



RESPONSIBLE SOURCING OF ARTISANAL GOLD FROM THE DEMOCRATIC REPUBLIC OF CONGO

Lessons Learned from Year 2 of the Responsible Artisanal Gold Solutions Forum

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 engages with DRC-based pilots enabling responsible sourcing of artisanal sources by 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 collaboratively based on pilot experiences and dialogue.

LESSONS LEARNED – YEAR 2

The Forum's first year focused on two pilots in the Democratic Republic of Congo.¹ This document builds off of the insights captured in Year 1 of the Forum (sidebar), focusing on lessons from year 2 (2017-2018):

Building the business case for cooperatives

Cultivating responsible exporters and viable financial models

Due diligence in action: Balancing the risk equation for downstream companies

Building momentum and bridging gaps to get to scale

This document highlights lessons and recommendations for supply chain actors and other partners working on supply chains with artisanal gold from the DRC, based on experiences with the USAID DRC Capacity Building for Responsible Minerals Trade pilot project. It has a particular focus on lessons relevant to the supply chain and upstream-downstream relationships, sourcing challenges and opportunities, and actions needed among tripartite partners.

LESSONS LEARNED – YEAR 1

How to define and distinguish between “responsible gold” and “responsible sourcing” – there is basic alignment on expectations about the two terms, but key distinctions based on certification and downstream expectations;

The need to **adapt industrial-gold-oriented know-your-counterparty questionnaires to the artisanal sector**, and to take a due diligence vs. checklist approach to such tools;

The need for partners to seek to **develop sustainable and commercially viable models** to incentivize upstream and downstream market engagement and increase the scale of trade;

Establishing **common definitions and clarity** on finance components and needs (e.g., inventory financing or prepayment vs. traditional pre-finance);

Demonstrating that mine-to-end-user supply chains are possible with **collaboration and shared responsibility for due diligence** from upstream and downstream partners; and

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

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

Building the Business Case for Cooperatives

“BEING LEGAL, FOR ME, IS A JOY, BECAUSE PREVIOUSLY, WE WORKED ILLEGALLY AND EACH PERSON WORKED FOR HIMSELF, BUT NOW WE CAN COUNT ON THE MUTUAL UNION BETWEEN US ALL. THIS COULD CHANGE OUR LIFE AND WE KNOW THAT ONE DAY OUR LIVES WILL IMPROVE BECAUSE BEFORE WE DID NOT KNOW THERE WERE PEOPLE WHO WERE INTERESTED IN OUR SITE.”

Amuli Muzungu, Pit Manager, Nyamurhale

Artisanal gold miners in the DRC do not have a problem in finding buyers for their gold, often at prices that meet or exceed the LBMA price. Illegal buyers, free of taxation or driven by money laundering, create significant competition for those working to bolster formal markets.

To build the case for miners and cooperatives to engage in formal trade, and in many cases to have higher costs (taxes) or accept lower prices, there must be other incentives and efforts which demonstrate and deliver value to artisanal producers.

Capacity building in improving production can be a strong incentive to formalize and change practices and work with new buyers. However, such support for a cooperative requires significant investment in terms of equipment as well as technical expertise over a period of time. Further, capacity building interventions alone are insufficient, and must take place within a viable market and supply chain structure.

Links to formal markets can bring reputational and financial value to artisanal sites. First, formal and transparent practices such as accurate weighing of gold (via introduction of electronic scales) at the point of sale can improve income for miners and cooperatives and make a case for selling to responsible traders or exporters. Connections to international businesses can also signal the importance of responsible sourcing to miners and leaders at artisanal sites, and bring visibility and profile to an artisanal operation.

The opportunity for increased yields and links to reputable business partners can be an important factor to making the case for miners to organize into a cooperative, or for cooperatives to change their management style and structure. However, such change must be taken with a thoughtful approach and pace. Disrupting existing structures, including the role of any illegal or informal actors in production, pre-finance, or as buyers, requires significant buy-in by leaders and others at a site, and a value proposition that makes the pain of this transition worthwhile. New management and structures also require capacity building support, such as training in change management.

Most reforms or other actions taken by cooperatives to participate in legal supply chains will have at least some initial or ongoing costs—often while ramping production levels, or capturing a greater portion of production in legal sales. For example, whether there are 200 g or 2 kilos a month produced, due diligence monitors and traceability staff will need to be paid. Supply chain actors will need to come to a shared understanding of benefit- and cost-sharing of these activities and the documentation and other data that flow from them, including a sense of early-stage investment needed to initiate responsible sourcing chain, and longer-term cost structures.

Recommendations for Building the Business Case for Cooperatives

Based on the experience of the CBRMT pilot, the following types of support and intervention may be of value to cooperatives, to engage them as supply chain partners and bring value that they would not achieve with informal or illegal buyers:

- Support for organizing as a cooperative, including supporting improved administrative, financial and governance performance and related management systems
- Capacity building in health and safety, and provision of personal protective equipment
- Technical assistance to increase yields
- Tools to support transparency, accuracy, and fairness in sales



- Addressing illegal taxation and other extortion
- Establishing an equipment pool (e.g., shovels, picks), with training in maintenance and management, for miners to access at low rental costs and to be sustained by the cooperative
- Engagement by international buyers as a sign of interest and attention to the ASGM sector in DRC
- Communication about the project and the cooperative nationally and internationally
- Attracting related spin-off investments to meet local expectations (e.g., energy, water, education etc.)

Cultivating Responsible Exporters and Viable Financial Models

While refiners are often thought of as the “pinch point” in the supply chain, when it comes to artisanal gold from the DRC, exporters are a critical bottleneck. Given lack of historical frameworks and oversight, the majority of successful gold exporters in DRC are likely to have some linkage to informal or illegal markets. This means that such exporters may not meet know-your-counterparty and other due diligence expectations. Educating and mitigating risks at the exporter level may be possible for certain exporting companies, although to date buyers have not demonstrated willingness to take this approach. Given this environment, there is currently only one licensed gold exporter in the process of purchasing artisanal gold from the DRC that has been determined to be acceptable by responsible buyers in the Forum.

There are also a number of factors operating against the business case for responsible exporters. First, national frameworks do not currently incentivize responsible gold trade. Local, provincial, and national taxes—and especially tax differentials between provinces and countries—mean that exporters operating legally have major costs not borne by illegal operators. As noted above, competition with illegal buyers can also drive up the price of gold at which a cooperative is willing to sell. Additionally, costs of transport and security from DRC to international buyers—especially those in Europe and North America—are a major barrier.

To address the exporter gap and help build the business case, financing models and collaboration are needed between exporters and buyers or downstream companies. As learned in past and current pilots, pre-payment for gold by downstream parties is critical to support cash flow and ability of an exporter to purchase gold from a cooperative or trader. An effective model can be to create an agreement between the exporter, refiner, and possible an additional downstream company which includes creation of an advance payment or inventory financing fund; this fund can be drawn down at the time of the gold purchase by the exporter, and replenished upon confirmation from the refiner that gold has been received and is of the agreed-upon value (weight, purity, etc.).

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 and into the products of leading responsible refiners and jewelers.

CBRMT is 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 are also being tested.

The pilot officially launched in January 2018 with site based monitoring and traceability on site. Additional activities include due diligence on prospective supply chain partners, technical assistance, coordination with provincial and national mining authorities, and extensive capacity building for the local mining cooperative and its members

For more information on CBRMT and other Forum pilots, please visit: www.ragsforum.org.



It may also be necessary, at least until greater volumes are available, for downstream partners to help offset due diligence, transportation, and security costs, as part of their agreement with exporters. (While past and current pilot projects have used donor funding to cover due diligence, supply chains will need to internalize such costs for longer-term operation.) Buyers may also need to tolerate gold purchase prices above typical, industrial prices, to account for the need to offer a price which can level the playing field for a legal exporter in an environment of price inflation by illegal buyers. There is also a need for a solution to security and transport; the typical, refiner-accepted procedures for vaulting, shipping, and other transport and security measures are geared to industrial operations and volumes, but are cost-prohibitive for current volumes of artisanal gold.

Ideally, with an expansion of the legal trade, legal artisanal gold could be benchmarked to the LBMA price like other sources and illegal gold—with restricted market access—would need to be sold at a premium. Until conditions support this, an interim approach is needed. Some buyers may envision a price premium for responsibly-sourced artisanal gold, including in models which propose other services or value to upstream and downstream partners. Many buyers will not operate on a premium basis, but may be willing to invest in projects—and offset costs linked to overcome the influence of illegal markets and challenges of getting to greater scale—from a social responsibility perspective.

There is also a need to consider how tax structures across DRC provinces and with adjoining countries can promote smuggling and damage financial viability of legal exporters; equal taxes and greater consistency in the application of local, provincial, and national taxes will give improved predictability and business case for more exporters to enter into the legal trade.

Recommendations for Cultivating Responsible Exporters and Viable Financial Models

Buyers and other downstream companies, along with other partners, should foster the growth of legal exporters, such as in the following ways:

- **Build the business case for responsible exporters, including 1) providing inventory financing for exporter cash flow for gold purchases, 2) consideration for pricing to level the playing field for legal exporters seeking to buy from cooperatives in an environment of illegal (and tax-free) buyers, and 3) consideration for offsetting security, transportation, and due diligence costs, at least until scale can be achieved to absorb these costs.**
- **Engaging in collaborative due diligence between the downstream company and exporter, in which upstream and downstream partners share the investment in assessing and mitigating supply chain risks, rather than approaching due diligence as a pass-fail checklist.**
- **For existing gold exporters, explore opportunities for risk assessment, risk mitigation, and capacity building to understand if, whether and how they can be potential business partners.**
- **Consider ways to encourage and educate new Congolese individuals or entities in setting up a responsible export business.**

Because financial viability for responsible, national and regional businesses is inherently linked to legal and trade frameworks, tripartite partners should also consider ways to engage governments on their role in creating the enabling conditions for increased investment and engagement of the international market:

- **Consider outreach to sensitize the DRC government about ways to support fair and legitimate taxes which support a viable, responsible artisanal gold trade. For example, partners could communicate at the provincial and national levels that consistent provincial taxes, and even reduced for responsible gold chains for some period of time, could result in overall increased revenue based on expanded, legal trade.**



Due Diligence in Action: Balancing the Risk Equation for Downstream Companies

Although principles and guidance on due diligence are well aligned across the minerals supply chain, the application of due diligence to artisanal gold has been largely prohibitive rather than supportive of sourcing from even validated, well-characterized sites and upstream partners.

OUR LIFEBLOOD IS OUR ABILITY TO ACCESS CAPITAL FROM MAJOR FINANCIAL INSTITUTIONS AND PARTICIPATION IN INTERNATIONAL METAL EXCHANGES. TO THAT END, OUR TEAM HAS BEEN VERY CAUTIOUS MANAGING RISK SO AS TO NOT AFFECT THOSE FOUNDATIONS.

David Dorris, Asahi Refining

The barriers to downstream companies conducting due diligence on artisanal gold remain significant outside of individual traceability projects. This status quo has created a perception, especially outside the responsible sourcing community of practice, that “artisanal” is equated with illicit, particularly for artisanal gold from conflict-affected regions such as the DRC.

Human rights and other risks of the artisanal gold sector, combined with reputational and related business impact concerns of refiners and downstream companies, has meant that due diligence even for very small volumes of artisanal has been geared towards risk elimination as opposed to continuous improvement. One of the influencing factors has been binary conclusions and questions posed to downstream by civil society. While this is counter to the principles and practices conveyed in the OECD’s *Due Diligence Guidance* and the *FAQ on Responsible Supply Chains in Artisanal and Small-Scale Gold Mining*, there have been a number of hurdles to taking a truly risk-based versus risk-avoidance approach.

First, even within a single company, advocates for engagement with the artisanal sector have to undertake substantial work to get approval to source from and provide financing to entities in the DRC. Initial sourcing from artisanal sites requires significant time commitment and other costs by a company. However, the reputational risk factor and its impact on customer, compliance, or certification may be the main impediment to willingness of downstream buyers to engage with artisanal gold sources. For example, to approve plans for artisanal sourcing, consensus is likely needed not just in the corporate social responsibility office but also among business units for compliance, financing, certification and audits, and other risk management or related functions. Company policies and practices to comply with laws such as the US Foreign Corrupt Practices Act (FCPA) or anti-money laundering rules can create a major hurdle or a barrier to securing internal sign-off.

Questions about potential impact of certification status or other standing (e.g., inclusion on the LBMA Good Delivery List) may also disincentivize engagement with the artisanal gold sector. This is not because such certifications and decisions to source artisanal gold are incompatible. Rather, such concerns may be attributed, for example, to a company’s lack of familiarity or expertise with the artisanal sector, concern about the risk profile of the artisanal sector as a whole (without assessment of specific sources), and perceived reputational risk. We note the need to improve the general understanding of how appropriate refiner due diligence can serve to support rather than block responsible sourcing of artisanal gold from conflict-affected areas, while also upholding their responsible sourcing certifications. LBMA notes that it supports schemes and refiners in efforts to engage with legal/responsible ASM producers in CAHRAs.

Refiners and other buyers must also navigate and negotiate terms with customers and other business partners. For example, one or more of a refiner’s customers may have concerns about their own risk profile or compliance implications of a refiner’s decision to source artisanal gold from certain countries (e.g., sourcing from the DRC would have SEC reporting implications for US public companies).

Financial institutions are another key intermediary, if not always a visible one, in the supply chain. While responsible buyers have a rationale and interest for engaging in the artisanal sector, the financial institutions utilized by buyers to effect payment for gold may be averse to being a party to purchases of



artisanal gold, or to transferring money to banks in conflict-affected or high-risk countries. Whereas supply chain due diligence is pinpointed to specific mines and chain of custody, financial institutions may take a higher-level view which may characterize an entire country or region—or an entire sector—in the same manner. Thus, financial institutions may impede the ability of a buyer to transfer payments to an exporter or other trader in certain countries, even if the buyer has conducted thorough due diligence on the source and supply chain actors.

Recommendations for Balancing the Risk Equation for Downstream Companies

Refiners, buyers and other downstream companies, associations, and minerals standards and certification system operators should consider joint and individual corporate action, such as the following:

- **Making corporate commitments to responsible sourcing of artisanal gold and having internal guidance on cooperation needed among business units to implement these commitments.** Such internal guidance could support the work of social responsibility or other corporate advocates as they navigate their company's risk management and other approval processes.
- **Issue statements of support for responsible sourcing of artisanal gold, highlighting guidance and other resources on good practice as to how artisanal gold sourcing can be done in a way to meet requirements of critical standards and certifications systems (e.g., LBMA, Responsible Minerals Assurance Program, Responsible Jewellery Council).** For example, version 7 of the Responsible Gold Guidance includes such statements and an expanded section on due diligence in the artisanal sector.
- **Educate downstream customers about due diligence practices and principles, and the value to the full supply chain of engagement of responsible sourcing from vetted artisanal gold mines.**
- **Engage and educate compliance, financing, audit, financial intuitions and other risk management or related functions very early on in the process.** This will help to elucidate and address concerns related to perceived risks and prevent blockages and delays.
- **Consider specific actions to take at a company, sector, and systems level to foster a culture and community of practice around due diligence that recognizes risks while also putting such risks in appropriate context.**
- **Work with and build on tools such as the Artisanal Gold Due Diligence Toolkit for corporate due diligence (and in engaging third-party assessments), as well as for designing risk assessment in existing and developing due diligence and certification systems.**

Tripartite partners should consider new ways to mitigate concerns of reputational risk, and to put these risks in context for downstream buyers and other downstream companies:

- **Consider opportunities for government or civil society support and reputational “cover,” where possible, to support good-faith industry engagement with the artisanal gold sector and sourcing from specific sites**
- **Convene to share principles and practices to support artisanal sourcing, including articulation of roles and responsibilities of upstream, refiner, downstream, and civil society and government partners, with a view to due diligence and its link to compliance (e.g., FCPA, anti-money laundering).**
- **Collaborate on outreach to the financial sector to describe the artisanal gold sector, due diligence and compliance frameworks and systems, and characterize risks and needs of refiners to finance vetted artisanal gold operations or exporters.**
- **Discuss and report on progress, challenges, and other lessons learned across and between implementers of different DRC artisanal gold pilots, in an effort to learn about different potential sourcing and business models, and to link artisanal gold with responsible refiners and other downstream customers.**



SUMMARY: BUILDING MOMENTUM AND BRIDGING GAPS

A goal shared by many actors and stakeholders is to help level the playing field for artisanal gold and improve links and access between the artisanal sector and responsible buyers. To truly get to a tipping point of transformation in which legal, artisanal gold in the DRC has meaningful market share, significant leadership and action by the DRC and other regional governments and trading partners are necessary to address major, international smuggling operations. These issues have not been in scope for the Forum and are not explored in this paper, but represent critical, additional context and action needed.

Although it is understood that full market reform requires serious, international political, trade, and security interventions, there remain opportunities for the private sector and partners to begin to bridge to this longer-term vision, and take steps to scale up responsible sourcing of artisanal gold for the DRC.

Building Momentum and Scaling Up

Pilot partners, while committing to a specific supply chain, share a goal of building momentum to an expanded responsible artisanal gold trade in DRC. “Scaling up” from isolated pilots to this vision – with a focus on actions in the purview of supply chain actors – has multiple elements:

Transitioning from a pilot (single mine) to a multi-mine approach: Validation and establishment of chain of custody systems from more mine sites can enable purchasing of greater volumes, create a business case for additional responsible exporters, and engagement of more downstream buyers.

Transitioning from closed-pipe to aggregation (from refiner to downstream): Segregating particular sources (especially in small volumes) adds cost. Even when some downstream customers do not seek a segregated supply, requirements or concerns from other customers may lead refiners to maintain this segregation. With greater confidence in systems and with trust built among supply chain partners, the sector should seek to move to systems that do not require special treatment of ASGM once it reaches the refiner—unless it is destined for a particular product line with specific provenance or other marketing claims.

Transitioning to progressive due diligence: Engaging in due diligence, whether from industrial or artisanal sources, cannot provide complete assurance but demonstrates a good faith effort to make responsible sourcing choices. However, due diligence expectations for the artisanal sector have been very high; this reflects the perceived risk of the artisanal sector by the downstream, but may not reflect a truly risk-based, sustainable approach.

Transitioning to collaborative due diligence: Just as with tin, tantalum, tungsten, and other minerals, the upstream-downstream dialogue on the cost burden of due diligence for artisanal gold remains a challenge. In this pilot stage, midstream and downstream partners have relied on donor-funded, on-the-ground partners for upstream due diligence. Especially in this period in which volumes and price alone cannot support the maximal application of due diligence required by downstream actors, greater scale will only be enabled by greater engagement by the downstream in due diligence from mine to export.

Investments Needed to Scale Up

Given the current landscape and the limited amount of legal artisanal gold trade exported from the DRC, as well as the nascence of much of the international market’s familiarity with artisanal gold, several areas of financial investment are needed from supply chain actors—with a critical step of discussing how the upstream, midstream, and downstream will share these costs in what phases of implementation or over what period of time:



- Due diligence (foundational assessments and supply chain evaluations, plus ongoing due diligence) in the form of on-site monitoring, if necessary;
- Price levels which enable cooperatives to disengage from and for legal exporters to compete with the illegal market;
- Capacity building and production support for cooperatives (e.g., health and safety, management systems, basic mining equipment to increase yields)
- Enabling environment for legal exporters (taxes, smuggling enforcement, etc.)
- Security and transport scaled to artisanal rather than industrial volumes

Other national, regional, and international partners from government, civil society, industry associations, assurance systems, and others can also play an influential role in this transition period by collaborating in ways such as the following:

- Helping inform interested buyers about artisanal mines and upstream businesses which may be viable options for responsible sourcing partnership, based on their research, development, and other work; and helping link interested upstream partners to downstream companies;
- Engaging in memoranda of understanding or letters of support, to demonstrate the value of responsible sourcing endeavors to corporate management;
- Helping build the capacity of the financial sector, so banks relied upon by refiners for financing are not a barrier to responsible sourcing and purchase of artisanal gold;
- Offsetting “start-up costs” (e.g., in a pilot approach) that may be challenging for a single company to take on, in addition to a sourcing commitment;
- In the face of external allegations or company reporting on a risk in their supply chain (and assuming good faith due diligence effort by a company), responding to such reports in the spirit of due diligence;
- Engagement with and by provincial and national DRC governments, and other governments of the Great Lakes Region, on tax structures and addressing smuggling, as two critical, contributing factors to the illegal gold trade and impediments to expanded private sector investment and engagement in responsible sourcing of artisanal gold from the DRC.

Aligning Due Diligence Principles with Practice

In addition to addressing current gaps in cost structure and capacity – and despite significant, good faith efforts by many actors at a pilot level – there remains an important gap between due diligence principles and due diligence practices by the downstream.

In principle, due diligence is an ongoing process to assess, prevent, mitigate, and report on risks. However, in practice, the expectation of refiners and downstream companies – especially those with critical industry certifications – may lead to a conflation of due diligence with risk elimination. That is, there may be a strong tendency for mitigatable risks identified to disqualify a source, rather than serve as an opportunity for mitigation. As described above, internal corporate risk, finance, compliance, procurement, and even responsible sourcing audits may work against efforts of companies with a strong interest in exploring purchases of DRC artisanal gold and following the principles as well as the practices of due diligence.

Downstream engagement with artisanal producers and exports is a valuable means of contributing to progressive improvement for the sector. Greater engagement of a responsible, international market in the artisanal gold sector will increase understanding of and enhance both upstream and downstream due diligence and systems, and create a pathway for expanded formal trade is meaningful to both in-region and international actors.



Leadership from the gold sector—along the full supply chain and in partnership with civil society and government actors—is needed in this period of transition to an expanded, operationally legal artisanal gold trade in the DRC. The Forum is sharing these lessons with the goal of opening a candid dialogue and demonstration of the value of international engagement – in successes as well as in shortcomings. Members have highlighted the value of this and other pilots as positive example of progressive improvement of the artisanal sector and responsible regional business, as well as the evolution of downstream due diligence.

While each company must make its own decision on risk profile of its sources, continued engagement of key systems in the responsible sourcing and certification world which are aligned with OECD DDG (e.g., LBMA, Responsible Minerals Initiative, Responsible Jewellery Council) can help provide leadership and education to members and validated companies about pursuing responsible sourcing of artisanal gold, and how this pursuit can align with such systems. Such discussions within the Responsible Artisanal Gold Solutions Forum have been helpful—such as in reviews of the Artisanal Gold Due Diligence Toolkit and in outreach to members to support company participation in the CBRMT pilot supply chain. Further work and guidance from systems, within their memberships and in dialogue with upstream partners, government, and civil society, can support informed and expanded company action and engagement in appropriate, risk-based due diligence.

As described throughout this document, tripartite engagement is also needed to help mitigate potential supply chain and reputational risks. To reach that critical “tipping point” where a majority of the artisanal gold from the DRC is responsibly sourced will require several steps. First, it will require acknowledgement and a level of agreement between upstream and downstream actors on the range of investments needed to transition from pilot to broader scale supply chain engagement. In parallel, action is needed to address the substantial work to establish and maintain consistent legal and enforcement frameworks to support an environment of legal trade, as well as greater achievement of both upstream and downstream market interests. While these broader frameworks have not been the focus of the Forum, they bear further dialogue and collaboration.

For a successful outcomes in both the transition phase and in longer-term objectives, the Forum has demonstrated the value of and need for public-private partnerships, and encourages an expansion of these approaches and tools to build momentum and achieve scale.

