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Promoting legal mineral trade in Africa: new policy approaches

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Abstract

With reserves of oil, timber, gas, diamonds, gold, coltan and bauxite, to name only a few, Africa has some of the largest natural resources deposits in the world. Their extraction and responsible management have the potential to fuel development across the continent. While numerous initiatives are underway to support this goal, persistent poor natural resources management and the neglect of diversified prosperity in favour of enrichment of a narrow political elite too often have contributed to slow economic growth and social tensions in many African countries. This paper argues that resource wealth need not be a curse for Africa and explains how current initiatives can contribute to translate the continent's potential into tangible growth. In the context of the promotion of legal natural resources trade, certification, transparency and traceability initiatives are typically identified to respond to challenges impeding legal trade. However, the authors' on the ground work in the natural resources sectors suggests many initiatives to promote legal trade prioritise Western consumer driven standards over the needs of African states, businesses and workers. While an aspiring approach to ensure that businesses operating across Africa reach international standards is to be encouraged, a failure to take into account local realities results in a gap between what is expected and what can feasibly be implemented. Natural resource management initiatives should be a national project led by the government and citizens for the benefit of the country. Policies developed for states and businesses must be informed by an assessment of how natural resources sectors function in reality, which includes a contextualisation of the sectors, factoring in local, national, regional and international political and social economies. The paper suggests that the design of policies and standards should be underpinned by an assessment of key stakeholders and the institutional infrastructure of the natural resources sectors. They should take into account what is feasible in the light of local realities and capacities in the short to medium term, while fixing aspirations on international standards in the long term. The paper introduces tools to help move this agenda forward in practice.

Introduction

With reserves of oil, timber, gas, diamonds, gold, coltan and bauxite, to name only a few, Africa has some of the largest natural resources deposits in the world. The dominant discourse on natural resources in Africa has been one of illegal exploitation and conflict, yet the extraction and responsible management has the potential to fuel development across the continent. This paper argues that effective policies to promote legal mineral trade in Africa can translate the continent's potential into tangible growth.

Traditionally relying on a significant mining sector for its economic growth, Ghana stands on the verge of becoming an oil exporting country following the historic 2007 offshore discovery now known as the Jubilee Field.[1] Commercial extraction began in December 2010, and oil is expected to generate over US $1 billion per year in export revenue over the next 20 years.[2] Along with this large oil reserve, estimated at between 800 million and 1.8 billion barrels, Ghana's extractive sector includes gold, diamonds, bauxite, manganese and salt, as well as substantial resources of iron ore. Gold is the most important mineral mined, accounting for 90% of mining sector revenue, 37% of total exports, and up to 40% of revenue in some districts.[3] Overall, mining is responsible for 5% of the gross domestic product (GDP)[4] and 12% of government revenue.[5]

Despite this resource-richness, the country ranked 130th out of 160 countries on the United Nations Human Development Index for 2010 and 53.6% of the population was still living on less than US$2 a day in 2006.[6] With the discovery of oil, the challenge for the Ghanaian government is to develop an effective system for managing the available natural resources in a way that will benefit its people.

A detailed discussion about ways to achieve a development return on potential is discussed below. However, it is worth pausing to reflect on the differences between the oil and mining sector and how they require different approaches to reform. The mining sector is characterised by a large number of companies of varying sizes and artisanal miners exploiting diverse minerals, while the oil sector tends to be dominated by a smaller number of large industrial companies extracting only oil and characterised by capital intensive activities at the extraction phase.[7] As a consequence, the oil revenue streams tend to be centralised while the less regulated mining sector is characterised by a far more diversified revenue stream. This is also reflected in the way revenues of each sector are captured. While oil producing countries revenues are captured primarily at the national level, there is an increasing trend in the mining sector for significant revenues to be paid to sub-national levels of government (such as state, regional and local governments or authorities).[8] This can be explained by the often

[1] Revenue Watch Institute, Ghana Transparency snapshot, http://www.revenuewatch.org/our-work/countries/ghana/transparency-snapshot (accessed on 07/02/2011)
[2] www.imf.org/external/pubs/ft/scr/2009/cr09256.pdf, p. 10
[3] Mbendi Information Services, Mining in Ghana, Overview, http://www.mbendi.com/indy/ming/af/gh/p0005.htm (accessed on 07/02/2011)
[4] Ghana mining portal, http://www.ghana-mining.org/ghweb/en/ma/mincom/Investment.html (accessed on 07/02/2011)
[5] These are 2008 figures sourced from Boon, E.K., Ababio, F., 2009, Corporate Social Responsibility in Ghana: Lessons from the mining sector, IAIIA09 Conference Proceedings, Impact Assessment and Human Well-Being.
[6] World Bank, http://data.worldbank.org/indicator/SI.POV.2DAY More recent data are not available.
[7] Darby S., Lempa, K., 2006, Advancing the EITI in the Mining Sector: implementation issues, The World Bank.
[8] Ibid

greater and more focused impact of the mining sector on the local communities and regions where mineral resources are located.

Additionally, the contribution of the mining sector to fiscal revenues is generally much smaller than in hydrocarbon-rich countries. Revenues from the mining industry average approximately 12.8% of total fiscal revenues in mineral-rich countries while earnings from the oil and gas sectors account for an average 55% of fiscal revenues.[9] This contrast largely explains the fact that mining is less lucrative than oil and gas. However, as global demand for raw materials continues to increase, revenues generated by the sector are likely to increase.[10]

With these differences in mind, lessons can be learned from the mining sector to inform revenue distribution and development policies in the emerging oil sector in Ghana. This paper argues that resource wealth need not be a curse for Africa and explains how current initiatives can contribute to translate the continent's potential into tangible growth. In the context of the promotion of legal natural resources trade, certification, transparency and traceability initiatives are typically identified to respond to challenges impeding legal trade. However, the authors' work on the ground, with mining communities, governments and companies, in the natural resources sectors suggests many initiatives to promote legal trade prioritise Western consumer driven standards over the needs of African states, businesses and workers. While an aspiring approach to ensure that businesses operating across Africa reach international standards is to be encouraged, a failure to take into account local realities results in a gap between what is expected and what can feasibly be implemented. Policies developed for states and businesses must be informed by an assessment of how natural resources sectors function in reality, which includes a contextualisation of the sectors, factoring in local, national, regional and international political and social economies.

This paper is structured as follows. Section 1 describes the current main approaches to tackle illegal mineral trade; section 2 analyses the current proposed solutions' limitations; section 3 introduces other necessary requirements and tools to guarantee effective policies implementation and secure private sector investments; and section 4 concludes.

1. Proposed solutions to promote legal trade

Mineral trade, especially in the African Great Lakes region, has often been associated with conflict, weak governance structures and corruption, to name only a few. In order to avert this resource curse and respond to challenges affecting mineral trade, a number of solutions to move the mineral trade from informal to formal have been identified by policy-makers, the international development community and private investors. The following paragraphs discuss these solutions focusing on sanctions and embargoes, certification schemes, and transparency initiatives. They are illustrated by concrete examples rooted in sub-Saharan African countries.

- ***Sanctions and embargoes***

The international community has often called for international trade restrictions and sanctions against individual and businesses that trade natural resources with armed groups. This

[9] EITI, 2009, Advancing the EITI in the mining sector, A consultation with stakeholders.
[10] Ibid

approach was especially popular in the 1990's as the United Nations Security Council (UNSC) rapidly increased its use of sanctions to restore international security and target rogue states. Sanctions are still seen as fashionable solution today.[11] For example, in the DRC, the UNSC passed a resolution in 2003, renewed in the following years and in 2010,[12] which imposes an arms embargo on all foreign and Congolese armed groups and militias operating in the DRC. The UNSC also imposed targeted sanctions measures (travel ban and assets freeze), and broadened the criteria under which individuals and entities could be designated as subject to these sanctions.[13]

Another example of sanctions promotion is the recent publication by James Stewart, prosecutor at the International Criminal Court, that sets out the relevant judicial definitions and precedents, which would enable national courts to prosecute individuals from corporations involved in the illicit trade in natural resources.[14] This guide would be a tool for sanctioning entities and individuals involved in the illicit exploitation of 'conflict resources,' focusing on the illegality of the resource transactions themselves.

The United-States Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) section 1502 on Conflict Minerals, passed into law by the Obama administration in July 2010, can also be cited as a measure having similar effects as sanctions. The Act requires companies reporting to the Securities and Exchange Commission (SEC) to file periodic reports disclosing their use of 'conflict minerals' originating in the DRC or adjoining countries. Regardless of whether conflict minerals are actually being used, section 1502 will create additional compliance costs for companies that will need to ensure awareness of the various inputs and levels of their supply chains.[15] If, after undertaking the due diligence underlying the reporting requirements, the reporting company concludes that its products does not contain 'conflict minerals' that directly or indirectly finance or benefit armed groups in central Africa, such product may be labelled 'conflict free' and imported to the USA.[16]

- ***Certification and assurance schemes***

Certification schemes are typically designed to assure one of four main objectives: 1) Origin/Chain of custody; 2) Management systems; 3) Process and production methods; and 4) Product/Manufacturing quality.[17] In the context of so-called 'conflict minerals,' certification systems serve as an alternative to a wholesale export bans on natural resources. Unlike sanctions, certification is managed by the companies who seek to demonstrate to those in the commodity chain that the commodity has been produced in a responsible way. Thus, certification primarily depends upon a proactive process of internal professionalization by companies (and oversight bodies) party to the scheme to meet the requirements, rather than in response to regulations imposed by government.

[11] Global Witness can be cited as an example, http://www.guardian.co.uk/world/2009/jul/21/congo-illicit-mineral-trade
[12] Accessible at: http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1952%20(2010)
[13] With the adoption of resolutions 1533 (2004), 1596 (2005), 1649 (2005), 1698 (2006), 1768 (2007), 1771 (2007), 1799 (2008) and 1952 (2010).
[14] James Stewart, 2010, Prosecuting the Pillage of Natural Resources, Open Society Foundations.
[15] Shearman & Sterling, 2010, The Dodd-Frank Act: New disclosure requirements for reporting issuers engaged in extractive enterprises or using conflict minerals, Client publication.
[16] RCS, 2010, Private sector guidance on the Dodd-Frank Act Section 1502.
[17] Levin, E., (2008) 'Clarifying certification: Language, Components and Process', Annual CASM conference

With the first objective in mind, certification processes have often been identified as solutions to prevent military groups from benefiting from mineral resource and to ensure 'conflict-free' mineral trading chains.[18] The most well-established certification system for the mineral trade is the Kimberley Process Certification Scheme (KPCS), in effect since 2003. It was set up to assure consumers that by purchasing diamonds they were not financing war and human rights abuses. The KPCS requires participating members[19] to identify the origin of diamonds produced in their countries. Requirements include: establishing a system of internal controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds exported from its territory, designating an Exporting Authority, ensuring that rough diamonds are exported in tamper resistant containers, amending laws or regulations to implement and enforce the Certification Scheme, collecting and maintaining relevant official production, import and export data.[20]

Another example, among many, of certification and assurance schemes implemented in Africa's Great Lakes region is the Certified Trading Chains (CTC) initiative launched by the German Federal Institute for Geosciences and Natural Resources (BGR). By ensuring traceability of the trading chain, CTC serves as an instrument to ensure that the trade of certain mineral resources is conducted legally and does not support belligerent groups in a specific region.

- ***Transparency initiatives***

Transparency, which can be defined as public access to information, or more precisely 'timely and reliable economic, social and political information … accessible to all relevant stakeholders,'[21] has often been identified among donors and policy-makers as central to curbing corruption and other dysfunctions of resource-rich developing countries.[22] President Sarkozy, for instance, discussed the need for a European legislation forcing major companies in the extractive sector to publish what they pay to host countries at the G20 summit in February 2011.[23] Transparency initiatives can have an influence on corruption-related problems by, amongst other things, making corrupt acts more risky, by making it easier to provide good incentives to public officials and by helping make politicians more accountable to the public.[24]

Regarding natural resources, a transparent revenue system is seen as a necessity prior to accountability, in turn necessary for general good governance. Revenue transparency also has a purely commercial justification. Opacity can expose operators, and by extension investors, to reputational risks in cases where public dissatisfaction with national governments fuels speculation about the volume and use of revenues derived from mining operations and result

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[18] Mitchell, H., 2010, A more formal engagement: a constructive critique of certification as a means of preventing conflict and building peace, PCNRM, Vol. 1.
[19] As in 2010, there were 49 participants in the KPCS, with the European Community counting as a single participant, http://www.kimberleyprocess.com/structure/participants_world_map_fr.html (accessed 20/01/2011)
[20] Kimberley Process Review, 2008, CAR.
[21] Bellver, A., and D. Kaufmann. ''Transparenting Transparency ! Initial Empirics and Policy Applications.'' Preliminary draft discussion paper, IMF conference on transparency and integrity, June 6-7, 2005. Washington, DC: World Bank.
[22] Kolstad, I., and A. Wiig. ''Is Transparency the Key to Reducing Corruption in Resource-Rich Countries? World Development 37, no. 3 (2009): 521-32.
[23] The Observer, 21 February 2011
[24] Ibid

in illegitimate accusations against responsible mining operators.[25] Transparency can also reduce the political risks associated with a mining project as it provides the basis for achieving a broad political consensus on revenue allocations, reducing the likelihood that future governments find it necessary to renegotiate contract, and therefore undermine long-term financial plans for the project.[26]

In that context, a key initiative, the Extractive Industries Transparency Initiative (EITI), was established in 2003. The initiative seeks to support improved governance in resource-rich countries through the verification and full publication of company payments and government revenues from oil, gas and mining.[27] The main motivation for the initiative is that oil and mineral rents are seen as the property of the country. Thus, mechanisms to collect, distribute and use the rents should be clear and acceptable to all.[28] Ghana was accepted as an EITI Candidate country in September 2007 and was designated EITI compliant on 19 October 2010.[29] The country is yet to incorporate its oil industry into the EITI scheme, which will, when it happens, be an important step in oil revenue transparency.

Section 1504 of the Dodd-Frank Act is also an attempt to force real transparency in the extractive industries and in the exploitation of minerals. All companies registered on the SEC will soon be legally bound to disclose payments made to governments for the purpose of the commercial development of oil, natural gas and minerals.[30]

2. Limitations to the proposed measures

Despite having sometimes positive effects and attractive aims, the measures identified to promote legal mineral trade have had limited application. The following paragraphs discuss these limitations in each of the proposed solutions.

- ***Sanctions and embargoes***

Individual sanctions, such as the ones imposed by the Security Council in the DRC against people involved in the illicit mineral trade,[31] have proven to be ineffective for two reasons. First, the informal mineral trade in most of mineral-rich countries in Africa is big enough to absorb all the trade, without being affected by an individual being sanctioned and therefore having to stop his trade. In this regard, the targeted sanctions mechanism is a reactive mechanism that by nature serves to punish and not to prevent the harm. In a context where operators are replaceable sanction will thus fail to achieve their objective.

Second, there is a lack of backing from national authorities to implement the sanctions. For example, no UN member state has yet put forward to the UN Sanctions Committee the names

[25] Wright, C., 2009, Multilateral financing to the mining sector and the EITI, *in* Advancing the EITI in the mining sector, A consultation with stakeholders.
[26] Ibid
[27] www.eiti.org
[28] Kolstad, I., and A. Wiig. ‘‘Is Transparency the Key to Reducing Corruption in Resource-Rich Countries? World Development 37, no. 3 (2009): 521-32.
[29] http://www.geiti.gov.gh/site/index.php?option=com_content&view=frontpage&Itemid=1 (accessed on 06.02.2011)
[30] Accessible at: http://resources.revenuewatch.org/sites/default/files/Dodd-Frank%20bill_Sec%201504.pdf
[31] AllAfrica.com, 14 May 2010, UN Security Council must act to stop mineral trade fuelling Congo war, http://allafrica.com/stories/201005140785.html (accessed on 05/02/2011)

of individuals or companies engaging in illicit practices regarding mineral trade,[32] therefore questioning the feasible enforcement of sanctions. In October 2010, for instance, a British court declined an application for a judicial review of the government's decision not to list United Kingdom companies trading in Congolese conflict minerals for targeted UN sanctions.[33] Sanctions are therefore in most cases not enforced and fail to change the status-quo of illegal mineral trade.

Many observers believe prosecuting the pillage of natural resources as a war crime would be an effective means of channelling funds away from militias in conflict zones.[34] The threat of being prosecuted could, however, deter businesses from operating and even investing in countries like the DRC or Cote d'Ivoire, altogether where the mineral trade is not always formal, leading to a ban on minerals imported from these countries. A ban can also be the indirect consequence of burdening due diligence requirements, such as the ones inferred in section 1502 of the Dodd-Frank Act, that would deter mining corporations from investing and operating in sensitive countries. This can in turn lead to disastrous consequences for already impoverished local communities losing jobs and income.[35]

In North Kivu, for instance, profits from largely informal mining products represent two-thirds of the official revenues of the entire area.[36] The effect of a mining suspension in this area could therefore be disastrous for the population which relies mainly on mining exploitation. Another example of the negative effects of a ban on minerals exports is the situation experienced by Ghana's Akwatia area during the temporary suspension of diamond exports in 2006 and 2007 in response to criticisms that the country might have been a repository for 'conflict diamonds.'[37] The ban depressed local prices for diamonds, in the process bankrupting hundreds of the industry's local-level buyers and sponsors. Moreover, many diamond investors and exporters fled the country, fearful of being (wrongly) implicated in a national investigation of 'conflict diamonds.'[38] Already crippled by the decades of neglect and shortages of funding, Akwatia's small-scale diamond miners have been subjected to even further economic pressures brought about by the ban. It initiated a chain of events that further diminished interest in, and depreciated the value of, the country's diamonds, depriving small-scale diamond miners of viable sources of sponsorship, triggering the collapse of several local industries, and perpetuating poverty in the town.[39] More than two years after the ban was lifted, the town remains in a debilitated state, showing few signs of recovery.

This type of example highlights the need to pay careful attention to the local impacts of international actions adopting punitive approaches. Before sanctioning a country on the

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[32] Africanpress, 6 January 2011, Firms linked to conflict mienr5al may face prosecution, http://africanpress.wordpress.com/2011/01/06/firms-linked-to-conflict-minerals-may-face-prosecution/ (accessed on 10/02/2011)

[33] Global Witness, 29 October 2010, Court decision on Congo sanctions Judicial Review 'regrettable', http://www.globalwitness.org/library/court-decision-congo-sanctions-judicial-review-%E2%80%98regrettable%E2%80%99 (accessed on 10/02/2011)

[34] See for example, Global Witness, Ibid

[35] Africanpress, 6 January 2011, Firms linked to conflict mienr5al may face prosecution, http://africanpress.wordpress.com/2011/01/06/firms-linked-to-conflict-minerals-may-face-prosecution/ (accessed on 10/02/2011)

[36] Ibid

[37] Hilson, G., Clifford, J., 2010, A 'Kimberley protest': Diamond mining, export sanctions, and poverty in Akwatia, Ghana, *African Affairs,* 109/436, 431-450 http://afraf.oxfordjournals.org/content/109/436/431.full.pdf

[38] Ibid

[39] Ibid

ground of trading conflict diamonds, for instance, dynamics of small-scale mining should be carefully reviewed with assessment of local realities.[40] These data should be used to inform policy, and design and implement more *appropriate* industry support schemes.

- ***Certification and assurance schemes***

Certification schemes can, in theory, be powerful means to promote mineral trade. However, they often face difficulties in their implementation. The following criticisms are based on the KPCS, which is the most well-established certification system for the mineral trade.

Supporters of the KPCS point to the scheme's success in stemming the flow of 'conflict diamonds' by verifying the origin of the gems.[41] The authors argue, however, that the true success of the KPCS lies on two achievements: (1) helping to formalise the international diamond trade at the point of export and (2) providing some rationalisation of the sector. By increasing their ability to tax formal trade and exports, formalisation and rationalisation have assisted the governments of producing countries to strengthen their fiscal link to the diamond trade.[42]

Although the KPCS requires producing countries to establish internal control systems to verify that diamonds are conflict free, full and genuine assurance of origin is difficult to obtain. This is particularly true in developing countries with large artisanal mining communities, where the informality, size and geography of the sector combine with a lack of resources, capacity and political will.[43] In Cote d'Ivoire, for instance, small quantities of conflict diamonds continue to be laundered through well-established informal trading networks whose size and effectiveness place them well beyond the control of local and international authorities.[44]

The realities of the informal diamond trade in West and Central Africa therefore call into question one of the primary goals of the KPCS, which is to support peace-building by depriving rebel groups of access to diamonds. In order to function properly the KPCS expects that all actors and operators in mining, trading and exporting should be properly registered and licensed; individual transaction forms should be kept for every transaction; there should be regular reports on mining and production at the mining level, and on transactions at all levels; and internal controls should be based on 'check and double-check' procedures at all levels.[45] While logical in theory, in practice these control mechanisms differ from existing structures and practices in most sub-Saharan African countries. They comply with actions of industrial miners but cannot be implemented in artisanal, informal markets.

- ***Transparency initiatives***

The reconciliation of financial data between mining or oil companies and government bodies does serve as a useful means of identifying systemic shortcomings, and potentially,

[40] Ibid
[41] Bone, A. 2010, The Kimberley Process Certification Scheme: The primary safeguard for the diamond industry, PCNRM, Vol. 1.
[42] Mitchell, H., 2010, A more formal engagement: a constructive critique of certification as a means of preventing conflict and building peace, PCNRM, Vol. 1.
[43] Ibid
[44] Ibid
[45] Van Bockstael, M., Economic dynamics of artisanal diamond mining in relation to the Kimberley Process, in *Artisanal diamond mining: perspectives and challenges,* ed. Koen Vlassenroot and Steven Van Bockstael, p.64.

corruption in resource-rich countries.[46] For instance, the interaction between members of the government, companies and civil society in the context of the EITI in the DRC has facilitated discussion between stakeholders and may in the end serve to make the government more accountable, companies more responsive, and non-government members more aware of the challenges facing both the government and the companies. By enabling civil actors to hold government to account and push towards governments' openness, systems of transparency, such as the EITI, can affect corruption in several ways.

However, putting aside questions towards the priority given to transparency reforms over other policies,[47] the following question is worth asking: Are the transparency initiatives currently implemented in resource-rich countries well designed and sufficient by themselves to tackle corruption?

The following discussion is based on the EITI, which is the key transparency initiative in resource-rich countries. One challenge is that the EITI itself only guides one part – revenue disclosure – of a broader push towards transparency, which also includes budget transparency and public accountability for expenditure. Given that the EITI is focussed solely on reporting revenues, which is only one part of a broader resource management process, promoting the initiative must be considered in conjunction with other initiatives supporting transparency in the value chain and drives to improve economic governance more generally.[48] In that context, international organisations, such as the World Bank, are demanding that transparency approaches be broadened to cover the expenditure side, as envisioned under what is currently known as the 'EITI ++' approach.[49] Implementation is, however, still pending.

Another challenge is governments' ability to use anti-corruption tools such as the EITI. In addition to access to information, there is a need for 'the ability to process information, and the ability and incentives to act on processed information.'[50] This means that outreach efforts will have to use creative ways of communicating the EITI results to the population, broadening the constituency for better governance in the country of implementation.

Finally, an approach that centres on the concept of transparency alone is not sufficient to change a country's political economy. Conflict-breeding fragile states like DRC, and the interaction of politics into businesses in countries like Cameroon, are supported by a wide range of factors. Transparency initiatives, such as the EITI, cannot alone tackle corruption, conflict, human-right abuses, rent-seeking and poor economic governance successfully. The EITI itself stresses that 'it is not a silver bullet which will end corruption and solve all problems of resource revenue management.'[51] Larger governance reforms and capacity-building initiatives are necessary to support the successful implementation of transparency processes. In post conflict areas, elements of wider reform include – but are not limited to – improving civil service efficiency, reforming the judiciary, as well as strengthening civil

[46] Garrett, N., H. Mitchell, and M. Lintzer. ''Promoting Legal Mineral Trade in Africa's Great Lakes Region.'' DFID: London School of Economics & Political Science, 2010.
[47] For a detailed account on this question, please refer to Kolstad, I., and A. Wiig. ''Is Transparency the Key to Reducing Corruption in Resource-Rich Countries? World Development 37, no. 3 (2009): 521-32.
[48] Garrett, N., H. Mitchell, and M. Lintzer. ''Promoting Legal Mineral Trade in Africa's Great Lakes Region.'' DFID: London School of Economics & Political Science, 2010.
[49] Eiti.org
[50] Kolstad, I., and A. Wiig. ''Is Transparency the Key to Reducing Corruption in Resource-Rich Countries? World Development 37, no. 3 (2009): 521-32.
[51] EITI, 2009, Advancing the EITI in the mining sector, A consultation with stakeholders.

society and progressing security sector reforms. These larger reforms are discussed in section 3.

3. Other requirements

The authors' on the ground work in Africa's Great Lakes region suggests that, overall, initiatives to promote legal mineral trade in Africa like the ones previously discussed have had two common characteristics:

- They have often been designed in a way that is more suited to a Western context, without always taking into account local realities of how African states and businesses function. Donors, NGOs and private investors often miss an understanding of the political economy on the ground and the solutions are not sufficiently 'African generated'.

- As a consequence, policy-making in each case has not taken account of how local realities affect *feasible* outcomes. Despite many virtues, certification schemes fail to prevent conflict; sanctions fail to change the actions of rebels and traders who have means of avoiding capture and were not effectively incentivised; transparency initiatives alone do not solve corruption. Additionally, preponderant focus on macro-level issues has often led to many assumptions being made about local activities in the mineral sector.

Certification schemes best illustrate these limitations. It appears that attempting to establish certification before traditionally informal sectors have been formalised is likely to undercut the ability to enforce certain tenets such as origin. In order to provide meaningful assurance of origin, national and international agencies and organisations must engage with the informal sector on two levels: first by helping to formalise exploitation and trade, and second by providing the informal sector with both the will and the means (that is, with incentives and capacity) to support assurance of origin that meets Western consumers' standards for origin and quality control.[52]

Regarding the conflict-resolution aim of certain certification schemes such as the KPCS, it has been limited unless they are integrated into a broader strategy that includes conflict prevention and good governance of all income sources. In the short-term, reforms of the security sector and the reconstruction of governance structures, which could provide the foundation for the effective and conflict-aware management of mineral resources, are necessary in combination with any certification initiative.

More generally, effective policy-design is likely to involve more local stakeholders' participation and account of what is feasible in light of local realities. Natural resource management must be a national project led by the government and citizens for the benefit of the country. The way the Certified Trading Chain (CTC) project was implemented in Rwanda can be an example of this success. Despite being a 'Western initiative', policies were developed locally, in consultation with stakeholders after site visits. As a result, the CTC initiative takes into account the local context (including capacities) and adapt to local needs.

[52] Mitchell, H., 2010, A more formal engagement: a constructive critique of certification as a means of preventing conflict and building peace, PCNRM, Vol. 1.

The initiative is still being implemented and the Government of Rwanda is now adopting it for all mining companies. The civil society's involvement in the EITI process can also quoted as an encouraging step towards more effective policy-design.

Regarding transparency initiatives, the authors' on-the ground research have shown that unless the state and institutions capacity is strengthened, local communities are unlikely to benefit from revenue transparency processes.[53] The World Bank Mining Sector Assistance Projects in the DRC, Cameroon, Uganda, Mauretania, Burkina Faso and Sierra Leone are examples of necessary capacity-building initiatives. A programme like PROMINES, which is being implemented in the DRC to reform the Congolese mining sector, also illustrates such complementary initiative. The aim of the project is to strengthen the capacity of the Sate to manage its mineral resources responsibly. It is a multi-stakeholder initiative involving companies, the government, civil society and donors, and focuses on supporting the *implementation* of transparency processes.[54]

In addition to these complementary requirements to more effectively implement initiatives and design policies, the private sector also has its role to play for the promotion of legal mineral trade. Companies are increasingly recognising that improving their own impacts and addressing wider social and environmental challenges of the communities they operate in will be crucial in securing their long-term success. This in turn is likely to generate growth for the recipient country in which the company invests. The following paragraphs describe what tools can be used by these companies to guarantee effective implementation of policies and secure investments.

- Political economy analysis

For private investors in the mining sector in high-risk environments, understanding and acting upon the political, economic and social dynamics in the locality, will help secure their investments and increase the effectiveness of their corporate and social responsibility (CSR) work. A political economy analysis (PEA) is a framework that helps assess the existing power structures (whether formal or informal), institutional capacities as well as the interaction between business and politics in an investing company's operating environment. Applying a PEA makes risks and opportunities more apparent and helps to put into perspective expectations about what can be achieved. From an investor perspective, PEAs lend themselves well to examine interactions between stakeholders at each stage of the natural resource 'value chain' to determine what actors yield influence and for what reasons. A PEA thus helps to assess and mitigate risks, to make more effective the engagement with local communities, government, non-state actors, civil society and other stakeholders in a mining-investment project.

- Socio-economic impact assessment

A socio-economic impact assessment (SEIA) is an effective way of analysing the dynamics between trade and the local political economy. In the context of a mining project, a SEIA examines the effects of the project on the economy of the host country and its intended and unintended social consequences. Economic impact is measured in terms of changes in

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[53] Garrett, N., H. Mitchell, and M. Lintzer. ''Promoting Legal Mineral Trade in Africa's Great Lakes Region.'' DFID: London School of Economics & Political Science, 2010.
[54] http://www.pactworld.org/cs/promines

economic growth and associated changes in jobs (employment) and income (wages). Identifying customary rights, certain cultural, gender and labour practices and local uses of land as well as assessing the impact of the investment on local habitat are part of a SEIA. The assessment estimates the level of economic activity if the project is implemented, and calculates the difference from what would otherwise be expected if the project did not occur. The results of the impact analysis can determine whether public support should be provided on the grounds. As for mining investors, an SEIA can mitigate the risk of non-acceptance of the project, as well as the expropriation and regulatory risks. It builds a local knowledge framework consisting of concerns of locals with the investment. The investor can then develop strategies to meet local concerns and build local support.

4. Conclusion

Recent figures show that six out the ten most rapidly expanding economies in the world over the past decades were in sub-Saharan Africa.[55] They included Angola, Nigeria, Chad, Mozambique, Ethiopia and Rwanda – in most, growth was linked to the discovery and exploitation of natural resources. In that context, mineral trade should be an opportunity for development. However, it has often been associated, especially in Central and West Africa, with negative outcomes such as conflict, weak governance structures and informalisation of the supply chain, to name only a few. This paper has argued that current proposed approaches to promote mineral trade have often focused on mitigation of these negative impacts rather than promotion of positive measures, highlighting their limitations. Sanctions have proven to be difficult to implement successfully and can have severe effects on regional and local economic development when not targeted at individuals; certification schemes have unproven link to preventing conflict; and transparency initiatives alone do not solve corruption. The paper suggested that these measures should be complemented with capacity-building initiatives and should take more into account local realities and needs of African states.

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