

ICGLR Regional Certification Mechanism (RCM) — Certification Manual

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The Mineral Certification Scheme of the International Conference on the Great Lakes Region (ICGLR)

Preamble

MEMBER STATES,

RECOGNISING that the illicit trade in tungsten, tin, tantalum and gold (hereafter referred to as designated minerals) is a matter of serious regional and international concern, which can be directly linked to the fuelling of armed conflict and to the activities of armed groups engaged in illegal activity and/or serious human rights abuses;

FURTHER RECOGNISING that armed groups engaged in illegal activity and/or serious human rights violations can include both rebel movements aimed at undermining or overthrowing legitimate governments, and otherwise legal armed units from the army or police or other national force acting illegally by engaging in or profiting from the extraction, trade or transport of designated minerals, or else by engaging in serious abuses of the human rights of their fellow nationals engaged in the extraction, trade or transport of designated minerals;

FURTHER RECOGNISING that the trade in designated materials can be directly linked to the illicit traffic in, and proliferation of, armaments, especially small arms and light weapons;

DEPLORING the devastating impact of conflicts fuelled by the trade in designated minerals on the peace, safety and security of people in the countries of the Great Lakes Region and the systematic and gross human rights violations that have been perpetrated in such conflicts;

NOTING the negative impact of such conflicts on regional stability and the obligations placed upon states by the United Nations Charter regarding the maintenance of international peace and security;

EMPHASIZING the obligations placed upon Member States by the PACT on Security, Stability and Development in the Great Lakes Region, and in particular the obligation to maintain peace and security in the region in accordance with the Protocol on Non-aggression and Mutual Defence in the Great Lakes Region;

BEARING IN MIND that urgent regional action is imperative to prevent the problem of designated minerals from negatively affecting the trade in legitimate minerals, which make a critical contribution to the economies of the producing, processing, exporting and importing states of the Great Lakes Region;

RECALLING that the PACT on Security, Stability and Development in the Great Lakes Region contains a specific Protocol Against the Illegal Exploitation of Natural Resources;

REAFFIRMING the commitment of Member States under the Protocol Against the Illegal Exploitation of Natural Resources “To put in place a regional certification mechanism for the exploitation, monitoring and verification of natural resources within the Great Lakes Region”;

CONVINCED that the opportunity for designated minerals to play a role in fuelling armed conflict can be seriously reduced by introducing an ICGLR Regional Tracking and Certification scheme for minerals designed to exclude designated minerals from the legitimate trade;

RECALLING that the ICGLR Mineral Tracking and Certification Scheme, established to find a solution to the problem of designated minerals, has been developed in consultation with concerned stake holders, including Member States, regional producers, traders and exporters, regional civil society, international industry and international civil society;

REAFFIRMING that the International Conference of the Great Lakes (ICGLR) considers that a regional tracking and certification scheme for designated minerals, based on national laws and practices and meeting regionally agreed norms and standards, overseen by regionally accredited independent auditors, will be the most effective system by which the problem of designated minerals can be addressed;

WELCOMING the complementary international initiatives being taken to address this problem, including the OECD due diligence guidance on responsible supply chains of minerals from conflict-affected and high-risk areas, and Conflict Minerals provisions of the United States Dodd–Frank Wall Street Reform and Consumer Protection Act;

ACKNOWLEDGING voluntary self-regulation initiatives by the tin, tantalum and tungsten industry and recognizing that such voluntary self-regulation contributes to ensuring adherence to the standards for chain of custody tracking of designated minerals as set out by the ICGLR;

RECOGNISING that an ICGLR Mineral Tracking and Certification Scheme for minerals will only be credible if all Member States have established procedures for credible mine site auditing systems designed to confirm that mine sites meet ICGLR regional standards, internal chain of custody tracking systems designed to eliminate the presence of designated minerals in the chain of production, trade, transport and export of designated minerals within their own territories, and certification procedures designed to confirm each certified export was produced, traded, processed and exported in compliance with regionally established ICGLR standards, while taking into account that differences in production methods, trading practices, and institutional controls may require different approaches to meet the accepted ICGLR regional standards;

FURTHER RECOGNISING that the ICGLR Mineral Tracking and Certification Scheme for designated minerals must be consistent with international law governing international trade;

ACKNOWLEDGING that state sovereignty should be fully respected and the principles of equality and mutual beneficiation should be adhered to;

REAFFIRMING the spirit of regional African cooperation expressed by eleven Heads of State in signing the PACT on Security, Stability and Development in the Great Lakes Region;

RECONFIRMING the vision a peaceful and prosperous Great Lakes Region as described in the PACT and Protocols;

RECOMMEND THE FOLLOWING PROVISIONS:

Section I — Purpose and Definitions

Purpose

The purpose of the ICGLR Mineral Tracking and Certification Scheme is to provide for sustainable conflict-free mineral chains in and between Member States of the International Conference on the Great Lakes Region with a view to eliminating support to armed groups that sustain or prolong conflict, and/or otherwise engage in serious human rights abuses. The standards and procedures described herein are intended to prevent non-state armed groups and public or private security forces from interfering illegally at any point along the supply chain or committing serious human rights abuses related to the supply chains of minerals.

Under the ICGLR Mineral Tracking and Certification Scheme, a “conflict free” mineral chain is free from support for non-state armed groups or public or private security forces who: (a) “illegally control mine sites or otherwise control transportation routes, points where minerals are traded and upstream actors in the supply chain”; (b) “illegally tax or extort money or minerals at points of access to mine sites, along transportation routes or at points where minerals are traded”; and/or (c) “illegally tax or extort intermediaries, export companies or international traders.”¹ The ICGLR Mineral Tracking and Certification Scheme also targets the following serious human rights abuses: (i) “any forms of torture, cruel, inhuman and degrading treatment”; (ii) “any forms of forced or compulsory labour, which means work or service which is exacted from any person under the menace of penalty and for which said person has not offered himself voluntarily”; (iii) “the worst forms of child labour”; (iv) “other gross human rights violations and abuses such as widespread sexual violence”; and, (v) “war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide.”²

The ICGLR Mineral Tracking and Certification Scheme further seeks to promote the mineral sector’s role in the peaceful economic and social development within the Member States of the Great Lakes Region by establishing common regional standards for transparency (both of mineral flows and of payments to government from the mineral industry), working conditions, environmental performance and community consultation.

Definitions

For the purposes of the ICGLR Mineral Tracking and Certification Scheme (hereinafter referred to as “the ICGLR Certification Scheme”) the following definitions apply:

ACCREDITATION BODY means the body authorised by the ICGLR Audit Committee to accredit ICGLR Third Party Auditors.

AFFILIATES³ includes *négociants*, consolidators, intermediaries, and others in the supply chain that work directly with non-state armed groups or public or private security forces to facilitate the extraction, trade or handling of minerals.

¹ *OECD Due Diligence Guide for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, Annex II, paragraph 3.

² *OECD Due Diligence Guide for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, Annex II, paragraph 3.

³ As per *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*.

ANALYTICAL FINGERPRINT (AFP) refers to a combination of analytical techniques allowing the identification of source-characteristic geochemical, mineralogical, and geochronological features of mineral concentrates.

ARTISANAL MINING means mineral extraction undertaken generally by individuals, small groups of individuals, or cooperatives working with hand tools or very basic forms of mechanization.

BUYING AND PROCESSING CENTRE means a company that purchases mineral ore, most often but not exclusively from artisanal producers, processes mineral ore or mineral concentrate and exports mineral ore or mineral concentrate to customers outside of the country.

BUYING CENTRE (formerly *comptoir* in the context of the DRC) means a company that purchases mineral ore, most often but not exclusively from artisanal producers and exports mineral ore to customers outside of the country.

CERTIFIED EXPORTER means an Exporting Entity that has passed an Independent Third Party Audit.

CERTIFIED MINE SITE/ UN-CERTIFIED MINE SITE: A **CERTIFIED** mine site is one that has been inspected and approved according to the standards and procedures delineated in Section 3 and Appendix 3. A **UN-CERTIFIED** mine site is a mine site that has not been inspected, or has been inspected and found to have not met the standards of Section 3 and Appendix 3. A **CERTIFIED** mine site may also be called a **GREEN** or **GREEN-FLAGGED** mine site. An **UN-CERTIFIED** mine site may also be called a **RED** or **RED-FLAGGED** mine site.

CERTIFIED MINERAL EXPORT means a shipment of Designated Minerals exported by a Certified Exporter in accordance with the standards and procedures in Section 5 (Export and Certification Procedures) and Appendix 5.

CONTROL⁴ of mines, transportation routes, points where minerals are traded and upstream actors in the supply chain means (i) overseeing extraction, including by granting access to mine sites and/or coordinating downstream sales to intermediaries, export companies or international traders; (ii) making recourse to any forms of forced or compulsory labour to mine, transport, trade or sell minerals; or (iii) acting as a director or officer of, or holding beneficial or other ownership interests in, upstream companies or mines.

COUNTRY OF ORIGIN means the country where a shipment of designated minerals has been mined or extracted.

DESIGNATED MINERALS means minerals, originating in the territory of the Member States, that are subject to the provisions of the ICGLR Mineral Tracking and Certification Scheme. At the time of the initiation of the scheme, designated minerals include: gold; cassiterite (tin ore); wolframite (tungsten ore); and coltan (also known as columbite-tantalite, or tantalum ore and niobium ore).

DOCUMENTATION consists of any written or electronically generated information intended to transmit verifiable data to the ICGLR, an ICGLR Member State and/or

⁴ As per *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*.

source recognized by the ICGLR and the relevant Member States.

DOWNSTREAM/UPSTREAM: Minerals in the region flow downwards, from mine site to trader to processor or exporter. From the point of view of a mine site operator, traders and exporters are downstream in the mineral chain, and therefore downstream users. From the point of view of an exporter, traders and mine site operators are both upstream in the mineral chain, and therefore upstream users. From the point of view of traders, mine site operators are upstream users, while exporters are downstream users.

ELIGIBLE MEMBER STATES are Member States that are eligible to have their government, industry and civil society representatives serve on the Audit Committee. To qualify as Eligible, a Member State must: have in place systems and procedures capable of certifying mine sites as per Section 3 and Appendix 3 (Mine Site Inspection and Certification); systems for assuring Chain of Custody of Designated Minerals as per Section 4 and Appendix 4 (Chain of Custody Tracking within Member States); and have in place systems for certifying mineral exports and issuing Certificates, as per Section 5 and Appendix 5.

EXPORT means the physical leaving or sending out of material from any part of the geographical territory of a Member State.

EXPORTER/EXPORTING ENTITY means any company, cooperative, individual or other entity that exports Designated Minerals from a Member State.

EXTORT⁵ from mines, transportation routes, points where minerals are traded or upstream companies means the demanding, under the threat of violence or any other penalty, and for which the person has not voluntarily offered, sums of money or minerals, often in return for granting access to exploit the mine site, access transportation routes, or to transport, purchase, or sell minerals.

FOLLOW UP AUDIT means either a Third Party Audit undertaken at the request of an exporter after the exporter has failed an audit. The Follow Up Audit looks specifically at those elements that were found wanting in the initial audit.

FOLLOW UP INSPECTION means a Mine Site Inspection undertaken at the request of a mine site operator after the operator has failed an inspection. The Follow Up Inspection looks specifically at those elements that were found wanting in the initial inspection.

GRACE PERIOD means a specified period granted to a mine site operator or exporter that has been found to have violated the prescribed criteria either for mine site conditions or chain of custody tracking, during which the operator or exporter can continue to operate while attempting to rectify the condition that put them in violation.

GRADE means the quantity of metal or metal oxide in a sample of mineral ore; normally expressed as a percentage of the total.

ICGLR CHAIN OF CUSTODY (TRACKING) SYSTEM: A system that can track mineral flows from a Certified mine site to the point of export, demonstrating for each export of Designated Minerals the Certified mine site or sites from which the minerals originated, and the intermediate traders (if any) who handled the minerals or portions of the

⁵ As per *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*.

minerals between mine site and exporter.

ICGLR CERTIFICATE means a forgery resistant document with a particular format which identifies a shipment of designated minerals as being in compliance with the requirements of the ICGLR Mineral Tracking and Certification Scheme.

ICGLR THIRD PARTY AUDIT (“Third Party Audit”): An ICGLR Third Party Audit is a systematic, independent, documented process for obtaining records, statements of fact or other relevant information and assessing them objectively to determine the extent to which the chain of custody requirements specified by the ICGLR standards are fulfilled. The ICGLR Third Party Audit falls on the exporting entity and includes the supply chain up to the mine production site. The ICGLR chain of custody audit also includes mine site inspections according to the ICGLR mine site standards. In case the exporting entity is not under the same ownership as the mine site, the onus for mine site inspections falls on the mine site operator.

INDUSTRIAL MINING means mineral extraction undertaken by a corporation, cooperative or other corporate entity on a formally recognized mineral claim or title, generally using advanced machinery and equipment (This can also include semi-industrial mining operations or operations where a mining company sub-contracts artisanal miners to extract minerals).

IMPORT means the physical entering/bringing into any part of the geographical territory of a Member State.

IMPORTER means an individual, company or other entity that receives a shipment of Designated Minerals exported by an exporting entity located within one of the Member States of the ICGLR.

LOT means a quantity of Designated Minerals shipped as a unit from a seller to a purchaser. See also SHIPMENT

LOT NUMBER (EXPORT ORDER NUMBER) means the unique identifying number assigned by an Exporting Entity to each lot of Designated Minerals shipped from an Exporter.

MEMBER STATE: A nation belonging to the ICGLR.

MINE SITE OPERATOR means the person, cooperative, association, company or other entity exercising legal or customary control over the process of production of a given mine site.

MINE OPERATOR LOT NUMBER means the unique identifying number assigned by a mine operator to each lot of Designated Minerals shipped from a mine site.

MINE SITE means a mining concession recognized by the Member State government, owned or operated by an individual, cooperative, state entity or corporate entity. (A MINE SITE may form a smaller, discrete part of a larger, exploration or prospecting concession)

MINE SITE INSPECTION: A mine site inspection is an examination of a mine site and determination of its conformity with the requirements of the ICGLR mine site standard. A mine site inspection can be carried out separately by a Member State Government or by an ICGLR Third Party Auditor as part of an exporter’s chain-of-custody audit.

MINERAL: used to collectively refer to ore, pre-concentrate, and concentrate where further differentiation may not be necessary or possible (e.g., “mineral storage”); note that this usage differs from the usual geological definition.

MINERAL PRE-CONCENTRATE: ore that has been subject to an initial non-standardized upgrading process (usually washing done by artisanal miners: panning, ground sluicing).

MINERAL CONCENTRATE: ore or pre-concentrate that has been subject to a mechanized standard ore dressing/beneficiation process (usually done at a central processing plant).

MINERAL CHAIN means the series of steps and processes through which minerals are extracted, traded, processed and exported from the region.

MINERAL CONSIGNMENT means a means a quantity of Designated Minerals that is physically transported as a unit with one set of documentation from one location to another.

NON-STATE ARMED GROUPS means rebel movements or armed criminal entities, aimed at undermining or overthrowing legitimate government, or otherwise engaged in illegal activity and/or serious human rights abuse.

ORE: mined mineralized rock (hard rock, alluvial, eluvial), without any further processing.

PROGRESS CRITERIA: these are criteria which are important to the credibility of the system and the social legitimacy of the mineral production and trading processes, and should show continuous progress over time.

PROCESSOR means any person or business including but not limited to a trader or exporter that physically or chemically treats mineral ore in order to increase or otherwise adjust the purity of that mineral ore.

PUBLIC OR PRIVATE SECURITY FORCES ENGAGED IN ILLEGAL ACTIVITY AND/OR SERIOUS HUMAN RIGHTS ABUSE “Public or Private Security Forces” means otherwise legal armed units from the army or police or other national force, or individuals or larger units employed or otherwise engaged by a private security firm, acting illegally by engaging in or profiting from the extraction, trade or transport of designated minerals, or engaging in serious human rights abuse.

RED FLAG means a violation of one the system-critical criteria of either the standards and procedures for mine site inspection and approval (Section 3 and Appendix 3), or a violation of one of the system-critical criteria for Third Party Audits (Section 8 and Appendix 8). A RED FLAG results in a mine site being declared UN-CERTIFIED (Red Flagged), or an EXPORTER being declared UN-CERTIFIED (Red Flagged). Guidance as to what constitutes a violation of a system-critical criterion, thus triggering a Red Flag is provided in the Section 8 and Appendix 8 (Third Party Audits), and Section 3 and Appendix 3 (Mine Site Inspection and Certification Standards).

REGIONAL MINERAL FLOWS means shipments of minerals between or within the Member States of the ICGLR.

SERIOUS HUMAN RIGHTS ABUSES⁶ are understood as:

- i. any forms of torture, cruel, inhuman and degrading treatment;
- ii. any forms of forced or compulsory labour, which means work or service which is exacted from any person under the menace of penalty and for which said person has not offered himself voluntarily;
- iii. the worst forms of child labour;
- iv. other gross human rights violations and abuses such as widespread sexual violence;
- v. war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide.

SHIPMENT means a quantity of Designated Minerals that is physically transported as a unit from one location to another. See also LOT.

STATUS CRITERIA: these are criteria for which compliance is considered central and critical to the credibility and functioning of the ICGLR certification system. Status Criteria can be either Red Flag (full and immediate compliance is required) or Yellow Flag (a short grace period is permitted to correct the non-compliance).

THIRD PARTY AUDITOR: A Third Party Auditor is a person or body that is independent of the person or organization that forms the subject of the audit (i.e. the mine or exporting entity) and is further independent of user interests in the subject of the audit, as defined in the ICGLR procedures for Accrediting Third Party Auditors.

TRADER (*Négociant* in the context of the DRC means a person or company that primarily buys and sells minerals within the borders of a Member State (i.e. without exporting minerals).

TRANSIT means the physical passage across the territory of a Member State, with or without transshipment, warehousing or change in mode of transport, when such passage is only a portion of a complete journey beginning and terminating beyond the frontier of the Member State across whose territory a shipment passes.

VALIDATED CERTIFICATE means an ICGLR Regional Certificate that has been issued and countersigned by Member State government officials in compliance with the Export Procedures delineated in Section 5 and Appendix 5.

YELLOW FLAG means a violation of one of the criteria of either the standards and procedures for mine site inspection and approval (Section 3 and Appendix 3), or a violation of one of the criteria for Third Party Audits (Section 8 and Appendix 8). A Mine Site or EXPORTER found to be Yellow Flagged is given a GRACE PERIOD in which to correct the situation.

⁶ As per *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*.

Section II — The ICGLR Mineral Tracking and Certification Scheme

1. Designated Minerals

Explanatory Note: The current list of Designated Minerals consists of gold, cassiterite, wolframite, and coltan. These are the same four minerals designated as ‘Conflict Minerals’ under the US Dodd-Frank act, and the same four minerals that are currently the target of the OECD Due Diligence Guidance.

- 1.1. Designated Minerals are minerals, originating in the territory of the Member States, that are subject to the provisions of the ICGLR Mineral Tracking and Certification Scheme
 - 1.1.1. The list of Designated Minerals is given in Appendix 1.
 - 1.1.2. The Steering Committee of the ICGLR may at its discretion add or remove minerals from the list in Appendix 1.

2. The ICGLR Certificate

Explanatory Note: The ICGLR Certificate for Designated Minerals will function in much the same manner as the Kimberley Process Certificates for diamond exports. Only mineral shipments that can demonstrate “conflict free” origin, transport and processing will be awarded an ICGLR Certificate. Though there is a phase in period for the ICGLR Scheme, many of the principal mineral producers in the region plan to begin issuing ICGLR Certificates by mid-2011. Certification becomes obligatory for all exports of Designated Minerals after December 15, 2012.

Member states agree that:

- 2.1 For exports of Designated Minerals from Member States, the ICGLR Certificate (hereafter referred to as the Certificate) serves as the sole recognized guarantee that a Designated Mineral shipment was mined and traded in compliance with the ICGLR standards.

Each Member State shall ensure that:

Phase-In Period

- 2.2 For the period up to and including December 15, 2012, a Certificate accompanies each exported shipment of Designated Minerals that has been Certified. Exports of Designated Minerals lacking a Certificate are still permitted during this period, provided they are accompanied by an export permit or other government export document.
- 2.3 After December 15, 2012, a Certificate accompanies each exported shipment of Designated Minerals. Exports of Designated Minerals lacking a Certificate are not permitted.

Justification of Extensions

- 2.4 Member States may extend the phase-in period beyond December 15, 2012 for renewable terms of one year, provided they justify their need for an extension in writing to the ICGLR Secretariat. For Member States that have justified and received an extension, the provisions of paragraph 2.2 shall apply (ie, a Certificate accompanies each exported shipment of Designated Minerals that has been Certified. Exports of Designated Minerals lacking a Certificate are still permitted during this period, provided they are accompanied by an export permit or other government export document)

Certificates meet Standards

- 2.5 Its process for issuing Certificates meet the standards set out in Section II-5 of this document (Export and Certification Procedures), and Appendix 5.
- 2.6 Its Certificates meet the standards set out in Appendix 2: Required Characteristics of ICGLR Certificates. As long as these standards are met, Member States may at their discretion establish additional characteristics for their own Certificates, including additional data or security elements.
- 2.7 It informs other Member States through the ICGLR Secretariat of the features of its Certificates, for the purposes of validation.

3. Mine Site Inspection and Certification

Explanatory Note: The ICGLR Mine Site Inspection and Certification Standards are designed to ensure that Designated Minerals are sourced only from mine sites that are conflict free and meet minimum social standards (for example, no child labour). The standards for evaluating mine sites (given in further detail in Appendix 3) and the steps outlined to foster improvement or else disengage from unacceptable mine sites are in compliance with the procedures and standards found in the *OECD Due Diligence Guidance* (especially Annex II: Model Supply Chain Policy For A Responsible Global Supply Chain of Minerals from Conflict-Affected and High-Risk Areas and Annex III-Suggested Measures For Risk Mitigation and Indicators for Measuring Improvement).

Under the ICGLR Scheme, mine sites are inspected annually by a government mines inspector. These government inspections are cross-checked by annual Independent Third Party Audits carried out by an ICGLR accredited auditor. On-going risk assessment of mine sites is provided by the office of the ICGLR Mineral Chain Auditor. Mines are classified in one of three categories:

1. **Certified (Green Flagged)** – mine meets all standards (i.e. no conflict, no child labour); Mine can produce minerals for certified export
2. **Yellow Flagged**–infractions of one or more important criteria; Mine operator has six (6) months to resolve situation; Mine can produce minerals for certified export
3. **Un-certified (Red Flagged)**– grave infractions of one or more critical criteria; mine is prohibited from producing minerals for a minimum of six months; mine remains Red Flagged until a further inspection shows the infractions to have been resolved.

Further detailed procedures and standards used to classify mine sites are given in Appendix 3.

A Member State may:

- 3.1 At its discretion, take measures to make the Standards and Procedures for Certifying Mine Sites in effect within its borders more rigorous than the standard called for by the ICGLR Tracking Scheme. Member States are prohibited from taking any measures that would make the Standards and Procedures for Certifying Mine Sites in effect within their borders less rigorous than the standard called for by the ICGLR Tracking Scheme

Each Member State shall:

- 3.2 Designate a lead government agency that will be responsible for the process of Mine Site Inspection and Certification.
- 3.3 Develop and maintain a comprehensive database of the mine sites within their national boundaries that produce Designated Minerals. The information this mine site database shall contain is described in Appendix 3a: Data to be contained in the national data bases of mine sites.
- 3.4 Have this database prepared before the ICGLR Certification Scheme can begin operation as the database of mine sites is critical to the functioning of the chain of custody and certification systems.
- 3.5 Physically inspect each mine site, before the first ICGLR Certificate can be issued for minerals originating from that site, and no less than once per year

afterwards. During the inspection, the Member State Government or its designated agent shall assess the mine site and surrounding area and determine whether the mine site is Certified (Green Flagged), Un-certified (Red Flagged), or Yellow Flagged. The criteria and methodology by which a mine site must be evaluated is given in Appendix 3b (Standards and Procedures for Inspecting and Certifying Mine Sites).

3.6 Immediately declare Un-certified (Red Flagged) any mine site where a mine site inspection carried out as part of a Member State government inspection shows a Red Flag, or where an inspection carried out by an accredited ICGLR Third Party Auditor as part of a Third Party Audit shows a Red Flag, or where a Report from the ICGLR Mineral Chain Auditor shows a Red Flag.

3.6.1 Once a mine site has been declared Un-certified (Red Flagged), the Member State government shall maintain its status as Un-Certified for a minimum of six months.

3.6.2 The period of six months having expired, the Member State government may revise the mine site's status only upon receipt of the report of a follow up inspection performed by the Member State government, or by an accredited ICGLR Third Party Auditor that was contracted by the mine site operator, which shows that the Red Flag has been rectified. If the mine site operator does not opt for assessment by an accredited Third Party Auditor, the Member State government shall also reconsider the mine site's status in its next annual mine site inspection.

3.7 Where a mine site inspection carried out as part of a Member State government inspection shows a Yellow Flag, or where an inspection carried out by an accredited ICGLR Third Party Auditor as part of a Third Party Audit shows a Yellow Flag, or where a Report from the ICGLR Mineral Chain Auditor shows a Yellow Flag, grant a grace period of six months, during which the mine site can continue to source Designated Minerals (i.e. continue to source Designated Minerals as if the site were still Certified or Green Flagged). During this grace period, the mine site operator may request a follow up inspection by the Member State government, or may contract a follow up inspection by an accredited ICGLR Third Party Auditor.

3.7.1 If the follow up inspection and report by the Member State government or Third Party Auditor finds the Yellow Flag to have been rectified, the Member State Government shall change the mine site's status to Certified (Green Flag).

3.7.2 If the follow up inspection and report by the Member State government or Third Party Auditor finds the Yellow Flag not to have been rectified, the Member State government shall declare the mine site Un-certified (Red Flagged).

3.7.3 The Member State government shall declare the mine site Un-Certified (Red Flagged) if no follow up inspection has taken place within the six month grace period, measured from the date of the inspection that found the Yellow Flag.

- 3.7.4 A mine site declared Un-certified through the process described in paragraph 3.7 shall then be subject to the provisions of paragraph 3.6, that is, the same provisions as a mine site found to have a Red Flag and been declared Un-Certified.
- 3.8 Ensure that the designated government agency conducting the mine site inspections complies with Appendix 3b (Standards and Procedures for Inspecting and Certifying Mine Sites).
- 3.9 Ensure that the personnel carrying out the inspections are adequately trained.
- 3.10 Ensure that minerals from mine sites designated Un-certified (Red Flagged) are ineligible for certification and cannot be exported with an ICGLR Certificate.
- 3.11 Share the contents and results of these yearly mine site inspections with the ICGLR Secretariat as they occur, on a regular and timely basis.
- 3.12 Keep its mine site database current and up to date. The results of the mine site inspections must be incorporated into the mine site database in a regular and timely manner.
- 3.13 Share the database of mine sites and their status (Certified/Un-certified/Yellow Flagged) with the ICGLR Secretariat on a regular and timely basis. In particular, where a mine site has been declared Un-certified (Red Flagged), the Member State shall inform the ICGLR Secretariat of the mine site's Un-certified (Red Flagged) status no later than seven days after the change in status.
- 3.14 Require companies operating in, sourcing minerals from, the Great Lakes Region to comply with *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*; Where there is any divergence between the ICGLR standards as contained in this Manual and its Appendices and the *OECD Due Diligence Guidance*, the more rigorous of the two standards shall apply.

The ICGLR Secretariat shall:

- 3.15 Develop and maintain an up-to-date ICGLR Regional Mine Site Database of all mine sites in the region producing Designated Minerals. The database will indicate whether each site is currently Certified (Green Flagged), Un-Certified (Red Flagged) or Yellow Flagged, along with the date and details of the latest inspection by the Member State Government, the Third Party Audit, or any supplementary inspection contracted directly by the mine site operator in case of a Red Flag. The ICGLR Regional Mine Site database shall also include the information listed in Appendix 3a. The ICGLR Regional Mine Site database shall be publicly accessible.
- 3.16 Where there is a conflict between the information contained in the ICGLR Regional Mine Site database and a Member State mine site database, the database reporting the most recent inspection of the mine site shall be considered definitive and binding.
- 3.17 Change the status of a mine site in the ICGLR Regional Mine Site database to Un-certified (Red Flagged):

- 3.17.1 Upon being advised to do so by a Member State government
 - 3.17.2 Upon receiving a report by an accredited ICGLR Third Party Auditor of a Red Flag at a mine site
 - 3.17.3 Upon receiving a report from the ICGLR Mineral Chain Auditor indicating a Red Flag at a mine site.
 - 3.17.4 Automatically, six months after the date at which an inspection found a Yellow Flag at a mine site, unless during that grace period a follow up inspection by the Member State government or by an accredited ICGLR Third Party Auditor found the Yellow Flag to have been rectified
 - 3.18 Change the status of a mine site in the ICGLR Regional Mine Site database to Yellow Flagged:
 - 3.18.1 Upon being advised to do so by a Member State government
 - 3.18.2 Upon receiving a report by an accredited ICGLR Third Party Auditor of a Yellow Flag at a mine site
 - 3.18.3 Upon receiving a report from the ICGLR Mineral Chain Auditor indicating a Yellow Flag at a mine site
 - 3.19 Change the status of a mine site in the ICGLR Regional Mine Site database to Certified (Green Flagged):
 - 3.19.1 Upon being advised to do so by a Member State government
 - 3.19.2 If, six months having passed since the mine site was declared Un-certified (Red Flagged), an accredited ICGLR Third Party Auditor submits an inspection report recommending the mine site's return to Certified status
 - 3.20 Inform downstream users and the public of changes in the status of mine sites as they occur, on a regular and timely basis.
 - 3.21 Ensure that mine site inspectors and Third Party Auditors are adequately trained
- The mine site operator:
- 3.22 Has the right to obtain a copy of the mine site inspection report for their mine site. In cases where the mine site has been declared Un-certified (Red Flagged) or where a Yellow Flag has been found, the owners/operators shall enact improvements accordingly.
 - 3.23 Can, when their mine site has been designated Un-certified (Red Flagged):
 - 3.23.1 Wait until the next yearly Member State government inspection, to seek a return to Certified status
 - 3.23.2 Wait until a six month period has elapsed, then contract a follow up inspection by an accredited ICGLR Third Party Auditor.

- 3.24 Can, when an inspection has found a Yellow Flag on their mine site, contract an accredited ICGLR Third Party Auditor to perform a follow up inspection of their mine site at some point during the six month grace period. As noted in paragraph 3.7.2 – 3.7.3, the mine site shall be declared Un-certified (Red Flagged) after the expiry of the six month grace period, unless the follow up inspection finds the Yellow Flag(s) to have been rectified

Independent Third Party Auditors:

- 3.25 Shall, when carrying out audits of exporters, processors and traders, evaluate some selected portion of the mine sites from which the exported, processed and traded minerals originated, according to the criteria and methods of Appendix 3b: Standards and Procedures for Inspecting and Certifying Mine Sites. Where a Third Party auditor finds that a mine site shows a Red Flag or Yellow Flag, the auditor shall report that mine site as Un-certified or Yellow Flagged to the Member State government and to the ICGLR Secretariat.
- 3.26 Shall, when carrying out a follow up inspection of a mine site confine the inquiry to those criteria that were found to be in non-compliance (Red Flags or Yellow Flags) during the initial inspection. In verifying these criteria, the Auditor shall rigorously apply the criteria and methods of Appendix 3b: Standards and Procedures for Inspecting and Certifying Mine Sites, and report their findings to the contracting party, to the Member State government, and to the ICGLR Secretariat.

The ICGLR Audit Committee shall:

- 3.27 Develop the ICGLR Mine Site Inspection and Approval Standard (Appendix 3b) in cooperation with stakeholders, including industry and civil society
- 3.28 Review the ICGLR Mine Site Inspection and Approval Standard yearly, making amendments and additions at their discretion

4 Chain of Custody Tracking within Member States

Explanatory Note: The ICGLR Chain of Custody Tracking Standards are designed to ensure that Designated Minerals are fully traceable and conflict-free from the mine site to the point of export. Member State governments are responsible for implementing and supervising the chain of custody tracking system within their own borders. The integrity of Member States' chain of custody systems are verified annually via ICGLR Third Party Audits. Mineral flows are tracked and analysed via an ICGLR Regional Database, using the data on individual shipments collected and transmitted to the ICGLR by each Member States' Chain of Custody system.

Member States must have a chain of custody tracking system. They can have more than one type of chain of custody tracking system in operation (i.e. for different minerals, or different regions, etc.). Member States can opt to delegate the design or operation of their chain of custody tracking system(s) to a non-state actor. In such cases, the chain of custody system must still conform to ICGLR standards – that is, it must track minerals from source to export; ensure mineral shipments are conflict free; cooperate fully with ICGLR Third Party Audits; and Member States must retain ownership of all the data generated by the chain of custody system, and transfer without restriction and in a timely manner to the ICGLR any and all such data (i.e. on mineral purchases, sales, shipments) as the ICGLR Secretariat may request. Only pricing information is excluded from the data provided to the ICGLR.

As an added measure, the ICGLR Mineral Chain Auditor (or their designate) must verify during its first year of operation that a Member State's chain of custody system meets ICGLR standards

Chain of Custody Required

- 4.1 Member States shall have a Chain of Custody Tracking system for Designated Minerals

Multiple Systems

- 4.2 Member States may opt to implement different Chain of Custody systems for artisanal and formal mining situations. Member State may opt to implement different Chain of Custody systems for different Designated Minerals. Member States may opt to allow non-state actors to operate parts or all of their domestic Chain of Custody systems. In all such cases, the Chain of Custody system or systems must meet the standards set out in this section, in Appendix 4 and in any subsequently approved ICGLR Chain of Custody standard.
- 4.3 The ICGLR Independent Mineral Chain Auditor shall examine each new Chain of Custody system or systems implemented in each Member State within a year of the Chain of Custody system beginning operation, evaluating the Chain of Custody system for compliance with the ICGLR standards set out in this section and Appendix 4: Standards for Chain of Custody Tracking within Member States. The Mineral Chain Auditor shall report their findings in written form to the Member State and Secretariat. Where the Mineral Chain Auditor finds the Chain of Custody system to not be in compliance with the ICGLR standards set out in this section and Appendix 4: Standards for Chain of Custody Tracking within Member States, the Member State shall have a period of six months to bring the Chain

of Custody into ICGLR compliance. If, in the opinion of the Mineral Chain Auditor, the Member State has not brought its Chain of Custody system into ICGLR compliance during that six month period, the Member State shall lose the right to issue ICGLR Regional Certificates, until such time as, in opinion the Mineral Chain Auditor, the Chain of Custody system has been brought into ICGLR compliance.

- 4.4 In the interim period where the ICGLR Mineral Chain Auditor has not yet been appointed, a designate appointed by the ICGLR Secretariat can perform the examination detailed in paragraph 4.3.
- 4.5 Should a previously approved Chain of Custody system undergo significant modifications, the ICGLR Independent Mineral Chain Auditor shall re-examine that new Chain of Custody system, evaluating it for compliance with the ICGLR standards set out in this section and Appendix 4. Only after the Mineral Chain Auditor has found that the Member State's modified Chain of Custody system remains in compliance with the ICGLR standards set out in this section and Appendix 4 shall the Member State's Chain of Custody system be permitted to issue Certificates.

General Requirements of Chain of Custody Tracking Systems

- 4.6 The system ensures that mineral consignments only originate from mine sites defined as Certified according to ICGLR standards.
- 4.7 The system ensures that mineral consignments from Certified mine sites are fully traceable through their accompanying documentation from the mine of origin up to the point of export.
- 4.8 The system ensures that the mineral consignments from Certified mine sites are fully physically separated from mineral consignments from other sites, from the mine site to the point of export. Mineral consignments from different Certified mine site may be physically mixed provided the relative proportions of minerals from different certified mines of origin remain traceable.
- 4.9 The system ensures that the supply chain of mineral consignments is conflict free. For the purpose of the ICGLR Tracking and Certification Scheme, 'conflict free' means that none of the actors in the mineral chain contribute at any time, through the extraction, transport, trade, handling or export of minerals, to any direct or indirect support to non-state armed groups or public or private security forces engaged in illegal activity and/or serious human rights abuse. Direct or indirect support" to non-state armed groups or public or private security forces through the extraction, transport, trade, handling or export of minerals includes, but is not limited to, procuring minerals from, making payments to or otherwise providing logistical assistance or equipment to non-state armed groups or public or private security forces or their affiliates who:
 - 4.9.1 illegally control mine sites or otherwise control transportation routes, points where minerals are traded and upstream actors in the supply chain; and/or
 - 4.9.2 illegally tax or extort money or minerals at points of access to mine sites, along transportation routes or at points where minerals are traded; and/or

- 4.9.3 illegally tax or extort money or mineral shares from mine site owners, mine site operators, intermediaries, traders, export companies, or any other actors in the upstream chain of custody.
- 4.10 The system ensures that all the tracking data from the mineral chain and the Chain of Custody tracking system, including the disaggregated lot or shipment tracking data (i.e. the data for each individual lot or shipment), and the input and output data of individual chain operators are transmitted to the ICGLR Secretariat on a monthly basis, or more frequently. The data from the Chain of Custody system shall be transmitted to the ICGLR Secretariat in full, in its unprocessed state. The data shall not be redacted, aggregated, grouped, or otherwise processed in any way that might serve to hide, disguise, obscure or otherwise impede the ability of the ICGLR Secretariat to have full access to every particular of every parcel, lot or shipment of Designated Minerals.
- 4.11 The system is transparent in its documentation and decision making structures. The existence and status of all participants in the ICGLR Mineral Tracking and Certification System (including but not limited to mine operators, traders, processors, *comptoirs* and smelters) shall be publicly disclosed, along with any ICGLR administrative reports or audits pertaining to that status. The decisions of the ICGLR Secretariat and Committees must be publicly disclosed, along with the underlying documentation supporting those decisions.
- 4.12 The system has to be open to inspection to independent audits by Third Party Auditors accredited by the ICGLR Audit Committee.
- 4.13 The system has to submit to independent audits by the ICGLR Independent Mineral Chain Auditor.
- 4.14 The system shall prove that it has a governance and risk management system installed that protects it from any form of misuse and fraud.

Responsibilities of Stakeholders

The responsibilities of various system stakeholders are delineated below:

Each Member State shall:

- 4.15 Designate a lead government agency that will be responsible for overseeing and implementing a Chain of Custody Tracking system for Designated Minerals within their national borders.
- 4.16 Ensure that the Chain of Custody Tracking systems implemented within their borders meet the standards set out in Appendix 4: Standards for Chain of Custody Tracking within Member States.
- 4.17 Require companies operating in the Great Lakes Region to comply with *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*. Where there is any divergence between the ICGLR standards as contained in this Manual and its Appendices and the *OECD Due Diligence Guidance*, the more rigorous of the two standards shall apply.

- 4.18 Share all information from their domestic Chain of Custody Tracking systems as may be required and requested by the ICGLR Secretariat for use in its Regional Mineral Tracking Database, in a regular and timely manner.
- 4.19 Provide in a timely manner all information from the domestic Chain of Custody system as may be requested and required by an ICGLR Third Party Auditor.
- 4.20 Where a Member State opts to allow a non-state entity to operate part or all of its Chain of Custody system, it shall sign a legally binding agreement with this entity to guarantee that information collected by the Chain of Custody system remains the property of the Member State government, and available for use free of any constraint by the ICGLR Secretariat, or such auditors or agents as the ICGLR may appoint. The Member State allowing a non-state entity to operate part or all of its chain of custody system shall ensure that that private entity has the resources, capacity and competence to adequately operate a national Chain of Custody system and to fully comply with the ICGLR chain of custody standard.

The ICGLR Audit Committee shall:

- 4.21 Develop and review on a yearly basis Appendix 4: Standards for Chain of Custody Tracking within Member States. In developing and reviewing Appendix 4, take into account lessons learned from pilot projects either currently underway or soon to be initiated.

5 Export and Certification Procedures

Explanatory Note: The ICGLR Certificate serves as the assurance to purchasers that a mineral shipment is conflict free, and meets all other ICGLR standards. Member State governments must examine each export of Designated Material, including all the supporting documentation concerning chain of custody and mine of origin, before issuing a Certificate. The detailed procedures for Export and Certification Procedures are found in Appendix 5.

General Requirements of Export Procedures and Procedures for Issuing ICGLR Regional Certificates

Responsibilities of Stakeholders

The responsibilities of various system stakeholders are delineated below:

Each Member State shall:

- 5.1 Designate a lead government agency that will be responsible for overseeing Export Procedures and the Issuance of ICGLR Certificates.
- 5.2 Ensure that their Export Procedures and Procedures for Issuing ICGLR Certificates meet the standards set out in this section, in Appendix 5: Standards for Exports of Designated Minerals and for Issuing ICGLR Certificates.
- 5.3 Share all information regarding exports of Designated Minerals and Certificates and their issuance as may be required and requested by the ICGLR Secretariat for use in its Regional Mineral Tracking Database, in a regular and timely manner.
- 5.4 Provide in a timely manner all information regarding Chain of Custody of mineral consignments, Exports of Designated Minerals and Certificates as may be requested and required by an ICGLR Third Party Auditor or the ICGLR Mineral Chain Auditor.

The ICGLR Audit Committee shall:

- 5.5 Review Appendix 5: Standards for Exports of Designated Minerals and for Issuing ICGLR Certificates yearly, making amendments and additions at their discretion.

6 Undertakings with respect to trade in Designated Minerals

Explanatory Note: Many of the principal mineral producers in the region plan to begin issuing ICGLR Certificates by mid-2011. However, Certification only becomes obligatory for all exports of Designated Minerals after December 15, 2012.

Member States shall:

Two-year phase in period

For the period up to and including December 15, 2012,

- 6.1. undertake to ensure that only shipments of Designated Minerals that have been Certified are accompanied by a duly validated ICGLR Certificate.
- 6.2. require that each Certified shipment of Designated Minerals imported from another Member State be accompanied by a duly validated ICGLR Certificate.

After December 15, 2012,

- 6.3. undertake to ensure that each and every shipment of Designated Minerals exported from their territory is accompanied by a duly validated Certificate.
- 6.4. require that each and every shipment of Designated Minerals imported from another Member State be accompanied by a duly validated Certificate.

Justification of Extensions to phase-in period

- 6.5. As noted in paragraph 2.4, Member States may extend the phase-in period beyond December 15, 2012, for renewable terms of one year, provided they justify their need for an extension in writing to the ICGLR Secretariat. For Member States that have justified and received an extension, the provisions of paragraphs 6.1 and 6.2 shall apply (i.e., 6.1 undertake to ensure that only shipments of Designated Minerals that have been Certified are accompanied by a duly validated ICGLR Certificate; 6.2. require that each Certified shipment of Designated Minerals imported from another Member State be accompanied by a duly validated ICGLR Certificate.)

General Requirements

- 6.6. Share all data from Certificates as may be requested or required by the ICGLR Secretariat.
- 6.7. Share the data from Certificates with other Member States.
- 6.8. Recognize that Member States through whose territory shipments transit are not required to meet the requirements of paragraphs 6.1 and 6.2 above, provided that the designated authorities of the Member State through whose territory a shipment passes ensure that the shipment leaves its territory in an identical state as it entered its territory (i.e. unopened and not tampered with)

7 Regional Mineral Tracking via an ICGLR database

Explanatory Note: Tracking of Regional Mineral Flows via a public ICGLR Database is one of the main pillars of the ICGLR Certification scheme. Tracking and reconciling mineral flows within and between Member States will assure all stakeholders (Member State governments, local and international NGOs, private sector end users and others) of the integrity of Certified mineral flows from the region. The Database will make it possible to track and balance the production, purchases and exports of Exporters, mines, mining regions, and Member States. Developing and implementing the Regional Mineral Tracking Database is the responsibility of the ICGLR Secretariat. Member States, mines, traders, processors, exporters and other actors in the mineral chain are required to provide all data (**except for pricing information, which will remain confidential**) on their production, purchases, sales and exports to the ICGLR Secretariat as and when required. The ICGLR Database will be publicly accessible, as a way of establishing and maintaining the credibility of the ICGLR Mineral Tracking and Certification Scheme.

Responsibilities of Stakeholders

The responsibilities of various system stakeholders are delineated below:

The ICGLR Secretariat shall:

Regional Mineral Tracking unit/database unit:

7.1 Track and balance regional flows of Designated Minerals, using data from Member State chain of custody systems, from artisanal dig sites and industrial mine sites, from mineral traders, from *comptoirs*, processors, smelters and other exporting entities, from Member State customs data, and from such other sources as may in the opinion of the Secretariat be required or convenient.

7.2 Store the information described in paragraph 0 in a Regional Mineral Tracking database. The specifications for the data to be contained in the Regional Mineral Tracking Database are given in Appendix 7b: Data to be contained in the Regional Mineral Tracking Database

7.3 Concern itself with

7.3.1 Balancing and reconciling the Certified Mineral exports of individual Exporting Entities (or groups or agglomerations of Exporting Entities) with the purchases of Approved Minerals by those same Exporting Entities (or groups or agglomerations of Exporting Entities).

7.3.2 Balancing the sales of Designated Minerals by mineral traders or artisanal mineral traders with the purchases of Approved Minerals by those same traders.

7.3.3 Balancing the production of minerals from a Certified mine site as determined by purchases of Certified Minerals from those sites with the actual production or productive capacity (including mining, processing and logistical capacity) of that mine site as determined by Member State mine site inspections data, or geological surveys or other relevant information.

7.3.4 Balancing the volumes and metal contents of Certified Minerals purchased or received by smelters or other customers external to the region, with the volume of Certified Minerals produced within the region.

7.3.5 Balancing the production of minerals from an agglomeration of Certified mine sites (i.e. a county, province, nation or other agglomeration of mine sites) as determined by purchases of Certified Minerals from those sites with the actual production or productive capacity of that agglomeration of mine sites (be it country, province, nation or other agglomeration of mine sites) as determined by Member State mine site inspections data, or geological surveys or other relevant information.

7.3.6 Tracking, for individual Exporting Entities (or agglomerations of Exporting Entities) the mine sites or other suppliers from which they source material, and the volumes of material sourced at each mine site or other supplier.

7.3.7 Tracking, for regions or Member States (or other geographical subdivisions) the mine sites or other suppliers from which they source material, and the volumes of material sourced at each mine site or other supplier.

7.3.8 Supplying other such analyses or reports as the Steering Committee, Audit Committee or Mineral Chain Auditor may from time to time request.

7.3.9 Make use of other data sources such as those from the EITI to cross check information on taxes and official payments from Designated Minerals paid to Member State governments.

7.4 Perform specific analyses or produce specific reports to the specifications of the Mineral Chain Auditor, if in the opinion of the Mineral Chain Auditor such analyses or reports are required in the course of their investigations.

7.5 Accommodate, where possible, requests by the Mineral Chain Auditor for modifications to the standards of and types of data contained in the Regional Mineral Tracking Database, if the Mineral Chain Auditor believes such changes will facilitate their investigations.

Regional Mine Site Database

7.6 Develop and maintain a Regional Mine Site Database, as delineated in paragraphs 3.15 – 3.21 of Section II-3 (Mine Site Inspection and Approval) and Appendix 3a (Data to be included in the national data bases of mine sites).

Regional Database of Exporters

7.7 Develop and maintain an up-to-date ICGLR Database of Exporters, identifying all the licensed Exporting Entities in the Member States of the Region. The database will indicate whether each Exporting Entity is currently Certified, Un-Certified or Yellow Flagged. The ICGLR Database of Exporters shall include all the information listed in Appendix 7a: Data to be contained in the ICGLR Database of Exporters. The ICGLR Database of Exporters shall be publicly accessible.

7.8 Ensure that the information on the ICGLR Regional Mineral Tracking Database, the Regional Mine Site Database, and the Database of Exporters is made fully accessible to Member State governments, industry, civil society and members of the public, via the Internet and other means as may be required or desirable.

Each Member State shall:

- 7.9 Share all information regarding exports of Certified Minerals and Certificates and their issuance as may be required and requested by the ICGLR Secretariat for use in its Regional Mineral Tracking Database, in a regular and timely manner.
- 7.10 Provide in a timely manner all information regarding Chain of Custody of mineral consignments, Exports of Certified Minerals and Certificates as may be requested and required by the ICGLR Secretariat for use in its Regional Mineral Tracking Database, in a regular and timely manner.
- 7.11 Promptly supply to the ICGLR Secretariat such information as it requests or requires in order to develop and keep up to date the ICGLR Database of Exporters.
- 7.12 Extend full cooperation to and facilitate the work of ICGLR database officials in collecting information within Member States
- 7.13 Promptly supply to the ICGLR Secretariat such information as it requests or requires in order to develop and keep up to date the ICGLR Regional Mine Site Database.

The ICGLR Audit Committee shall:

- 7.14 Review Appendix 7b: Data to be contained in the Regional Mineral Tracking Database from time to time, making revisions where appropriate.
- 7.15 Consider and work to facilitate requests from the Mineral Chain Auditor for changes to the standards in this section and Appendix 7.
- 7.16 Review Appendix 7c: Reports of the Regional Mineral Tracking Database.

The Mineral Chain Auditor shall:

- 7.17 Have the authority to direct the ICGLR Secretariat (and its Mineral Tracking Unit) to perform specific analyses or produce reports to their specifications, if in the opinion of the Mineral Chain Auditor such analyses or reports are required in the course of their investigations.
- 7.18 Have the authority to request the Audit Committee or the Secretariat (and its Mineral Tracking Unit) to make changes to the standards of and types of data contained in the Regional Mineral Tracking Database, if the Mineral Chain Auditor believes such changes will facilitate their investigations. The Audit Committee and Secretariat shall where possible work to facilitate these requests.

8 Third Party Audits

Explanatory Note: The Independent Third Party Audit system assures independent verification that the entire mineral chain from mine site to exporter remains in compliance with ICGLR regional standards. The Third Party Audit system complies with OECD Due Diligence guidelines on independent verification and on-going risk assessment (in particular the Supply Chain Due Diligence and Upstream Company Risk Assessment sections of the Supplement on Tin, Tantalum and Tungsten).

ICGLR Audits focus on mineral Exporters. The scope of the audit runs from the Exporter all the way back up the mineral chain to the mine site. Non-compliance by any of the upstream traders or suppliers (up to but not necessarily including mine sites, which are covered by mine site inspections) automatically results in a corresponding level on non-compliance being assessed on the Exporter; that is, if the auditor finds that a trader supplying to an exporter is in major non-compliance (Red Flagged) then the Exporter itself is also found to be non-compliant (Red-Flagged). (An Audit finding that a mine site in major non-compliance (Red-Flagged) will not result in an Exporter being Red-Flagged, unless it can be shown that the exporter was sourcing material from that mine site while its status was Un-Certified (Red Flagged)).

The ICGLR Third Party Audit system is managed by a tri-partite Audit Committee, which has representation from government, local and international industry, and local and international civil society. Local industry and Civil Society representatives on the Audit Committee are democratically elected from among stakeholders in each eligible Member State. The Audit Committee accredits auditors, and sets the standards and terms of reference for Third Party Audits.

ICGLR Third Party Audits require auditors to perform on-site inspections all along the mineral chain, up to and including mine sites. Audits examine each actor's conformity with the ICGLR standards. Auditors also perform a risk-assessment role, investigating, evaluating and reporting on the 'conflict environment' – the risk and factual circumstances of conflict and conflict-financing associated with exporters, traders and artisanal and industrial miners. The detailed standards and procedures for ICGLR Third Party Audits are given in Appendix 8: Third Party Audits.

Responsibilities of Stakeholders

The responsibilities of various system stakeholders are delineated below:

The ICGLR Mineral Chain Auditor shall:

Use Audit Reports for on-going Risk Assessment

8.1 Review the Third Party Audit reports as they are submitted, paying particular attention to those sections of the Audit reports that investigate and report on the conflict conditions prevalent at each step in the mineral chain. This information shall be incorporated into the Mineral Chain Auditor's Reports and on-going assessments of risk in the region.

The ICGLR Secretariat shall:

8.2 Ensure that contents of Third Party Audits are made fully accessible to Member State governments, industry, civil society and members of the public, via the Internet and other means as may be required or desirable.

Engagement with Exporters – Red Flags and Yellow Flags

8.3 Review the reports of Third Party Auditors as they are submitted.

8.3.1 Where an Audit Report has found an Exporting Entity to be Un-Certified (Red Flagged), the Secretariat shall:

8.3.1.1 Immediately advise the Exporting Entity in question, forwarding as necessary a copy of the Audit Report.

8.3.1.2 Immediately advise the Member State government in which the Exporting Entity operates.

8.3.1.3 Immediately advise the general public, via the Internet, or such other means and media as may be required or desirable.

8.3.1.4 Immediately change the Exporting Entity's status, in the ICGLR's Database of Exporters, to Un-Certified.

8.3.2 Where an Audit Report has found an Exporting Entity to be Yellow Flagged, the Secretariat shall:

8.3.2.1 Immediately advise the Exporting Entity in question, forwarding as necessary a copy of the Audit Report.

8.3.2.2 Immediately advise the Member State government in which the Exporting Entity operates.

8.3.2.3 Immediately advise the general public, via the Internet, or such other means and media as may be required or desirable.

8.3.2.4 Immediately change the Exporting Entity's status, in the ICGLR's Regional Database of Exporters, to Yellow Flagged.

8.3.2.5 Give the Exporting Entity a grace period of six months, during which it can correct the Yellow Flag condition. If during this six month grace period the Secretariat receives a follow up Audit finding the Exporting Entity to be in full compliance (i.e. the Yellow Flag condition has been rectified), the Secretariat shall follow the procedures of paragraph 8.3.3 (Green Flag). If the Secretariat does not receive a follow up Audit finding, or receives a follow up Audit finding of Red Flag, or receives a follow up Audit finding of a continued Yellow Flag, the Secretariat shall follow the procedures of paragraph 0 (Red Flag)

8.3.3 Where an Audit Report has found an Exporting Entity to be in full compliance (Green Flag), the Secretariat/Committee shall:

8.3.3.1 Immediately advise the Exporting Entity in question, forwarding a copy of the Audit Report.

- 8.3.3.2 Immediately advise the Member State government in which the Exporting Entity operates.
- 8.3.3.3 Immediately advise the general public at large, via the Internet, or such other means and media as may be required or desirable.
- 8.3.3.4 Immediately Change the Exporting Entity's status, in the ICGLR's Database of Exporters, to Certified.

Engagement with Mine Site Operators – Red Flags and Yellow Flags

Explanatory Note: Third Party Audit findings concerning mine sites (i.e. Red Flags or Yellow Flags) trigger a similar process of engagement with mine site operators. The procedures for re-classifying mine sites as a result of a Third Party Audit are given in Section 3: Mine Site Inspection and Certification (in particular Section 3.6 – Red Flags and Section 3.7 – Yellow Flags)

The ICGLR Audit Committee shall:

Accreditation of Auditors

- 8.4. Designate one or more accreditation bodies to accredit Third Party Auditors. The accreditation body may be the ICGLR Audit Committee itself, or an outside agency. In either case, the accreditation body must meet the standards delineated in Appendix 8a: Accreditation Body Requirements.
 - 8.4.1. In the case that the Audit Committee itself acts as the accreditation body, the Audit Committee shall accredit ICGLR Third Party Auditors, using the accreditation standards in Appendix 8b: Accreditation Standards for Third Party Auditors
 - 8.4.2. In the case that the accreditation body is an outside agency, the Audit Committee shall review and confirm the accreditation body's recommendations regarding the accreditation of ICGLR Third Party Auditors.
- 8.5. Withdraw accreditation from a Third Party Auditor if in the considered opinion of the Audit Committee the Third Party Auditor fails to meet the requirements set by the ICGLR. The decision to withdraw accreditation may also be delegated to the designated accreditation body or bodies.
- 8.6. Impose sanctions on a Third Party Auditor if in the considered opinion of the Audit Committee the Auditor is in violation of the requirements set by the ICGLR. These sanctions may include suspension of the Third Party Auditor's accreditation, or such other sanction to be defined by the ICGLR Audit Committee. The Audit Committee may also delegate the imposition of sanctions to the designated accreditation body or bodies.

Audit Frequency

- 8.7. Determine the frequency with which Third Party Audits of Exporting Entities shall be conducted. Audits must take place once per year at a minimum.

Review Audits

8.8. Review the reports of Third Party Auditors as they are submitted.

Revision of Audit Requirements

8.9. Develop, and review and revise from time to time the requirements and procedures for Third Party Audits as delineated in Appendix 8: Third Party Audits.

Third Party Auditors shall:

8.10. Conduct audits of Exporting Entities (smelters, processors, *comptoirs*, mines or other exporting entities) in accordance with the procedures and requirements delineated in Appendix 8c: Standards and Procedures for Third Party Audits.

8.11. At the request of an Exporting Entity conduct an audit of that Exporting Entity (smelter, processor, *comptoir*, mine or other exporting entity) in accordance with the procedures and requirements delineated in Appendix 8c: Standards and Procedures for Third Party Audits.

8.12. At the request of a mine site operator conduct an audit of that mine site in accordance with the procedures and requirements delineated in Appendix 3b: Standards and Procedures for Inspecting and Certifying Mine Sites.

8.13. When conducting audits, examine and investigate in situ the records and operations of the Exporting Entity and all other entities and actors upstream in the mineral chain, including but not limited to industrial mines and traders, as well as artisanal traders and producers, that have supplied Designated Minerals to the Exporting Entity during the period under examination in the audit. A representative sample of the mine sites from which the Designated Minerals originated shall also be examined and inspected. Compliance by all these upstream actors and entities with the requirements of the applicable ICGLR standards and procedures shall be considered an integral part of the Third Party Audit of the Exporting Entity itself. A finding that any of the upstream actors – up to but not including mine sites — was Red Flagged (Major non-Compliance) or Yellow Flagged according to the standards and procedures in force for that entity or actor shall result in the Exporting Entity being declared correspondingly to be Red Flagged (Un-Certified) or Yellow Flagged. A finding that any of the mine sites from which that Exporting Entity sourced material during the period under examination was Red Flagged or Yellow Flagged shall result in that Exporting Entity being declared correspondingly Un-Certified (Red Flagged) or Yellow Flagged.

Each Member State shall:

8.14. Provide in a timely manner all information from the domestic Chain of Custody system as may be requested and required by an ICGLR Third Party Auditor.

8.15. Upon receiving notification that a Third Party Audit has found a Red Flag (major non-compliance) at an Exporting Entity operating within its borders, cease issuing any further Certificates to exports by that Entity, for a minimum of six months, and until such time afterward that the Member State government receives notification from the Secretariat that a follow up Audit by a Third Party Auditor has found the Red Flag condition to be resolved.

- 8.16. Verify that no stockpiling of Designated Material takes place throughout the period during which an Exporting Entity is declared Un-Certified. That is, material purchased by an Exporting Entity while that Exporting Entity has been declared Un-Certified (Red Flagged) is ineligible for inclusion in any Certified Export.

Processors, *Comptoirs*, Smelters, and other Exporting Entities shall:

- 8.17. Bear responsibility for the compliance of their own Exporting Entity with the applicable standards and procedures as well as for the compliance with applicable standards of those entities and actors upstream in the mineral chain, including but not limited to traders, artisanal traders and others in the mineral chain, up to but not including formal or artisanal mine sites, that have supplied Designated Minerals to the Exporting Entity during the period under audit.
- 8.18. Refrain from purchasing any Designated Material during the period in which the Exporting Entity has been declared Un-Certified (Red Flagged). Designated Material purchased while the Exporting Entity is Un-Certified (Red Flagged) cannot be exported with a Certificate.
- 8.19. Provide in a timely manner all information from the domestic Chain of Custody system as may be requested and required by an ICGLR Third Party Auditor.
- 8.20. Have the right to immediately obtain and review a copy of all Third Party Audits pertaining to their operation.
- 8.21. Be permitted, when a Third Party Audit has found a Red Flag (major non-compliance), to contract and pay for a follow up audit by an accredited Third Party Auditor to re-assess their operation.
- 8.21.1. The follow up audit may not take place until six months have passed since the date at which the Exporting Entity was found to be Red Flagged (in major non-compliance).
- 8.22. Be permitted, when a Third Party Audit has found a Yellow Flag to contract a follow up audit by an accredited Third Party Auditor to re-assess their operation.
- 8.22.1. The follow up audit must be completed during the six month grace period, measured from the date of the last audit. If the follow up audit does not find the Exporting Entity to be in full compliance (Green Flagged), the Exporting Entity shall be declared to be Red Flagged (major non-compliance).

9. ICGLR Independent Mineral Chain Auditor

Explanatory Note: The ICGLR Independent Mineral Chain Auditor is an important guarantee of regional compliance with ICGLR standards, and of on-going conflict monitoring and risk assessment. The ICGLR Mineral Chain Auditor investigations comply with OECD Due Diligence guidelines on independent verification and on-going risk assessment (in particular the Supply Chain Due Diligence and Upstream Company Risk Assessment sections of the Supplement on Tin, Tantalum and Tungsten).

The ICGLR Mineral Chain Auditor is appointed by the ICGLR Executive Secretary for a three year term pursuant to an independent selection process (to be determined). The MC Auditor is a person of high repute, known for integrity and quality of their investigations. The MC Auditor is expected to establish as needed a team of investigators, with expertise in the mining sector, mineral chain of custody, conflict and conflict financing, risk assessment, and other disciplines.

The Mineral Chain Auditor has three main areas of responsibility:

Firstly, the MC Auditor and their team inspects Member States' chain of custody tracking systems (within a year of those systems beginning operation) to ensure that they meet ICGLR Standards; where the systems do not meet the required standard, the MC Auditor and their team recommends and requires modifications as necessary.

Secondly, the MC Auditor and their team initiate independent investigations into topics such as the involvement of armed groups in the mineral chain (in ways that might not be revealed by a Third Party Audit), or suspected cases of large scale mineral smuggling, or into instances where the production of a mine, region or Member State does not match the likely productive capacity of that mine, region or Member State. The MC Auditor can also investigate downstream mineral chains out of the region, if there is an indication that Designated Minerals from the region are being clandestinely exported from the region.

Thirdly, the MC Auditor and their team provide ongoing assessments of the risk of conflict and conflict financing from mineral exploitation and mineral trading in the region. The MC Auditor and their team perform this task firstly by collating and analysing existing information relevant to conflict in the ICGLR region. This existing information comes from the 'Conflict Environment' portion of ICGLR Third Party Audits, from conflict mapping efforts (including those planned by the US State Department, as well as those produced by IPIS, BGR and by the UN), from local NGOs and civil society organisations operating in conflict-affected areas, from MONUSCO reports and information, from media reports, international NGO reports and from information received by confidential informants (via the ICGLR whistle-blowing mechanism). In addition to collating information, the Monitor will undertake field investigations on a needs basis to evaluate actual and potential conflict risks in the region. The ICGLR Mineral Chain Auditor will publish risk assessment reports on a regular basis. These reports will be available to companies in the region, Member States, and the public at large. (Information likely to put informants at risk will not be made public)

Responsibilities of Stakeholders

The responsibilities of various system stakeholders are delineated below:

Pursuant to an independent selection process (to be determined), the ICGLR Executive Secretary shall,

- 9.1. Appoint the ICGLR Mineral Chain Auditor to a three year term, from a list of candidates submitted by the Steering Committee.

The Mineral Chain Auditor shall:

Term of Service

- 9.2. Serve for a term of three years.
- 9.3. Be permitted to serve two or more terms, consecutively or otherwise.
- 9.4. Establish and maintain as needed a team of investigators, with expertise in the mining sector, mineral chain of custody, conflict and conflict financing, risk assessment, and other disciplines as required.

Evaluate Member State Chain of Custody Systems

- 9.5. Examine each new Chain of Custody system or systems implemented in each Member State within a year of the Chain of Custody system beginning operation, evaluating the Chain of Custody system for compliance with the ICGLR standards set out in this section and Appendix 4: Standards for Chain of Custody Tracking within Member States. The Mineral Chain Auditor shall report his findings in written form to the Member State and Secretariat. Where the Mineral Chain Auditor finds the Chain of Custody system to not be in compliance with the ICGLR standards set out in this section and Appendix 4: Standards for Chain of Custody Tracking within Member States, the Member State shall have a period of six months to bring the Chain of Custody into ICGLR compliance. If, in the opinion of the Mineral Chain Auditor, the Member State has not brought its Chain of Custody system into ICGLR compliance during that six month period, the Member State shall lose the right to issue ICGLR Certificates, until such time as, in opinion the Mineral Chain Auditor, the Chain of Custody system has been brought into ICGLR compliance.
- 9.6. In the interim period where the ICGLR Mineral Chain Auditor has not yet been appointed, a designate shall be appointed by the ICGLR Secretariat to perform the examination detailed in the preceding paragraph (numbered 9.5).
- 9.7. Where a previously approved Chain of Custody system has undergone significant modifications, re-examine that new Chain of Custody system, evaluating it for compliance with the ICGLR standards set out in Section 4 and Appendix 4. Only after the Mineral Chain Auditor has found that the Member State's modified Chain of Custody system remains in compliance with the ICGLR standards set out in Section 4 and Appendix 4 shall the Member State's Chain of Custody system be permitted to issue Certificates.

Conduct Independent Investigations:

- 9.8. Conduct independent investigations into any aspect of the mineral chain that, at their complete discretion, the Mineral Chain Auditor believes to warrant attention.

- 9.9. In their independent investigations, focus on
- 9.9.1. Uncovering and documenting the involvement of “armed groups” (either non-state armed groups or public or private security forces) in the mineral chain, or the profiting of armed groups from the mineral chain, in ways beyond their direct and visible control of mine sites. This might involve such phenomena as armed groups exerting indirect control of a mine site, or armed groups exacting tolls from the transport of Designated Minerals, or armed groups extorting or otherwise receiving funds from actors in the mineral chain such as traders, *comptoirs*, processors, exporters or other actors.
 - 9.9.2. Investigating mine sites, regions or Member State nations where the sales or exports of a Designated Mineral appear not to correspond to the legal purchases, production or trade of that Designated Mineral.
 - 9.9.3. Investigating the trade in Designated Minerals in nations external to the ICGLR, where there are indications that the Designated Mineral may have originated within an ICGLR Member State, and been smuggled or otherwise clandestinely or illegally transported to a country not belonging to the ICGLR.
 - 9.9.4. Instances of fraud in the mineral chain, including but not limited to the forging or illegal modifying of Chain of Custody documents or information, or the forging or illegal modifying of Certificates.
 - 9.9.5. Lines of inquiry stemming from tips or information received from volunteer sources.
 - 9.9.6. Other lines of inquiry as the Mineral Chain Auditor may deem appropriate.
 - 9.9.7. Report on investigations, in written form, to the ICGLR Executive Secretary, with copies going to the Steering Committee and ICGLR Secretariat (Mineral Chain Auditor Report). These reports shall further be made public, via the internet or other suitable means.

Ongoing Risk Assessment Function

- 9.10. Collate and analyse existing information relevant to conflict and risk of conflict in the ICGLR region. This information shall be obtained from:
- 9.10.1. those sections of the Third Party Audit reports that investigate and report on the conflict conditions prevalent at each step in the mineral chain.
 - 9.10.2. the conflict mapping publications produced by the US State Department, the NGO IPIS, BGR, the UN and any others.
 - 9.10.3. local NGOs and civil society organisations operating in conflict-affected areas.
 - 9.10.4. MONUSCO reports and other information.
 - 9.10.5. media reports.

9.10.6. international NGO reports.

9.10.7. confidential informants (whistle-blowing information).

9.10.8. Any other relevant source.

9.11. Undertake field investigations to evaluate actual and potential conflict risks in the region.

9.12. Make use of the information from investigations and existing sources to provide ongoing assessments of the risk of conflict and conflict financing from mineral exploitation, trade or transport in the ICGLR region. The risk assessment shall take the form of regular written Risk Assessment Reports. These shall be made available to companies in the region, Member States, and the public at large.

Annual Report

9.13. Submit an annual report on their activities to the Executive Secretary, each year on the anniversary of their appointment.

The ICGLR Secretariat shall:

Results of Investigations– Red and Yellow Flags

9.14. Review the Reports (either Mineral Chain Auditor Reports or Risk Assessment Reports) of the Mineral Chain Auditor as they are submitted.

9.14.1. Where a Mineral Chain Auditor Report or Risk Assessment Report has found an Exporting Entity or Mine Site to have a Red Flag (major non-compliance), the Secretariat shall:

9.14.1.1. Immediately advise the Exporting Entity or Mine Site in question, forwarding a copy of the Auditor Report.

9.14.1.2. Immediately advise the Member State government in which the Exporting Entity or Mine Site operates.

9.14.1.3. Immediately advise the general public, via the Internet, or such other means and media as may be required or desirable.

9.14.1.4. Immediately change the Exporting Entity's status in the ICGLR's Database of Exporters to Red Flagged, or the Mine Site's status in the ICGLR Regional Mine Site Database to Red Flagged

9.14.2. Where a Mineral Chain Auditor Report or Risk Assessment Report has found an Exporting Entity or Mine Site to be Yellow Flagged, the Secretariat shall:

9.14.2.1. Immediately advise the Exporting Entity or Mine Site in question, forwarding as necessary a copy of the Auditor Report.

9.14.2.2. Immediately advise the Member State government in which the Exporting Entity or Mine Site operates.

- 9.14.2.3. Immediately advise the general public, via the Internet, or such other means and media as may be required or desirable.
- 9.14.2.4. Immediately change the Exporting Entity's status in the ICGLR's Database of Exporters to Yellow Flagged, or the Mine Site's status in the ICGLR Regional Mine Site Database to Yellow Flagged.
- 9.14.2.5. Give the Exporting Entity or Mine Site a grace period of six months, during which it can correct the Yellow Flag condition. If during this six month grace period the Secretariat receives a follow up Audit finding that the Exporting Entity or Mine Site is in full compliance (i.e. the Yellow Flag condition has been rectified), the secretariat shall change the status of the Exporting Entity or Mine Site to Certified (Green Flag). If the Secretariat does not receive a follow up Audit finding during this period, or receives a follow up Audit finding of Red Flag, or receives a follow up Audit finding of a continued Yellow Flag, the Secretariat shall change the status of the Exporting Entity or Mine Site to Un-Certified (Red Flag).

9.15. Ensure that the information contained in the written reports of the Mineral Chain Auditor is made fully accessible to Member State governments, industry, civil society and members of the public, via the Internet and other means as may be required or desirable. (Information likely to put informants at risk may be kept confidential).

The ICGLR Steering Committee shall:

9.16. Prepare and submit a list of candidates for the position of ICGLR Mineral Chain Auditor for the consideration of the ICGLR Executive Secretary.

Each Member State shall:

9.17. Cooperate in every way with investigations by the Independent Mineral Chain Auditor,, furnishing all such information and documents as the Mineral Chain Auditor may request or deem necessary for the purposes of their investigations.

9.18. Advise the Mineral Chain Auditor when one or more of its Chain of Custody system is ready to be examined and verified for compliance with ICGLR standards as set out in Section II 4 and Appendix 4: Standards for Chain of Custody Tracking within Member States

9.18.1. Where an existing Chain of Custody System has undergone a significant modification, the Member State shall likewise advise the Mineral Chain Auditor when its newly modified Chain of Custody system is ready to be re-examined and re-verified for compliance with ICGLR standards as set out in Section II 4 and Appendix 4: Standards for Chain of Custody Tracking within Member States.

9.18.2. Where a Chain of Custody System has undergone a significant modification and the Member State does not so advise the Mineral Chain Auditor , the Mineral Chain Auditor may on their own initiative re-examine and re-verify the Member State Chain of Custody system for compliance with ICGLR standards as set out in Section II 4 and Appendix

4: Standards for Chain of Custody Tracking within Member States, if in the considered opinion of the Mineral Chain Auditor the modifications are significant enough to bring the compliance of the modified Chain of Custody system into reasonable doubt.

- 9.19. Have the right to receive and review all Mineral Chain Auditor reports as and when they are submitted to the ICGLR Secretariat. Member States may at their discretion opt to impose further sanctions on actors or entities identified in a Mineral Chain Auditor report as being in transgression of Member State laws or regulations.

10. Appeals Procedures

Explanatory Note: Appeals procedures will be incorporated into the ICGLR Certification Scheme by the end of the phase-in period (i.e. by December 15, 2012). Up to this point in time, Certification is not mandatory; mine site operators and exporters retain the option of exporting their material without an ICGLR Certificate. After the phase-in period (i.e. after December 15, 2012), mine operators and exporters will have the option of appealing Red Flag findings by mine site inspectors, 3rd party auditors and the Independent Mineral Chain Auditor (IMCA). The appeals procedures will be developed by the ICGLR Secretariat, in consultation with all stakeholders, and adopted in advance of the end of the phase-in period.

10.1 For the period up to and including December 15, 2012 (“the phase-in period”), there will be no procedure by which mine operators, exporters and others subject to inspections and/or audits by mines inspectors, ICGLR Third Party Auditors, the ICGLR Independent Mineral Chain Auditor and other agents of the ICGLR can appeal the findings of an audit or inspection (i.e. a Red Flag or Yellow Flag finding). As noted in Section 2.2, Certification is optional during this phase in period; mine operators and exporters retain the option of mining and/or exporting their material without a Certificate.

10.2 After December 15, 2012, there will be a procedure or procedures by which mine operators, exporters and others subject to inspections and/or audits by mines inspectors, ICGLR Third Party Auditors, the ICGLR Independent Mineral Chain Auditor and other agents of the ICGLR can appeal the findings of an audit or inspection (ie a Red Flag or Yellow Flag finding). The appeals procedure(s) will be developed by the ICGLR Secretariat, in consultation with stakeholders, and adopted in advance of the end of the phase-in period.

Section III — Administrative Matters

Responsibilities of System Bodies

The responsibilities of various system bodies are delineated below:

Executive Secretary

Explanatory Note: The ICGLR Mineral Chain Auditor is an important guarantee of compliance and risk assessment. Having the Executive Secretary involved in the appointment of the Mineral Chain Auditor helps to ensure that a person of high calibre and proven integrity is chosen for the position.

The ICGLR Executive Secretary shall:

1. Pursuant to an independent selection process (to be determined), appoint the ICGLR Mineral Chain Auditor from a list of candidates put forward by the ICGLR Steering Committee, for a three year term.
2. Receive reports from the ICGLR Mineral Chain Auditor on their investigations.

National Coordinators

Explanatory Note: National Coordinators support and supervise the election of local Industry and Civil Society stakeholders to serve on the ICGLR Audit Committee. In order to ensure their independence, these industry and civil society representatives must be democratically elected by stakeholder groups in eligible Member States. The election process also ensures that these industry and civil society Audit Committee members are truly representative of their stakeholder sectors.

The National Coordinators of the ICGLR shall:

3. Undertake, with the support of the ICGLR Secretariat, outreach to civil society and industry stakeholders in their Member State to educate these stakeholders on the roles and responsibilities of members of the Audit Committee.
4. Announce, support and supervise the election of civil society Audit Committee representative and industry Audit Committee representatives in their respective Member States. Announcement will include the sharing of candidate criteria (see below) and of the selection process:
5. Respect the determination of local civil society and local industry in the election of civil society Audit Committee representative and industry Audit Committee representatives in their Member State.
6. Indicate, to the Steering Committee and Conference Secretariat, the name(s) of the civil society representative and/or industry representatives elected from their Member State to serve on the Audit Committee.
7. Present, to the Steering Committee and the Conference Secretariat, separate election reports on the elections for civil society Audit Committee representative and industry Audit Committee representative. These election reports shall contain

- 7.1. The names and contact details for each of the civil society or industry members who participated in the election
- 7.2. The names and contact details for each person who presented themselves as a candidate for either the civil society or industry representative position on the Audit Committee
- 7.3. The date and place in which the elections were held
- 7.4. The results of the elections, including the names and contact details of the elected representatives
- 7.5. A justification of how the elected representative meets the Candidate Criteria and Guidelines (given below in paragraphs 80-81 and 83-84)
- 7.6. Signatures of all participants in the elections on a document in which they attest that the election was free and fair.
8. The Audit Committee civil society and industry representatives from a particular member state shall not be considered duly elected until election reports as specified in paragraph 7 (immediately above) have been delivered to and accepted by the ICGLR Steering Committee
9. The election reports delineated in paragraph 7 shall be published on the ICGLR website

Steering Committee

Explanatory Note: The ICGLR Steering Committee directs and supervises the ICGLR Certification Scheme. Its duties include developing a list of candidates for the position of Mineral Chain Auditor. The Steering Committee is also tasked with creating the ICGLR Audit Committee, selecting government representatives, confirming representatives of local civil society and industry as elected by the stakeholder groups of eligible Member States and submitted by National Coordinators. The Steering Committee also invites international industry and civil society representatives to serve on the Audit Committee. The Steering Committee also has the authority to add or delete minerals to the list of Designated Minerals, and to modify the standards for ICGLR Certificates.

The ICGLR Steering Committee shall:

10. Establish the ICGLR Audit Committee, considering the roles of the respective bodies as contained in this Manual and Appendices.
11. Invite government representatives to serve on the Audit Committee, indicating candidates either from the Steering Committee itself or from other competent government representative as the Steering Committee may choose.
12. Invite regional Civil Society stakeholders to serve on the Audit Committee, accepting the candidate(s) forwarded by the National Coordinators of eligible Member States, and elected by Civil Society in each eligible Member State.
13. Invite international Civil Society stakeholders to serve on the Audit Committee, accepting the candidate democratically selected from within international civil society.
14. Invite regional industry stakeholders to serve on the Audit Committee, accepting the candidate(s) forwarded by the National Coordinators of eligible Member States, and elected by regional industry in each eligible Member State.

15. Invite international industry stakeholders to serve on the Audit Committee, accepting the candidate democratically selected from within international civil society.
16. Have the authority to change the number or representatives serving on the Audit Committee, respecting always the principle of tripartite representation, with significant representation from government, industry, and civil society.
17. Add or remove minerals from Appendix 1: List of Designated Minerals.
18. Review and amend Appendix 2: Required Characteristics of ICGLR Regional Certificates.
19. Be empowered to request and require such information on regional trade data from the ICGLR Regional data base as they may require for their deliberations.
20. Submit a list of suitable candidates for the position of the ICGLR Mineral Chain Auditor to the Executive Secretary.
21. Receive and review copies of the reports of the ICGLR Mineral Chain Auditor, and take appropriate actions in a timely manner.

ICGLR Secretariat

Explanatory Note: The ICGLR Secretariat manages the ICGLR scheme. The Secretariat's duties include developing and maintaining three databases:

1. An ICGLR Regional Mine Site Database
2. An ICGLR Database of Exporters
3. An ICGLR Regional Mineral Tracking Database.

The Secretariat constantly updates the status of Mine Sites and Exporters as Third Party Audits, Mine Inspection results and Mineral Chain Auditor reports are received. Using the data on regional mineral flows in the Mineral Tracking Database, the Secretariat checks analyses mineral flows in the region. Regular reports from the Tracking Database are disseminated widely by the Secretariat. The contents of all three databases are open to public view.

The ICGLR Secretariat shall:

ICGLR Certificate

22. Develop a template for the ICGLR Certificate, which Member States can use to develop their own national versions of the ICGLR Certificate.
23. Receive information from Member States on the additional features of their Certificate templates.

Mine site inspections and Regional Mine site data base

24. Establish and manage the ICGLR Regional Mine Site Database.

25. Receive reports from the Member States, Third Party Auditors, and the Mineral Chain Auditor on mine site inspection results and immediately take the requisite action to adjust the mine site's status in the ICGLR Regional Mine Site Database.
26. Receive and request, where necessary, all relevant information required for the management of the Regional Mine Site Database from Member States.

ICGLR Regional Mineral Tracking Database

27. Establish and manage the Regional Mineral Tracking Database and perform other tasks and duties as described in Section II 7.
28. Receive and request from Member States, where necessary, all relevant information required for the management of the Regional Mineral Tracking Database.

Verification Procedures

29. Receive all audit reports and take action where appropriate and required by the ICGLR standards.

Financing

30. Develop a business model for the operation of the ICGLR certification scheme, taking into account fees from operators, accreditation fees and costs, certification fees and costs, and other expenses and sources of revenue.

Transparency and Public Access to information

31. Publish or otherwise make widely publicly available all annual reports, audit reports, list of accredited Third Party Auditors, Exporters Database, Regional Mineral Tracking database, Regional Mine Site database, reports of the Mineral Chain Auditor, and all other relevant publications, bearing in mind the ICGLR policy which eliminates pricing information from ICGLR reports.
32. Prepare an annual report on the implementation and performance of the Scheme.

Qualification Measures

33. Where necessary and desirable, organise and implement adequate training measures for
 - 33.1. Designated Government Authorities charged with implementing the provisions the ICGLR certification system, in particular
 - 33.1.1. Authorities in charge of the use and handling of ICGLR Certificates and the mine site standards.
 - 33.1.2. Authorities in charge of inspecting and evaluating mine sites according to the applicable ICGLR mine site standards.
 - 33.2. Artisanal Miners, who shall receive adequate training on the ICGLR requirements and assistance in their implementation.

33.3. Third Party Auditors, who shall receive adequate training on the requirements of the ICGLR standards.

33.4. Other stakeholders as necessary or desirable.

ICGLR Mineral Chain Auditor

Explanatory Note: The ICGLR Mineral Chain Auditor serves as an important guarantee of compliance and risk assessment. The Auditor initiates independent investigations into aberrations in the regional certification scheme, and provides on-going risk assessments of the conflict situation in mining areas where armed groups are potentially active. It is expected that the Auditor will contract or otherwise engage additional personnel with expertise in conflict and conflict financing, risk assessment, or other areas on a needs basis.

The ICGLR Mineral Chain Auditor shall:

34. Serve a 3 year term, which may be renewed without limit for subsequent 3 year terms.
35. Be a highly respected, competent and impartial person.
36. Perform tasks and duties as described in Section II 9 (ICGLR Mineral Chain Auditor) of this document and any related Appendix.
37. Report directly to the ICGLR Executive Secretary.
38. Submit all written reports to the ICGLR Executive Secretary, with copies to the Steering Committee.
39. Establish and maintain as needed a team of investigators, with expertise in the mining sector, mineral chain of custody, conflict and conflict financing, risk assessment, and other disciplines as required.
40. Research and publish regular assessments of the risk of conflict or conflict financing from mineral exploitation in the ICGLR region.
41. Prepare a yearly report on all activities undertaken, including all Chain of Custody Systems inspected (along with the results of those inspections) and all investigations undertaken. This report shall be submitted to the Executive Secretary, on each anniversary of the Mineral Chain Auditor's appointment.

ICGLR Committees:

Explanatory Note: The ICGLR Audit Committee provides independent oversight of the Third Party Auditing system. The Audit Committee is composed of representatives of Member State governments, local and international industry, and local and international civil society. The Audit Committee accredits ICGLR Third Party Auditors. The Audit Committee also sets the standards and procedures for Third Party Audits, including what constitutes a Red Flag (major non-compliance) or Yellow Flag. The Audit Committee also receives and reviews Audit Reports as they are submitted, and takes appropriate action where indicated.

Other Committees may be established on a needs basis as determined by the ICGLR Steering Committee.

Composition of Audit Committee

42. The Audit Committee shall be established by the ICGLR Steering Committee, according to the procedures outlined above in **paragraphs 7-13** of Section III. Administrative Matters.
43. The Audit Committee shall have, at all times, representation from Member State governments, local and international industry and local and international civil society. All members of the Audit Committee have equal voting rights, be they from government, regional industry, international industry, regional civil society or international civil society.
44. The Audit Committee shall be composed of members that are democratically elected from within their peer groups.
45. Audit Committee members shall serve for a period of two years for each member.
46. Members can serve more than term
47. The government, regional civil society and regional industry representatives on the Audit Committee shall be drawn from Eligible Member States. To qualify as Eligible, a Member State must have in place or be close to having in place systems capable of certifying mine sites; systems for assuring Chain of Custody of Designated Minerals; and have in place systems for certifying mineral exports and issuing Certificates.
48. The Audit Committee shall have, at full capacity, representation from the various stakeholders in the quantities as follows:
 - 48.1. 5 representatives of government
 - 48.2. 3 representatives of regional industry
 - 48.3. 3 representatives of regional civil society
 - 48.4. 1 representative of international industry
 - 48.5. 1 representative of international civil society
49. Ideally, the composition of the government, member state industry, and member state civil society members on the Audit Committee shall be arranged so that there is representation from every member state in the ICGLR. (ie if the Steering Committee first chooses the 5 government members, the remaining seats for industry, civil society will then assigned to other Member States, who will democratically elect representatives from within the peer groups of their respective Member States)
50. The steering committee shall choose the government representatives on the Audit Committee
51. The regional civil society members on the Audit Committee shall be democratically elected from among their peers

52. The regional industry members on the Audit Committee shall be democratically elected from among their peers.
53. The international industry member on the Audit Committee shall be democratically elected from among their peers.
54. The international civil society member on the Audit Committee shall be democratically elected from among their peers.
55. The Audit Committee shall have, at its inception, representation from the various stakeholders in the quantities as follows:
 - 55.1. 4 representatives of government
 - 55.2. 2 representatives of regional industry
 - 55.3. 2 representatives of regional civil society
 - 55.4. 1 representative of international industry
 - 55.5. 1 representative of international civil society
56. The Audit Committee shall have a person from the ICGLR Secretariat to serve the Audit Committee in a secretarial and administrative support position.

Operational procedures of Committees

57. The Audit Committee shall meet no less than twice per year.
58. The Audit Committee shall democratically elects its chair, vice-chair and rapporteur from representatives from within the region. (ie internationals cannot be chair, vice-chair, rapporteur).
59. The Audit Committee shall be permitted to admit observers and or external advisors to committee meetings.
- ~~60.~~ The Audit Committee shall make their findings and decisions public.
61. The Audit Committee shall strive for consensus in all decision making.
62. Where unanimity is impossible, the Audit Committee shall take decisions on the basis of an expanded majority that requires both a numerical majority of votes, as well as a positive vote from each of the three stakeholder types (government, industry, civil society).
63. The Audit Committee shall be permitted to adjust their voting model in the review process.
64. The Audit Committee shall in developing and reviewing the relevant ICGLR standards⁷.
 - 64.1. Identify and engage with all relevant stakeholders
 - 64.2. Develop a strategy for stakeholder consultation and dealing with stakeholder inputs
 - 64.3. Clearly define the elements of the standard, its application and, where necessary, allow for national interpretations

⁷ As a guidance, the Setting Standards Module of the ISEAL Alliance (Emerging Initiatives Module 2) should be used.

Financial Operation of Committees

65. Members of the Audit Committee shall serve on a volunteer basis
66. The ICGLR Secretariat shall strive to develop a budget to facilitate the participation of Audit Committee members at all meetings.
67. If ICGLR funds are not available:
 - 67.1. For government members, transport costs to and from Audit Committee meetings as well as per diems for such meetings shall be paid by their respective Member State government.
 - 67.2. For civil society members, transport costs to and from Audit Committee meetings as well as per diems for such meetings may be borne by the ICGLR secretariat, if alternate funding sources are not available.
 - 67.3. For industry members, transport costs to and from Audit Committee meetings as well as per diems for such meetings shall be the responsibility of the industry members

Tasks and Duties of Committee

The ICGLR Audit Committee shall:

68. Serve as the ICGLR Accreditation Body and accredit ICGLR Third Party Auditors, or contract and supervise an established outside accreditation entity to act as the ICGLR Accreditation Body which will then accredit ICGLR Third Party Auditors
69. Manage the ICGLR Third Party Audit system by
 - 69.1. Reviewing the reports of Third Party Auditors as they are submitted, and taking appropriate action, as defined by the standards and procedures set out in this document and its appendices.
70. Develop and review Appendix 8: Standards and Procedures for Third Party Audits, through consultation with stakeholders from industry and civil society in the region and internationally, taking into account the need to define
 - 70.1. The frequency of audits
 - 70.2. The standards and procedures to be followed by Third Party Auditors
 - 70.3. The determination of what shall constitute a Red Flag (major non-compliance), and what shall constitute a Yellow Flag (regular non-compliance). Only criteria where full compliance is considered central to the credibility and functioning of the system should be rated Red Flags
 - 70.4. All other necessary procedures and standards
71. Develop and review Appendix 4: Standards for Chain of Custody Tracking within Member States, through consultation with stakeholders from industry and civil society in the region and internationally taking into account the need to define
 - 71.1. The determination of what shall constitute a Red Flag (major non-compliance), and what shall constitute a Yellow Flag (regular non-compliance). Only criteria where full compliance is considered central to the credibility and functioning of the system should be rated Red Flags
 - 71.2. All other necessary procedures and standards

72. Develop and review Appendix 5: Standards for Exports of Approved Minerals and for Issuing ICGLR Mineral Certificates, through consultation with stakeholders from industry and civil society in the region and internationally, taking into account the need to define
 - 72.1. The determination of what shall constitute a Red Flag (major non-compliance), and what shall constitute a Yellow Flag (regular non-compliance). Only criteria where full compliance is considered central to the credibility and functioning of the system should be rated Red Flags
 - 72.2. All other necessary procedures and standards.
73. Develop, review and modify as appropriate Appendix 3: Mine Site Inspection and Approval, through consultation with stakeholders from industry and civil society in the region and internationally.
74. Develop, review and modify as appropriate Appendix 7: Regional Mineral Tracking, through consultation with stakeholders from industry and civil society in the region and internationally.
75. Receive and consider requests from the Mineral Chain Auditor for changes to the standards in Section II 7 (Regional Mineral Tracking via an ICGLR database) and Appendix 7 (Regional Mineral Tracking).
76. Develop and review Appendix 3b: Standards and Procedures for Inspecting and Certifying Mine Sites through consultation with stakeholders from industry and civil society in the region and internationally, taking into account the need to define
 - 76.1. The standards and procedures to be followed by mine site inspectors and Third Party Auditors
 - 76.2. The determination of what shall constitute a Red Flag (major non-compliance), and what shall constitute a Yellow Flag (regular non-compliance). Only criteria where full compliance is considered central to the credibility and functioning of the system should be rated a Red Flag
 - 76.3. All other necessary procedures and standards.

Election of regional civil society representative to Audit Committee

Civil Society stakeholders in Eligible Member States shall:

77. Democratically elect, in an open and transparent manner, a civil society representative from their Member State to serve on the ICGLR Audit Committee. One 'second' or 'alternate' representative will also be elected.

Regional Civil Society Candidate Criteria & Guidelines

78. Candidates for regional civil society audit committee members should:
 - 78.1. Have a good reputation in their communities;
 - 78.2. Have a demonstrated commitment to good governance;
 - 78.3. Have an appreciation for accountability frameworks;
 - 78.4. Have experience in conflict resolution and/ or experience operating in multi-stakeholder decision-making bodies or forums ; and
 - 78.5. Have good communication skills.
 - 78.6. Have the ability to work in English or in French

79. Ideally, regional civil society audit committee candidates should also:
- 79.1. Be knowledgeable of supply chains of the designated minerals; or
 - 79.2. Be knowledgeable of 'conflict minerals' in their respective countries and the region as a whole; and/or
 - 79.3. Have a good understanding of human rights law and its application in regional context;
 - 79.4. Have experience reading and interpreting audit reports and/or other forms of investigative reporting;

Election of regional industry representatives to Audit Committee

Industry stakeholders in eligible Member States shall:

80. Democratically elect, in an open and transparent manner, an industry representative from their Member State to serve on the ICGLR Audit Committee. One 'second' or 'alternate' will also be elected.

Candidate Criteria & Guidelines

81. Candidates for regional industry representatives on the audit committee should:
- 81.1. Have a good reputation in their communities;
 - 81.2. Have a demonstrated commitment to good governance;
 - 81.3. Have an appreciation for accountability frameworks;
 - 81.4. Have experience in conflict resolution and/ or experience operating in multi-stakeholder decision-making bodies or forums ; and
 - 81.5. Have good communication skills.
82. Ideally, regional industry audit committee candidates should also:
- 82.1. Be knowledgeable of supply chains of the designated minerals; or
 - 82.2. Be knowledgeable of 'conflict minerals' in their respective countries and the region as a whole; and/or
 - 82.3. Have a good understanding of human rights law and its application in regional context;
 - 82.4. Have experience reading and interpreting audit reports and/or other forms of investigative reporting;
 - 82.5. The ability to work in English and in French is desirable but not required.

Election of International (external to Great Lakes Region) Industry Members of the Audit Committee

International industry stakeholders shall:

83. Democratically elect, in an open and transparent manner, an industry representative to serve on the ICGLR Audit Committee. One 'second' or 'alternate' will also be elected.

Candidate Criteria & Guidelines

84. Candidates for the International industry position on the audit committee may come from a variety of backgrounds, and should:
- 84.1. Have a good reputation;
 - 84.2. Have a strong understanding of, and/or demonstrated commitment to, good governance;
 - 84.3. Have an appreciation for accountability frameworks;
 - 84.4. Have experience in conflict resolution and/ or experience operating in multi-stakeholder decision-making bodies or forums ; and
 - 84.5. Have good communication skills.
 - 84.6. Be able to work in English or in French.
85. Ideally, candidates should also (ie desirable but not mandatory):
- 85.1. Be very knowledgeable of supply chains;
 - 85.2. Be extremely knowledgeable of 'conflict minerals' or the mining sector in the context of the Great Lakes Region; and/or
 - 85.3. Have a good understanding of human rights law and/or
 - 85.4. Have experience reading and interpreting audit reports and/or other forms of investigative reporting;
86. The Conference Secretariat shall prepare an election report on the election report on the election of the international industry Audit Committee member, justifying how the elected member meets the candidate criteria and guidelines given above (paragraphs 86-87). This report shall be published on the ICGLR website.

Election of International (external to Great Lakes Region) Civil Society Members of the Audit Committee

International civil society stakeholders shall:

87. Democratically elect, in an open and transparent manner, a civil society representative to serve on the ICGLR Audit Committee. One 'second' or 'alternate' will also be elected.

Candidate Criteria & Guidelines

88. Candidates for the International civil society position on the audit committee may come from a variety of backgrounds, and should:
- 88.1. Have a good reputation;
 - 88.2. Have a strong understanding of, and/or demonstrated commitment to, good governance;
 - 88.3. Have an appreciation for accountability frameworks;
 - 88.4. Have experience in conflict resolution and/ or experience operating in multi-stakeholder decision-making bodies or forums ; and
 - 88.5. Have good communication skills.
 - 88.6. Be able to work in English or in French.
89. Ideally, candidates should also (ie desirable but not mandatory):
- 89.1. Be very knowledgeable of supply chains;
 - 89.2. Be extremely knowledgeable of 'conflict minerals' or the mining sector in the context of the Great Lakes Region; and/or
 - 89.3. Have a good understanding of human rights law and/or
 - 89.4. Have experience reading and interpreting audit reports and/or other forms of investigative reporting;
90. The Conference Secretariat shall prepare an election report on the election report on the election of the international civil society Audit Committee member, justifying

how the elected member meets the candidate criteria and guidelines given above (paragraphs 90-91). This report shall be published on the ICGLR website. .

Reference Documents

Key international legal instruments and norms include:

Due Diligence and Risk Awareness

OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (“OECD Due Diligence Guidance”)

Audit Standards

ISO/IEC Guide 65:1996

Human Rights

The Universal Declaration of Human Rights

The International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

The Convention on the Elimination of All Forms of Discrimination Against Women

The Convention on the Rights of the Child

Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The African Charter on Human and People's Rights

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

African Charter on the Rights and Welfare of the Child

International law and tools related to Women, Peace and Security:

UN Security Council Resolution 1325 (2000)

UN Security Council Resolution 1820 (2008)

UN Security Council Resolution 1889 (2009)

UN Security Council Resolution 1888 (2009)

These four UN Security Council Resolutions call upon the Security Council, the UN secretary-general, member states, and all other parties (such as, non-state actors, militias, humanitarian agencies, and civil society) to:

- ensure participation of women in peace processes;
- prevent and protect against conflict-related sexual

- violence, and;
- promote the full spectrum of women's rights, particularly in conflict and post-conflict contexts⁸

The Security Council called on Member States to continue to implement resolution 1325 (2000), including through the development of national action plans (NAPs) or other national level strategies.⁹ Three countries have adopted national action plans:

The Uganda Action Plan on UNSCR 1325 & 1820 and the Goma Declaration (2008)

The DRC National Action Plan for the implementation of the UNSCR 1325 (2010)

The Rwandan National Action Plan for the implementation of the UNSCR 1325 (2010)

⁸**PeaceWomen.org**, a project of the Women's International League for Peace and Freedom, United Nations Office http://www.peacewomen.org/portal_resources_resource.php?id=992 (accessed April 23 2011)

⁹<http://www.peacewomen.org/pages/about-1325/national-action-plans-naps> (accessed April 23, 2011)