



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

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What is the OECD?

- The Organisation for Economic Co-operation and Development (OECD) is an inter-governmental organisation composed of 34 member countries spanning from North and South America to Europe and the Asia-Pacific region.
- The mission of the Organisation for Economic Co-operation and Development (OECD) is to promote policies that will improve the economic and social well-being of people around the world. Since 1960, its goal continues to be to build a stronger, cleaner, fairer world.
- The OECD provides a forum in which member governments and partner can work together to share experiences and seek solutions to common problems.

Responsible mineral sourcing: a common challenge and shared goals

- Demand driven process: since 2009 the OECD has hosted, together with the ICGLR and the UN GoE on the DRC, a multi-stakeholder process for the development of practical guidance for companies:
 - To help them respect human rights and avoid contributing to conflict through their sourcing practices by setting consensus-based and practical expectations;
 - To enable them source tin, tungsten, tantalum, and gold from conflict and high-risk areas in a manner that contributes to good governance and sustainable development, clarifying the roles and responsibilities across actors at different points in the supply chain;
 - To promote accountability and transparency throughout the supply chain
 - Break the link between mineral trade and conflict while enabling continued market access for legitimate minerals thus avoiding the stigmatisation of commodities or countries of provenance.
 - serve as an enabling framework for win-win partnerships amongst producing, processing and consuming economies.

Inclusive and consensus-based multi-stakeholder process: :

- **OECD, African Countries (ICGLR) and other partners** (Brazil, Colombia, Malaysia , South Africa etc);
- **International Organizations** (e.g. ICGLR, MONUSCO, UN Group of Experts on the DRC, World Bank, EU);
- **Industry and Trade Groups** (e.g. EICC, GeSI, ITRI, T.I.C., Responsible Jewellery Council, World Gold Council, LBMA, etc);
- **Companies** (e.g. Ford, Malaysia Smelting Corporation, AngloGold Ashanti)
- **Civil Society and other experts** (Global Witness, Partnership Africa Canada , Revenue Watch, ENOUGH Project)

Support for the OECD Guidance

- Adopted by 42 OECD and non-OECD countries (such as Colombia and Brazil) that pledged to ensure that companies operating in or from their borders use the Due Diligence Guidance to avoid contributing to conflict and associated human rights abuses.
- Incorporated (Five –Step Due Diligence Framework) in the UNSC Res. 1952/2010. The UNSC further supported taking forward the due diligence guidelines of the UN Group of Experts on the DRC designed to be consistent with the OECD Guidance
- Endorsed by 11 African countries with the ICGLR Lusaka Declaration as a matter of crosscutting relevance and integrated into ICGLR Certification Mechanism . The Lusaka Declaration further calls on companies sourcing minerals from the Great Lakes region to comply with the six tools of the ICGLR and the OECD Guidance.

Key features of the OECD Guidance

- **Nature:** voluntary due diligence recommendations for responsible mineral sourcing : not legally binding or enforceable, but susceptible of being incorporated in binding certification schemes, home and host countries regulatory frameworks and industry initiatives
- **Method:** 5-step risk-based due diligence process
- **Scope:** Applies to all companies throughout the entire mineral supply chain that potentially use 3T and gold from any conflict-affected or high risk areas.

Key features of the OECD Guidance

- **Common set of inter-governmental expectations:** One framework for due diligence expectations throughout the entire mineral supply chain from mines until end users
- **Progressive and flexible approach:** cornerstone principle is the promotion of constructive engagement with suppliers in order to gradually affect changes in their sourcing practices. It emphasizes **process and progressive improvement** over outcomes
- The Guidance was developed in collaboration with industry to be **practical**, and in cooperation with producing countries and civil society and producing countries to **avoid unintended harmful effects**

General overview of the OECD Due Diligence Guidance

Structure: Due Diligence Guidance includes:

1. A 5-step risk-based due diligence framework for all minerals from conflict-affected and high-risk areas (Annex I)
2. A model supply chain policy (Annex II)
3. Principles for risk mitigation (Annex III)
- 4. Supplements on Gold, Tin, Tantalum and Tungsten**

Five Step Risk-Based Due Diligence

1. Establish strong company management systems
2. Identify and assess risks in the supply chain
3. Design and implement a strategy to respond to identified risks
4. Carry out independent third-party audits of refiner's due diligence
5. Report annually on supply chain due diligence

Why due diligence in gold supply chains from conflict areas matters for artisanal and small-scale mining?

- Artisanal miners contribute substantially to the global supply chains of minerals, supplying 50% of tin and 20% of gold.
- The majority of gold produced in conflict areas is mined artisanally. Conflict Area Output in 2009: ~ 8 tonnes (GFMS); 40 tonnes (2009 DRC Gov't estimate in UN Group of Experts on DRC Final report)
- While this may be a fraction of the global mined production of gold, it can have serious impacts with significant revenues generated: market value: \$450m - \$2.2bn

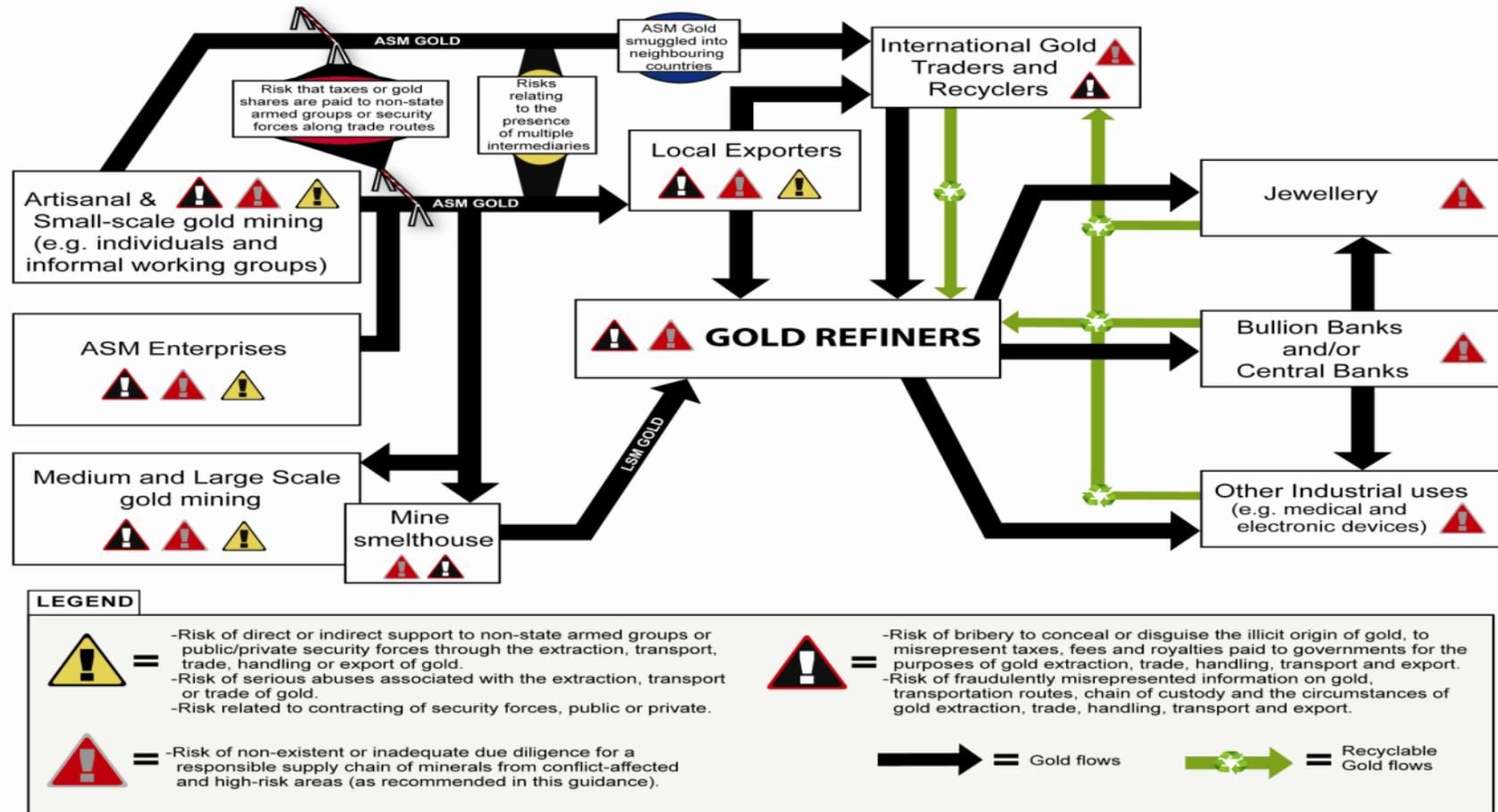
Why is due diligence relevant to artisanal and small-scale mining?

- Exposure to exploitative and abusive practices
- Normative developments: Dodd Frank Section 1502
- Means through which artisanal miners can be brought into a governance framework
- Artisanal mining should in the first instance be treated as an employment and livelihoods issue, including a more open and transparent role for artisanal miners and a more productive relationship for them both with the authorities and with the mining companies.

Approach to ASM in the OECD Guidance

The Guidance assumes that legitimate ASM has a key role to play to drive sector-wide change and focuses on means to create market based opportunities for value-creation. The Appendix to the Gold Supplement to the OECD Due Diligence Guidance offers an agreed roadmap to enable market access through collaborative efforts of all actors involved and to create economically viable development opportunities for artisanal and small-scale miners.

Risks in the supply chain of gold from conflict areas



Due diligence on gold produced by artisanal and small-scale miners

- Risk assessment for ASM gold is more flexible: retrospectively (i.e. “top-down”) tracing ASM gold is impractical and sometimes impossible
- Companies that source ASM gold however are expected to “assist and enable Legitimate Artisanal and Small-Scale Mining producers to build secure, transparent and verifiable gold supply chains”:
Creates a “bottom-up” flow of information
- Detailed Appendix on how to create economic and development opportunities for artisanal miners.
- All stakeholders encouraged to use the suggested measures in the Appendix

“*Legitimate Artisanal and Small-Scale Mining*”

- Legitimate refers, *among others*, to artisanal and small scale mining that is consistent with applicable laws.
- When the applicable legal framework is not enforced, or in the absence of such a framework, the assessment of the legitimacy of artisanal and small scale mining will take into account the good faith efforts of artisanal and small-scale miners and enterprises to operate within the applicable legal framework (where it exists) as well as their engagement in opportunities for formalisation as they become available (bearing in mind that in most cases, artisanal and small scale miners have very limited or no capacity, technical ability or sufficient financial resources to do so).

***“Legitimate Artisanal and Small-Scale Mining”* (cont’d)**

- In either case, artisanal and small scale mining, *as with all mining*, cannot be considered legitimate when it contributes to conflict and serious abuses associated with the extraction, transport or trade of minerals as defined in Annex II of the Guidance.

Roadmap on ASM

- The Guidance and its Appendix aims to minimise the risk of marginalisation of the artisanal and small-scale mining sector, particularly the victims of extortion, while promoting conflict-free gold supply chains, thereby creating economic and development opportunities for artisanal and small-scale miners. The Guidance proposes measures to build secure, transparent and verifiable gold supply chains from mine to market and enable due diligence for legitimate ASM Gold to achieve these objectives, including through formalisation and legalisation efforts.
- Governments, international organisations, donors, companies in the supply chain, and civil society organisations may consider the opportunity to explore collaborative ways to make use of these suggested options or other complementary approaches as they deem appropriate in accordance with national laws and policies.

How?

ASM Appendix to the Supplement on Gold of the OECD Due Diligence Guidance recommends should be explored towards:

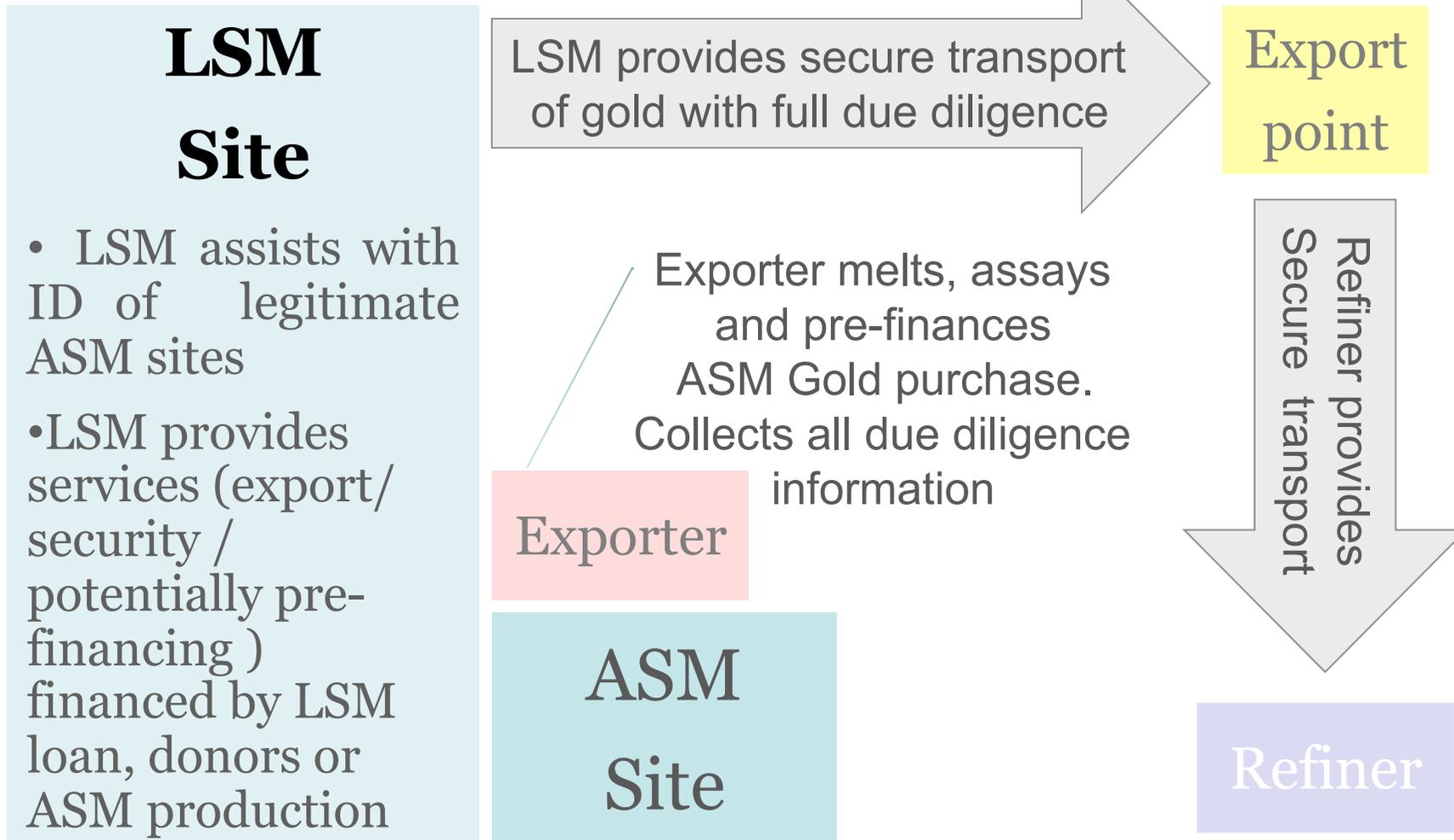
- 1. Legalisation/formalisation of ASM. As an example in DRC, ASM is only legal in special zones: those need to be selected and demarcated as economically and socially viable.
- 2. Assessing mine sites and trading routes through multi-stakeholder commissions should solicit updated information through their on-the-ground networks on the conditions at mine sites, transportation routes and points where minerals are traded. Information should be stored in a central clearinghouse.
- Establish traceability and/or chain of custody systems
- 3. Promoting sustainable livelihoods in ASM communities. ASM should be treated differently whether it is a secular activity well accepted in communities or an opportunistic business fuelling tensions or conflicts. Bottom-up, holistic approaches need to be developed to promote sustainable, sometimes alternative, livelihoods.

Roadmap: LSM/ASM

Finding workable and tailored solutions for peaceful coexistence of ASM and large-scale mining:

In the short term large-scale mining companies would be expected to pool resources to set up a fund to pre-finance the purchasing of gold by refiners/end users. The fund would receive any balance after final payments made by refiners. Over time ASM entities build their own liquidity. Large-scale mining companies would provide export services (if needed), security and transport from verified sources. ASM gold would be segregated until it reaches the refiner.

GOLD FOR PEACE: e.g. ASM-LSM Model



“GOLD FOR PEACE/COUNTRY -SPECIFIC PROJECTS”

Towards conflict-free supply chains

- **Objective:** Facilitate building supply chains that enable market access, contributes to development and security in order to help transition away from conflict and supports co-existence of ASM and LSM
- Multi-stakeholder “Gold for Peace Champions Forum” hosted by the OECD : responsible retailers, international traders, refiners, local exporters and producers (both LASM and ASM) participating in the “Gold for Peace” Programme conduct due diligence consistent with the Supplement on Gold with the support of host governments (e.g. ICGLR, Colombia etc), international organisations and civil society (ARM, Solidaridad) or existing partnerships (PPA for Responsible Mineral Trade).
- *For artisanal and small-scale mined gold*, “Gold for Peace” would operationalise Appendix 1 of the Gold Supplement: context specific and tailored initiatives supported by the World

“Gold for Peace” and CASM-SI

- **Fill ASM gap for on-the-ground implementation:** CASM-SI adopts the OECD Supplement on Gold and its Appendix as the common reference to operationalise on-the-ground Gold for Peace ASM supply chains established through the OECD-hosted “Gold for Peace Champions Forum”.
- **Enable access to capital:** (i) CASM-SI may set up, where necessary, a fund to pre-finance gold extraction and trade of legitimate ASM gold (ii) CASM-SI may provide financial support for the assessment of selected ASM mine sites , transportation routes, points where minerals are traded according to OECD due diligence /ICGLR certification standards
- **Scale and impact:** CASM-SI takes solutions to scale and monitors on-the-ground impact and builds on “Gold for Peace” to address multiple issues simultaneously (e.g. child labour, health -- use of mercury --gender-based violence) with a road-map setting clear objectives and priorities.

Thank you!

For further information on this project and
to download the Due Diligence Guidance:

www.oecd.org/daf/investment/mining