASM sectors towards states’ resource mobilisation, which can translate into development processes

⁵⁰ Interview with EITI representative, 27/4/2008

through formal economic growth. In practice Standard 17 requires AMOs and SSM companies to familiarize themselves with the technicalities of adhering to EITI Standards, such as to learn how to fill in templates, as well as to develop and upgrade their recordkeeping structures.

96. Standard 17 does not only affect SSM companies and AMOs. Its implementation would require the GoRwanda's revenue collecting institutions to upgrade their collection capacities, recordkeeping capacities and reporting structures. The latter would significantly progress the GoRwanda's ability to eventually join the EITI and implement the process efficiently and effectively. The ensuing transparency at the mineral export stage would have a particularly beneficial impact, as experiences from other countries show that significant state revenue is often lost through irregular exporting practices, such as under- or wrongly declaring exports (Garrett, 2008a).

97. It is important to note that SSM company and AMO adherence to Standard 17 does not equate to EITI implementation in the country, as this would entail the necessary national EITI structures to be in place – inclusive of the active participation of Rwandan civil society – and the government actually publishing the amount of payments it receives from the AM and SSM sectors. A further caveat is that the CTC Draft Standard includes wider requirements, some of which have been derived from specific provisions in the 'integrity instruments' developed and managed under the authority of the Organization for Economic Cooperation and Development (OECD). These include the *Guidelines for Multinational Enterprises* (2000) and the *Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones* (2006). Some EITI members do not recognize the OECD guidelines, which may present a political stumbling bloc to some of the synergies that arise from CTCs and the EITI's structure.

Synergies, Mutual Benefits and Scope for Collaboration

98. This section highlights the principal synergies, mutual benefits and scope for collaboration between CTC, the EITI, the 'EITI+ concept', the 'EITI in ASM concept' and the 'EITI++ concept', which manifest themselves in the following areas:

Government Capacity and Control Functions

99. Government institutions are central to the functioning of both initiatives, the credibility of which depends upon their capacity and integrity in governing the minerals sector and contributing to the implementation and administration of the two initiatives. The impending implementation of CTC and the EITI can result in the necessary attention and emphasis being placed on the need to increase government capacity for it to contribute meaningfully to the two initiatives. Their actual implementation helps to strengthen government control functions, such as the adherence to standards and processes, as well as improvements in recordkeeping. These improvements would in turn provide a good basis for the implementation of the 'EITI+ concept', the 'EITI++ concept' and the 'EITI in ASM concept', which would all in turn contribute to the strengthening of government control functions also on the subnational level.

Finding Civil Society Stakeholders

100. CTC as a new initiative, as well as the 'EITI+ concept', the 'EITI++ concept' and the 'EITI in ASM concept' could make use of the fact that the EITI is an established initiative and seek its advice with regard to finding suitable civil society stakeholders both on the national and the international levels.

Civil Society Capacity

101. Civil society has an important role to play in the initiatives as an active stakeholder. For civil society to be able to fulfil this role effectively it requires adequate capacity. The implementation, or potential implementation of the initiatives would place significant

emphasis on this issue, which would hopefully result in adequate civil society capacity building processes to be put in place. Beyond these external processes, the initiatives provide a communication platform for the multiple stakeholders in the LSM and ASM sectors. Particularly for civil society, this provides an opportunity to not only voice its input, but to increase its knowledge of the relevant issues, to directly interact with the government and the private sector, and thus to actively build its capacities. Hence there is both an external and an internal element to civil society capacity building.

Private Sector Knowledge

102. The initiatives work closely with the private sector on the operational level and the private sector is also an active participant in the multi-stakeholder structure of the initiatives. The initiatives thus provide platforms for learning about the private sector, and for the private sector to learn about civil society and government priorities. This could result in some of the reservations the different stakeholders have about one another to dissolve.

National Level Management

103. Depending on the final design of the national CTC structure, a number of synergies could arise on the national management level. The initiatives could be housed within the same institution, thus allowing for day-to-day cooperation with the aim to create a national level powerhouse for transparency in the natural resource sector. Alternatively, the initiatives could be housed separately, thus creating an incentive for mutual learning and interaction on the national level, not only between the initiatives, but also between the national host institutions. An additional area of collaboration is that the initiatives could collectively lobby governments, donors and civil society to help overcome the challenges to implementation, and seize on the opportunities for implementation, as identified in **Section 1.2** of this report.

National and Sub-National Level Learning and Trust Building

104. The initiatives encourage mutual engagement and learning amongst the stakeholders particularly on the national and sub-national level. This is an important contribution to a more efficient functioning of the initiatives, but also for the home nations as such, which will experience that things can be achieved more easily in a spirit of collaboration. The end result are higher levels of trust in the political economy, which can result in positive collaborations in wider and not necessarily thematically related fields of the nations' political economies. With regard to the implementation of Standard 17, CTC can learn from the EITI's national experiences.

Data Gathering and Auditing

105. On the operational level, significant synergies arise from the data gathering and auditing processes. The scope of the CTC audit is extensive and goes far beyond the administrative task that would be required of, for example, small-scale exporting companies to comply with the EITI or the 'EITI in ASM concept', such as filling in templates. This implies that audits could be shared, particularly as a result of Standard 17 of the CTC Draft Audit. Beyond the audit, the data gathered as part of the CTC process would provide a good understanding of what is happening on the ground - in particular on the political economy level. This would facilitate the implementation of the 'EITI in ASM concept' in particular.

Virtual Information Exchange

106. A study conducted by Crossin, Hayman and Taylor in 2005 identifies a number of preconditions for the operational efficiency of certified trading chains (Crossin, Hayman and Taylor, 2005). In order for a CTC to significantly impact upon transparency, an 'efficient reporting structure and effective information exchange' stand out as highly important. These elements comprise:

- Coordinated information exchange, such as harmonized and accessible databases and

intelligence-sharing agreements

- Cooperative data sharing arrangements with relevant national and international parties and international standards bodies

107. The initiatives could thus take the overlap in data gathering and auditing a step further, by actively seeking the sharing of information, through, for example, a mutual or third-party website. This database could contain national data on type and quantity of commodities exported and imported, dates, and intermediaries involved at all stages of the trading chain. This database could be extended by a database incorporating all related official documents, decisions, guidelines, reporting handbooks, and timelines. This would provide a particularly valuable resource for civil society stakeholders, who also have a monitoring function within the initiatives.

Conferences

108. The EITI hosts or co-hosts conferences and workshops to share information and best practice both nationally and internationally. At the very minimum the initiatives could be represented at each other's conferences in order to facilitate information exchange. The initiatives could also share and or co-host conferences in order to achieve higher effectiveness through wider participation, reduce costs, and maximise mutual learning amongst the national and international stakeholders. Shared conferences could be undertaken with the help of the World Bank, CASM, and/or the IFC and would provide a suitable platform for potential implementing governments, civil society and companies to learn about the processes. These conferences would also provide national civil society with an early opportunity to familiarise themselves with the initiatives and benefit from the experiences of their peers in other implementing countries.

International Secretariat Location and Mutual Learning

109. The Voluntary Principles on Security and Human Rights are an example of an international initiative, which appears to have had reduced organisational energy as it did not benefit from a Secretariat. The EITI appears to have considerable organisational energy because it benefits from a well-functioning Secretariat. Hence, one can argue that a Secretariat would provide CTC with the necessary organisational energy to make it a relevant initiative and ensure the widespread adaptation of the process. Mutual learning and shared opportunities are the most important contributions from the plethora of initiatives that the natural resources sectors could provide for one another. In order to maximise these opportunities, the long-term Secretariat would be co-located with similar initiatives, such as the EITI. The Secretariat would work in close cooperation with regional bodies, such as the International Conference on the Great Lakes Region (ICGLR), which is pursuing a parallel mineral certification scheme.

Formal Representation

110. The initiatives could have representation within the formal structures of the other initiatives. In practice this could mean that a CTC representative attends EITI board meetings as an observer (no voting rights). The EITI could have a seat on CTC's board (in case CTC will have a board). This would be particularly useful, if the 'EITI in ASM concept' process would be managed by CTC.

Public Information Campaigns

111. The initiatives could share public information campaigns both on the national, sub-national, regional and international level. This could on the one hand reduce costs, but on the other hand also leave scope for larger and therefore more effective campaigns.

Establishing the ‘EITI in ASM concept’

112. CTC and the EITI could collaborate in the establishment of the ‘EITI in ASM concept’. In **Section 2.1** we have learned that the EITI Secretariat currently assigns EITI implementation in ASM a comparatively ‘low priority’ in its portfolio of activities⁵¹. The low prioritisation stems from two interlinked issues: Firstly, it has not yet been credibly demonstrated how EITI implementation in ASM could work, particularly in light of the sometimes grand scale of ASM and the low levels of formalization of the sector⁵². Secondly, the implementation of the EITI in ASM concept through the EITI’s international governance structure may overload the EITI Secretariat and dilute effort away from the EITI’s core focus, which are oil, gas and (industrial) mining⁵³. Reversing this train of thought and considering the possibility of the establishment of an independent international CTC Secretariat, this CTC Secretariat could be designed to accommodate the task of implementing the ‘EITI in ASM concept’, receiving advice from and collaborating with the EITI Secretariat, where feasible. Given the wider scope of its data gathering and assessment activities CTC would be better placed to lead this process than the EITI itself⁵⁴. An ‘EITI in ASM concept’ subgroup in the CTC Secretariat could thereby oversee the piloting of ‘EITI in ASM concept’ in a number of countries, which could - for the sake of convenience - also be CTC countries.

113. Beyond the discussed synergies between CTC and the EITI, the ‘EITI+ concept’, the ‘EITI++ concept’ and the ‘EITI in ASM concept’, there may also be scope for a more formal integration of CTC into other already existing processes targeting the extractive industries. A discussion of the options of a more thematically orientated integration approach as opposed to a more regionally orientated integration approach would be a useful subject for a follow-up study⁵⁵. A thematic orientated approach would have to consider processes, such as the Kimberley Process Certification Scheme, whereas a regional approach would have to consider processes, such as the ICGLR’s certification scheme.

⁵¹ Interview with Jonas Moberg, Head of EITI Secretariat, 8/5/2008

⁵² Interview with Jonas Moberg, Head of EITI Secretariat, 8/5/2008

⁵³ Ibid.

⁵⁴ It is important to remember that an ‘EITI in ASM concept’ process is currently still at the conceptual stage.

⁵⁵ Please refer to recommendations.

Part 3: Conclusion and Recommendations

Section 3.1: Conclusion

114. This report explored synergies and the scope for collaboration between the German Government's CTC pilot project in Rwanda and the concept of the EITI (i.e. disclosure). In the process the report also discussed synergies and scope for collaboration between CTC and the 'EITI+ concept', the 'EITI++ concept', and the 'EITI in ASM concept', bearing in mind that the latter are all processes still at the conceptual stage.

115. There are a number of contact points between the initiatives along the mining sector value chains. Further contact points result from CTC's Standard 17, which requires companies to: *meet fiscal obligations required by host government law and publish all payments made to government in accordance with the standards of the EITI*. Despite these contact points it is currently not a realistic option to formally integrate the two initiatives. A formal integration of CTC into the EITI would significantly extend the responsibilities of the EITI Secretariat. This is due to the CTC Draft Standard's wider focus, incorporating environmental and social standards, which would overload the EITI Secretariat's capacities, and dilute effort away from the EITI's core focus, thus jeopardizing the effectiveness of the core EITI. Should the CTC Draft Standard become more concentrated on transparency provisions, a more formal integration of the two initiatives could become a more realistic and desirable option.

116. Despite the lack of a realistic formal integration of the two initiatives, the result of this study is nevertheless a positive one. The study has been able to establish that there are synergies between the two initiatives, which leave scope for collaboration in specific areas. These areas have been established and elaborated in **Section 2.2**. It is important to note that synergies vary between the different initiatives, with the largest overlap identified with the 'EITI+ concept', the World Bank's 'EITI++ concept', and the 'EITI in ASM concept' – all of which would be of highest relevance on the national level, if they were to develop beyond the conceptual stage. The following recommendations have been developed with the objective to create first opportunities for the two initiatives to collaborate, where possible and politically feasible.

Section 3.2: Recommendations

117. Estelle Levin's report *Certified Trading Chains in Mineral Production – Towards Technical Assistance* makes specific recommendations to progress the CTC pilot project in Rwanda. The following recommendations deal exclusively with the synergies aspects of the CTC project, as presented in this report.

CTC multi-stakeholder consultation

118. To ensure that CTC implementation works for all stakeholders, it is crucial that the GFG (through BGR) initiates a multi-stakeholder consultation process, which will be an opportunity for national and international stakeholders to provide input and address concerns. This is also a realistic first thematic point of engagement with the EITI. This process would make CTC a more sustainable initiative, raise its political legitimacy, and serve to raise the awareness of synergies and avenues for collaboration with other players and initiatives.

Liase with the EITI about national level civil society partners

119. The GFG should seek a dialogue with the EITI on the national level with respect to its experiences with national level CSOs and their respective suitability to become active stakeholders in the CTC process.

Liaise with the EITI regarding information exchange

120. GFG (through BGR) should discuss with the EITI the possibility of data exchange and sharing. While the synergies arising from such a process are obvious, the author has not been able to determine, whether this is politically and legally feasible.

Explore the ‘EITI in ASM concept’

121. The GFG should lend its support to a potential pilot process of the implementation of the ‘EITI in ASM concept’ and consider the possibility of integrating the ‘EITI in ASM concept’ initiative into the CTC architecture, both domestically and internationally. This should be undertaken following an in-depth consultation with CASM and the EITI following a comparative ‘EITI in ASM concept’ pre-feasibility study, which the GFG should commission. The EITI should lend its moral support to the ‘EITI in ASM concept’ process.

Explore the ‘EITI+ concept’

122. The GFG (through BGR) should discuss with NEITI the experiences Nigeria has had with the ‘EITI+’ model and scope out whether and how it is transferrable to the CTC process, and its wider support to the EITI on the national levels in the Great Lakes Region.

Follow discussion on ‘EITI ++ concept’

123. It will be important for CTC to follow the future discussions on the approach suggested by the World Bank in order to maximise potential synergies and learning opportunities. At the same time, it is important to recognise that discussions on the ‘EITI++ concept’ are still at an early stage, and it will be interesting to see what lessons can be learned from a proposed pilot implementation in Guinea and Mauritania⁵⁶.

Liaise and collaborate with CASM

124. GFG (through BGR) should actively seek dialogue with CASM to scope out how the CASM network can support CTC implementation beyond generating support for the initiative through its conferences. CASM could be a communication platform with the World Bank’s initiative with the current working name ‘EITI++ concept’ and lobby not only for the integration for work on transparency in the AM sector in the ‘EITI++ concept’ initiative, but to scope out areas for integration of and/or collaboration with CTC. CASM could proactively support the piloting of the ‘EITI in ASM concept’. CASM Africa could also provide its regional expertise to the national implementation process, which is an opportunity that should be further developed in discussions with the GoRwanda and the CTC stakeholders.

Discuss the location of an international secretariat with similar initiatives

125. In order to maximise mutual learning opportunities and the efficient exchange of information, GFG (through BGR) should seek discussion with similar initiatives as mentioned in **Section 2.2** of this report over the location of an international secretariat. Ideally the secretariat should be co-located with an already functioning and similar initiative. Since the CTC process is German government led, a particularly attractive option is the co-location with the EITI office in Berlin.

Discuss national management structures and location with similar initiatives

126. In order to maximise mutual learning opportunities and to exploit potential strategic opportunities, GFG (through BGR) should discuss the national level management structures and the location of the national level management structures with similar initiatives, which are already operational on the national level.

⁵⁶ Interview with Jonas Moberg, Head of the EITI Secretariat, May 5th 2008

Commission further research on synergies and scope for collaboration

127. It is suggested that the GFG (through BGR) commissions another study that looks in detail and comparatively at the synergies and scope for integration and or cooperation of CTC with other existing initiatives. Examples are: IRMA (Initiative for Responsible Mining Assurance), ARM (Association for Responsible Mining), the Madison Dialogue, the DDI (Diamond Development Initiative), the (Earthworks) Solutions Centre, CASM (Communities and Small Scale Mining Network), the World Bank, the makeITfair Campaign, ITRI, the Global e-Sustainability Initiative (GeSi), and the Electronics Industry Citizenship Coalition (EICC)⁵⁷.

Engage in dialogue with new geographies

128. Indian and Chinese purchasing houses and end users will soon become significant purchasers of minerals from the Great Lakes Region. GFG (through BGR) should engage in dialogue with the new geographies. It can consult with other initiatives, such as CASM, who have already made some headway into establishing this dialogue. Possible entry points for GFG could include⁵⁸:

- Encouraging these countries to join donor coordination mechanisms in the minerals sector;
- Think about including new geography firms in PPAs;
- Work in close collaboration with teams in donor home countries and New Geography countries;
- Work closely with the CASM Asia and CASM China office;
- Provide support to government and civil society to understand better the interests and approaches of the New Geography countries⁵⁹

Identify and engage with spoilers

129. On the national level, spoilers could emerge on all levels, including national and provincial political elites, within security forces and amongst the many actors in the trading chain who benefit from the current opacity and lack of regulation. GFG should seek to identify proactively both potential spoilers (and develop strategies for engaging with them⁶⁰), as well as the principle winners (and consider whether these are groups one wishes to support). GFG should enter into dialogue with existing initiatives about their experiences with potential spoilers.

Discuss and provide technical assistance

130. A dialogue between the implementing German development cooperation organisations should provide the basis for how CTC implementation should best be integrated in larger German development cooperation efforts. BGR should ensure that German development cooperation is completely rounded and works together and in the same direction to guarantee a smooth set up of the CTC process. This is of particular relevance to the capacity of the government agency where the national level implementation process will be housed. Dialogue should also be held with other donors, who are currently – or may in the future be –

⁵⁷ A first overview of linkages between CTC and these initiatives can be found in Levin (2008), pp. 30

⁵⁸ Garrett, N. et al (2008)

⁵⁹ A successful first step in this direction was made in Nigeria where Norwegian, Chinese and Nigerian researchers jointly worked on a study which focused on identifying common interests in the oil sector: Nigerian Institute of International Affairs (2007)

⁶⁰ For example, *comptoirs* and *négociants* (potential losers of reform) could be engaged in dialogue around mining sector reform through business associations and conferences in the trading centres, where they cluster.

providing technical assistance to Rwanda (and the DRC), as well as existing initiatives about the capacity needs of the national and sub-national level institutions.

Support civil society

131. The German Government should support the engagement of civil society with the CTC process, and invite support from international civil society in developing support for Rwandese CSOs, which may be, or may become a stakeholder in CTC. This should include an emphasis on making NGOs understand issues around revenue transparency, which is an objective in line with German development cooperation priorities. This should be coordinated with the EITI, which has made inroads into capacitating civil society on the national levels.

PPAs

132. The formalisation of AMOs and SSM companies is one important aspect for the successful implementation of CTC and the 'EITI in ASM concept' on the national level. For an activity to be "formal" there must be a body of regulations, which control it (Eklund, 2007). In practise this is not yet the case in Rwanda, which is why the development of a legal basis for the sector should be prioritised. Once this basis is in place, particularly companies can support a formalisation process in ways that lead to mutually beneficial relationships. Salient steps must therefore be developed, which develop community partnerships and develop business relationships with ASM, such as local sourcing or buying ASM output under acceptable ASM conditions. GFG should start to support such activities in Rwanda through Partnership Programme Agreements (PPAs). It is important to bear in mind that AMOs should neither be ruled by the private sector, nor by the GoRwanda and must not be embedded in the political system⁶¹. They can partner and have relations with the private sector and the GoRwanda, but must be independent and able to criticise the private sector and the GoRwanda and advocate for the miners' rights. This is not a tool for the private sector and the GoRwanda to control ASM, but for ASM to be empowered and speak to government effectively and collectively. The recent experience of the Sustainable Minerals Management Programme in Uganda in organising and formalising AM is informative⁶².

⁶¹ Interview with Estelle Levin, 12/4/2008

⁶² Interview with Estelle Levin, 12/4/2008

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