1ST MEETING OF THE OECD-HOSTED FORUM
ON IMPLEMENTATION OF DUE DILIGENCE IN THE GOLD SUPPLY CHAINS

2-3 May 2012

Summary Report

The meeting was conducted under Chatham House Rule: "When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed."

I. Introduction

The first meeting of the OECD-hosted forum on implementation of due diligence in the gold supply chain provided the opportunity to bring together OECD, ICGLR and other partner countries, international organisations, industry at several levels of the mineral supply chain, international and Great Lakes-based civil society organisations, expert consultancy groups and other independent experts that may be involved in the effective implementation of the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* and its Supplement on Gold (for the sake of convenience hereafter referred to as the "OECD Guidance").[1]

The meetings of the OECD-hosted forum are intended to serve as a peer-learning platform and iterative process whereby companies in the gold supply chain can learn by doing, share experience, identify common practices, find practical solutions to any identified concrete challenges and engage in open dialogue with other stakeholders on due diligence implementation. The forum rests on a principle of constructive participation from all stakeholders to effectively promote responsible gold sourcing from conflict-affected and high-risk areas through the development of appropriate incentives and the creation of effective enabling conditions. This may also include the creation of secure, transparent and verifiable "mine to market" pipelines of artisanally-mined gold. In this regard, the OECD-hosted multi-stakeholder forum will offer the opportunity to explore collaborative ways to make use of the suggested options outlined in the Appendix to the Gold Supplement and share experiences on innovative models to build secure and transparent conflict-free supply chains of gold from artisanal and small-scale gold mine sites.

1 The *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* was finalised and approved by the OECD Investment Committee and OECD Development Assistance Committee in December 2010. The *OECD Council Recommendation on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* was adopted by 41 OECD and non-OECD countries at the 50th Anniversary Ministerial Meeting held on 25 May 2011. A Supplement on Gold to the OECD Guidance was developed subsequent to the adoption of the OECD Council recommendation, through an in-depth multi-stakeholder drafting process. The Investment Committee and Development Assistance Committee approved the Supplement on Gold on 6 April 2012 and the OECD Council has now been invited to amend the OECD Council Recommendation on Due Diligence Guidance to include reference to the Supplement on Gold. To download the OECD Guidance and get background information, see www.oecd.org/daf/investment/mining.

II. Meeting structure and objectives

The meeting was held over two days on 2-3 May 2012. The first day focused only on the implementation of due diligence in the gold supply chain and the proposed implementation programme for the Supplement on Gold.

The morning of 3 May included break-out and 3T and Gold Plenary Sessions focused on issues of cross-cutting relevance to the implementation of due diligence across the tin, tantalum, tungsten and gold supply chains. These sessions were convened together with the participants from the 3-4 May meeting of the ICGLR-OECD-UN GoE joint forum on implementation of due diligence in the tin, tantalum and tungsten supply chain.[2]

The objectives of the first meeting of the OECD-hosted forum on gold were to:

- Update participants on the Supplement on Gold and its status of approval;
- Learn about various industry programmes to implement responsible, conflict-sensitive gold sourcing practices;
- Discuss and agree on the Terms of Reference for the implementation programme of the Supplement on Gold;
- Seek feedback on the proposed activities for the implementation programme and any other proposals that stakeholders would consider useful;
- Provide an opportunity for participants to learn about implementation of due diligence in the tin, tantalum and tungsten supply chain and share relevant experiences from implementing due diligence in the gold supply chain to foster mutual learning;
- Explore the need for a governance structure for the implementation programme of the OECD Due Diligence Guidance.

The annotated agenda, the presentations given during the meeting and all other background materials are available online on the meeting web page.[3]

III. Summary Conclusions

There was an unprecedented high-level participation. More than 200 participants from OECD, African and other partner countries, international organisations, industry and international as well as local civil society organisations attended the meeting. A marked increase in participation, in particular from industry, shows how the OECD-hosted forum has established itself as a useful dialogue platform where stakeholders can effectively tackle due diligence challenges and work together towards consensus-based solutions.

The gold industry demonstrated ownership of the Supplement on Gold and outlined its coordinated implementation strategy. Participants were updated on the industry programmes led by the World Gold Council, London Bullion Market Association, the Responsible Jewellery Council and EICC & GeSI to develop and implement standards and tools that will operationalise, among others, the Supplement on Gold within their sectors. Participants also learned of the Dubai Multi-Commodities Centre's (DMCC)

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2 For information on implementation phase of the Supplement on Tin, Tantalum and Tungsten and meetings of the ICGLR-OECD-UN GoE joint forum on implementation of due diligence in the tin, tantalum and tungsten supply chains, see: http://www.oecd.org/document/15/0,3746,en_2649_34889_48584143_1_1_1_1,00.html

3 Available at http://www.oecd.org/document/2/0,3746,en_2649_34889_49923458_1_1_1_1,00.html.

launch of its own “Practical Guidance”, which will implement the Supplement on Gold within the DMCC and potentially beyond.

Participants in the gold meeting agreed to the Terms of Reference for the implementation programme of the Supplement on Gold. Participants agreed to the groundrules for the implementation programme. Participants further agreed on the overall objectives, timeframe and outputs of the implementation programme as described in the approved Terms of Refernce. In particular, the implementation programme is intended to:

- share experiences and lessons learnt on due diligence implementation by companies, industry associations and artisanal and small-scale mining enterprises volunteering to participate, enabling participants to share best practices.
- share experiences on innovative models to build secure and transparent conflict-free supply chains of gold from artisanal and small-scale gold mine sites, including through Country-Specific Projects operationalising Appendix 1 of the Supplement on Gold.
- build due diligence capacity, awareness, trust and mutual confidence among stakeholders taking part in a collaborative endeavour.

The implementation programme may provide the opportunity through discussion and agreement to consider possible recommendations to refine specific provisions of the Supplement on Gold in order to improve or strengthen its effectiveness. Any possible recommendation will be considered by the OECD-hosted forum on implementation of due diligence in the gold supply chain, bearing in mind the need to preserve coherence with comparable due diligence guidelines or implementation programmes for responsible mineral supply chains.

Participants agreed that the implementation programme of the Supplement on Gold would be carried out during the period October 2012 - October 2013. The OECD will produce reports on the measures taken by participating companies (upstream and downstream in the supply chain) to implement due diligence, including any industry schemes, tools and any country-specific projects designed to operationalise the the Gold Supplement and its Appendix. A Final Report on the implementation of the Supplement on Gold will be submitted by the OECD Secretariat to the OECD Investment Committee and the Development Assistance Committee by the end of 2013 or in early 2014. The Final Report shall reflect the inclusiveness of the multi-stakeholder process.

Participants provided preliminary feedback on the proposed activities underlying the agreed objectives, which would include a reporting activity whereby willing upstream and downstream companies in the gold supply chain would voluntarily participate in a peer learning process to confidentially share experiences on implementing the Supplement on Gold as well as sharing experience on any collaborative ways they may wish to engage in to operationalise the Appendix on ASM gold in specific countries. Some participants expressed interest in being involved in possible country-level projects to operationalise the Supplement on Gold as well as its Appendix. Participants involved in the implementation of the Appendix at country-level would convene in the OECD-hosted forum on due diligence implementation to share experiences, seek feedback from stakeholders and meet with potential buyers interested in setting up secure pipelines of responsibly-produced artisanal gold.

Recognising the need to ensure the widest possible dissemination of the Supplement on Gold, participants agreed to further explore how they can support OECD efforts to raise awareness of the Supplement on Gold and eventually assist to develop due diligence implementing tools and capacity-building programmes. Some participants welcomed the opportunity to engage in further detailed discussions on the framing and shaping of the proposed activities.

The meetings provided a first learning opportunity for participants to share lessons on implementation of due diligence across the different mineral supply chains. For the first time, participants from the ICGLR-OECD-UN GoE joint forum on implementation of due diligence in the tin, tantalum and tungsten supply chains convened for a joint learning session with the participants in the OECD-hosted forum on implementation of due diligence in the gold supply chain. Participants were introduced to various ongoing conflict-sensitive mineral supply chain initiatives in the 3T and gold supply chains. Participants also shared experiences on topics such as the emerging practices and tools for managing data on the supply chain, and setting up secure pipelines of minerals, drawing from experiences in tantalum under the Solutions for Hope project in Katanga, and Alliance for Responsible Mining's Fairtrade/Fairmined projects in gold.

A joint gold and tin, tantalum and tungsten plenary session began to explore ways to ensure the continued successful development of the OECD hosted due diligence initiative by establishing a transparent and accountable governance structure. Participants recognised the rapid expansion of the joint work hosted by the OECD to implement due diligence in the mineral supply chain, and participants agreed that, given the maturing of the process and the importance of implementation, it would be desirable for governments and stakeholders to take on a larger share of responsibility for the OECD-hosted process. Participants welcomed the opportunity to preliminarily share ideas on potential options for the governance structure for the OECD- hosted due diligence initiative. Participants committed to follow up on the discussions. An interim governance group was tasked to look into the composition, mandate and propose options for a governance structure of the OECD-hosted due diligence process for consideration by the joint forum at the next meeting.

Participants provided feedback on the draft OECD-ICGLR-WB joint study on how donors can create enabling conditions for effective implementation of due diligence in Africa's Great Lakes Region, and preliminarily highlighted ways to better coordinate their efforts. Participants noted that host Governments and the private sector are best placed to drive efforts to create responsible supply chains of minerals, with a central role for civil society. Participants agreed that donors can help to support host governments reform agenda and assist to overcome barriers that may limit a company's due diligence efforts. Donors were encouraged to adopt a whole-of-government approach to articulate a comprehensive, multi-sector response to identified systemic challenges. Participants also highlighted the importance of a regional approach to the effective implementation of due diligence.

IV. Summary of main issues in each session

a. Industry programmes

In this session, the OECD-hosted forum on implementation of due diligence in the gold supply chain learned how various industry-driven initiatives are implementing responsible, conflict-free gold practices, and the extent to which these initiatives are aligned with the Supplement on Gold.

Participants received presentations on the World Gold Council's (WGC) "Conflict-Free Gold Standard", the London Bullion Market Association's (LBMA) "Responsible Gold Guidance", the Responsible Jewellery Council's (RJC) "Chain of Custody Standard" and "Conflict-Free Smelter Program" (CFS) developed by GeSI and EICC (gold audit standard and instructions).

Participants learned how the WGC "Conflict-Free Standard" will help to implement the Supplement on Gold's due diligence recommendations for mining companies and provide third party assurance that the company concerned has not contributed to conflict through its operations in, and supply of gold from, conflict-affected and high-risk areas. The standard, which is currently in its "exposure draft", also builds on a range of other international instruments and standards for responsible business conduct.

Participants recognised the significance of implementing the standard among all World Gold Council members , who alone account for the majority of annually mined corporate gold production.

The LBMA's "Responsible Gold Guidance" audit framework and the Conflict-Free Smelter Program will seek to implement the Step 4 recommendation that gold refiners have their due diligence practices audited against a standard consistent with the Supplement on Gold. Under the LBMA's Responsible Gold Guidance program, participants learned that all "London Good Delivery" refiners will be required to have their due diligence practices from the 2012 financial year audited. Participants welcomed this move by the LBMA and noted how the application of the LBMA Responsible Gold Guidance will help to broaden the coverage of due diligence given the significant production of "London Good Delivery" refiners.

Participants recognised that making conflict-sensitive due diligence a requirement for London Good Delivery refiners will also assist downstream industry, and in particular the bullion banks, with their risk assessments under Step 2 of the Supplement on Gold. Downstream companies and any investor or bank, particularly those trading gold in the local London markets, should be able to take straightforward steps to ensure that the refiners of the gold they purchase or trade are "London Good Delivery" and have carried out due diligence, as required by the LBMA Responsible Gold Guidance.

The RJC "Chain of Custody" standard will also support Step 4 audits under the Supplement on Gold by publishing audit standards, instructions and summaries and by accrediting auditors. Furthermore, participants learned that certification by upstream or downstream companies under the RJC's "Chain of Custody" Standard will help to provide assurance of many of the due diligence recommendations contained in the Supplement on Gold, such as adopting a supply chain policy on gold from conflict areas, having a grievance mechanism, undertaking detailed risk assessments, particularly for mined gold from conflict-affected and high-risk areas, and managing risks appropriately. The RJC also made a welcome announcement that it had begun to prepare OECD Due Diligence Guidance training modules for its members and other relevant industry participants. These training modules would be made publicly available for other stakeholders to use.

The presentations and subsequent discussion also focused on harmonisation and cross-recognition of the schemes. Participants noted that industry and other stakeholders are looking for an integrated and harmonised set of systems, with the Supplement on Gold as the international benchmark. In that regard, participants noted how the Drafting Committee process for the Supplement on Gold helped to facilitate harmonisation of industry programmes during the design phase because of the regular and ongoing communication required amongst the Drafting Committee members. (See Figure 1 below for an outline of the interrelationship of industry programmes presented during the meeting.)

Figure 1: The interrelationship of industry programmes *(prepared by presenters)*

	World Gold Council	LBMA	EICC	RJC
Applies to	Mining companies	Refiners	Refiners	All supply chain
Focus	Conflict-free; OECD Due Diligence; leading human rights instruments	OECD Due diligence, Know Your Customer and Anti-Money Laundering	Country of origin; Dodd Frank Act	Code of Practices; OECD Due Diligence

Audit outcome	Third party assurance of good practice and due diligence	Good Delivery Accreditation	Validated Smelter/ Refiner list	Chain of Custody Certification
Harmonisation	Supports refiner due diligence for mined gold under LBMA, RJC, EICC	Opportunity for harmonisation with RJC and EICC	Opportunity for harmonisation with LBMA and RJC	RJC Chain of Custody will recognise LBMA and EICC re conflict-sensitive sourcing. World Gold Council Standard supports mined gold due diligence for Chain of Custody

Some participants considered that full harmonisation may be challenging given that many schemes were also aiming to ensure compliance with section 1502 of the Dodd Frank Act, which may include additional expectations such as describing products as not "DRC conflict free". Participants agreed that without final rules from the SEC, it would be difficult to assess the consistency of approaches between section 1502 and the OECD Guidance. However, some participants recalled that the definition of "DRC conflict free" and "armed groups" contained in the statutory language of section 1502 does not necessarily provide different expectations as those outlined in Annex II of the OECD Guidance, although the actual description of products as as not "DRC conflict free" is beyond the scope of the Supplement on Gold.[4]

Participants welcomed the launch by the Dubai Multi-Commodities Centre (DMCC) of its own "Practical Guidance for Market Participants in the Gold and Precious Metals Industry".[5] The DMCC plans to implement the guidance by creating a "DMCC certificate", which would be made available to participating DMCC members initially and eventually non-members as well. The DMCC plans to implement a periodic review in order for companies to maintain the DMCC certificate and ensure they are making best efforts to reduce their risk of contributing to conflict. The DMCC and OECD may also convene a joint workshop in Dubai that would raise awareness of due diligence with relevant federal UAE authorities, ensure effective collaboration with other gold industry due diligence programmes, and help train Dubai-based gold industry to carry out due diligence.

Lastly, one participant noted the need to translate the various tools, standards and documents into local languages that people in the Great Lakes region can understand. The participant noted how it was important for local actors to be aware of international and industry-led expectations in order for them to carry out appropriate due diligence and take advantage of market opportunities for responsible gold.

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4 For a more detailed description of the interrelationship between section 1502 of the Dodd Frank Act and the OECD Guidance, see *How the Guidance assists companies to comply with Section 1502 of U.S. Dodd Frank Act* (PDF), available at http://www.oecd.org/dataoecd/56/59/48889405.pdf; Also see the multi-stakeholder letter from participants in the ICGLR-OECD-UN GoE joint forum, transmitted to Chairman Schapiro of the U.S. Securities and Exchange Commission on 29 July 2011 by the ICGLR Executive Secretary, the OECD Secretary-General and the Coordinator for the 2011 UN Group of Experts on the DRC, available at: http://www.sec.gov/comments/s7-40-10/s74010-417.pdf; For a detailed description of how the definitions of not "DRC conflict-free" and "armed groups"relate to Annex II of the OECD Guidance, see pages 5-6 the summary report from the 2nd meeting of the ICGLR-OECD-UN GoE joint forum on implementation of due diligence in the tin, tantalum and tungsten supply chains, available at: http://www.oecd.org/dataoecd/52/40/49951429.pdf.

5 See http://www.ameinfo.com/dmcc-issues-guidelines-ensure-ethical-responsible-298598

b. Terms of Reference and Proposed Activities for the implementation programme of the Supplement on Gold

During this session, participants discussed the draft Terms of Reference and the proposed activities for the implementation programme of the Supplement on Gold, with a view to reaching agreement on the way forward.

The first part of the session sought to get agreement on the general ground rules contained in the draft Terms of Reference (paragraphs 1-2 and 6-10), which included abiding by Chatham House rules in meetings, making constructive contributions in the forum and preserving the confidentiality of information shared for learning purposes. Participants also discussed the proposed timeline and agreed to postpone the launch of the implementation programme until October 2012 in order to ensure more diverse and representative participation and discuss the operational aspects of the proposed activities in further detail.

The rest of the session then focused on agreeing to the overarching terms of reference for the implementation programme, which included some discussion on the proposed activities (*see below*). Aside from the proposed activities set out below, the participants also discussed how findings from the implementation programme could feed into a process whereby the Supplement on Gold may be strengthened and improved. Participants agreed to insert into the Terms of Reference, "*the implementation programme may provide the opportunity through discussion and agreement to consider possible recommendations to refine specific provisions of the Supplement on Gold in order to improve or strengthen its effectiveness. Any possible recommendation will be considered by the OECD-hosted forum on implementation of due diligence in the gold supply chain, bearing in mind the need to preserve coherence with comparable due diligence guidelines or implementation programmes for responsible mineral supply chains*."

Reporting activity

Participants in this session discussed the proposed activity to report on the implementation of the Supplement on Gold and its Appendix. The proposed reporting activity is intended to facilitate a peer learning process on implementation of due diligence whereby participating upstream and downstream companies in the gold supply chain confidentially reports on the measures taken, challenges encountered and tools used to implement due diligence as well as sharing experience on any collaborative multi-stakeholder efforts in which they may engage to operationalise the ASM Appendix in specific countries. These experiences would then be consolidated into implementation reports without attributing activities to specific companies or industry associations, and shared for discussion and learning in meetings of the OECD-hosted forum. Publishing the implementation reports would also serve to assist other non-participating industry stakeholders learn about due diligence from the experiences of their peers.

Participants in the forum were given the opportunity to propose changes to the structure of the reporting activity, which was tentatively planned to span 12 months and include multiple reporting cycles. Participating companies would report to the OECD or consultants hired by the OECD once per cycle using standardized questionnaires that would enable comparable analysis. It was noted that the model proposed reflected the ongoing pilot implementation phase of the Supplement on Tin, Tantalum and Tungsten, which currently had just completed its second reporting cycle.[6] Participants in the meeting who had also been involved in the pilot implementation phase of the Supplement on Tin, Tantalum and

[6] For details on the implementation phase of the OECD Guidance Supplement on Tin, Tantalum and Tungsten, see http://www.oecd.org/document/15/0,3746,en_2649_34889_48584143_1_1_1_1,00.html

Tungsten expressed their support for the pilot process, and noted that while three cycles may have been demanding at times given the short 4 month turnaround, it was helpful because many programmes and schemes were developing rapidly.

Participants noted that it would be important to have a wide participation of all tiers in the supply chain in the reporting activity in order to generate a more diverse range of information. Participants in the reporting activity should also include industry that is based, or operates in, all the common areas of gold production, trade, refining and consumption..

At the end of the discussion of the proposed reporting activity, participants welcomed the firm commitment from one company to participate in the reporting activity, and encouraged others to do so. Other companies signalled a keen interest in participating, but were unable to offer firm commitments until they had received all relevant internal agreements to the amended Terms of Reference.

Country-specific projects

Participants in this session discussed the proposed activity on country-specific projects. It is anticipated that the OECD-hosted forum on gold would serve as a platform for participants to collaborate in order to implement country-specific projects that would operationalise the Supplement on Gold and its Appendix through the creation of secure, transparent and verifiable "mine to market" pipelines of responsibly-mined gold, focusing in particular, but not exclusively, on artisanally-mined gold. In this regard, the OECD would facilitate the process whereby implementing partners would use the OECD-hosted forum and its network to share experiences, seek feedback from stakeholders and connect with potential buyers of gold from country-specific projects. *The OECD would not serve as an implementing agency for these programs.*

This part of the session began with presentations on Banro's operations in Eastern DRC, the Fairtrade / Fairmined Standard, the Better Gold Initiative and the World Bank's plans for country-specific projects. Presentations focused on how the various experiences of the presenters to set up mine to market pipelines of responsible gold could feed into the implementation of country-specific projects and the related reporting activity of the gold implementation programme.

Many participants stressed the importance of operationalising Appendix 1 of the Supplement on Gold, and therefore welcomed the proposed activity. Participants learned that the World Bank plans to help implement country-specific projects in Tanzania, Ghana, Peru and Colombia. The DRC may also be a country-specific project as part of the Promines programme. It was agreed however that a lot of work would be necessary to clarify the details of country-specific projects, such as the specific roles and responsibilities of each actor, including partner organisations, as well as the identification of mine sites, and planning for formalisation, legalisation, conflict-sensitive risk assessments and the installation of chain of custody or traceability systems.

Participants welcomed the move by the World Bank to set up a multi-donor trust fund to implement the Gold Supplement, which will provide technical and financial support for country-specific projects and ensure that the implementation of country-specific projects leads to "compliant" status that can be scaled up. It was noted that country-specific projects will require approximately US $2 million per country to set-up the functioning of multi-stakeholder structures and cover costs of initial due diligence assessments, ASM formalisation solutions**,** capacity building and training for government and civil society and communications and public outreach. It was noted also that the stakeholders involved in the revitalized Communities and Artisanal and Small-Scale Mining initiative (CASM) would remain available to provide technical or other support as necessary.

Participants also welcomed the potential involvement of the Alliance for Responsible Mining and the Better Gold Initiative, noting their significant technical experience to assist with country-specific projects. One participant suggested that the Better Gold Initiative pilot in Peru would be a good candidate for the implementation programme, so long as the site was assessed against conflict-sensitive standards contained in Annex II of the OECD Guidance.

One participant stressed the need to get accurate baseline information on mine sites and the degrees of formalisation of artisanal and small-scale miners in order to make informed decisions on country-specific projects. Participants also agreed that country-specific projects required local support and should be demand driven and owned by host governments, which requires an initial investment of time in order to raise awareness of the benefits of due diligence and formalisation/legalisation efforts and engage in adequate consultation. It was important also that country-specific projects had realistic and long-term timescales.

Outreach and awareness-raising activity

Participants welcomed the proactive role that some industry had taken to implement conflict-sensitive gold practices and participate in the OECD-hosted forum on implementation of due diligence in the gold supply chain. However, participants noted some significant gaps in the application of the industry programmes and the proposed implementation programme for the Supplement on Gold.

In particular, participants highlighted geographic gaps, noting that India, China and Dubai are major gold markets where awareness of due diligence is lacking. Participants recognised that local industry associations within those countries are well-placed to raise awareness of due diligence and translate the Supplement on Gold into local guidance. The DMCC's plans for its "Practical Guidance" were seen as a welcome initiative in that regard, and the participation in the meeting of the Gem & Jewellery Export Promotion Council (GJEPC) of India was a welcome first step.

Participants also noted that the industry programmes described during the meeting, and the participants in the OECD-hosted froum and proposed implementation programme, are lacking in participation from a range of actors throughout the supply chain of gold. This includes artisanal and small-scale enterprises, gold exchanges, and other small and medium-sized enterprises, including international gold traders, recyclers and jewellers.

Participants welcomed efforts by industry participants and other stakeholders to sensitize these actors in the supply chain to international expectations of due diligence. In that regard, participants recognised the actual and planned sensitisation efforts of the LBMA (in particular in the Shanghai Gold Exchange and Istanbul gold exchange) and the RJC in training smaller companies, particularly those based in Asia. One participant highlighted a new initiative in the DRC that could support an outreach and awareness-raising activity. The participant described a locally-supported effort called "Save Act Mine / DRC" which seeks to carry out multiple workshops on the OECD Guidance within Kivus and Maniema. Participants welcomed this initiative as a sign of local ownership and the positive and proactive changing attitudes of actors on the ground in Eastern DRC. Nonetheless, participants agreed that work was necessary to support these existing efforts, and undertake additional outreach to industry in non-OECD countries.

Participants therefore would seek to raise general awareness of the Supplement on Gold, facilitate learning and implementation amongst wider range of stakeholders and industry in the gold supply chain, and involve them in the activities of the OECD-hosted implementation programme. Participants would use their own networks to share information on the Supplement on Gold, and carry out missions, with the support of the OECD Secretariat as necessary, to promote and disseminate the OECD Guidance.

c. 3 May morning break-out sessions on cross-cutting issues

Two break-out sessions were held simultaneously and participants were invited to attend either one. One break-out session focused on a joint ICGLR-OECD-WB study on donor-supported programs. The other break-out session provided participants with an opportunity to learn about ICGLR and industry programmes to implement due diligence in the tin, tantalum, tungsten and gold supply chains.

Learning session on implementation of due diligence in 3T and gold supply chains

The first part of the learning session focused on implementation of due diligence in the gold supply chain. The session began with presentations and discussions on the ongoing industry-led programmes to implement due diligence in the gold supply chain such as the World Gold Council's (WGC) "Conflict-Free Standard", the London Bullion Market Association's (LBMA) "Responsible Gold Guidance", the Responsible Jewellery Council's (RJC) "Chain of Custody Standard" and "Conflict-Free Smelter Program" (CFS) developed by EICC and GeSI. A joint presentation was given showing how the industry programmes collaborated while designing their respective programmes to meet the expectations in the Supplement on Gold to the OECD Guidance and ensure a harmonised and streamlined approach.

In particular, the complementarities among the gold industry programmes were highlighted. Presenters clarified how the WGC "Conflict-Free Standard" is intended to implement the Supplement on Gold's due diligence recommendations for large-scale mining companies, while the LBMA's "Responsible Gold Guidance" audit framework and the Conflict-Free Smelter Program will seek to implement the Step 4 recommendation that gold refiners have their due diligence practices audited against a standard consistent with the Supplement on Gold. The RJC "Chain of Custody" standard will also support Step 4 audits under the Supplement on Gold. Further, certification by upstream or downstream companies under the RJC's "Chain of Custody" Standard will help to provide assurance of many of the due diligence recommendations contained in the Supplement on Gold, such as adopting a supply chain policy on gold from conflict areas, having a grievance mechanism, undertaking detailed risk assessments, particularly for mined gold from conflict-affected and high-risk areas, and managing risks appropriately. The RJC also announced that it had begun to prepare OECD Due Diligence Guidance training modules for its members and other relevant industry participants.

The second part of the learning session focused on implementation of due diligence in the tin, tantalum and tungsten supply chains. The participants received presentations on the ICGLR Regional Certification Mechanism, iTSCi, the Conflict-Free Smelter Program, the EICC and GeSI Due Diligence Tool (Conflict Minerals Reporting Template and Dashboard), the Solutions for Hope Project and the Public-Private Alliance for Responsible Minerals Trade.

Participants noted how the implementation of due diligence programmes in the 3T supply chains has differed from the implementation of due diligence in the gold supply chain. In some respects, the implementation of due diligence programmes in the 3T supply chain is more advanced, but issues of harmonisation and streamlining processes have continued to be challenging. On the other hand, while the implementation of programmes in the gold supply chain may be in earlier stages, the ongoing collaboration between initiatives during the design phase will help to address issues of harmonisation before they arise. Participants agreed that it would be useful to continue dialogue amongst industry and other due diligence programmes within the various supply chains to foster mutual learning and cross-fertilisation of approaches.

One participant noted how the Solutions for Hope project provided an interesting case study on how Appendix 1 of the Gold Supplement may be operationalised for artisanally-mined tantalum. Participants welcomed the opportunity to look more into what lessons from Solutions for Hope may be relevant for potential country-specific “Gold for Peace” projects in the DRC, which would aim to create “mine to market” secure, transparent and verifiable pipelines of responsibly mined gold, in particular from artisanal and small-scale miners.

Donor-supported programmes to create the enabling conditions for effective due diligence in the Great Lakes region

Recognising that due diligence in the mining sector alone will not put an end to conflict and poverty cycles, and that the latter will continue to limit the growth of the legitimate trade in minerals, this session was devoted to what OECD member states are doing to support more responsible minerals, both within and beyond the mineral sector and what they should focus on to have a meaningful impact.

Participants received a presentation on the findings from the report "*Responsible Supply of Minerals from the Great Lakes Region: How Can Donors Support Host Governments?*", jointly commissioned by the ICGLR, OECD and World Bank. The findings are that (i) the main stakeholders in promoting and achieving responsible sourcing of minerals are host governments and the private sector, with a central role for civil society for monitoring and assisting with implementation programmes; (ii) there is an imperative to reactivate the trade of minerals from Central Africa, given that so many livelihoods rely on them, with positive recognition of the ongoing efforts of both host governments and the private sector; (iii) since positive results on one side of the frontier can come undone by the lack of reform on the other, a regional approach to responsible minerals is the right one, although donor support to the ICGLR and cross-country are still limited and should be encouraged; (iv) OECD member states should have a joined-up strategy across ministries, linking their development agenda, growth agenda and geopolitical agenda; mobilising public and private sector energies to develop minerals supply chains that are workable, profitable and accountable; raising awareness about responsible supply chains of minerals in the business community and engaging with emerging economies; (v) artisanal mining in eastern DRC needs to be recognised as an integral and positive part of the mining sector which provides jobs and livelihoods in line with the approach taken in the Appendix 1 of the Gold Supplement.

In the discussion that followed, participants recognised that donors have a role to play to analyse and address systemic blocking factors, often outside the reach of companies, which limit companies' efforts and supported the main findings. They provided additional up-to-date information on ongoing efforts to define what an effective comprehensive, multi-sector approach to the issue might be, and on the role that donors are currently playing in the region (to be reflected in the final report). Participants also stressed the need to strengthen the capacity of civil society, as an active civil society is an essential element of better governance.

d. Joint 3T and Gold Plenary Session - Discussion of a new possible governance of the OECD due diligence implementation programme

Participants recognised the rapid expansion of the joint work hosted by the OECD to implement due diligence in the mineral supply chain, and participants agreed that, given the maturing of the process and the importance of implementation, it would be desirable for governments and stakeholders to take on a larger share of responsibility for the OECD-hosted process. Participants welcomed the opportunity to preliminarily share ideas on potential options for a new governance structure for the implementation programme of the OECD Guidance.

Some participants felt that the composition, working procedures and mandate of the multi-stakeholder Drafting Committee for the Supplement on Gold provided a helpful precedent for a governance structure of the OECD-hosted implementation programme. Drafting Committee members in the session agreed that while the Drafting Committee process was demanding, it helped to foster real ownership over the results, while also ensuring regular and ongoing contact amongst stakeholders for the purpose of effective collaboration. Some other participants felt that the forum could also seek inspiration from the structure, compositions, and mandate of the multi-stakeholder governing board for the "Public-Private Alliance for Responsible Minerals Trade".

On the overall ***structure*** of any potential governance for the OECD-hosted process, many participants agreed that any small or nimble multi-stakeholder "Steering Group" or "Bureau" should be responsible to a larger multi-stakeholder forum, taking decision by consensus that would reflect the inclusiveness of the larger forum. Participants generally felt this would be more appropriate than a hierarchy where a smaller "Steering Group" made ultimate decisions. Participants were reminded that the forum would ultimately answer to the OECD Investment Committee and Development Assistance Committee, which are the OECD bodies responsible for overseeing the process and monitoring the implementation of the *Council Recommendation on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* and reporting back to the OECD Council.

Some participants questioned why the ICGLR and UN Group of Experts on the DRC were only official hosts for the forum on implementation of due diligence in the 3T supply chain, and not in the OECD-hosted forum on implementation of due diligence in the gold supply chain. It was clarified that a "Steering Group" may wish to reflect more on hosts for the forums, but that the implementation programme of due diligence in the gold supply chain is not geographically limited to the Great Lakes Region. Already, Latin American countries have expressed an interest to become involved in "country-specific projects" for the implementation of the Gold Supplement. Including the ICGLR and UN Group of Experts on the DRC as joint hosts for the forum on gold may inadvertently discourage the wider application of the Supplement on Gold beyond the Great Lakes region.

Participants exchanged views on whether it would preferable to have separate, dedicated "Bureaus" or sub-groups responsible for the implementation of due diligence in the *gold* and *3T* supply chains respectively. Some participants felt that a governance structure would be simpler and less bureaucratic if there were only one "Steering Group" dealing with issues of cross-cutting relevance to the implementation of due diligence across mineral supply chains, while the OECD-hosted forum on gold, and the ICGLR-OECD-UN GoE joint forum on 3T would still be able to take general decisions on issues related specifically to those mineral supply chains. Other participants felt that given the significant differences of those supply chains, and the different stages of implementation of due diligence within them, it would be preferable to have separate multi-stakeholder gold and 3T bureaus.

Participants agreed that it would be beneficial to consider the role that a Chair or Co-Chairs, could play in a "Steering Group". In that regard, participants noted it would be important to carefully consider the selection process and term limit for the chairs.

Participants recognised that it was challenging to discuss the governance structure of the OECD-hosted implementation process without going into the detail of the precise ***composition*** and ***functions*** of any "Steering Group". In this respect, participants expressed various views. Some participants felt that a "Steering Group" should be responsible for procedural matters, such as the approval of consultants for any implementation work, ensuring adequate time in the preparation and release of background documents, and the preparation of other meeting materials. It was clarified that it would be a clear contravention of OECD rules and of the OECD Convention itself for any member of the "Steering Group", including any member country, to have a say in the selection of OECD consultants. Others felt that a "Steering Group" should also be responsible for helping shape the strategic vision of the implementation programme in a manner that reflects the will of the wider OECD-hosted forum on gold and ICGLR-OECD-UN GoE joint forum on 3T. Such functions may include the elaboration of proposals for the overall work plan and taking more substantive decisions on meetings (timetables, agendas and invitees) in collaboration with the OECD Secretariat. Finally, some participants felt that the "Steering Group" should also play a more substantive role to facilitate the actual implementation of due diligence (e.g. streamline audit and other due diligence processes, and share and disseminate information on risks and due diligence in the supply chain) and monitor the impact of due diligence on the ground.

Participants agreed that any "Steering Group" should have a multi-stakeholder inclusive ***composition***. However participants expressed different views as to whether there should be *equal tripartite composition* (i.e. equal representation of producing, processing and consuming countries, upstream and downstream industry, and international and local civil society organisations working in both advocacy/monitoring as well as implementation) or *adequate tripartite composition* (i.e. a representation of producing, processing and consuming countries, upstream and downstream industry, and civil society organisations in a manner that's proportionate to the relative stake of the various constituencies, such as their use of the specific minerals, or in accordance with their relative roles and responsibilities). Many participants felt strongly that the design of any "Steering Group" should consider how host governments and partner countries as well as local stakeholders would remain actively involved and offer their on-the-ground expertise. Issues related to regional representation in any "Steering Group" and regional ownership to design in-country implementation activities were also raised.

Participants committed to follow up on the discussions and propose options for a governance structure of the OECD due diligence process, for consideration by the joint forum at the next meeting. Participants agreed that the existing members of the Steering Group set up to provide input on the joint ICGLR-OECD-World Bank gap analysis, destability and feasibility study on an institutionalised mechanism to support due diligence implementation could re-convene as an interim governance group to look into its composition, mandate and propose various governance options. Any participant in the plenary was welcomed to participate in the interim governanve group to ensure a balanced and inclusive composition conducive to the enhanced legitimacy of outcomes (see Section V, "Next Steps").

V. Next Steps

Next steps in the Implementation Programme for the Supplement on Gold

The following reproduces the Terms of Reference for the implementation programme of the Supplement on Gold, which was adopted on 3 May at the end of the first meeting of the OECD-hosted forum on implementation of due diligence in the gold supply chain:

1. The OECD Recommendation on the Due Diligence Guidance adopted at the OECD Council Ministerial Meeting on 25 May 2011, as amended on 17 July 2012 to include reference to the Supplement on Gold, mandates the OECD Investment Committee and the Development Assistance Committee to report to OECD Council on the implementation of the Recommendation no later than three years following its adoption and as appropriate thereafter.

2. Recognising the need to involve a wide and diverse range of participants in the implementation programme, the OECD-hosted multi-stakeholder forum on implementation of due diligence in the gold supply chain will bring together OECD and partner countries, international organisations, companies and industry associations, artisanal and small-scale mining enterprises as well as other interested stakeholders ("Participants"). It will serve as a peer learning multi-stakeholder dialogue platform to track progress on the global implementation of the Supplement on Gold.

3. The implementation programme for the Supplement on Gold is intended to:

- share experiences and lessons learnt on due diligence implementation by companies, industry associations and artisanal and small-scale mining enterprises volunteering to participate, enabling participants to share best practices.

- share experiences on innovative models to build secure and transparent conflict-free supply chains of gold from artisanal and small-scale gold mine sites, including through Country-Specific Projects operationalising Appendix 1 of the Supplement on Gold.

- build due diligence capacity, awareness, trust and mutual confidence among stakeholders taking part in a collaborative endeavour.

- the implementation programme may provide the opportunity through discussion and agreement to consider possible recommendations to refine specific provisions of the Supplement on Gold in order to improve or strengthen its effectiveness. Any possible recommendation will be considered by the OECD-hosted forum on implementation of due diligence in the gold supply chain, bearing in mind the need to preserve coherence with comparable due diligence guidelines or implementation programmes for responsible mineral supply chains.

4. The implementation programme of the Supplement on Gold will be carried out during the period October 2012 - October 2013. The OECD will produce reports on the measures taken by participating companies (upstream and downstream in the supply chain) to implement due diligence, including any industry schemes and tools. A Final Report on the implementation of the Supplement on Gold will be submitted by the OECD Secretariat to the OECD Investment Committee and the Development Assistance Committee by the end of 2013 or in early 2014. The Final Report shall reflect the inclusiveness of the multi-stakeholder process.

5. The OECD-hosted multi-stakeholder forum will convene three or four times during the implementation programme to discuss the reports on implementation of the Supplement on Gold and share experiences on innovative models to build secure and transparent conflict-free supply chains of gold from artisanal and small-scale gold mine sites. The OECD may also convene bilateral or multilateral meetings with participating companies, members of the OECD-hosted forum or other experts throughout the course of the implementation programme.

6. Participants shall adopt a pragmatic and constructive approach and shall commit to make a substantive contribution to the process corresponding to their role and specific expertise. The implementation programme shall not provide a forum for theoretical discussions nor accusations. The implementation programme is not a monitoring or rating exercise for accountability or enforcement purposes.

7. The Meetings of the OECD-hosted multi-stakeholder forum will be held under Chatham House Rule, meaning members "are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor of that of any other Participant, may be revealed."

8. Under no circumstances shall the implementation programme or meetings of the OECD-hosted forum be used as a means for competing companies to reach through formal or informal discussions any understanding, expressed or implied, which tends to restrict competition, or in any way to impair the ability of members to exercise independent business judgment regarding matters affecting competition.

9. In order to foster trust and uninhibited exchange, all OECD reports on implementation produced by the OECD or commissioned by the OECD shall not cite or single out any Participant, nor attribute any activity or information to them without their consent.

10. For these reasons, Participants as well as any other members of the OECD-hosted multi-stakeholder forum, the OECD Secretariat and any party appointed by the OECD Secretariat to liaise with Participants shall treat the information collected during the implementation program as strictly confidential, except where it relates to possible or actual violations of UN Security Council Resolutions.

Next steps from the cross-cutting gold and 3T sessions

The following next steps were agreed by participants in the 3-4 May meeting of the ICGLR-OECD-UN GoE joint forum on implementation of due diligence in the tin, tantalum and tungsten supply chain, but relate to the joint gold and 3T sessions with cross-cutting relevance to the implementation of due diligence across mineral supply chains:

- **Donor-supported programmes session**

  Finalise the mapping of donor supported programmes in the Great Lakes region, emphasising the need for a regional approach to the issue of responsible mineral trade. Donors should support host governments' reform agendas, strengthen the capacity of civil society and focus on systemic challenges which are often outside the reach of companies and can hamper corporate due diligence efforts. Donors are encouraged to (i) adopt a whole-of-government approach to articulate a comprehensive, multi-sector response to identified systemic challenges, (ii) raise awareness about the Guidance among their industry and (iii) engage with emerging economies.

- **Governance session**

  Hold a first call of an interim committee tasked with establishing the mandate and membership of the new governance structure for the OECD due diligence process. The interim committee would include the members of the former Steering Group on the institutionalised mechanism, as well as other volunteers to reflect the diverse multi-stakeholder participation of the ICGLR-OECD-UN GoE joint forum.