



MARKET READINESS ASSESSMENT: OPPORTUNITIES FOR RESPONSIBLE TRADE FOR THE CENTRAL AFRICAN REPUBLIC GOLD SECTOR

ARTISANAL MINING AND PROPERTY RIGHTS (AMPR)



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MARCH 2020

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TABLE OF CONTENTS

Acronyms and Abbreviations.....	5
Executive Summary	6
1.0 Background and Purpose	7
1.1 International Context and the Case for Responsible Gold Production and Trade in CAR	7
1.2 Report Purpose and Scope	8
2.0 Due Diligence and CAR Gold Sector Risk Context	9
2.1 What is Due Diligence and Why Does It Matter?	9
2.2 Risks in Focus for Responsible Buyers.....	10
2.3 CAR Gold Sector Risk Context.....	11
2.4 Due Diligence in Practice: What Would Due Diligence Look Like from the Perspective of an International Buyer and from a CAR Cooperative?	12
2.4.1 What would Due Diligence Look Like for a European Refiner?.....	12
2.4.2 What Would Due Diligence Look Like for a Mining Cooperative?.....	14
2.5 Conclusions: CAR Gold Sector Risk Context and Preparing for International Buyer Engagement.....	16
3.0 Frameworks and Enabling Conditions for Responsible Trade in the CAR Gold Sector.....	18
3.1 Legal and Policy Context.....	18
3.2 Laws and Policies in Practice	19
3.3 Conclusions: Existing Frameworks and Enabling Conditions for Due Diligence and Responsible Trade.....	20
4.0 Rationale for Change.....	22
5.0 Summary of Recommendations.....	25
5.1 Recommendations for the Government of CAR to Improve Market Readiness of the Gold Sector.....	25
5.2 Recommendations for the Central African Gold Sector to Improve Market Readiness.....	26
5.3 Role and Importance of Civil Society	28
5.4 Opportunities for International Support and Resources.....	29
Annex I: Sources Cited	31
Annex II: Tools and Other References	32

ACRONYMS AND ABBREVIATIONS

3T	Tin, Tantalum, Tungsten
3TG	Tin, Tantalum, Tungsten, Gold
AEA	Autorisation d'Exploitation Artisanale
AMPR	Artisanal Mining and Property Rights
EITI	Extractive Industries Transparency Initiative
CAHRA	Conflict-Affected and High-Risk Area
CAR	Central African Republic
CoC	Chain of Custody
CRAFT	Code of Risk mitigation for ASM engaging in Formal Trade
ICGLR	International Conference on the Great Lakes Region
ITOA	Initiative pour la traçabilité de l'or artisanal
ITSCI	International Tin Association's Supply Chain Initiative
KYC	Know Your Counterparty
EU	European Union
LBMA	London Bullion Market Association
OECD	Organization for Economic Co-operation and Development
PEASM	Permis d'Exploitation Artisanale Semi-Mécanisée
RBA	Responsible Business Alliance
RCM	Regional Certification Mechanism
RJC	Responsible Jewellery Council
RMAP	Responsible Minerals Assurance Program
RMI	Responsible Minerals Initiative
USAID	United States Agency for International Development
WFCL	Worst Forms of Child Labor
WGC	World Gold Council
ZEA	Zone d'exploitation artisanale

EXECUTIVE SUMMARY

The gold sector is of increasing importance to CAR's economy, with a significant expansion of both official export volumes and production estimates since 2015. While CAR has a detailed mining code, the legal and regulatory frameworks need updating to respond to and support the fast-growing gold sector. For example, the government's 2019 report on legal exports represents only 6.3% of the annual gold production volume estimated by IPIS. Reforms are also critical to meet international market expectations of responsible gold trade which have solidified over the past decade, based on the principles and practices of due diligence.

Due diligence is a framework which calls upon companies to make informed, responsible choices about their sources and suppliers. The goal of due diligence is to help companies create supply chains which respect human rights, do not contribute to conflict, and comply with international and national laws. Due diligence is not only responsible business practice, but has become a passport to international markets; it has been codified in laws such as the EU Conflict Minerals Regulation and private systems governing the supply chains of refiners, jewelers, electronics manufacturers, automotive companies, and other sectors. These industry systems and international, regional, and national laws require due diligence and risk mitigation as a condition of imports, contracts, or gold buying.

Unfortunately, armed group involvement and informality in the gold sector currently makes CAR a challenging operating environment for scrupulous international buyers who must screen out human rights and conflict-related risks from their supply chains. Thus, although gold is currently being exported from CAR, failure to update laws and governance systems will severely limit trade and investment opportunities with formal markets and industry partners.

Proactive due diligence measures can help the Central African gold sector manage and mitigate the material and reputational risks linked to "conflict gold." Due diligence enables legitimate businesses to differentiate themselves as lower risk, even in challenging country contexts. In contrast to the Kimberley Process, which creates a pass-fail designation at the country or regional level, individual CAR cooperatives, collectors, buying houses, refiners, and their supply chains have the chance to meet due diligence benchmarks and connect to responsible markets despite an overall challenging context.

CAR's public and private sector should collaborate to build a responsible gold sector and maximize international trade opportunities. The mining code, related laws, and business practices should be updated to integrate due diligence as described in the OECD Guidance and ICGLR Regional Certification Mechanism, including the following elements:

- **Mine site mapping** to gather important data on gold production and risks of human rights abuses and armed group involvement;
- **Mine site inspection and validation**, and prohibition of human rights abuses and armed group involvement in the mining sector and minerals supply chain in CAR;
- **Establishment of chain of custody systems from mine to export** to differentiate conflict-free minerals and trading chains (acceptable to the market) from those of illegal, conflict-affected, or unknown provenance (not acceptable to the market). Existing practices and tools such as *bordereaux d'achat* can be integrated into these systems.
- **Comprehensive registration and licensing** of legitimate mining operations, cooperatives, mining companies, collectors, buying houses, refiners, and other exporters; and **exclusion of illegal actors** and those perpetrating human rights abuses from the supply chain; and
- **Validation of legal exports** based on evidence documented during all of the above steps.

1.0 BACKGROUND AND PURPOSE

1.1 INTERNATIONAL CONTEXT AND THE CASE FOR RESPONSIBLE GOLD PRODUCTION AND TRADE IN CAR

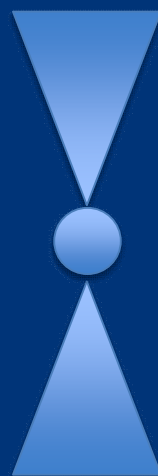
Globally, the artisanal and small-scale gold sector is active in over 70 countries, engaging 15 million miners to provide up to 20% of the world's gold. CAR is one such country in which artisanal and small-scale gold production represents an important driver of the economy, and potential future development and increased prosperity. In fact, gold is of increasing importance in the natural resources sector and economy since the impact of the crisis on diamond trade (DeJong, 2019). A recent study estimates the potential annual gold production in CAR at 5,720 kilos or about 6.2 tons (Jaillon & de Brier, 2020) while a 2018 study estimated an annual production of 1.98 tons (Pennes et al, 2018).¹ Officially, reported CAR gold exports are significantly lower but have also increased steadily since 2015, from 8,102.63 grams to 358,914.69 grams in 2019 (BECDOR, 2020). Thus, there are significant economic implications for CAR's ability to connect its gold trade to legitimate international supply chains of companies which buy and use gold in their products.

To expand legitimate international gold trade, the CAR government and its gold sector will need systems to meet the industry expectations and laws which govern and gate-keep the international market. For example, CAR will need systems to prevent “conflict gold” and human rights abuses in gold production and trade; chain of custody systems to trace legal gold from mine to export; and registration of cooperatives and mining companies, buying houses, refiners, and other supply chain actors.

Conversely, countries which do not establish rules, procedures, and management systems for due diligence and responsible supply chains risk being blocked from major markets. Many importing countries now have regulatory regimes and trade restrictions which require evidence that minerals have not contributed to conflict or human rights abuses, especially when originating from conflict-affected or high-risk countries. For example, the European Union (EU) Conflict Minerals Regulation² requires EU companies to ensure they import tin, tantalum, tungsten, and gold only from responsible and conflict-free sources. Other governments such as the United States (Dodd-Frank Act), France (Duty of Vigilance Law), the United Kingdom (Modern Slavery Law), member states of the International Conference on the Great Lakes Region (Regional Certification Mechanism) and others have promulgated laws with similar goals. International industry is likewise

ACTORS IN THE GOLD SUPPLY CHAIN

A **supply chain** refers to the full system of actors, activities, services, resources, products, etc. from mine to final product.



Upstream supply chain actors are those from the mine to export and international commerce, including cooperatives and mining companies, collectors, buying houses, transporters, local refiners, and exporters.

International refiners are typically known as **midstream supply chain actors**.

Downstream supply chain actors include manufacturers of components or end products which use gold, which can include companies in the jewelry, banking, electronic, automotive, and **other sectors**.

¹ While different methodologies were used in these two studies, the meaningful difference in estimated annual production between the 2018 and 2020 reports aligns with observed local and global patterns in artisanal miners moving from diamond to gold mining, as well as overall global trends of the expansion of numbers of people engaged in and dependent on ASM (IGF, 2017).

² Information on the EU Conflict Minerals Regulation (French) can be found at https://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/regulation-explained/index_fr.htm

committed to responsible sourcing, and multinational companies use an extensive set of standards, corporate policies, supplier codes of conduct, and other systems to exclude gold from their supply chains which may be linked to conflict, human rights abuses, money laundering, and other risks. Banks and major downstream companies in the electronics, automotive, aerospace, medical, and other sectors require refiners and other suppliers to be certified to standards such as the London Bullion Market Association (LBMA) Good Delivery and Responsible Sourcing standards, the Responsible Jewelry Council (RJC) Code of Practices and Chain of Custody, or the Responsible Minerals Assurance Program (RMAP).

In this context of increasing scrutiny of mineral sources, gold produced in countries lacking credible systems and governance to prevent illicit trade and stop human rights abuses will not be eligible for supply chains of certified refiners and downstream companies, major importing markets, or investment opportunities.

While gold is now being exported from CAR, failure to act to update laws and governance systems will severely limit opportunities to establish trade and investment relationships with formal markets and industry partners. With the ascendance of gold in CAR's minerals sector, now is a critical moment to build a foundation for effective management systems and governance, a positive business and investment climate, and an overall strong reputation of the CAR gold sector with potential regional and international partners.

1.2 REPORT PURPOSE AND SCOPE

This report is designed to share practical information and opportunities to enhance CAR's regulatory framework to align with international industry expectations for due diligence and responsible minerals. It is meant as a resource for the Government of CAR, the CAR gold sector (including cooperatives, traders, and refiners), and Central African civil society. The purpose of the report is to:

- share information and recommendations to expand CAR's legitimate and formal gold sector;
- increase international market readiness, access, and revenues; and
- deliver more benefits from the gold trade to Central Africans.

This assessment is offered from the perspective of the international gold market and supply chains, comprising major refiners, manufacturers, and brands which include some of the largest companies in the world from diverse sectors like electronics and information technology, automotive and aerospace. It is a desk study which builds on recent field research on the minerals sector in CAR, including reports sponsored in 2018 and 2019 by USAID and UNDP-UNICEF. Analyses are based on well-established and internationally accepted guiding documents and standards which define international norms and expectations for due diligence and responsible sourcing. Recommendations are also informed by direct experience and specific cases of pilot projects and commercial relationships established between major international companies and gold producers or exporters in conflict-affected countries in Central Africa and Latin America.

Tools and recommendations in the report are focused on the gold sector but are relevant more broadly to other minerals, including diamonds, and can be complementary to existing systems such as the Kimberley Process.

2.0 DUE DILIGENCE AND CAR GOLD SECTOR RISK CONTEXT

2.1 WHAT IS DUE DILIGENCE AND WHY DOES IT MATTER?

Due diligence is a framework which calls upon companies to make informed, responsible choices about their sources and suppliers. The goal of due diligence is to help companies ensure that their supply chains respect human rights, do not contribute to conflict, and comply with international and national laws. By undertaking due diligence, companies are making a good faith effort to avoid contributing to conflict and armed groups, child labor, forced labor, corruption, and other major risks which hurt individuals, communities, and nations.

The essential reference document describing due diligence steps and recommendations is the Organization for Economic Co-operation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (the Guidance). The Guidance was developed in partnership with non-OECD economies, including from Africa's Great Lakes Region, international businesses, and regional and international civil society. Implementing due diligence means having a system to continuously identify, evaluate, report, mitigate and monitor the risks present at a mine site and along the supply chain. The basic structure of due diligence implementation for a company in the minerals supply chain is described as a five-step framework:

- 1) **Establish strong management systems**, including creating and communicating company policies and internal controls, data collection systems, grievance mechanisms, and training for and engagement of employees and suppliers about due diligence systems.
- 2) **Identify, assess, and prioritize risks**, through mapping of operations, business partners, and supply chains; prioritizing due diligence based on level and severity of risk.
- 3) **Respond to and manage risks**, including informing senior management, addressing gaps in internal systems, engaging with suppliers, leveraging partnerships and systems to manage risk, building internal and supplier capacity, and providing remedies when causing or contributing to adverse impacts.
- 4) **Verify due diligence**, including monitoring and independent audits at identified critical points in the supply chain based on risk assessment and prioritization; and undertake additional assessments as needed in response to an incident or other change in conditions.
- 5) **Report on due diligence**, with public reporting and communications on a company's supply chain due diligence policies and practices.

For over a decade, the Guidance has been recognized as the international benchmark for responsible minerals production and trade. It has been written into corporate policies and contracts; national, regional, and international laws; and industry standards. (See Table I for a list of some of the critical public and private sector governance systems aligned with the Guidance.) Thus, the governments and private sector of exporting countries must take steps to enable and encourage due diligence systems, or they risk being cut out of major supply chains.

On the positive side, the Guidance is an important tool for the artisanal and small-scale minerals sector because it encourages collaboration and responsible trade between international companies and conflict-affected countries. Unlike mechanisms like the Kimberley Process, the Guidance places primary responsibility on the private sector, including importers and processors, rather than exporting country governments. To that end, the Guidance highlights the following principles:

- Due diligence should be applied in a way that enables investment and trade in and with conflict-affected and high-risk areas, rather than blacklists or embargoes;
- Sourcing from conflict-affected or high-risk areas triggers heightened due diligence rather than disengagement, and the intensity of due diligence should be commensurate to the level and severity of potential risks;
- Due diligence is an ongoing process, requiring all supply chain actors to take proactive steps to monitor and report on risks, as well as respond to specific incidents when they arise;
- Supply chain actors from miners and traders to refiners and manufacturers should progressively improve their performance over time.

Table I. Uptake of OECD Due Diligence Guidance in International Frameworks, National Law, and Private Sector Systems – Selected Examples

International Frameworks	National Laws	Private Sector Sourcing and Standards Systems
G8 (2007, 2008, 2009, 2011, 2013) UN Security Council Resolutions on DRC (2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016) Ivory Coast (2013, 2014, 2015) and CAR (2016) ICGLR Heads of States Lusaka Declaration (2010) OECD Council Recommendation (2011) EU Parliament; EU corporate social responsibility strategy + Commissioners statement on raw materials	Section 1502 of U.S. Dodd-Frank Act on conflict minerals reporting EU regulation on responsible mineral supply chains Legal requirement in DRC, Rwanda, Burundi, Uganda UK Modern Slavery Act French Duty of Vigilance Law Transparency in Supply Chains Act, California, US	RMI Responsible Minerals Assurance Program Automotive Industry Action Group Aerospace Industry Associate LBMA Good Delivery List and Responsible Gold Guidance RJC Code of Practices and Chain of Custody Standard WGC Conflict-Free Gold Standard Chinese Due Diligence Guidelines for Responsible Minerals Supply Chains DMCC Rules for Risk Based Due Diligence in the Gold and Precious Metals Supply Chain Code of Risk-mitigation for ASM engaging in Formal Trade (CRAFT)

2.2 RISKS IN FOCUS FOR RESPONSIBLE BUYERS

International buyers look to the OECD Guidance to define risks and guide their policy and procedures for supply chain risk assessment, risk mitigation, and reporting. In particular, Annex II of the Guidance describes serious rights abuses (e.g., forced labor, sexual violence, war crimes), direct or indirect support to state or non-state armed groups, bribery and fraud with respect to mineral origin, money laundering, and illegal taxation.

In addition to OECD Guidance Annex II risks, responsible buyers – and the certification systems they rely on – look for information on the use of mercury in gold production, given its significant, devastating human and environmental impacts.

Companies commit to risk assessments and due diligence as part of their corporate responsibility but also because of legal compliance with many laws and international standards, including a suite of laws based on OECD Due Diligence Guidance (Table I), and related laws such as Foreign Corrupt Practices

Act (USA), anti-money laundering laws, terrorism financing laws, and others. Standards and certification systems which also impact market access require reporting on these risks.

2.3 CAR GOLD SECTOR RISK CONTEXT

The socioeconomic, governance, and conflict dynamics which impact whole national and regional economies logically also impact specific sectors such as artisanal and small-scale gold. Given the conflict factors present in CAR, it follows that a risk assessment of the CAR gold sector would flag a number of potential high risks. For example, documentation in CAR of serious abuses such as forced labor, child labor, and atrocities committed by armed groups create a high-risk environment (Human Rights Watch, 2020; Panel of Experts on the Central African Republic, 2019).

Specific risk factors documented in the gold sector include worst forms of child labor (WFCL) in mining (Pennes et al, 2018; Jaillon & de Brier, 2020), and involvement of non-state armed groups in minerals production, trade, and illegal taxation (Jaillon & de Brier, 2020)(Panel of Experts on the Central African Republic, 2019).

The International Labour Organization (ILO) defines WFCL in the Worst Forms of Child Labour Convention (ILO, 1999), ratified in CAR and in force since June 2000. ILO Convention 138 (Minimum Age Convention, 1973), further specifies that hazardous work is prohibited for children under 18, or age 16 under specific conditions. This is despite setting the general minimum age for employment at 15, with the possibility of 14 years for countries where education is underdeveloped. These definitions and principles are integrated in many laws, industry standards, and guidance, as well as the ILO Declaration on Fundamental Principles and Rights at Work.

Examples of WFCL include all forms of slavery, such as forced labor, trafficking of children, and recruitment of children for armed conflict; prostitution of children or pornography; engagement of child in illicit activities; and “hazardous work” which is likely to harm the health, safety or morals of children. OECD’s guidance on WFCL in mineral supply chains (OECD, 2017), notes that many activities defined as hazardous work occur in mining, and few mining activities would be considered non-hazardous. These activities include work underground or under water, work with dangerous machinery and tools, carrying heavy loads, and work that exposes miners to hazardous substances. Such conditions are unacceptable for responsible buyers.

Use of dangerous chemicals in mining is another serious concern of buyers, with mercury use in gold mining being a major global focus of the gold sector. As a signatory to the Minamata Convention on Mercury³, CAR is meant to create a National Action Plan to manage mercury usage as a means to

RISKS REVIEWED IN BUYERS’ DUE DILIGENCE PROCESSES

- Torture, cruel, inhuman, and degrading treatment
- Forced or compulsory labor
- Worst forms of child labor
- Sexual violence and other serious human rights abuses
- War crimes, genocide, or other serious violations of international humanitarian law and crimes against humanity
- Direct or indirect support to state or non-state armed groups
- Bribery and fraudulent misrepresentation of the origin of minerals
- Money laundering
- Non-payment of taxes, fees and royalties due to governments
- Uncontrolled mercury use

³ The Minamata Convention on Mercury is a global treaty to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds. Artisanal gold mining is the world’s leading contributor to anthropogenic mercury emissions and so the gold sector is a major focus of the treaty and its requirements for signatories to ban new mines using mercury, phasing out existing mines using mercury, and the regulation of the informal sector of artisanal and small-scale gold mining. The Minamata Convention

improve human and environmental health outcomes, and as a tool to support formalization of the gold sector and responsible, international investment and trade. While mercury use in CAR is low, the recent IPIS diagnostic indicates that foreign companies are introducing mercury for gold amalgamation, and that this usage is contaminating water bodies used by local communities. Increased prevalence of mercury in the sector and failure to control it will have serious human and environmental impacts and therefore be seen as a significant risk to international buyers as well.

Although the country as a whole would be seen as high-risk for gold sourcing, CAR has an opportunity to differentiate gold from areas not impacted by armed groups or other risks. While buyers will look at countries and regions as a whole to inform risk assessment, due diligence is also linked to specific supply chains, and would not prohibit sourcing from specific mines which can be validated as conflict-free. However, unlike the Kimberley Process which focuses only on conflict, CAR must still address other critical human rights issues. For example, one in five mine sites employs children, including in activities classified as worst forms of child labor (Pennes et al, 2018), and these sites could not be validated for sourcing by responsible buyers.

With good-faith efforts to address the overall conflict and risk environment, mitigate human rights issues such as child labor in mining, and design and implementation of systems to differentiate gold from conflict-free mines and supply chains, CAR has an opportunity to attract further investment by donors and engagement of responsible buyers seeking to support development in CAR. This could also help CAR avoid sanctions by the UN or other actors on its gold. Given the negative economic impact that bans like the Kimberley Process suspension of CAR in 2013 has had on many vulnerable mining communities, avoiding this outcome in the case of gold is in the country's best interest.

2.4 DUE DILIGENCE IN PRACTICE: WHAT WOULD DUE DILIGENCE LOOK LIKE FROM THE PERSPECTIVE OF AN INTERNATIONAL BUYER AND FROM A CAR COOPERATIVE?

2.4.1 WHAT WOULD DUE DILIGENCE LOOK LIKE FOR A EUROPEAN REFINER INTERESTED IN PURCHASING GOLD FROM CAR?

Given the risk context of CAR, a legitimate, international buyer such as a European refiner would conduct due diligence and require assessments and documentation of the entire upstream gold supply chain, from the specific mine of origin in CAR, trade and transportation routes, and all supply chain actors in-country from mine owner/operator to trading partners, refiners, and exporters. This due diligence would include an initial assessment to determine the viability of responsible sourcing from one or more sites in CAR; and because of CAR's high-risk context, a buyer would also have a mechanism to monitor and update this assessment over time or in response to specific incidents.

To carry out due diligence, an international buyer would send an employee to conduct a field assessment, hire a third-party assessment team, or work with a trusted NGO partner to analyze risks along the supply chain, including formal actors at the mine and in the cooperative to *agents collecteurs* and *bureaux d'achat*, as well as the involvement of informal actors such as *débrouillards*, *coxeurs*, and *négociants informels*. Assessors would gather information by directly observing conditions at the mine site and along the supply chain, reviewing documentation, and speaking with supply chain actors, civil society, and other parties with relevant information.

also provides guidance related to the gold sector, calls for signatories to create a National Action Plan for mercury management (described in Convention Annex C). For more information please see <http://www.mercuryconvention.org/>.

Some of the key questions which would be covered in a buyer's initial due diligence assessment and ongoing monitoring include the following:

- 1) **Overall risk context:** Was the gold produced or transported in a conflict-affected or high-risk area (CAHRA) as defined by OECD Guidance⁴? Does the country have an established legal framework and robust implementation of systems to govern the minerals sector, including credible mine site validation; registration and licensing of legitimate mining, trading, refining, and exporting entities; and documentation of chain of custody from mine site to export?
- 2) **Supply chain actors and know-your-counterparty (KYC):** Who is in the supply chain and are they legitimate or legal entities? What are their affiliations and are they linked to armed groups, public or private security forces, or on government watch lists (e.g., UN sanctions)?
- 3) **Mine site, transportation route, and points of trade:** What are the steps in the supply chain? Is there evidence of militarization or direct or indirect support to armed groups at any point in the chain? Is there evidence of any serious human rights abuses or other high risks? Is there evidence of fraud or misrepresentation of the origin of gold?
- 4) **Chain of custody and documentation:** Is there a credible system to trace gold and all payments including taxation from the mine to export, and to prevent infiltration of gold of unknown provenance? Is there credible documentation to validate due diligence and the claims of mine of origin and supply chain from mine to export?

KNOW-YOUR-COUNTERPARTY (KYC)

A KYC review enables a minerals buyer to verify the identity of its direct and indirect suppliers and customers, by collecting information to assess the legitimacy, legality, and potential risks of doing business with counterparties. KYC is also common across the financial sector and any other industries and supply chains observing due diligence and responsible business conduct.

After collecting information on conditions and potential risks, a buyer would assess whether and under what conditions it is possible to enter into a contract with the gold producer or seller, whether that is a cooperative, collector, or buying/export house. First, the buyer would make an overall determination of risk level, including high, medium, and low risks, and assess whether any risks are severe enough to require disengagement. For example, if assessors found evidence of serious abuses or involvement of armed groups at the mine site or in the gold supply chain were found, the buyer would not be able to purchase that gold.

Next, for medium or low risks, the buyer would work with supply chain actors to establish a risk mitigation plan and timeline, including which entities and individuals are responsible for resolving the risk and ensuring that the risk is managed immediately or over

the life of the contract. Buyers would require some risks to be mitigated before signing a contract or making a purchase, while some lower, ambient risks could have longer-term mitigation and management periods. As such, the due diligence approach allows a differentiated approach based on the severity of the risk, and allows producers and in-country actors to make progressive improvements.

While the OECD Guidance defines international norms for risk assessment, due diligence is not a simple checklist or a one-size-fits-all process. There are a number of additional tools and systems which may support and inform a buyer's due diligence program and its rigor, as well as impact the risk tolerance of a buyer. As described in Table I, buyers and downstream companies (like foreign refiners or gold bullion

⁴ The OECD Guidance defines CAHRAs as the following: "Conflict-affected and high-risk areas are identified by the presence of armed conflict, widespread violence or other risks of harm to people. Armed conflict may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars, etc. High-risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. Such areas are often characterized by widespread human rights abuses and violation of national or international law."

traders) must comply with many relevant laws, and may also have obligations to follow practices described in industry standards and certification programs.

For example, international refiners which have achieved an important industry certification such as inclusion on the LBMA Good Delivery List will protect that status by ensuring robust risk assessment and mitigation plans. LBMA is a standard-setting organization for the global wholesale market for precious metals, including gold. LBMA certification gives refiners a preferred global status and essentially allow refiners to do business with international banks and other gold customers. LBMA certification programs, including the LBMA Good Delivery List and Responsible Gold Guidance, require refiners to carefully assess risk and avoid any linkages to money laundering, terrorist financing, and human rights abuses, in keeping with the OECD Guidance. Before purchasing gold, LBMA-certified refiners must conduct due diligence all the way back to the mine site, and confirm that the gold mine and entire trade route is free of human rights abuses and other high risks.

Gold producers, exporters, and other traders in CAR can set themselves up for success by first understanding norms, laws, standards like LBMA's Responsible Gold Guidance, and other variables of risk assessment and risk mitigation, and then taking steps to prepare for a constructive and collaborative due diligence process with potential international buyers.

2.4.2 WHAT WOULD DUE DILIGENCE LOOK LIKE FOR A MINING COOPERATIVE, USING CRAFT AS A TOOL?

To illustrate examples about how CAR gold sector actors can implement due diligence, below is a sketch of steps that a cooperative or mining company could take to prepare for engagement with a European-based refinery. While critical regulatory and enforcement steps must be taken by the government to create enabling conditions for responsible trade (see sections 3 and 5), the example below can be implemented independently by individual entities and their commercial partners.

As Central African buying houses and refiners seek to sell their gold to the international legitimate market, they will need responsible partners who are prepared with due diligence management systems, risk assessments, and reporting. This is an opportunity for cooperatives and mining companies which are early adopters of due diligence practices and documentation in CAR.

To prepare for legitimate, commercial engagement, cooperatives can look to the OECD Guidance and especially the Annex II *Model Supply Chain for a Responsible Global Supply Chain of Minerals from Conflict-Affected and High-Risk Areas and Supplement on Gold*, which define risks which must be addressed at the mine site (and in the supply chain), as well as defining what the due diligence five-step framework looks like for upstream actors, including artisanal and small-scale gold miners.

For more specific steps and guidance, cooperatives may also use CRAFT⁵, a standard which describes how cooperatives can implement and document conformance with OECD Guidance. CRAFT is a useful tool as it is recognized by major, international systems and associations of refiners, jewelers, and electronics companies (e.g., LBMA, RJC, and RMI) as a way to implement and document due diligence at the mine site.

Cooperative leadership can use CRAFT Modules 1-5 as 1) a **self-assessment tool to determine readiness for due diligence and engagement with legitimate buyers**, and 2) a basis for writing **cooperative rules and policies to implement due diligence**. In the course of a self-assessment, cooperatives are likely to find some risks which will need to be mitigated, and even individuals which

⁵ The CRAFT code (in French, English, and Spanish) and related information is available online at www.craftmines.org.

must be suspended or excluded from the cooperative or mine site. After addressing serious risks, a cooperative can then use the CRAFT structure to create a **report which documents due diligence for prospective buyers or other commercial partners.**

Key questions for cooperative self-assessment using CRAFT: Cooperative leadership should conduct a risk assessment among members and other actors at the mine site and assess status by asking and documenting answers to the following questions, based on CRAFT's five modules:

- **Does the cooperative have a management system? (CRAFT Module 1)**
To document this, a cooperative should describe its management and owners, members, location, and its operations (including location and type of ore). A cooperative must also be able to have a system to track all miners working on the concession, including the miners' identifications and *patentes*.
- **Is the cooperative a legitimate operation? (CRAFT Module 2)**
To be a viable gold source for responsible buyers, cooperatives must document that they are a legitimate business. This will include describing how the cooperative and concession comply with Central African laws such as the Mining Code, and have secured permissions such as the *Autorisation d'Exploitation Artisanale (AEA)* and *Permis d'Exploitation Artisanale Semi-Mécanisée (PEASM)*. CRAFT also recognizes that some cooperatives may be making good faith efforts for full legal compliance or be in the process of obtaining legal status and permissions. For example, if the mine has not been designated in a *zone d'exploitation artisanale (ZEA)* or acquired full legal status, it can still collect evidence of seeking legalization, such as applications for an AEA or PEASM, or authorizations from customary or other local authorities and stakeholders. However, being considered a legitimate operation requires more than just legal compliance. As previous studies by the government and USAID AMPR have pointed out⁶, many legal cooperatives are in reality foreign-backed small-scale mining companies or are shell operations for local buyers wishing to export outside of a buying house. As with all due diligence approaches, CRAFT goes beyond respecting the letter of the law and requires respecting its spirit as well.
- **Has the cooperative eliminated OECD Annex II high risks which are prohibited in responsible minerals supply chains? (CRAFT Module 3)**
Cooperative leadership should write and communicate policies to all members that serious human rights abuses and linkages to armed groups will not be tolerated from any members, and should be reported if they are observed. Examples of these serious abuses which must be avoided and documented, as described in OECD Annex II and CRAFT Module 3 include worst forms of child labor forced labor, torture, sexual violence, and other serious violations of international humanitarian law, crimes against humanity, or genocide.

The cooperative should also assess whether members or others involved in minerals trade at the site (miners, *coxeurs*, *débrouillards*, *négociants*) are linked to any non-state armed group or parties suspected of involvement in serious human rights abuses. The cooperative should require members to abstain from making payments related to extortion or illegal taxation to non-state armed groups.

All these risks are considered as “pass-fail” criteria; that is, a legitimate buyer such as a European refiner or jeweler could not purchase from a mine site which has any of these high risks. Thus, if in this self-assessment the cooperative finds evidence of human rights abuses or linkages to non-state

⁶ See for example *L'étude diagnostique sur la contrebande des diamants bruts en République centrafricaine* (USAID AMPR, 2019) as well as the baseline diagnostic study prepared by the World Bank-funded project *Appui à la Promotion des Coopératives Minières (APCM)*.

armed groups, the cooperative should document steps taken to completely cut these ties and exclude involved individuals or entities from the mine site and supply chain.

- **Does the cooperative have a mitigation plan to address other OECD Annex II risks? (OECD Module 4)**

At this next tier of due diligence and CRAFT, cooperatives would be expected by legitimate buyers to assess remaining Annex II risks, and either show evidence that risks have been mitigated, or demonstrate good faith and good progress on mitigating risks. Example risks include illegal taxation, extortion, or control by public or private security forces; failure to pay taxes or fees required by CAR law, such as for *patentes* or the *taxe superficiaire*; money laundering; and mineral fraud.

Cooperatives should create policies linked to these risks, requiring all members to abstain from engaging in money laundering, or offering or taking bribes. Cooperatives should also create a control system to enable chain of custody of minerals commercialized by the cooperative, its members, or others at the mine site. A cooperative could base internal controls off of existing paperwork, such as *bordereaux d'achat*, combined with more specific procedures for record-keeping and periodically assessing transaction records (e.g., in a detailed, frequently updated *cahier de production*) to confirm they align with realistic production from the site.

- **Does the cooperative have an improvement plan for other high risks that legitimate buyers will ask for information about, beyond OECD Annex II risks? (CRAFT Module 5)**

Cooperatives also have the opportunity to proactively address risks considered important to legitimate buyers which are not specifically listed in the OECD Guidance. Buyers can still engage with cooperatives which are in the process of controlling such risks, and would look favourably on cooperatives employing progressive improvement. Examples of risks to control or make progress on include eradicating all worst forms of child labor at the mine site for those under 18 (including non-mining activities); making basic mine safety rules mandatory for all members; using water or other natural resources in coordination with local inhabitants who require the same resource for agriculture, fishing, use of forest products, or animal husbandry; using techniques that do not require mercury for ore extraction; and putting clear cooperative decision-making structures and mechanisms in place.

2.5 CONCLUSIONS: CAR GOLD SECTOR RISK CONTEXT AND PREPARING FOR INTERNATIONAL BUYER ENGAGEMENT

While due diligence can be understood as a technical and tedious process, international norms established in the OECD Guidance, as well as myriad laws and systems aligned with the Guidance, have at their basis an interest in protecting human rights and avoiding support to conflict.

Given conditions since the crisis of 2013, CAR like a number of other countries globally is considered as conflict-affected, and thus responsible buyers will follow and require due diligence to vet potential CAR gold sources. The presence of armed groups, including their participation in the gold trade, as well as challenges such as child labor and the potential for increased mercury use, would be considered red flags to potential buyers conducting a risk assessment.

However, due diligence does not begin and end at the border of a country. While the overall conflict and risk context in CAR is a significant factor, due diligence enables individual mine cooperatives and specific supply chains to differentiate themselves as lower risk for serious abuses and potential for contribution to conflict. Successes in other countries such as Colombia and the Democratic Republic of the Congo demonstrate that differentiation of supply chains within a high-risk area is possible. The CAR government and gold sector now have the opportunity to learn about and prepare for international

buyer engagement, enable legitimate gold sector actors in CAR to navigate market requirements, and mitigate negative perceptions about the CAR risk context.

To understand the process a gold buyer would follow to assess the viability of establishing a business relationship with a Central African gold *bureau d'achat* or refiner, CAR stakeholders should inform themselves by familiarizing themselves with systems and tools such as the following:

- international laws and industry systems and requirements (Table I);
- the OECD Guidance Supplement on Gold, which provides additional details on what the five-step framework should entail for all companies in the gold supply chain, as well as specific recommendations for upstream and downstream companies;
- tools such as the Artisanal Gold Due Diligence Toolkit, which includes a detailed questionnaire for a buyer's assessment team;
- Other tools and systems which the CAR gold sector can leverage to build the confidence of and streamline due diligence for buyers such as the CRAFT code (see box, page 21), which are attractive to buyers because these entities would already have established management systems and documentation of key risks.

Equipped with an understanding of the OECD Guidance and other due diligence and responsible sourcing mandates and programs, the CAR government and gold sector can begin to adapt and design legal, governance, and private sector reforms that fit the CAR context and will enable greater opportunities for relationships and trade with the international market.

3.0 FRAMEWORKS AND ENABLING CONDITIONS FOR RESPONSIBLE TRADE IN THE CAR GOLD SECTOR

3.1 LEGAL AND POLICY CONTEXT

The 2009 Mining Code of the Central African Republic provides a strong legal framework and an enabling condition for due diligence and responsible trade. As observed by Pennes et al in their 2018 diagnostic, the code is effective in that it defines the mining systems and the actors of the value chain; provides for monitoring of mining production and marketing; and encourages mineral sector and resource development for the benefit of Central Africans.

A gap and set of opportunities in the Mining Code which would bolster CAR's legal framework is alignment with key elements of the Regional Initiative to Combat the Illegal Exploitation of Natural Resources (RINR) of the International Conference on the Great Lakes Region (ICGLR). In particular, codification of the Regional Certification Mechanism (RCM) into national legislation and the CAR Mining Code is a critical step. The RCM is a minerals certification scheme (originally designed for gold as well as tin, tantalum, and tungsten) to encourage conflict-free mineral chains in and between ICGLR Member States and to eliminate financial support to armed groups via the minerals trade, and to address serious human rights abuses in mines and trade routes.

Implementing the RCM in CAR would cover requirements and mechanisms for the following:

- Mine site inspection and validation of mine sites as free of serious abuses, contribution to conflict, and other high risks;
- Chain of custody for gold from mine to export;
- Certification of legal mineral exports based on robust due diligence along the full supply chain, mine to export; and
- Periodic audits of gold exporters and their management systems.

By fully codifying and implementing the RCM, CAR could have in place the systems to credibly issue ICGLR export certificates and the documentation which validates the due diligence behind the certificates. With robust and meaningful implementation of the RCM, future ICGLR export certificates issued by the CAR government could be another enabling factor for international trade. See Table 2 for examples of RCM implementation by the Democratic Republic of the Congo.

However, as noted above, effective due diligence is led by the private sector; governments encourage and create the enabling conditions. Legitimate, international buyers may need documents beyond ICGLR export certificates to satisfy internal or other industry standards or audits. As such, the CAR legislative framework could encourage or require all private sector actors to understand and adopt due diligence practices which would allow them to respond to a variety of due diligence standards and requirements

SIX TOOLS OF THE ICGLR RINR

1. Regional Certification Mechanism
2. Harmonization of National Legal Frameworks to the Protocol on the Fight against the Illegal Exploitation of Natural Resources
3. Regional Database on Mineral Flows
4. Formalization of Artisanal and Small-Scale Mining
5. Extractives Industry Transparency Initiative Membership and Implementation
6. Whistleblowing Mechanism for Reporting Fraud, Armed Group Presence, and Human Rights Abuses

from international buyers. For example, a buyer could require a CAR government-issued ICGLR certificate plus proof of a chain of custody system, and credible and independent evidence that the mine of origin is free of serious human rights abuses and armed group involvement.

The legal structure for minerals taxation is also relevant to the enabling environment, supporting legal taxation and government revenues, inhibiting illegal or informal taxes and payments along the supply chain, and preventing direct or indirect financial support to armed groups. As observed by past diagnostics (Pennes 2018, DeJong 2019), a tax structure is in place in CAR, although it should be reviewed to ensure that it meets the following objectives:

- 1) to reduce incentives for smuggling and reduce financial barriers to participating in formal markets;
- 2) to consider a reduced tax rate in line with the lower profit margins of gold compared to diamonds;
- 3) to increase overall revenues from mining to the state by capturing more of the gold sector in legal and formal systems; and
- 4) to support retrocession (in this context, sending a portion of a national tax to the local government where the resource was extracted) and resources for local projects benefiting mining communities.

The ICGLR has also called for tax harmonization in the region, so that major tax rate differentials between neighboring countries do not inadvertently encourage smuggling. That is, significantly lower tax rates in countries abutting CAR will incentivize illegal trade routes and result in revenue losses for the country due to smuggling.

3.2 LAWS AND POLICIES IN PRACTICE

CAR's legal framework and governance structure for minerals sector governance exists, and legal gold exports have been increasing significantly in recent years, with 2019 volumes equivalent to over 44 times that of 2015 reported exports. At the same time, research also indicates that only a small portion of actual production is officially declared and legally exported; IPIS estimated annual production at 5,720 kilos, while BECDOR's official 2019 export volume was less than 360 kilos. Research indicates that the majority of gold is smuggled into Cameroon (Jaillon & de Brier, 2020) or via other informal or illegal pathways to destinations such as Dubai. These figures indicate that legal frameworks could be more comprehensively implemented across the country; below are critical steps and current gaps to address in legal frameworks and policy implementation:

Mine site inspection and validation, and prohibition of human rights abuses and armed group involvement in the mining sector. With its growing importance yet relative nascence compared to the diamonds sector, the gold sector is characterized by informality and illegality in production and trade. According to a recent study, state services are inconsistent but expanding in Western CAR, with nearly half of mine sites visited by at least one national or local agency (Jaillon & de Brier, 2020). This scale of government presence limits controls on legitimate mining and taxation. Increased state presence and services are needed to map and validate mine sites which are operated in a way as to respect human rights and prohibit armed group involvement, and exclude non-conforming mines from production and trade. This should include not just informal artisanal mines but also semi-industrial foreign operators and cooperatives, and long-term, any industrial actors that begin operations.

Establishing chain of custody from mine to export. CAR does not currently have systems to document and differentiate between minerals from conflict-free mines and trading chains

(market acceptable) and those of illegal, conflict-affected, or unknown provenance (not acceptable). CAR can align with OECD Guidance and the ICGLR RINR by requiring upstream actors to implement chain of custody systems and codifying this requirement in national law. Documents such as *bordereaux d'achat* can support such systems but need additional elements to enable chain of custody.

It is especially critical for local refiners and buying houses to carefully document and provide credible evidence of conflict-free gold sources and trade routes. Gold from multiple sites and supply chains could be mingled when purchasing and processing gold, and so it is a risk for legitimate local refiners and buying houses if even a small volume of gold from informal or illegal mines “contaminates” their product. Local refiners not acting in good faith can mask illegal gold by mixing sources, creating a reputational risk for all CAR gold exports.

Registration and licensing of legitimate mining cooperatives, mining companies, collectors, buying houses, refiners, and other exporters, and validation of legal exports. The lack of public and private enforcement and compliance with the legal framework are major factors enabling fraud, including smuggling of gold to Cameroon and the persistence of a mainly informal and illegal gold sector (Jaillon & de Brier, 2020). For example, while there is a licensing regime, many mineral producers or other supply chain actors are not officially registered, or they are not exporting enough officially at commercially viable levels. There are 21 entities which declared gold exports in 2019, including bureaux d'achat, cooperatives, refiners, and mining companies (BECDOR), representing only 6.3% of the annual gold production estimated by IPIS (2019).

CAR has an important opportunity to address this gap by engaging and training more government agents to implement a comprehensive system to register legitimate mining sector entities, validate legal exports in keeping with the ICGLR RCM, and marginalize or prevent illegal actors from entering the market. The CAR government should also scrutinize more closely the export and production figures of legally registered exporters and sanction those who are not declaring all of their production or trade. These actions can complement the many positive elements of the existing mining code in CAR.

3.3 CONCLUSIONS: EXISTING FRAMEWORKS AND ENABLING CONDITIONS FOR DUE DILIGENCE AND RESPONSIBLE TRADE

While international companies are accountable for ongoing due diligence based on the five-step framework, they look to governments, private sector, and civil society partners in producing countries to create and govern systems which support responsible sourcing. Governments create the enabling environment for responsible supply chains; private sector (cooperatives, buying houses, local refiners, and exporters) implement due diligence and the OECD five-step framework; and civil society helps monitor the mining sector minerals supply chains, including government and private sector activities.

Central African policies and legal frameworks are in place to support a legal gold sector, but existence of systems on paper is insufficient to foster legitimate, international trade. Responsible buyers would find today's gold sector governance conditions to be very onerous if not infeasible for conducting due diligence and trade. Specifically, an international buyer would not find the necessary systems and documentation in place to confirm the provenance of minerals or chain of custody from mine to export, conduct KYC on all entities in a given supply chain, or determine whether minerals they are considering purchasing have contributed to human rights abuses and conflict. Thus, at this time, a very small share of gold from CAR could enter formal markets or be cleared for purchase by international refiners,

importers, or other buyers subject to European or North American laws, or major industry systems such as LBMA Good Delivery, RJC, RMAP, and other frameworks aligned to the OECD Guidance.

To improve the risk context of the gold sector and improve trade prospects, CAR leaders must create and actively support an updated legal framework for the minerals sector, with robust government implementation and enforcement, private sector uptake and adherence, and independent monitoring by civil society.

Table 2. Implementing due diligence: RCM requirements and examples from the DRC

DUE DILIGENCE ELEMENT	BRIEF SUMMARY OF RCM REQUIREMENT ⁷	DRC IMPLEMENTATION APPROACH
Mine site inspection	<ul style="list-style-type: none"> -Mine sites are inspected annually by a Mine Site Inspector employed or engaged by Member State (a third party). -Mine sites are given a status of blue (not yet inspected), green (valid), yellow (provisionally valid), or red (not valid). 	<ul style="list-style-type: none"> -The government confers legal status on a mine concession by naming artisanal mining zones (ZEA), and conducting mine site inspections. -Tripartite teams visit mine sites and assess extent of OECD Annex II risks and compliance with national laws. -In practice, few ZEAs have been designated, and visiting every mine each year has been a challenge given the number of mines in DRC.
Chain of custody (CoC)	<ul style="list-style-type: none"> -Member States are responsible for regulating, licensing and assuring that CoC systems operate in conformance with the RCM requirements. -Exporters are responsible for ensuring the implementation of a licensed CoC system. CoC Systems may be implemented by licensed third-party providers, Exporters or Member States. 	<ul style="list-style-type: none"> -The DRC Government has memoranda of understanding with third-party providers like ITSCI (3T), and also designed and now require use of their ITOA⁸ system for artisanal gold. A majority of artisanal 3T supply chains but very few artisanal gold supply chains have implemented a CoC, significantly limiting DRC's current ability to engage in the international market with legitimate gold buyers. -Many stakeholders in DRC support having multiple, credible, licensed CoC systems to give supply chain actors more options for service providers and more competitive pricing.
Independent audits	<ul style="list-style-type: none"> -The ICGLR Third Party Audit program provides independent verification that exporters' supply chains from mine site to export conform with the RCM. The audit covers the mineral supply chain from mine to export, including refining/processing if relevant. -Exporters are given a status of blue (audit requested but not yet audited), green (valid), yellow (provisionally valid), or red (not valid). 	<ul style="list-style-type: none"> -Third party audits for all Member States are governed by the tripartite ICGLR Audit Committee and carried out by auditors approved by the Committee. -Third party audits have been conducted for some DRC exporters, with more planned across member states which are implementing the RCM.
Export certification	<ul style="list-style-type: none"> -Member States must designate a lead agency to examine each export lot and ensure required documentation (mine site validation, CoC, and exporters) meet RCM requirements before issuing an 	<p>The <i>Centre d'Expertise, d'Evaluation et de Certification des substances minerales précieuses et semi-précieuses</i> is responsible for reviewing 3TG mineral lots and issuing ICGLR Certificates. Legitimate, international buyers also collect</p>

⁷ See ICGLR RCM Manual, second edition for full description and details: <http://www.icglr-rinr.org/media/attachments/2020/01/06/icglr-regional-certification-mechanism-manual--2nd-edition.pdf>

⁸ The Government announced ITOA in January, 2017: <https://ceec.cd/index.php/news/mardi/>

	ICGLR Certificate. -Exporters maintain a CoC system and accompanying documentation.	information from third-party CoC systems and other assessments to validate the export certificates.
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4.0 RATIONALE FOR CHANGE

Due diligence systems provide a passport to markets. As discussed in Section 2.0, due diligence as described in the OECD Guidance is not only the benchmark of international practice for responsible companies in minerals supply chains, but the Guidance is now codified across an expanding suite of international and national laws and standards.

Thus, producing countries which fail to integrate due diligence norms and practices in legal frameworks, governance, and industry systems will limit their market access. This is especially true in conflict-affected countries. Due diligence systems can help Central Africans to differentiate conflict-free gold sources from conflict-affected areas of the country, but lacking such systems, international buyers may consider all CAR gold to be conflict gold.

Furthermore, there is strong international industry and donor interest in supporting development of responsible, artisanal gold supply chains. Public-private partnerships, certification systems, technical support, and other projects to encourage responsible artisanal gold production and trade, and to establish links between gold from developing countries and international markets.

Due diligence systems are a benchmark of a viable investment climate. A robust due diligence framework, reflected in law and governance mechanisms as well as in the practice and culture of the private sector, can enable investment as well as trade.

While this report focuses on the gold sector in particular, the principles and practices of due diligence are applicable to a suite of sectors. The same frameworks are applicable to diamonds and could therefore be a strong complement to the Kimberley Process and support CAR in its interests to expand legal diamond trade. Building a foundation of a strong, legal minerals sector in CAR would be a signal that the country is primed for investment in other sectors.

Implementing due diligence can also support financing for individual companies. For example, the types of documentation such as KYC that an international buyer would require from a Central African exporter would also be useful to and

EXAMPLES OF PROGRAMS SUPPORTING RESPONSIBLE ASM GOLD TRADE AND INVESTMENT

Better Gold Initiative: A public-private partnership between the Swiss Government and a Swiss industry association of refiners and jewelry manufacturers to support gold cooperatives and purchase artisanal gold (*Bolivia, Peru, Colombia*)

Commercially-Viable, Conflict-Free Gold Program: A USAID-funded program to establish conflict-free ASM gold supply chains from Eastern Congo to North American and European markets (*Democratic Republic of the Congo*)

CRAFT: A code describing how cooperatives can implement and document conformance with OECD Guidance, enabling artisanal producers to sell to responsible buyers and enabling responsible buyers to conduct due diligence (*Burkina Faso, Colombia, Ghana*)

Just Gold: A program providing technical support to miners to incentivize legal trade and linkages to responsible, international companies and consumers (*Democratic Republic of the Congo*)

planetGOLD: A program to make ASM gold mining safer and cleaner (including addressing mercury use), and to encourage investment (*Burkina Faso, Colombia, Ecuador, Guyana, Indonesia, Kenya, Mongolia, Peru, Philippines*)

Responsible Artisanal Gold Solutions Forum: A partnership linking responsible cooperatives and exporters to major companies in the gold supply chain, and encouraging industry engagement with the ASM gold sector (*Democratic Republic of the Congo*)

Fairmined and Fairtrade: Certification programs which aim to help miners connect with buyers and secure a premium gold price by achieving high performance (e.g., health and safety, environmental protection, women's rights, child labor) (*Colombia, Peru, Kenya, Ghana, Tanzania*)

required by potential investors as a way to screen legitimate business operations.

Due diligence systems support people and economies of CAHRAs. The central principle of due diligence is to help companies respect human rights and avoid contributing to conflict through the minerals supply chain. The OECD Guidance also recognizes the potential for the minerals sector to support prosperity, development, and stability in CAHRAs, when due diligence systems are properly implemented. To this end, the OECD has created tools such as a frequently asked questions (FAQ) document on artisanal gold to support industry engagement with the artisanal gold sector, and many donors, foundations, NGOs, companies, and others have and continue to invest in development of the artisanal gold sector worldwide. Notably in CAR, the USAID AMPR program is investing in the promotion of legal, responsible supply chains and strengthening social cohesion in mining areas.

Thus, while due diligence will require investment by the public and private sector in CAR, tools and resources are available to inform these efforts. And importantly, investing in responsible minerals systems and governance can yield important economic and social returns for CAR. Table 3 describes some of the benefits of implementing due diligence systems for the public and private sector and civil society.

Table 3. Due Diligence Supports People and Economies of Conflict-Affected Countries

Local Stakeholders	Implementing due diligence helps by
Private Sector (minerals producers, local traders, local refiners)	<ul style="list-style-type: none"> ✓ Allowing the minerals sector to distinguish legitimate minerals from illegal sources, even in a conflict-affected region ✓ Describing the steps that local private sector should take meet expectations of and access the international market ✓ Enabling responsible, international companies to invest and establish commercial relationships with the local private sector ✓ Potential for linking with specialized buyers such as jewelers interested in supporting responsible artisanal gold mining
Government	<ul style="list-style-type: none"> ✓ Providing better information on minerals production ✓ Enabling greater revenues from increased legal gold sales and export taxes ✓ Enhancing the overall image, reputation, and investment climate of the country
Civil Society	<ul style="list-style-type: none"> ✓ Supporting human rights and good governance in communities and nationally ✓ Improving transparency, governance, and responsible use of natural resources ✓ Increasing financial benefit to citizens from increased revenue from legal gold trade

5.0 SUMMARY OF RECOMMENDATIONS

There is evidence of international market support for sourcing gold from countries with a range of risk profiles. Producing countries which are “market ready” and best positioned to attract international investment are those with a legal framework aligned with international norms of human rights and responsible sourcing, paired with consistent, good faith efforts of government enforcement and private sector compliance. To maximize market access and economic opportunity, Central Africans should integrate due diligence principles and practices across state and private sector frameworks.

Due diligence and the prevention of illicit trade is a shared responsibility between government and private sector. Governments adopt laws, regulations and internal controls, in line with international commitments; supervise mining and trade; collect revenues, enforce anti-money-laundering, anti-bribery laws; formalise artisanal and small-scale mining; and license traders and exporters. Businesses must obey laws; pay taxes; undertake and report on due diligence on minerals sources and supply chains; work with local authorities to strengthen documentation, monitor mine sites and trade, and report suspicious transactions; and invest in mines and local trading hubs, productivity, and capacity building. Below are specific recommendations for government and private sector in CAR to increase the market readiness of the gold sector.

5.1 RECOMMENDATIONS FOR THE GOVERNMENT OF CAR TO IMPROVE MARKET READINESS OF THE GOLD SECTOR

To develop a robust and responsible gold sector which benefits Central Africans, and to build economic opportunities and linkages to international markets, CAR’s legal framework and especially its implementation should address gaps to align with requirements of regional governance, importing country requirements, and international buyer expectations. CAR also has an opportunity to fill gaps based on its ICGLR membership and commitments, including implementation of the RINR and RCM.

To these ends, the Government of CAR should take the following actions:

- 1) **Map and register all gold mine sites** to better understand production potential in the country as well as due diligence risks. This mine site mapping can build on the interactive web map⁹ built by IPIS as a means of first identifying sites and then entering the sites into an official registry, with regular updates based on field visits. The data can also be used to fulfill new Extractive Industries Transparency Initiative (EITI) standards.
- 2) **Create a system to inspect and validate mines**, to screen for and prohibit serious human rights abuses and armed group involvement in the gold trade, and help address risks which are identified during inspections. This could include a small, multi-stakeholder or multidisciplinary team with expertise on the mining sector and human rights. Mine inspections which identify serious human rights abuses or armed group involvement should be prohibited from production and trade (see RCM Manual¹⁰).
- 3) **Require the private sector to implement a chain of custody from mine to export**, to differentiate and properly document minerals from conflict-free mines and trading chains which can be accepted by international markets, minerals which are illegal, conflict-affected, or of unknown provenance. This could include paper documentation, building on existing practices or

⁹ Interactive web map available at <https://www.ipisresearch.be/mapping/webmapping/carmine/v1/>.

¹⁰ The second edition of the RCM Manual is available at <http://www.icglr-rinr.org/media/attachments/2020/01/06/manuel-du-mcanisme-rional-de-certification---2e-edition-1.pdf> (French version)

tools such as the *bordereaux d'achat* or electronic traceability. The government could choose to create its own system for supply chain actors to use with specific, government-issued documents, or invite private sector solutions which meet a minimum standard set by the government. All mine owners and operators, collectors, buying houses, refiners, and other exporters must participate in the chain of custody.

- 4) **Create a system to validate legal exports**, by integrating the tools of the ICGLR RCM in law and in practice, and issuing ICGLR certificates for minerals which can demonstrably conform with the RCM and OECD Guidance. All exporters should be required to show credible documentation of the mine of origin and full chain of custody of the minerals they propose to export. Due diligence can also be integrated into EITI reporting requirements.
- 5) **Implement registration and licensing** of all legitimate mining cooperatives, buying houses, refiners, and other exporters. The registration process should require documentation to prove that individuals and entities are following all national laws and are not linked to armed groups or illicit trade.
- 6) **Create a blacklist** of known smugglers or other actors perpetrating minerals fraud to share with enforcement and border authorities, businesses, and civil society in CAR as well as neighboring states and gold importing countries.
- 7) **Support capacity building on due diligence** in the gold sector and civil society to bolster the responsible minerals environment, by offering trainings or inviting donors, private sector, or other partners to organize trainings and share tools.
- 8) **Promote the CRAFT code as a tool to implement due diligence for artisanal and small-scale producers including cooperatives.** Linked to Government recommendation #2 and complementary to many other recommendations, the Government can use the CRAFT code as a guide for defining mine site validation performance expectations and practices, and can also promote CRAFT as a tool for mine operators to implement due diligence at the mine site. CRAFT is accepted by key international market influencers like LBMA, RJC, and RMI as a due diligence tool and a benchmark for good practice by artisanal and small-scale mineral producers, and so it is a strong basis for defining and implementing public and private due diligence systems in CAR, and can build the reputation of the CAR gold sector with legitimate, international buyers.
- 9) **Create a Gold Sector Action Plan** to summarize the suite of actions that the Central African Government will make to reform the gold sector, including integrating due diligence into the mining code and mining policy implementation. This plan can also include elements on addressing mercury usage to fulfill CAR's obligation as a Minamata Convention to create a National Action Plan on mercury.

5.2 RECOMMENDATIONS FOR THE CENTRAL AFRICAN GOLD SECTOR TO IMPROVE MARKET READINESS

The private sector entities in the Central African gold sector, from mine to export, should build a culture of compliance and respect for observing laws, policies, and the OECD Guidance. Specific recommendations to support this commitment include the following:

- 1) **All private sector entities in the gold sector should familiarize themselves with due diligence principles, tools, and systems needed to meet market expectations.** For CAR, critical systems and tools include the following:

- **OECD Guidance**, including the detailed recommendations for upstream actors to implement the five-step framework outlined in the OECD Guidance Supplement on Gold;
- **ICGLR RINR, especially the RCM** to enable the CAR government to credibly validate legal and conflict-free minerals and for trade and export;
- **OECD FAQ on Artisanal Gold**, to provide further insight into the questions and expectations of international buyers when it comes to considering gold sources from CAHRAs;
- The **Artisanal Gold Due Diligence Template**, developed by gold experts and international refiners, which gives a detailed outline of information which mining cooperatives, traders, and local refiners and exporters would need to provide to meet market expectations of major international buyers.
- The **Extractive Industries Transparency Initiative (EITI)** which now includes ASM in its reporting requirements, notably requirements 3.1 and 6.3. The EITI has prepared a guidance on coverage of ASM in its requirements.¹¹

2) **All private sector entities should especially review and implement the five-step framework described in the OECD Guidance**, including the following steps:

1. Establish strong management systems
2. Identify, assess, and prioritize risks,
3. Respond to and manage risks,
4. Verify due diligence
5. Report on due diligence actions and findings

A key, early step to due diligence will be for small-scale mining operators or license-holders, local refiners, and exporters to institute basic management systems to support this five-step framework, compliance requirements from the government, and future demand from legitimate, international buyers to provide evidence of these systems.

3) **All gold sector actors should register with the government, under the current law and any updates to the Mining Code or related policies.** A key first step in building the legitimacy of the gold sector will be to create a full picture of the cooperatives and mining companies, buying houses, refiners, and other legitimate actors in the Central African gold trade. Registering with the government is also an opportunity for legitimate businesses to distinguish themselves from illegal actors and operations run by armed groups.

4) **All gold sector actors should call for and engage with the Government in creating a Gold Sector Action Plan** for CAR, and consider creating an accompanying document or chapter describing commitments of the private sector to comply with all Central African laws and policies, as well as the OECD Guidance. The gold sector should send a strong signal to public and private leaders in CAR that there is a demand for an enhanced legal and compliance framework to improve the overall business and investment climate in CAR for responsible minerals trade. **All gold sector actors should begin to assemble the types of documentation which would be required by a legitimate, international buyer to conduct due diligence and KYC processes**, including the following:

- **Organization details:** Company name, location, business registration, organizational chart, contacts, and related identification details

¹¹ See French version of Note 21 here: https://eiti.org/files/documents/guidance-note-21-asm-fr_0.pdf

- **Business activity:** Type of business, core business activity, services, form of gold sold and purity, customer/supplier profiles, other sources of income
- **Beneficial ownership:** Shareholders or cooperative members receiving benefits
- **Management structure:** Board of Directors and management team
- **Government, political, or military affiliations**
- **Human resources:** Number of employees
- **Financial information:** Capital, shareholder equity, goods of significant value, debts, operating costs, sales, net income, source of funding, usual payment methods for suppliers
- **Financial institution / mobile money information:** Name of institution, IBAN, Swift Code, and branch contact information
- **Origin of materials:** Site name, size and production, ownership, licensing/legal status, government presence, environmental and social conditions, presence of armed groups or other security
- **Regulatory environment:** National laws for environmental, child labor, conflict minerals, health and safety compliance, and public security presence
- **Financial compliance and responsible sourcing policies and systems:** Anti-money laundering system, bribery policy, responsible mineral supply chain policy

Collectors, buying houses, refiners, and other exporters should additionally prepare information including the following:

- **Transportation of minerals:** Ore transportation method and route, use of chain of custody system, presence of military or police along route
- **Processing:** Processing site, method, use of chemicals including mercury or cyanide

Businesses will likely find that they do not have data on all the categories described above, and that there are not currently systems in place to collect the full range of such data. However, undertaking a KYC data collection effort now will help prepare for engagement with the legitimate market, and gaps will be filled over time as government and private sector due diligence systems are implemented. This will also help with EITI reporting requirements.

- 5) **Cooperatives and mining companies** should consider the CRAFT Code and potentially the Fairmined and Fairtrade standards as a way to demonstrate and document conformance with the OECD Guidance (CRAFT Code), and achievement of higher social and environmental performance targets (Fairmined, Fairtrade). These assurance tools can also help legitimate cooperatives who follow good practice to provide evidence which differentiates their mines and gold from conflict-affected sources.
- 6) **Buying houses, refiners, and other exporters** should consider how to support and engage with cooperatives considering or implementing CRAFT or certification systems; gold from cooperatives with documented systems, performance, and progressive improvement plans aligned with CRAFT will be the most viable product for international buyers.

5.3 ROLE AND IMPORTANCE OF CIVIL SOCIETY

CAR's market readiness would also be meaningfully bolstered by fostering a civil society sector informed about responsible minerals trade and due diligence, and actively engaged as a partner for due diligence. An active civil society is a positive trait and mark of a producing country with a responsible and legitimate minerals trade, and needed to champion and fully implement the RINR and its tools such as whistleblowing mechanisms.

Central African government and companies should build relationships with independent civil society organizations (CSOs), and consider mechanisms for individuals and CSOs to support independent monitoring, consultation on improving outcomes for mining communities, and sharing other ideas for bolstering transparency and governance of the minerals sector. The model of USAID AMPR collaborating with NGO IPIS could be replicated and expanded involving, for example, a local NGO or university in mine site mapping and validation.

Central African CSOs should consider a meaningful role in the minerals sector, looking to other CSOs and CSO networks in the region for relationships, tools, or other models which could be adapted to the CAR context. For example, networks such as the Coalition of Civil Society Organizations in the African Great Lakes Region against the Illegal Exploitation of Natural Resources (COSOC-GL¹²) can provide a peer learning and information exchange platform, whether through formal membership or informal consultation.

5.4 OPPORTUNITIES FOR INTERNATIONAL SUPPORT AND RESOURCES

CAR leaders also have the opportunity to consider partnerships which may attract technical and financial resources to support implementation of due diligence and planning and reform of the gold sector to enable greater international market engagement. Example opportunities include the following:

- 1) USAID AMPR has a suite of programs in support of the gold and diamonds sector, including in-country support and identifying linkages to the international market. A forthcoming pilot initiative to engage international, boutique jewelers will initially focus on diamonds but may expand to gold. The AMPR office can also help government and gold sector actors access informational resources such as those from the OECD, the ICGLR, the January 2020 National Workshop on Responsible Gold, recent mineral sector reports and mapping resources, and other sources.
- 2) The World Bank supports artisanal mining, including formalization and cooperatives through the PGRN project. A sub-component of this project underway in CAR, and implemented by Tetra Tech, includes provisions for technical assistance to miner organizations, including facilitation of market access, and could be a resource for both the government and private sector to use the CRAFT code to access the growing market for responsibly sourced gold.
- 3) CAR can continue to engage with the ICGLR and Member States via the Secretariat's Natural Resources Technical Unit, the Regional Committee, and the Audit Committee. A current, relevant activity is the ICGLR's planning and implementation of a regional strategy on gold and formalization of the artisanal sector. The ICGLR has also in the past convened an exporter workshop to build awareness of the RCM and discussion methodologies to scale up due diligence implementation in the Great Lakes Region in such a way as to clearly hold exporters and other supply chain actors accountable for responsible conduct, without undue financial or administrative burden. Future workshops convened by the ICGLR and its partners could be opportunities for the Central African public and private sectors and civil society to build knowledge of regional systems and market access mechanisms.
- 4) The Office of the Special Envoy of the UN Secretary-General for the Great Lakes Region has in the past established a framework to promote economic development and cooperation in the region. For example, in February 2016 with the ICGLR and Member States, the Office organized a Private Sector Investment Conference for the region. CAR with other ICGLR partners could encourage a related event or other activities as another avenue to support responsible trade. At

¹² The website for COSOC-GL can be found at <http://cosoc-gl.org/>

international fora such as the OECD, representatives of the Special Envoy have also convened discussions about destination countries (such as United Arab Emirates) for gold from ICGLR Member States, to discuss combatting of illegal trade from importing countries.

- 5) The CAR public and private sectors could consider participating in select, international conferences, such as the annual OECD Forum on Responsible Mineral Supply Chains as an opportunity to meet legitimate, international refiners, due diligence system service providers and other implementing organizations, and others who could be partners in responsible trade, capacity building, or implementation of due diligence systems in CAR. CAR stakeholders can also learn what is working and what lessons have been learned across many countries globally who are implementing due diligence in a high-risk environment.

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ANNEX II: TOOLS AND OTHER REFERENCES

Artisanal Gold Due Diligence Template by the Responsible Artisanal Gold Solutions Forum:

<https://www.resolve.ngo/docs/rags-forum-asgm-dd-toolkit-april-2018.pdf>

CBRMT Simplified KYC Form

CRAFT Code: Links to English, French, and Spanish: <http://craftmines.org/>

ICGLR RCM Manual, second edition

English: <http://www.icglr-rinr.org/media/attachments/2020/01/06/icglr-regional-certification-mechanism-manual---2nd-edition.pdf>

French: <http://www.icglr-rinr.org/media/attachments/2020/01/06/manuel-du-mcanisme-rgional-de-certification---2e-edition-1.pdf>

IPIS Interactive Web Map of CAR gold and diamond mines:

<https://www.ipisresearch.be/mapping/webmapping/carmine/v1/>

Minamata Convention on Mercury: <http://www.mercuryconvention.org/>

National Workshop on Responsible Gold Mining: Training slides on OECD Guidance and CRAFT

OECD Due Diligence Guidance for Responsible Mineral Supply Chains

English: <https://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>

French: <https://www.oecd.org/fr/daf/inv/mne/Guide-OCDE-Devoir-Diligence-Minerais-%20Edition3.pdf>

OECD Practical actions for companies to identify and address the worst forms of child labor in mineral supply chains

English: <https://mneguidelines.oecd.org/Practical-actions-for-worst-forms-of-child-labour-mining-sector.pdf>

French: <https://mneguidelines.oecd.org/OECD-Actions-Pratiques-Contre-les-Pires-Formes-de-Travail-des-Enfants-en-Miniere%20.pdf>

OECD Responsible Supply Chains in Artisanal and Small-Scale Gold Mining FAQ

English: https://mneguidelines.oecd.org/FAQ_Sourcing-Gold-from-ASM-Miners.pdf

French: https://mneguidelines.oecd.org/FAQ_Sourcing-Gold-from-ASM-Miners-FR.pdf

USAID AMPR Fact Sheet: <https://www.usaid.gov/central-african-republic/fact-sheets/car-development-programming-fact-sheet>

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