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**PUBLIC-PRIVATE ALLIANCE FOR RESPONSIBLE MINERALS TRADE**

**MEMORANDUM OF UNDERSTANDING**

**United States Department of State  
and  
United States Agency for International Development  
and  
United States Department of Labor**

**and  
Supply Chain Entities and Industry Associations Using Minerals Sourced from the Great  
Lakes Region (listed below; “Supply Chain Entities”)  
and  
Organizations Implementing Mining Validation and Development Programs in the Great  
Lakes Region (listed below; “Implementing Organizations”)  
and  
Other Organizations Engaged in Promoting Conflict-Free Minerals in the Great Lakes  
Region (listed below; “Other Organizations”)  
with  
a Facilitator**

## I. Purpose

The United States Department of State, United States Agency for International Development, and United States Department of Labor (hereinafter referred to as USDOS, USAID, and USDOL, respectively, and, individually, a “U.S. Government Agency” and, collectively, the “U.S. Government Agencies”), Supply Chain Entities in the Great Lakes Region (“GLR”) minerals value chain (“Supply Chain Entities”), Organizations Implementing Mining Validation and Development Programs in the GLR (“Implementing Organizations”), Other Organizations Engaged in Promoting Conflict-Free Minerals in the GLR (“Other Organizations”), with a Facilitator (the “Facilitator”) among them (hereinafter referred to individually as a “Participant” and collectively as “Participants” or the “Alliance”) have a common interest in continuing the cooperation that began under the previous Public-Private Alliance for Responsible Minerals Trade Memorandum of Understanding, which was signed 2012 MOU (“2012 MOU”) and in promoting the development of fully traced and validated mineral supply chain routes, with priority to tin, tantalum, tungsten, and gold, from the Democratic Republic of the Congo (“DRC”) in particular, and the GLR overall. Participation in this Alliance provides the U.S. Government Agency partners the opportunity to collaborate with officials from the GLR, industry leaders, and other experts on U.S. government interests in the area.

The Participants in this Memorandum of Understanding (“2017 MOU”) seek to provide technical assistance, expertise, and to support the development, piloting, and implementation of systems in the DRC and GLR and related labor issues and working conditions to provide a validated mineral supply chain that is acceptable to upstream and downstream actors and end-users in a manner that is compliant with the Organisation for Economic Cooperation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (the “OECD Due Diligence Guidance”). The Participants who will be establishing pilot supply chains affirm that they intend to draw upon the guidance issued by the OECD for defining “conflict-free”.

The purpose of this 2017 MOU is to continue and expand cooperation of the Alliance under the 2012 MOU among U.S. Government Agencies, Supply Chain Entities, Implementing Organizations, and Other Organizations, with a Facilitator, to further the goals set forth below, and to outline the understandings and intentions with regard to these goals.

The Participants share the following goals:

- To provide technical assistance, expertise, and to support the development of supply chain systems and related labor issues and working conditions that enable Supply Chain Entities to source minerals that are validated, certified, and traced to mines that are conflict-free, monitored, and audited using agreed-upon standards and mechanisms, and that lead to scalable, responsible, self-sustaining minerals trade in the GLR.
- To provide a mechanism for appropriate communication and collaboration in developing common positions vis-à-vis all supply chain initiatives, to help ensure

that developing systems are harmonized in scope and activity and can be relied on by all Participants.

- To consider additional activities which support the vision of conflict-free minerals extraction and trade in the GLR, upon consensus of the Participants.

As appropriate to each Participant's interest and expertise, participants intend to collaborate to develop a work plan to prioritize activities to achieve the following objectives of this 2017 MOU:

1. To contribute to, harmonize, and concentrate efforts by the International Conference of the Great Lakes Region ("ICGLR"), OECD, the UN Group of Experts, the Governments of the DRC, Uganda, Angola, Congo, Central African Republic, South Sudan, Zambia, Tanzania, Burundi, and Rwanda, PROMINES (Growth with Governance in the Minerals Sector): a technical project of the World Bank that is co-funded by DFID, to work with the DRC government to restructure the Congolese mining sector, German Federal Institute for Geosciences and Natural Resources (BGR), ITRI Tin Supply Chain Initiative (iTSCi), Better Sourcing Program, and others to develop, on a pilot basis, validated, certified and traceable mines, supply chain routes, labor issues and working conditions that are consistent with OECD standards/guidelines, to be audited using shared standards and mechanisms, for gold, tin, tantalum, and tungsten (with consideration to include other minerals by Participants) mined and supplied by the DRC, Rwanda, and other GLR countries, and to support ongoing monitoring efforts to identify and address risks.
2. Facilitator and Supply Chain Entities intend to decide on a mechanism to solicit and distribute funding and in-kind resources from Supply Chain Entities to support objective #1 above. U.S. Government Agencies will not have involvement in this aspect of the Alliance.
3. To develop and maintain a website that becomes a key resource for companies seeking to comply with reporting requirements mandated by section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and that serves as a centralized web-based platform and information resource on the key elements of traceability, due diligence, and validation programs to help achieve Alliance goals.
4. To convene meetings and calls on a regular basis to facilitate necessary and critical review of in-region conflict free sourcing programs (focused on mine to point of export or otherwise prior to processing) to ensure appropriate coordination by Participants and multiple stakeholders on other initiatives related to conflict-free supply chains and due diligence.
5. To encourage the participation in the work of the Alliance by additional stakeholders, potentially as Participants under the 2017 MOU, including other governments, multilateral institutions, companies, and international and regional implementing and civil society organizations.

## **II. Background**

Supply chain best practice is to establish due diligence processes aligned with guidance issued and/or endorsed by the OECD, United Nations Guiding Principles on Business and Human Rights and the ICGLR and has in place auditing and monitoring mechanisms that can be used by

downstream users to manage the risk of conflict minerals from entering the supply chain. Moreover, a supply chain that meets regionally and internationally accepted criteria can *help stabilize the DRC economy by reducing funding to destabilizing elements and facilitate a sustainable route to market for responsible upstream producers in the GLR.*

The implementation of validation, certification, traceability, monitoring and due diligence schemes for minerals sourced from the GLR should be consistent with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. Implementation should reflect the continued recognition by and engagement of in-country, regional, and international actors of the importance of ensuring that the region's minerals trade does not cause or contribute to conflict, child labor, forced labor, human trafficking, or other labor abuses. To date, traceability and due diligence initiatives have focused on establishing a verifiable chain of custody using a tagging and tracking, risk assessment and audit system to provide assurance that minerals move through the GLR supply chains in a manner that can be monitored or traced, and ongoing monitoring of risks and incidents, from conflict-free mine to export. Validation initiatives are a subset of certification initiatives that seek to minimize the risk that mining and minerals transportation will support conflict or human rights abuses and sets a path toward improved labor, environmental, and safety standards at the mine. In addition, a number of schemes are currently designed and implemented to address a wide variety of substantive and logistical issues regarding supply chain routes.

USDOL experience has shown a close correlation between the mining of minerals in conflict zones and violation of labor rights, including labor trafficking, forced labor and child labor. In its congressionally mandated child and forced labor reports, USDOL provides evidence that children in the DRC are engaged in child labor in cobalt, copper, and diamonds; and they are also victims of forced labor in the production of gold, tantalum, tin, and tungsten.<sup>1</sup> USDOL has funded projects to combat child labor in mining in the DRC and Africa.<sup>2</sup> Collaboration with stakeholders across the supply chain will bring added exposure to the problem of child labor and other labor violations in the conflict mining sector, and find meaningful ways to address them.

### **III. Participant Roles, Responsibilities and Notices**

The Participants endeavor to share their respective expertise and resources (including human, in-kind, and monetary) in order to achieve these goals. The amount of resources that a Participant may share is to be determined solely by that Participant.

The following subsections identify expected roles and responsibilities for each set of Participants. It is understood that the expected activities and commitments are made subject to the availability of funding and resources for such purposes.

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<sup>1</sup> See DOL's Findings on the Worst Forms of Child Labor, List of Goods Produced by Child Labor or Forced Labor, and List of Products Produced by Forced or Indentured Child Labor (<https://www.dol.gov/ilab/reports/>).

<sup>2</sup> See <https://www.dol.gov/ilab/projects/>

## **1. U.S. Government Agencies**

Under this 2017 MOU, it is expected that, subject to the availability of funds and consistent with each agency's mission and authorities, the role of U.S. Government Agencies is to:

- Support training, technical support and other assistance that supports the goals and objectives of the agencies as they relate to this 2017 MOU. An agency may, at its discretion, provide parallel funding for these purposes. USDOL intends to provide technical assistance and expertise only in the labor-related areas where it has expertise, including child labor, forced labor, and working conditions. It also intends to promote information-sharing and best practices to address these labor issues.
- Work with Implementing Organizations in close coordination with U.S. Embassies and USAID Missions in the GLR as well as relevant international organizations.
- Provide updates on the current political and security situation in eastern DRC.
- Engage diplomatically and technically in other international efforts in order to ensure cohesion.
- Maintain relations with necessary government counterparts in order to advance the overall regulatory environment.
- Share information and best practices to address child labor, forced labor, human trafficking, working conditions, and other labor issues that promote responsible trade of minerals and validated mineral supply chains.

All notices to U.S. Government Agencies should be sent to the Agency Point of Contact on file with the Facilitator, provided upon request.

U.S. Government Agencies intend to participate in this MOU only to the extent consistent with their respective missions and pursuant to applicable authorities. USDOL will have no involvement in the soliciting, directing, distributing, issuing, or any other funding activities or activities related to establishment and use of the fund described herein.

## **2. Supply Chain Entities**

### *Role of Supply Chain Entities:*

Under this 2017 MOU, it is expected that the role of Supply Chain Entities is to:

- Provide funding for use by the Alliance through the duration of this 2017 MOU. Initial, one-time contributions from such Participants are expected to be \$25,000 for companies, audit/certification programs and initiatives, and \$125,000 for industry associations, although any such Participants may determine to contribute in excess of these contribution amounts. Although the foregoing contributions are expected to be provided by each Supply Chain Entity as an initial, one-time contribution, if necessary, each Supply Chain Entity may provide such contributions in installments over an extended period of up to two years. Contributions above the suggested minimum and additional contributions are at the sole discretion of each Participant. The intent of this fund created by contributions from Supply Chain Entities is to

pool funding through the Facilitator to fund Implementing Organizations, subject to the Governance principles and process detailed in Section IV(1).

- Facilitate communication among stakeholders, especially between upstream validation and traceability implementers and downstream buyers and end-users to ensure that due diligence needs of end-users are integrated into the implementation of conflict-free systems.
- Support systems that have traced and validated conflict-free minerals through the conflict-free processing programs that enable sourcing minerals from the GLR in a manner consistent with OECD guidelines.

All notices to Supply Chain Entities should be sent to the Points of Contact representing their respective organizations on file with the Facilitator, provided upon request.

### **3. Implementing Organizations**

*Role of Implementing Organizations:*

Under this 2017 MOU, it is expected that the role of Implementing Organizations is to:

- Support and implement, using funding as outlined in Paragraph 2 and other supplemental funding, as appropriate, the upstream traceability, due diligence, certification, validation, and auditing systems in and from the DRC and the GLR identified by the Alliance.
- Coordinate in-region programming with guidance from the Alliance.
- Undertake management of and accountability for programmatic funding.
- Develop capacity of local civil society and government agencies necessary to ensure achievement of Alliance goals.
- Conduct oversight and quality-control of programs associated with this 2017 MOU, including monitoring and reporting on programmatic milestones.

All notices to Implementing Organizations should be sent to the Points of Contact representing their respective organizations on file with the Facilitator, provided upon request.

### **4. Other Organizations**

*Role of Other Organizations:*

Under this 2017 MOU, it is expected that the role of Other Organizations is to:

- Provide input and advice to the Alliance concerning the current political, economic, security, and on-the-ground realities in the DRC and GLR.
- Participate in Alliance meetings to review implementation and evaluate progress toward reaching Alliance goals, including contributing to decision-making, design of the work plan, and providing and analyzing input from local communities to ensure projects are addressing their needs and not causing undue harm.

All notices to Other Organizations should be sent to the Points of Contact representing their respective organizations on file with the Facilitator, provided upon request.

## **5. Facilitator**

### *Role of Facilitator:*

Under this 2017 MOU, it is expected that the role of the Facilitator is to:

- Provide services necessary to support, coordinate, and lead Alliance planning, decision-making, implementation, contracting, and reporting on each of the objectives of this 2017 MOU.
- Serve as a funding pooler and coordinator for resources provided by Supply Chain Entities to support the work of the Alliance and, if necessary and appropriate, to provide the same service for other stakeholders. The Facilitator will not be a U.S Government Agency. U.S. Government Agencies will have no involvement with this aspect of the Facilitator's role.

All notices to Facilitator should be sent to the Point of Contact identified by the Facilitator, which the Facilitator will provide to all Participants.

## **IV. Implementation**

### **1. Governance**

The Participants intend to collaborate, according to the roles described in Section III, to ensure that the identified goals and activities of the Alliance are being implemented and advanced.

Participants intend to identify specific structures and processes for decision-making on individual issues related to the 2017 MOU and to develop protocols to memorialize such structures, processes, and definitions of roles and responsibilities of Participants.

Regarding allocation of funding provided by Supply Chain Entities, USDOS, USAID and Supply Chain Entities intend to collaborate with Other Organizations on the identification and evaluation of activities and Implementing Organizations. Each Participant involved in funding activities under this Alliance is solely responsible and accountable for its final decision-making regarding distribution of funding it has provided through any parallel funding stream outside of contributions to the Alliance. Any Participant may be limited with respect to participation in the evaluation of funding allocations for Implementing Organizations individually, and with respect to funding allocations overall, to avoid conflicts of interest.

As the need arises, Participants intend to review and evaluate expressions of interest from additional U.S. and other government agencies, supply chain entities, implementing organizations, and other organizations who wish to become Participants. Participants intend to follow the developed protocol with respect to the admission of additional Participants to this 2017 MOU. Further, as needed, the Participants may choose to request sub-groups to oversee specific implementation of the objectives, e.g., to oversee the website, to review

validation, due diligence, and traceability efforts, and to manage the communication activities.

Participants intend to collaboratively make decisions regarding the following issues:

- Assessment of performance, including evaluation criteria and review of monitoring and evaluation reports, with respect to the activities undertaken pursuant to this 2017 MOU.
- Assuring that transparent and adequate disclosure of financial and programmatic information is provided to key stakeholders and the public with respect to the activities undertaken pursuant to this 2017 MOU.

At the request of other Participants, Implementing Organizations should participate in performance assessments of their own work for the purpose of appropriate information sharing. However, final assessments and reporting is to be limited to Participants who were not responsible for the activity under review.

## **2. Funding**

Each Participant's funding to any projects under this 2017 MOU is subject to the availability of their funding and relevant internal approval processes of such Participants.

Supply Chain Entities may provide their own parallel funding (above the minimum contribution provided in Section III (2) to the Facilitator) or, if circumstances necessitate, directly to an Implementing Organization to implement approved Alliance activities. The funding should be distributed according to the decisions by the Participant that provided the funding, in consultation with other Participants, and subject to the Governance principles and process detailed in Section IV(1).

Any Participant that provided funding under the 2012 MOU and that signs this 2017 MOU understands that, once this 2017 MOU becomes operative, its terms apply to such 2012 MOU-provided funding.

## **3. Audits**

The Participants decide when and how audits of the activities of the Alliance itself are needed. It is intended that Implementing Organizations implementing activities of the Alliance will be audited in accordance with the terms and conditions of the relevant contract, grant or other agreement.

## **4. Communications**

To promote transparency, the Participants intend to collaborate in the development of outreach and informational materials regarding the programs undertaken pursuant to this 2017 MOU for external audiences according to the established specific protocol for this purpose.



The Participants intend to respect each other's confidentiality policies, with the mutual understanding that the Participants intend to publicize this 2017 MOU and its objectives without disclosing any competitive, confidential or proprietary information of the other Participant (or Participants) unless required by law.

With respect to the activities undertaken pursuant to this 2017 MOU, the Participants should offer sufficient prior notice to other Participants, via the Facilitator, in regards to any public communication as to competitive/confidential/proprietary information about Alliance activities to ensure that the above considerations, as well other sensitivity, and public disclosure considerations, of all Participants are respected. Participants may establish additional communications protocols, as circumstances warrant.

## **5. Reporting and Evaluation**

### *(a) Reporting*

The Participants intend to produce the following reports with public input and for general access (noted by type, frequency, and principal author):

- Technical reports concerning implementation, including challenges encountered, and progress in reaching objectives and goals identified (quarterly, Facilitator and USAID);
- Reports on use of cash and in-kind contributions (quarterly, Facilitator), combined with reports on solicitation and collection of new contributions (quarterly, Facilitator and USAID);
- Reports on overall progress of in-region sourcing and conflict minerals due diligence (annually, Facilitator, USAID, USDOS, and DOL).

### *(b) Evaluation*

The Participants intend to determine parameters for evaluation of the 2017 MOU's progress, including how to address stakeholder concerns.

## **IV. Effective Date, Duration, Modifications, and Expiration**

Subject to each Participant's option to withdraw or renew its participation, this 2017 MOU becomes operative for each Participant on the date of its signature and expires five (5) years from the date of first Participant signature or once there are only 4 Participants remaining in the Alliance (following written notice of termination of participation from all other Participants), whichever is earlier. In addition, in order for this 2017 MOU to remain operative, there must at all times be at least one U.S. Government Agency Participant. This 2017 MOU may be extended upon written decision of the Participants so long as at least 5 Participants, one of which must be a U.S. Government Agency, remain. In addition, this 2017 MOU may be modified in whole or part only if all Participants so decide in writing. By giving notice to the Facilitator, any Participant may cease its participation under this 2017 MOU at any time, provided that such Participant should attempt to provide at least 30 days' prior written notice to the Facilitator and, to the extent possible, to other Participants.

## **V. Other provisions**

A U.S. Government Agency, Supply Chain Entity, Implementing Organization, or Other Organization that wishes to become a Participant but was not a Participant under the 2012 MOU is encouraged to express its interest and apply under one of the existing Participant categories. Upon application to the Alliance, existing Participants intend to consult to review the application based upon established criteria and approve such applications for new membership based upon mutual decision by the Participants.

Each Participant may conduct due diligence in regards to reputational risk of association with a new potential Participant upon the application for participation on an ongoing regular basis or as the need arises. All Participants intend to respect each other's requirements in this regard and to communicate in a timely manner to expedite the process for all other Participants, and to provide reasonable information to assist other Participants' due diligence while respecting confidentiality and proprietary rights and disclosure requests.

The Participants that enter into this 2017 MOU maintain their own separate and unique missions and mandates, as well as their own accountabilities. The cooperation among the Participants as outlined in this 2017 MOU should not be construed as an exclusive working relationship, partnership or other type of legal entity or personality. Each Participant accepts full and sole responsibility for any and all expenses incurred by it relating to this MOU. It is intended that the Alliance will conduct its work in a manner that complies with applicable laws and regulations, including applicable antitrust laws and regulations.

This 2017 MOU replaces the 2012 MOU and is not a legally binding document and does not give rise to rights or obligations under U.S. or international law, including to third parties. Nothing in this 2017 MOU is intended to limit a Participant's right to act in a manner it deems advisable to carry out its programs and authorities. Nothing in this 2017 MOU commits the Participants to the expenditure of any funds.