

Public-Private Alliance for Responsible Minerals Trade

Supporting In-region Alignment

1 May, 2017

Marriott Renaissance Trocadero
Paris, France

FACILITATOR'S SUMMARY

Meeting Background and Objectives

The Public-Private Alliance for Responsible Minerals Trade (PPA) is a group of companies, civil society groups, and governments that joined together with the goal of developing and improving conflict-free mineral supply chains in the Great Lakes Region (GLR) of Africa. PPA objectives call for engagement and coordination of in-region stakeholders to identify gaps and solutions to advance this goal.

PPA Participants have a mutual interest in advancing alignment of systems in support of conflict-free mineral supply chains from the GLR. As such, the role of the PPA in this meeting will be as a convener and to encourage information-sharing, dialogue, and coordinated action by those implementing systems.

For the purposes of this meeting, “alignment” refers to OECD due diligence guidance, the ICGLR Regional Certification Mechanism (RCM) framework and standards, relevant national laws (currently, those of Member States, the U.S. Securities and Exchange Commission regulation, and European Union regulations), and market acceptance considerations (i.e., what systems need to achieve and document for minerals to be seen as acceptable by smelters and downstream companies).

On 1 May, 2017, the PPA Governance Committee convened the ninth Alignment Session to share information, answer questions, and document progress and challenges on alignment, in particular the following issues:

- Identifying potential gaps and opportunities – in an evolving regulatory environment – to sustain progress in implementation of the Regional Certification Mechanism (RCM) in an evolving regulatory environment;
- Opportunities to collaborate and strengthen the implementation, alignment, and credibility of the RCM.
- Opportunities to enhance sharing of due diligence data and other information between upstream and downstream actors
- Key barriers and potential policies, practices and other solutions to support legal artisanal mining within national and regional requirements and frameworks

Purpose of this Document

This facilitator’s summary was prepared to help document next steps for further action and discussion to address challenges and support continued progress in implementation of the Regional Certification Mechanism (RCM). Participants were given an opportunity to review next steps at the conclusion of the meeting, and this full document by email.

Summary of Updates, Challenges, Considerations, and Next Steps

The participants of the 1 May, 2017 Alignment Session (see attached list of participants) held a productive discussion and reaffirmed their commitment to work individually and jointly to address challenges and support successful implementation of the RCM. Many other potential next steps and contributions are possible, including by civil society, industry, and other stakeholders and implementers; this list is not intended to be comprehensive. This summary represents updates, considerations, challenges, and ideas raised by participants at the Alignment Session for making progress on implementing the RCM.

Opportunities for Alignment in Key Messages and Communications

Discussions highlighted several messages that would be valuable for the tripartite set of meeting participants to communicate in their networks, including the following:

- The critical need for in-region governments to ensure personal security, prevent harassment of, and acknowledge and protect the role of civil society in the region;
- The central nature of progressive improvement as a core principle of due diligence; that is, robust and consistent incident identification, resolution, and reporting are signs that due diligence is working rather than a system failure. Non-incident information can also be collected to allow stakeholders to measure the impact of due diligence on community outcomes and local economic development. Information-sharing and incident identification by upstream and downstream supply chain actors and other stakeholders, incident resolution, and reporting should be encouraged.
- The OECD encourages corporate use of independent monitoring and reporting from civil society or other independent reporting in the process of due diligence; and
- Even in the potential absence of Dodd-Frank Section 1502 or other regulations, companies can responsibly source from the region by utilizing and adhering to the OECD Due Diligence Guidance.

RCM Implementation in an Evolving Regulatory Landscape

The past several years have seen significant progress toward responsible minerals trade in the Great Lakes Region, and participants remain committed to preserving progress and momentum. Within the region, implementation of the RCM and national regulatory frameworks codifying ICGLR requirements will remain in place. Positive international policy developments – such as the development of the CCCMC Guidelines which align with OECD Guidance – were noted. Yet the potential repeal/revision of Dodd-Frank 1502 and the details of forthcoming EU regulations may create uncertainty or pose concerns about the following:

- Reduced leverage in some parts of the supply chain to require reporting, if international reporting requirements are reduced or repealed;
- Confusion among miners and traders about what standards and practices are required by the different international markets receiving materials (although participants confirmed that OECD is the basis for regional and national regulatory frameworks and practices); and
- Perception of a potentially reduced incentive for RCM engagement and compliance by the upstream supply chain.

Abrupt changes are particularly likely to cause disruption and unintended negative consequences. Additionally, non-regulatory messages – such as expectations of socially responsible investors, civil society encouraging continued sourcing in observance of OECD due diligence principles, and

education/guidance by industry organizations such as CFSI – are helpful backstops that should be deployed.

Participants agreed that new and revised policies and systems should seek alignment with and emphasize OECD Due Diligence Guidance and harmonization with the RCM, as has been the practice with existing regulatory frameworks and due diligence systems.

Participants were encouraged to share perspectives with U.S. Department of State via email (conflictminerals@state.gov) and to offer comments to the U.S. Security and Exchanges Commission regarding views on Dodd-Frank, its enforcement, or broader advice on U.S. policy regarding responsible minerals sourcing.

Cost, Cost-Sharing, and Practicality of Due Diligence and RCM Implementation

Several reports, reviews, and anecdotes indicate that the RCM as currently implemented can be unwieldy and costly to implement. Participants reiterated the importance of due diligence and advised both the RCM and complementary systems to find opportunities to offer a value proposition to users – such as through data to identify and eliminate illegal taxation, or other efficiencies such as removing supply chain transactions and costs that do not add value. Due diligence and traceability services that can provide information directly relevant to individual company’s supply chains is particularly valuable.

Participants also discussed distribution of due diligence costs among upstream and downstream supply chain participants. Participants highlighted the need to identify efficiencies that could reduce overall costs (such as through the RCM review – see below), as well as to understand where and how to maximize the value of due diligence along the supply chain. Upstream seeks transparency and equitability in distribution of due diligence costs, as well as expectations consistent with sources in other regions. Supply chain actors upstream and downstream also seek an “even playing field” (i.e., equivalent price) across regions. Although industry may be able to make early contributions to establish systems, the systems must be designed to normalize and sustain operations within typical market dynamics; higher cost associated with a particular region – without commensurate value – may make it less competitive. An important consideration and opportunity is to design due diligence processes to integrate additional value for the downstream market, such as in data collection to help measure end-user’s supply chain footprint.

RCM Review and Alignment with Other Systems

The ICGLR Secretariat is planning a review and stakeholder consultation on the RCM to explore opportunities for streamlining processes, and improve cost-effectiveness while maintaining the critical elements and credibility required by downstream markets. This review provides an opportunity to drive further alignment of, efficiencies in, and access to new and existing diligence systems. A process to revise the RCM Manual is expected to begin after September 2017, with a stakeholder engagement period to follow (specific schedule to be determined, contingent on funding).

A few country-specific challenges in RCM implementation were noted, such as the lack of a chain of custody systems in Uganda.

Upstream/Downstream Due Diligence Data Sharing

OECD DDG encourages companies to include information from non-supply chain partners in its due diligence. NGO reports and data can be a resource to validate and further understand information reported by partners.

Currently, it is challenging for downstream to get to specific actors upstream of the smelter. ICGLR Audit Committee findings also indicate that very little information exists about traders between exporter and smelter; this may be an area for further information-gathering by CFSI.

In the future, a common information-sharing platform of accessible information would be very valuable. Participants noted that there are already many existing information sources, however. There is a significant opportunity to increase information sharing and communication between upstream and downstream and independent actors. For example, NGO monitoring and reporting could be conducted and communicated in such a way that it could be an input to upstream and downstream due diligence.

Participants identified tools and models to promote due diligence and information-sharing between upstream and downstream; these are existing or in development:

- iTSCi incident overview (for example) to look at trends over time, identify challenging issues to be addressed collaboratively (e.g., stocks) (circulated in advance of this meeting and linked [here](#))
- iTSCi local/provincial/national committee reporting (available on iTSCi website)
- Ministerial arrêtés available on GDRC website
- CFSI Grievance Mechanism
- BSP Dashboards ([DRC](#) | [Rwanda](#)), supply chain/shipment dashboards; and in the future, community reporting element
- COSOC/PAC independent due diligence monitoring and reporting templates for civil society
- iTSCi member 2015 Step 5 reports posted to website (2016 coming soon) Rwanda Natural Resources Authority reports on mine management, inspection data, licensing information, 3rd party audit results for exporters (Mirko to provide specific details)
- BGR bulletins, audit results, and arrêtés related to validation missions in DRC are available (Uwe to provide links.)

Additional potential and forthcoming data resources were identified, including the following:

- The ICGLR database to provide, among other points, information on mine sites' and exporters' statuses (green, yellow, or red), following mine site inspections and third party audits; after the Regional Committee approves a key considerations report, and general design in July, technical development will commence.
- The ICGLR could increasingly share information such as the outcomes of the Audit Committee's work.
- The OECD also announced a forthcoming due diligence database, which could serve as a repository for information shared in these and other fora. The database is currently in design, and the methodology is expected to be consulted with stakeholders later this year.
- The Government Ownership Mineral Traceability Data (GoMTD) database currently in development by IOM and BSP with USAID funding in Rwanda using GeoTraceability, may be a model for collecting due diligence information at the trader and exporter level, and enabling "live access" to data by relevant government agencies, including to improve the credibility and international acceptance of ICGLR certificates.
- UN Group of Experts reports

- Reports from the office of the Independent Mineral Chain Auditor

To support continued improvement in reporting (and thus publicly available information) and due diligence information, the following resources were suggested on reporting guidance and practices:

- CFSI has updated its guidance on Dodd-Frank/SEC disclosures in a recent white paper ([linked here](#))
- Global Witness will share a forthcoming report analyzing 2015 Step 5 reports from companies sourcing 3Ts from the Great Lakes Region. The report notes that 2015 reports offer significantly more information than those from 2010, and offers suggestions for further improvements, e.g., additional companies reporting, more information on Steps 3-5, etc. (Sophia to circulate.)
- CFSI will share guidance and recommendations on what should be included in Step 5 reporting, and can also circulate examples of such reporting that it has found most robust.
- The EU plans to develop guidance for small and medium enterprises.

Protecting Civil Society

Over the course of the day, several participants noted specific incidents as well as concerning trends with regard to protecting the space of civil society to support responsible minerals trade. Arrests, threats, and physical harm to NGOs has been observed, as have efforts by provincial or national governments within the GLR to reduce civil society access to information or role in the RCM. Global Witness will be publishing a report on this, and all are encouraged to consider how to maintain and protect civil society as an important pillar of states as well as a means of supporting the function and credibility of the RCM. As noted above, partners are encouraged to consider how to reinforce this message in their respective work.

Unique and Persistent Challenges in Gold Sector

Participants highlighted several unique challenges related to enabling responsible minerals gold in the region and in specific national contexts, including the following:

- Its role as a global form of currency
- Artisanal gold miners and traders are receiving comparatively high rates in relation to world market price, which means there is a relatively very small margin after the first sale. Small profit margins leave little room to create incentives for due diligence and responsible trade practices.
- A few downstream actors have shown great support, but gold lacks the coherent and bold voice experienced in 3Ts pushing for due diligence.
- A challenging legal framework has resulted in significant trouble establishing artisanal mining zones.
- Export certificate or other fees, when fixed rather than scaled to volumes, can encourage aggregation of gold from multiple sources (including validated and non-validated sources).

Further, several indicators in the region suggest that the macro-environment may be worsening, such as the following:

- Despite an increased number of ZEAs in S. Kivu, gold exports have significantly decreased, while purported production rates in Rwanda and Uganda have increased.
- There are several red flags present to suggest money laundering (tax havens, mines in prohibited areas, numerous large cash transactions). These issues need to be raised by banks and refiners doing business in the region.

A white paper by ICGLR in 2016 highlighted four points of intervention that should be further explored as opportunities to address flow of gold smuggling: 1) taxation levels and differentials among member states; 2) control mechanisms at airports; 3) involvement of the banking systems in the region; 4) incentive policies for the artisanal gold miners to legalize and formalize their operations.

Misalignment of Policy Goals and Incentives in the Artisanal Gold Sector

Implementation of the RCM in member states should seek to align core policy goals and incentives or disincentives for those engaged in minerals trade. Participants highlighted several misalignments between policy goals and incentives in the artisanal gold sector:

- Charging a fixed price (regardless of volume) for an export fee or certificate encourages mixing of multiple sources – undermining traceability.
- Tax percentages drop significantly for those exporting more than 7 kg of gold, again encouraging mixing of sources.
- Traders make more money by buying smaller quantities due to discrepancies in the weight system for measuring quantities under 1 gram which favor the buyer.
- Lack of tax harmonization within countries and within the region incentivizes smuggling.
- The small volumes inherent to artisanal gold production – and the lack of fully legal producers at present – have made it very difficult to find an OECD-conformant exporter who is able to commit to source only from legal, conformant producers or even a single source. Until sufficient volumes can be produced, such a commitment would not allow for a sustainable business.

Resources and Tools Relating to Artisanal Gold

Several references, tools, and other resources relating to artisanal gold were highlighted:

- The ICGLR white paper
- Responsible Artisanal Gold Solutions Forum products
- Year 1 Lessons Learned (circulated prior to this meeting and attached)
- A forthcoming due diligence toolkit, developed by Partnership Africa Canada, Tetra Tech (with support from BSP), PAMP, and RESOLVE

SUMMARY OF COMMITMENTS AND DOCUMENTS TO BE SHARED

All participants are asked to send documents by Friday, 16 June and other information as soon as practical to PPA Facilitators Jennifer Peyser and Taylor Kennedy, RESOLVE (jpeyser@resolv.org; tkennedy@resolv.org) for distribution to and follow-up with alignment participants. Materials provided at the time of this summary are linked below; these and any new materials will be posted on the PPA [website](#).

BGR:

- Mirko to provide links to reports on mine management, inspection data, licensing information, 3rd party audit results for exporters from Rwanda Natural Resources Authority
- Uwe to provide links to BGR bulletins, audit results, and arrêtés related to validation missions in DRC.

BSP:

- Benjamin to provide links to BSP dashboards for [DRC](#) and [Rwanda](#).

CFSI:

- Updated [guidance on Dodd-Frank/SEC disclosures](#) in a recent white paper
- Leah to share [CFSI guidance and recommendations](#) on what should be included in Step 5 reporting, and can also circulate [examples of such reporting](#) that it has found most robust.
- Leah to share CFSI/EPRM [graphic on supply chain initiatives](#)

Global Witness:

- Sophia to circulate forthcoming report analyzing 2015 Step 5 reports from companies sourcing 3Ts from the Great Lakes Region.
- Sophia to circulate forthcoming report on threats to civil society ([English](#) | [French](#))

ICGLR:

- Draft revision of the revised RCM Certification Manual (expected to start process in September 2017). This process will include stakeholder consultation; participants expressed interest in receiving updates on this process when possible and noted it as an opportunity to address alignment issues with complementary regional due diligence systems.
- For the future, consider how to more broadly communicate outcomes of the Audit Committee.

iTSCi:

- 2015 Step 5 reports posted to website (2016 coming soon)
- An overview of a systemic review of 2011-2016 incidents – including incident type, reporting, mitigation, and follow-up (circulated in advance of this meeting and linked [here](#))
- Local/provincial/national committee reports (available on the website)

OECD

- Keep PPA and partners updated on progress of work on due diligence impacts (beginning with methodology)

RESOLVE:

- Responsible Artisanal Gold Solutions Forum Year 1 Lessons Learned (circulated prior to this meeting and linked [here](#))
- A forthcoming due diligence toolkit from the Responsible Artisanal Gold Solutions Forum, developed by Partnership Africa Canada, Tetra Tech (with support from BSP), PAMP, and RESOLVE