

Beratung in Entwicklungsländern GmbH

with



Implementing Transparency in the Artisanal and Small Scale Mining Sector

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Background

In 2007 the German Federal Ministry for Economic Cooperation and Development (BMZ) commissioned BGR to implement the project “Policy Advice Mineral and Energy Resources”. The project provides consulting services to BMZ with regard to artisanal and small-scale mining in particular.

In the context of this project the question was raised on how to increase transparency in the artisanal and small-scale mining sector. Therefore, BGR assigned Projekt-Consult GmbH to conduct a study on this topic. Projekt-Consult GmbH has teamed up with Nicholas Garrett from London-based specialist consultancy Resource Consulting Services Limited (RCS) to produce the Liberia part of the study.

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List of acronyms

APM	African Precious Metals
ASM	Artisanal and Small-scale Mining
BMZ	German Federal Ministry for Economic Cooperation and Development
BGR	German Federal Institute for Geosciences and Natural Resources
BoT	Bank of Tanzania
CASM	Communities And Small-scale Mining
CSR	Corporate Social Responsibility
CTC	Certified Trading Chains
DDI	Diamonds for Development Initiative
D4D	Diamonds for Development
DRC	Democratic Republic of Congo
EITI	Extractive Industries Transparency Initiative
FBME	Federal Bank of the Middle East
FBO	Faith Based Organisation
FDI	Foreign Direct Investment
GDO	Government Diamond Office
GDP	Gross Domestic Product
GEMAP	Governance and Economic Management Assistance Program
GoLiberia	Government of Liberia
GST	Geological Survey of Tanzania
IMF	International Monetary Fund
KPCS	Kimberley Process Certification Scheme
LEITI	Liberia Extractive Industries Transparency Initiative
LSM	Large-Scale Mining
MDA	Mineral Development Agreement
MEM	Ministry of Energy and Minerals
MoF	Ministry of Finance
MRO	Metals Refining Operations
MSG	Multi-Stakeholder Group
NEMC	National Environmental Management Council
NGO	Non-Governmental Organisation
NMML	New Minerals and Mining Law
NSGRP	National Strategy for Growth and Reduction of Poverty
ODI	Overseas Development Institute
PID	Project Information Document
PML	Primary Mining License
PMMC	Precious Metals and Marketing Cooperation
PNG	Papua New Guinea
PRSP	Poverty Reduction Strategy Paper
RCS	Resource Consulting Services
SACCOS	Savings And Credit Co-Operative Society
SMMRP	Sustainable Management of Mineral Resource Project
TCME	Tanzania Chamber of Minerals and Energy

TPDC	Tanzania Petroleum Development Corporation
TRA	Tanzania Revenue Authority
UN	United Nations
UNDP	United Nations Development Programme
URT	United Republic of Tanzania
USGS	United States Geological Survey

Abstract

The purpose of this study is to analyse how transparency initiatives can be implemented in the artisanal and small-scale mining (ASM) sector and which costs and benefits this implicates. The study identifies strategies how to enhance transparency in the ASM sector and it attempts to give detailed recommendations regarding the implementation of the strategies. It shall thereby contribute to enhancing transparency in the ASM sector.

Two country case studies, Liberia and Tanzania, have been chosen. For both countries, ASM is an important part of their economies (approximately 10% of the population depend on the sector). In both cases, the sector is largely informal. Furthermore, the state is, up to now, not sufficiently capable to control and formalise the ASM sector in the two countries. Both, Liberia and Tanzania implement the Extractive Industries Transparency Initiative (EITI) and have attempted to integrate the ASM sector in the process by including ASM representatives in the EITI Multi-Stakeholder Groups (MSG). They are, however, at very different stages of EITI implementation: Liberia is an EITI compliant country since November 2009, Tanzania still has until February 2011 to complete validation. In both countries, there are other initiatives to enhance transparency.

Several key findings have emerged from this study: an impasse arises out of the present situation of the ASM sector and the preconditions for EITI implementation. The classical fiscal EITI requires a formalised environment as payment and revenue tracking is impossible without proper record keeping. The present low level of formalisation in the ASM sector is therefore a serious obstacle for EITI implementation. The EITI itself, however, is not a mechanism for formalisation. If the EITI shall be implemented with a focus on fiscal transparency it is, at present, only possible at the export stage. Before formalisation of the ASM sector has advanced, the focus of a transparency initiative should be on trust building and cooperation among different mining stakeholders. The ASM sector, however, is presently not even sufficiently organised to ensure the success of the latter strategy. Moreover, it is questionable whether the ASM sector is fully and legitimately represented in the EITI MSG. Last not

least, the governments lack capacities to further the integration of the ASM sector in the EITI process.

Against this background four strategies for the transparency enhancement and EITI implementation in the ASM sector have been elaborated. The first strategy is to implement the EITI at the export stage. This would allow the state to capture at least a part of the ASM revenues. It is an entry point for formalisation and the further deepening of the EITI along the value chain. In Liberia, dealers and traders support the EITI because they hope for a better standing and more support if their fiscal contribution is officially recognised. Many challenges remain, however, including the cost effectiveness, the inclusion and formalisation of non-participating traders, the lack of capacity etc.

The second strategy is to use the EITI to enhance trust and cooperation among the different mining sector stakeholders. The trust building among mining stakeholders is important to improve cooperation, prevent conflicts and facilitate transparency. The EITI MSG can be used as a communication forum for mining stakeholders and especially to inform, connect with, and give a voice to the ASM sector. The strategy is also an entry point for a possible future fiscal EITI. The main challenges for this strategy are capacity building for the artisanal miners, a better organisation of the miners and the legitimisation of the ASM representatives in the EITI MSG.

The third strategy is to enhance transparency in the ASM sector through private sector investment. Private sector investment in the ASM sector can have a positive effect on formalisation and transparency and vice versa. Therefore, the government should promote private sector investment in ASM operations and offer assistance services to the parties, on condition that the enterprises adhere to EITI principles and participate in the EITI implementation process. The major challenge is the risk involved in investment in ASM operations. The social risk could be addressed through the OECD Risk Awareness Tool. To address the geological risk, the challenge is for the government to provide reliable information on the ASM operations.

The fourth strategy is to make use of synergies with other transparency initiatives implemented in the country. These include initiatives with a focus at enhancing

transparency in the trade chain, such as CTC, KPCS, or Tanzanite Foundation Protocol, or focusing on social and environmental performance, such as Fair Trade. The principal synergies between the EITI and other initiatives aiming at enhancing transparency in different include virtual information exchange (creation of a database); strengthening of government control functions; national level management; civil society involvement; an international secretariat and mutual learning; and, possibly, capturing the expenditure side of government funds that is not addressed by the EITI. The key challenge for this strategy is to convince the leaders of the different initiatives to collaborate.

Recommendations have been elaborated specifically for each of the four strategies as well as for the implementation of the EITI in the ASM sector in general. As for the general recommendations, firstly, it is important to note that a purely monetary cost-benefit analysis of the EITI ignores the social benefits it might have. The commitment of governments should therefore be created by marketing the participation of ASM in the EITI as a tool with positive side effects on conflict minimisation and consensus building. To create commitment of the ASM communities, their participation in the EITI should be marketed as a means to obtain a voice in the national mining dialogue, to optimise opportunities for upgrading the operation, and to obtain a social license to operate.

The EITI as an ongoing process requires constant capacity building, information for and discussion with the ASM delegates in EITI MSG and the ASM sector in general. A successful and sustainable integration of ASM will only be possible if the government supports and creates an enabling environment, particularly through support to increased organisation of the sector, support to increased formalisation, enhancement of transparency in the resource administration and the stimulation of cooperation with other initiatives.

Finally, the pilot testing of the four strategies to enhance transparency in the ASM sector is essential in order to validate the findings of the present study.

I Introduction

This report is concerned with the challenge of how to increase transparency in the artisanal and small-scale mining (ASM) sector. Increased transparency may help the state developmentally engage with the sector, as it would better understand the political economy of taxation and trade, and it may also capture more revenues from the sector. This in turn may endow the state with additional resources, which it may spend in a developmentally effective manner. Formalising and making transparent the revenue flows from the ASM sector is a key aspect of the overall goal of increasing transparency. Thus BGR has commissioned Projekt-Consult GmbH to undertake a study on options to enhance transparency in the ASM sector with a particular focus on EITI. The conceptual framework feeding into this report had included, amongst general considerations towards increasing transparency, the consideration of three different engagement strategies, focussing on:

- a) the export level, i.e. the dealers;
- b) the export level and the intermediate trading level, i.e. the dealers and brokers;
- c) the export level, the intermediate trading level, and the mining level, i.e. dealers, brokers, and miners

However, the research found that levels of formalisation in the two case study countries are not sufficient to implement the EITI at any other but the export stage. Thus, it was sought to develop broader strategies, which are both, adapted to the current situation on the ground, and in line with the overall EITI policies, to increase transparency in the ASM sector.

BGR had chosen two countries, namely Liberia and Tanzania, as case studies for this research. The countries were selected because they are EITI candidate/compliant countries that have included ASM representatives in their Multi Stakeholder Groups (MSG). Besides this common feature, the two cases are interesting because of the great differences in EITI implementation. Liberia has just completed validation and is now the second EITI compliant country. Tanzania has joined the EITI as candidate country in February 2009 and has until February 2011 to undergo validation.

The variables looked at in the countries include the legal and governance framework, the level of formalisation of the ASM sector, the ASM trade chain, the importance of the ASM sector for the countries, the reasons for the inclusion of the ASM sector in the EITI process and further initiatives aiming at enhancing transparency in the countries' mining sectors.

The study included desk-based as well as field research in Liberia and Tanzania. The field work in Liberia was carried out during 2 weeks in November 2009 by Nicholas Garrett of RCS and Gisa Roesen of BGR. The research areas in Liberia included Monrovia and Sake Town (Lofu River) for both, gold and diamond mining. Mining activity in Liberia was low due to the rainy season, which in turn made more substantial field research unfeasible. The field work in Tanzania was carried out during two weeks in September 2009 by Johanna Carstens of Projekt-Consult. In Tanzania, the research areas included Dar es Salaam as well as the Lake Zone (particularly Geita District and the mine sites at Lwamgasa and Nyarugusu) for artisanal and small-scale gold mining and the Northern Zone (particularly the Simanjiro District and the mine sites at Mererani) for artisanal and small-scale Tanzanite mining.

Data for this study was collected during site visits and semi-structured interviews with key stakeholders of the EITI, including international and national EITI members and experts, and key stakeholders of the ASM sectors in Liberia and Tanzania, including government officials, artisanal and small-scale miners, mineral brokers and dealers and members of civil society organisations. Further, government reports and statistics, EITI publications, publications by other transparency initiatives as well as relevant secondary literature were reviewed. The participation in the 2009 CASM meeting in Mozambique which included a session on *Developing International Standards: Fair Trade, Certification, and Transparency in Artisanal and Small-scale Mining* and, moreover, many additional opportunities to discuss the topic with international ASM experts, also contributed to this study.

Chapter IIa presents the Liberia case study, chapter IIb presents the Tanzania case study, chapter III presents the four strategies developed for transparency and EITI

implementation in the ASM sector, and chapter IV draws conclusions and presents recommendations.

Ia Country Case: Liberia

After fourteen years of civil war that ended in 2003, Liberia is now working with international partners to cement peace and to revive its once thriving economy.¹ While the Government has been able to attract interest from selected industrial mining companies, some of which have moved into exploration, 98% of exported minerals are produced by ASM. Before 1990, the then partly industrialised mining sector contributed more than 65% of export earnings and approximately 25% of GDP.² Today GoLiberia revenue from the export of gold and diamonds accrues up to US\$ 1,309,435.93³ and a key consideration is how to increase this revenue so to broaden the resource base for the state to be able to support the 'war economy' to a 'peace economy' transition.

This transition must be carefully managed owing to an underlying fragility born of weak national security institutions and high youth unemployment.⁴ Remembering this past contribution, both the Government and donors are hoping the mining sector will underpin sustainable resource-based growth and development (see Figure 1 below). In practice, this means it is hoped the sector will contribute government revenues and earn foreign exchange, create employment, stimulate ancillary economic activities, develop human capital and technology, and improve social and physical infrastructure.⁵ These actions are inextricable from a political process, as their success or failure will critically depend on the Government's political will and its ability to attract partners to help move the process along.

¹<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/LIBERIAEXTN/0,,menuPK:356200~pagePK:141159~piPK:141110~theSitePK:356194,00.html>

² Draft 5, Mineral Policy of Liberia (August 2008), Ministry of Lands, Mines and Energy, Monrovia, Republic of Liberia, p. 5

<http://www.molme.gov.lr/doc/Liberia%20Draft%20Minerals%20Policy%20clean.pdf>

³ Liberia Statistics

⁴ IMF, 2008, Liberia: Poverty Reduction Strategy Paper, p.7

<http://www.imf.org/external/pubs/ft/scr/2009/cr09177.pdf>

⁵ Ibid

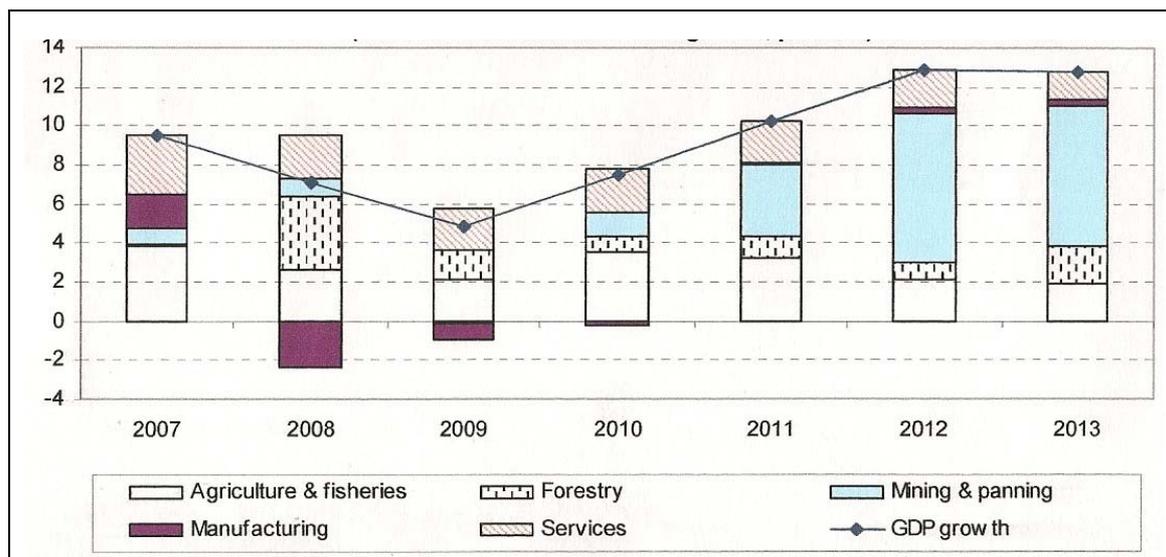


Figure 1: Liberia Medium Term Outlook 2007-2013 (Sectoral Contribution to GDP growth, per cent)⁶

General conditions ASM sector Liberia

Legal and Governance Framework

Liberia is a unitary state with three separate branches of government: the legislature which makes the law, the executive which is headed by the president and appoints cabinet ministers and directors of agencies to assist in administering affairs of state, and the judiciary which consists of justices of the Supreme Court, judges, magistrates and justices of the peace.⁷ Regarding its legal system, Liberia has a dual system of statutory law based on Anglo-American common law for the modern sector and customary unwritten law for the native sector for exclusively rural communities.⁸ At the local level, the Ministry of internal Affairs, whose minister is appointed by the president, coordinates governance within the counties and the provinces. There are traditional governments within the counties at every level of the provincial subdivision: the paramount chief governs chiefdom, the clan chief governs a clan and the general town chief governs several towns. Although the civil war may have shattered many traditional structures and values, these are still in place and they have a potential role

⁶ Source: IMF, 2008, Liberia: Poverty Reduction Strategy Paper, p. 7

<http://www.imf.org/external/pubs/ft/scr/2008/cr08219.pdf> (accessed on the 15/09/2009)

⁷ Diamonds for Development. March 2008. Poverty and Social Impact Assessment and Strategy Formulation on Artisanal Diamond Mining Reform in Liberia. UNDP. p.13.

⁸ "Liberia". *CIA - The World Factbook*. United States Central Intelligence Agency. April 2, 2009. <https://www.cia.gov/library/publications/the-world-factbook/geos/li.html>. Accessed on the 20/11/2009

to play in local development and mining reform policy discussion and implementation.⁹ The principal ministry responsible for the mining sector is the Ministry of Land, Mines and Energy.

The Liberian legal and regulatory framework for the mining sector is comprised of the following major elements:¹⁰

1. The ***New Minerals and Mining Law*** (NMML) of 2000, amended in 2004, defines the rights and obligations of holders of mineral rights in respect of social and environmental management plans, fiscal and regulatory obligations, and provisions for mine permitting and mine closure. Despite its relative completeness, it is recommended to integrate into the NMML complementary provisions dealing with the impact of envisaged mining activities on local communities. The absence of pre-determined mechanisms leaves communities exposed to social impacts without measures for compensation. Specific measures on the export, import and transit of rough diamonds are also included in Chapter 40, which prescribes procedures for the KPCS.
2. A ***Mineral Policy***, published in August 2008, provides a tool to monitor and report on the mining sector's tax contributions, create a competitive business environment, and establish a framework for the equitable distribution of resource rents. It does not have the force of law but rather serves as a set of guiding principle for authorities in charge of the mining sector and potential investors alike. Affected communities can use the mineral policy to hold bad operators to account. From the Government's point of view, a published mineral policy clarifies the country's regulatory framework to ensure that mining supports the state's development goals. From investors' perspectives, a formal mineral policy can be seen as a framework for imposing some degree of discipline on all government bodies in the formulation and enforcement of laws

⁹ Diamonds for Development. March 2008. Poverty and Social Impact Assessment and Strategy Formulation on Artisanal Diamond Mining Reform in Liberia. UNDP. p.14.

¹⁰ Liberia, Tapping Nature's Bounty for the Benefits of All, Diagnostic Trade Integration Study, Dec. 2008, p.67
http://www.integratedframework.org/files/english/Liberia_DTIS_Report_Vol%20I.pdf

and regulations, therefore showing a willingness to act fairly and transparently. Regarding the ASM sector, the Mineral Policy states that:¹¹

- The Government of Liberia will facilitate the provision of business, technical and economic skills to assist miners in mine sustainability, and will give them access to appropriate technologies for the modernisation of the sector.
- The Government of Liberia will also make available extension services to support ASM operations through technical advice and capital (micro-loans) schemes.
- To enable ASM to obtain access to finance, consideration shall be given to enhance the creditworthiness of their operations and license tenure.
- ASM need help in procuring lawful access to deposits, markets and information about fair prices for their products. A regime for licensing buyers of their products, with an accessible register of persons so licensed will help in this regard. The establishment of assay laboratories to determine the content of ore offered for sale can reduce opportunities for buyers to take advantage of the miners as well as ensure there are appropriate technologies for producing higher grade (standard) products.
- The development of an internet-based portal for marketing precious minerals would also assist the miners to obtain technical and business advice as well as competitive prices.¹²

¹¹ Draft 5, Mineral Policy of Liberia (August 2008), Ministry of Lands, Mines and Energy, Monrovia, Republic of Liberia, p. 11

<http://www.molme.gov.lr/doc/Liberia%20Draft%20Minerals%20Policy%20clean.pdf>

¹² Draft 5, Mineral Policy of Liberia (August 2008), Ministry of Lands, Mines and Energy, Monrovia, Republic of Liberia, p. 11

<http://www.molme.gov.lr/doc/Liberia%20Draft%20Minerals%20Policy%20clean.pdf>

3. The ***Mining Regulations*** define specific procedures by which mineral rights, such as licence fees, are acquired, transferred, rescinded, or modified. They are issued by the Minister of Lands, Mines and Energy and have to respect the NMML.¹³

4. The ***Public Procurement and Concession Act*** passed by the National Transitional legislative Assembly in 2005 aims to maximise efficiency in procurement, obtain best value for public expenditures, and promote integrity, fairness, accountability and public confidence in the public procurement process. The Act also applies to the issuance of concessions in the mineral and mining sector (Section 75 (1) (b)i.). It affects the NMML by subjecting it to the provisions of Part IV of the Act.

5. The ***Revenue Code***, approved on 15 December 2000, contains fiscal and taxation rules of general application but explicitly reserves Chapter 7 for rules on the taxation of the natural resources industry to be included in Phase II of the Tax Reform Program. The goal of the Revenue Code is to establish a fiscal regime which:¹⁴
 - Optimises the inherent value of the mineral resources;
 - Is efficient (it encourages optimal extraction and avoids high grading);
 - Garners an equitable share of the resource rents for the nation and the developer;
 - Uses instruments of international best practice;
 - Is transparent and competitive, and takes account of African trends;
 - Is simple to administer;
 - Eliminates non-standard incentives for specific rights holders, and
 - Provides mechanisms to ensure:
 - local processing (value addition);
 - the development of local supplier industries;

¹³ <http://www.greenadvocates.org/Compendium/PDF/L.%20Mining%20Regulations.pdf> p.2

¹⁴ Draft 5, Mineral Policy of Liberia (August 2008), Ministry of Lands, Mines and Energy, Monrovia, Republic of Liberia, p. 8
<http://www.molme.gov.lr/doc/Liberia%20Draft%20Minerals%20Policy%20clean.pdf>

- increased training and employment of locals;
- local technology development (R&D);
- the integration of mining with other sectors.

The **Mineral Development Agreements (MDAs)**: Major (industrial) projects often require a special agreement to clarify terms and conditions regarding schedules of investment, mine closure and land reclamation, the use of shared infrastructure, and the economic, environmental, and social contributions of the mine to the region. As of December 2007, Liberia had approved nine MDAs covering close to 885,000 acres.¹⁵ It is clear from past investigations and present ASM activities that Liberia is not only richly endowed with diamonds, but also has substantial gold reserves.¹⁶ The ASM sector produces 98% of gold and diamonds in Liberia and an estimated 10% of the population depend on the sector, which is labour intensive, with very little equipment and pre-investment.¹⁷ There are thought to be around 100,000 artisanal miners in Liberia¹⁸, though the accuracy of this number is uncertain as there have been no attempts to do a census of ASM and a large proportion of the sector is informal.¹⁹ The global financial crisis, which started to have an impact on the mining sector from 2008 led to a shift in production from diamonds to gold.²⁰ This was a result of a dramatic decline in demand for rough diamonds, while the gold price continued to rise (see Figure 2 below).

The unlocking of the sector's potential is partly hampered by larger governance issues, such as inadequate laws and regulations, weak state capacity to monitor and

¹⁵ Diamonds for Development. March 2008. Poverty and Social Impact Assessment and Strategy Formulation on Artisanal Diamond Mining Reform in Liberia. UNDP. P.15

¹⁶ Liberia has considerable iron ore reserves, which have been industrially mined in the past and have attracted new interest from Arcelor Mittal, BHP Billiton and the Chinese. Other minerals present include beryl, tin, columbite-tantalite, phosphates, zinc, copper, lead, rare earth minerals, nickel, molybdenum, beach sand (zircon, rutile, ilmenite, and monazite), bauxite, kyanite, chromite, uranium and silica sands. All are characteristically associated with Precambrian/Proterozoic rocks, which underlie most of the country (Source: Mining in Liberia, Overview - <http://www.mbenidi.com/indy/ming/af/li/p0005.htm>).

¹⁷ Diamonds for Development, Programme Framework, Nov. 2005, p.11
http://www.lr.undp.org/d4d_Programme_document.pdf

¹⁸ Hayes, Karen. Nov. 2008. Artisanal and Small-Scale Mining and Livelihoods in Africa, p.11, Common Fund for Commodities.

¹⁹ Armstrong W., D'Souza K., de Pooter E., *Monitoring, formalisation and control of the artisanal alluvial diamond mining sector*, p.93

²⁰ Interview with Dealers and Brokers Association of Liberia, Monrovia, November 2009

thus fully understand the dynamics of the artisanal mining sector, prevalent financial constraints of operators within the ASM sector, and technical issues, such as a serious lack of geological data and the absence of a functioning cadastre and of a framework to manage relations between mines and neighbouring communities.²¹

While the sector contributes to subsistence and thus prevents further decline, its development contribution has so far been small.

The Gold Sector

The Government places particular hopes into gold production, as the metal has withstood the general decline in commodity prices related to the global financial crisis. Figure 2 suggests the gold price has increased over the past five years and that it has withstood the international financial crisis.



Figure 2: World Gold Price 2004 – 2009²²

The principal ASM production areas for gold are Maryland, Grand Kru, River Gee, Sinoe, and Grand Gedeh counties, though people can be found digging in many rural areas across the country.²³

²¹ Liberia: Diagnostic Trade Integration Study, Concept note, p.7

²² Source: INFOMINE online

Official figures put annual production of gold currently at up to 30 kilograms.²⁴ Several interviewed dealers and brokers suggested that around 90% of gold is being exported fraudulently, which suggests that annual gold production could be as high as 300kg presently.²⁵ While mining companies, such as Amlip, are considering whether to start industrial gold mining, until the day these would eventually move into production, all gold extracted in the country will come from the ASM sector.²⁶ The figure below shows the gold export value in 2008 and figure 5 shows the evolution in the first half of 2009.

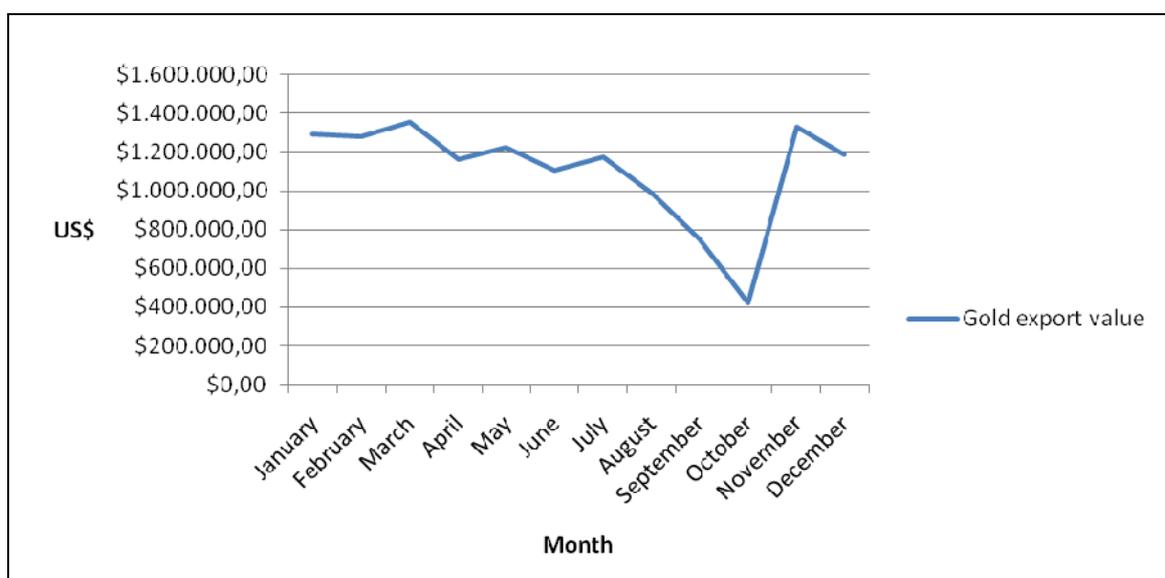


Figure 3: Gold export value between January and December 2008²⁷

²³ Interview with Ministry of Mines, Land and Energy, Monrovia, November 2009

²⁴ Liberia, Tapping Nature's Bounty for the Benefits of All, Diagnostic Trade Integration Study, Dec. 2008, p.61

http://www.integratedframework.org/files/english/Liberia_DTIS_Report_Vol%20I.pdf

²⁵ Interview with Dealers and Brokers Association of Liberia, Monrovia, November 2009

²⁶ Liberia, Tapping Nature's Bounty for the Benefits of All, Diagnostic Trade Integration Study, Dec. 2008, p.61

http://www.integratedframework.org/files/english/Liberia_DTIS_Report_Vol%20I.pdf

²⁷ Source: Liberia Mining Sector Statistics, Ministry of Mines, Land and Energy, 2009

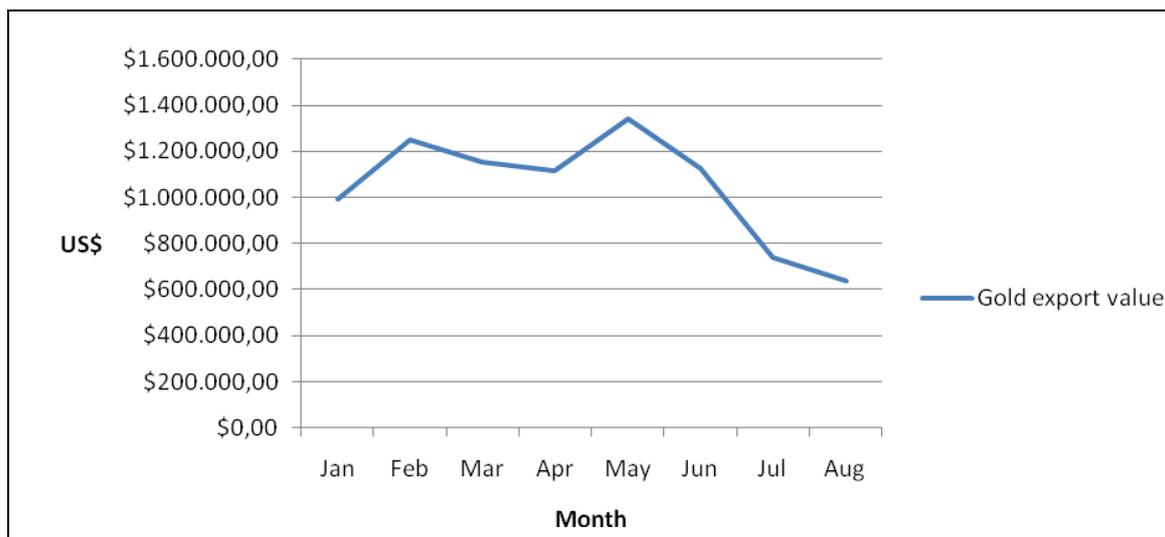


Figure 4: Gold export value between January and August 2009²⁸

The Diamond Sector

Liberia's ASM sector has historically been dominated by diamond mining. Larger stones and specials have increased in value for the past three years, while prices for smaller diamond prices have stayed relatively constant (see Figure 5 below). Both prices have dropped during the international financial crisis in 2008/2009. Only since March 2009 have they stabilised again.

²⁸ Source: Liberia Mining Sector Statistics, Ministry of Mines, Land and Energy, 2009

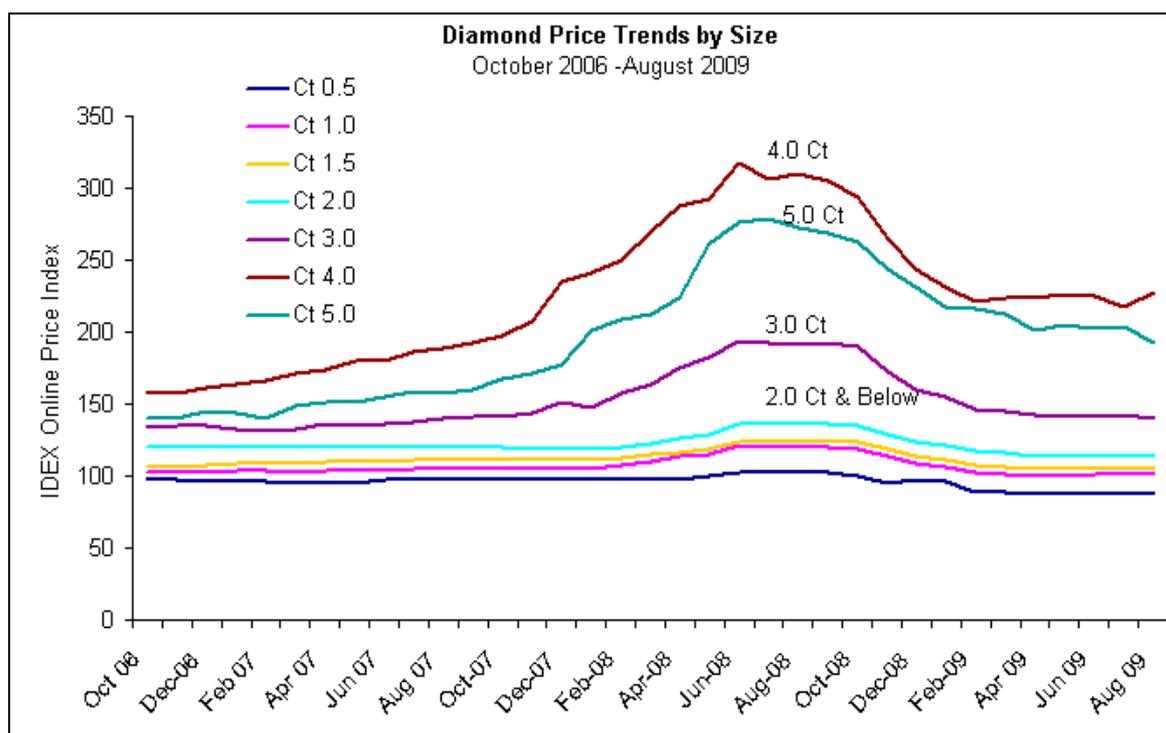


Figure 5: Diamond Price Development 2006 – 2009²⁹

The majority of diamond mining occurs along the Lofa river and between the Lofa river and the border with Sierra Leone, in the north-west of the country.³⁰ Liberian diamonds are considered slightly inferior in comparison with Sierra Leonean diamonds, which suggests that Liberia, Guinea and The Gambia are significant destinations for smuggled diamonds from Sierra Leone, and Liberian dealers are known to pay higher prices for Sierra Leonean diamonds.³¹ On average, 25% of Liberia's diamonds are of gem quality, 40% of near gem and 35% of industrial quality.³²

Liberia officially produced 155,000 carats of diamonds in 2001 before the ban on exports imposed by the UN Security Council Resolution 1343 in order to stop proceeds from the sale of so-called “blood diamonds” which were contributing to financing conflict in the region.³³ The sanctions were lifted in April 2007 following the country’s eventual compliance with the Kimberley Process Certification Scheme (KPCS), which is

²⁹ Source: IDEX online, http://idexonline.com/portal_FullNews.asp?id=32876 (accessed on the 10/09/2009)

³⁰ Mining in Liberia, Overview - <http://www.mbendi.com/indy/ming/af/li/p0005.htm>

³¹ Interview with Estelle Levin, Mano River Union Minerals Sectors Expert, London, November 2009

³² <http://www.mbendi.com/indy/ming/dmnd/af/li/p0005.htm>

³³ Liberia, Tapping Nature’s Bounty for the Benefits of All, Diagnostic Trade Integration Study, Dec. 2008, p.61
http://www.integratedframework.org/files/english/Liberia_DTIS_Report_Vol%20I.pdf

further discussed below. As of May 2008, the Government Diamond Office (GDO) (discussed below) had issued a total of 43 Kimberley Process certificates, although four of them were subsequently cancelled. Thus, 39 shipments of rough diamonds had left Liberia with KP certificates. The 39 valid certificates authorised the export of 39,971.37 carats of diamonds valued at approximately US\$5,452,485, which suggests a value per carat of US\$136. Liberia earned approximately \$163,876 in 3 per cent export duties from these shipments.³⁴

The following figure shows the development of diamond production values between January and December 2008. It suggests the sector produced a total of 47,006.50 carats (equivalent to US\$9,891,785.34) in 2008. In reality, however, this number is expected to be several orders of magnitude higher, due to extensive smuggling through bordering Sierra Leone, Guinea and Côte d'Ivoire.

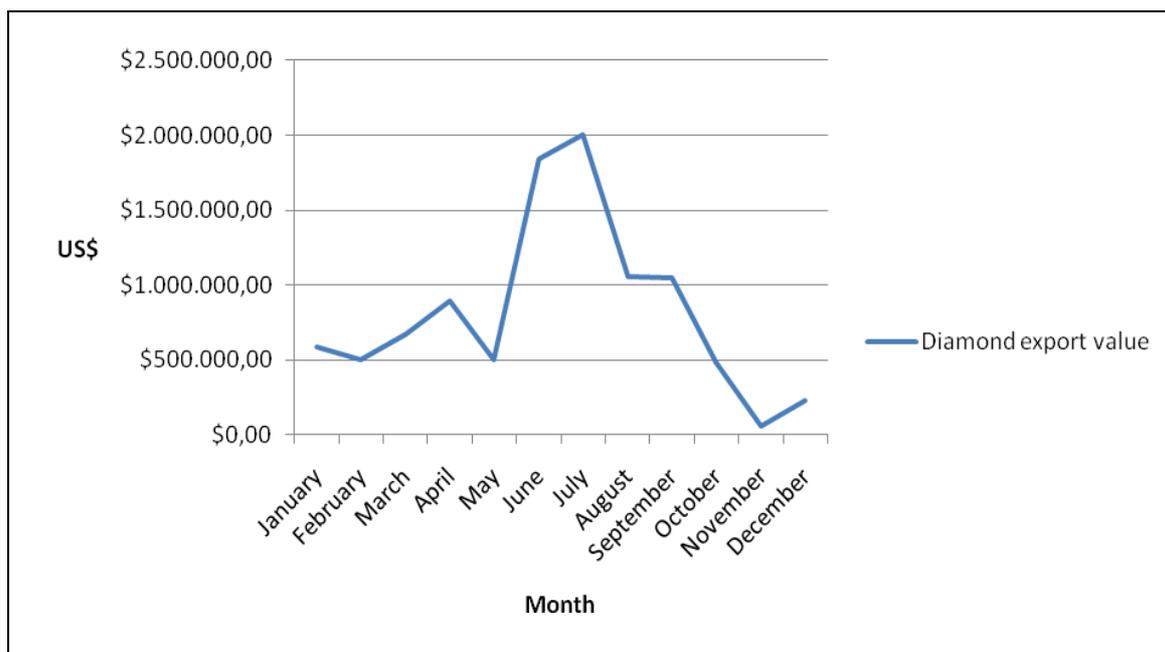


Figure 6: Diamond export value between January and December 2008³⁵

³⁴ *Ibid*

³⁵ Source: Liberia Mining Sector Statistics, Ministry of Mines, Land and Energy, 2009

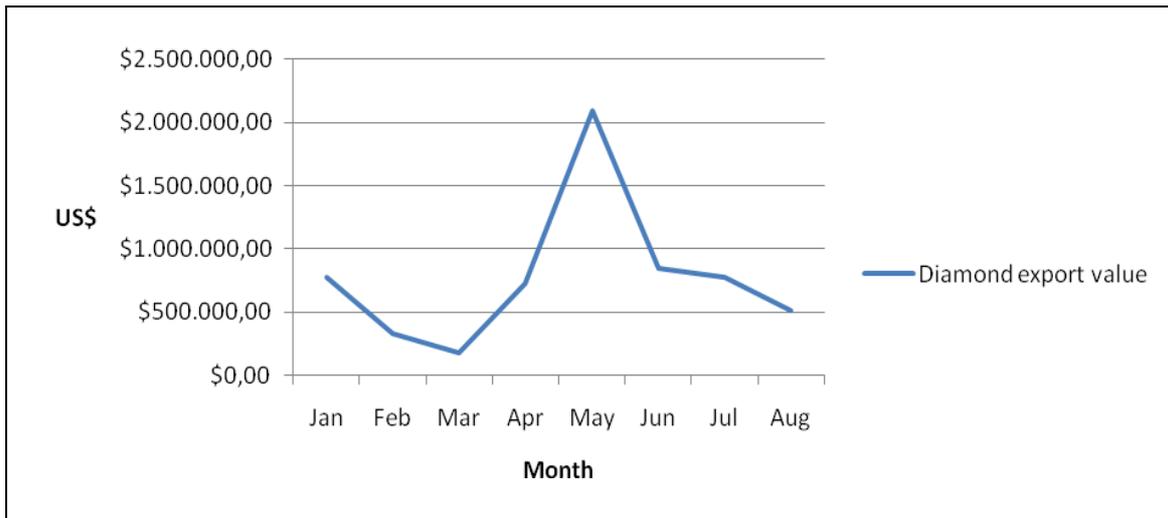


Figure 7: Diamond export between January and August 2009³⁶

According to the United States Geological Survey (USGS), Liberia's artisanal diamond production could approach 200,000 carats per year, and continue to increase slowly into the future.³⁷

³⁶ Source: Liberia mining sector statistics, Ministry of Mines, Land and Energy, 2009

³⁷ http://mlme.net/mlme/index.php?option=com_content&task=view&id=39&Itemid=49

The ASM Trading Chain

Figure 10 below maps the major participants in the ASM value chain. Agents are here to ascertain that the mineral production they support is turned over.

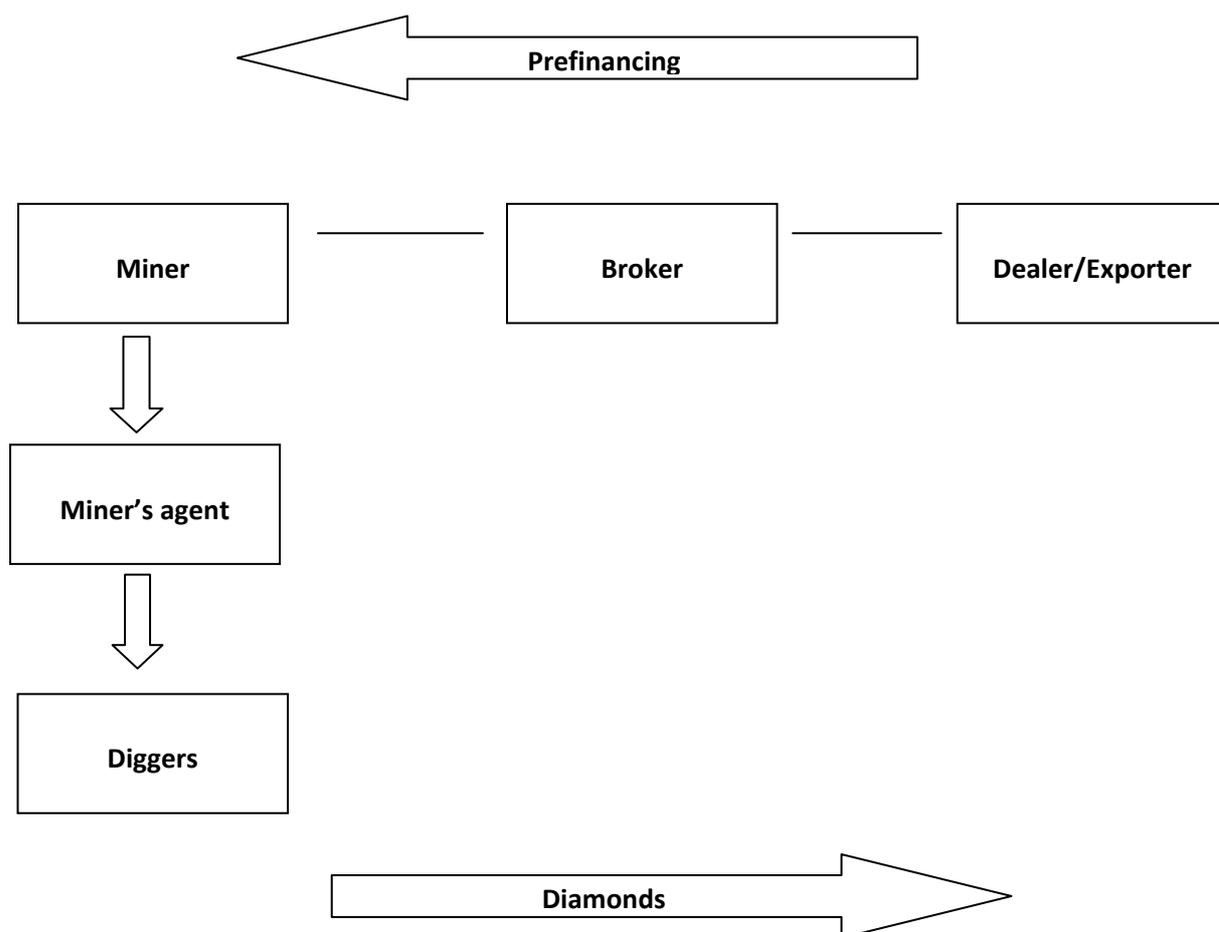


Figure 8: Artisanal Mining Structure in Liberia³⁸

The diggers (often an average of 10-20 individuals, mostly from the same village) do the digging and others wash the gravel they unearth. A ‘watcher’ usually guards the operation, in order to prevent theft of gravel, diamonds and equipment. Diggers and washers are the people situated at the lowest level of the value chain. Depending on

³⁸ Diamonds for Development. March 2008. Poverty and Social Impact Assessment and Strategy Formulation on Artisanal Diamond Mining Reform in Liberia. UNDP. P.19

the arrangement, the diggers see very little return and are often unpaid unless a diamond is found. Diggers often only receive 500 grams of rice per day on average for digging and when a stone is found (often after some months of digging), the whole crew should receive 42.5% of its final value.³⁹ However, the selling price is often related to the diggers' needs/hunger more than to the market price.⁴⁰ Operationally speaking diggers are the most vulnerable members of the ASM value chain, save for traditionally marginalised groups, like women and children, who tend to be given subordinate or inferior roles in production or delivering services to the diggers (e.g. water carrier, cook, etc.). For a comprehensive digger's profile, see box below.

- **Number of respondents:** 80 mine workers of whom 8 were female.
- **Age:** None below 16 years; 38% between 16 and 30 years; 45% between 31 and 45 years; 8% between 46 and 60 years; and 10% over 61 years.
- **Education:** 36.2% have never been to school; 30% reached elementary grades; 18.8% reached junior high; and 15% reached senior high. Of the total, 23.8% were still in school.
- **Origin:** 51.3% were from the host counties; 23.7% from other counties; and 35% were from other countries (i.e. Sierra Leone, Mali, Guinea and Mauritania).⁴¹
- **Number of years as digger:** 12.5% have been mine workers for less than five years; 41.3% have worked as mine workers from between 10 and 19 years; and 17.5% for over 20 years.
- **Ex-combatants:** D4D field research suggests that an estimated 70% of the present diggers are ex-combatants.
- **Working conditions:** 100% had worked up to 10 hours a day.

Box 1: Collective profile of interviewed diggers⁴²

³⁹ Diamonds for Development, Programme Framework, Nov. 2005, p.11

http://www.lr.undp.org/d4d_Programme_document.pdf

⁴⁰ Ibid

⁴¹ Note that 85% of the 20 foreign mine workers were interviewed in Gbarpolu and the other 15% in Nimba.

⁴² Diamonds for Development. March 2008. Poverty and Social Impact Assessment and Strategy Formulation on Artisanal Diamond Mining Reform in Liberia. UNDP. P.25

Higher up the value chain are the “miners” who supervise mining activities and deal with license-holders/local chief (buyers), or “supporters”. The miner should receive around half of the balance of the stone’s final value (42%) but is in reality often only paid a quarter of the value. The supporter is supposed to receive 15% of the stone’s final value. The supporters fulfil a key function as they often financially support the diggers, hoping the diggers will in turn come to them with the diamonds they find. Considering that formal agreements are the exception, trust and a sense of obligation are essential to these unstructured relationships, which are subject to the specificities of client-patron relationships in general.⁴³ Lack of knowledge, social protection and financial capital easily allow for exploitation and duping by those higher up in the value chain.

The final level of the value chain is made up of exporters, buying from buyers and dealers, who export to international markets. Each operator must have a licence to either mine or trade; the buyer issues a receipt and records the sale for each transaction, and records are passed on to the point of export, where the exporter must prove origin in order to export the diamonds.⁴⁴ The Government Diamond Office receives and values shipments intended for export. Personnel verify all paperwork. The highest of three values (provided by the exporter and Government and independent valuers) is used to determine the 3% Government royalty. Once the dealer verifies payment of the royalty, the Government Diamond Office (GDO) issues a Kimberley Process certificate and authorises export. The Office also maintains a computerised, relational database.⁴⁵

Growth Prospects and the Fiscal Linkage of the ASM Sector

Artisanally mined minerals presently contribute little to government revenues, whilst requiring significant expenditure to monitor the activity and enforce regulations, in particular the KPCS requirements. On this basis, it would seem attractive to increase

⁴³ For a detailed description of how these relationships work, please refer to Levin E., Gberie L., 2006, *Dealing for Development? The Dynamics of Diamond Pricing and Marketing in Sierra Leone*, DDI.

⁴⁴ Ministry of Mineral Resources, *Policy Measures relating to small-scale and artisanal mining and marketing of precious minerals*.

⁴⁵ *The News*, 03.08.09, Liberia: UN Panel Raises Concerns Over Diamond Trade, <http://www.globalpolicy.org/component/content/article/182/33862.html>

the fiscal linkages of the ASM sector. This section discusses the theoretical rationale for doing so, while the following sections focus on the rationale for and the practical implementation of formalisation and revenue transparency.

In 2009 the fiscal contribution of license fees for gold, diamond, scrap metal, exploration and quarry accounted for US\$296,000 or 5 per cent of the total revenue on domestic taxes on goods and services in Liberia. This represents 1 per cent of internal revenue for the third quarter of the fiscal year 2009.⁴⁶ It is worthwhile questioning the benefit of increasing revenue for the Liberian state, in a context where historically equitable sub-national redistribution of wealth has not occurred. Broadening the revenue base is one avenue towards creating the financial basis to support incremental change in the institutions of the state and to endow these institutions with the necessary means to drive a larger governance reform process.⁴⁷

The success of this strategy largely depends on the extent to which a tax system contributes to productive capacity building. There is no robust evidence to suggest that tax ratios as a percentage of GDP have any systematic relationship with economic growth.⁴⁸ The difficulty of establishing any relation is due to the complexity of disentangling both the effects of the absolute and marginal rates of taxation, and nominal and effective tax rates on economic growth, as well as isolating the growth effects of different types of taxes (trade, income, consumption).⁴⁹

It is also difficult to disentangle the tax regime from other macroeconomic (such as monetary policy) and microeconomic policies (such as industrial policy) that affect the growth path.⁵⁰ Moreover, the capacity of the state to tax does not necessarily translate into similar capacities such as undertaking industrial policy. Finally, there is the issue of endogeneity. Taxes may not only affect growth, but growth may affect the capacity of the state to tax because sustained growth involves the growing formalisation of the

⁴⁶ Ministry of Finance, Fiscal Outturn, April 2009, p.16
<http://www.mofliberia.org/PUBLISHED%20FISCAL%20OUTTURNS%20FOR%20QIII-MAY%2019%202009.pdf>

⁴⁷ Garrett, Nicholas, 2010, *Mining as a Source of Growth*, The World Bank

⁴⁸ Easterly, W. and Rebelo, S. 1993. Fiscal Policy and Growth: An Empirical Investigation, *Journal of Monetary Economics*, 32.

⁴⁹ Di John (2008), Fiscal Reforms, Developmental State Capacity and Poverty Reduction, UNRISD, p. 31

⁵⁰ Di John (2008), Fiscal Reforms, Developmental State Capacity and Poverty Reduction, UNRISD, p. 31.

economy and the development of a manufacturing sector, both of which make tax collection easier.⁵¹

Advocates of more statist interventions point to the fact that taxes are necessary to finance public goods (education, health, and infrastructure), which are necessary for physical and human capital accumulation. Indeed, the potentially positive contribution of taxation to growth is a standard result in many endogenous growth models that incorporate public finance and public services.⁵² Our analysis subscribes to the latter school of thought, which is why we have emphasised the fiscal linkage above. Readers interested in the sub-national redistribution of wealth should follow ongoing discussions around the so called “EITI ++” that is looking at the transparent and developmentally beneficial sub-national redistribution of state revenue.

In Liberia, the different minerals sectors contribute to the domestic revenue base through export taxes, license fees and royalties. The International Monetary Fund’s growth projections until the year 2027/28, on post-global recession export value levels (excluding iron ore), are encouraging (see Figure below).

⁵¹ Ibid.

⁵² Barro, R., and Sala-i-Martin, X. 1992. Public Finance in Models of Economic Growth, *Review of Economic Studies*, vol. 59.

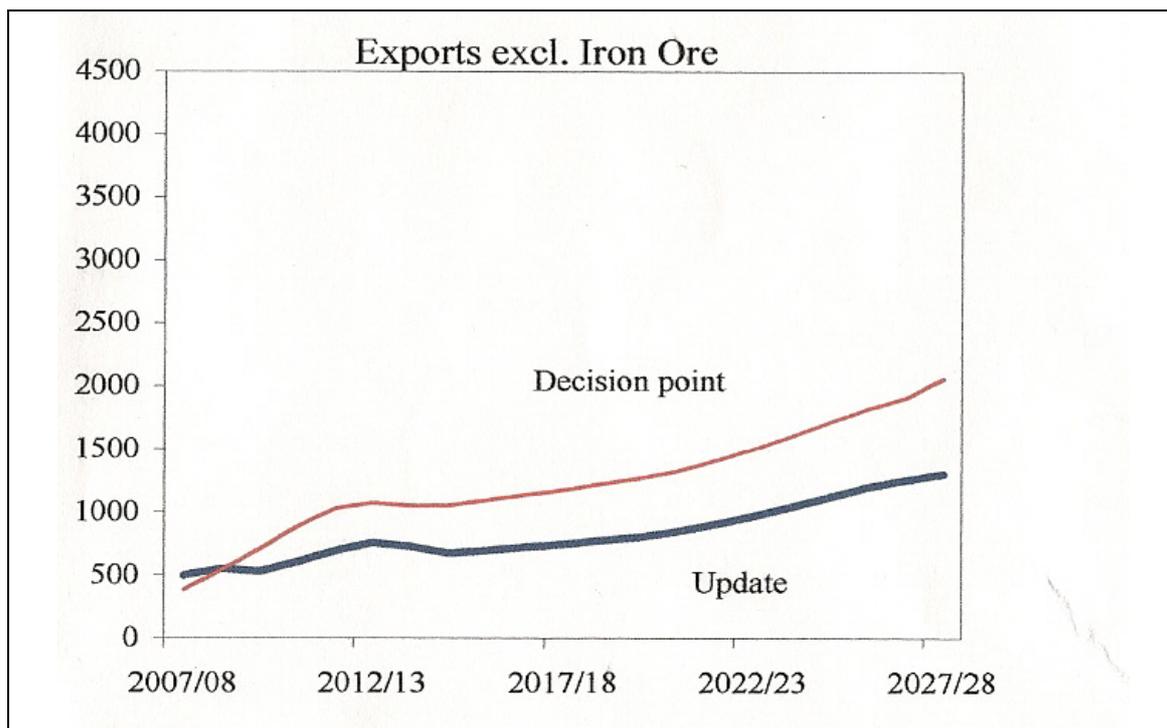


Figure 9: Liberia mineral exports projections, excluding iron ore⁵³

In 2008, total royalties paid for gold and diamond exports amounted to \$267,132.37 and \$296,753.56 respectively. See figure below.

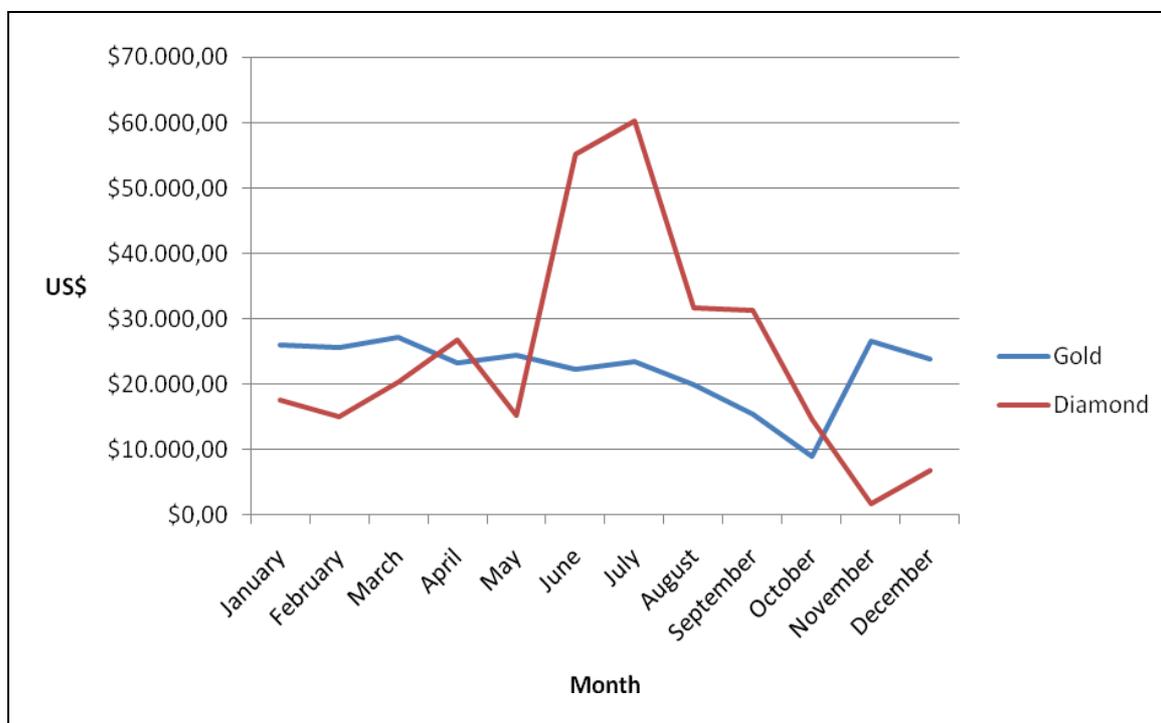


Figure 10: Royalties paid for gold and diamonds exports in 2008⁵⁴

⁵³ Source: IMF, 2008, Liberia: Poverty Reduction Strategy Paper, p. 62 (accessed on the 20/09/2009) <http://www.imf.org/external/pubs/ft/scr/2008/cr08219.pdf>

⁵⁴ Source: Liberia statistics

If present suggested levels of fraudulent exports of around 90% in both gold and diamonds⁵⁵ could be reduced, the fiscal linkage would strengthen further.

Overall, according to the Liberian Ministry of Finance⁵⁶, lower prices on the international market for Liberia's primary exports threaten its growth prospects. About 95 per cent of the country's exports are primary commodities (including gold, diamond, rubber, iron ore, timber) whose prices are determined on the world market. Deterioration in demand for these commodities thus affects export earnings significantly, weakening both national income and the balance of payments. As a result, the GoLiberia, in collaboration with the IMF, has adjusted growth for the medium term. For 2009, real GDP growth is expected to fall well below earlier projections to 4.9 per cent, 7.5 per cent for 2010 and around 9 per cent for 2011, which are nevertheless impressive growth figures, bearing in mind the war ended only 6 years ago.

Formalisation of the ASM sector

The large majority of mining and trading in Liberia's ASM sector remains informal, which increases the power of unscrupulous businessmen willing to exploit the situation.⁵⁷ The response to this situation may be two-fold. On the one hand, when smuggling can be sufficiently disincentivised, operators may become more willing to formalise. On the other hand, to positively incentivise miners, brokers and dealers to join the formal economy and implementing transparency along the value chain may be a route to build a significant political constituency to help tackle the remaining smuggling and in the long-term, formalise a larger share of the sector.⁵⁸

The government will need to establish clear incentives if miners and traders are to formalise their activities. Though the current situation offers limited security of tenure, participation and financial security, it is flexible, adaptable, and self-disciplining (as

⁵⁵ Estimate provided by Dealers and Brokers Association of Liberia, Monrovia, November 2009

⁵⁶ Ministry of Finance, Fiscal Outturn, April 2009, p.14

<http://www.mofliberia.org/PUBLISHED%20FISCAL%20OUTTURNS%20FOR%20QIII-MAY%2019%202009.pdf>

⁵⁷ Koen Vlassenroot and Steven Van Bockstael, 2008, *Setting the scene: Perspectives on artisanal diamond mining*, p.4

⁵⁸ Compare, Garrett, N. and Mitchell, H., 2009, *Trading Conflict for Development*, DFID, LSE, UGhent

miners protect their share of the profits by vigilantly preventing other gang members from stealing gold and diamonds). In addition, it functions and is clearly economically and politically viable in conditions of minimal official governance.⁵⁹ If artisanal miners are to voluntarily join the formal economy, Government must show that formalisation will not just benefit the government, but will also directly improve the miners' situation. Providing various financial incentives is one option, and assuring swift and effective procedures can also go a long way in avoiding the common complaint that taking the legal road consumes too much time and money.⁶⁰

In order to progress a formalisation process it is first of all important to understand the present licensing system in place. In Liberia, both surface and underground minerals are the property of the Republic of Liberia⁶¹. The Minerals and Mining Law governs any exploration, development, mining and export. The Government's rights as owner of minerals in the country are absolute and supersede the rights of any landowner or occupant.⁶² The Liberian system therefore requires licensing of artisanal and industrial mining activities. When examining the state of the ASM sector in Liberia, and its general informality, licensing could be a suitable means of revenue generation from the sector. The table below shows that license fees counts for 10% of the total Ministry of Lands, Mines and Energy (discussed below) revenue. Improving the scope of licensing would thus increase State revenues, and help formalise the ASM sector. From the government's perspective, formalising the ASM sector through compulsory licence registration has a few advantages: it would give diggers access to land tenure; potentially reduce smuggling, increase revenues, potentially improve returns to communities, if GoLiberia can implement an effective mechanism, and aid the enforcement of responsible mining practices so improving environmental management and occupational health and safety.⁶³ In practice, however, licensing

⁵⁹ D'Souza K., de Pooter E., *Monitoring, formalisation and control of the artisanal alluvial diamond mining sector*, p.93

⁶⁰ Koen Vlassenroot and Steven Van Bockstael, 2008, *Artisanal diamond mining: challenges*, p.268

⁶¹ NMML of 2000, amended in 2004 (chapter 2, section 2.1)

⁶² Diamonds for Development, Programme Framework, Nov. 2005, p.42

http://www.lr.undp.org/d4d_Programme_document.pdf

⁶³ Lucie C. Phillips, Ph.D., Why formalize artisan miners?, Conference on Enterprise Formalization, January 10-11, 2007, Accra, Ghana p.16

[http://www.ifc.org/ifcext/fias.nsf/AttachmentsByTitle/Informalityconference_Presentation_WhyformalizeArtisanMiners/\\$FILE/Formalizing+miners.pdf](http://www.ifc.org/ifcext/fias.nsf/AttachmentsByTitle/Informalityconference_Presentation_WhyformalizeArtisanMiners/$FILE/Formalizing+miners.pdf)

does not appear so easy as many obstacles to compliance exist for artisans, brokers and dealers.

Activity	Revenues (US\$ 1,000)
Mining License Fees	589
Exploration Mining Fees	979
Royalties	202
Survey Fees	12
Penalties	3
Total Ministry of Land, Mines and Energy Revenues (January – November 2007)	1,785⁶⁴

Figure 11: Mining licenses, other fees and payments, 2007⁶⁵

Liberian law includes provisions for non-industrial alluvial mining licences intended only for Liberians (class C), industrial alluvial mining (class B) and industrial hard-rock/alluvial mining operations (class A).⁶⁶ There are also provisions for exploration licenses for class A mining licenses only and mineral development agreements.⁶⁷ Issuances of Class C licenses have been the key regulatory control mechanism over artisanal mining. Concessions are granted for a 1-year period, and all expire on December 31st of each year. A license fee of \$350 per claim is required. Class C claim areas are limited to 25 acres and are restricted to semi-mechanised artisanal mining—generally a “shovel and digger” operation.⁶⁸ Several Class C licenses may be combined to apply for a Class B license for mechanised ‘industrial’ mining operations. Holders of class C mining licenses can sell only to licensed brokers or licensed dealers who are parties to a mineral development agreement.⁶⁹

⁶⁴ To this total should be added ArcelorMittal MDA Payment of USD 3,995,000, which leads to a total revenues of USD 5,780,000 for the Ministry of Land, Mines, and Energy.

⁶⁵ Source: Ministry of Land, Mines and Energy

⁶⁶ The News, 03.08.09, Liberia: UN Panel Raises Concerns Over Diamond Trade, <http://www.globalpolicy.org/component/content/article/182/33862.html>

⁶⁷ Mining Regulations, <http://www.greenadvocates.org/Compendium/PDF/J.%20An%20Act%20Adopting%20a%20New%20Mineral%20and%20Mining%20Law.pdf>

⁶⁸ George J. Coakley, The Mineral Industry of Liberia, p.2 <http://minerals.usgs.gov/minerals/pubs/country/2004/limyb04.pdf>

⁶⁹ The News, 03.08.09, Liberia: UN Panel Raises Concerns Over Diamond Trade, <http://www.globalpolicy.org/component/content/article/182/33862.html>

In January 2005, the Government placed a moratorium on artisanal mining, which led to no issuance of Class C licenses during 2005 and 2006.⁷⁰ Since recommencing the issuance of diamond mining licenses in late July 2007, the Ministry has issued a total of 519 class C licenses for artisanal diamond mining, 287 in 2007 and 232 in 2008 up to early May 2008. Factoring 2,500 class C licenses issued before 2005⁷¹ there are a total of 3519 class C licenses in the country. If the number of artisanal miners is 100,000, as estimated, then only about 12% of them work formally. This lack of registration can be explained by numerous factors:⁷²

- First, for artisans there is a knowledge gap that makes it difficult for them to claim a new mining area. Additionally, many known mineralised areas are already claimed.
- Second, licence registration involves many costs. One of them is transport. Artisans need to travel to their provincial office for a licence application, then to another office to pay fees, and to a third one to pay taxes.

Formalisation appears to be the basis for successfully transforming artisanal mining into a productive sector oriented at development rather than pure subsistence. In and of itself, formalisation should offer miners security of tenure and protection from harassment by authorities. The implementation of formalisation programmes, however, are often accompanied by additional services, which support the development of the sector as a whole, such as capacity building and education on the mining law (so making miners aware of their rights and responsibilities), improving the ability of authorities to enforce environment and OHS regulations, extension services related to training and access to capital and equipment, et cetera.⁷³ The question is then how should it be done. When looking at the different practices implemented in

⁷⁰ George J. Coakley, *The Mineral Industry of Liberia*, p.2

<http://minerals.usgs.gov/minerals/pubs/country/2004/limyb04.pdf>

⁷¹ http://knowledge.uneca.org/Members/Summermkhululi/international-study-group-isg-to-review-africas-mining-codes/mining-codes-in-african-countries/liberia-mining-code/Categories_Of_Mineral_Titles_and_Rights_In_Liberia.pdf

⁷² Lucie C. Phillips, Ph.D., *Why formalize artisan miners?*, Conference on Enterprise Formalization, January 10-11, 2007, Accra, Ghana p.15

[http://www.ifc.org/ifcext/fias.nsf/AttachmentsByTitle/Informalityconference_Presentation_WhyformalizeArtisanMiners/\\$FILE/Formalizing+miners.pdf](http://www.ifc.org/ifcext/fias.nsf/AttachmentsByTitle/Informalityconference_Presentation_WhyformalizeArtisanMiners/$FILE/Formalizing+miners.pdf)

⁷³ Interview with Estelle Levin, London, November 2009

Sub-Saharan African countries to move from a shadow economy to a formal economy, internal control approaches based on totally new structures that do not take into account the political, social, and economic rationale of the existing trading system, have failed.⁷⁴

Often these interventions have been designed with unrealistic expectations of capacity of artisanal miners to actually become legal, but also of the regulatory capacities of the relevant institutional infrastructure, which is fundamental to effective application and enforcement. This is a misjudgement in two ways:

- First, the fact that existing informal institutions are internally functional (although often inequitable) has been disregarded.
- Second, the institutions that were supposed to impose the new regulatory regime over existing rule systems were not provided with sufficient resources to build the capacity to do so effectively.⁷⁵

In other words, controls should seek to formalise the status quo first and rationalise it second. Instead of aiming at a dramatic transformation of the sector, formalising artisanal mining is most likely to work if the political, economic and social value of the existing structures is acknowledged.⁷⁶ Facilitating and improving existing trading structures so that it becomes easier, more desirable and cheaper for operators to work legally is a more promising avenue.⁷⁷ This can be done by providing positive incentives to participate in the formalisation process to the ‘informal’ artisanal miners, brokers and dealers, which would contribute to both bottom-up reform of governance structures and opportunities for those structures to strengthen.⁷⁸ The challenges of sustainably mobilising Liberia’s mineral wealth into socio-economic development is thus inextricable from a political process that inspires the creation of institutions that

⁷⁴ Mitchell H., Garrett N., Levin E., 2008, *Regulating Reality, Reconfiguring approaches to the regulation of trading artisanally mined diamonds*, DFID.

⁷⁵ Mitchell H., Garrett N., Levin E., *Regulating Reality, Reconfiguring approaches to the regulation of trading artisanally mined diamonds*, 2008, p.6

⁷⁶ Koen Vlassenroot and Steven Van Bockstael, 2008, *Artisanal diamond mining: challenges*, p.269

⁷⁷ Mitchell H., Garrett N., Levin E., *Regulating Reality, Reconfiguring approaches to the regulation of trading artisanally mined diamonds*, 2008.

⁷⁸ Garrett N., Mitchell H., *Trading Conflict for Development: Utilising the trade in minerals from eastern DR Congo for development*, April 2009, p.13

can transform incentive systems⁷⁹ and therefore go far beyond the technical aspects of formalisation, which others have put forward, such as:⁸⁰

- A legal and regulatory framework, which ensures security of tenure and property rights, acknowledges the necessary participation of local authorities and is backed up by a sound geological survey and cadastral system.
- The delineation and creation of artisanal mining zones.

Transparency initiatives in Liberia: what has been done so far

The GoLiberia and donors have already undertaken several steps to improve governance structures and increase transparency in the mining sector. This section briefly touches on the macro level, before considering micro level interventions. On the macro level, the Government has taken a range of measures to overhaul its financial management systems and to spur renewed economic activity. It has moved quickly to introduce expenditure control mechanisms and has strengthened the enforcement and collection of customs, duties and other taxes.⁸¹ Through its endorsement and implementation of the Governance and Economic Management Assistance Program (GEMAP), the Government has allowed international experts to support several of its key financial agencies such as the Ministry of Finance Cash Management Committee, the Central Bank of Liberia and the Bureau of Budget.⁸² The GEMAP agreement aims to improve governance and enhance transparency and accountability in an effort to bring greater control over the country's public finances. It targets six key components: securing Liberia's revenue base, improving budgeting and expenditure management, improving procurement practices and granting concessions, establishing processes to control corruption, supporting key institutions of Government, and capacity building.⁸³

⁷⁹ Garrett N., Mitchell H., *Trading Conflict for Development: Utilising the trade in minerals from eastern DR Congo for development*, April 2009, p.13

⁸⁰ Armstrong W., D'Souza K., de Pooter E., *Monitoring, formalisation and control of the artisanal alluvial diamond mining sector*, p.110

⁸¹ <http://www.gemapliberia.org/pages/components> (accessed on the 16/09/2009)

⁸² IMF, 2008, *Liberia: Poverty Reduction Strategy Paper*, p. 20

<http://www.imf.org/external/pubs/ft/scr/2008/cr08219.pdf>

⁸³ <http://www.gemapliberia.org/pages/components> (accessed on the 16/09/2009)

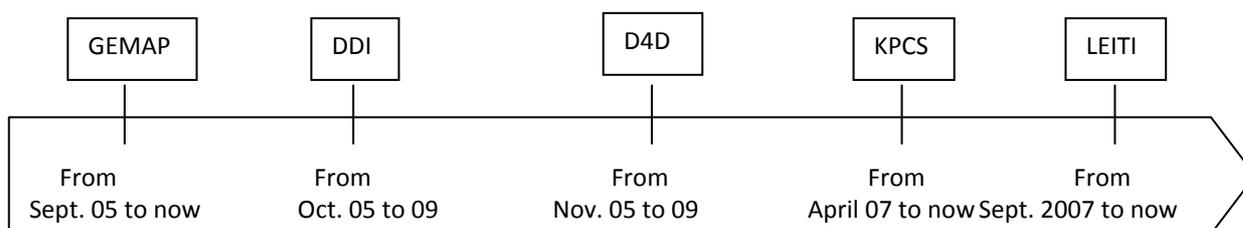
Over and above the GEMAP process, since 2003 the Government has joined or endorsed four other initiatives aimed at improving governance in the mining sector. They are in order of year of adoption:

DDI: Diamonds for Development Initiative

D4D: Diamonds for Development

KPCS: Kimberley Process Certification Scheme

LEITI: Liberia Extractive Industries Transparency Initiative



DDI

The DDI mission statement is “to gather all interested parties into a process that will address, in a comprehensive way, the political, social and economic challenges facing the artisanal diamond mining sector in order to optimize the beneficial development impact of artisanal diamond mining to miners and their communities within the countries in which the diamonds are mined.”⁸⁴ The initiative, launched in October 2005, has been working on different projects with the diamond ASM sector in sub-Saharan Africa, and is now currently working on a policy dialogue project, which involves the creation of development diamond standards. The initiative is cross-sector and is established to promote communication and information sharing among companies, civil society groups and others to encourage “best practices, sustainable economic development, and verified sources of responsible gold, diamonds and other minerals.”⁸⁵ Should this policy dialogue project on development diamond standards come to fruition, it may provide further benefits to the Liberian ASM sector, such as diamond marketing opportunities. However, it is at this stage too early to say, what the exact outcome of the dialogue will be.

⁸⁴ <http://www.ddiglobal.org/pages/mission.php> (accessed on the 20/11/2009)

⁸⁵ <http://www.ddiglobal.org/pages/projects-dds.php> (accessed on the 20/11/2009)

D4D

The Diamonds for Development (D4D) Programme, which ran from 2005 to 2009, aimed to facilitate the establishment of a transparent and accountable revenue management system based on a fair and equitable distribution of revenue from diamonds. The D4D Programme was intended to complement and further the KPCS by “going beyond Kimberley by avoiding conflict diamonds and turning them into diamonds for development”.⁸⁶ This also builds on the vision of the DDI.

One aspect of the D4D Programme was to develop and implement a revenue management policy in order to increase the fiscal linkage and increase transparency of the trading system, as there was no legal framework on the management of revenue from mineral resources at the time. The revenue management policy was expected to get the GoLiberia to use resources for future generations and for the diversification of the economy. The D4D suggested that implementing a new legal framework for the management of revenues would have included in particular (i) the creation of an escrow account and funds for future generations, (ii) the retrocession of a quota – up to 25% - of profits/taxes/incomes to local governments, and (iii) the creation of a Diamond’s Fund with a compensatory mechanism.⁸⁷ While the establishment of an escrow account and future generations fund is nonsensical in Liberia’s present development stage, where revenues are required to quickly improve the productive capacity of the country, the implementation of a retrocession quota and a Diamond’s Fund may yield dividends, if they can be implemented effectively.

KPCS

The Kimberley Process Certification Scheme (KPCS), implemented in 2007 in Liberia, discriminates between legal (clean) and illegal (and possibly ‘conflict’) diamonds.⁸⁸ Within this process “the importance of artisanal and small-scale alluvial

⁸⁶ Anna van Nieuwenhuizen, *The Diamonds for Development (D4D) Programme in Liberia*, p.254

⁸⁷ Diamonds for Development, Programme Framework, Nov. 2005, p.4
http://www.lr.undp.org/d4d_Programme_document.pdf

⁸⁸ Kimberley Process. 2002. *Interlaken Declaration of 5 November 2002 on the Kimberley Process Certification Scheme (KPCS) for Rough Diamonds*.

diamond production in the Kimberley Process cannot be overemphasized.”⁸⁹ The ultimate goal of the scheme was to promote concrete steps towards more effective internal controls over the production and trade of alluvial diamonds in order to guarantee that only diamonds produced and traded in accordance with national legislation and the KPCS standards can be exported. A number of key recommendations were thus stated by the KPCS Interlaken declaration with the objectives of ensuring the traceability of production from mine to export, regulating the mining and trading, and encouraging artisanal miners to move into the formal economy.⁹⁰

The internal controls that result from the KPCS in Liberia in 2007 function as follows:

There are three different levels in the organisation of the controls:

- (i) Mining, including all artisanal miners, cooperatives and mines;
- (ii) Internal Trading, including brokers and dealers;
- (iii) Exporting, with exporters and buying offices, including Imports with KP Certificates from other KP Participants.

In order to function properly the KPCS expects that all actors and operators in mining, trading and exporting should be properly registered and licensed; individual transaction forms should be kept for every transaction; there should be regular reports on mining and production at the mining level, and on transactions at all levels; and internal controls should be based on “check and double-check” procedures at all levels.⁹¹

More specifically, internal controls include the following processes:

- All actors in diamond mining, trading and exporting have to be registered and licensed.

⁸⁹ Artisanal diamond mining: Perspectives and challenges, edited by Koen Vlassenroot and Steven Van Bockstael, 2008, p.v

⁹⁰ Kimberley Process. 2002. *Interlaken Declaration of 5 November 2002 on the Kimberley Process Certification Scheme (KPCS) for Rough Diamonds*.

⁹¹ Van Bockstael, *Economic dynamics of artisanal diamond mining in relation to the Kimberley Process*, p.64

- To control the flow of rough diamonds from mine to export, all transactions are registered using Vendor Forms at the Mining and Internal Trade level and Monthly Reports are submitted to the monitoring officials
- To obtain a KPCS Certificate for export, Export Application Forms are submitted by the exporter.
- Regular inspections are organised on every level (mining, internal trade and exporting).
- Separate entries on Mining and Internal Trade allow controlling the (illegal) flux of rough diamonds by comparing the sum of the Totals Production with the sum of the Totals Internal Trade.
- All exported rough diamonds shipments are digitally photographed and this information is stored at the National Diamond Database.

Though logical in theory, in practice these control mechanisms were some distance from existing structures and practices in Liberia, and so necessitated revision of the Mining Law to accommodate them. Adjustment of actual practices, however, has not been achieved as the level of informality in the artisanal diamond mining sector indicates. Formalising the ASM sector thus seems to be a precondition for the full success of the KP in artisanal countries. The KPCS thus currently fulfils the function of an diamond export regulating process, which provides a clear export procedure for diamond exporting countries, see box 3 below. The principal achievement of the KPCS to date is thus to formalise a proportion of Liberia's exported diamonds.

Preparation for Export

- *All Diamond exporters are required to make an appointment at least 24 Hours before presenting their diamond parcel to the Government Diamond Office (GDO) for valuation and the processing of export documents. This will allow the GDO to make proper scheduling of exporters.*

- All exporters must bring a completed valuation form where the indicated areas are completed. Copies of the Valuation Form are available at the GDO Office in the Ministry of Lands, Mines and Energy, Monrovia
- When completing their Valuation Form, exporters should weigh and categorize their diamonds and make price allocations as indicated in the following format:

Industrials		One price
Gems		One price
Smalls	-7 -13 to +7	One price
4 grainers	0.90 ct - 1.19 ct	} One price
5 grainers	1.20 ct - 1.39 ct	
6 grainers	1.40 ct - 1.79 ct	
2 carats	1.80 ct - 2.79 ct	} One price
3 carats	2.80 ct - 3.79 ct	
4 carats	3.80 ct - 4.79 ct	
5 carats	4.80 ct - 5.79 ct	} One price
6 carats	5.80 ct - 6.79 ct	
7 carats	6.80 ct - 7.79 ct	
8 carats	7.80 ct - 8.79 ct	} One price
9 carats	8.80 ct - 9.79 ct	
10 carats	9.80 ct - 10.79 ct	
Special stones	10.80 carats and over	Total price of all stones

Export Procedure

Upon arrival at the Government Diamond Office the identity of the exporter will be confirmed and an official pass provided. The validity of the exporter's license will be confirmed from the Ministry of Lands, Mines and Energy database.

The exporter will present his parcel of diamonds (goods) together with the completed valuation form to the Chief Valuer at the Government Diamond Office. The Valuer will check the weight of the goods in the presence of the exporter to confirm the declarations made on the valuation form. The sort and selection of the goods will be inspected to ensure conformity. Finally the Government Diamond Office Valuer completes his valuation of the goods.

Concurrently the Independent Diamond Valuer will observe the weight and check the sort and selection and also make his valuation. Valuations and Weights are recorded electronically. The 3% Royalty is calculated electronically based on the highest valuation. The final valuation form will be signed by all participants. After valuation,

the parcel will be photographed, packed and sealed in a tamper proof container in the presence of the exporter.

An Application to Export Diamonds Form will be completed and signed by the Applicant (Exporter) and the Chief Valuer. The Bureau of Customs representative, assigned to the MLME Government Diamond Office, will attest to the form, and the Minister of Lands, Mines and Energy will complete signatures to the form.

The exporter will present the completed Application to Export Diamonds Form and a copy of the Valuation form to the BPS (Bank Payment Slip) Section of the Ministry of Finance. The exporter will receive a Bank Payment Slip for payment to the Central Bank of the calculated royalty. The exporter will instruct his bank to raise a certified cheque in payment of the royalty and after payment will return to the BPS Section to have the receipt confirmed.

The exporter will return to the MLME Government Diamond Office where the Customs Officer will review payment documents and inform the Chief Valuer of his confirmation that all payment procedures have been followed. The Chief Valuer will complete the Kimberley Process (KP) Certificate, ensuring the tamper proof sealed diamond parcel and the Original KP certificate are sealed in a clearly visible manner, and given to the exporter.

At the Point of Export

The exporter is expected to export via RIA (Robertsfield International Airport). In the event this is not the prescribed export route, Customs will be notified. Upon arrival at RIA the exporter will immediately declare his parcel and all documents to Customs.

The required documents to be declared are:

- COMPLETED VALUATION FORM (COPY)*
- COMPLETED EXPORT APPLICATION (ORIGINAL)*
- AUTHORISED RECEIPT OF ROYALTY PAYMENT (ORIGINAL)*
- KIMBERLEY PROCESS CERTIFICATE (ORIGINAL)*

Upon presentation of documents, an RIA Collector of Customs will record all transaction details, ensure the parcel of diamonds remains sealed and allow the exporter to enter the airport through the normal security channels for the onward export of his diamonds. Compliant diamond exporters will be offered the utmost courtesy at all times.

Box 2: How to export a Diamond from Liberia⁹²

LEITI

The Natural Resource Charter states as a precept “extractive resources are public assets and decisions around their exploitation should be transparent and subject to informed public oversight.”⁹³ The EITI is a central mechanism for helping achieve this. The key outcomes of the EITI process are the disclosure of companies’ payments and government’s receipts, their reconciliation, and the dissemination of this data.⁹⁴ Overall, “the aim of the initiative is to improve the governance of extractive industries by demonstrating a national commitment to transparency, increasing public scrutiny of revenue collection, and helping to establish a constructive dialogue between the government, civil society and private sector around extractive industries.”⁹⁵

Liberia became an EITI candidate in 2007 and on the 10th of July 2009, the President, Ellen Johnson-Sirleaf, signed into law the Act Establishing the Liberia EITI. The LEITI Act requires that all government agencies, extractive companies, and, since November 2009, brokers and dealers in the ASM sector⁹⁶, comply with the Liberian EITI process⁹⁷ to ensure that the benefits due to the government and people of Liberia from the exploitation of natural resources are “verifiably paid or provided [...] duly

⁹² Fully extracted from Ministry of Lands, Mines and Energy, Rough Diamonds Export Procedures, http://mlme.net/mlme/index.php?option=com_content&task=view&id=36&Itemid=44

⁹³ Liberia, Tapping Nature’s Bounty for the Benefits of All, Diagnostic Trade Integration Study, Dec. 2008, p.73

http://www.integratedframework.org/files/english/Liberia_DTIS_Report_Vol%20I.pdf

⁹⁴ Paris F. And Bartlett S., 2009, The EITI and the Mining Sector Today, in *Advancing the EITI in the Mining Sector*, p. 10

⁹⁵ Natural Resource Charter, Draft, 16 July 2009, p.5

⁹⁶ See the Company Comprehensive Contact Database on the LEITI website:

http://www.leiti.org.lr/content_maindoc.php?main=66&related=66

⁹⁷ EITI Newsletter 2009-03, 25th August 2009

accounted for and prudently used for the benefits of all Liberians."⁹⁸ It goes far beyond the core EITI requirements, in that it covers the forestry and rubber sectors, as well as oil, gas and mining. It also requires that EITI Reports publish payments on a company-by-company basis, and that operating contracts and licences are published and reviewed.

"The Liberia EITI Law is a further signal of the commitment of the Government of Liberia to improve the management of their abundant natural resources. I admire how Liberia has taken the initiative and adapted and extended it to address the key issues in the country. This sets an excellent precedent for other implementing countries in the region."

– Peter Eigen, Chairman, EITI.

In practice, the LEITI report published in February 2009 mentioned that the LEITI performance is good notwithstanding some minor discrepancies between payments reported by companies and revenues reported by the Government.⁹⁹ The second EITI report of payments and revenues to be published in November 2009 is however supposed to resolve these discrepancies.

In practice, the EITI's implementation is divided into four different stages:

- i.) Reporting templates
- ii.) Disclosure and publication
- iii.) Public dissemination and discussion
- iv.) Review.

In the first stage, companies, government agencies, brokers and exporters submit disaggregated details of payments and revenues to a designated administrator/auditor who, in turn, may need to ask for more information if any discrepancies are identified.¹⁰⁰ Benefit streams that should be reported are defined as being any potential source of economic benefit, which a host government receives from the

⁹⁸ Press release, 13.07.09, Global Witness welcomes new Liberian Transparency law, urges other countries to follow suit. http://www.globalwitness.org/media_library_detail.php/778/en/

⁹⁹ Final report of the administrators of the first LEITI reconciliation, 9th February 2009. <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf> (accessed on the 19/11/2009)

¹⁰⁰ Implementing the EITI, Applying Early Lessons from the Field. 2007. http://siteresources.worldbank.org/INTOGMC/Resources/implementing_eiti_final.pdf

extractive industries.¹⁰¹ The administrator/auditor uses the reports to attempt to reconcile the company submissions with the government submissions. This forms the basis of the EITI Report. During the second stage, stakeholders need to agree on an impartial person or organisation that will be responsible for the disclosure of the results of the EITI implementation. The way the report should be published is important as the disclosure of all payments and revenues should be accessible, comprehensive and comprehensible to a wide audience. The process of disseminating the results might therefore entail using a wide range of different media, including newspapers, television, radio, and local workshops. Once the results are in the public domain, it is then important that the government proactively arranges a public discussion around the reported revenues in order to make the EITI effective. Finally, a review of the EITI process should help the country to assess the benefits of implementation, show others how well the country is doing and focus on improving future implementation.

Box 3: EITI Implementation in Practice¹⁰²

The general value chain comprises the following stages of revenue management:



The EITI intervenes “only” at the ‘collection of taxes and royalties’ stage and focuses on the reconciliation of payment and revenues, as well as capacity building in government and civil society. Particularly civil society benefits 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 accountable.¹⁰³ The EITI mandate is thus narrow and focuses solely on reporting of revenues, which is one link in the longer resource management chain. “Continued focus on the legal framework, monitoring of mining activities, and revenue management is necessary to ensure the extractive industries contribute to sustainable

¹⁰¹ EITI sourcebook. March 2005. P.28

<http://eitransparency.org/files/document/sourcebookmarch05.pdf>

¹⁰² Ibid, p.36

¹⁰³ <http://eitransparency.org/eiti/benefits>

development.”¹⁰⁴ Transparency (thus the EITI) may be insufficient to tackle corruption and for natural resources to contribute to a country’s development, and may therefore need to be complemented by other types of reforms.¹⁰⁵ First, the EITI focuses on transparency in public revenues rather than expenditures, which has led to international organisations, such as the World Bank, demanding that transparency approaches be broadened to cover the expenditure side. To this end, the World Bank has launched the so called “EITI ++”.¹⁰⁶ Second, in addition to access to information, there is a need for “the ability to process information, and the ability and incentives to act on processed information.”¹⁰⁷ In other words, the general population must know how to interpret the information presented to them by the process. At the simplest level, fair standards of general education would appear to be a precondition for the population to be able to process the EITI information, however, in Liberia, the UNDP Human Development Index estimates that 55.5% of the population is illiterate. Given the state of Liberia’s education system, it is highly likely that rural populations and miners rank amongst the least likely groups to be able to process the information provided by the EITI.

Liberia is the first EITI implementing country to include the export and intermediate trading stages (i.e. formal dealers and brokers) and artisanal and small-scale miners in the EITI process.¹⁰⁸ The LEITI Act along with the LEITI’s work plan and associated documents have provided the following for exporters, brokers, dealers and artisanal and small-scale miners:¹⁰⁹

- Membership in the LEITI process, including representation on the LEITI multi-stakeholder steering committee;

¹⁰⁴ Liberia, Tapping Nature’s Bounty for the Benefits of All, Diagnostic Trade Integration Study, Dec. 2008, p.73

http://www.integratedframework.org/files/english/Liberia_DTIS_Report_Vol%20I.pdf

¹⁰⁵ Ivar Kolstad and Arne Wiig, Is Transparency the Key to Reducing Corruption in Resource-Rich Countries?, *World Development* Vol. 37, No. 3, pp. 521–532, 2009

¹⁰⁶ See the World Bank News & Broadcast,

<http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:21727772~pagePK:34370~piPK:34424~theSitePK:4607,00.html> (accessed on the 26/11/2009)

¹⁰⁷ Ivar Kolstad and Arne Wiig, Is Transparency the Key to Reducing Corruption in Resource-Rich Countries?, *World Development* Vol. 37, No. 3, pp. 521–532, 2009

¹⁰⁸ Interview with LEITI Secretariat, Monrovia, November 2009

¹⁰⁹ E-mail correspondence and interviews with LEITI Secretariat, November 2009

- Obligations to comply with LEITI requirements, including reporting of payments data;
- Participation in communicating the LEITI to the general public and stakeholder groups

These provisions have been communicated through considerable outreach activities, such as workshops with up to 400 participants, both in trading and mining centres.¹¹⁰ The LEITI has also provided an element of capacity building, explaining how to use reporting templates and keeping financial records.¹¹¹ Meetings with dealers and brokers suggest that they are sensitised and have started to submit reporting templates, at least in Monrovia. However, the challenge is to capture the up to 50% of dealers, who operate illegally, as well as the much larger number of illegally operating brokers.¹¹²

In Liberia diamond dealers and brokers pay US\$20,000 and US\$1,500 annually for their respective licenses. Gold dealers and brokers pay US\$ 5,000 and US\$ 1,500 annually for their respective licenses. Dealers contribute an additional 2% of gold and 3% of diamond export values in royalties. Other taxes include broker agent fees and surveying fees, which are paid directly to the Ministry of Lands, Mines and Energy (MLME).¹¹³

Dealers and brokers thus already contribute to Government revenue, and if a greater percentage of the currently 90% informal trade¹¹⁴ could be captured; these revenue flows would increase further. However, prior to LEITI extension to include the dealers and brokers, they were often forgotten, their contribution was considered negligible, or they were stigmatised, as a result of the ASM sector's overall ambiguous image.¹¹⁵ The LEITI Secretariat considers the dealers and brokers operating like any

¹¹⁰ Interview with LEITI Secretariat, Monrovia, November 2009

¹¹¹ Interview with LEITI Secretariat, Monrovia, November 2009

¹¹² Interview with Dealers and Brokers Association of Liberia, Monrovia, November 2009

¹¹³ Interview with Ministry of Lands, Mines, and Energy, Monrovia, November 2009

¹¹⁴ Estimate provided by multiple dealers and brokers during interviews, Monrovia, November 2009

¹¹⁵ LEITI meeting with Gold and Diamond Dealers and Brokers Association of Liberia, Meeting Notes, March 5 2009

other company and should therefore adhere to the LEITI process, publishing payments they make to Government.¹¹⁶ This stance is also supported by Liberian civil society.¹¹⁷

The business case of including the ASM sector in the LEITI is intriguing. Working off official figures, the Government has received royalties of US\$202,000 in 2007.¹¹⁸ Assuming that the dealers' and brokers' estimates of 90% of fraudulent exports is close to the real figure and production levels in the ASM sector remain relatively constant, the maximum amount in royalties the Government could in theory capture from the ASM sector may only be around US\$2m per year. This is assuming that the Government manages to capture 100% of ASM production, which, when one considers global experiences of ASM, is unlikely, even in the long-term. This is a thought experiment and combating ongoing undervaluation as well as tapping other ASM revenue sources may yet increase overall state revenue from the ASM sector, but these will in all likelihood in reality not match the considerable sums, the GoLiberia could expect from industrial exploitation. It is therefore essential that the Government and the LEITI take the business case for the inclusion of ASM into consideration, and weigh it up with the cost of the process.

Another important aspect to consider is the incentive structure for the dealers and brokers to participate in the LEITI process: it is a means to allow them to have an established platform to take demands to the Government, and the recognition of their tax contribution enhances their social license to operate, and may in the longer-term open up investment opportunities in the ASM sector, though the LEITI's positive impact on the sector's image internationally.¹¹⁹

While the participation of formal dealers and brokers in the LEITI process is progressing, the initiative faces considerable challenges regarding the inclusion of the artisanal and small-scale miners, owing to the low formalisation of the sector and

¹¹⁶ Interview with LEITI Secretariat, Monrovia, November 2009

¹¹⁷ Meeting with civil society representatives, Monrovia, November 2009

¹¹⁸ Interview with Ministry of Lands, Mines and Energy, Monrovia, November 2009

¹¹⁹ Interview with gold dealer, Monrovia, November 2009; Interview with Gold and Diamond Dealers and Brokers Association of Liberia, Monrovia, November 2009.

underdeveloped oversight structures, and overall capacity constraints to organise more inclusive outreach to the miners.¹²⁰

The remainder of this report considers the lessons learned from the case studies and whether, and if so, how to implement a transparency mechanism in the ASM sector, including the question of implementing the EITI in the ASM sector.

Summary

Liberia formally includes the ASM sector in its national EITI process (LEITI). The situation in Liberia, as presented in this chapter, supports the inclusion of ASM in the LEITI, as the benefits transcend a rational cost benefit assessment, based purely on implementation costs compared with additional revenues captured. There is evidence that a lot of the current challenges that present themselves in the ASM sector could at least partly be tackled through increased transparency, increased accountability and increased communication and trust among the mining stakeholders. The formal inclusion of the ASM sector in the LEITI and the GoLiberia's support for this policy indicates that there is political will to increase transparency. Obtaining the 'EITI compliant' status, implementing the EITI in other economic sectors, and continuing to progressively think around how EITI implementation can be advanced in other sectors are encouraging signs. For the implementation of the EITI in its classical form with a focus on payment and revenue tracking in the ASM sector, continuing informality is a serious obstacle; with estimates suggest that 90% of ASM production continues to be traded informally. While it is an achievement to have been able to include a number of dealers and brokers in the LEITI process, the principle benefit of this step will not necessarily rest in the additional revenues captured, but in the inclusion of ASM stakeholders in the national dialogue around transparency and state building. Further formalisation efforts will therefore have to be undertaken to capture a significantly larger share of ASM revenues. This is discussed in further detail in section III of this report.

¹²⁰ Interview with LEITI Secretariat, Monrovia, November 2009

Ib Country Case: Tanzania

Tanzania is host to a vibrant ASM sector providing employment for the rural population all over the country and contributing significantly to Tanzania’s mineral production. Due to the size of the country and its ASM sector and the existing time constraints, the Tanzania part concentrates on two case studies: the Lake Zone, especially Geita District, which is Tanzania’s major gold producing area (around Mwanza in the map below) and the Northern Zone, especially Mererani in Simanjiro District, where the deposit of the unique blue zoisite “Tanzanite” is located (around Arusha in the map below). The two case studies were chosen, firstly, to include one gold and one gemstone mining area and, secondly, because, in comparison to the rest of the country, the ASM activities in these areas are relatively organised and show a higher degree of formalisation.

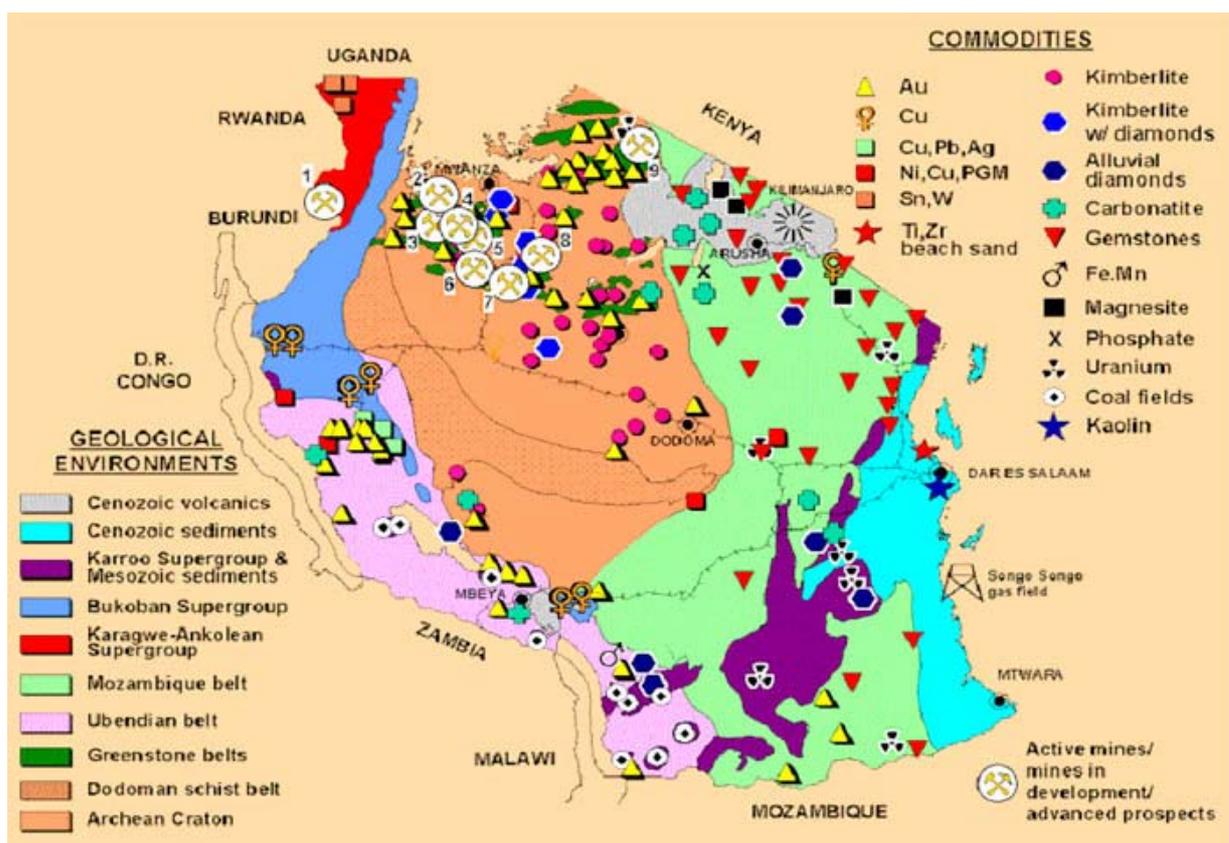


Figure 12: Geological and mineral resource map of Tanzania¹²¹

¹²¹ Source: TCME, http://www.chamberofmines-tz.com/tm_history.php

General conditions ASM sector Tanzania

Artisanal and small-scale miners in Tanzania produce mainly gold, diamonds and different gemstones — e.g., Tanzanite, Ruby and Sapphire — but also base metals, salt, aggregates, gypsum, kaolin, sand, lime, dimension stones and coal (Mwaipopo et al. 2004; Lange 2006; Drechsler 2001).

Tanzania ranks 162 out of 177 countries in the UNDP Human Development Index. Tanzania's efforts to reduce poverty show mixed results, but show overall less decline than envisaged in the MKUKUTA (URT 2005). As the World Bank Project Information Document (PID) for the new SMMRP (2009)¹²² states "Poverty in Tanzania mainland fell by 2.2 percentage points from 35.7 per cent in 2000-2001 to 33.5 per cent in 2007. This implies an increase in the total number of poor when the increase in population is taken into account." The GDP growth is estimated at 7.1% in 2008.¹²³ Especially the large-scale mining sector has grown considerably since the structural adjustments in the 1990s and mining has become the second fastest growing sector of the country with cumulative total FDI in the mining industry amounting to US\$ 2.5 billion during the last ten years and contributing up to 24% of exports. However, it now only contributes around 3.5% to GDP, about 1.5% to government revenue, and employed about 1% of all Tanzanian work force during the past ten years.

69.4% of the Tanzanian population are literate¹²⁴ and the school life expectancy is 5 years¹²⁵.

Box 4: General economic conditions Tanzania

Legal and Governance Framework

Government institutions involved in the mining sector are the following: The Ministry of Energy and Minerals (MEM) is the principal regulatory body governing the sector. The minister and the commissioner for minerals who is appointed by the

¹²² http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2009/04/16/000104615_20090421113254/Original/PID1appraisalstage1April0161.doc, accessed 23-11-2009

¹²³ <https://www.cia.gov/library/publications/the-world-factbook/geos/tz.html>, accessed 23-11-2009

¹²⁴ <https://www.cia.gov/library/publications/the-world-factbook/geos/tz.html>, accessed 30-11-2009

¹²⁵ <http://unstats.un.org/unsd/demographic/products/socind/education.htm>, accessed 30-11-2009

president have authority to grant licenses. The commissioner's office is also the first address for solving mining related conflicts. An inspector of mines oversees the sector according to the mining act. The Geological Survey of Tanzania (GST) is in charge of geo-science issues. The TCME has the objective to represent, protect and encourage the development of the mineral industry in Tanzania. The State Mining Corporation (STAMICO) provides professional mineral services, such as drilling, land and mine surveying, mineral exploration and investment promotion, promotion and modernisation of the ASM sector etc. It also holds several Prospecting Licenses in Joint Ventures with foreign investors. During the past years the government has repeatedly discussed STAMICO's role and agreed that it should engage more in the promotion of the ASM sector. The National Environmental Management Council (NEMC) deals with environmental issues. The Ministry of Finance oversees the allocation of the revenues collected by Tanzania Revenue Authority (TRA). On the regional and district level there are Zonal Mines Offices and Resident Mines Offices who are in charge of license fee collection, overseeing the quarterly reports and other issues appearing locally.

The Mineral Policy of 1997 aims to increase the mineral sector's contribution to GDP, the country's foreign exchange earnings, and government revenues, to create employment in the sector, to integrate mining in the national economy through forward and backward linkages and to minimise adverse social and environmental impacts from mining. The Mining Act (1998) is the principal legal framework governing the Tanzanian mining sector. Licenses are allocated on a "first come, first served" basis. For the ASM sector the licenses of interest are the Primary Prospecting License and the Primary Mining License. The maximum size of a PML for all other minerals but building materials is 10 hectares. It is granted to Tanzanians only. The price of a PPL or PML is TSh 20,000 annually plus TSh 10,000 application fee. A broker's license, which gives its holder the right to buy and sell the mineral indicated in the license within the country, is granted to Tanzanians only and it is available at a price of TSh 100,000 plus TSh 10,000 application fee. A dealer's license, which gives its holder the right to buy, sell and export the mineral indicated in the license, is available at TSh 250,000 plus TSh 40,000 application fee.

The mining sector has a special fiscal regime which is outlined in section 145 of the

Income Tax Act. The corporate tax rate for mining companies is 30%, further the Act contains different fiscal incentives aiming at attracting foreign investment.

Importance of the ASM sector

Quantifying the number of artisanal miners is nearly impossible due to the sector's high grade of informality, the geographical pattern of the mine sites (scattered all over the country and usually far from the economic or political centres and their transportation infrastructure and therefore difficult to access) and the high mobility of its stakeholders. One particular difficulty of interpreting the estimates is that it is often not clear whether the figures refer to direct employment in the sector or to indirect dependence on it (Mwaipopo et al. 2004). Estimates put the number of artisanal miners between 500,000 and 1.5 million or even 2 million, this range being mentioned by Chachage (1995:118) and Hayes (2008: 10). The widely cited surveys of the 1990s put the number at 550,000 (World Bank/Tan Discovery 1996, cited in Lange 2006) and between 450,000 and 600,000 (ILO 1999) but current numbers are probably a lot higher. No recent census data is available, Tanzania's minister for energy and minerals quoted a number of 1.5 million in August 2008¹²⁶, and current internal estimates of the government of Tanzania are at plus minus 1 million artisanal miners, including seasonal ones.¹²⁷

In the Lake Zone there are now approximately 1500 Primary Mining Licences (PML) holders, each of them is estimated to "employ" 100 to 150 people on their claims¹²⁸, which means that there are 150,000 to 225,000 artisanal miners. According to a member of the Zonal Mines Office in Arusha, in the Northern Zone, there are 2000 to 3000 active PMLs, 400 to 500 of them are for Tanzanite in Mererani and "employ" 15 to 20 workers each, the rest is for other gemstones, usually giving work to approximately 25 miners each. These figures amount to a number of 45,000 to 98,000 artisanal miners. The Resident Mines Officer in Mererani contradicts these figures however, stating that there are approximately 1000 PMLs in Mererani, each employing 30 to 50

¹²⁶ <http://africaindustrialcounsel.com/2009/03/06/tanzania-to-boost-small-scale-mining.aspx>, accessed 22-11-2009

¹²⁷ Interview EITI Focal Point Tanzania

¹²⁸ Interview Assistant Commissioner for Minerals Mwanza

people, which means there would be 30,000 to 50,000 artisanal miners in Mererani alone, a figure that is confirmed by a representative of the Tanzania Chamber of Minerals and Energy (TCME) in the EITI MSG¹²⁹.

As Mwaipopo et al. (2004:28) note, "Moving away from efforts to quantify the number of people involved in the ASM sector, it can be said that artisanal mining has played a significant role as a livelihood activity in Tanzania throughout the Twentieth Century, one that is likely to become more important in the Twenty-first Century." Historically, LSM started in Tanzania during German colonial rule. ASM had existed before, continued parallel to large-scale operations and experienced a boom after World War I, when the British shut down the big companies. While LSM, until the late 1990s, experienced constant boom and bust due to the volatility of mineral prices on the world market and the changing national and international political situations, ASM remained active throughout and gained popularity as a source of income whenever the big companies closed down and laid off their employees (Chachage 1993, 1995). The liberalisation of the Tanzanian economy during the 1990s, which opened Tanzania for foreign investors, and involved the allocation of big portions of land to large-scale companies as well as the privatisation of formerly state-owned enterprises, entailed diminishing agricultural opportunities and thus increasing rural poverty as well as job losses in the cities. The need to diversify livelihoods led to an increase in ASM activities in the country (Mwaipopo et al. 2004, Kulindwa et al. 2003, Drechsler 2001). Another important factor that contributed to the growth of the sector is the rise of the gold price from just below US\$ 300 in 1999 to US\$ 1170 today (cf. Fig. 2 in the Liberia chapter).

The growing importance of the sector is also documented in Tanzanian policies. While the 2001 PRSP did not yet mention the key role that ASM plays as a livelihood activity for the rural population, the National Strategy for Growth and the Reduction of

¹²⁹ All the quoted numbers relate to people directly employed in the ASM sector. In order to understand the economic relevance of the sector, it is necessary to take into account the dependants of artisanal miners and possibly even those benefitting from the sector through spin-off. It is commonly accepted that one artisanal miner has around 5 dependants. Since family members are often also involved in the activities in Tanzania, some of them are probably already counted. Calculating the dependants that are not directly involved in the sector with a factor of 2 to 2.5 and those people benefitting from ASM through spin-off with a factor of 2, roughly 10% of the Tanzanian population depend on ASM.

Poverty (NSGRP) of 2005 states: “Mining is one of the fastest growing economic sectors in Tanzania. In 2003, it grew by 17 per cent compared to 15 per cent in 2002. This growth was propelled by heavy investments in mineral exploration and production. Artisanal and small-scale mining is increasingly becoming dynamic as it provides alternative economic opportunities to the rural communities. There is need to balance the livelihood requirement of artisanal miners with the economic objectives of the large-scale operators. Currently, backward and forward linkages are not strong enough for local value-addition and employment creation. Serious poverty concerns have been raised regarding the impacts on environment, tensions over land rights and labour relations in areas where mining activities are being undertaken. The challenge ahead is to ensure that investments benefit the wider economy by giving particular attention to disadvantaged regions.” (URT 2005:7). It can be seen that the government recognised the problem of balancing ASM and LSM without compromising either the interests of LSM investors that contributed substantially to the growth of the sector, or those of the Tanzanian population. Moreover, the problem of the inadequate benefit to the country, – and particularly the regions that have to bear the environmental and social costs of mining – which only recently received full public attention, was already mentioned here.

Although formalised small-scale miners contribute to the GDP through the payment of royalties of 3% (5% for rough diamonds and gemstones, 0% for cut diamonds and gemstones) and license fees, the real importance of the sector is clearly the creation of rural employment and local income earning possibilities. While in the Northern Zone gemstone production and revenue is higher from ASM than from the two LSM companies¹³⁰, and the revenue from ASM activities in Geita District increased significantly since African Precious Metals started officially buying gold in 2007, members of the Tanzanian administration generally agree that revenue from the sector is rather insignificant at the moment. This is mainly due to the high percentage of the

¹³⁰ The reason for this rather uncommon situation is threefold: Firstly, there are only 2 companies which are registered as large-scale; as the Tanzanian Mining Act does not make provision for a category in between large and small-scale, many which are in fact medium scale companies are registered as small-scale operations. Secondly, a large part of the gem production in the Northern Zone originates from Mererani which nowadays is a very organised place with a high level of formalisation and PML holders often having a dealer's license at the same time. Thirdly, the extra-legal profit in gemstone trade seems, to a very large extend, to be made by undervaluation, not by smuggling.

production that leaves the country through illegal channels or undervalued. In respect to gold, estimates of the share that is smuggled out of the country are all very vague and range from one third to two thirds of the reported production. While for gemstones it is said that 95% leave the country through legal channels, it is, at the same time, estimated that 90% of these are undervalued.¹³¹

Given that the government wants to increase the mining sector's contribution to GDP from its current 3.5% (Keeler 2009, World Gold Council 2009) to 10% in 2025 as stated in the Development Vision 2025¹³² it should certainly be interested in formalising the ASM sector further to increase revenues.

„While Tanzania has succeeded in attracting investments, the Government and communities have become increasingly dissatisfied with the mineral sector's level of contribution to the economy. Criticisms include inadequate institutional capacity to oversee the sector, particularly in auditing investment costs, environmental management costs, and enforcing safety and occupational health standards; inadequate value added in exported minerals; slow pace of transforming and modernizing artisanal and small-scale mining; and insufficient integration of mining into the national economy.”¹³³

Box 5: Reasons for implementation of transparency

Level of organisation and formalisation of the ASM sector

The *artisanal* mining and the *small-scale* mining sector are often not clearly distinguishable. Specific forms range from completely unlicensed, in the eyes of the law illegal, activities, to license holders who sub-let their claims to informal artisanal operators, to organised, formal small-scale mining operations who have a certain level of record keeping in place.

¹³¹ Interviews with EITI Focal Point Tanzania, representative of TCME in EITI MSG, gemstone trader, assistant commissioner for minerals Mwanza, resident mines officer Geita

¹³² <http://www.tanzania.go.tz/mining.html>, accessed 20-11-2009

¹³³ World Bank PID for the new SMMRP (2009)

All license holders, be it primary prospecting, primary mining, broker's or dealer's license, are obliged to submit a quarterly report to the resident mines office or Zonal Mines Office. Unfortunately, these government offices lack the financial, material, human resources to follow up the reports. As Lange (2006:11f.) notes "Out of 153 quarterly reports to the mining office in Mererani, only five claim holders report that they have had production, while all report expenditures. The percentage reporting taxable profit is a little more than three per cent."

Although largely informal — estimates put the number of unlicensed miners between 60% and 90%¹³⁴ — the ASM sector is relatively organised in terms of labour division in the production as well as the trade sub-sector. The license holders who can be individuals, SACCOS or companies sub-let their claims to several pit owners. Each pit owner is in charge of one or several pits, organising workers, in some cases equipment, overseeing the production and acting as contact person for the license holder. The mineworkers are all those directly involved in the digging and exploitation process, but may also include those who process the material. (In some areas it is common that miners sell their bags of stones to the processing sites.) Security personnel are usually hired by the claim holder, sometimes also by the pit owner, to ensure that nothing is smuggled out of the mine site and no strangers steal from the mines. Claim holders, pit owners and mine workers (and where applicable processing workers) work on the basis of shared profits, usually receiving a part of the production rather than money. Security personnel are normally paid a monthly salary. The distribution of profits varies from one area to another but the license holder always receives the biggest share, while the workers receive the smallest. In Geita District the usual division of profits is around 30% for the workers and 70% for the claim holder. In the slightly more organised Tanzanite mines in Mererani, on the other hand, the profits are reportedly shared as follows: 50% are re-invested in the development of the mine, between 15% and 30% go to the license owner, around 10% go to the managers, 15% to 20% go to the workers (in some mines, 5% of these are paid out as premiums for special efforts to the workers) and some smaller percentage is used for educational purposes and "CSR" projects.

Often mining specialists with experience of formal mine operations are called once

¹³⁴ Interviews with government members and gemstone trader

the targeted resource has been found. While digging to find the target resource, the mine operations are pre-financed, either by the claim holders or by external financiers. Usually the financiers expect the pit owners to sell the production to them, paying lower prices and thereby charging, in addition to the normal profit margin, a sort of interest for the pre-financing. From there the product is either sold on to legal brokers whose brokers' license allows them to buy and sell raw gold or gemstones within the country and then on to licensed dealers who have the right to buy, sell and export the product. Or the product takes the illegal channels out of the country from any of the above mentioned stages.

The actual mining itself however lacks proper organisation. Prospecting is rarely carried out and artisanal miners have little knowledge of existing reserves. Regarding the mineralised areas the miners rely on information that was passed down from generations or is spread quickly when a new deposit has been discovered, however, their activities are often trial and error based. Moreover, the operations lack proper security measures, which render the activity quite dangerous.

Transparency initiatives in Tanzania: what has been done so far

Before joining the EITI, the only direct initiative implemented to increase transparency in the mining sector in Tanzania, is the Kimberley Process. Other initiatives that affect transparency in the ASM came from the private sector. Examples are the Tanzanite Protocol and the Tanzanite Foundation certification schemes that were introduced after allegations that Tanzanite money financed Al Qaeda's operations came up in November 2001¹³⁵, and the gold buying operations of APM.

Tanzania announced its intention to join the EITI in November 2008 and was accepted as candidate country on 16 February 2009 and now has until 15 February 2011 to undertake validation. Two inception workshops were held in Dar es Salaam in December 2008 and January 2009 to introduce EITI to the different stakeholders and review the country work plan. Finally, the participants also agreed on the number of

¹³⁵ Block, Robert and Daniel Pearl (2001) 'Underground Trade: Much Smuggled Gem Called Tanzanite Helps Bin Laden Supporters – Bought and Sold by Militants Near Mine, Stones often End Up at Mideast Souks – Deal-Making at the Mosque', Wall Street Journal, New York, Nov. 16, 2001.

representatives from each sector in the MSG and civil society elected their five representatives. Furthermore, two small-scale miners were also elected to join the LSM company representatives¹³⁶. The final members of the MSG include, for the civil society, one representative each from the alliance of FBOs, the association of the disabled, the labour unions, the media and research institutes; for the mining industry, two small-scale miners and three members of the TCME; and for the government, one representative each of the Region and District governments in Dodoma, the Tanzania Petroleum Development Corporation (TPDC), the Ministry of Energy and Minerals (MEM), the Ministry of Finance (MoF), and the TRA. The chair has yet to be appointed. The EITI Focal Point is the Head of the Small-Scale Mining Development Section in the MEM. An EITI Secretariat is not yet installed. The Deputy Minister of Minerals and Energy officially inaugurated the MSG on 17 November 2009. During this meeting, the Commissioner for Minerals was elected interim chairman. Furthermore, decisions were made on a quorum rule and on the modalities for the creation of the EITI secretariat¹³⁷.

Political will to implement the EITI and public opinion

Recently, the criticism emerged that Tanzania fails to benefit from its mining sector due to the nature of the existing mining contracts and regulatory framework. It has been expressed by the Bomani Commission as well as Tanzanian researchers and activists (cf. Curtis and Lissu 2008). Against this background, it is apparent that the EITI is a welcome instrument in the eyes of MPs as well as the general public. Two concerns are, however, uttered frequently by the general public as well as different mining stakeholders: Firstly, the sector is said to have notoriety for corruption and many Tanzanians fear that transparency is against the personal interests of some stakeholders. Secondly, Tanzanians say that their government is always very good at talking about issues but less motivated when it comes to implementation. The fact that Tanzania is officially EITI candidate country since February, and no considerable achievements are known to the stakeholders interviewed up to now, adds to the concerns. On the other hand, the draft revised mining policy contains a statement on

¹³⁶ Tanzania EITI Workshop Observatory Report, http://www.fordia.org/fordia_web/_strategic_activites/Tanzania%20EITI%20Workshop%20Observatory%20Report.pdf, accessed 23-11-2009

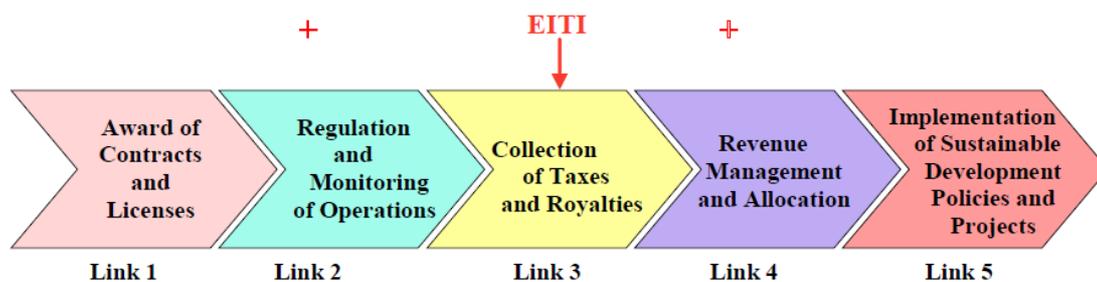
¹³⁷ <http://eititransparency.org/news-events/tanzania-multi-stakeholder-group-inaugurated>

the country's commitment to EITI and, moreover, the EITI++ concept is a major component of the new SMMRP. In order for this concept to work, it is essential that the EITI addresses link 3 of the concept, as shown in the box below, together with the project.

“The Bank is uniquely positioned to offer assistance covering the full spectrum of the extractive industries value chain (also known as the “EITI++” approach). The SMMRP will directly cover links 1, 2, 3, and 5 of the value chain (see Figure 1), namely access to resources (e.g., via strengthening of the mineral rights cadastre), monitoring operations (e.g., via enhanced capacity for inspections), collection of taxes and royalties (e.g., via more regular, strengthened audits), and efficient, sustainable utilization of revenue (e.g., via pilots on local budgeting and planning in mining communities); the Project will also partially cover link 4 on revenue allocation. Since mining revenue in Tanzania is collected centrally as general revenue (with only US\$200,000 returned to communities near large-scale mines), link 4 is covered primarily under the Bank’s macroeconomic work, including in regard to public financial management as Tanzania has a highly-decentralized public financial management system, with centrally-collected funds distributed to districts and Regions. Some of the limited mineral-related funds paid directly to local governments will be covered under the Project’s local economic development sub-component.”¹³⁸

Box 6: The EITI in the new SMMRP

Figure 1. The Extractive Industries Value Chain (EITI++)



¹³⁸ World Bank PID for the new SMMRP (2009)

Tanzania, as one of the member states of the International Conference on the Great Lakes Region, has also signed the *Protocol against the Illegal Exploitation of Natural Resources*, which in Article 9 refers to the adherence to, among others, the principle of transparency in natural resource related activities.

The Policy Forum, a Tanzanian network of NGOs that aims at influencing policy processes to enhance poverty reduction, equity and democratisation, debated the EITI and its benefits for Tanzania in September 2009. Besides the hope that EITI would help to curb smuggling in the country, several concerns were raised during the discussion. One relates to the low priority of transparency issues on the political agenda of key stakeholders of the Tanzanian government which, according to the participants of the discussion, was also manifest in the fact that almost half the time was already over but no chair appointed and no further EITI implementation steps carried out yet; another relates to the lack of local ownership of the EITI process¹³⁹.

Challenges and Opportunities

Government staff generally hopes to increase revenues from mining through EITI. Some believe that this is true for ASM as well, while others regard the sector's involvement rather as an integrative, trust building element. Through the integration of two ASM representatives in the MSG they intend to give the sector a voice in the national mining dialogue, to avoid conflicts between small- and large-scale miners and to have a direct connection to the ASM sector through which information can be given to the artisanal and small-scale miners¹⁴⁰. It is clear that, to tap the full potential of this idea, there is need for further organisation and capacity building in the sector. The same holds true though, for the implementation of the fiscal EITI process in the ASM sector, since the level of organisation, formalisation and capacities to report payments are currently low.

¹³⁹ BRIEF REPORT ON THE 7:30 BREAKFAST DEBATE – SEPTEMBER 25 2009, Policy Forum, <http://www.policyforum-tz.org/files/SeptReport.pdf>, accessed 20-11-1009

¹⁴⁰ It is essential in this case to ensure that the ASM representatives really represent the ASM community. From the Secretary General of MWAREMA there were complaints, saying that one of the representatives is only a PML holder and has no real mining experience and furthermore, that the Lake Zone, which is one of the most important areas of ASM in Tanzania, is not represented. He suggested having a rotating mechanism for the two ASM representatives in the MSG.

The need for further formalisation efforts before the start of a classical payment and revenue related EITI – the EITI itself cannot and does not want to act as an instrument for formalisation¹⁴¹ – is reflected by the currently low levels of revenues from the ASM sector. Exact production and revenue figures are not known due to several reasons: the vast percentage of unlicensed artisanal miners and smuggled products make it impossible to control the production and trade; the lack of resources on the government side does not allow for a better supervision of exports, especially with regard to the gemstones that leave the country undervalued; the costs for following up all the small individual payments are incommensurate with the revenues this would bring; and, finally, the majority of the miners does not have the capacity to keep records.

The latter point is not only a problem for controlling the ASM sector but also, to a certain extent, for the miners themselves. And this is, where many Tanzanian stakeholders see a chance of increased transparency. If miners introduce record keeping they will have better knowledge on their production which implies improved planning possibilities and increased chances to find investors. If transparency would be increased along the whole trade chain and capacity building for the miners would include knowledge on the valuation of their products market access could be improved and higher prices realised.

It has to be kept in mind, though, that many people and their economic activities are well adapted to the informal structures and benefit from the lack of transparency. These individuals will probably not like the implementation of a transparency initiative. And even for miners or traders who are not opposed to the EITI, a transition from informality to formality or the increase of transparency involves costs¹⁴². Therefore, incentives, such as tax exemptions, and/or access to technology, finance and training, have to be given to stakeholders willing to change.

Another concern that was widely mentioned by the interviewed stakeholders, including those working for the government, is that not just one sub-sector but the whole system has to become more transparent and that attempts to increase

¹⁴¹Interview with EITI Senior Regional Advisor

¹⁴²This situation is not unique to Tanzania. See the discussion in chapter III for more details on this.

transparency in the mining sector can only be successful if the government itself is committed to transparency. Complaints about lacking transparency within the government refer foremost to the allocation of mining and prospecting licenses (including the enforcement of laws regarding the relinquishment of areas during prospecting). Further demands relate to more and better flow of information and capacity building to enable everybody to understand the information they get, within the different government agencies as well as to ASM stakeholders, and for them specifically on mining regulation (e.g. a Swahili version of the Mining Act). Furthermore, transparency should be increased in compensation payment rules and revenue redistribution. The poor cooperation among the different government institutions and the lack of transparency within their activities was mentioned as a major barrier for the implementation of transparency by a range of interviewees¹⁴³.

The table below summarises challenges and opportunities for the implementation of the EITI in the ASM sector in Tanzania as extracted from the interviews. Some of the listed challenges and opportunities concern the EITI in general, some relate specifically to either the ASM sector level or the government level.

	Challenges	Opportunities
General	<ul style="list-style-type: none"> • levels of materiality low as long as informal • EITI does not want to and cannot be instrument for formalisation • EITI at export stage does not cover the whole picture • EITI at local level - lack of institutional infrastructure • how win cooperation of all stakeholders, how create culture of transparency, how organise sector, how deal with diversity and mobility? • is the cost-benefit ratio reasonable? 	<ul style="list-style-type: none"> • New SMMRP • Mining legislation review • Private sector initiatives • Adapt EITI to set more value on its integrative, trust building function and on other elements that are in line with other transparency initiatives
ASM level	<ul style="list-style-type: none"> • lack of capacity for record keeping • adaptation to complex informal, intransparent structures and consequent costs of change • people will not change if they cannot see benefits for themselves • possibly individuals benefitting from low 	<ul style="list-style-type: none"> • give incentives • do capacity building and make them know advantages of transparency/formality • go via associations (SACCOS sometimes have rudimentary record keeping for internal reasons - more transparency)

¹⁴³ Resident Mines Officer Geita, Representative of TCME in EITI MSG, Assistant Commissioner for Minerals Arusha

	<p>transparency</p> <ul style="list-style-type: none"> • traders generally do not like to be transparent • at many gemstone mining sites Sri Lankans, Indians and Chinese come and buy stones directly from miners (although not allowed) • some miners are afraid to be transparent for security and micro inflation reasons (if others know production they could steal, invade area or raise prices if they see he has got money) • miners will be afraid to be caught by government/TRA • lack of trust towards government but trust essential for transparency • knowing miners' concerns, why they are afraid to be more transparent • highly charged education and information campaign needed 	<p>could help them prevent internal disputes)</p> <ul style="list-style-type: none"> • Fair Trade • credit schemes (more transparency helps access to loans) • more and better assistance (if everything transparent problems are also known to government)
Government level	<ul style="list-style-type: none"> • resources and capacity of government • no mineral experts in government offices • no gem experts to evaluate exported stones • lack of financial resources and personnel to follow up quarterly reports • lack of communication and coordination among different government institutions • lack of transparency in government structures • possibly individuals benefitting from low transparency • lack of political will? (little initiative so far) 	<ul style="list-style-type: none"> • go via existing certification schemes

Table 1: Challenges and opportunities for implementing the EITI in Tanzania

Other initiatives affecting transparency in the ASM sector

Other elements, such as proof of mineral origin, production conditions, environmental and social matters could also be involved in a transparency initiative according to several mining stakeholders from Tanzania. Some of these are in line with other existing or possible future projects, such as the Kimberley Process, the Tanzanite Protocol and Tanzanite Foundation certification schemes, and Fair Trade initiatives. Article 9 of the *Protocol against the Illegal Exploitation of Natural Resources* also includes the aim of implementing a certification mechanism for natural resources. Therefore, an initiative similar to the CTC currently being implemented in Rwanda should be launched in Tanzania and it would have synergies with the EITI. Since the

first three initiatives are not specifically adapted to ASM and the latter two have not started yet, synergies with EITI for the ASM sector are very little at the moment.

As the Resident Mines Officer in Geita notes, it is, however, of utmost importance that capacity building is done at the grassroots levels in order for the people to understand the relevance and the benefits of transparency and consequently demand and oversee it themselves instead of implementing it top-down.

A different initiative was started by the private sector, namely FBME's (Federal Bank of the Middle East) subsidiary APM (Africa Precious Metals). They established four collecting centres for artisanally produced gold (Fair Trade Gold Centres) in the Lake Zone in 2007. They buy the gold in these centres and then refine it in their refinery in Mwanza to 99.5% gold before exporting it. The miners, brokers and dealers who sell to them (all have to be licensed) trust APM because they follow highest — and transparent — standards in weighing, assaying and pricing the gold. Moreover, APM offers pre-financing at fair rates and other assistance for the small-scale miners. This project had a significant impact on the transparency in the sector, and it is estimated by government officials that now around 80% of revenues are captured thanks to APM¹⁴⁴. In total, they bought 886 kg gold from the beginning of their operations in September 2007 until 30 June 2009, 695kg of that during the financial year 2008/2009 (July-June). In the same time, the registered production of small-scale miners was 1.19 kg¹⁴⁵. APM has however reported problems with illegal buyers paying higher prices since the beginning of 2009 which can clearly be seen in the amount bought compared to 2008. According to the Quality Assurance & Customer Relations Manager of APM Mwanza a lot of illegal buyers pretend to pay a higher price per gramme but cheat the miners in terms of the fineness of the gold. Despite these problems, the initiative shows that links between private sector investment and transparency could be a viable approach.

¹⁴⁴ Due to the problems with illegal buyers reported by APM, the percentage is certainly lower now. The quoted number should, however, be regarded with care as it does not seem to be very realistic even for APM's best times. The most conservative calculation with the assumption that of 150,000 artisanal miners in the Lake Zone most work seasonally and maybe some indirectly involved people are counted, therefore, each producing 0.5 ounces per year, the total production is already more than 2 tonnes. This translates to roughly 30% being bought and legally exported by APM. Regardless of the exact number, it is important that transparency in the sector was increased through this initiative.

¹⁴⁵ Statistics of Zonal Mines Office Mwanza

Summary

The situation in Tanzania, as presented in this chapter, clearly demands for an initiative like the EITI. A lot of the current problems could be solved through increased transparency, increased accountability and increased communication and trust among the mining stakeholders. The draft revised mining policy, the new SMMRP as well as statements of government authority indicate that there is political will to increase transparency. However, the little action that has been taken so far to advance the implementation of the EITI is a cause for concern. For the implementation of the EITI in its classical form with a focus on payment and revenue tracking in the ASM sector the informality is a serious obstacle. Before further formalisation efforts have been undertaken, the EITI in the Tanzanian ASM sector should therefore rather focus on the dialogue between the different mining stakeholders. Synergies with other initiatives, especially certification schemes, are possible. Tanzania also intends to join the Fair Trade movement. Although the realisation is rather to be expected in the mid-term, once it starts operating there could also be synergies with EITI. Private sector investment into ASM has, to a certain extent, started in Tanzania with APM's gold buying activities. This approach, which has a significant impact on the transparency in the sector, could also be developed further. Revenues from ASM are relatively insignificant at the moment but could be increased substantially through formalisation and EITI. However, it is important to not focus on revenues only since the informal artisanal miners have no incentive to formalise and operate more transparently if the costs exceed the benefits.

III Strategies for transparency/EITI implementation

Basic considerations for the drafting of the strategies

The strategies for EITI implementation in the ASM sector are based on the following key findings from the country case studies: an impasse arises out of the present situation of the ASM sector and the preconditions for EITI implementation. The classical fiscal EITI requires a formalised environment as payment and revenue tracking is impossible without proper record keeping. The present low level of formalisation in the ASM sector is therefore a serious obstacle for EITI implementation.

The EITI itself, however, is not a mechanism for formalisation. If the EITI shall be implemented with a focus on fiscal transparency it is, at present, only possible at the export stage. Before formalisation of the ASM sector has advanced, the focus of a transparency initiative should be on trust building and cooperation among different mining stakeholders, which is also an element of the EITI process. The ASM sector, however, is presently not even sufficiently organised to ensure the success of the latter strategy. Moreover, it is questionable whether the ASM sector is fully and legitimately represented in the EITI MSG. Last not least, the governments lack capacities to further the integration of the ASM sector in the EITI process.

Before presenting the strategies, two issues shall be briefly discussed because of their importance for the implementation of a transparency initiative in the ASM sector. The first relates to the cost of changing the status quo, specifically from no transparency to transparency and the second relates to formalisation, its advantages and disadvantages for artisanal miners.

Apart from the question whether a certain system is better or worse than another for the stakeholders involved, once a system is well established and has been used for some time, the change to a different system always involves costs. This is due to the adaptation to the status quo that might have involved specific investments and the repeated investment necessary to adapt to a new system.

The Key problem for introducing transparency is illustrated below.

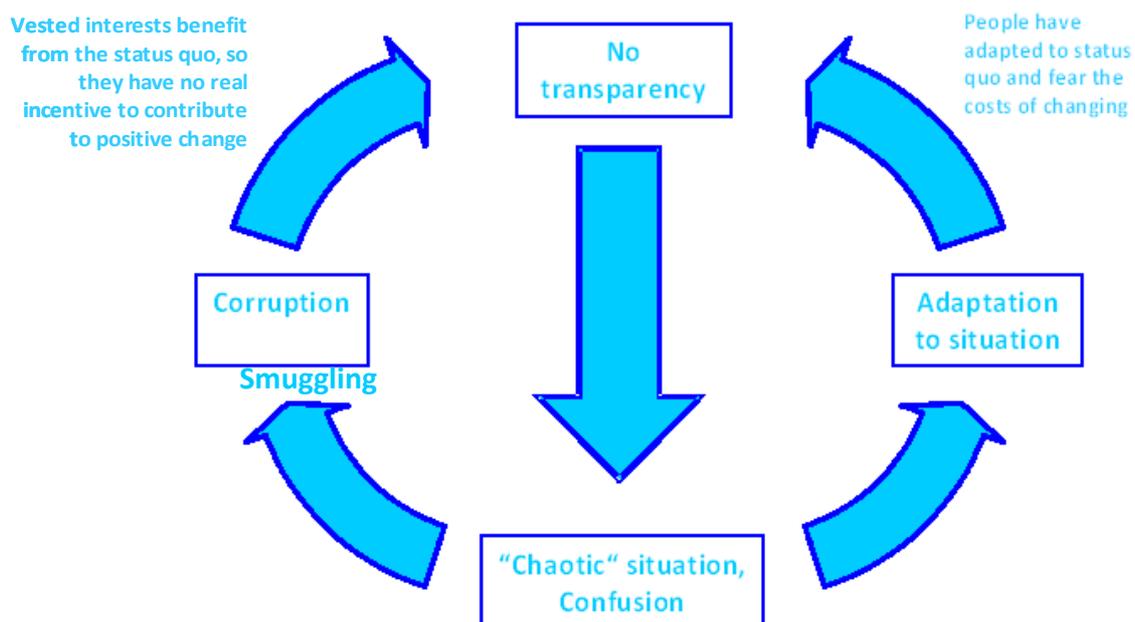


Figure 13: Obstacles for the change from no transparency to transparency

As can be seen from Figure 16, barriers to change the status quo originate from two different forms of existence in the current situation: One relates to the adaptation to the chaotic situation that is implied by the lack of transparency. In this case people might not be willing to change because they fear the costs of adapting to a new environment. The other barrier refers to people who avail themselves of the confusion caused by the lack of transparency, e.g. through corruption, smuggling or other illegal activities. These vested interests have no real incentive to contribute to positive change.

The same problems occur in the change from informality to formality. Depending on the EITI implementation strategy, the necessary level of formalisation varies (cf. fig. 18). The discussion about transparency cannot be held without discussing formalisation. A detailed discussion of formalisation of the ASM sector goes beyond the scope of this report. Some arguments for and against formalisation are, nevertheless, presented here. There are several advantages and disadvantages of formalisation for the artisanal miners and they will have to weigh the costs and benefits against each other before making a decision on the matter. The figure below illustrates this process.

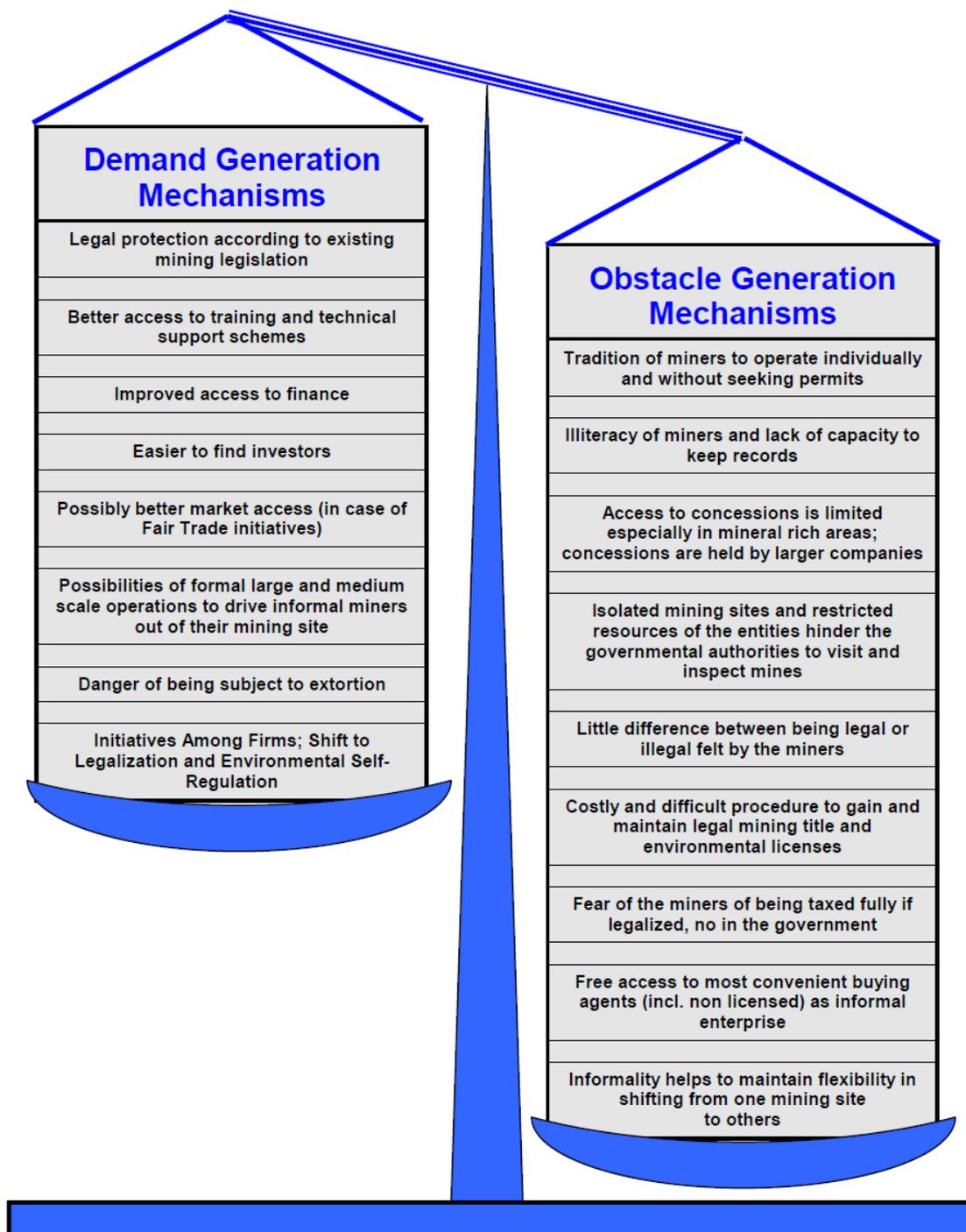


Figure 14: Decision making influences in the informal small-scale mining business towards formalisation of operations

As can be seen, several factors drive the demand of the artisanal miners to formalise while other factors discourage formalisation. The illustration only collects some general advantages and disadvantages of formality and informality, it is by no means exhaustive and it will be different according to each specific situation.

The strategies

The figure below attempts to clarify the position of the strategies presented thereafter, in terms of the EITI objective they try to fulfil and the level of formalisation required for their implementation. If a mechanism to mainstream mining operations requires a high level of formalisation, this can become an entry barrier for the ASM sub-sector. The strategies not directly focusing on fiscal transparency are to counteract the danger of a further marginalisation of the ASM sector as a consequence of a new mechanism. There are other possible strategies to increase transparency and implement the EITI in the ASM sector. For instance, as mentioned in the introduction, one could try to include the intermediate trading and the mining level. Other ideas would be to bring the state into buying operations as a minority shareholder or to establish governmental buying schemes for ASM production, based on the example of PMMC in Ghana¹⁴⁶. These additional strategies would, however, require considerable resources to be mobilised by the government, which for both countries is quite unlikely at present. Therefore, these strategies are not further assessed in this report.

¹⁴⁶ See <http://www.pmmcghana.com/> for details. Another example: statistics of the TCME show that the registered gold production of ASM was significantly higher while the Bank of Tanzania (BoT) bought artisanally produced gold.

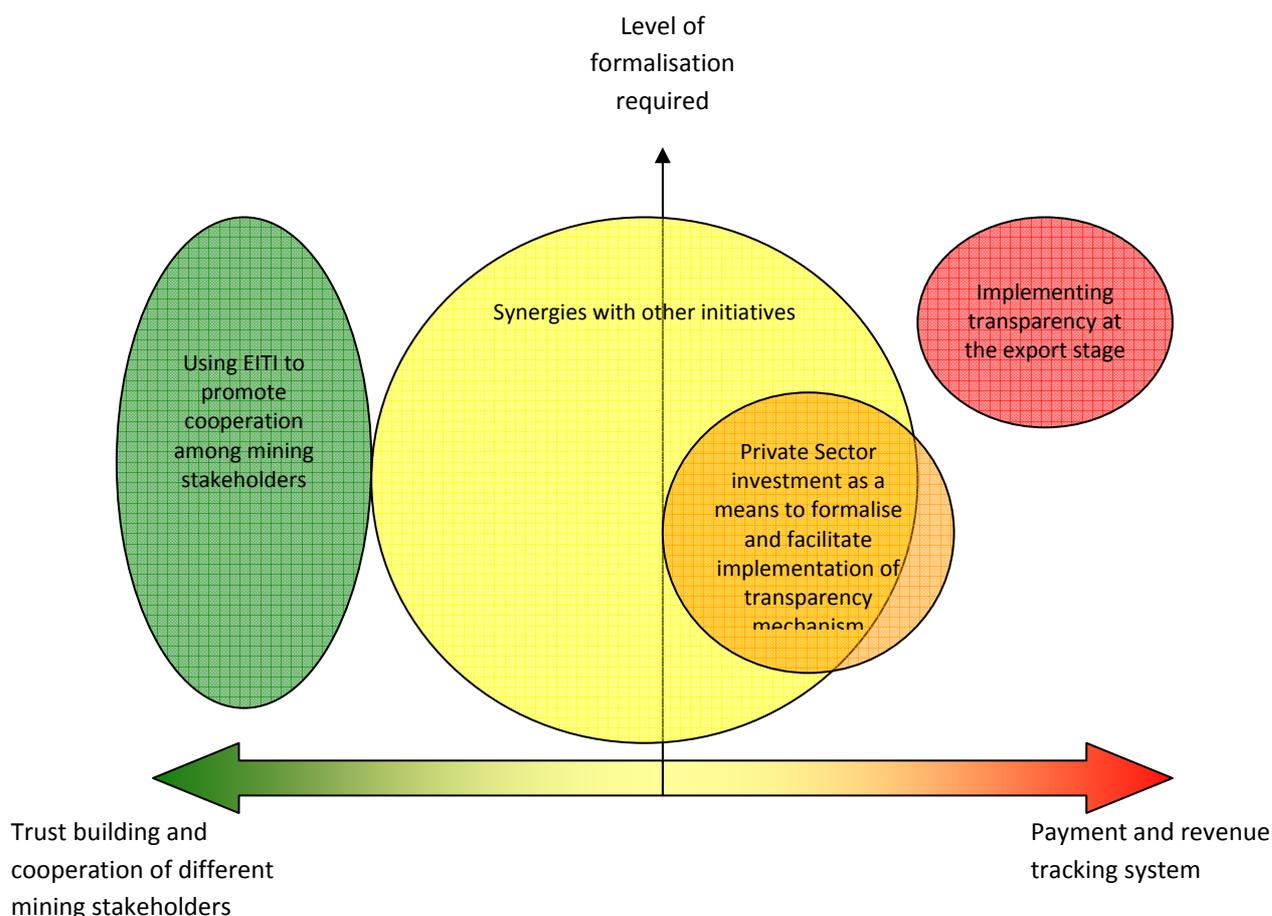


Figure 15: Relation of identified strategies with levels of formalisation required and EITI key objectives

Implementing transparency (EITI) at the export stage

Implementing the EITI at the mineral export stage would allow the state to capture a proportion of the revenue streams stemming from ASM production and also provide an entry point for formalisation and a further deepening of the EITI along the value chain.¹⁴⁷ The discussion of LEITI above, for example, has shown that the initiative is already formally including dealers, brokers and ASM in the process, even though capturing a significant proportion of brokers and ASM faces implementation obstacles.¹⁴⁸ The following paragraphs look at challenges and advantages, political institutions to carry such a process, and strategy for political support.

¹⁴⁷ Garrett, Nicholas, 2007, The EITI and ASM, Extractive Industries Transparency Initiative

¹⁴⁸ Interview with LEITI Secretariat and Gold and Diamond Dealer’s Association of Liberia, Monrovia, November 2009

Advantages:

The principal advantage of implementing the EITI at the export stage is that it may be in the exporters' interest to become part of the EITI process. Specifically:

- Depending on the prevalent licensing and revenue collection scheme in the country, as well as the level of fraudulent exports, the exporters may already contribute substantially to Government revenues;
- The formal recognition of this fiscal contribution by the exporters would better their bargaining platform vis-à-vis the Government;
- The formal recognition of this fiscal contribution by the exporters would better their social license to operate

The case studies suggest that for such a process to work, it is important for civil society to have a good working relationship with the exporters, and for civil society to take a constructive approach to this working relationship. In Liberia, for example, civil society has expressed its support for the participation of the brokers and dealers, in the LEITI, as it regards the ASM sector as a significant part of the economy and thus would like to see its profile raised.¹⁴⁹

The exporters and the intermediate traders may also play a key role in EITI information dissemination in mining areas, which could eventually help deepen the EITI process to capture a larger percentage of revenues also at the mining stage.

EITI implementation at the export stage in the ASM trading chain may thus result in increased transparency. However, challenges remain:

Challenges:

- The cost effectiveness of implementing the EITI in ASM: it has yet to be determined what the marginal cost increase of EITI implementation at the export and intermediary trading stages is for a national EITI process. Deepening

¹⁴⁹ Interviews with civil society representatives, Monrovia, November 2009

such a process to also include the mining stage, may result in significantly escalating costs for administering and implementing the initiative. The revenue streams at the mining level are relatively insubstantial, compared with those at the intermediate trading and export levels, so the question is whether the deepening of the initiative to the mining stages would be financially viable. In Liberia, for example, the implementation of the KPCS has supported an increase in Government revenue from artisanally mined diamonds to US\$1m in 2008. However, this was achieved at an implementation cost of close to US\$10m, while up to 90% of mined diamonds continue to leave Liberia unrecorded.¹⁵⁰

- To capacitate economic operators at the intermediate and export trading stages to participate meaningfully in the process and to incentivise non-participating intermediate traders and exporters to formalise, so as to increase the viability of the scheme in terms of capturing a more significant proportion of the revenue flows from the ASM sector.
- In many regions of this world, precious metals, such as gold, are used as regional currency. They thus fulfil a critical livelihood sustaining function, particularly in rural border areas, and are also a motor of regional trade. This further complicates any endeavour to capture revenues from the ASM sector.¹⁵¹
- How to construct effective oversight mechanisms, both within the systems of local government and with regard to civil society participants in the processes, who would need to be able to review and process information provided in the reports on private sector expenditures and state revenues.

¹⁵⁰ Interview with Ministry of Mines, Land and Energy, Monrovia, November 2009

¹⁵¹ Interview with Paul Temple, Mining Consultant, Monrovia, November 2009

- The often underdeveloped capacity of miners and the general population to participate in the process and to process information the EITI provides. This is directly related to low literacy levels, particularly in rural areas.
- The possibility of subnational EITI implementation, which may become a part of the deepening of the EITI along the value chain. It should be born in mind that examining transfers within government could induce social risks in its own right, not only linked to failings in transparency and accountability. For instance, there might be magnified fiscal volatility within sub-national government authorities, constraints on national government to perform its redistributive and budget stabilisation functions, new claims from non-producing regions for a share of the 'national' wealth etc. Deciding to implement the EITI at the sub-national level therefore requires a careful assessment of "the benefits of effective revenue management for sustainable development, poverty reduction and reduced fiscal mismanagement, against the risks of fuelling these unintended negative consequences."¹⁵²

Implementation strategy for political support:

It is necessary to instil a sense of confidence into the intermediate traders and exporters that will allow them to trust in state institutions to support a development outcome in the medium-term.¹⁵³ With the right strategy, support and leadership this is a process that can be achieved, albeit incrementally.¹⁵⁴ It is therefore important to leverage existing EITI platforms as vehicles for mutual collaboration and learning amongst the relevant stakeholders, including Government. Important support factors are the establishment of strong instruments of collaboration with industry and/or professional associations and civil society. Of course such an inclusive reform process is not easily implemented, and there should be no naivety about the potential for vested interests to attempt to derail progress. Policy makers and other stakeholders must thus work together to identify potential spoilers as early as possible, engage those that

¹⁵² Ibid

¹⁵³ Garrett, Nicholas, 2009, Mining as a Source of Growth, The World Bank

¹⁵⁴ Garrett, Nicholas, 2009, Mining as a Source of Growth, The World Bank

are willing, and isolate and politically neutralise the most recalcitrant.¹⁵⁵ EITI implementation in Liberia is a good example in this regard. Different stakeholders have come together in the spirit of collaboration and are continuing to collectively drive the process. LEITI is directed by a Multi-stakeholder Steering Group (MSSG), which is chaired by the Minister of Finance, and comprises representatives of government, civil society, multilateral agencies, and mining (and oil and timber) companies, as well as dealers and brokers (represented through the Dealers and Brokers Association of Liberia) and miners (represented by the Gold and Diamond Workers Union of Liberia). They are key organisations to engage if anyone wanted to deepen the EITI along the value chain. Other EITI implementing countries should look towards Liberia for lessons-learned in this regard.

EITI as a means to generate trust and promote cooperation among mining sector stakeholders

The marginalisation of artisanal and small-scale miners by the legal-administrative framework as well as LSM companies is a source of substantial grievance resulting in conflicts between the different mining stakeholders. More precisely, it relates to the exclusion from the formal sphere in which miners and their rights would be legally protected and they could access support mechanisms. It further concerns the impossibility to participate in the national mining dialogue and decision making processes that directly affect their situation. Seeing the government favouring LSM investors and, on top of this, feeling unequally treated by the companies, relations among mining stakeholders are deteriorated and conflicts prevalent (cf. Gibbon 1995, Fisher 2007, Carstens and Hilson 2009).

In this situation, the presented strategy focuses on the trust building among the different stakeholders in order to achieve an effective cooperation within the MSG. Increasing trust among the stakeholders is meant to be one of the benefits of the EITI, but it is not just a result of but also an essential precondition for increased transparency. Increasing the accountability of the government and the companies and thereby increasing trust from outsiders is one aspect which is relevant in the longer

¹⁵⁵ Garrett, Nicholas, 2009, Mining as a Source of Growth, The World Bank

term, but first of all it is necessary and probably more important that the different stakeholders in the mining sector trust each other and build a viable partnership.

It was repeatedly mentioned by members of the Tanzanian administration as well as members of the EITI MSG that their reasons to involve two ASM stakeholders in the MSG was to avoid driving a wedge between the different mining stakeholders, in particular ASM and LSM, and thereby exacerbate existing conflicts; to give small-scale miners a forum to voice their concerns and to integrate them in the national mining dialogue; and to have a better connection to the ASM sector, a way to inform them about important developments.

Including the ASM representatives in the MSG is a good first step to increase communication and improve relations between mining stakeholders. To tap the full potential of this idea, however, further measures should be taken. While formalisation is not essential for this strategy, firstly, capacity building for the ASM representatives in the MSG should be carried out to enable them to participate in an informed debate about mining issues and to be able to “translate” matters raised by their co-miners into the language of politicians and LSM representatives and vice versa. ASM communities need capacity building to be able to understand the information they receive from the MSG members. Secondly, an increased level of organisation among artisanal and small-scale miners is important. In order for the miners to benefit from their representation in the MSG, they must be sufficiently organised to ensure that they are really represented, meaning their concerns actually reach the MSG and their representatives act in the artisanal miners’ interest. Also, representatives need to know who to contact in the different ASM communities all over the country to disseminate the information they receive in the MSG meetings. A first practical step would be to organise one or several workshops with the ASM representatives in the EITI MSG and key stakeholders from the artisanal mining communities to 1) inform about issues discussed in the EITI MSG meeting; 2) discuss these issues among the participants of the workshop; and 3) channel the participants’ questions and concerns and pass them on to the ASM representatives so they can table these issues during the next MSG meeting. This way, the ASM representatives can legitimate their positions and a mechanism would be established through which EITI reaches the ASM

communities and they can reach back to the EITI. Such regular workshops have, moreover, in other countries contributed substantially to an improved organisation of the ASM sector.

Key institutions involved in this strategy are the EITI MSG and extension services to do capacity building for the artisanal miners. The respective ministry in charge of mining should be involved to ensure the coherence between issues discussed in the MSG meetings and national mining policies, to back up the MSG in cases that have to be handled by a specific department or authority and cannot be solved by the MSG and to elaborate a comprehensive training plan for ASM communities. Regional and local mines offices could be involved to support extension services and as a local contact point for the different mining stakeholders it is important to inform them about issues discussed in MSG meetings.

At a possible later stage of introducing ASM payment and revenue tracking the enhanced communication, trust, and improved relations would contribute to a smooth implementation.

Private Sector investment as a means to formalise and facilitate implementation of transparency mechanism

The link between private sector investment and increased transparency is worth being followed up. As discussed above, formalisation entails several advantages for the artisanal miners. One is the increased attraction for investors. Building on the experience of APM in Tanzania, the investment could go further and private investors could get directly involved in the small-scale mining businesses.

Private sector investment can have a positive effect on increased transparency and vice versa. Payment and revenue transparency is impossible without formalisation because any activity has to be recorded before it can be inspected and made public. A formal private company investing in the informal ASM sector will need a certain level of formalisation but at the same time, it will bring formalisation to the ASM operation it invests in. Depending on the level of involvement with the ASM sector or specific operations, there can be an indirect transfer of formality, and transparency, from the

investor to the target operation or the formalisation (and possibly a certain level of transparency) of the target operation can be a precondition for the investment.

At the same time, artisanal miners could make use of an increased level of formalisation and transparency to attract investment. The government should promote private sector investment in ASM operations and support both, artisanal miners and the private investor to get together and establish a joint venture. Specific services could include the publication of a list of ASM operations interested in cooperation; the provision of legal security; the adaptation of technical limitations of small-scale mining licenses in order to allow further mechanisation; assistance to environmental and occupational health and safety (OHS) programmes; guidance for the investors to regularise the operation (possibly by means of an investor's guide); the provision of geological data; the strengthening of local institutions and guidance for the investors on existing fiscal incentives. The condition for the claiming of these government services is that the enterprise will adhere to transparency principles and participate in the EITI.

Since investing in the ASM sector is risky for companies, they need guidance on the risks as well as protection against public bashing if something goes wrong during the early stage of the investment. The OECD Risk Awareness Tool for Multinational Companies in Weak Governance Zones is a good guideline in this regard. It also serves as a regulatory tool to prevent the companies from ending up with the exploitative structures that are so common in the ASM sector. In order to give it more teeth, the government should mainstream the OECD Risk Awareness Tool in national regulatory frameworks and deploy it as a regulatory tool to direct the investors.

Another risk relates to the low level of geological data in general and proven reserves in particular of the target group of ASM as they generally instead of carrying out exploration focus directly on exploitation.

A major challenge is for the government to provide reliable information on the artisanal operations to attract investors. Its main advantage is that it is in line with the policies of most EITI implementing countries that stress private investment in their mining sectors.

Synergies with other initiatives

The achievement of fiscal transparency as it is expected from the EITI process may be easier to reach making use of synergies with other ASM initiatives aiming at enhancing transparency but focusing on other elements than the fiscal.

Focus	Initiatives
Fiscal	EITI
Corruption	TI
Trade chains	<i>Peace Diamond Alliance</i> <i>DDI</i> <i>D4D</i> Kimberley Process <i>CTC</i> Tanzanite Protocol Certification Scheme Tanzanite Foundation Certification Scheme
Social	<i>Fair Trade</i> CSR-related initiatives
Environment	<i>Fair Trade</i> ISO 14000

Bold Italic: Initiatives focusing specifically on ASM

Table 2: Transparency initiatives and their key focus

The standards of some initiatives, which are not currently being implemented in Liberia or Tanzania, are being implemented in neighbouring countries, e.g. CTC in Rwanda. This, as well as some other initiatives, also help to formalise the sector and could therefore be used as an intermediate step to implementing the fiscal EITI in the ASM sector. A more detailed summary of the principles and standards of the initiatives can be found in Annex 1.

The principal synergies between a transparency mechanism in the ASM sector and other existing initiatives are:¹⁵⁶

Virtual Information Exchange: A transparency mechanism in the ASM sector and other initiatives could take the overlap in data gathering a step further, by actively seeking the sharing of information, through a mutual or third-party website. This website 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

¹⁵⁶ Garrett N., (2008), Certified Mineral Trading Chains & the Extractive Industry Transparency Initiative: Synergies and Scope for Integration

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 organisations monitoring the processes and the mineral sector more broadly.

Strengthening of Government Control Functions: The implementation of a transparency mechanism will help strengthen the government's control functions, such as the adherence to standards and processes, as well as improvements in recordkeeping. These improvements would provide the basis for wider implementation.

National Level Management: Depending on the final design of the national transparency mechanism structure, a number of synergies could arise on the management level. The existing initiatives and the transparency mechanism in the ASM sector initiative 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 embedded in the state structures. Alternatively, the different initiatives could be housed separately, thus creating an incentive for mutual learning and interaction on the national level. The existing initiatives and the implementation of a transparency mechanism could thus collectively lobby governments, donors and civil society to help overcome the challenges to implementation, and seize on the opportunities for implementation.

Civil Society Involvement: If a transparency mechanism for ASM were to have the same or similar multi-stakeholder governance as the core EITI, it would provide a communication platform for the multiple stakeholders in the ASM sector, which provides an opportunity for them, and particularly for civil society, to not only have voice, but to increase its knowledge of the relevant issues, to directly interact with the Government and the private sector, and to build its capacities. This in turn would enable it to more efficiently fulfil its watchdog role required for the successful implementation of both initiatives.

International Secretariat and Mutual Learning: Drawing on the example of the Voluntary Principles on Security and Human rights - which appear to have had reduced organisational energy as they were not benefiting from a secretariat, and the EITI, which appears to have considerable organisational energy because it benefits from a well-functioning secretariat, the authors recommend the creation of a secretariat for the implementation of a transparency mechanism in the ASM sector. This would provide the initiative with the necessary organisational energy to make it relevant and could support the widespread adaptation of the process. The Communities and Small-Scale Mining (CASM) initiative's secretariat, which is currently housed at the World Bank, could be a suitable host that could carry such a process. However, the initiative is currently under review and given that the outcome of this review remains uncertain, it is at this stage difficult to say, whether this is a realistic option.

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 should be co-located with similar initiatives, such as the EITI, or the Kimberley process if formal integration is not a realistic option.

Capturing the Expenditure side: One of the principal criticisms of the EITI is that the expenditure side escapes its narrow focus. The fact that the EITI does cover the reconciliation of payments and revenues implies that another initiative could be developed working on the reconciliation of subnational government/project receipts and government expenditures. The likelihood of two initiatives with a narrow focus actually functioning is higher than one initiative with a broad focus.¹⁵⁷

The key challenge is whether the people involved in and financing the respective interventions are interested in collaborating with other initiatives, so as to give rise to synergies emerging in reality. Several interviewees have expressed scepticism over political support for synergies to materialise, simply because they believe that reasonably successful initiatives, such as the EITI would not necessarily want to be associated with processes that are known to face significant implementation

¹⁵⁷ Interviews with the Chairpersons of two global governance initiatives, London, November 2009

challenges, particularly on the sub national level, such as the Kimberley Process Certification Scheme.¹⁵⁸ It will therefore be important to convene a meeting with the leading representatives of the respective natural resource governance initiatives to discuss and agree a strategy to maximise synergies between the initiatives. An international body, such as the OECD or the African Union, could host such a convention.

¹⁵⁸ Various interviews with international natural resources sector experts, London, November 2009

IV Conclusion & Recommendations

Conclusions for the implementation of transparency/EITI in the ASM sector

Ensuring sufficient transparency in ASM sectors is the joint responsibility of the Government and the private sector. The EITI often serves as the principal mechanism to increase transparency in natural resource rich countries. EITI implementation in the ASM sector can potentially broaden a state's fiscal base, bring about synergies with other good natural resource governance initiatives, and open up development opportunities. However the link between increasing transparency in the minerals sector and development is indirect and its materialisation critically depends on the management and expenditure of government revenue, as well as the sub-national redistribution of revenue. Given that the EITI has no influence over the expenditure side, its combination with other initiatives is ever more pertinent. This report has therefore introduced synergies between good natural resource governance initiatives and the EITI.

This report has shown that the formal inclusion of the ASM sector in the EITI in Liberia has made some progress and it can be classed both as a significant achievement and as a clear indicator of the hard work, the stakeholders have so far put into the process. However, in other countries with different political priorities and implementation environments it remains to be seen whether such an extension of the EITI is a feasible option. Other EITI implementing countries should look towards Liberia for lessons learned from its attempts to include the ASM sector. It is particularly important to clearly communicate the costs and benefits of including the ASM sector in the EITI.

The business case remains to be clearly defined. The overall state revenues from ASM sectors, which are currently being officially recorded, often only amount to a fraction of what they should be. However, it is evident that even if additional revenues could be captured through EITI implementation in the ASM sector, they will not necessarily add up to substantial sums as a result of the present taxation structure and

the volume and value of traded minerals. This is particularly so, when compared with tax payments made by larger mines. It will therefore depend on the EITI cost structures to determine whether EITI implementation in ASM would be sustainable, or whether it would be a financial loss-maker. At the same time, there is not only a straight financial case to be made and the investment of including the ASM sector in the EITI may yet yield dividends.

Including the ASM sector in the EITI can strengthen national coalition building around the goal of utilising the country's natural wealth for development. The generated data can be used as a de facto basis for the wider population and civil society representatives to hold governments to account; for the ASM operators to demand recognition of governments as an economic and political constituency; and for the governments to enter into the national dialogue around development with a clear and transparent set of numbers that can explain both, slow or rapid development progress.

The current situation in many developing countries with a vibrant ASM sector, which is characterised by low levels of transparency, trust and cooperation among mining sector stakeholders, clearly calls for an initiative like the EITI in order to increase government revenues and improve the relations among the stakeholders. Looking at the Tanzania case, the integration of two ASM sector representatives in the EITI MSG is a promising first step. The attempt to assess how the involvement of the ASM sector can be fruitful, as has been done with this report, is a good second step. Now it is in the hands of the Tanzanian government, the private sector and donors to follow up the first two steps with further actions. The result could be an example for other countries in a similar situation.

The rationale behind including ASM in the Tanzanian EITI is twofold. The revenue from ASM, which is currently low due to the high percentage of illegal exports, could be increased significantly if all key stakeholders would commit themselves to transparency and adherence to pertinent standards (legal, social, environmental). On the other hand, the strained relations in the Tanzanian mining sector that often involve violent conflicts, become increasingly costly for the country and the EITI is a welcome

mechanism to increase trust and improve the relations among the stakeholders. Strategy two focuses on this aspect. It is likely that other countries with considerable informal ASM activities and especially those which feature both, an ASM and an LSM sector, face similar problems and would therefore have an interest in establishing a transparency initiative as outlined in strategy two.

The APM gold buying project in Tanzania's Geita District is an interesting example showing how transparency in the ASM sector can be increased by private sector investment, even if the involvement with the sector remains at the lowest possible level. Strategy three, based on this experience, looks at further routes how private sector investment into ASM operations could enhance transparency.

Notwithstanding the advantages that EITI implementation would implicate, considerable challenges remain. In Tanzania, it has appeared that the overall progress of EITI implementation is a challenge. Another relates to the fact that the government through the EITI will not have an instrument to control expenditures and therefore the actual impact on development is limited if there are no other initiatives to address this aspect. The biggest challenge for thorough transparency, however, seems to be the low level of formalisation of the ASM sector.

It is important to emphasise that increasing transparency in the ASM sector does not equate to formalisation, rather formalisation processes can provide a suitable platform to increase transparency. This holds true for both of the studied countries. It is therefore important to provide formalisation incentives, such as outlined in strategy three, whilst bearing in mind the overall goal of increasing transparency in the ASM sector.

These thoughts translate into the following recommendations:

Recommendations

Recommendations for the implementation of the four strategies

Implementing the EITI at the export stage:

- Identify and capacitate representative ASM stakeholders (associations, unions etc) and include these in the national EITI process; ideally giving them formal representation on the EITI steering committee.
- Sensitise stakeholders through outreach work and a clear communication of the EITI
- Capacitate the stakeholders to participate in EITI outreach work across the country
- Establish efficient data gathering and management processes at the export points, and make export data publicly available, so to add an additional transparency mechanism to complement EITI implementation at the export stage
- Review existing export royalty regimes and work actively towards regional harmonisation, so to decrease incentives for intra-regional fraudulent exports
- Provide a clear communication strategy for the fiscal contribution of the exporters, so to recognise their contribution and empower the trade

EITI as means to generate trust and promote cooperation among mining sector stakeholders:

- Organise local and regional workshops with key ASM stakeholders and with the MSG ASM delegates for discussing the EITI process progress, the specific issues and options for ASM as partners in the EITI process and developing a mutually agreed ASM position for the further process steps.
- Sensitise stakeholders through outreach work, consultation events and a clear communication of the EITI goals and processes
- Capacitate the stakeholders to participate in EITI outreach work across the country and communicate the benefits of transparency and formalization

- Stimulate the stepwise establishment of an ASM-EITI action group as a mean to channel the dialogue between the EITI secretariat and the ASM community with the vision to convert this group into a national or regional ASM umbrella organisation.
- Support international information exchange between ASM-EITI action groups, i.e. during CASM learning events and promote successful ASM integration into the EITI process.

Private Sector investment as a means to formalise and facilitate implementation of transparency mechanism:

- Commission a feasibility assessment on the establishment of governmentally licensed buying schemes for ASM production building upon the positive experiences, i.e. from APM in Tanzania or the MRO in PNG.
- Assess availability of relevant information from ASM operations with a potential for external investment, assess demand for additional information and services for successful investment promotion and identify existing gaps and hindrances.
- Pilot business development services as a tool to upgrade transparency in the ASM sector (i.e. with restricted regional, geological or commodity approach)

Synergies:

- Convene a high level meeting between representatives of good natural resource governance initiatives to discuss the feasibility of the synergies highlighted in this report.
- Commission expert background studies on the synergies highlighted in this report
- Convene an expert workshop to discuss the findings of the background studies and develop a strategy to operationalise those synergies deemed feasible
- Convene national level stakeholder workshops to discuss the implementation on the national level

General recommendations

A purely monetary cost-benefit analysis of EITI ignores the social benefits it might have. The commitment of governments should therefore be created by marketing the participation of ASM in the EITI as a tool with positive side effects on conflict minimisation and consensus building. To create commitment of the ASM communities, their participation in the EITI should be marketed as a means to obtain a voice in the national mining dialogue, to optimise opportunities for upgrading the operation, and to obtain a social license to operate.

The EITI as an ongoing process requires constant capacity building, information for and discussion with the ASM delegates in EITI MSG and the ASM sector in general. A successful and sustainable integration of ASM will only be possible if the government supports and creates an enabling environment, particularly through support to increased organisation of the sector, support to increased formalisation, enhancement of transparency in the resource administration and the stimulation of cooperation with other initiatives.

Finally, the pilot testing of the four strategies to integrate the ASM sector in the EITI process is essential in order to validate the findings of the present study.

The strategies presented in this report shall, in the longer run, lead to a situation that allows the extension of the EITI in ASM upstream along the production line (export → trade → mineral production).

Bibliography

- African perspectives of the global economic and financial crisis, including the impact on health, <http://www.un.org/regionalcommissions/ecosoc09/ecanotes.pdf>
- Anna van Nieuwenhuizen, The Diamonds for Development (D4D) Programme in Liberia, in *Artisanal diamond mining: Perspectives and challenges*, edited by Koen Vlassenroot and Steven Van Bockstael (2008).
- Armstrong W., D'Souza K., de Pooter E., *Monitoring, formalisation and control of the artisanal alluvial diamond mining sector*
- Artisanal diamond mining: Perspectives and challenges*, edited by Koen Vlassenroot and Steven Van Bockstael, 2008, p.v
- BGR (2009) 'Certified Trading Chains in Mineral Production. Project Outline and Status'. Hannover: Federal Institute for Geosciences and Natural Resources.
- BGR (2009) 'Compliance Audits of Mining Companies in Rwanda to the CTC-Standard Set'. Compiled by Nellie Mutemeri. Hannover: Federal Institute for Geosciences and Natural Resources.
- BGR and Rwanda Geology and Mines Authority (2009) 'Pilot Project on Mineral Certification in Rwanda. Principles and Standards'. Kigali: Federal Institute for Geosciences and Natural Resources and Rwanda Geology and Mines Authority.
- Block, Robert and Daniel Pearl (2001) 'Underground Trade: Much Smuggled Gem Called Tanzanite Helps Bin Laden Supporters – Bought and Sold by Militants Near Mine, Stones often End Up at Mideast Souks – Deal-Making at the Mosque', *Wall Street Journal*, New York, Nov. 16, 2001.
- Carstens, Johanna and Gavin Hilson (2009) 'Mining, Grievance and Conflict in Rural Tanzania', *International Development Planning Review*, 31 (3), pp. 301-326.
- Chachage, Chachage Seithy L. (1993) 'New Forms of Accumulation in Tanzania: The Case of Gold Mining'. In: Chachage Seithy L. Chachage, Magnus Ericsson, Peter Gibbon *Mining and Structural Adjustment. Studies on Zimbabwe and Tanzania. Research Report 92*, Uppsala: Nordiska Afrikainstitutet. Pp. 77-107.
- Chachage, Chachage Seithy L. 1995. "The meek shall inherit the earth but not the mining rights: The mining industry and accumulation in Tanzania." In *Liberalised development in Tanzania*, edited by P. Gibbon. Uppsala: Nordiska Afrikainstitutet.
- Collier, P. (2008), *The Bottom Billion*, Oxford University Press.
- Curtis, Mark, Tundu Lissu (2008) *A Golden Opportunity? How Tanzania is Failing to Benefit From Gold Mining*. Report published by the Christian Council of Tanzania (CCT), National Council of Muslims in Tanzania (BAKWATA) and Tanzania Episcopal Conference (TEC).
- Di John (2008), *Fiscal Reforms, Developmental State Capacity and Poverty Reduction*, UNRISD
- Diamonds for Development, Programme Framework*, Nov. 2005, http://www.lr.undp.org/d4d_Programme_document.pdf
- Draft 5, *Mineral Policy of Liberia*(August 2008), Ministry of Lands, Mines and Energy, Monrovia, Republic of Liberia, <http://www.molme.gov.lr/doc/Liberia%20Draft%20Minerals%20Policy%20clean.pdf>
- Drechsler, Bernd (2001) "Small-scale mining and sustainable development within the SADC region", Report commissioned by MMSD, London, IIED.
- EITI Newsletter 2009-03, 25th August 2009
- Fisher, Eleanor (2007) 'Occupying the Margins: Labour Integration and Social Exclusion in Artisanal Mining in Tanzania' *Development and Change*, 38 (4), pp. 735-760.
- Garrett N., (2008), *Certified Mineral Trading Chains & the Extractive Industry Transparency Initiative: Synergies and Scope for Integration*.

- Garrett N., Mitchell H., Trading Conflict for Development: Utilising the trade in minerals from eastern DR Congo for development, April 2009
- Garrett, Nicholas, 2010, Mining as a Source of Growth, The World Bank, forthcoming
- George J. Coakley, The Mineral Industry of Liberia, <http://minerals.usgs.gov/minerals/pubs/country/2004/limyb04.pdf>
- Gibbon, P. (1995) 'Merchantisation of Production and Privatisation of Development in Post-Ujamaa Tanzania: An Introduction', in P. Gibbon (ed.) Liberalised Development in Tanzania, pp. 9–36. Uppsala: Nordiska Afrikainstitutet.
- H. Sunman and N. Bates, Trading for Peace, DFID, 2007
- Hayes, Karen (2008) 'Artisanal and Small-scale Mining and Livelihoods in Africa'. Paper prepared for the International Seminar: Small-scale Mining in Africa – A Case for Sustainable Livelihood, Zanzibar, Tanzania, 25-26 November 2008.
- <http://eitransparency.org/eiti/benefits>
- http://knowledge.uneca.org/Members/Summermkhululi/international-study-group-isg-to-review-africas-mining-codes/mining-codes-in-african-countries/liberia-mining-code/Categories_Of_Mineral_Titles_and_Rights_In_Liberia.pdf
- http://mlme.net/mlme/index.php?option=com_content&task=view&id=39&Itemid=49
- <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/LIBERIAEXTN/0,,menuPK:356200~pagePK:141159~piPK:141110~theSitePK:356194,00.html>
- <http://www.greenadvocates.org/Compendium/PDF/L.%20Mining%20Regulations.pdf>
- <http://www.imf.org/external/country/LBR/rr/2009/022509.pdf>
- ILO (1999) 'Social and Labour Issues in Small-Scale Mines: Report for Discussion at the Tripartite Meeting on Social and Labour Issues in Small-scale Mines'. Geneva: International Labour Organization.
- IMF, 2008, Liberia: Poverty Reduction Strategy Paper <http://www.imf.org/external/pubs/ft/scr/2009/cr09177.pdf>
- International Conference on the Great Lakes Region (2006) 'Pact on Security, Stability and Development in the Great Lakes Region'.
- ITRI Tin Supply Chain Initiative, Democratic republic of Congo, Artisanal & Small Scale Cassiterite Mining, A phase and Constructive Approach Towards Improved Due Diligence, Governance and Traceability
- Ivar Kolstad and Arne Wiig, Is Transparency the Key to Reducing Corruption in Resource-Rich Countries?, World Development Vol. 37, No. 3, pp. 521–532, 2009
- John S. And Wleh M., Transparent Business Practices: Arcelor Mittal's participation in Liberia's EITI (LEITI), in Advancing the EITI in the Mining Sector
- Keeler, Rachel (2009) 'Tanzania mining Industry: Revenues, Resentment and Overregulation?', Ratio Magazine, in MAC: Mines and Communities, <http://www.minesandcommunities.org/article.php?a=9371>, accessed 20-11-2009
- Kimberley Process. 2002. Interlaken Declaration of 5 November 2002 on the Kimberley Process Certification Scheme (KPCS) for Rough Diamonds.
- Koen Vlassenroot and Steven Van Bockstael, 2008, Artisanal diamond mining: challenges <http://www.gemapliberia.org/pages/components>
- Koen Vlassenroot and Steven Van Bockstael, 2008, Setting the scene: Perspectives on artisanal diamond mining
- Kulindwa, K., Mashindano, O., Shechambo, F., Sosovele, H. (2003) Mining for Sustainable Development in Tanzania. Dar es Salaam University Press: Dar es Salaam.
- Lange, Siri (2006) Benefit Streams from Mining in Tanzania: Case Studies from Geita and Mererani. CMI

- Report 2006:11, Chr. Michelsen Institute, Bergen.
- Liberia, Tapping Nature's Bounty for the Benefits of All, Diagnostic Trade Integration Study, Dec. 2008
http://www.integratedframework.org/files/english/Liberia_DTIS_Report_Vol%20I.pdf
- Liberia: Diagnostic Trade Integration Study, Concept note
- Lucie C. Phillips, Ph.D., Why formalize artisan miners?, Conference on Enterprise Formalization, January 10-11, 2007, Accra, Ghana
[http://www.ifc.org/ifcext/fias.nsf/AttachmentsByTitle/Informalityconference_Presentation_Why_formalizeArtisanMiners/\\$FILE/Formalizing+miners.pdf](http://www.ifc.org/ifcext/fias.nsf/AttachmentsByTitle/Informalityconference_Presentation_Why_formalizeArtisanMiners/$FILE/Formalizing+miners.pdf)
- Mining in Liberia, Overview - <http://www.mbendi.com/indy/ming/af/li/p0005.htm>
- Mining Regulations,
<http://www.greenadvocates.org/Compendium/PDF/J.%20An%20Act%20Adopting%20a%20New%20Mineral%20and%20Mining%20Law.pdf>
- Ministry of Finance, Fiscal Outturn, April 2009,
<http://www.mofliberia.org/PUBLISHED%20FISCAL%20OUTTURNS%20FOR%20QIII-MAY%2019%202009.pdf>
- Ministry of Lands, Mines and Energy, Rough Diamonds Export Procedures,
http://mlme.net/mlme/index.php?option=com_content&task=view&id=36&Itemid=44
- Ministry of Mineral Resources, Policy Measures relating to small scale and artisanal mining and marketing of precious minerals.
- Mitchell H., Garrett N., Levin E., Regulating Reality, Reconfiguring approaches to the regulation of trading artisanally mined diamonds, 2008.
- Mwaipopo, Rosemary, Wilson Mutagwaba, David Nyange, Eleanor Fisher (2004) "Increasing the contribution of artisanal and small-scale mining to poverty reduction in Tanzania", Report prepared for the Department of International Development (UK).
- Natural Resource Charter, Draft, 16 July 2009
- ODI, (May 2006), Sub-national Implementation of the EITI, p. viii
- Paris F. And Bartlett S., 2009, The EITI and the Mining Sector Today, in *Advancing the EITI in the Mining Sector*
- Press release, 13.07.09, Global Witness welcomes new Liberian Transparency law, urges other countries to follow suit. http://www.globalwitness.org/media_library_detail.php/778/en/
- Summary of LEITI first report, 1 July 2007 – 30 June 2008, (10 Feb. 2009)
<http://www.leiti.org.lr/doc/report.pdf>
- Sumowuoi Pewu, "Pitfalls Of The Liberian Economy: What Is Liberia's Choice of Economic Management?" <http://www.theperspective.org/pitfalls.html>
- The Geology of Liberia: a Selected Bibliography of Liberian Geology, Geography and Earth Science by R. Lee Hadden (2006) <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA451649&Location=U2&doc=GetTRDoc.pdf>
- The News, 03.08.09, Liberia: UN Panel Raises Concerns Over Diamond Trade,
<http://www.globalpolicy.org/component/content/article/182/33862.html>
- UNDP Liberia's governance program,
<http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN002247.pdf>
- URT (2005) 'National Strategy for Growth and Reduction of Poverty/MKUKUTA'. United Republic of Tanzania. Dar es Salaam: Government Printer.
- URT (no date) 'Mining', <http://www.tanzania.go.tz/mining.html>, accessed 20-11-2009
- Voanews.com, James Butty, 23 January 2009, "Liberia Signs \$2.6 Billion Mining Agreement With Chinese Company, <http://www.voanews.com/english/archive/2009-01/2009-01-23->

voa8.cfm?CFID=296570344&CFTOKEN=45448777&jsessionid=0030ae10c923998466ae6dab36a3048297f4

WGC (2009) 'The golden building block: gold mining and the transformation of developing economies', London, World Gold Council.

World Bank/Tan Discovery. 1996. Baseline survey and preparation of development strategy for small scale and artisanal mining program. Unpublished report.

Annex 1:

Transparency initiatives overview table

Transparency initiatives overview table

Initiative	Objectives/Requirements/Activities
EITI	<ul style="list-style-type: none"> • Disclosure of all payments (above a certain threshold of materiality) from companies to gov't and revenues of gov't from oil, gas and mining companies, by both, companies and gov't; • Credible, independent audit (according to international auditing standards) of all payments and revenues; • Payments and revenues are reconciled by a credible, independent administrator, applying international auditing standards and with publication of the administrator's opinion regarding that reconciliation; • This approach is extended to all companies including state-owned enterprises; • Civil society is actively engaged as a participant in the design, monitoring and evaluation of this process; • A public, financially sustainable work plan for all the above is developed by the host government, with assistance from the international financial institutions where required, including measurable targets, a timetable for implementation, and an assessment of potential capacity constraints.
CTC	<p>CTC can contribute to</p> <ul style="list-style-type: none"> ○ promoting transparency, ○ consolidating standards, ○ regulation of the informal sector, ○ building governance capacity, ○ sectoral economic growth, ○ additional state revenues, ○ sustainable use of the national natural resources and ○ conflict prevention. <p>Principles and standards</p> <ul style="list-style-type: none"> • Principle 1: Origin and volumes of produced and traded goods as well as company payments to host government are transparent. <ul style="list-style-type: none"> ○ 1.1 Origin and production volume of minerals from the pilot mine site throughout the trading chain are traceable. ○ 1.2 Meet fiscal obligations required by host government law. ○ 1.3 Publish all payments made to government according to internationally accepted standards. ○ 1.4 Actively oppose bribery and fraudulent payments. • Principle 2: The company does not use child labour and ensures fair remuneration and work conditions as well as continual improvement of health and safety measures for all employees. <ul style="list-style-type: none"> ○ 2.1 Maintain salary or payment levels equal to or greater than those in comparable enterprises within Rwanda. ○ 2.2 Ensure that no child labourers (age under 16) work on company sites. ○ 2.3 Support workers' organizations and collective bargaining. ○ 2.4 Provide essential protective and production services to support the work of artisanal miners. ○ 2.5 Ensure occupational health and insurance in all company operations. ○ 2.6 Provide training for employees and contractors on safety, health and effective use of on-site facilities. • Principle 3: The company ensures security on company sites whilst respecting human rights. <ul style="list-style-type: none"> ○ 3.1 Provide sufficient and adequately trained security forces.

	<ul style="list-style-type: none"> ○ 3.2 Undertake security risk assessments. ● Principle 4: The company consults communities in which it operates and contributes to their social, economic and institutional development taking into account gender sensitive aspects. <ul style="list-style-type: none"> ○ 4.1 Interact regularly with communities and local governments to address grievances and other common concerns. ○ 4.2 Support local enterprises to supply company operations. ○ 4.3 Implement integrated development programs in nearby communities for livelihood security, social and physical infrastructure and capacity building. ○ 4.4 Obtain free, prior and informed consent before acquiring land or property. ○ 4.5 Understand the situation and perspectives of the women in the company's area of influence and design and implement company's operations in a gender sensitive way. ● Principle 5: The company seeks continual improvement of its environmental performance. <ul style="list-style-type: none"> ○ 5.1 Carry out an environment impact assessment as the basis for developing an environmental management and protection plan and strategy. ○ 5.2 Properly treat or dispose of hazardous material and waste from its site(s). ○ 5.3 Makes provision for the full cost of rehabilitation upon closure.
<p>Peace Diamond Alliance</p>	<ul style="list-style-type: none"> ● Develop transparent, fair and safe local market ● Maximising the benefits to local miners, diggers and their communities by introducing systems that track the rough diamond from the mine to export through mobilising local surveillance at the mine thereby minimising smuggling, corruption and restoring confidence in the system as a whole ● Support and advocacy for the rights of diamond miners and dealers in Sierra Leone ● Training miners and diggers on the value of their production ● Campaigning against child labour in the mines ● Leading the formation of mining cooperatives ● Combat smuggling ● Monitoring the implementation of mining legislation ● Funding credit schemes for miners ● Buying diamonds that are certified by the initiative to be sold as fair trade products ● Procuring transportation and communications equipment for the ministry of mineral resources ● Educating the local community on developing alternatives to diamond mining
<p>DDI</p>	<ul style="list-style-type: none"> ● Improve working conditions of artisanal miners ● Ensure that mined diamonds benefit local communities and local gov'ts ● Fair prices ● Formalisation ● Through education, policy dialogue and projects working directly with artisanal diamond miners and their communities, demonstrate that diamonds can be an asset for growth <p>To promote better understanding of, and possible solutions for:</p> <ul style="list-style-type: none"> ● Government regulation and mining regulation; ● Distribution and marketing channels; ● Organizational aspects of artisanal production; ● Legitimate and transparent distribution channels; ● Organization among artisanal miners; ● Free and open markets for artisanally mined diamonds.

	<ul style="list-style-type: none"> ● Development diamond standards (specific standard for small-scale producers): <ul style="list-style-type: none"> ○ will set minimum performance standards in regards to social, economic, environmental, labor, trading and/or governance issues for operations in the developing countries ○ Large companies at different levels of the diamond pipeline, cooperatives and individuals miners, as well as, perhaps governments trading, buying and exporting diamonds in developing countries will be expected to meet these standards in order to be confirmed as producing “development diamonds”. ○ The concept of “development diamonds” deals with the bottom tier of miners and small companies operating on their own ○ The concept also extends beyond the idea of “fair trade” diamonds ● By providing artisanal miners with development diamond standards that they are able to meet, we are ensuring that they are not marginalized, as standards become a deep-rooted business-driven trend. In addition, by adding value to the “idea” of diamonds, we are enhancing opportunities for improving the lives of people who work at the very source of the diamond pipeline. ● In the context of development diamond standards, the large scale mining companies would also need to qualify themselves by maintaining ethical relationships with artisanal and small-scale operations. ● In areas of overlapping operations, large scale miners will be expected to: <ul style="list-style-type: none"> ● Do no harm ● Facilitate alternative livelihoods ● Dialogue to proactively prevent conflict between artisanal miners and themselves ● Use appropriate disposal mechanism for large scale mining waste ● Organization among artisanal miners; ● Recognize legitimate efforts of artisanal miners <p>In areas where there is no overlap of activities, large scale miners may:</p> <ul style="list-style-type: none"> ● Identify and provide technical assistance, information and knowledge ● Partner with and train artisanal miners ● Give legal rights to artisanal and small-scale miners <ul style="list-style-type: none"> ● In both cases, a key component of the role of the industry is ensuring equitable redistribution of diamond proceeds to diggers, their families and mining communities. This can be achieved by implementing measures to ensure fair transactions of diamond sales among all actors in the diamond mining industry. In addition, large scale companies may also undertake advocacy for artisanal miners with governments and others on issues such as, legitimization and formalization of artisanal miners. ● Overall, large scale miners can assist artisanal and small-scale miners to achieve development diamond standards and to derive more benefits from mine products. They can assist artisanal miners with such needs as geological/technical information, access to pricing information and the need for their communities to be self-sustaining.
<p>Kimberley Process</p>	<ul style="list-style-type: none"> ● Legally binding global certification system for rough diamonds ● Combat conflict diamonds <p>The Kimberley Process Certificate</p> <p>Each Participant should ensure that:</p> <p>(a) a Kimberley Process Certificate (hereafter referred to as the Certificate) accompanies each shipment of rough diamonds on export;</p> <p>(b) its processes for issuing Certificates meet the minimum standards of the Kimberley</p>

	<p>Process as set out in Section IV;</p> <p>(c) Certificates meet the minimum requirements set out in Annex I. As long as these requirements are met, Participants may at their discretion establish additional characteristics for their own Certificates, for example their form, additional data or security elements;</p> <p>(d) it notifies all other Participants through the Chair of the features of its Certificate as specified in Annex I, for purposes of validation.</p> <p>Internal Controls</p> <p>Undertakings by Participants</p> <p>Each Participant should:</p> <p>(a) establish a system of internal controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds imported into and exported from its territory;</p> <p>(b) designate an Importing and an Exporting Authority(ies);</p> <p>(c) ensure that rough diamonds are imported and exported in tamper resistant containers;</p> <p>(d) as required, amend or enact appropriate laws or regulations to implement and enforce the Certification Scheme and to maintain dissuasive and proportional penalties for transgressions;</p> <p>(e) collect and maintain relevant official production, import and export data, and collate and exchange such data in accordance with the provisions of Section V.</p> <p>(f) when establishing a system of internal controls, take into account, where appropriate, the further options and recommendations for internal controls as elaborated in Annex II.</p> <p>Principles of Industry Self-Regulation</p> <p>Participants understand that a voluntary system of industry self-regulation, as referred to in the Preamble of this Document, will provide for a system of warranties underpinned through verification by independent auditors of individual companies and supported by internal penalties set by industry, which will help to facilitate the full traceability of rough diamond transactions by government authorities.</p> <p>Co-operation and Transparency</p> <p>General Recommendations</p> <ol style="list-style-type: none"> 1. Participants may appoint an official coordinator(s) to deal with the implementation of the Certification Scheme. 2. Participants may consider the utility of complementing and/or enhancing the collection and publication of the statistics identified in Annex III based on the contents of Kimberley Process Certificates. 3. Participants are encouraged to maintain the information and data required by Section V on a computerised database. 4. Participants are encouraged to transmit and receive electronic messages in order to support the Certification Scheme. 5. Participants that produce diamonds and that have rebel groups suspected of mining diamonds within their territories are encouraged to identify the areas of rebel diamond mining activity and provide this information to all other Participants. This information should be updated on a regular basis. 6. Participants are encouraged to make known the names of individuals or companies convicted of activities relevant to the purposes of the Certification Scheme to all other Participants through the Chair. 7. Participants are encouraged to ensure that all cash purchases of rough diamonds are
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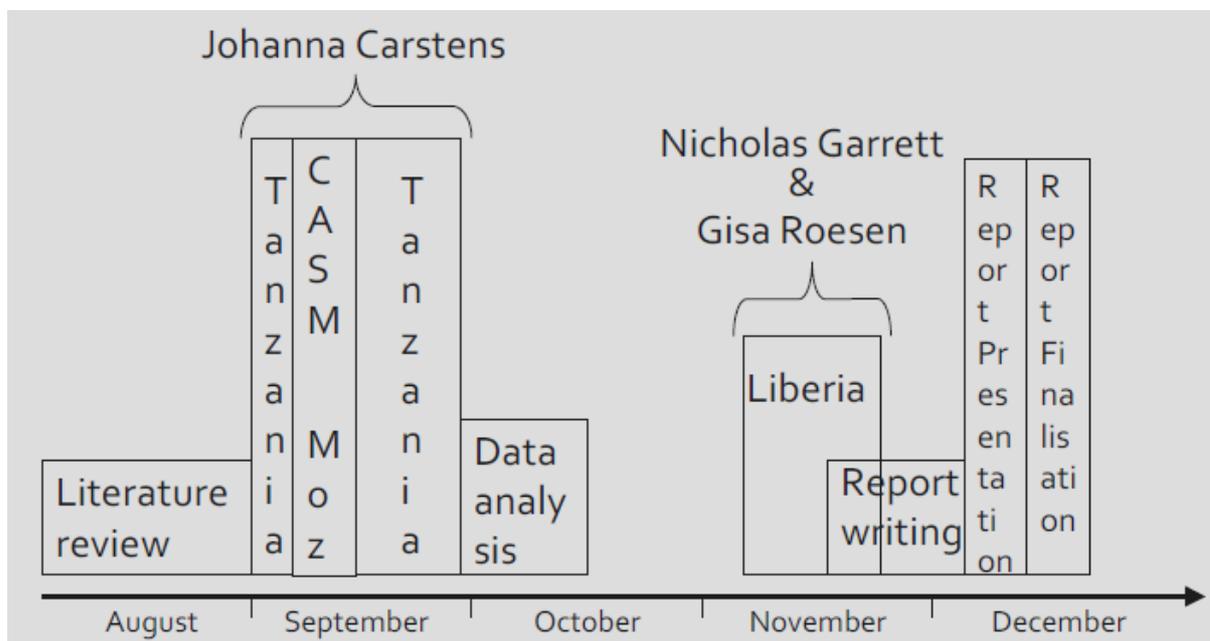
	<p>routed through official banking channels, supported by verifiable documentation.</p> <p>8. Participants that produce diamonds should analyse their diamond production under the following headings:</p> <ul style="list-style-type: none"> • Characteristics of diamonds produced • Actual production <p>Recommendations for Control over Diamond Mines</p> <p>9. Participants are encouraged to ensure that all diamond mines are licensed and to allow only those mines so licensed to mine diamonds.</p> <p>10. Participants are encouraged to ensure that prospecting and mining companies maintain effective security standards to ensure that conflict diamonds do not contaminate legitimate production.</p> <p>Recommendations for Participants with Small-scale Diamond Mining</p> <p>11. All artisanal and informal diamond miners should be licensed and only those persons so licensed should be allowed to mine diamonds.</p> <p>12. Licensing records should contain the following minimum information: name, address, nationality and/or residence status and the area of authorised diamond mining activity.</p>
Fair Trade	<p>The key objectives of the standards are to:</p> <ul style="list-style-type: none"> • ensure that producers receive prices that cover their average costs of sustainable production; • provide an additional Fairtrade Premium which can be invested in projects that enhance social, economic and environmental development; • enable pre-financing for producers who require it; • facilitate long-term trading partnerships and enable greater producer control over the trading process; • set clear minimum and progressive criteria to ensure that the conditions of production and trade of all Fairtrade certified products are socially, economically fair and environmentally responsible. <p>Common principles</p> <ul style="list-style-type: none"> • Social, economic and environmental development
ISO 14000	<ul style="list-style-type: none"> • Compliance with environmental management system
TI	<ul style="list-style-type: none"> • Combatting corruption • Promote transparency in elections, public admin, procurement and business
CSR	<ul style="list-style-type: none"> • Voluntary corporate self-regulation integrated into a business model • Ideally, CSR policy would function as a built-in, self-regulating mechanism whereby business would monitor and ensure their adherence to law, ethical standards, and international <u>norms</u> • Business would embrace responsibility for the impact of their activities on the environment, consumers, employees, communities, stakeholders and all other members of the <u>public sphere</u> • Furthermore, business would <u>proactively</u> promote the public interest by encouraging community growth and development, and voluntarily eliminating practices that harm the public sphere, regardless of legality

All information in this table is extracted from the respective initiative's web sites and/or other documents published by the initiatives.

Annex 2:

Course of actions

Course of actions



The illustration above shows the course of actions for this study. Johanna Carstens went to Tanzania and conducted interviews and informal conversations, reviewed government documents and visited mining sites in Dar es Salaam, Mwanza, Geita, Nyarugusu, Lwamgasa, Arusha and Mererani in September 2009. She further conducted some interviews and informal conversations during the CASM meeting in Mozambique in September 2009. Nicholas Garrett and Gisa Roesen went to Liberia in November 2009. Interviews and informal conversations, the review of government documents and mining site visits were carried out in Monrovia and Sake Town (Lofu River). Phone interviews and conversations were also carried out during the course of the work.

The list of interviewees follows in Annex 3. An interview guide can be found in Annex 4.

Annex 3:

List of interview participants

List of interviewees Tanzania

Ambari, Mwanne – Vice Chairperson Tanzania Women Miners Association (TAWOMA)

Aziz – Manager Everest Kauki Mining, Mererani

Bipa, Josephine D. – Quality Assurance & Customer Relations Manager APM (Africa Precious Metals), Mwanza

Charles, Kathleen – Manager, Strategic Planning and International Trade at FBME Bank Ltd, Dar es Salaam

Chilala, Charles – Manager Building Utilities and Committee Member of MAREMA, Mererani

Diwani, Shamsa – Secretary General TAWOMA

Echavarria, Christina – Executive Director Alliance for Responsible Mining (ARM)

Hainga, Golden N. – Small-scale miner, MWAREMA Secretary General, Nyarugusu

Jengo, Emmanuel – Tanzania Chamber of Minerals and Energy, member of EITI MSG

Jumbe, Leilla – TAWOMA

Kadeo, Christopher M. – Small-scale Miner in Lwamgasa, Chairman MWAREMA

Magayane, Alex – Head of the Small-Scale Mining Development Section, MEM; EITI Focal Point Tanzania
Manager Glitter Gems Mining
Manager Lwamgasa Moja SACCOS

Matemu, Nakara – Head of Mineralogy, Petrology and Gemmology Section, SEAMIC

Mbaruku, Abdallah – General Manager Mathias Manga Mining, Mererani

Mditi, Henry J. – Inspector of Mines and Explosives, Zonal Mines Office Mwanza

Mmole, Edward – Manager Mineral Processing and Small-scale Mining Section, SEAMIC

Mongaya, Zefania Joseph – Chairman MAREMA Mererani

Mraba, Mohammed – Zonal Mines Officer Lake Zone, Mwanza

Mremi, Donald – Resident Mines Officer Geita

Msihili, Amosi J. – Resident Mines Officer Mererani

Mutagwaba, Wilson – Managing Director MTL Consulting, Dar es Salaam

Mutelani, Elias – Inspector of small-scale and large-scale mines, Resident Mines Office Geita

Mwakilembe, Assa – Mechanical Engineer, Managing value addition of non-precious minerals at Arusha Gemstone Centre, Zonal Mines Office Arusha

Nayopa, John – Project Manager „Sustainable Management of Mineral Resources Project“ (SMMRP),
MEM

Negele, Eunice – Chairperson TAWOMA

Njao, Raheli Joseph – Bursar MAREMA Mererani

Nsangano, Paul Sebastian – Small-Scale Miner in Nyarugusu, member of MWAREMA

Reitmaier, Jürgen – EITI Special Regional Advisor

Rich, Eddie – EITI Implementation in Anglophone/Lusophone Africa and Middle East, and Stakeholder
(company, government and civil society) relations

Rwegasira, Consolate – Marketing Director TAWOMA

Saria, Paul Alex – Investor at Joyce Yatabu Mine, Nyarugusu

Saul, Marc – Swala Gem Traders, Arusha

Shelutete, Filemon M. – District Commissioner Geita District

Shija, John – Zonal Mines Officer Northern Zone, Arusha

Verma, Ashok, K. – Managing Director Crown Lapidary Ltd. Arusha

List of interviewees Liberia

Acosta, Ricardo – Commissions Advisor, Ministry of Finance

Baker, Vanii O. – National Investment Commission

Brownell, Alfred – Green Advocates

Buechner, Charlotte – Project Manager, KfW Entwicklungsbank

Cooper, Monique – National Policy Analyst, UNDP

Freeman, Wilama Bako – Program Coordinator of Liberia Better Business Forum, International Finance
Corporation

Jackson, Helena - Gold and Diamond Workers Union of Liberia

Kamara, Senes - Liberian Diamond Dealers Association

Konneh, Esiaka - Dealers and Brokers Association of Liberia

Lempa, Kristian – Gesellschaft für Technischen Zusammenarbeit, GTZ

Mitchell, Harrison – Director, Resource Consulting Services

Nah, Thomas Doe – Executive Director, Center for Transparency and Accountability in Liberia

Neumann, Lutz – Gesellschaft für Technischen Zusammenarbeit, GTZ

Roesen, Gisa - German Federal Institute for Geosciences and Natural Resources

Samoi, Saa – Assistant Commissioner of Customs and Ports, Ministry of Finance

Walser, Gotthard – World Bank, Communities and Small-Scale Mining, CASM

Wotorson, Jerome – Manager, Government Diamond Office

Warner, Negbalee – Head of Secretariat, LEITI Secretariat, Ministry of Finance

Annex 4:

Interview guide

Interview Guide

EITI representatives

- Which authority are you reporting to? Do you have a mandate from MEM? (If not, is there any conflict possible between your interest and those of MEM?)
- What do you want to achieve with EITI (in general)/ what do you expect from it?
- Can EITI fulfil your expectations of a transparency initiative in the mining sector or does it need more/other efforts?
- Does EITI harmonise with Tanzanian mining policies?
- Why involve ASM in EITI? (Just internal interest or international, i.e. pressure from validation committee?)
- If ASM is not involved in EITI does it make any difference for the process? Any problems?
- Why do you have a representative of ASM in the EITI?
- Which development goals are pursued (by the gov't/by the EITI secretariat) by involving ASM in EITI?
- How does the state benefit from involving ASM in EITI?
- If pure EITI, where should it start? Should miners be taxed? Claim holders? Middlemen? Exporters?
- If Exporters are taxed, how to ensure they won't pass it on to miners?
- If no taxes involved, how to extend EITI? Which other elements to include? Trade chain (proof of origin), environmental aspects, access to loans, plot/ license allocation,
- Transparency initiatives linked to loans?
- Decentralisation of fiscal regime and license/ plot allocation
- EITI on a local level? (Payments of miners/claim holders etc. to local authorities)
- EITI as an instrument to encourage dialogue and build trust between state and miners?
- EITI as an instrument for formalisation of ASM sector?
- Backflow of revenues from national to regional/local level, transparency facilitates determination of mineral origin, but law required that makes provision for revenue sharing (Important: establish such law for mining revenues in general (esp. LSM) first)
- What should be the use of implementing transparency in the ASM sector for the sector itself?
- Who should be involved in the process?
- Who would support initiative/ oversee the process?
- How go about migratory character of ASM sector?
- How involve NGOs?
- How convince stakeholders for whom EITI might have negative effects of their participation/support?
- How involve LSM sector?
- How organise transparency within informal structures without formalising the whole sector?
- How transparent is the ASM sector now? What are key elements of this transparency?
- How significant are revenues (taxes, royalties, license fees, export taxes) from the sector?
- Have there, so far, been any activities to increase transparency in the ASM sector? If yes, what are specific successes and challenges?
- Who was involved?
- What was/is public reaction to these efforts? Reaction of other stakeholders?
- What would you consider the main opportunities of implementing a transparency initiative in the ASM sector? What are main risks/challenges?

ASM Organisations

- Would you expect any benefits from EITI/ other transparency initiatives for the ASM sector (i.e. is it possible at all?) What would/should be the benefits of transparency initiatives in the ASM sector for the sector itself?
- What are specific challenges to implementing transparency in the ASM sector?
- How could these challenges be addressed/ which incentives are necessary for the miners to participate?
- How to ensure that benefits of transparency initiatives reach the miners themselves (and don't get stuck at the level of local elites)?
- Which elements, in particular, should be involved in the transparency initiative? (payments, laws, trade chain, governance issues, environmental topics etc.)
- Who is affected by the transparency initiative and who needs to be involved?
- Could EITI work on a local level (i.e. disclose payments made by claim holders/miners/managers to local authorities)?
- Since a certain level of formalisation is required, how could this be achieved? Or how could transparency work in a relatively informal environment? How to deal with migratory character of ASM communities?
- Have there been any attempts to introduce/increase transparency in the ASM sector, and if yes, what is your opinion on these and who was involved?

Gov't officials

- Which development goals are pursued by the gov't by involving ASM in EITI or introducing other transparency initiatives to the sector?
- How does the state benefit from involving ASM in EITI/ from introducing other transparency initiatives to the sector?
- If pure EITI, where should it start? Should miners be taxed? Claim holders? Middlemen? Exporters?
- If Exporters are taxed, how to ensure they won't pass it on to miners?
- If no taxes involved, how to extend EITI? Which other elements to include? Trade chain (proof of origin), environmental aspects, access to loans, plot/ license allocation,
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- EITI on a local level? (Payments of miners/claim holders etc. to local authorities)
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- Backflow of revenues from national to regional/local level, transparency facilitates determination of mineral origin, but law required that makes provision for revenue sharing
- Important: establish such law for mining revenues in general (esp. LSM) first
- What should be the use of implementing transparency in the ASM sector for the sector itself?
- Who should be involved in the process?
- How transparent is the ASM sector now? What are key elements of this transparency?
- How significant are revenues (taxes, royalties, license fees, export taxes) from the sector?
- Have there, so far, been any activities to increase transparency in the ASM sector? If yes, what are specific successes and challenges?
- Who was involved?
- What was/is public reaction to these efforts? Reaction of other stakeholders?
- What would you consider the main opportunities of implementing a transparency initiative in the ASM sector? What are main risks/challenges?
- How can sustainability of transparency initiatives be ensured? How achieve financial sustainability? Which mechanisms to ensure that, e.g. EITI, goes beyond the point of validation?
- Interests of local administration? What do they expect of transparency initiatives in the ASM sector? What does the central gov't think they would expect? What would it be ready to give to them as an incentive for increased work load?

- Which problems does the gov't have with the ASM sector? Which problems are exacerbated by the lack of transparency/ can't be solved because of the existing lack of transparency?
- What are, according to your view, the hindrances in implementing EITI in general/ in the ASM sector in particular?

Annex 5:

Presentation of the draft report