OECD DUE DILIGENCE GUIDANCE FOR RESPONSIBLE SUPPLY CHAINS OF MINERALS FROM CONFLICT-AFFECTED AND HIGH-RISK AREAS

First meeting of the OECD-hosted working group on gold

4 May 2011

Venue: OECD Conference Centre (Conference Room 10 – CC10), 2 rue André Pascal, 75016 Paris, France.

Badges: On arrival, you must register at the reception desk to obtain a visitor's badge. Please bring your passport or identity card with you. Please arrive well in advance of the start of the meeting to allow sufficient time for the registration formalities. *For security reasons, you must wear your visitor's badge at all times.*

DRAFT ANNOTATED AGENDA

Moderator: Dr. Wynet Smith, Coordinator/Natural Resources Expert, UN Panel of Experts on Liberia

Reference documents: OECD Due Diligence Guidance for responsible Supply Chains of Minerals from Conflict Affected and High Risk Areas and Draft *Supplement on Gold.*

9:00 - 9:30 ***Registration***

9:30 – 9:45 ***Welcome remarks by OECD Secretariat***

9:45 – 11:00 **SESSION 1 – SETTING THE SCENE**

9:45 – 10:15 **Background on gold from conflict-affected and high-risk areas**

This session will provide an overview on the relationship gold trade and conflict and how it is entering the supply chain.

Discussant:

- Gregory Mthembu-Salter, Consultant to the UN Group of Experts on the DRC.
- Dr. Kevin Telmer, Executive Director, Artisanal Gold Council, Associate Professor, SEOS, University of Victoria, Canada.

10:15 – 11:00 **Overview of the applicable sections of the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* and the draft *Supplement on Gold***

Presentation by the OECD Secretariat

11:00 – 11:15 *Coffee Break*

11:15 – 13:00 **SESSION 2 – UPSTREAM SYSTEMS OF CONTROLS AND TRANSPARENCY IN THE GOLD SUPPLY CHAIN - STEP 1 (C) OF THE *DRAFT SUPPLEMENT ON GOLD***

The draft Supplement provides specific recommendations on establishing a system of controls and transparency in the gold supply for (i) gold producers and exporters and (ii) refiners. It also includes a detailed Appendix on chain of custody information to be collected and maintained as part of these control systems. The Guidance recommends that refiners collect and maintain different information depending on whether they are refining mined gold, original recycled/scrap gold, consolidated recycled/scrap gold, melted recycled/scrap gold and/or mixed gold. The Supplement distinguishes between these sources because of the risks of leakage into the supply chain.

Discussants:
- Terry Heymann, World Gold Council
- Fiona Solomon, Responsible Jewellery Council
- Chris Horsley, Rand Refinery

Issues for discussion
- Is there proper segmentation in the recommendations for upstream companies? Should there be separate recommendations for transporters, local exporters and/or international traders of gold doré, alluvial gold and/or recycled/scrap gold?
- Is the chain of custody information sufficient enough to allow companies to identify and assess risks of contributing to conflict and risks of leakage? The Supplement recognises that due diligence is an on-going process with information progressively collected. Nonetheless, is it feasible or practical to ask companies to collect all the information described?
- What information do traders and refiners of alluvial gold and/or recycled/scrap gold collect before refining?
- Can refiners be expected to mark their outputs as described in the Supplement? What additional markings could they include on the gold to enable controls downstream (i.e. original piece recycled gold v. melted recycled gold)?
- The Supplement says to (i) make all due diligence information available to downstream companies; and (ii) publish risk assessments, audits and an annual report, with due regard for commercial confidentiality and competitive or security concerns. What would "commercial confidentiality and competitive or security concerns" entail for companies at different point in the supply chain?

13:00 – 14:00 *Lunch*

14:00 – 15:00 **SESSION 3 – DOWNSTREAM SYSTEMS OF CONTROLS AND TRANSPARENCY IN THE DOWNSTREAM GOLD SUPPLY CHAIN - STEP 1 (C) OF THE *DRAFT SUPPLEMENT ON GOLD***

The draft Supplement provides specific recommendations on establishing a system of controls and transparency in the gold supply for (i) bullion banks and (ii) all other downstream companies. It also includes a detailed Appendix on chain of custody information to be collected and maintained as part of these control systems. The Supplement recognises that some actors may not be able to identify the refiners in their supply chain, in which case it recommends they identify the bullion banks in their supply chain (if applicable) and then obtain the relevant information from them. The Supplement also recognises that mined gold and recycled/scrap gold may enter the downstream supply chain *directly*, bypassing refiners. The Supplement recommends in such cases that those downstream companies capable of refining gold be identified and that they collect information in the same manner as refiners, where applicable.

Discussants:

- Fiona Solomon, Responsible Jewellery Council
- Jeremy Charles, HSBC

Issues for discussion

- Is there proper segmentation in the recommendations for downstream companies? Considering that the risks of contributing to conflict, and the majority of the leakage risks, accrue upstream, is it necessary to define more specific recommendations for downstream companies in the gold supply chain (e.g. companies in the jewellery supply chain; and/or companies in the electronics/medical devices/other industrial uses supply chain)?
- Is the chain of custody information sufficient enough to allow downstream companies to identify and assess risks of contributing to conflict and risks of leakage? The Supplement recognises that due diligence is an on-going process with information progressively collected. Nonetheless, is it feasible or practical to ask companies to collect and track all the information described?
- What measures do bullion banks currently take to track and control the provenance of bullion, and should they, as the Supplement recommends, take a more active role by tracking serial numbers on the bullion, assigning unique reference numbers to all transactions, and then providing information to downstream companies on the tracked bullion when asked? Could the London Bullion Market Association (LBMA) play a more active role by adding due diligence measures to the membership and/or Good Delivery requirements?
- What role could central banks play? Are central banks based in conflict-affected and high-risk areas well-positioned to help formalize the extraction and trade of gold, and if so, what concrete measures could be taken in such areas? See the example of Philippines Central Bank. Should the Supplement outline policy recommendations for central banks?

15:00 - 15:15 *Coffee Break*

15:15 – 16:45 **SESSION 4 – IDENTIFYING AND ASSESSING RISKS IN THE GOLD SUPPLY CHAIN - STEP 2 OF THE *DRAFT SUPPLEMENT ON GOLD***

The draft Supplement recommends that upstream companies undertake detailed, on-the-ground risk assessments on their mined gold from conflict-affected and high-risk areas, while recommending that they identify potential risks of leakage for recycled/scrap gold. The draft Supplement recommends that downstream companies identify the refiners in their supply chains, or other points in the downstream supply chain where gold has been melted down and/or partially refined directly, bypassing refiners. Downstream companies are then expected to assess the conformance of the due diligence practices of those refiners and refining suppliers with the Supplement. Downstream companies that melt down and/or partially refine gold are an exception, and should conduct due diligence in the same manner as a refiner.

Discussant:

- John Bullock, Metalor Technologies
- Terry Heymann, World Gold Council
- Jacqueline Mayor Meylan, MKS Finance SA (Pamp)

Issues for discussion

- Is there enough segmentation of the recommendations for risk assessments (upstream v. downstream)? Is it appropriate that downstream risk assessments focus on refiners, which are identified as a choke point? Given the large amount of small companies capable of melting down and/or partially refining gold directly (i.e. bypassing refiners), is it practical or feasible to also conduct risk assessments on their practices as well?

- Would existing "know your customer/counterparty" rules already identify risks of contributing to conflict and risks of leakage in the supply chain? The Supplement already relies, in part, on Financial Action Task Force Recommendations and their risk-based approach (see reference documents). What other international, national or voluntary anti-money laundering measures may be relevant?
- Can accredited bullion (London Good Delivery bullion) be excluded from the scope of risk assessments, or any of the recommendations in the Supplement, because of the strict requirements for accreditation, despite the fact that such accreditation focuses only on assaying?
- Other than applying enhanced scrutiny, monitoring, and working with suppliers to improve their controls and/or due diligence processes, what other measures can companies take to address leakage risks?

Reference documents:

- 🗐 Financial Action Task Force, *Guidance on the risk-based approach to combating money laundering and terrorist financing*, June 2007
- 🗐 Financial Action Task Force, *RBA Guidance for Dealers in Precious Metal and Stones*, June 2008.

16:45 – 17:45 **SESSION 5 – CARRYING OUT AN INDEPENDENT THRID PARTY AUDIT OF THE REFINER'S DUE DILIGENCE**

The draft Supplement identifies the refiner as a choke point in the supply chain and recommends audits of the refiner's conformance to the due diligence recommendations in the Supplement. Audits of the refiners would also include an audit of a sample of their suppliers. The Supplement recognizes that refiners and upstream companies already undergo a number of auditing programs, and therefore recommends that either (i) refiners integrate supply chain due diligence audits into pre-existing auditing programs; or (ii) that supply chain due diligence auditors rely on relevant conclusions (e.g. KYC audits) of pre-existing audits, so long as those audit are in conformance with ISO 19011.

Issues for discussion

- Are refiners a good choke point in the supply chain to target audits? How should audits address gold that bypasses refiners (i.e. refining suppliers)? Given the large amount of small companies capable of melting down and/or partially refining gold directly, bypassing refiners, is it practical or feasible to audit these refining suppliers as well?

17:45 – 18:00 ***Closing remarks by the OECD Secretariat***