

## Final Evaluation

# Extractive Industries Governance Project Democratic Republic of Congo

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**Terril Processing Plant, Lubumbashi, March 2020**

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**Geneva, July 14, 2020**

The evaluation team is grateful to the many people who contributed to the evaluation process by taking time out of their busy schedules to share their views and feedback about the activities of The Carter Center's Extractive Industry Governance project in the Democratic Republic of Congo. The evaluation team would also like to acknowledge the extensive support it received from the Project Team and staff who shared their valuable knowledge about the Project and provided logistical assistance during the visit to Lubumbashi and Kolwezi.

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## LIST OF ACRONYMS

|        |   |
|--------|---|
| ACIDH  | Action Contre l’Impunité pour les Droits de l’Homme   |
| ADDH   | Action pour la Défense des Droits Humains   |
| CDC/RN | Cadre de Concertation de la Société Civile de l’Ituri sur les ressources naturelles         |
| COSCET | Comité de Suivi pour la Contribution des Communautés et Eglises à la Transformation Humaine |
| CSOs   | Civil Society Organizations   |
| DEDQ   | Détectives – Experts pour les Droits au Quotidien   |
| DFID   | UK Department for International Development   |
| DRC    | Democratic Republic of Congo  |
| DTE    | Decentralized Territorial Entity (Entité Territoriale Décentralisée)                        |
| DYFEM  | Dynamique des Femmes des Mines  |
| DYFREN | Dynamique des Femmes sur les Ressources Naturelles  |
| EIG    | Extractive Industries Governance project  |
| EITI   | Extractive Industries Transparency Initiative   |
| GiZ    | Gesellschaft für Internationale Zusammenarbeit (German Development Cooperation)             |
| IBGDH  | Initiative Bonne Gouvernance et Droits Humains  |
| KCC    | Kamoto Copper Company (Glencore)  |
| LDP    | Local Development Plans   |
| LF     | Logical Framework   |
| NRGI   | Natural Resources Governance Institute  |
| MSG    | Multi-Stakeholder Group (part of a national EITI organization structure)                    |
| OCEAN  | Organisation Congolaise des Ecologistes et Amis de la Nature                                |
| RBM    | Result Based Management   |
| SARW   | Southern Africa Resource Watch  |
| TCC    | The Carter Center   |
| TFM    | Tenke Fungurume Mining SA   |
| UNDSS  | United Nation Department of Safety and Security   |

## **EXECUTIVE SUMMARY**

The Carter Center (TCC) selected DROPSTONE as independent evaluator to assess the **relevance, effectiveness, efficiency, sustainability and impact** of the Extractive Industry Governance (EIG) project, with a special focus on the objectives directly funded by the UK Department of International Development (DfID) in two phases, from September 2015 to November 2018.

Under the DfID project, TCC worked to build the capacities of CSO in fiscal analysis through the examination and investigation of real case studies; in monitoring and advocating for the improvement of the Extractive Industry Transparency Initiative (EITI); and in advocating for the effective use of EITI data and other sources for the improvement of fiscal governance. This is achieved thanks to technical support in the form of training courses combined with the practical analysis of case studies. TCC staff accompanies CSO in researching and analyzing the relevant information pertaining to the sector. TCC acts *de facto* as a secondary actor and is an instrumental component of the EITI in DRC.

The evaluation mission aimed at taking stock of the achievements, analyzing lessons learnt and best practices; defining the overall status of the project; measuring its effects and providing guidance to inform discussions on possible future project phases; and evaluating the potential replicability of the EIG experience.

The evaluation methodology was based on a review of project documents and semi-guided interviews with partner Civil Society Organizations (CSO) and a wide range of stakeholders, including TCC staff, government officials, mining companies and local communities (field mission to Lubumbashi and Kolwezi: March 1<sup>st</sup> to 15<sup>th</sup>, 2020).

**RELEVANCE** – According to EITI principles, the participation of CSO is a key factor to successfully bringing more transparency to the extractive industry sector. Only well-informed and well-organized citizens can leverage the transparency generated by the EITI standard and effectively advocate for greater accountability in managing natural resources. TCC's project is therefore very relevant and appropriate for the DRC context specifically.

CSO have made a great leap forward and have become respected and knowledgeable entities. CSO can now play an indispensable role. They have become recognized experts and are called upon to provide guidance, advice and know-how.

**EFFECTIVENESS** – The results achieved thanks to the program are impressive: training courses are well framed, of good quality, and provided by competent TCC staff through eight modules. The combination of theoretical courses and practical case studies was key to drastically improve CSO's knowledge. This strategy proved to be very efficient and widely appreciated by the participants. The contents of published reports are supported by rigorous evidence-based analysis, and largely appreciated by all interviewed stakeholders. The close support provided by TCC staff has allowed the CSO to clearly strengthen their competences in monitoring and analysing key mining projects/companies. In the past, CSO were rather perceived as agitators that would merely complain but not discuss. Today, CSO are engaged in a constructive dialogue with the extractive industry. The project has greatly contributed to several achievements of the EITI and improvements in key mining projects and in sector-wide fiscal governance.

**EFFICIENCY** – In terms of **finances** and allocation of funds, we can state that 1. the administrative fees are quite fair and 2. the human resources (personnel and consultants) costs are quite low as they represent 36% only of the total budget. 26% of the total budget is allocated to travel, which includes international travel expenses and accommodation for consultants and Atlanta staff (21% of the overall

travel budget). Therefore, the largest part of the travel budget relates to trainings and workshops with CSO partners (direct cost) which took place across the different provinces (domestic flights are very expensive in DRC). Other expenses (16%) are the other fees associated with the project, i.e. subgrants to partner CSO, and bank charges. The exchange rate losses were quite substantial (\$132,323.80) and were covered by TCC internal funds.

In terms of **human resources**, the competences of TCC staff are praised unanimously. Their skills, dynamism and the continuity ensured over the years are well appreciated by all nine partner CSO. TCC personnel is often solicited to provide advice, inputs and comments on EITI thematic reports, including by various embassies. The latter do not hesitate to seek their competences for specialized topics related to the extractive industry sector.

Regarding **employment conditions**, all staff expressed their appreciation of the shift that took place in 2014, when they became proper employees rather than consultants. They feel much more like permanent team members of TCC, and are happy to benefit from health insurance. However, they still feel insecure because of the yearly contract renewal arrangement. This is a solution that triggers insecurity. In our opinion, a compensation scheme could be implemented, in order to provide more clarity and security in the case their contracts are not extended. For instance, a system where one-month salary is given after every year of duty could be explored.

In terms of **security management**, risks are usually mitigated thanks to the cautious presentation of findings, the avoidance of direct accusations, the constructive discussion with mining companies, and the exchange of letters rather than public press releases.

**SUSTAINABILITY** – Today, the nine CSO have become competent and autonomous experts. However, they still need financial assistance. Since DfID funding is over, they had to adjust strategies and work more with volunteers, which is not sustainable in the long run, as they would need to hire additional competent analysts and researchers to ensure a work of good quality over time. They would have appreciated to have longer term partnerships with the EIG project.

Regarding the expertise acquired so far, the objective of sustainability towards the provision of advice, guidance and know-how is largely met, especially because the partner CSO have acquired all the necessary knowledge to implement advocacy campaigns based on solid investigations. The sustainability of the project is also illustrated by the fact that three out of the five CSO representatives in the EITI-DRC Multi-Stakeholder Group are from the TCC supported partners.

Bringing transparency in DRC is a long-term endeavour. Therefore, formulating an exit strategy is a challenge in itself. TCC should be prepared to continue and expand its activities for the coming years until enough CSO are trained and able to effectively trigger the necessary debate around the legal and regulatory frameworks, challenge policies and practice of how the revenue is planned, generated and used to better the conditions of Congolese people, and ensure that laws are being effectively implemented by government agencies and private companies.

**IMPACT** – The indicators were formally reached, as DRC was still compliant with EITI at the end of the project, and changes to fiscal governance of the DRC's extractive industry sector were influenced by CSO advocacy and materialized in the 2018 revised Mining Code. However, there is still a long way to go in order to reach the ultimate goal of the project, which is to ensure that Congolese people benefit concretely from the abundant natural wealth available in the country. Important progress has been achieved, and it is commendable to observe that laws have been adapted and taxes are collected more regularly.

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The next steps towards achieving the overall impact are to ensure that the relevant portion of the taxes is retroceded to the Provinces, and from there effectively used to fund sustainable and responsible projects. The interviewed partners can see that their work has had a positive impact, but would like to expand and replicate the program, and gear up the number of competent CSO nationwide, in order to create synergies and alliances for enhancing the public debate. They would also like to have communities gaining more ownership on the establishment of local development plans, and challenge their local leaders for getting useful projects, thus triggering a virtuous circle which would accelerate transparency and better governance in the country.

The evaluation further identified an unintended impact of the project. Women from the supported female civil society groups (DYFEM and DYFREN) who were trained by the project have not only become experts, as their male colleagues; they have also gained in self-confidence and assertiveness.

**CONCLUSION** – The work achieved by TCC is impressive and of good quality, implemented by committed and dedicated staff and CSO. It is genuinely contributing to bringing more transparency to the extractive industry sector in DRC. This is observed thanks to fiscal flows' figures becoming more and more available. The state and industry partners involved in the sector respect CSO as their level of knowledge has drastically improved, and their representatives are no more perceived as "excited activists" but rather as competent interlocutors. The case studies allowed to disclose several illegal agreements made between mining companies and provincial authorities. And finally, more taxes could be raised thanks to the thorough investigations carried out.

**Recommendation 1** – Elaborate a new project proposal and advocate vigorously to find a new donor.

**Recommendation 2** – Assist the definition of Local Development Plans and support both Decentralized Territorial Entities and relevant provincial ministries in their effective implementation.

**Recommendation 3** – Support Training of Trainers and increase number of case studies.

**Recommendation 4** – Extend Security Management to provinces and train partner CSO.

## INTRODUCTION

The Carter Center (TCC) has been implementing since 2010 a project aimed at strengthening civil society organizations (CSO) to enable them to become strong stakeholders in the process of bringing better governance, accountability and transparency of the extractive industry sector in the Democratic Republic of Congo (DRC). With funding from DfID, TCC builds the capacities of CSO in fiscal analysis through the examination and investigation of real case studies; in monitoring and advocating for the improvement of the Extractive Industry Transparency Initiative (EITI); and in advocating for the effective use of EITI data and other sources for the improvement of fiscal governance<sup>1</sup>. This is achieved thanks to technical support in the form of training courses combined with the practical analysis of case studies. TCC staff accompanies CSO in researching and analyzing the relevant information pertaining to the sector. TCC acts *de facto* as a secondary actor and is an instrumental component of the EITI in DRC.

### Context

The Democratic Republic of Congo is one of the most mineral-rich nations on earth, and its mining sector has attracted billions of dollars in investments. However, these investments have thus far provided limited benefits to the Congolese people. This disparity results in no small part from mining policies and practices that channel revenues away from the Congolese treasury and communities, leaving the government with insufficient resources to meet its population's needs. This condition is perpetuated by the public's lack of knowledge of the negligent (and sometimes corrupt) practices that lead to millions of dollars of foregone public revenues.

The case studies and investigations made by CSO have highlighted several cross-cutting issues which reflect some of the flaws affecting the extractive industry in DRC. They illustrate well the challenges to be overcome in order to reach transparency and good governance of the sector. Among the issues, it is worth mentioning the non-retrocession of mining taxes by the central government to the provinces; the minimisation of income and benefits by the extractive industry; the non-publication of extractive industry's financial statements; the underestimation of revenues generated by government-owned mines; the incomplete publication of contracts, schedules and endorsements by the Ministry of Mines.

### Objectives of the mission

According to the terms of the DfID grant agreement, a final evaluation of the project is due after completion of the funding period. As seen above, TCC's extractive sector portfolio in the DRC encompasses several initiatives. DfID supported three of the major objectives of the program during two distinct phases implemented over approximately three years (phase I from September 15 to February 17 and phase II from August 17 to November 18) for a total amount of 1'182'633,00 GBP<sup>2</sup>.

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<sup>1</sup> These objectives, as stated in the project document, concern a part of the overall EIG program. These are the ones financed by DfID only. Other current contributors are the Swedish International Development Agency, and the government of Belgium. Former contributors include the U.S. Department of State's Fiscal Transparency Innovation Fund (FTIF).

<sup>2</sup> The actual USD amount received by TCC from DFID over the grant period was \$1'570'675,20. The funds were allocated in several installments. The exchange rate GBP / USD became less favorable during the considered period. TCC ended up covering a \$132'323,80 loss with internal funds to complete project activities.

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Although the evaluation had a focus on the results achieved through the DfID grant, we took the opportunity to have an in-depth briefing by the human rights and local development team (funded directly by the Swedish International Development Agency). It has allowed to complement our understanding of the difficulties faced by a local population living near an industrial extracting site (expropriation, forced displacements without indemnities, environmental pollution, etc.). In this frame, a meeting with the Bourgmestre of Kampemba was organised to better understand how an appointed community leader is engaged with its local population. This has provided useful insights which have enabled to draft a recommendation (R2a) based on a practical example. The recommendation's ambition is to support directly decentralized territorial entities in defining participatively their priority needs and local development plans.

The lessons learnt of the evaluation intend to contribute to the overarching goal of bringing more transparency to the extractive industry sector and at the same time securing the greatest social and economic benefit for the Congolese people. The analysis of strength, weaknesses, opportunities and threats of the EIG program allowed to gain a good understanding of the achievements and to formulate adapted and contextualized recommendations. The evaluation process took place from January to June 2020.

The specific objectives of the evaluation mission, as per the terms of reference, were:

- To take stock of the achievements and analyze lessons learnt and best practices emerging from the project at the end of phase II;
- To define the overall status of the project (implementation of activities, use of resources, coordination between stakeholders through efficient mechanisms, and ownership of beneficiaries) and measure its effects;
- To provide TCC with an analytical tool that sums up the achievements of the project and provides sound guidance to inform discussions on possible future project phases;
- To evaluate the potential replicability of the EIG experience based on the lessons learned and best practices identified in the analysis.

In accordance with the framework established in the Request for Proposal, DROPSTONE has adopted an approach based on the 5 OECD DAC standards and criteria:

**Relevance** concerns the extent to which a development initiative is consistent with national and local policies and priorities and the needs of intended beneficiaries. It also considers the strategic approach adopted by the sponsor of the project.

**Effectiveness** measures the extent to which the initiative's intended results have been achieved or the extent to which progress toward outputs or outcomes has been achieved.

**Efficiency** measures how economically resources or inputs are converted to results.

**Sustainability** measures the extent to which benefits of initiatives continue after external development assistance has come to an end.

**Impact** measures changes in human development and people's well-being that are brought about by development initiatives, directly or indirectly, intended or unintended.

## METHODOLOGY

### Literature review and mission preparation

A review of the literature and relevant project documents was performed before the mission (see **annex 1**). This initial phase has allowed to identify interlocutors and prepare a set of semi-guided questions. A first Skype meeting has been held on February 25 with TCC management team: Erin Crysler, Associate Director (Atlanta), Brandy Blue, Program Associate (Atlanta), and Nick Andoh, Interim Program Manager (Lubumbashi). The methodology, challenges to be expected, and precise objectives of the evaluation, were discussed and then consigned in the inception report that was shared before the mission.

### Field mission and interviews

A field mission in DRC was carried out from the 2<sup>nd</sup> to the 14<sup>th</sup> of March. The aim was to get first-hand information from the main EIG stakeholders on the work implemented by TCC (see **annex 2**, detailed program of the mission). Most of the interviews took place in TCC office of Lubumbashi, Haut-Katanga Province, and a field trip to Kolwezi, Lualaba Province, was organized. The mission was carried out by Patrick Kilchenmann, director of DROPSTONE company.

We were able to interview and meet separately with most of **TCC staff** directly involved in the EIG project (Nick Andoh, Interim Program Manager and Lubumbashi Office Director, Baby Matabishi, Revenues and EITI Coordinator, Nicole Mandesi, Revenues and EITI Project Officer, and Alida Munkwa, Human Rights Project Assistant) and with the security and logistics assistant (Albert Kalubi); the coordinators/ directors of all nine **CSO** supported by the project (DYFREN, ACIDH, COSCCET, DEDQ, IBGDH, ADDH, OCEAN, DYFEM, CDC/RN); the Community Development Advisors of two **mining companies** (TFM, KCC); five state officials and civil servants: the Chief of the Provincial Mining Division of Haut-Katanga, the *Bourgmestre* of Kapemba, the Governor of Lualaba, his Director of Cabinet and his Provincial Minister of Plan and Finances. Several representatives of the international community were also interviewed: DRC's desk officer at the International Secretariat of EITI in Oslo (phone call), Regional Director of EITI-DRC (in Lubumbashi), and finally DfID officers at the British Embassy (phone call).

Discussions were of high quality and provided a good understanding of the complex work performed by TCC and its partners. In average, we had four interviews a day and each lasted approximately 1.5 hours, thus leaving enough time to address all our questions and listen carefully to all the answers. We were also invited to participate in two internal meetings, one on gender and the extractive industry and another one on the drafting of a memo for the Prime Minister on a specific tax issue.

### Limitations

It was unfortunately not possible to meet all stakeholders of the EIG project as the agenda was already quite busy. It would still have been useful to interview the other collaborators of TCC, the other INGO working in the Transparency and Governance of the extractive sector in the DRC (i.e. NRGI, GiZ, SARW), or to visit some ongoing artisanal mining activities. However, we believe that the interlocutors met were able to provide us with good quality information on the EIG program.

## FINDINGS AND ANALYSIS

### Relevance

TCC has been accompanying the EITI process in DRC since more than 10 years, through the strengthening of CSO's competences in fiscal analysis, in understanding EITI processes, and in advocacy. The national EITI is the backbone of the EIG project. Its framework is given by the national legislation through the new Mining Code, published in 2018, with numerous inputs from the work of TCC.

### A highly complex background

DRC made a formal request to become an EITI implementing country in 2005. After careful examination of its candidacy two years later, DRC entered into the process in 2007<sup>3</sup>. Today, the country is in the midst of its first international EITI compliance review since 2014, and its first assessment against the 2016 EITI Standard, which significantly expanded EITI's information disclosure requirements, including information on production and export data, beneficial ownership, social expenditures, and state-owned enterprises. The international board of the EITI decided that DRC has to take 13 corrective measures by April 2021 to avoid the suspension or de-listing from the EITI. The measures include the selection process of the members of the Multi-Stakeholder Group (MSG) and its internal governance; clarity on the assets, partnerships, expenditures and financial practices of companies in the state portfolio; transparency on the collection and allocation of off-budget revenues; and disclosure of sub-national transfers, production data, licenses and social expenditures<sup>4</sup>.

Numerous features are characterizing the extractive industry landscape in DRC, such as opaque agreements, multiple layers of subcontracting, joint ventures with offshore companies based in so-called "tax havens". They are all making the identification of real owners of mining companies, or accurate financial flows, very difficult to understand. The multiplicity of actors, ranging from state-owned companies, private companies, mixed status entities, and artisanal miners, sometimes organised in cooperatives, to numerous State and Provincial ministries involved<sup>5</sup>, are complicating the management of information, and the manifold channels of communication render the traceability of funds particularly challenging to ascertain. Additionally, there are exceptions in the way taxes are collected from one province to another. For instance, in Lualaba and Haut-Katanga (former Katanga province), taxes are collected on roads and on ore concentrates<sup>6</sup>. In-kind agreements can also be made between mining companies and provincial authorities, and infrastructure are built against the freedom to exploit minerals, without formally paying taxes to the central government. There are finally uncertainties surrounding the taxes that were paid by mining companies in advance, before the territorial division<sup>7</sup> that is effective since 2015.

The unbalanced maturity and local specificities of the extractive industry sector from one province to another are bringing additional challenges: Haut-Katanga and Lualaba Provinces have for instance

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<sup>3</sup> Source <https://eiti.org/democratic-republic-of-congo>

<sup>4</sup> Source <https://eiti.org/board-decision/2019-55>

<sup>5</sup> The following ministries, at provincial and national levels, are involved in the extractive industry sector: Mines, Finances, Environment, Budget, Plan, Hydrocarbon, and the Presidency or Governorate. There are no transversal mechanisms to follow tax flows between the ministry of Mines and the ministry of Finances. Key positions are allocated through political influence.

<sup>6</sup> This was a strategy put in place by the Governor of Katanga to compensate for the non-retrocession of taxes by the central government. This parallel system generates substantial funds, albeit non traceable.

<sup>7</sup> DRC changed from a strong centralized state structure of 11 provinces to a decentralized model divided in 26 provinces.

almost one century of mining experience, and most of the operating mines are located there<sup>8</sup>, whereas others like Nord-Kivu have only a very recent experience of industrial mining activity and are facing armed conflict. Last but not least, the fragile political situation (political crisis between 2016 and 2019) and the insecurity related to armed conflicts, notably in the eastern provinces of DRC, are adding yet another layer of complexity to the situation.

#### Relevance with regards to the context

Against this complex background, the EIG project has been covering seven provinces where industrial mining activities are ongoing, bringing valuable information and a field perspective to the EITI.

According to EITI principles, the participation of CSO is a key factor to successfully bringing more transparency to the extractive industry sector<sup>9</sup>. Only well-informed and well-organized citizens can leverage the transparency generated by the EITI standard and effectively advocate for greater accountability in managing natural resources. TCC project is therefore very relevant and appropriate towards the DRC context specifically. It contributes to one of the goals mentioned in the national Constitution: *“All Congolese have the right to enjoy national wealth. The State has a duty to redistribute them equitably and to guarantee the right to development”*<sup>10</sup>. The EIG project is built to support the implementation of the EITI principles in DRC.

#### Relevance with regards to CSO needs

After a careful selection process, TCC trained nine CSO in two phases during DfID funding period. All were given the theoretical and practical tools to navigate into murky waters and grasp complex fiscal and financial rules and regulations. The task was daunting as several CSO had, at the beginning of their involvement, very little knowledge about those regulations. We will see in the next chapter that CSO have made a great leap forward and have become respected and knowledgeable entities to discuss with, from a government’s or a private company’s perspective. CSO can now play an indispensable role in determining EITI compliance, improving data collection and reporting quality against the new EITI standard. They have become recognized experts and are called upon to provide guidance, advice and know-how.

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<sup>8</sup> More than 200 mining companies are located in Lualaba province only.

<sup>9</sup> The EITI standards 2019, 17.06.2019

<sup>10</sup> See article 58 of the Constitution of the DRC

## Effectiveness

The evaluation of the effectiveness of the project is based on the results-based management (RBM) approach and supported by perceptions of stakeholders. DROPSTONE looked into the strategic frameworks of the project to identify the expected results of its work, and analyzed activities, outputs and outcomes of the project to assess the achievement of results – or progress towards achieving them.

### Strategic framework

Overall, the planning documents of the EIG project are of high quality. The three strategic objectives of the project, as defined in the logframe, shall contribute to its ultimate goal. The findings of our desk review were cross-checked with interviews of TCC staff to reconstruct the theory(ies) of change of the project, where necessary. Based on that, it is our understanding that the **ultimate goal of the EIG project will have been reached when the abundant natural wealth available in the country will have contributed to sustainable development, which would alleviate poverty and benefit to the Congolese people in general**. The underpinning theory of change of the EIG project can be summarized as follows: *if* the governance of the DRC's extractive sector is improved by increasing data accessibility, improving revenues management, and supporting more responsible, sustainable, and equitable investment, *then* the Congolese people will ultimately benefit from the natural wealth and improve their living conditions. The means to reach this ultimate goal is through building strong competences of CSO and empowering them so that they can investigate on relevant case studies pertinent to the extractive industry, utilize EITI data, and then advocate for better governance.

### Building the capacity of CSO (activities and outputs)

This section looks into (1) the quality of capacity-building efforts as core activity of the project, and (2) how output-level results were achieved.

When a CSO is selected and enters into the EIG program, it usually has a very limited knowledge of fiscal and judicial laws pertaining to the sector and needs strong and dedicated support. Against this initial situation, the results achieved thanks to the program are impressive: training courses are well framed, of good quality, and provided by competent TCC staff through eight modules (modules description is available in **annex 3**).

The combination of theoretical courses and practical case studies was key to drastically improve CSO's knowledge. The latter progressed through an incremental pattern, where they applied the theoretical courses of one module into a real case study selected together with TCC staff. CSO were asked to produce interim reports<sup>11</sup> which were commented and corrected until the next module was taught, and the theory-practice scheme was repeated until the final report was produced. The quality of the interim deliverables was assessed through a systematic screening process, where technical accuracy, exhaustivity and relevance of ideas, language and written content, grammar, format and structure, and references and quotes were scored in order to produce a scientific percentage of satisfaction. This strategy proved to be very efficient and widely appreciated by the participants. The contents of published reports are supported by rigorous evidence-based analysis, and largely appreciated by all interviewed stakeholders.

The close support provided by TCC staff has allowed the CSO to clearly strengthen their competences in monitoring and analyzing key mining projects/ companies. The investigations on each of the revenue case studies are documented into solid reports. The latter are widely shared and made public, which contribute to increased transparency.

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<sup>11</sup> Case studies interim deliverables, as per the LF terminology

CSO are very motivated and actively participating in the training courses and investigations. They are forming a strong national network, competent in all aspects covered by the EITI process. National and international EITI staff appreciate their expert analysis of EITI reports and contributions. Their motivation is illustrated by the fact that they continue investigating on revenue case studies, albeit on a reduced pace, without further financial support from TCC since more than a year. They appreciate to be accompanied over the time, to receive critical comments, and to have meetings with dignitaries or directors of mining companies facilitated by TCC.

Throughout the mission, our interlocutors widely recognized that CSO have become competent stakeholders of the extractive industry, are able to ask very pertinent, and sometimes disturbing, questions to the mining companies or state authorities. In the past, CSO were rather perceived as agitators that would merely complain but not discuss. Today, CSO are engaged in a constructive dialogue with the extractive industry. There was however one issue between a CSO and a mining company: the director of Alphamin complained directly to DfID, as he felt outraged that a CSO could ask him for clarifications on the way he is conducting its operations. He was using the argument that the questionnaire came late and he wouldn't have the necessary time to respond with a one-month notice. In this respect, he was right as there should have been more time available for this purpose. However, although he was given six additional months to complete it, the CSO never got feedback. This company has apparently a track record of improper behaviour: the reported production figures do not match with quantities of minerals sold; no environmental impact study was made before production; no respect of agreement and expulsion of artisanal miners; etc. Instead of responding to requests for clarification sent by DYFEM, a TCC-supported CSO, Alphamin tried to put pressure on TCC through DfID. So far, the report is ready but not yet published as the case is not solved.

#### **Effectiveness of research, analysis and advocacy efforts (outcomes)**

This section examines the extent to which outcomes have been achieved and looks into how the CSOs have used the newly acquired skills to interact with and influence key mechanisms and stakeholders.

From a quantitative perspective, results have been largely achieved against the three main expected outcomes, as expressed in the final report and their indicators cumulated for Phases I and II<sup>12</sup>. **Annex 4** provides an annotated summary of the quantitative achievements against the LF for the two phases compiled together.

From a qualitative perspective, many tangible outcomes from TCC's work in supporting CSO are summarized in the end of phases' reports. There are several positive results worth mentioning, with regards to the three projects outcome.

#### **Improvement to EITI-DRC process (outcome 1)**

The project has greatly contributed to several achievements of the EITI. TCC-supported CSO recommended improvements to ensure the DRC's continued compliance with EITI requirements.

- For instance, the guidelines for company social expenditures developed by OCEAN now form the basis for the EITI-DRC Multi-Stakeholder Group's consultations on these issues.
- Several provisions related to transparency in the revised Mining Code, published in March 2018, were directly taken from the investigations made by TCC's supported CSO. These provisions include, but are not limited to, the requirement for companies to pay royalties directly

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<sup>12</sup> TCC Final Report: August 1, 2017 – November 30, 2018, chapter C3, report against the logframe, January 31, 2019.

to the provinces and DTE; a linear depreciation system rather than accelerated depreciation, which increases the collection of taxes; the requirement to publish contracts in an official journal; or the legal requirement to provide information on beneficial ownership.

- The website built and maintained by TCC<sup>13</sup> is a very valuable source of information. It is used on a daily basis by the international staff of EITI and is an effective tool to monitor progresses or enquire about a particular mine for instance. All available contracts and relevant information about mining companies is provided to the public and contributes to transparency. The information can as well be retrieved easily from a powerful and user-friendly georeferenced interactive map that contains a wealth of information. A click on a mine provides instantly all relevant information, available in a solid and structured way.

#### **Improvements in key mining projects and in sector-wide fiscal governance (outcome 2 and 3)**

- Improved governance of state-owned mining companies is a result of a comprehensive data collection campaign to track state-owned company revenues and allocations. These reports add valuable evidence for advocacy efforts, and their acquisition is a major success in information accessibility. A direct result of advocacy efforts is illustrated by the province of Haut-Uélé which received its share of royalties from the country's largest gold project, Kibali Gold Mine, for the first time. This generated momentum and inspired EITI-DRC to commission a study on the challenges to mining royalty retrocession or royalties. The different situations in which CSO operate bring different perspectives that were successfully taken into consideration for amendments of the new Mining Code<sup>14</sup>.
- Routine disclosures through government systems are improving, especially in the mining sector. The Ministry of Mines' website provides links to over 140 contracts, whereas the Central Bank's website provides detailed production and export data for 2011-2018. The Ministry of Finance publishes quarterly revenues collected by the government from the exploitation of natural resources. The International Secretariat of the EITI recognizes that the step forward made by the country in bringing transparency is greatly a result of the good work of TCC. This was acknowledged in an official letter from the Chair of EITI to the President Jimmy Carter (see **annex 5**). The work of TCC was also praised by the interviewed staff of EITI in Lubumbashi and Oslo, who particularly appreciated the very active support provided in enhancing CSO capacities.

Like for any projects relying on advocacy-based strategies to achieve outcomes, it is also always challenging to ascertain that a given result or observed change has been caused by the intervention, and not by coincidence, by other factors or by other projects (attribution challenge). In DRC, parallel initiatives implemented by other organizations working towards a better governance of the ex-tractive industry are also contributing to these results. However, several interlocutors confirmed the instrumental role provided by TCC.

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<sup>13</sup> Source <http://congomines.org/>

<sup>14</sup> For example, measures were included in the Mining Code to protect the state's profit tax base to avoid underselling assets that could benefit public coffers (refer to TCC narrative report).

## Efficiency

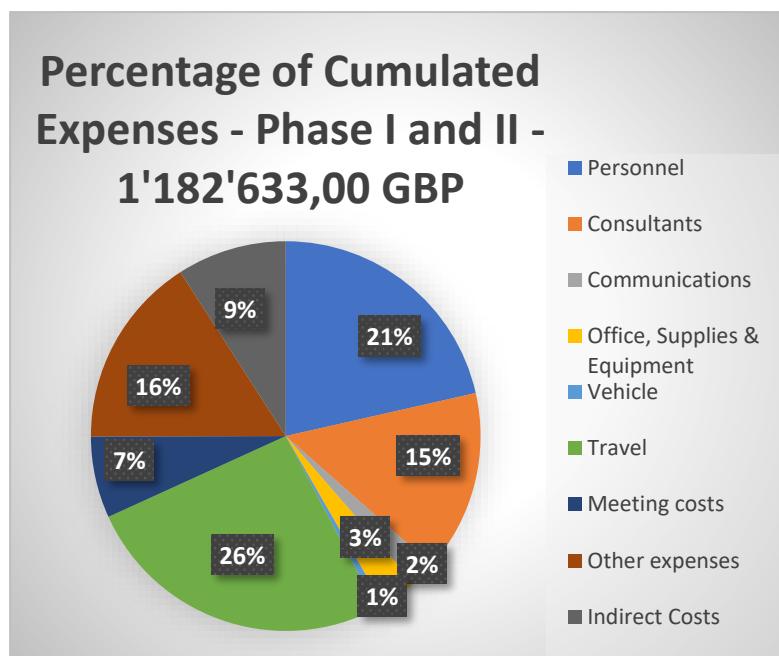
### Financial resources

The main donor for the EIG project is DfID. The table below shows its contribution for the two phases, in GBP. The period from August to November 2018 was part of a no-cost extension amendment to the original contract. Additional to DfID contribution, and as mentioned in the introductory chapter, the following donors have funded the EIG overall project: US Department of State, through the Fiscal Transparency Innovation Fund, Belgian Cooperation, and the Swedish International Development Agency (specifically for the local impacts and human rights issues related to the extractive industry).

| DfID Funding <sup>15</sup> | Phase I         | Phase II        | Total Budget            |
|----------------------------|-----------------|-----------------|-------------------------|
| Period                     | Sep 15 – Feb 17 | Aug 17 – Nov 18 |                         |
| Budget                     | 643'632,00 GBP  | 539'000,00 GBP  | <b>1'182'633,00 GBP</b> |

### Financial efficiency

Looking at the allocation of funds, we understand that costs for human resources (personnel and consultants) are quite low as they represent 36% only of the total budget. In comparison, the usual percentage for conflict mitigation and/or peace-related projects can be as high as 70%.



26% of the total budget is allocated to travel. This budget line includes international travel expenses and accommodation for consultants and Atlanta staff, which accounts for 49'544 GBP in Phase 1 and 21'944 GBP in Phase 2, which is 21% of the overall travel budget (126'959 GBP in Phase 1 and 209,698 GBP in Phase 2). Therefore, the largest part of the travel budget relates to trainings and workshops with CSO partners (direct cost) which took place across the different provinces (domestic flights are very expensive in DRC).

Administrative fees are quite fair (less than 10%).

Other expenses (16%) are the other fees associated with the project, i.e. subgrants to partner CSO, and bank charges. The exchange rates losses were quite substantial (\$132'323,80) and were covered by TCC internal funds.

<sup>15</sup> Other funds from other donors contributing to the overall EIG objectives are not taken into account in this table, i.e. SIDA funds for the local impacts and human rights issues, Department of State (FTIF), Belgian Cooperation.

### Fundraising

During the interviews, several interlocutors were surprised by a perceived lack of anticipation of the need for fresh funding, as the expected discontinuation of funding was generating some stress for TCC staff and also, to some extent, for the partner CSO. Based on information collected during the evaluation, the reported lack of (or limited) fundraising efforts may be either:

- due to the fact that it was taken for granted to have a budgetary extension from DfID office in Kinshasa;
- it may result from a possible lack of coordination between TCC HQ and TCC DRC Office; or
- it is related to improper communication between TCC and the donor: according to DfID officers based in Kinshasa, funding was discontinued after 2018 as the priorities of the country office changed and shifted from Governance to Livelihood.

Irrespective of the circumstances leading to funding discontinuation, the strategy for fundraising possibly needs to be clarified, in particular the roles and responsibilities between Atlanta, Kinshasa and Lubumbashi offices (see *Recommendations – R1 and R5*). We were also told that a fundraising mission from Atlanta was supposed to take place in DRC just after our mission. The goal was to seek financial support for the EIG project from the different embassies in Kinshasa. This shall unfortunately not happen in the near future because of COVID-19 disruption. And even if the mission had gone as planned, there would still have been a funding shortage.

Our interlocutor at the International Secretariat of EITI mentioned several funding avenues and offered her advice for donor identification, if required<sup>16</sup>. She also proposed to revise and comment a draft project proposal, and recommended to increase the scope of activities and number of staff! The DfID officers in Kinshasa mentioned that their HQ in London is funding “Governance projects” in Central Africa region. This could be another funding opportunity.

### Human resources

The competences of TCC staff are praised unanimously. Their skills, dynamism and the continuity ensured over the years are well appreciated by all nine partner CSO. TCC personnel is often solicited to provide advice, inputs and comments on EITI thematic reports, including by various embassies. The latter do not hesitate to seek their competences for specialized topics related to the extractive industry sector.

The capacity of TCC staff was strengthened thanks to dedicated training courses for staff professional development. The interviewees appreciated to be given the opportunity of learning more, thanks to high quality courses organised regionally (i.e. fiscality of mines in Dakar, illegal financial flows in Nairobi, governance in Bukavu). They were asking whether continuous learning could be further organised, for instance through the Emory University. Topics of interest could be explored during the suggested retreat (see *Recommendations – R5*).

Regarding employment conditions, all staff expressed their appreciation of the shift that took place in 2014, when they became proper employees rather than consultants. They feel much more like permanent team members of TCC, and are happy to benefit from a health insurance. However, they still feel insecure because of the yearly renewal arrangement. This is a solution that triggers insecurity, especially nowadays, when no donor has been identified for a project extension. The message from TCC is somehow blurred, as they can observe the need for continuing the activities until sustainable changes

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<sup>16</sup> USAID, DOS, WB, GIZ were mentioned

are reached, but on the other hand activities are reduced due to reduced financial capacity. It is important to mitigate this perception as some staff could be tempted to take another job, even less interesting, with an open-ended contractual arrangement. In our opinion, a compensation scheme could be implemented, in order to provide more clarity and security in the case their contracts are not extended. For instance, a system where one-month salary is given after every year of duty could be explored.

Several interlocutors expressed that there was not enough stability at the level of Head of TCC's office in Lubumbashi. This unfortunate situation triggers downturns as national staff and external interlocutors have to adjust and adapt frequently to new faces or different management styles. We are not able to state the reason for this situation, but can only confirm that the selection process for recruiting (or confirming the current ad interim position) the Director of Office in Lubumbashi is a lengthy process. The fact that there was no appraisal of performance since 2017 for national staff cumulated with the frequent turnover of directors is another point to consider, as this situation might be detrimental to the employees with regards to possible upgrades in career's position or salary.

#### **Team set-up and functioning**

The various roles and functions within the EIG team are clear for most of the staff. All team members seem to be enjoying a healthy degree of autonomy in their respective duties, and also appreciate that relations are not too vertical. In general, internal communications and the good working atmosphere lead to effective collaboration within the team and the delivery of high-quality products, as analyzed in the *Effectiveness* section above.

The good relations and constructive dialogue with Atlanta-based staff was mentioned by all team members. Visits from headquarters staff are regular, timely and useful, especially for planning processes and strategic thinking. The inputs and relevant comments of the Atlanta-based colleagues are also appreciated when it comes to commenting on CSO reports before publication.

Relations between Lubumbashi field team and Kinshasa main office are deemed to be good, although themes covered by the respective offices are very different and Lubumbashi could live autonomously. It was also mentioned that the competences of the advocacy team should be available in Lubumbashi rather than in Kinshasa.

#### **Security and risk management**

Security risks related to investigations were never mentioned as a concern for the interviewees, even though corrupt practices are made public in reports, and could be expected to be retaliated. Risks are usually mitigated thanks to the cautious presentation of findings, the avoidance of direct accusations, the constructive discussion with mining companies, and the exchange of letters rather than public press releases. The framework given by EITI is also contributing to protecting investigators.

It can however happen that CSO face disparaging statements implying that they work for the US government, are foreign states agents, and related accusations. Investigations on state-owned companies in particular are more delicate than examinations of private businesses. For instance, the very well documented report<sup>17</sup> "Affaire d'Etat" on Gécamines, which highlighted that more than 750 million USD disappeared from the accounting books of the company, had a potential to generate insecurity for TCC

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<sup>17</sup> The analysis is based on 200 interviews, a review of more than 100 mining contracts, at least 1,000 company documents, and Extractive Industries Transparency Initiative reports covering the period 2007-2014 (see [www.congomines.org/rapport-gecamines](http://www.congomines.org/rapport-gecamines))

staff and its CSO partners. The management of the risk was well anticipated and the office was closed for some time just after the publication of the report.

Regarding security of TCC staff against any potential threat related to criminality or the ongoing conflicts affecting the remote areas of DRC, TCC has a dedicated staff in charge. Albert Kalubi (security and logistics assistant) is well connected with the UNDSS, the Police or other security officials. He has put in place an efficient system of monitoring staff movements when they are on a field visit outside of Lubumbashi. A security manual exists as well. Before going on a field mission, the relevant staff also checks by himself the security conditions beforehand, and then gets a briefing by the security officer. There are instructions for most of the locations where field visits take place, including recommendations for safe accommodation. A recommendation is made (see *Recommendations – R4*) to extend this service to CSO partners as well, at provincial level.

#### **Capacity building competences of TCC staff**

It takes in average 15 months to complete the investigation of one single case study with a CSO that enters the EIG program. The process is lengthy and cumbersome, and requires in-depth analysis to retrieve the pertinent information. In order to assess the real benefits of a mining company, it requires to cross-check information with open-source data from the internet, compare results mentioned by the headquarters of a given company with the actual numbers provided at country level. CSO have to understand how salaries or subcontracting are calculated to evaluate the real benefits of a company during one fiscal year. This work is further complicated when a company is not in the stock market. Today, a trained CSO would be able to conduct on its own the investigation of a new case in six to eight months, provided some technical and financial support is given by TCC.

An added value of TCC's approach was in the preliminary scoping work, performed together with the CSO, to select the right case studies to investigate, and identify companies with a good potential for taxes' retrieval. Numerous meetings are conducted before selecting the interesting cases, as there are a host of companies operating in DRC. This careful initial work was very well performed and allowed conducting all investigations until their full completion, initiating a dialogue with the companies or the State, and then having EITI-DRC asking further questions and clarifications until the publication of results.

#### **Sustainability**

Today, the nine CSO have become competent and autonomous experts. This was verified throughout the mission. However, they still need financial assistance for traveling, office rental, meetings, gatherings, investigations, etc. Some CSO expressed criticisms over a perceived lack of anticipation from TCC's management with regards to the search of a new donor, and would have appreciated to be informed more transparently about their future involvement in the project. Since DfID funding is over, they expressed the feeling that they are asked to carry on their work (investigations and monitoring of mining companies) with the technical support of TCC but without any financial assistance. Therefore, they had to adjust strategies and work more with volunteers, which is not sustainable in the long run, as they would need to hire additional competent analysts and researchers to ensure a work of good quality over time. They would have appreciated to have longer term partnerships with the EIG project.

However, regarding the expertise acquired so far, the objective of sustainability towards the provision of advice, guidance and know-how is largely met, especially because the partner CSO have acquired all the necessary knowledge to implement advocacy campaigns based on solid investigations. The sustainability of the project is also illustrated by the fact that three out of the five CSO representatives in

the MSG are from the TCC supported partners. The debates taking place during the regular meetings of the MSG, every two months, are very lively and address key issues. The next step would be to have similar debates occurring within the civil society but outside of this specialized forum, and that the general public challenges the authorities on getting more transparency and more return from the national natural wealth.

As seen throughout the report, bringing transparency in DRC is a long-term endeavour. Therefore, formulating an exit strategy is a challenge in itself. TCC should be prepared to continue and expand its activities for the coming years until enough CSO are trained and able to effectively trigger the necessary debate around the legal and regulatory frameworks, challenge policies and practice of how the revenue is planned, generated and used to better the conditions of Congolese people, and ensure that laws are being effectively implemented by government agencies and private companies.

## Impact

As per the logical framework, the project intended to improve the governance of the DRC's extractive sector by making data more accessible, improving governance of revenues, and ensuring more responsible, sustainable and equitable investments. The indicators were formally reached, as DRC was still compliant with EITI at the end of the project, and changes to fiscal governance of the DRC's extractive industry sector were influenced by CSO advocacy and materialized in the new Mining Code.

However, there is still a long way to go in order to reach the ultimate goal of the project, which is to ensure that Congolese people benefit concretely from the abundant natural wealth available in the country. Important progress has been achieved, and it is commendable to observe that laws have been adapted and taxes are collected more regularly<sup>18</sup>.

The next steps towards achieving the overall impact are to ensure that the relevant portion of the taxes is retroceded to the Provinces, and from there effectively used to fund sustainable and responsible projects. The interviewed partners can see that their work has had a positive impact, but would like to expand and replicate the program, and gear up the number of competent CSO nationwide, in order to create synergies and alliances for enhancing the public debate. They would also like to have communities gaining more ownership on the establishment of local development plans, and challenge their local leaders for getting useful projects, thus triggering a virtuous circle which would accelerate transparency and better governance in the country.

The evaluation further identified an unintended impact of the project. Women from the supported female civil society groups (DYFEM and DYFREN) who were trained by the project have not only become experts, as their male colleagues; they have also gained in self-confidence and assertiveness. Since they were included in the good governance and transparency debate, they had to confront their ideas with mostly male executives of mining companies or state representatives. They proudly noticed a change in their own behaviour, and acknowledged that they are no longer afraid of expressing their opinions, even in front of a group of men. This is an achievement in itself, as women's participation in public debates on extractive governance issues is usually very low in DRC.

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<sup>18</sup> One should also take into account that the mining sector is very much influenced by external factors that can greatly contribute to the variation of fiscal revenues, such as the variation of the market price of natural resources (See Annex 6)

## RECOMMENDATIONS

### R1 – Elaborate a new project proposal and advocate vigorously to find a new donor

As seen above, the program implemented by TCC is extremely relevant, genuinely contributing to bringing more transparency to the sector, and appreciated by all stakeholders. Important progress has been achieved over the last decade, in particular during the three years of DfID funding. However, the road is still long until the positive impacts of the program effectively materialize on the ground and directly benefit the Congolese people.

Civil society partners, trained and coached during the three years of the program, are now able to effectively monitor and advocate for improvements to EITI-DRC processes and reporting; research and analyze revenue impacts and use their analysis to advocate for improved fiscal governance of key mining projects/companies; and finally utilize EITI-DRC data and other sources for advocacy to address sector-wide fiscal governance challenges. These outcomes are achieved and the flow of revenues is becoming more and more transparent. However, the wealth of the extracting industry is not yet bringing improvements to the ordinary people. Social investments, or improvements of basic infrastructure for the communities, in particular those living in the vicinity of mines, are very rare.

We therefore highly recommend to elaborate as soon as possible a new project proposal, with an extended scope, for another phase of at least three more years. This should give enough time to implement the recommendations, build on the competences developed, leverage the project for additional case studies and more advocacy until tangible changes are observed, contributing to the fulfillment of the article 58 of the Constitution (see chapter “*Relevance*”).

### R2 – Assist the definition of Local Development Plans and support:

#### a) Decentralized Territorial Entities

The DTE represent the State at the level closest to communities in DRC. DTE are usually headed by a *bourgmeestre*, Chef de Secteur or Chef de Chefferie who is today not elected but appointed by the State. There is currently no mechanism to ensure that revenues from taxes are spent on projects that are really essential to communities. The usual practice, as reported by interlocutors during the mission, is that *bourgmeestres* suddenly have access to colossal funds, often millions of dollars, from the share to which they are entitled according to the new Mining Code<sup>19</sup>. As there are no accountability mechanisms involving the communities, they usually build new offices, buy new cars, and pay themselves very generous salaries.

There is definitely a need to strengthen community leaders (*chefs de quartiers*, traditional leaders) and facilitate participative processes within DTE, in order to elaborate robust LDP, realistic and representative of essential, jointly agreed needs (roads, water, electricity, health centres, schools, ...). CSO can very well play this role, and accompany the negotiation and planning stages until agreements are found on priorities.

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<sup>19</sup> The new Mining Code stipulates the following split for the revenues taxed from the benefits of the extractive industry sector: 50% goes to the Central Government; 25% to Provinces; 15% to the DTE; and 10% is allocated to a fund for the Future Generations.

We highly recommend to work with DTE located besides mines that previous case studies focused on. Hence, there could be two or three pilot projects in each of the provinces targeted by the program. Planning capacities of DTE would be strengthened and mechanisms for spending funds developed. The CSO would also need to be trained by TCC on facilitating a participative discussion, with a conflict-sensitive approach. The same hands-on strategy should be applied, i.e. accompanying the whole LDP process through one practical example.



New town hall being built in Kampemba with tax funds, March 2020

Regarding the partners, this strategy is welcomed by both the extractive industry and the provincial authorities, who enjoy the idea of showcasing tangible results. Interlocutors widely recognized that competences to develop LDP are clearly lacking at the community level, as are financial management capacities. Expectations articulated by interlocutors include:

- According to extractive industry representatives, communities will contribute to the preservation of industries' assets. They will ensure smooth operations, in order to continue benefitting directly from the tax provider. For instance, they will protect assets against artisanal miners coming from other provinces.
- Governors on the other hand will be able to show concrete achievements. The ongoing decentralization decided by the State is going to be organically supported by such a project.

A close cooperation between provincial authorities, extractive industries and local communities will definitely provide useful lessons to amend or adjust the mining code, in particular the simplification of the flow of funds from the extractive industry to the DTE (see **annex 6**). They have also a potential for nationwide replication.

#### **b) Relevant Provincial Ministries**

In order to ensure sustainable LDP and avoid duplication, there is a need to involve, coordinate and liaise with the Provincial Authorities. Hence, if a community expresses the need for a health centre, the latter has to be approved by the Provincial Ministry of Health, as it has to fit within a provincial strategy; the construction of a new road has to be harmonized with the plans of the

Ministry of Infrastructure. The Ministry of Plan and Finance has to approve the estimated budget, or to ensure that the tendering process follows proper rules and regulations, or to coordinate the development plans of other NGO or development agencies active in the same Province.

Once DTE have agreed on their own LDP, there is a need to: 1) Estimate the costs for the infrastructure to be built; 2) Prepare a call for tender; 3) Select the best offer; 4) Award a contract; 5) Follow up on and monitor the construction works; and 6) Accept the works. These steps are theoretically to be done by the DTE, with the support or approval of different Ministries, under the coordination of the Ministry of Finance and Plan (depending on the Province). TCC could possibly play an important role in accompanying the overall process, and provide simplified and adapted tools to the concerned Ministries for ensuring that the above-mentioned steps are being implemented in a transparent way, including the awarding of contracts to local construction companies. This is part of a better governance of public funds.

The mechanisms for coordination will vary from one province to another. Flexibility and consistency are required to support and provide the necessary planning and monitoring tools to Provincial authorities. Several of the competences are of an engineering nature, which TCC might have to search externally. They are essential for the effective materialization of LDP. The inputs can be provided in the form of a distant and part-time support, with punctual field visits (backstopping).

### **R3 – Support Training of Trainers and increase number of case studies**

The CSO have become experts in fiscal investigations and have developed strong competences. Some of their members have reached the level of TCC personnel. This achievement is commendable and has brought improvements towards a better governance of the sector, as they have become an important and respected actor of the sector. We recommend to build on the good results and implement a training of trainers' program, in which each partner CSO trains four to five additional CSO in each of the previously targeted provinces. The resulting multiplier effect shall consolidate the acquired competencies and leverage the potential for additional case studies. TCC can have a coordinating and supporting role, and should assist in the definition of additional case studies for investigation. Lessons learnt will be useful for further enriching the debate at the DRC-EITI level, and possibly amend the Mining Code with concrete elements from additional experiences.

### **R4 – Extend Security Management to provinces and train partner CSO**

The services provided by the security staff of TCC are very efficient and appreciated by the teams. The network of contacts and security measures to be followed are done professionally. This is particularly useful and adapted for TCC staff. However, we believe that this service should be extended to the partner CSO as well. The latter are operating directly in the field and have to travel distances in remote locations, outside of their cities of origin, in sometimes dangerous areas affected by armed conflict and general insecurity. We recommend to provide CSO with basic trainings in personal security management, and to assist them in developing security rules tailored to their specific needs. This can be done by the current security manager, who can travel and train CSO in their own provinces. This would also allow the security manager to meet interlocutors on the ground, get a sense of the situation on the spot, extend/maintain his network of contacts, and assess accommodations/hotels to define which ones are safe for both the partner CSO and TCC staff.

## **R5 – Organise annual retreat with external facilitation**

As seen during the mission, the topics covered by the EIG program are vast and complex. Numerous fields of action contributing to a better governance of the sector exist and would deserve attention, ranging from artisanal mining, hydroelectricity, and timber extraction, to subcontracting, dialogue with parliamentarians, and technical support to the Ministry of Mines for enhancing their monitoring capabilities<sup>20</sup>. It would be useful to revise the scope of the action of TCC and its partners, and identify where the organisation can positively influence the transparency of the extractive industry.

Strategies are best discussed collectively, away from the daily routine of work. If budget allows, we recommend to conduct the retreat in a nearby country with an external facilitation to foster a free and open-minded discussion. A professionally-led retreat is also an efficient team-building exercise: each staff member will find its right place within the team, and the morale will be boosted.

The agenda of the retreat should be developed in a participatory manner so that it reflects the concerns of all team members. Based on our analysis, topics that we would suggest to include are:

- Scoping of area of intervention (domains, topics, geographical extension)
- Formulation of a long-term objective, expected impact, and exit strategy
- Elaboration of a three-year strategy, with clear objectives, expected outcomes, concrete plan of action, resources needed
- Mapping of potential donors (within the country, internationally)
- Clarifying roles and responsibilities regarding fundraising between TCC HQ, Kinshasa and Lubumbashi
- Definition of ideal setup, roles and responsibilities, and internal lines of communication
- Staff training, continuous education scheme
- Duty of care of the employer (security management, update of the Project Risk Analysis framework, contract issues)

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<sup>20</sup> The State has limited means and lack technical competences to assess the real contents of the ore extracted or the quantities exported. An external evaluation (recommendation from the Governor of Lualaba) would be useful to identify which services within the provincial ministries would need a capacity building program. Laboratories and relevant expertise are required. Automatic weighting machines at strategic locations would also be useful to have better control over production data, as today's manual practice is prone to corruption.

## CONCLUSION

The work achieved by TCC is impressive and of good quality, implemented by committed and dedicated staff and CSO. It is genuinely contributing to bringing more transparency to the extractive industry sector. This is observed thanks to fiscal flows' figures becoming more and more available. The state and Industry partners involved in the sector respect CSO as their level of knowledge has drastically improved, and their representatives are no more perceived as "excited activists" but rather as competent interlocutors. The case studies allowed to disclose several illegal agreements made between mining companies and provincial authorities. And finally, more taxes could be raised thanks to the thorough investigations carried out by the CSO.

The private companies and the state actors would also find advantages of having more transparent practices. The first would be able to do their business in a professional way, have the neighbouring communities willing to protect the mines from external threats (artisanal miners, unhappy neighbours blocking roads) because of the benefits they get to alleviate poverty, and the latter would be happy to see that more funds from taxes are retroceded to their end, making possible to have their salaries paid timely and conditions improved.

For sure, the major risk for the transparency of the sector – and the possible continuation of the EIG project – is that EITI Board decides that "no progress" has been achieved in fulfilling its 13 conditions, and delists the country from the EITI process. The door will then be open for much more corrupt practices and mismanagement. However, the country is going in the right direction, even while the political crisis left DRC without a government for several months.

The above recommendations are made to strengthen the previous results, and leverage the efforts of TCC. We are convinced that a close coordination with Provincial authorities is necessary if one wants to ensure the effective implementation of LDP – and thus contributing concretely to poverty alleviation. The continuous support to CSO, and the implementation of a Training of Trainers strategy, will drastically increase the number of competent CSO throughout the country, thus adding more pressure on corrupt practices.

## Annex 1: List of reviewed documentation

- All project reports drafted and provided by TCC EIG team concerning Phases I and II, including narrative reports, financial reports, quarterly reports, proposals, M&E reports, memos, annexes, logframes, guidance notes, training modules and CSO partners' reports
- DfID Grant Agreements for Phases I and II
- Journal Officiel de la République Démocratique du Congo, Cabinet du Président de la République, March 2018 : « Loi n°18/001 du 09 mars 2018 modifiant et complétant la Loi n° 007/2002 du 11 juillet 2002 portant Code minier »
- TCC, November 2017: “A State Affair: Privatizing Congo’s Copper Sector”
- TCC, October 2019, News Release
- EITI factsheet, March 2019: “The global standard for the good governance of oil, gas and mineral resources”
- EITI factsheet, November 2018: “Project-level reporting in the extractive industries”
- EITI executive committee, December 2019: “Rapport contextual ITIE-RDC 2017 & 2018”
- GIZ, October 2017: “Monitoring and Evaluation (M&E) of EITI Implementation – Guideline”
- SARW, 2013 : « Baromètre des ressources de l’Afrique Australe »
- SARW, May 2014: « Congo’s Golden Web »
- SARW, July 2014: “Global and Regional Mechanisms for Governing the Resource Curse in Africa”

## Annex 2: Detailed program of the mission in DRC

| March | Activities   |
|-------|--|
| 01    | - Departure from Geneva  |
| 02    | - Arrival in Lubumbashi via Milano and Addis   |
| 03    | <ul style="list-style-type: none"> <li>- Nick ANDOH, <b>TCC</b> Interim Program Manager: overall organization of the mission, planning of meetings and identification of key interlocutors</li> <li>- Extensive briefing by <b>TCC</b> revenue team Baby MATABISHI (Revenues and EITI Coordinator), Nicole MANDESI (Revenues and EITI Officer) and Fred KIMONGE (Revenues and EITI Officer)</li> <li>- Call with Chim CHALEMERA, growth advisor, and Annie NZEKE MANKAKA, program manager, <b>DfID</b></li> <li>- Meeting with Carole LUMBU, <b>DYFREN</b> director from Lubumbashi</li> </ul> |
| 04    | <ul style="list-style-type: none"> <li>- Jean-Claude AMISI, <b>ACIDH</b> Program Officer from Lubumbashi</li> <li>- Nick ANDOH, <b>TCC</b> Interim Program Manager</li> <li>- Père Angelos NYEMBWE (Coordinator), Stanislas NTUMBA (Program Officer) of <b>COSC CET</b>, and Georges TSCHIMPUKI (Coordinator) of <b>DEDQ</b> from Lubumbashi</li> <li>- Reporting</li> </ul>   |
| 05    | <ul style="list-style-type: none"> <li>- Nick ANDOH, <b>TCC</b> Interim Program Manager</li> <li>- Albert NSANDJI KALONDA, Head of <b>Provincial Mining Division</b></li> <li>- Nick ANDOH and Baby MATABISHI of <b>TCC</b> for a brainstorming session</li> <li>- Baby MATABISHI, <b>TCC</b> Revenues Coordinator</li> <li>- Donat KAMBOLA LENGE, <b>IBGDH</b> Coordinator from Kolwezi</li> <li>- Nicole MANDESI, <b>TCC</b> Revenues Project Officer</li> </ul>   |
| 06    | <ul style="list-style-type: none"> <li>- Briefing by Baby on EITI management structure</li> <li>- Call with Indra THEVOZ from <b>International Secretariate of EITI</b> in Oslo</li> <li>- Dorothée MASELE, Community Relationship Manager, <b>Tenke Fungurume Mining SA</b></li> <li>- Erick TWITE, <b>Bourgmestre of Kampemba</b>, commune mitoyenne de Ruashi Mine</li> <li>- Thierry KABAMBA, <b>EITI-DRC</b> Regional Manager, Lubumbashi</li> </ul>  |
| 07    | - Desk work: Analysis of EITI documentation, visit of CongoMines website, review of notes  |
| 08    | - Desk work: reporting, review of notes, preparation of coming meetings  |

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| 09 | <ul style="list-style-type: none"> <li>- Daudet KITWA, <b>ADDH</b> Coordinator from Kolwezi</li> <li>- Kass Alidor MUTEBA, <b>OCEAN</b> Coordinator from Kinshasa</li> <li>- Team meeting and brainstorming session on gender issues</li> </ul>  |
| 10 | <ul style="list-style-type: none"> <li>- Alida MUNKWA, <b>TCC</b> Human Rights &amp; Local Revenue program team member</li> <li>- Brigitte BASHALI MUBUYA, Coordinator of <b>DYFEM</b> based in Goma</li> <li>- Jimmy MUNGURIEK, Permanent Secretary of <b>CDC</b> from Bunia</li> </ul>   |
| 11 | <ul style="list-style-type: none"> <li>- Travel from Lubumbashi to Kolwezi (5 hours)</li> <li>- Gilbert BOREDISON, CDA of <b>Kamoto Copper Company</b> (KCC, Glencore)</li> <li>- Informal meeting with Donat KAMBOLA LENGE of <b>IGBDH</b></li> </ul>   |
| 12 | <ul style="list-style-type: none"> <li>- Yav KATSHUNG JOSEPH, <b>Director of Cabinet</b>, Lualaba Governorate</li> <li>- Trésor MUYEYE LUTONGO, <b>Provincial Minister of Budget and Plan</b>, Lualaba Governorate</li> <li>- Richard MUYEJ MANGEZE MANS, <b>Governor of Lualaba</b></li> <li>- Travel from Kolwezi to Lubumbashi (5 hours)</li> </ul> |
| 13 | <ul style="list-style-type: none"> <li>- Preparation of debriefing and debriefing with TCC team</li> </ul>   |
| 14 | <ul style="list-style-type: none"> <li>- Albert KALUBI, <b>TCC</b> team member, Security and Logistics Assistant</li> <li>- Return flight Lubumbashi – Vienna – Geneva</li> </ul>  |
| 15 | <ul style="list-style-type: none"> <li>- Arrival in Geneva, end of mission</li> </ul>  |

## Annex 3: Course modules

The eight tailor-made modules used to train CSO and build their understanding and competences to evaluate a specific extractive sector project, pursue the following learning objectives:

- Module 1: Participants are introduced to the fiscal impacts of a mining project using the Extractive Industries Value Chain as an analytical framework.
- Module 2: Participants learn about applicable legal frameworks and develop legal and contractual analysis skills to identify fiscal and parafiscal obligations of mining companies.
- Module 3: Participants focus on the relationships between mining companies and related parties, studying ownership and evaluating indirect shareholdings and the impacts of mergers.
- Module 4: Participants master basic accounting notions like deferred losses, accelerated depreciation, and net present value, thus providing the foundation for the estimations to come.
- Module 5: Participants apply taxation and accounting concepts to financial statements, using a “financial waterfall” framework to locate revenue flows within a company’s income statement.
- Module 6: Participants identify data sources to calculate the most significant fiscal and parafiscal flows, estimate these flows, and verify these estimations using EITI reports.
- Module 7: Participants critically assess revenue flow estimations, considering risks to these flows, mitigating and exacerbating factors, and strategies employed by companies to maximize profits.
- Module 8: Participants focus on their own case studies, formulating recommendations to address the risks identified and improve governance of the DRC mining sector in this adaptable module.

## Annex 4: Summary of achievements, Outcome level, Phases I and II

- 1. Congolese civil society partners are able to effectively monitor, and advocate for improvements to, EITI-DRC processes and reporting.*

| Outcome indicator  | Planned target (Phases I+II) | Achieved results | Comment   |
|--|------------------------------|------------------|---|
| Number of partners CSO recommendations taken into account in final EITI-DRC reports and improved EITI-DRC process. | 12                           | 45               | TCC's approach and impact were lauded by members of EITI international secretariat. |
| Cumulative number of EITI contributions (e.g. memos, revenue estimates, etc.) from CSO are of good quality.        | 9                            | 15               | Throughout the grant period, 15 contributions were of high quality.                 |

- 2. Congolese civil society partners are able to effectively research and analyze revenue impacts and use their analysis to advocate for improved fiscal governance of key mining projects/ companies.*

| Outcome indicator                                      | Planned target (Phases I+II) | Achieved results | Comment  |
|--|------------------------------|------------------|--|
| Quality of CSO team's case study interim deliverables. | 16                           | 21               | Partner CSOs exceeded expectations with regard to their interim deliverables in terms of quality, number of reports produced, and also revenue analysis knowledge acquisition. |

- 3. Congolese civil society partners develop skills to use EITI data and other data for advocacy and produce interim deliverables for the implementation of evidence-based advocacy.*

| Outcome indicator  | Planned target (Phases I+II) | Achieved results | Comment   |
|--|------------------------------|------------------|---|
| Cumulative number of interim deliverables on using the data and associated advocacy from civil society teams receiving TCC's technical support that achieve a quality of at least 60%. | 31                           | 58               | The quality score and number of interim deliverables are largely beyond expectations. |
| Number of meetings with targeted stakeholders.   | 8                            | 21               | The target is well exceeded in Phase II and not measured in Phase I.                  |

## Annex 5: Letter from Chair of the EITI to President Jimmy Carter



7 February 2019

The Honorable Jimmy Carter  
The Carter Center  
453 Freedom Parkway  
Atlanta, GA 30307

### ADVANCING TRANSPARENCY AND GOOD GOVERNANCE IN THE DRC

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Dear Mr. Carter, Your Excellency,

I am writing to acknowledge the Carter Center's contribution in advancing transparency and accountability in the management of natural resources in the Democratic Republic of the Congo (DRC).

The Extractive Industries Transparency Initiative (EITI) is the global standard for the good governance of oil, gas and mining resources. Each of our 51 EITI member countries, including the DRC, set up a national multi-stakeholder group (MSG) consisting of representatives from the government, civil society, and the industry. This group is responsible for ensuring that our member countries meet the disclosure requirements in the EITI Standard and that the information is used to inform public debate.

The Carter Center in Lubumbashi has played a key role in the last five years to ensure that local communities use the EITI process to access information on how their natural resources are managed. Thanks to the Carter Center's support, a wide network of local civil society organisations from Kinshasa to Lubumbashi to Bunia in the Ituri Province are empowered to demand information about their natural resources and to use this information to hold companies and their government accountable.

Despite challenging circumstances, we are pleased to see the DRC making progress in advancing contract transparency, government revenue disclosure, as well as greater openness in the management of state-owned enterprises. We want to give recognition to the Carter Center and other partner organisations for their critical role in these advancements. We greatly value your support for our work, and the generosity with which your staff share their knowledge and insight with the EITI's country team.

On behalf of the EITI Board, I also wish to thank you for your leadership in advancing democracy, human rights and economic opportunity around the world. Your accomplishments inspire us all.

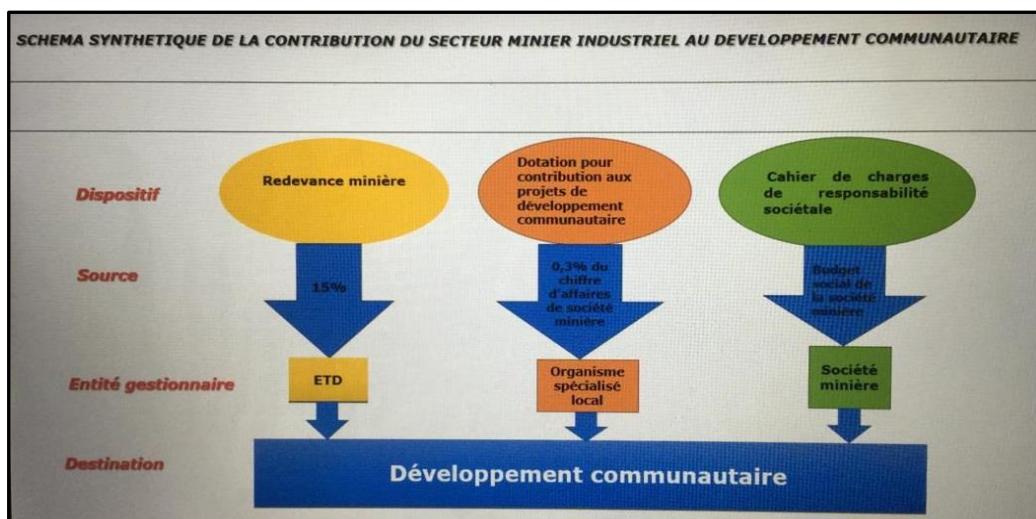
Please accept the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'Fredrik Reinfeldt'.

Fredrik Reinfeldt  
Chair  
EITI

Annex 6: Price variation of Cobalt<sup>21</sup> and Revenue flow<sup>22</sup> to communities

**Market value of Cobalt during the last five years (USD / kg)**



<sup>21</sup> <https://investir.lesechos.fr/cours/matiere-premiere-cobalt-cathode-9980pc,wmpcb,cob,cob,opid.html>

<sup>22</sup> Cordaid, Building Flourishing Communities