Breaking the Cycle

Delinking Armed Actors from the Gold Supply Chain in Congo and the Great Lakes Region Through Fiscal Reform and Anti-Money Laundering (AML)

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May 2017

Summary

While there has been significant progress in de-linking tin, tantalum, and tungsten from conflict actors in the Democratic Republic of Congo and the Great Lakes region, artisanal and small-scale (ASM) gold remains a major source of income for elements of the Congolese armed forces, armed groups, and criminal networks. Based on field research in the Great Lakes region, this briefing paper highlights the need for fiscal reform and implementation of anti-money laundering efforts. It offers recommendations to the DRC national and provincial governments, banks, gold refiners, and other members of the gold industry, the U.S. government, European states, the European Union, and other governments in the Great Lakes region to address these key issues.[1]

Introduction

In recent years, evidence shows an expanding traceability and certification regime for tin, tantalum, and tungsten in the Great Lakes region, namely in the Democratic Republic of Congo (DRC) and Rwanda. This has led to a significant reduction in opportunity for armed groups, whether state or non-state, and other criminal networks to benefit from the exploitation and taxation of tin, tantalum, and tungsten, known as the 3T minerals.[2] As more and more DRC 3T mine sites have been validated as conflict-free, with associated implementation of traceability and certification, 3T producers in the DRC and Rwanda have benefited from increased access to international markets, due to downstream confidence in their OECD Due Diligence Guidance conformance and compliance with the ICGLR Regional Certification Mechanism.[3] While the two most recent U.N. Group of Experts on the DRC reports have expressed concern about indications of increased smuggling of minerals from non-validated mines (and so not verifiably conflict-free mine sites) into the legitimate supply chain,[4] there remains a broad consensus among industry, civil society, government, and other observers that there has been major progress in removing armed groups from the 3T supply chain.[5]

Artisanal and small-scale mined (ASM) gold from eastern DRC is a very different story. Moreover, multiple U.N. GoE reports have all cited ASM gold as providing the most significant and continual financial benefit to DRC-based armed groups and organized criminal networks, especially to elements of the Armed Forces of the Democratic Republic of Congo (FARDC), through their exaction of illegal taxes along the supply chain.[6] This potential contamination of the downstream supply chain has inevitable implications for the traders, refiners, jewelers, and financial institutions.

This policy brief will look at the way in which uneven and unsustainable tax rates along the ASM gold supply chain and international anti-money laundering red flags that are not being raised are crucial enabling factors in perpetuating the conflict gold trade. In particular, there is a parallel tax system which ensures a minimal declaration of ASM gold at production, trade, and export. These issues open the door to illegal trading in conflict gold from the DRC, resulting in increased funding for armed groups and Congolese army commanders, as well as heightened money laundering and related concerns for companies within the supply chain, along with their banks and other financial institutions. The ASM gold trade is separate from Congo's industrial gold production, which has risen exponentially in recent years with significantly higher production from Banro and Kibali.

The problem with gold

Although there are a number of conflict-free gold pilot projects in or close to operation (namely, Partnership Africa Canada's Just Gold project in Ituri, Germany's Federal Institute for Geosciences and Natural Resources' (BGR) gold traceability project in Maniema, and USAID's Capacity Building for Responsible Minerals Trade initiatives in South Kivu), there is no currently functioning conflict-free system for gold, with a proven capacity for scale-up throughout eastern DRC.

In some provinces, the quantities of ASM gold that are officially declared and exported are dropping. For example, in South Kivu, one of the most gold-rich provinces in Congo:

Year	2014		2015		2016	
Substance	Quantity	Value (US$)	Quantity	Value (US$)	Quantity	Value (US$)
Tin(kg)	746,005	5,469,969	1,548,0075	10,106,806	1,813,863	12,272,076
Tantalum (kg)	5,000	138,000	23,065	777,805	26,460	707,497
Tungsten (kg)	-	-	21,050	126,300	99,333	3,197,819
Gold (g)	**358,006**	**12,575,979**	**99,333**	**3,197,819**	**89,668**	**3,045,510**

Figure 1: Evolution of mineral exports from South Kivu, 2014-2016[7]

From the above table, one can note the annually progressive increase in quantities of declared 3T mineral exports. Over the same period, officially declared ASM gold exports declined each successive year from 358 kilograms in 2014 to 99 kilograms in 2015, and then to 89 kilograms in 2016.[8]

These official export figures for the province are a mere fraction of South Kivu's real annual ASM gold production. For example, an estimated two tons of gold are produced just from the mine sites clustered around Misisi in Fizi Territory, South Kivu.[9] Recent reports on gold production by artisanal dredging machines along the River Ulindi and the River Lugulu in Shabunda Territory estimated an annual production of up to 720 kilograms.[10] The U.N. GoE provided documentary evidence that during a three-week period in November 2015, one Bukavu-based exporter alone declared exports of 270 kilograms of gold to Dubai in Rwandan transit declaration forms.[11] This is more than triple the total volume of officially declared gold exported from South Kivu by all exporters combined in 2015. Official South Kivu provincial government statistics show no declarations by that exporter for November 2015.[12]

Meanwhile, countries neighboring Congo are increasing their official gold exports, and much of that gold is likely to have originated in eastern Congo, given the relatively low gold production in the neighboring countries. Rwanda's official exports of 'other minerals' [i.e. non-3T] surged in 2016, from $8.1 million in 2014 to $31.3 million in 2015, and to $80.06 million in 2016. The 2015-16 jump was a 155 percent year-on-year increase. The Rwandan Ministry of Natural Resources does not provide disaggregated statistics for 'other minerals.' However, the National Institute of Statistics of Rwanda documents that, in the fourth quarter of 2016, Rwanda's exports of "other unwrought gold (incl. gold plated with platinum), non monetary" amounted to $25.7 million, in Q3 $27.43 million, in Q2 $14.2 million, and in Q1 $12.19 million, totalling $79.52 million in 2016.[13] Gold was Rwanda's largest export commodity in 2016.

In Uganda, on February 21, 2017, at the inauguration of the African Gold Refinery (AGR) in Entebbe, President Yoweri Museveni announced a zero percent tax rate applicable to ASM gold exported from Uganda. It currently remains unclear whether this zero percent rate will apply to ASM gold across the Ugandan market, or only to gold consigned to the refinery. In either case, it will make Uganda the country with the lowest tax rate for ASM gold in the region, and indeed in the world.[14]

This announcement of pending zero percent tax rate legislation merely institutionalizes a situation, which has been developing over the past 18 months, whereby the Entebbe-based refinery is acting as a magnet for gold from throughout the region.[15] Indeed, the value of Uganda's gold exports have seen an extraordinary surge, from $240,000 in 2014 to $340 million in 2016. Moreover, significant and comparable volumes are known to be trafficked undeclared from Congo via Burundi and Tanzania.[16]

Causes for the non-declaration of ASM gold from eastern DRC

There are multiple reasons for the lack of declaration of ASM gold, and the scale of its illegal trafficking outside the DRC. These include, but are not limited to:[17]

- The small number of officially validated gold sites in eastern DRC (only gold from validated sites is eligible for export). There are four validated gold sites in South Kivu, six in Ituri; and 11 in North Kivu.
- Relative lack of artisanal mining zones designated by the Congolese Ministry of Mines, known as ZEAs, or zone d'exploitation artisanale, for ASM-mined gold
- Insecurity within the DRC, making it risky for operators/traders to declare and advertise subsequent transport of gold
- Ease with which gold can be smuggled–it is the ultimate fungible commodity

These are all formidable challenges. However, there are some positive signs: 1) an increase in the number of validated sites, even if it continues to move at an overly slow pace; and 2) the number of ZEAs has also risen over the past 12 months.[18] While insecurity and gold's fungibility are factors, which cannot be so directly addressed, supply chains with appropriate traceability and certification mechanisms can adapt to these risks and so mitigate their impact.

A punitive tax burden: the elephant in the room

In Enough's multiple interactions with eastern-DRC based ASM gold cooperatives, traders, and larger-scale exporters (whether officially accredited or not), over the last two years, there has been a consistent refrain: the current tax burden makes it impossible for the gold supply chain to be legally compliant, without operating at a loss.

The key disincentive to the declaration of gold, whether at the mine site, along the supply chain or at the point of export is an over-onerous fiscal and parafiscal[19] regime—opaque and often arbitrarily and irregularly applied.

The argument that taxes, especially at the provincial level, urgently need to be rationalized—so that they are at least broadly in line with taxation levels in neighboring countries[20]—has been made many times in previous reports.[21] They are the proverbial 'elephant in the room.' There is an acute awareness among stakeholders that they pose an acute challenge to the sustainability of any putatively OECD-compliant or ICGLR RCM-compliant ASM gold supply chain. But nothing seems to change, and fiscal and parafiscal charges[22] remain at unsustainable levels.

Regardless of pilot projects for gold traceability and certification, if declaration of gold to government authorities has a loss-making and uneconomical result, operators will continue overwhelmingly to not declare along the supply chain. This will mean that traceability and certification projects will cover only a fraction of the gold being produced, just as the ASM gold officially declared today amounts to only a fraction of that being illicitly exported. They will be token gestures to traceability and certification, while the vast majority of the gold continues to flow out along existing illegal supply chains to unscrupulous buyers—inevitably resulting in illegal financial flows to and from the country, as well as increased money laundering—at the expense of the DRC's national and provincial treasuries, and security in eastern DRC.

If one estimates eastern DRC's production of ASM gold at between 10-15 tons annually,[23] that equates to an approximate value of $400-600 million, which is currently smuggled out of the country illegally. Given the proliferation of armed groups, predatory and abusive elements of the Congolese army, and organized criminal networks, which are engaged in illegal taxation and extortion of gold (whether at the mine site or further along the supply chain), the illegal financial flows resulting from undeclared ASM gold are a significant factor contributing to insecurity in eastern DRC, both enabling and motivating the continued activities of these destabilizing actors. Moreover, these illegal financial flows are non-visible, and do nothing to improve the DRC's balance of payments. They represent a loss to the DRC in terms of taxation of individuals' and trading entities' profits, with undeclared gold's role as a financial instrument also enabling money laundering and broader tax evasion.

Indeed, when one looks at the eastern DRC's ASM gold mining economy through the anti-money laundering (AML) lens of the Financial Action Task Force's (FATF) red flags, much of the behavior across the ASM gold supply chain can be read as indicative of money laundering and "underlying predicate crime" activities.[24] For example, FATF lists several money laundering red flags related to gold that appear to be occurring in the region:[25]

- **Company behavior**. Registration of a trading company in a tax haven even though its business relates to another jurisdiction.
- **Trade-based behavior (also related to trade-based money laundering).** Cash payments for high-value orders are an indication of trade based money laundering (TBML) activity.
- **Production behavior.** The development of mining activities in prohibited areas.
- **Production behavior.** Production and commercialization of gold by a person or business without a license.

Banks in the region and their correspondent banks need to be more vigilant about these red flags. Further, in light of the risk of Uganda's zero percent tax rate creating a monopoly for the Entebbe-based refinery, for there to be conflict-free and transparent production and export of ASM gold from eastern DRC, there needs to be concerted action by national and provincial DRC authorities, with support from the ICGLR and the United States, European states, and the United Nations to harmonize regional gold tax rates.

Fiscal and parafiscal charges for ASM gold in South Kivu[26]

Historically, SAESSCAM have been responsible for collecting 10 percent of the production of small-scale mining enterprises as "frais rémunératoires."[27] This is normally collected at the point of first sale between the cooperative or enterprise and the first (category B trader),[28] at or near the mine site. The other principal taxes along the supply chain have been a 1 percent tax on the trader, and a 2 percent export tax (set at the national level, but also distributed in part to the province). This would amount to a 13 percent *ad valorem* tax burden.

Given that neighboring Rwanda has a tax rate of 6 percent for ASM gold, at the point of export, Burundi 0.5 percent, and Uganda an apparently imminent zero percent, the fiscal schema for the DRC's ASM gold seems profoundly uncompetitive.

The most recent tax legislation published in January 2017 by South Kivu's provincial government makes no direct mention of SAESSCAM's 10 percent "frais rémunératoires."[29] There seems to be a move towards suppressing *ad valorem* taxes in favor of increased fixed fees for the various entities along the supply chain. However, neither the 1 percent trader tax[30] nor SAESSCAM's 10 percent "frais rémunératoires" are currently on the statute books.[31] However, a significant number of South Kivu cooperatives (in Fizi and Shabunda Territories) have confirmed to Enough that the 10 percent tax is still being collected in 2017.[32]

In addition to the issue of the continuing exaction of a supposedly redundant tax, other charges in the fiscal repertoire can only be described as punitive. Metal detectors are charged an annual tax of $1000, which means that the original retail cost of the object taxed is a fraction of the tax itself. Motor pumps are taxed $50 annually. Moreover, further restrictions by the provincial mining authorities complicate the situation. For example, in Shabunda, in South Kivu, only 30 motor pumps are allowed throughout the whole territory, while metal detectors are limited to five. Besides the excessively high tax on the metal detector, the limitation on their number makes it virtually impossible for local operators to comply with the stipulated regulations, thus inevitably increasing the likelihood there will be recourse sought through an off-the-books payment, effectively informal taxation.

Parafiscal charges are more difficult to identify, as by their very nature they tend not be defined or listed in tax codes or legislation, and are often arbitrarily applied. However, a 2010 document issued by the South Kivu Mining Division is illustrative, listing a range of additional administrative fees, from $5 to $300, mainly for the issuance of forms and the handling of applications.[33] More recently, from January 2017, one can cite the extra costs, which come with the Category B trader's accreditation: $10 for the form, $60 for the official declaration pertaining to the applicant's criminal record, and at least $100 for registration as a company.

Unsustainable official taxes leading to a parallel, informal tax system

In eastern DRC, the punitively high tax burden associated with ASM gold is one of the key forces driving a vicious circle whereby producers, traders, and exporters will inevitably make an official declaration of the barest minimum to the authorities. This then ensures extremely low tax revenue, both for national and provincial government, which in turn leads to the under-resourcing of the same authorities responsible for tax collection and the monitoring of tax compliance.

For example, in South Kivu, the provincial mining division has received no retrocession of funds from the provincial government since 2009. In 2016, its personnel throughout the province amounted to 493 agents. Only 40 received a salary; 453 were unpaid.[34]

In the Territory of Fizi, in 2016, there were 141 agents, responsible for ensuring compliance with the national and provincial mining governance regulations, including the ICGLR RCM, at a range of gold mine sites, not least the agglomeration of those sites clustered around Misisi, with an estimated annual production of two tons. Only seven of the 141 agents received a salary, the remaining 134 were unpaid.[35]

The numbers speak for themselves, and are broadly representative of the other services such as SAESSCAM. With more than 90 percent of the provincial agents unpaid, these agents will need to create alternative income streams so that they and their families can survive. Inevitably, that will involve coming to a financial accommodation with other stakeholders along the supply chain, who in their turn need to avoid unsustainable fiscal and parafiscal charges, so as to declare only a fraction of their production, trade, and exports.

This parallel, informal tax system effectively operates in a closed circuit, bringing minimal income to national and provincial treasuries. It negatively impacts mining communities as the income which might in part be reinvested through local royalties or into ASM sectoral development is instead channeled into the closed circuit of the parallel, informal tax system. It undermines both the integrity of the regulatory framework and the rule of law. It is an enabling factor for money laundering and illicit financial flows, further reducing the DRC's fiscal receipts. It perpetuates opportunities for armed groups and criminal networks to profit from their exactions along the illicit gold supply chain, implicating the supply chains of downstream actors.

Conclusion

The current, over-onerous tax regime has effectively created a Frankenstein ASM gold economy in eastern DRC, which depends upon impossibly high tax rates and the necessity of collective non-compliance.

Producers, traders, and exporters cannot afford to pay the taxes and stay in business for the long term. Most government agents are unpaid, at least in part because without taxes there are no funds to pay them. Thus, they depend upon receiving informal payments from producers, traders and exporters, which will in turn, compel those stakeholders to declare only a fraction of their actual production and trade.

A competitive and transparent fiscal regime for ASM gold (perhaps through greater reliance on fixed fees, rather than ad valorem taxes) would lead to much increased government revenues, both at the national and provincial levels. Increased revenues would allow for retrocession back to those state agencies responsible for mining governance, and building capacity of ASM cooperatives and small-scale mining entities. It would result in much-increased declaration of gold, along the supply chain, at points of production, transportation and export, a *sine qua non* for OECD-conformant and ICGLR-compliant traceability and certification. This in turn would greatly contribute to divesting armed groups, whether state or non-state, and criminal networks from the ASM gold supply chain. The elimination of such massive, ASM gold-related, illegal financial flows would mean the curtailment of opportunities for money laundering, which will otherwise continue to destabilize both the security and economy of the DRC.

Without radical tax reform of the ASM gold sector, especially at the provincial level, all the actors will continue in this lock-step of collective fiscal non-compliance. In that case, efforts to enforce OECD-conformant and ICGLR RCM-compliant traceability and certification will hit the buffers of a hard, inconvenient reality. OECD Due Diligence Guidance and the ICGLR RCM both stipulate legal taxes along the supply chain be paid. Until this problem is resolved, the vast majority of eastern DRC's ASM gold, undeclared as it is, will remain illicit.

Recommendations

1. The Public-Private Alliance on Responsible Minerals Trade (PPA) and/or the European Partnership on Responsible Minerals (EPRM), as well as other international partners such as the World Bank and IMF, should work with the Congolese Ministry of Mines and governors of South Kivu, North Kivu, and Ituri provinces to significantly reform the fiscal and parafiscal regime for ASM gold, so as to make it regionally competitive. This would increase tax receipts for national and provincial treasuries. This would significantly disincentivize the illegal trafficking of gold to those neighboring countries offering a significantly lower fiscal burden.

2. U.N. Special Envoy to the Great Lakes Region Said Djinnit should work with the ICGLR, the PPA, and the governments of the Great Lakes region to harmonize taxes on gold in the Great Lakes region in order to disincentivize smuggling and facilitate an increased legal, conflict-free gold trade. Negotiations should particularly involve the key gold trading countries: Congo, Uganda, Rwanda, and Burundi. It may also be helpful to solicit technical expertise from the World Bank on this issue.

3. While the issue of retrocession between national and provincial authorities may inevitably lessen the appetite for sweeping reform, national and provincial authorities in eastern DRC should put in place a special dispensation for a significantly reduced tax burden, or tax exemption, affecting current traceability and certification pilot projects. This will offer the opportunity to demonstrate that the vicious can be transformed into the virtuous circle, with increased declaration of gold along the supply chain, and concomitant increased tax receipts.

4. Banks and other financial institutions in the DRC, Uganda, Rwanda, and Burundi and refiners purchasing gold from the Great Lakes region should use the specific anti-money laundering (AML) red flags in the 2015 FATF/APG report on gold in their efforts to identify and report on suspicious activities with regard to ASM gold and related financial transactions.[36] These include gold that does not come from independently verified conflict-free mines and others.

5. Banks and other financial institutions in North America, the Middle East, Europe, and Asia with clients that may conduct gold business in the Great Lakes region, as well as other international gold refiners, should use the trade-based red flags identified in the FATF/APG gold report in their efforts to identify and report on suspicious activities relating to dealings with refiners and other gold purchasers from their region. These include cash transactions, gold originating from tax havens, lack of proper certification, and others.

6. The United States, European Union, and U.N. Security Council should designate well documented conflict gold smugglers in Congo, Uganda, and Burundi for targeted sanctions. Furthermore, the International Criminal Court should pursue an improved strategy to investigate supply chains and prosecute natural resource crimes related to atrocity crimes, in particular the theft of gold in the context of armed conflict in the DRC. Additionally, U.S. State Department representatives and U.N. Special Envoy for the Great Lakes Region Said Djinnit should pressure Uganda to cut its links to the gold smugglers and tighten airport checks on gold smuggling.

7. The DRC Ministry of Mines and the Mining Cadastre (CAMI) should designate more mines as Artisanal Mining Zones (ZEAs) and allow mining cooperatives to apply for mining licenses.

Endnotes

[1] This policy brief follows on Enough's previous reports on gold, including Fidel Bafilemba and Sasha Lezhnev, "Congo's Conflict Gold Rush: Bringing Gold into the Legal Trade in the Democratic Republic of the Congo," (Washington: The Enough Project, April 2015), available at http://enoughproject.org/reports/congo%E2%80%99s-conflict-gold-rush, and Ruben de Koning and the Enough Team, "Striking Gold: How M23 and its Allies are Infiltrating Congo's Gold Trade," (Washington: The Enough Project, April 2013), available at http://enoughproject.org/reports/striking-gold-how-m23-and-its-allies-are-infiltrating-congos-gold-trade.
[2] U.N. Security Council, "Final Report of the Group of Experts on the Democratic Republic of the Congo," S/2016/466, May 23, 2016, p. 26, available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_466.pdf.
[3] Partnership Africa Canada, "Briefing Note on the ICGLR Regional Certification Mechanism," June 2012, available at http://www.pacweb.org/Documents/icglr/PAC_Briefing_Note_on_the_ICGLR_Regional_Certification_Mechanism_June_2012.pdf And http://www.oecd.org/corporate/mne/mining.htm
[4] U.N. Security Council, "Midterm Report of the Group of Experts on the Democratic Republic of the Congo," S/2016/1102, December 28, 2016, p.16
[5] U.N. Security Council, "Final Report of the Group of Experts on the Democratic Republic of the Congo," S/2016/466, May 23, 2016
[6] Ibid.
[7] Reproduced from the "Rapport d'activités de la Division Provincial des Mines pour l'année 2016, " (Bukavu: March, 2017).
[8] Officially reported production was very low in previous years as well.
[9] U.N. Security Council, "Midterm Report of the Group of Experts on the Democratic Republic of the Congo," S/2015/797, para. 78, October 15, 2015, available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_797.pdf.
[10] Coalition of Civil Society Organizations in the Great Lakes Region Against illegal Exploitation of Natural Resources (COSOC-GL), "La Ruée vers l'or a Shabunda: pratiques et impacts de l'exploitation minière par dragues," (Bukavu: August, 2015), available at http://cosoc-gl.org/wp-content/uploads/2015/08/15-ao%C3%BBt-2015-COSOC-GL-Etude-finale-sur-lexploitation-de-lor-par-dragues-%C3%A0-Shabunda-1.pdf; and Global Witness, "River of Gold," (July, 2016), available at https://www.globalwitness.org/en/campaigns/conflict-minerals/river-of-gold-drc/.
[11] U.N. Security Council, "Final Report of the UN Group of Experts on the DRC," S/2016/466, p. 32
[12] Ibid.
[13] National Institute of Statistics of Rwanda, "Formal External Trade in Goods: Fourth Quarter 2016," (Kigali: March, 2017), available at http://www.statistics.gov.rw/publication/formal-external-trade-goods-statistics-report-q4-2016.
[14] PricewaterhouseCoopers (PwC), "Corporate income taxes, mining royalties and other mining taxes: A summary of rates and rules in selected countries," June 2012, available at https://www.pwc.com/en_GX/gx/energy-utilities-mining/publications/pdf/pwc-gx-miining-taxes-and-royalties.pdf
[15] In Uganda, the current rate of 1 percent tax applied to imported gold also incentivizes the smuggling of gold from neighboring countries.
[16] U.N. Security Council, "Final Report of the Group of Experts on the Democratic Republic of the Congo," S/2016/466, May 23, 2016, p. 26
[17] See also, Fidel Bafilemba and Sasha Lezhnev, "Congo's Conflict Gold Rush: Bringing Gold into the Legal Trade in the Democratic Republic of the Congo," (Washington: Enough Project, April, 2015), available at http://enoughproject.org/reports/congo%E2%80%99s-conflict-gold-rush; and Global Initiative against Transnational Organized Crime and Estelle Levin Ltd., "Follow the Money: Financial Flows linked to Artisanal and Small-Scale Gold Mining," March 2017, available at http://www.estellelevin.com/wp-content/uploads/2017/03/Illicit-Financial-Flows-Linked-to-

Artisanal.pdf?utm_source=Estelle+Levin+Newsletter&utm_campaign=41ab87b003-IFF_ASGM_CAMPAIGN_2017_03_13&utm_medium=email&utm_term=0_07779d9710-41ab87b003-296778249

[18] For more information, see, for example, "Enough Project Comment to the SEC in Support of Conflict Minerals Rule Implementation," February 2017, available at http://enoughproject.org/reports/enough-project-comment-sec-support-conflict-minerals-rule-implementation

[19] "The fees, royalties, local and sundry taxes, and levies not directly listed and not defined in tax code or legislation, mostly payable at the local level or with line ministry organizations, for supporting particular activities or services of such administration and/or public bodies," found in Cissé, Hassane; Muller, Sam; Thomas, Chantal; Wang, Chenguang. 2013. *The World Bank Legal Review, Volume 4 : Legal Innovation and Empowerment for Development.* World Bank Legal Review; Washington, DC: World Bank, p.341. Available at https://openknowledge.worldbank.org/handle/10986/12229.

[20] Regional tax harmonization is a commitment to which the DRC has subscribed.

[21] Recently by Shawn Blore in "Capacity Building for a Responsible Minerals Trade (CBRMT): Working with the Producers to Responsibly Source Artisanal Goild from the Democratic Republic of the Congo," May, 2015; and Estelle Levin Ltd. and PROMINES, "Etude comparative des systèmes de certification et de traçabilité," April, 2015, available at http://www.estellelevin.com/wp-content/uploads/2016/12/Promines-Executive-Summary-Francais.pdf.

[22] "Recognized as a major risk for the business community and investors" (World Bank, ibid.), such charges are an impediment to a clear and transparent tax environment.

[23] Cf.OECD, "Mineral Supply Chains and Conflict Links in eastern DRC: Five years of implementing supply chain due diligence," 2015, for an estimate of 8-10 tons annual production in 2014. Other confidential sources for this policy brief, at the exporter level, estimated an upper range of 15 tons.

[24] Financial Action Task Force (FATF) and Asia/Pacific Group on Money Laundering (APG), "Money laundering and terrorist financing risks and vulnerabilities associated with gold," (July 2015) available at http://www.fatf-gafi.org/media/fatf/documents/reports/ML-TF-risks-vulnerabilities-associated-with-gold.pdf.

[25] Financial Action Task Force (FATF) and Asia/Pacific Group on Money Laundering (APG), "Money laundering and terrorist financing risks and vulnerabilities associated with gold," July 2015, pp. 20-23.

[26] South Kivu and Ituri are the provinces with the most significant ASM gold production in eastern DRC. Both could be equally representative as case study. In Ituri SAESSCAM is also stipulated to take 10 percent "frais rémunératoires," although in practice this more often translates into a $50 monthly charge per site. Cf. For Ituri, cf. "Arrêté provincial N° 01/JBS/0009/CAB/PROGOU/PO/2014 du 23 janvier 2014 portant détermination d'assiette et des taux ainsi que des modalités de recouvrement des taxes, droits et redevances provinciaux à percevoir à l'initiative du Ministère provincial des Ressources Naturelles, Mines, Hydrocarbures et Energies"; and "Note circulaire n° CAB/MIN.PRO/FEICEP/P.O/AUMR/001/2014 portant application des taux d'imposition pour l'exercice fiscal 2014"

[27] Arrêté Provincial No 13/030/GP/SK du 15/08/2013 portant modification de la clef de répartition des frais en rémunération des services rendus en vue de canaliser les substances mineras issues des exploitations artisanales dans le circuit official de commercialisation et de lutter contre la fraude et la contrebande minières dans la Province du Sud-Kivu.

[28] Category A traders are based in the provincial capital, Bukavu; category B traders are based outside Bukavu.

[29] Annexe à l' Arrêté Provincial No 17/001/GP/SK du 05/01/2017 portant fixation de l'assiette des impôts, droits, taxes, et redevances a percevoir par l'entité province du Sud-Kivu et leurs taux applicables au cours de l'exercice budgetaire 2017

[30] While the trader's 1 percent *ad valorem* tax may have been suppressed (unsurprising, as very few traders paid more than a nominal sum, as they only declare a fraction of their real trade), the costs of the traders' annual accreditation have doubled – from $250 to $500 for Category A traders, and from $150 to $300 for Category B traders, as of January, 2017.

[31] Personal communication, April 2017.

[32] Although South Kivu's 2017 tax legislation seems to have suppressed SAESSCAM's 10 percent levy, there is a curious line item, which indicates that 45 percent of SAESSCAM's "frais rémunératoires" should be allocated to the

Provincial Treasury. Cf. “Annexe à l’ Arrêté Provincial No 17/001/GP/SK du 05/01/2017 portant fixation de l’assiette des impôts, droits, taxes, et redevances a percevoir par l’entité province du Sud-Kivu et leurs taux applicables au cours de l’exercice budgetaire 2017,” p.16

[33] “Relève des actes générateurs des frais administratifs à percevoir par l’administration des mines en province du Sud-Kivu,” Division des Mines, Bukavu, February, 2010.

[34] Cf. “Rapport d’activités de la Division Provincial des Mines pour l’année 2016,” (Bukavu: March, 2017)

[35] Ibid.

[36] See FATF and APG, “Money laundering and terrorist financing risks and vulnerabilities associated with gold,” pp. 20-23.