

# Public-Private Alliance for Responsible Minerals Trade

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## Participation and Governance Protocols<sup>1</sup>

### I. Goals

PPA Participants share the following goals:

- To support the development of supply chain systems that enable Supply Chain Actors to source minerals that are validated, certified, and traced to mines that are 'conflict-free,' and monitored and audited using agreed-upon standards and mechanisms, and that lead to scalable, responsible, self-sustaining minerals trade in the Great Lakes Region (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 agreement by Participants.

### II. Activities

PPA activities will be described in a Work Plan, to be created, approved, and revised as needed using the input and decision-making processes described in this document.

### III. Roles and Responsibilities

- A. Participants. PPA Participants are those entities which have signed the PPA Memorandum of Understanding and undergone a due diligence process, including mutual acceptance of and by other Participants<sup>2</sup>. All participants are responsible for staying informed; participating in the selection of Governance Committee representatives (if applicable); reviewing and commenting on PPA documents and concepts when requested; sharing information with constituencies when appropriate; and generally sharing their perspectives, questions, and concerns that could impact the work of the PPA in a timely manner.

Other responsibilities unique to specific participant groups are outlined below and in other sections of this document.

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<sup>1</sup> These protocols are a supplement to (and do not supersede) the roles, procedures, and other provisions in the PPA Memorandum of Understanding, dated August 2012 (or subsequent approved versions).

<sup>2</sup> As the need arises, Participants intend to review and evaluate expressions of interest from U.S. and other government agencies, supply chain actors, implementing organizations, and other organizations who wish to become Participants after the PPA launch in November 2011. Participants may develop a specific protocol with respect to the admission of additional Participants.

1. *Government Agencies.* Responsibilities of the U.S. Department of State and the U.S. Agency for International Development include the following:
  - Provide at least \$3.2 million to provide training, technical support and other assistance that supports the Goals and Objectives of the MOU.
  - Work with Implementing Organizations in close coordination with U.S. Embassies and USAID Missions in the GLR.
  - Provide updates on the current political and security situation in eastern DRC.
  - Engage diplomatically with the DRC government and others in the GLR, 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.

The ICGLR and other governments that may join will also fall under this category; funding expectations and other responsibilities are to be determined and will likely be case-by-case. Likely responsibilities will include the following:

- Provide updates on the current political and security situation in eastern DRC.
  - Engage diplomatically with the DRC government and others in the GLR, 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.
2. *Supply Chain Actors.* Responsibilities of Supply Chain Actors, including individual companies and associations, include the following:
    - Provide at least \$2 million in funding through the end of 2012, with an initial contribution of \$500,000. This amount is an aggregated amount for all Supply Chain Actor Participants. There will be an initial, one-time contributions from such Participants, which will be a minimum of \$25,000 for companies and a minimum of \$125,000 for industry associations. The intent is to pool funding through a facilitator to fund Implementing Organizations, subject to the governance principles and process.
    - 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 due diligence systems that enable purchases of minerals from the GLR in a manner that conforms to the OECD due diligence guidance.
  3. *Implementing Organizations.* Implementing Organizations are to be chosen per the procedures outlined under Organizational Structure and Decision-making. Specific roles, responsibilities, and requirements for each designated Implementing Organization should be spelled out in an approved scope of work. Implementing Organizations will be asked to sign the PPA MOU. PPA members are eligible for

consideration but shall not receive any prioritization in selection processes. PPA members with a proposal under active consideration as an Implementing Organization must also recuse themselves from evaluation and selection of proposals, and from any oversight/decision-making related to their organization if selected.

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

4. *Other Organizations.* Other Organizations may include but are not limited to the following types of entities:
  - i. International NGOs
  - ii. NGOs from the Great Lakes Region
  - iii. Universities
  - iv. Professional service firms
  - v. Organizations that do not fit other identified categories

Responsibilities of Other Organizations include the following:

- Provide input and advice to Alliance Participants concerning the current realities in the DRC and GLR
  - Participate in certain meetings of the Alliance to review implementation and evaluate progress toward reaching Alliance Goals, including contributing to decision-making as appropriate, design of the work plan, and providing and analyzing input from local communities and businesses to ensure projects are addressing their needs and not causing undue harm.
  - For Other Organizations that are also Funders, participate in review of relevant funding decisions.
  - For-profit professional service firms are expected to provide an initial, one-time contribution, which will be a minimum of \$25,000, to the funding pool. The intent is to pool funding through a facilitator to fund Implementing Organizations, subject to the governance principles and process. For-profit professional service firms are not eligible for Governance Committee posts but are eligible to vote on Other Organization representatives nominated for Governance Committee seats. Professional service firms are eligible to participate in work groups and to provide expertise to the Governance Committee as the Governance Committee requests.
5. *Facilitator.* A neutral Facilitator is to chair the meetings and work with all of the Participants to ensure that the process runs smoothly. The role of the Facilitator typically includes developing draft agendas, focusing meeting discussions, working to resolve impasses that may arise, preparing meeting summaries, assisting in the location and circulation of background materials and documents the PPA develops, and other functions as the PPA requests. Other responsibilities

of the Facilitator include the following:

- Provide services necessary to support and coordinate Participant planning, decision-making, implementation, and reporting on Objectives 1-5 as outlined in the MOU.
- Serve as a funding pooler and coordinator for resources provided by non-government funders to support the work of the Alliance and, if necessary and appropriate, to provide the same service for other stakeholders.
- Support strategic planning and implementation of specific work streams or activities as agreed by the Governance Committee (e.g., alignment activities).
- Act on behalf of the PPA for contracting with Implementing Organizations.
- Act as spokesperson on specific issues when appropriate, under consultation with and guidance from Governance Committee.

- B. Funders. Funders include those who have met the minimum financial contribution requirement for PPA participation (“participating Funders”) and those that have provided funding but have chosen not to be a Participant. In addition to relevant responsibilities stated above, participating Funders will have an additional opportunity to review and propose modifications to all funding allocations relevant to their respective funding stream, on a time-limited, “no objection” basis, before they are final, pursuant to Section IV.C. Funders who choose not to participate, or who have provided funding below the minimum financial contribution, will not be recognized as PPA Participants. All funders, regardless of level of funding and participation status, will engage in the PPA due diligence process.
- C. Resource Organizations. Resource Organizations could include academia, private consultancies and audit firms, and other stakeholders not formally joining the PPA in any of the above capacities. Resource Organizations may be invited to provide input or advice to Participants or Work Groups. Resource Organizations may also attend meetings as observers upon invitation and may be invited to participate in PPA discussions, as determined by the Participants, consistent with the decision-making principles of Section V. below. In such cases, Resource Organizations will be expected to follow the same protocols and meeting ground rules as the Participants.

#### **IV. Organizational Structure**

##### **A. Participant Group**

1. *Composition*. The Participant Group will be composed of all PPA Participants.
2. *General Responsibilities*. Participant will have an opportunity to review and comment on all PPA documents and decisions. Input from the Participant Group will go to the Governance Committee for consideration and crafting of final recommendations. The Participant Group’s responsibilities include those of all Participants as described in Section III: Roles and Responsibilities.
3. *Schedule*. It is expected this group will meet by phone or in person once per quarter.

B. Governance Committee

1. *General Responsibilities.* The Governance Committee will have lead responsibility for drafting, reviewing, and finalizing all PPA documents and decisions, with the aim of reaching consensus among Committee members. As representatives of PPA Participants, they are also expected to take a lead role in outreach to the Participant Group and seeking input on documents and decisions from their respective constituencies. Governance Committee members are expected to participate on a minimum of 80% of calls and meetings; the Facilitator should monitor participation and report on any members not meeting the threshold.

Example activities of the Governance Committee include, but are not limited to, drafting and approving the Work Plan; designing and approving reporting, evaluations, and auditing of PPA activities or products; scoping and selecting projects to be considered for funding, potential Implementing Organizations, and terms of reference for funded projects; and reviewing and approving PPA public communications. The Governance Committee will also work with PPA Work Groups to coordinate outreach to and opportunities to seek input from stakeholders outside of the PPA on a periodic basis.

2. *Composition and Selection.* The Governance Committee will be selected for a two-year term through a selection process. There will be four seats each for the following: Government; Supply Chain Actors (at least two seats for downstream<sup>3</sup> users or association(s), representing different sectors, if possible; and at least one seat for an upstream<sup>4</sup> company or association); and Other Organizations. The Facilitator will manage a selection process, in which Participants from each category will have the opportunity to identify four preferred representatives to sit on the Governance Committee. Final determinations will be based on a majority vote for each seat within each respective group, with additional considerations from the Facilitator and U.S. Government to ensure balance if needed. (Note: For selection processes in 2012 and beyond, Participants or the Governance Committee may recommend a small selection work group to ensure balance and staggered timing for turnover, and make a final determination of seats.)

Seats are allocated to an individual rather than his/her company/organization. If a Governance Committee member can no longer serve, the vacant seat will be filled (if deemed necessary by the Governance Committee) through a selection process rather than by passing the seat to another person in his/her organization.

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<sup>3</sup> "Downstream users" could include metal traders and exchanges, component manufacturers, product manufacturers, original equipment manufacturers (OEMs), retailers, and relevant trade associations.

<sup>4</sup> "Upstream companies" could include large- and small-scale and semi mechanized mining operations, local traders or exporters from the country of mineral origin within the region, international concentrate traders, mineral re-processors and smelters/refiners, and relevant trade associations.

3. *Schedule.* It is expected that the Governance Committee will meet by phone once per month, with an in-person meeting one or more times per year if possible and agreed to by Committee members. Additional calls or meetings will be scheduled as needed.

C. Work Groups:

1. *General Responsibilities.* Work groups may be formed, as approved by Participants or the Governance Committee, to address specific issues, create proposals, and make recommendations to the Participants Group or Governance Committee. Work groups are not authorized to make final decisions for the PPA. Work groups should articulate objectives, specific expected outcomes, and timeline for conducting their work.
2. *Composition and Selection.* Work groups are open to any Participant. With the agreement of other work group members, non-Participants may be invited for specific calls or agenda items, and should aim to include representatives from government, private sector, and civil society. To promote broad participation, there should be no more than two representatives from any one organization on each Work Group. (Those individuals with multiple affiliations must identify which PPA participating organization they will represent on the Work Group.) To support coordination with the Governance Committee, two Governance Committee members should be designated as liaisons for each Work Group.
3. *Schedule.* Phone and other discussions are to be determined by each work group and Facilitator, based on work group objectives and PPA considerations such as the Work Plan.

V. **Decision-making**

Consensus. The Participants Group and Governance Committee will operate by consensus. Consensus will be defined as general agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that seeks to take into account the views of all parties concerned and to reconcile any conflicting arguments.

- A. Absence of Full Consensus. While the goal for deliberations will be full consensus, consensus need not imply unanimity. In the event full consensus cannot be achieved, decisions can be made by an expanded majority that requires both a numerical majority as well as at least one positive vote from each of the three sectors represented (i.e., Supply Chain Actors, Government Agencies, Other Organizations).

As with all funding decisions, Funders will have an opportunity to review final decisions which have funding implications for their respective funding pools.

Regarding issues or ideas viewed as important by PPA Participants but for which full consensus cannot be reached, the PPA will articulate the areas of agreement and disagreement and the associated reasons why the differences of opinion exist and the

final decision taken by the Governance Committee.

B. Decision-making Process. The following process should be used to reach final decisions of the Participants:

1. Proposal(s)/draft(s) created by member(s) of Participant Group, Governance Committee, or Work Group
2. Compilation and circulation of proposals/drafts by Facilitator to the Governance Committee for review, discussion, and a revised document or decision, either on a call or by email.
3. The Governance Committee will determine which documents, issues, and/or decision should be circulated for review and comment by the full Participant Group, based on degree of consensus or other measure of significance (e.g., funding level).
  - a. If a specific review period for all Participants is recommended, the Facilitator notifies Participants; proposed edits, questions, or concerns should be raised within this timeline. The Facilitator will strive to give ample time for review. Participants acknowledge that there may be circumstances that call for limited review and response time.
  - b. Compilation of all Participant comments by Facilitator, and circulation to Governance Committee.
  - c. Review and consideration of proposals/drafts and comments by Governance Committee.
4. Discussion and consensus recommendation for action/decision by Governance Committee. (See Sections V.A. and V.B. regarding consensus procedures.) Governance Committee members will recuse themselves from any decision in which their organization is a candidate or an Implementing Organization with a PPA-funded project in process.
5. Communication of recommendation to Participants, and rationale for the recommendation.
6. Finalization of consensus recommendation for action by Governance Committee. Again, GC members will recuse themselves from any decision in which their organization is a candidate or confirmed Implementing Organization.
7. For those recommended actions which have funding implications over \$5,000, the Facilitator circulates the recommendation to those participating Funders who contributed to the funding pool in question (i.e., Supply Chain Actors and Other Organizations). Funders will be given a specific review period for raising significant objections to the recommended action or decision with the Facilitator and the Governance Committee sector lead for Supply Chain Actors. A lack of response from any individual Funder will be interpreted as an indication of no objection to the recommended course of action. The Facilitator and sector lead for Supply Chain Actors should bring any significant concerns to the Governance Committee for review and to recommend a response.
8. Communication of decision (or final document) to all Participants by the Facilitator, including appending of appropriate, formal dissent if requested and provided by a Participant.

## **VI. Administrative Procedures**

- A. Documentation and distribution of deliberations and decision making. The purpose of this section is to preserve and protect the integrity of the PPA process until it is completed. The PPA affirms the importance of transparency for Governance Committee and Work Group meetings while creating a safe space for PPA Participants to have open dialogue that clarifies interests and advances PPA objectives. The following policy upholds both principles.

The Facilitator and the PPA will document topics discussed and capture them in a summary containing actions, decisions, and rationale for decisions. Draft meeting summaries should be prepared by the Facilitator after each meeting, and approved by Participants within seven days of circulation by the Facilitator, with objections noted to the Facilitator, and, if necessary, the Governance Committee for resolution. The meeting summaries will serve as a means of characterizing the discussions at each meeting and will not attribute statements to specific Participants or interest groups. PPA meetings, including work group meetings, should not be electronically recorded by any person.

Summaries from Governance Committee and Work Groups meeting and calls will be internal documents. The Facilitator and PPA Participants will share Governance Committee and Work Group meeting and call summaries with other PPA Participants only and the Facilitator will archive these documents on the PPA Members Only website. The Governance Committee has the ability to make an internal document available to the public if the Governance Committee deems it necessary.

The Governance Committee, Work Groups, and the Facilitator will develop outcome documents. Outcome documents represent the conclusions of PPA work, such as work plans, protocols, RFPs, or trip reports. Outcome documents will be shared publically and will be included on the public PPA website. The Facilitator will work with the Governance Committee and work groups to ensure comfort and clarity with document sharing decisions should any questions arise. Information or documents designated as confidential by the provider should not be made public except with permission of the provider.

- B. Expenses and reimbursements. There are no funds designated to support direct costs such as travel. Participants, with approval by participating Funders, may apply PPA pooled funds to PPA activities or related costs.

## **VII. Communications**

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



- A. Confidentiality. The Participants are to respect each other's confidentiality policies, with the mutual understanding that the Participants intend to publicize this MOU and its objectives without disclosing any competitive, confidential or proprietary information of the other Participant (or Participants). The identity of the Participants will be public. In addition, the information and documents determined by the PPA at each meeting or conference to be public may be distributed publicly.
- B. Public Statements. The Participants recognize that how the PPA process and the Participants' views are described publicly may affect the ability of the PPA to make decisions and effectively conduct its work. Therefore, with respect to the activities undertaken pursuant to the PPA MOU, the Participants intend to offer sufficient prior notice to other Participants, via the Facilitator, with regard to any public communication about Alliance activities to ensure that the above considerations concerning competitive/confidential/proprietary information, as well other sensitivity, and public disclosure considerations, of all Participants are respected.

Further, whenever possible, Participants should refer inquiries regarding the overall progress of the PPA to the Facilitator (who will work with the Governance Committee to draft any necessary statements). If a Participant does engage in discussions with the media or others, the Participant may describe the purpose of the PPA, the scope of topics under discussion and its own views. Participants should not describe or characterize the position of any other Participant, even if that Participant withdraws from the process or the process is discontinued. References to the PPA on a Participant's website should include a link to the PPA website.

- C. Use of Logos. The Facilitator will work with the point of contact for any PPA organization whose logo may be used in PPA communications to establish the parameters of use.
- D. Rights in Other Fora. Participation in the PPA process does not limit the rights of any Participant. Participants should make a good faith effort to notify one another in advance, if another action outside the process will be initiated or pursued, which will affect the terms of proposals or recommendations being discussed.
- E. Communications from the Facilitator. The Facilitator will send PPA communications and documents to those contacts identified by each Participant as the primary point of contact on its respective MOU signatory page. To amend or add an official point of contact, Participants should send this request and full contact information to the Facilitator in writing.
- F. External Stakeholders. The PPA, based on recommendations of the Communications Work Group and Governance Committee, will determine a schedule, products, and events for sharing updates and, when appropriate, seeking input from external stakeholders.

## VIII. Other Participation Considerations

- A. Additional Parties. Additional parties may seek to join the PPA as new Participants if they accept the current MOU, participation and governance protocols, and relevant funding requirements; if they undergo a due diligence process<sup>5</sup> with the U.S. Government agencies; and if there are no unresolved objections to their joining expressed by existing PPA Participants. Additional parties will have the opportunity to undergo due diligence and join the PPA on approximately a quarterly basis.
- B. Participation and Attendance. Each organization participating in the PPA should designate a primary contact, and, if desired, an alternate contact. One or both of these designated representatives should make a good faith effort to participate in relevant groups, committee, or work groups of which they are a member. If a designated Participant cannot join a meeting or call, an alternate can be sent to take notes and to respond to questions. The Participant should provide advance notice of the name and background of the alternate. The alternate should be knowledgeable about conflict minerals issues and the topics to be discussed at the meeting or on the call. It is the responsibility of the Participant and the alternate to exchange information and keep each other well-informed and briefed concerning the deliberations. (Note: Given the nature of their work, there will not be alternates for Governance Committee representatives.)
- C. Withdrawal from the PPA. Any Participant may withdraw from the PPA at any time. If a Participant wishes to withdraw from the PPA, the organization's point of contact is requested to give the Facilitator and Governance Committee 30 days' written notice. Subject to specific case evaluation by the Governance Committee, it is not expected that the initial contribution would be returned to the withdrawing Participant.
- D. Good Faith. All parties should act in good faith in all aspects of the PPA deliberations, to conduct themselves in a manner that promotes joint problem solving and collaboration, and to consider the input and viewpoint of other participants. Participants should not to use specific offers, positions, or statements made by another Participant during non-public discussions for any other purpose not previously decided in writing by the Participants involved. Negative generalizations are not productive and have the potential to impede the ability of the PPA to make decisions. All Participants will be given an equal opportunity to be heard with the intention of encouraging the free and open exchange of ideas, views, and information

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<sup>5</sup> Due diligence related to reputational risk of association with other Participants is used by some Participants and may be conducted at inception of the MOU, on an on-going regular basis, and 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 disclosure requests and rights. The minimum financial contributions of any Funder excluded by the due diligence review of the US Government Agencies may be, upon request, be refunded, pending availability of funds and approval by the Governance Committee.

prior to achieving consensus.

- E. Marketing Products and Services. The PPA is meant as a forum for collaborative action and not a marketing forum. Organizational representatives may not market their products or services to other PPA Participants when conducting PPA business or at PPA forums/meetings. Organizational representatives also may not use their participation in the PPA to directly support sales and marketing activities.

## **IX. Schedule**

The first PPA Participant meeting took place on November 16, 2011, with phase 2 initiated in August 2017. This PPA is expected to continue for five years from the current effective MOU date, but may continue as long as there are Participants who agree to continue the Alliance and decide, in writing, to extend this period.