



RESPONSIBLE ARTISANAL GOLD SOLUTIONS FORUM

Lessons Learned – Year 1

ABOUT THE FORUM

The Responsible Artisanal Gold Solutions Forum (Forum) is a multi-stakeholder coalition seeking to learn about and address critical barriers to the production and trade of artisanal gold from conflict-affected and high risk areas in a way that meets national and regional law and OECD Due Diligence Guidance, and considers voluntary responsible sourcing standards. The Forum is engaging with pilots establishing compliant artisanal sources and supply chains to deliver that gold to responsible refiners, jewelers and other downstream users. The Forum is committed to promoting shared learning and broader engagement of industry, government, and civil society through dissemination of lessons learned and tools developed over the course of the pilots.

LESSONS LEARNED – YEAR 1

While the Forum's first year focused on two pilots in the Democratic Republic of Congo¹, many of the lessons learned could be applied across geographies. This document captures insights from the Forum and its members' efforts to date.

Defining “Responsible” Artisanal Gold and “Responsible Sourcing”

There is basic alignment on expectations about responsible artisanal gold and responsible sourcing – with important distinctions between the two, and work needed to establish the means of meeting these expectations.

“Responsible” artisanal gold production and trade requires transparency and due diligence, as well as the active avoidance of human rights abuses, financing terrorism, money laundering, and public corruption. These goals are encompassed in the due diligence guidelines and practices described by the Organization for Economic Cooperation and Development, London Bullion Market Association, the Responsible Jewellery Council and the standards set out in the International Conference on the Great Lakes Region (ICGLR) Regional Certification Mechanism. However, the means of meeting these expectations in the context of artisanal gold trade requires further refinement.

Further nuance and terminology may be needed to distinguish between “responsible gold” and “responsible sourcing” of artisanal gold. While any gold must meet minimum standards of compliance on issues of conflict and human rights, the reality is that many ASM mines are rudimentary, use mercury in their processing, and would benefit from safety improvements. High expectations for environmental and safety performance from the outset will result in limited access to markets for artisanal miners, and limited improvements in the sector more broadly. “Responsible sourcing,” however, could encompass purchasing from “acceptable” sources that meet minimum standards of compliance on issues of conflict and human rights while working towards required progressive improvements that address, for example, a broader set of environmental and safety concerns.

¹ Capacity Building for Responsible Minerals Trade (CBRMT) pilot, operated by Tetra Tech; and Partnership Africa Canada's Just Gold pilot project.

Sustainable Financial Models and Incentives

Donor investments have been needed to establish pilot supply chains and conduct due diligence at a small scale of production. While this is a challenge for several other artisanal minerals, including at a larger scale in the 3Ts, Forum partners seek to develop commercially viable models to incentivize upstream and downstream market engagement and increase the scale of production and trade.

While the pilots engaged in the Forum are ultimately meant to become self-sustaining, donors independent of the Forum² have supported important start-up costs and the performance of due diligence by implementing partners. There remains a need to test and demonstrate models that don't externalize or rely heavily on donors for start-up costs; this is a focus of the pilots in Year 2. All supply chain partners must be actively engaged in the goal of building responsible supply chain models that are financially sustainable, replicable, and scalable, from mine to end user.

The gold volumes in these pilots, by design, are very small. However, for downstream partners, the essential due diligence risk assessment and therefore due diligence costs, plus fixed costs such as transport, are consistent with greater supply. As such, unit costs of production at this scale would be prohibitive without donor support. However, partners emphasize the need for commercially viable models to incentivize upstream and downstream market engagement and increase the scale of production and trade.

Responsible sourcing models with long-term viability must take into account market dynamics and offer commercial terms and services to exporters that are competitive with other past or current buyers (i.e., Dubai). Engaging exporters in

FORUM SPOTLIGHT: JUST GOLD

The Partnership Africa Canada (PAC) Just Gold project creates incentives for artisanal miners to channel their product to legal exporters—and eventually responsibly consumers—by providing technical assistance to miners in return for legal sales. Miners are taught better exploitation techniques and offered Just Gold project equipment, in return for which any gold produced must be tracked and sold through legal channels. In the current model, the Just Gold Model Trading House acts as the legal conduit for Congolese artisanally produced gold by purchasing it at competitive prices, packaging it, and selling it to a partnered legal exporter.

The project is designed to be financially sustainable, with the margin from the gold sales paying for maintenance of project equipment. A percentage is also invested into a locally managed community development fund, with a goal to promote local natural resource governance and increase benefits from natural resources to all members of the community.

The pilot is currently operational in Ituri province of eastern Democratic Republic of Congo, in Mambasa Territory. 300 miners have been registered at four mine sites in Some (pronounced “Soh-may”) near Mambasa. Groundwork is being set for an additional pilot site in Butuzi (Walungu Territory), in South Kivu.

For more information on Just Gold and other Forum pilots, please visit: <http://solutions-network.org/site-ragsforum/>.

² Investments and engagement by Partnership Africa Canada in the Just Gold pilot has been supported by Global Affairs Canada, USAID (through the International Organization on Migration and Capacity Building for Responsible Minerals Trade, implemented by Tetra Tech ARD), and Apple, Inc. UNEP supported the cost of one environmental assessment and MONUSCO provided logistical support. Tetra Tech's CBRMT pilots are funded by USAID.

this chain is critical to forge a link between responsible in-region sources and interested, responsible downstream buyers.

Downstream companies can assist in structuring commercial relationships with upstream actors to incentivize consistent supply and compete with other buyers. For instance, DRC exporters currently sell almost exclusively to operators in Dubai. This is motivated by lax due diligence requirements but also strictly commercial reasons: Dubai is a short and inexpensive flight away from East/Central Africa, and buyers in Dubai can perform an entire purchase (initial assay, smelt, final assay, payment via bank transfer) in half a business day or less, at prices of allegedly up to 99.75% of world price.

Downstream buyers can bolster sound commercial relationships with exporters through financing and other services in a way that addresses existing commercial context and incentives. For example, implementing organizations' experience suggests that exporters would value the following:

- Commercial terms that are competitive with current buyers, including price and speed of payment;
- More accurate or credible assays (as DRC gold exporters complain of inaccurate assays in Dubai);
- Assistance with formal banking and international bank transfer procedures;
- Training on due diligence and other requirements to facilitate exporters' access to the international marketplace;
- Support for fiscal reform and harmonization;
- Financing for legal gold purchases at the export level (possibly via a partnership of downstream users, NGO partners and exporters).

The same principle is true for engaging artisanal gold producers in legal, responsible supply chains. While providing technical assistance and improved yield through better equipment has demonstrably incentivized such participation, additional incentives including access to credit on fair terms, or other mechanisms (such as increased monitoring) may be needed to deter producers operating at legal sites from selling some portion of their production into illicit chains.

Clarity on Finance Components and Needs in Artisanal Supply Chains

The Forum identified multiple, distinct upstream and downstream financing components with unique implications for due diligence and commercial agreements, and developed working definitions.

Supply chain partners must establish a common definition of terms such as prefinancing and prepayment, and fully understand needs, objectives, mechanisms, and upstream/downstream expectations and capacity related to financial inputs for gold production or investment in community beneficiation. Clarity on each pilot's financial model, including the business case for especially upstream supply chain participation, is also important to assess the financial sustainability, replicability, and scalability of pilots to support more sites and larger volumes. The Forum has agreed on the following terminology to describe financial components of the engaged pilots:

Production Financing: These kinds of transactions directly support the production and flow of gold through the supply chain, and each results in receipt of gold, money/fees, or both.

- *Prefinancing* is paying for gold and costs (e.g., labor or materials) before it is extracted. This is a common practice at most artisanal mine sites, and prefinancing is typically provided by individuals at or near the mine site or community. Prefinanciers can be community members, negociants, or other individuals, and prefinancing can take the form of equipment, food, or money. As noted in the section below, additional clarity is needed on the requirements of due diligence surrounding local

prefinancing, and this may or not be a component of the final pilot supply chains.

- *Inventory financing* is a short-term loan to an agent or upstream partner, providing liquidity that allows the agent to purchase miners' gold, which then becomes collateral on the loan.
- *Prepayments* are transactions between the refiner and exporter which take place when the exporter transfers the gold to the refiner. Prepayments are used in the case of a good assay of metal received. The refiner will pay the exporter a percentage of the estimated value of the gold before the final assay and weighing. In PAMP's case, there is up to a one-week turnaround time from export assay to finish processing and a final weighing, at which point any balance is paid to the exporter.

Pilot Start Up Costs:

- In the case of the pilots that are part of the Forum, contributions to implementing organizations (provided by donors independent of the Forum)³ have supported other costs necessary for initiating new programs and practices. These donations have supported a variety of activities by the implementers, including miner organization, formalization, and capacity building; engagement with local government agencies to obtain necessary licenses and approvals; research on tax reform; initial due diligence; and community engagement and sensitization. Such costs may vary from location to location (and may be significantly less if they can build on work already underway in the area) but should be considered when planning new pilots.

Local Prefinancing and Due Diligence

Many artisanal miners receive prefinance of some sort from community members or other miners, and there are both benefits and complications associated with preserving existing financial models and arrangements. Local prefinancing could be an avenue to leverage and increase communities' engagement and stake in a sourcing effort – which could have implications for improving due diligence and security around a site. It could also offer an opportunity to provide more financial opportunities for disadvantaged groups, especially women, who are already the primary investors in some communities. Conversely, by outsourcing the prefinancing or otherwise undermining existing local arrangements, artisanal mining projects risk taking away a source of income for local communities and creating conflict between the site and the community. The group agreed that local prefinancing is a potential asset, but practices are opaque and vary from site to site. More

FORUM SPOTLIGHT: CBRMT

The Capacity Building for Responsible Minerals Trade (CBRMT) project, funded by USAID and operated by Tetra Tech/ARD, is designing and implementing a supply chain to bring responsible, conflict-free artisanal gold from the DRC into the products of leading responsible refiners and jewelers.

CBRMT is interested in piloting multiple approaches to due diligence and traceability to better understand what models are the most sustainable, resilient, and effective under different contexts. Accordingly, one of the systems CBRMT intends to pilot is the DRC's traceability system for artisanal gold known as ITOA or *Initiative de Traçabilité de l'Or D'exploitation Artisanale*. Innovative approaches to collecting and communicating due diligence data from mine sites in timely and transparent manner will also be tested.

Design and planning is underway in earnest for several elements of the pilot, including due diligence on prospective supply chain partners, export logistics, and capacity building, particularly targeting local mining cooperatives (over 1038 people trained to date).

For more information on CBRMT and other Forum pilots, please visit: <http://solutions-network.org/site-ragsforum/>.

³ See ².

clarity is needed on the limits of due diligence obligations surrounding the source of community members' capital. A more constructive approach in keeping with OECD guidance could be to introduce additional incentives to break existing links with informal financing systems. PAC is currently exploring how best to provide such incentives.

Shared Responsibility for Due Diligence

Responsible sourcing requires collaboration and shared responsibility for due diligence among upstream and downstream partners. Translating due diligence principles to practice in ASGM has been an intensive process, and the Forum is creating a toolkit to support future sourcing.

The Forum's members seek to establish one or more supply chains originating with responsible, artisanal gold from conflict affected and high risk areas (in this case, the DRC) with clear supply links to reputable downstream companies at the refiner, manufacturer, and retail levels. There is clear value in demonstrating that this mine to end-user supply chain is possible—for all the reasons and objectives which motivated the initiation of this Forum.

At the same time, the connection to a formal downstream market, and all the reputational and other value brought by these companies, creates expectations that upstream participants may be unable to meet in the near term. Enhanced upstream-downstream collaboration is needed to adapt due diligence to ASGM, in a context which recognizes that DRC exporters have simpler trade options (i.e., selling to buyers in Dubai). To date, the added due diligence costs have been largely borne by implementing partners, relying on contributions from donors. The Forum has identified potential interventions that downstream partners could take to support implementing organizations and the shared goal of establishing sustainable, replicable, scalable, and market-driven sourcing models from mine to end-user, described above under "Sustainable Financial Models and Incentives."

Downstream participants can also make important contributions to sourcing pilots through technical assistance, flexibility, and network support. For instance, taking a shared leadership role in traceability, due diligence, and data sharing would reduce the burden and cost to upstream partners who are working to forge connections with and address requirements of international markets that have not, to date, been feasible. Partners with requirements pertaining to mercury could purchase, or contribute to the purchase of mercury-free equipment. Partners can also offer some flexibility on items like accepting high purity gold concentrate (rather than requiring smelted gold), or accepting small quantities of gold on a regular basis (rather than requiring a minimum threshold). Industry partners can encourage their subcontractors to support these initiatives (such as through logistical support) in parallel to their work on established supply chains, to reduce due diligence risks of ASM supply chains, and to enable economies of scale and other efficiencies.

Due Diligence in the ASGM Environment

The OECD Due Diligence Guidance, and guidelines from LBMA and RJC share common values, but associated due diligence tools are primarily relevant for a large-scale mining source and must be adapted to relate to an artisanal source and environment. The implementing organizations within the Forum encountered many questions about how to make this translation. The Forum is developing an ASGM toolkit which will include the following documents:

1. An introduction to the toolkit, including how it could be used and by whom, along with common definitions and useful references.
2. Template "Know Your Customer" forms for various actors along the supply chain, including
 - a. the Grand Négociant, Maison d'Achat or Exportateur

- b. Petits négociants
 - c. Transport companies
3. A Supply Chain Due Diligence Overview and Final Evaluation document to be filled out by the assessor (refiner or refiner’s agent)
 4. Supply Chain Due Diligence Checklist (to ensure all relevant contextual data, and documents are in place as well as additional due diligence information related to status and progress criteria)

The Forum also provided input to OECD to inform that organization’s guidance outlined in its [“Sourcing Gold from Artisanal and Small-Scale Miners: Frequently Asked Questions” document](#). The Forum’s experiences reinforce several principles asserted by OECD, including the following example excerpts which will be integrated in the toolkit:

- “Due diligence is an on-going, proactive and reactive process. Information and due diligence systems should be progressively built on and improved over time...
- Identifying, assessing, reporting and mitigating risks can demonstrate and support reasonable and good faith due diligence efforts; constructive engagement with suppliers will enable companies to progressively improve due diligence practices...
- Due diligence is not intended to provide 100% certainty on the conflict-free status of minerals, but rather focus on the processes to identify, prevent and mitigate risk based on available information, and making improvements over time.”⁴

Finding Appropriate Supply Chain Partners in a Conflict Affected or High Risk Area

A common challenge is the identification of an exporter who can pass due diligence in the DRC. Since such a significant percentage of artisanal gold currently flows through illicit channels, many individuals with the necessary experience are likely to have some questionable activity in their past by virtue of the informal nature of

CHALLENGES TO DOWNSTREAM ENGAGEMENT

Although downstream members of the Forum have expressed interest in receiving gold from the pilot sites – via an LBMA Good Delivery refiner – into their supply chains, several logistical and commercial considerations have delayed formal commercial agreements. Challenges have arisen at multiple points in the chain, including:

- Downstream companies have expressed a preference for refiners with whom they are already working, as the transaction costs associated with establishing a new partnership are not feasible for the small volumes to be produced by these pilots.
- Interested refiners will not commit to sourcing without a visit to the site. Neither OECD nor LBMA requires this, so long as a trusted agent is able to conduct the visit as part of due diligence, but participating refiners are currently uncomfortable delegating this responsibility.
- For similar reasons, interested refiners will not commit to sourcing without meeting in-person with the in-region exporter.
- Refiner employees have not been able to undertake trips to the region due to concerns by management about excessive safety risk to personnel due to the current political environment in DRC.

The Forum is currently exploring options to address these challenges, including the possibility of identifying an in-region agent who could support ongoing due diligence on behalf of one or more refineries.

⁴ OECD. 2016. “Sourcing Gold from Artisanal and Small-Scale Miners: Frequently Asked Questions.” https://www.oecd.org/daf/inv/investment-policy/FAQ_Sourcing-Gold-from-ASM-Miners.pdf.

artisanal gold mining and trade in DRC and in some cases, engagement in conflict financing or other illicit activities. Additional work is needed to clarify the kinds of assurances needed for someone with historic ties to illicit networks to be cleared for participation in a responsible supply chain.

Local Engagement in Responsible Sourcing

Building responsible artisanal gold supply chains require not just a list of expectations but engagement and capacity building with miners, traders, exporters, communities, and government.

Government Engagement

Government must serve as a key supporting partner for key responsible sourcing milestones. In the DRC context, designation of artisanal mining zones (*zones d'exploitation artisanale or ZEAs*) and tax regimes play a critical role in enabling responsible artisanal gold production and trade. There have been successes and challenges on both these fronts.

According to DRC law, artisanal miners may only operate in designated ZEAs. There are different interpretations or understandings – and thus a need for clarity – as to whether mineral rights at such sites can *only* be requested and claimed by a legally recognized association. While the Minister of Mines has stated cooperatives are required, this may not be a legal requirement. However, there are indications that this requirement could be formalized in a revised mining code.

Both pilots have experienced significant delays in receiving government approval of the designated artisanal mining zones, with applications receiving quick provincial-level approval and delayed response from the national level for clerical or other reasons. Implementing organizations or supply chain partners require engagement and attention of the national government to these matters, especially in future efforts which are likely to have fewer staff and resources.

Another key area for government engagement is in tax regimes, as a significant differential in taxes and tariffs between different abutting provinces or countries is a major driver for illicit trade. For example, in the DRC, between production taxes, sales taxes (paid by negociants), and export taxes, the total formal tax burden imposed on legal gold can be as high as 16.25%. The sales and production taxes vary significantly across provinces (and across nearby countries), creating a significant incentive to smuggle gold to a more favorable point of taxation.

To address this challenge in the Just Gold pilot, Partnership Africa Canada (PAC):

- **Engaged with government agents** in Ituri and Kinshasa to explore the potential for a test reduction in taxes, which could produce an increase in government revenues through increased adherence.
- Convened a **tax workshop** to bring together local provincial authorities and civil societies and increase awareness on the link between higher tax rates and lower tax revenue, in an effort to create the regulatory conditions required to incentivize legal trade.
- Subsequently commissioned a study on the tax regime in Ituri province, which will be presented to the local authorities with potential options for reform.

Building Cooperative Capacity and Improving Governance

Implementer experience and information from external experts suggest the cooperative structure can be more hierarchical than the name implies, and is frequently governed by a select group of elites who can secure approval of an artisanal mining zone. They may impose or further extend a predatory structure of fees on artisanal miners – who may not even be members of the cooperative – for the privilege on mining

in that zone. This system is breeding resentment among miners, and some are organizing to form associations that can negotiate with the cooperatives to improve equity for miners.

To support capacity building and improved governance of cooperatives, Tetra Tech convened a workshop for several cooperatives, including the cooperative operating at the Matete pilot site, to provide training on key business skills and principles of good governance. The workshop also allow the more advanced and sophisticated cooperatives to mentor the others by sharing their experiences and best practices.

Community Consultations

Community outreach and consultation are critical to make the local community aware of the goals of the project and the potential benefits to the community. Consultations should outline any plans for direct community involvement in the project, including receipt of/advising on community benefit funds. Consultations can support initial dialogue about how such involvement should reflect community structures and values.

Consultations should also help communities to understand the key concerns and principles of due diligence, and the ways in which the community can engage in due diligence and risk identification surrounding the project.

ABOUT THE FORUM

The Responsible Artisanal Gold Solutions Forum is hosted and supported by the Solutions for Hope platform at RESOLVE. Solutions for Hope was established in 2011 to promote responsible sourcing from the GLR, initially focused on tantalum from DRC. Today, Solutions for Hope serves as a platform to convene partners seeking to source responsibly from conflict-affected areas, support responsible sourcing as a means of contributing to development, and build industry and local capacity through shared learning.

The Responsible Artisanal Gold Solutions Forum was convened in 2015, with additional financial support from Apple, Richline, and Signet, with significant in-kind contributions to Forum activities and products from Tetra Tech ARD, Partnership Africa Canada, PAMP, and other Forum members. For a full list of members, please visit the website: <http://solutions-network.org/site-ragsforum/>.