

# Scoping Study on Possible Activities of the European Partnership for Responsible Minerals (EPRM)

A research paper prepared for The  
Netherlands Ministry of Foreign Affairs



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## Acronyms and Abbreviations

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3TG	Tin, tantalum, tungsten and gold
AEO	Authorised economic operators
AGM	Artisanal gold mining
AMDC	African Minerals Development Centre
ARM	Alliance for Responsible Mining
ASGM	Artisanal and small-scale gold mining
ASM	Artisanal and small-scale mining
ASMO	Artisanal and small-scale mining organisation
BaBel	Bangka-Belitung
BGR	German Federal Institute for Geosciences and Natural Resources
BPPT	Agency for the Assessment and Application of Technology (Indonesia)
BSP	Better Sourcing Program
CAHRAs	Conflict-Affected and High Risk Areas
CAMI	Mining Cadastre of the Democratic Republic of Congo
CBRMT	Capacity Building for Responsible Minerals Trade
CBRMT-DRC	Capacity Building for Responsible Minerals Trade: Democratic Republic of Congo
CDI	Côte d'Ivoire
CEEC	Centre d'Evaluation, d'Expertise et de Certification (DRC)
CFSI	Conflict-Free Sourcing Initiative
CFSP	Conflict-Free Smelter Programme
CLS	Comité Local de Suivi (DRC)
CPP	Comité Provincial de Pilotage (DRC)
DDG	(OECD) Due Diligence Guidance
DDI	Diamond Development Initiative
DivMines	Division of Mines (DRC)
DRC	Democratic Republic of Congo
EC	European Commission
EICC	Electronic Industry Citizenship Coalition
EITI	Extractives Industry Transparency Initiative
ELL	Estelle Levin Ltd.
EPRM	European Partnership for Responsible Minerals
EU	European Union
FARC	Revolutionary Armed Forces (Colombia)

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## Acronyms and Abbreviations

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FDI	Foreign Direct Investment
FDLR	Forces démocratiques de libération du Rwanda
FoE	Friends of the Earth
FPIC	Free, Prior and Informed Consent
GCDI	Government of Côte d'Ivoire
GDP	Gross Domestic Product
GeoT	GeoTraceability
GIFF	Gold and Illicit Financial Flows Project
GIZ	German Agency for International Cooperation
GoECDI	Group of Experts on Côte d'Ivoire
GoEDRC	Group of Experts on the Democratic Republic of Congo
HSE	Health, Safety, Environment
ICGLR	International Conference of the Great Lakes Region
ICMM	International Council on Mining and Metals
ICT	Information and Communications Technology
IDH	Sustainable Trade Initiative
IFFs	Illicit Financial Flows
ILO	International Labour Organisation
INCAM	Indonesian Centre for Artisanal Miners
IOM	International Organization for Migration
IRC-MEDMIND	International Research Centre for the Management of Degraded and Mining Lands
ITRI	International Tin Research Institute
iTSCi	ITRI Tin Supply Chain Initiative
JEITA	Japan Electronics and Information Technology Industries Association
KP	Kimberley Process
KPI	Key Performance Indicator
LSM	Large-scale mining
M23	Movement of 23 March (DRC)
MHI	Mwangachuchu Hizi International
MIM	Ministry of Industry and Mines (Côte d'Ivoire)
MONUSCO	UN Stabilisation Mission Stabilisation for the Democratic Republic of Congo
MSM	Medium-scale mining
NGO	Non-governmental organisation
OECD	Organisation for Economic Cooperation and Development

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## Acronyms and Abbreviations

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PAC	Partnership Africa Canada
PPA	Public Private Alliance for Responsible Minerals Trade
PRADD	Property Rights and Diamond Development
PRO	Programme de rationalization d'orpaillage
PRONAFOMI	National Programme of Mining Formalisation (Colombia)
PWYP	Publish What You Pay
RCM	Regional Certification Mechanism
REGOWA	Regional Resource Governance in Fragile States of West Africa
RJC	Responsible Jewellery Council
SAESSCAM	Assistance Service for Small-scale Mining (DRC)
SAICM	Société de l'Etat pour le Développement minier de Côte d'Ivoire
SAM	Sustainable Artisanal Mining Project (Mongolia)
SDC	Swiss Agency for Development and Cooperation
SMB	Société minière de Bisunzu
SMEs	Small and medium-scale enterprises
SODEMI	Société de l'Etat pour le Développement minier de Côte d'Ivoire
TCAM	Training Centre for Artisanal Miners
TIC	Tantalum-Niobium Information Centre
TWG	Tin Working Group
UAE	United Arab Emirates
UBC	University of British Columbia
UK	United Kingdom
UPMOI	Unidad de Producción Minera de Oro Informal (Colombia)
USAID	United States Agency for International Development
WGC	World Gold Council
WPR	Artisanal Mining Zones (Indonesia)
ZEA	Artisanal Mining Zone (DRC)
UN	United Nations

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## Executive Summary

This study was commissioned by the Netherlands Ministry of Foreign Affairs to scope potential opportunities for the European Partnership for Responsible Minerals (EPRM) to help stimulate the responsible sourcing of 3TG (tin, tungsten, tantalum and gold) minerals from conflict-affected and high-risk areas. The research was carried out by Profundo and Estelle Levin Ltd. (ELL). The upstream desk research was conducted by ELL, the survey and downstream desk research was conducted primarily by Profundo. The community of practice research was shared by both parties.

The study's methodology included a survey, semi-structured interviews, desk research, and input from members of a reference group pre-selected by the Netherlands Ministry of Foreign Affairs.

The questionnaire was sent to 50 reference group members comprising representatives of European companies, European government officials, NGOs and other institutions. Overall, 25 reference group members participated in the survey. Follow-up interviews were then conducted with 16 of the respondents. In addition, 19 upstream country experts outside of the reference group, from Colombia, Côte d'Ivoire, Democratic Republic of Congo (DRC), European countries, Indonesia and the United States were interviewed (see Figure 2).

The survey, follow-up interviews, upstream interviews and initial desk research explored the key challenges in the upstream and downstream that are undermining responsible mineral sourcing, and the possible activities or projects that the EPRM could support or implement to help improve responsible sourcing efforts in the four countries under consideration, and in the broader minerals industry.

## Key findings

The key findings from the survey and follow-up interviews are as follows:

- The EPRM should endeavour, whenever suitable, to support existing responsible sourcing activities and initiatives to add value and avoid duplication and resource wastage;
- The EPRM should prioritise supporting and implementing projects in the upstream segment;
- All projects supported or initiated by the EPRM should be measured against a Theory of Change and supporting accountability framework, including clearly defined Key Performance Indicators (KPIs) against which their impacts can be assessed;
- The OECD Due Diligence Guidance (DDG) is regarded as the minimum standard to which participating companies should commit, and the EPRM is encouraged to embrace a broader human rights-based mandate both in scope (what it does) and approach (how it does it);
- The EPRM is encouraged to, at a later stage, develop a concrete action plan to expand its scope beyond 3TGs;
- Capacity building activities for artisanal and small-scale miners (ASMs), smelters, refiners and small and medium-scale enterprises (SMEs) are still needed to encourage the use of due diligence, and enable improved communication and information disclosure to downstream companies;
- European (downstream) companies mainly need practical tools to improve how they carry out and enable supply chain transparency, traceability and risk management;
- The EPRM is encouraged to support initiatives aimed at increasing the demand for responsibly-sourced minerals;
- The EPRM should encourage the participation of EU authorised economic operators (AEOs) to commit to purchasing only responsibly-sourced 3TG minerals from smelters that have been audited and verified (CFSP);



- The EPRM is encouraged to explore the use of incentives or solutions to commercial barriers to responsible sourcing to compel greater downstream engagement in responsible mineral sourcing. For example, the EPRM could investigate setting up a financial vehicle for governments and/or downstream actors to guarantee a majority (e.g. 75/80%) of corporate investments in upstream solutions for responsible mineral sourcing;
- The following entities should be invited to participate in the EPRM: EU governments and agencies; EU multinationals and SMEs; industry associations; local, regional and international NGOs; international suppliers, smelters or refiners, and financial institutions; and export agencies;
- The EPRM is encouraged to invite upstream governments to sit on the board of the EPRM, and ensure that other upstream stakeholders are regularly consulted;
- Due to its extensive experience in supporting the formalisation of ASM in a range of countries and in a Human Rights Based Approach to ASM formalisation, the Swiss Agency for Development Cooperation (SDC) was suggested to be invited as a key participant in the EPRM;
- Almost all survey participants expressed a willingness to join the EPRM, however considerations including financial costs and the nature of the governance structure need to be concluded;
- The organisational set up most favoured by respondents was a global membership network funded by contributions from members and institutional donors, in a matched fund. This would be governed by a steering or governance group made up of members and donors, and managed by an independent private agency;
- Further in-depth research into the potential governance structure of the EPRM should be commissioned prior to its six-month set-up period; and
- Communication and information-sharing tools should be used where appropriate to facilitate knowledge exchange amongst EPRM members while still preserving confidentiality and trust. The following tools were suggested: an online knowledge portal, a dedicated website, open online consultations on responsible mineral sourcing topics, international conferences, online and offline working group meetings, webinars, and social media tools (LinkedIn, Twitter, Facebook, etc.).

## Recommendations

The following details recommendations that have arisen from the study's desk research, survey, and follow-up interviews.

### Recommended criteria for the selection of projects

In selecting the first projects to support, the research team recommends that the EPRM consider the following key criteria:

#### *All projects:*

- Does the project align with the EPRM's strategic goals?
- Does the project have a theory of change and accountability framework that is proportionate to its purpose and robust?
- Upstream: Does the project measure and report on how it contributes to or generates positive and negative impacts on the social and economic development of local mining and trading communities in 3TG producer nations?
- Upstream or downstream: Does the project measure and report on how it reduces or removes commercial barriers to responsible business in any or multiple tiers of the 3TG supply chains?
- Does the project provide value for money for the EPRM in terms of impact generated for money invested?

- Does the project provide a ready and open opportunity to continue successful work that has already been initiated but has an expiration date, or to transform an unsuccessful project on the basis of lessons learned?
- Will the project add value to or leverage other existing initiatives promoting responsible sourcing or good governance, or could it detract or undermine these?
- Will the project optimise due diligence practices at downstream and upstream levels?
- Does the project have the potential to grow to scale?
- Is there evidence of potential in-country partners who can be networked with the project to create an enabled and impactful local community of practice?
- Is the project feasible and realistic?
- Does the project have a realistic time frame, budget and cost-benefit balance?
- Is there an enabling environment for improving the chances of success for the project?
- Does the project have local ownership and legitimacy?
- Is there a risk mitigation plan for the project?
- Is the project appropriate for receiving funds from blended public and private donors?

*All upstream projects should have at least two components from the following list:*

- Does the project create market incentives for both demand and supply of responsible 3TG minerals;
- Does the project have a capacity-building component? Preference given to projects improving the capacity of either:
  - Operators upstream of including smelters and refiners and ASM supply chains (e.g. ASM enterprises, traders, exporters, in-country smelters or refiners) or
  - Due diligence or sustainable development related service-providers to these operators;
- Does the project develop or improve required infrastructure in mining or trading communities that will increase the volumes or value of minerals being responsibly sourced?
- Does the project promote good or improving governance in focus countries;

*All downstream projects should have at least two components from the following list:*

- Does the project build the knowledge of downstream companies?
- Does the project build the capacity of SMEs to do due diligence better?
- Does the project create tools that will increase the efficiency and feasibility of due diligence and responsible sourcing?
- Does the project promote the take-up of the UN Guiding Principles for Business and Human Rights in relation to responsible sourcing, and supporting normative documents such as the OECD Guidelines for Multinational Enterprises and/or the OECD DDG?

### **Recommended further research**

The research team concluded that there are areas that require further research by the EPRM, as summarised below (this is detailed in depth in section 4.1.2):

- Governance research: The potential governance structures available to the EPRM should be explored prior to the group's organisational set-up;
- Funding research: Further research is needed to explore the various possibilities for financing the EPRM's projects;
- Solutions research: This is needed to identify opportunities for overcoming commercial barriers to responsible sourcing, like pre-financing;
- Landscape research: It is imperative for the EPRM to identify and establish key strategic partners at national, regional and global levels; and

- Field research: As detailed in this report, the four countries examined in this study all have opportunities for field research, to further explore the EPRM's opportunities for value-adding and/or initiating projects. However, given the desire of the reference group to consider additional countries for EPRM projects, the researchers recommend that locations for field research be decided in collaboration with EPRM members.

### **Upstream recommendations**

Possible upstream projects and activities in Colombia, Côte d'Ivoire, DRC and Indonesia, which the EPRM could either initiate or support, are summarised below (see section 4.2 for a broader overview of these opportunities):

#### *Colombia:*

- Engage with the government to explore opportunities for capacity building with the ultimate goal to increase formalisation in the ASM sector;
- Explore with the OECD opportunities for collaboration in the gold sector and additional entry points for the EPRM to add value to existing initiatives;
- Support an existing pilot, such as Solutions for Hope and Resolve's 'Cadenas de Paz' (CAPAZ) project, or the Oro Legal Project;
- Establish a new pilot programme, which could be modelled on the successful initiative carried out by BioREDD, Gran Colombia, USAID and Chemonics from 2011-2014;
- Consider support to extend and expand the 'Somos Tesoro' project (2013-2017) to reduce Child Labour in Colombia, initiated by the US Department of Labour and implemented in partnership with Pact, Fundación Alianza por la Minería Responsable (ARM), Fundación Mi Sangre (FMS), and Fondo para la Acción and Ambiental y la Niñez (FA).<sup>1</sup>

#### *Côte d'Ivoire:*

- Engage with existing programmes in Côte d'Ivoire, such as GIZ-REGOWA, to limit duplication;
- Commission a study on the political economy of the gold supply chain to unpack vested interests and illuminate its operation;
- Build on and complement the work of PRADD II in Côte d'Ivoire, to enable expansion of scope from diamonds to gold;
- Engage with the OECD to explore potential opportunities for collaboration on sensitising the mining industry to the DDG;
- Liaise with PRADD II and potentially the GIFF Project, ARM, IIED and/or the Global Mercury Partnership on coordination of a national dialogue on ASM and how to generate better economic returns for the sector;
- Support Ministry of Industry and Mines (MIM) to conduct an ASGM census to deliver baseline data on the sector;
- Support the Government to provide training to ASGM;
- Explore options for facilitating human rights training on the UNGPs to government agents;
- Pilot a model gold supply chain based on the successful SODEMI model;
- Engage the government of CDI and other stakeholders, to understand why the government favours the forceful removal of ASM. Seek to use the EPRM's leverage to push forward the policy agenda and transform the political attitude towards ASM. Work with the Extractives Industry Transparency Initiative (EITI) and other integrity-focused organisations as well as existing donors and implementing organisations to support this initiative;
- Engage with the GEF and Global Mercury Partnership to ascertain if / when the Minamata Convention provides mandate for a National Action Plan on ASM Formalisation and mercury management in CDI;

- Engage the GIFF Project to establish a local and potentially regional dialogue on IFFs in CDI and neighbouring countries, e.g. the Mano River Union and Ghana, Burkina Faso, Togo, all of which are known either for large gold production or are hubs for gold trading and export from the region; and EPRM could:
  - Assess development interventions providing support to GCDI on mineral sector reform, good governance and/or ASM formalisation to identify an entry point for influence or engagement by EPRM or EPRM stakeholders; and
  - Potentially commission a needs assessment of the Government of CDI (GCDI) in relation to 'good governance' in CDI's gold sector.

#### *DRC:*

- Support the Government's attempts to improve governance of DRC's mineral sector;
- Build capacity of ASM enterprises in DRC, including cooperatives, to understand and implement due diligence;
- Provide training to governments along the supply chain on how they can fulfil their duty to protect human rights by creating an enabling environment for businesses operating in or sourcing from their jurisdictions to conform with the DDG;
- Train, support and equip civil society to take part in monitoring, reporting and evaluating issues related to the DD and traceability process in an effort to reinforce the voice of civil society, improve accountability structures in conflict-affected and high-risk areas (CAHRA), and render existing efforts more effective, accurate and sustainable.<sup>2</sup>
- Implement technology-based stakeholder engagement/feedback tools (e.g. those of Ulula or Integrity Action) that can support community- and civil society-based monitoring and reporting, and provide and reinforce grievance channels for local communities.
- Assess existing design, monitoring and evaluation of existing initiatives to ensure comparison among programmes;
- If considering a new pilot programme for gold, examine further the CBRMT-DRC and Partnership Africa Canada's (PAC) JustGold programmes and investigate private sector initiatives in the gold sector that may merit support, e.g. Agrimining;
- Consider supporting existing programmes, including iTSCi, and pilot programmes, including the PAC Just Gold pilot, or the BSP pilot;
- Play a coordinating role by facilitating much-needed open lines of communication between responsible sourcing programmes, including iTSCi, the BSP, CBRMT, IOM, PPA, BGR, and so on; and
- Think beyond 3TG (in the medium-long term). Coloured gemstones also offer scope for making a meaningful positive impact in DRC (and beyond).

#### *Indonesia:*

- Adopt a convening role of the Tin Working Group (TWG) after the Sustainable Trade Initiative (IDH) completes its work at the end of 2016;
- Fund a viability study of land allocated to artisanal and small-scale gold mining (ASGM), and potentially implement a subsequent pilot programme;
- Monitor Pure Earth's discussions with the Ministry of Environment and Forestry concerning a chain of custody and certification programme for gold;
- Conduct research into child labour in Indonesia's mining industry;
- Convene a workshop in Indonesia exploring best practices globally on ethical sourcing of artisanally mined goods, including, but not limited to, the Fairtrade and Fairmined programmes; and
- Consider options for potential pilot programmes informed by previous industry-led research into Indonesia's minerals industry (see section 4.2).

## Global upstream recommendations

The following global upstream opportunities should also be considered by the EPRM:

- In cooperation with the government of the United Arab Emirates (UAE), carry out review of the measures being taken by businesses and industry associations operating in its jurisdiction to find entry points and incentives to tackle illegal gold trading (from DRC and elsewhere) and promote conformance with the DDG. The EPRM could also facilitate increased communication between governments, OECD, and industry actors in Europe and the UAE in order to build awareness and understanding as to the commercial ramifications of inadequate measures in UAE both on downstream businesses and potentially on those in the UAE businesses. The members of the EPRM can offer the opportunity of organising roundtable where EU and UAE companies can learn from each other and transfer their acquired knowledge on due diligence;
- Investigating and tackling the issue of illegal mining in protected areas, and its potential association with the illegal wildlife trade, armed groups, illicit financial flows (IFFs), and human rights violations;
- Facilitate engagement with upstream countries to enable MineralCare’s presentation of a business model for their ASM sectors, covering issues such as the registration of artisanal miners and the deployment of mineral compliance and traceability solutions in specific sites (and provide feasibility study funding for assessing specific sites for the application of the MineralCare model);
- Address the penetration of criminal groups in the gold supply chain, a key impediment to upstream market access. The EPRM could engage with the Gold and Illicit Financial Flows (GIFF) Project,<sup>3</sup> a project launched by the Global Initiative against Transnational Organized Crime and Estelle Levin Ltd., to better understand Illicit Financial Flows and provide greater insight into this issue to develop solutions can improve efforts to the formalisation of the ASGM sector globally. The GIFF Project creates and adapts tools to assess illegal financial flows in the gold sector including a lens which examines mine sites, towns and provinces to map financial flows and how they make the mines function; and national level tools which examine key data, including export and import levels, and mine stats to illuminate regional and global flows;
- One specific opportunity sits with the RJC. The RJC has stated a desire to pursue in coordination with the EPRM “funding for:
  - Developing sample supply chains from medium size mines;
  - Convene a meeting (which could be a precursor to establishing a forum)”, ideally in coordination with other relevant stakeholders.<sup>4</sup>
- Train, support and equip civil society to take part in monitoring, reporting and evaluating issues related to the DD and traceability process in an effort to reinforce the voice of civil society, improve accountability structures in CAHRA, and render existing efforts more effective, accurate and sustainable.<sup>5</sup>
- Implement technology-based stakeholder engagement/feedback tools (e.g. those of Ulula or Integrity Action) that can support community- and civil society-based monitoring and reporting, and provide and reinforce grievance channels for local communities.
- Build civil society’s capacity to monitor, track and report positive and negative impacts and incidents, and to create or strengthen mechanisms that can address negative impacts (grievances) or risk incidents. Use this data to inform a process for managing and addressing grievances that brings together civil society, government, industry and other actors, potentially building upon existing tri-partite mechanisms (such as the *Comité Local de Suivi* (CLS) and the *Comité Provincial de Pilotage* (CPP) in the DRC), where risk incidents are reported, discussed and resolved.<sup>6</sup>
- Enable businesses and governments along the supply chain to ensure full alignment with the DDG and capitalise on the opportunities it creates for building responsible business relationships between European importers and ASM sectors. See further “Artisanal and Small-Scale Mining (ASM) and the OECD Due Diligence Guidance for Responsible Supply Chains of

Minerals from Conflict-Affected and High-Risk Areas: Focus on ASM Gold - Frequently Asked Questions”, soon to be published by the OECD.

- Support the development of an online Inventory of Documents for Supply Chain Due Diligence Purposes. This inventory would document all laws, policies, and documentation a refiner or smelter should take into consideration when carrying out due diligence on upstream entities either registered in the country, operating in the country, or sourcing from the country. This could include templates of documentation such as mining licence, trading license, export license, receipts for taxes paid (local, national) and so on that are specific to the country to help counteract fraud. This could be compiled in cooperation with customs agents in the major importing countries, like Belgium, Switzerland, UAE, as well as customs and other authorities of the governments in question.
- Engage with the Alliance for Responsible Mining (ARM) and Resolve, who are seeking to better operationalise the OECD DDG (as per the Supplement on Gold) in ASM sectors in CAHRAs via the development of a Market Entry Standard. Given the open-source nature of this standard’s development and ARM’s plans for broad stakeholder consultation, the EPRM could play a role in supporting coordination efforts and/or adding value via other means to key stakeholders.<sup>7</sup>
- Create or commission an information platform to enable good practice ASM formalisation and mercury management and elimination in line with the Minamata Convention and the OECD DDG.<sup>8</sup> The purpose would be to build the capacity of governments to formalise their sectors well, to help businesses to do due diligence on their sources better, and to enable initiatives to identify appropriate solutions to barriers to ASM formalisation. The EPRM could assist with the creation of an information platform by supporting specific products such as:
- A comprehensive list of (with links to) current ASM/ASGM elements of mining codes around the world, with a critical / comparative analysis of the most innovative and progressive elements that are being introduced in the most modern codes;
  - An inventory of other ASM-relevant regulations, such as EIA requirements for ASM, as well as a critical analysis of the effectiveness of such regulations and proposals for improved approaches;
  - A guide to the legal status of mercury use in ASGM around the world;
  - An evaluation of trade regulations regarding gold and mercury;
  - Documentation of financial models that have been tested to increase access to credit for miners, to purchase better equipment necessary for mercury-free mining;
  - Case studies, project descriptions and other materials documenting successful implementation of better mining and processing practices;
  - A guide to available training courses/materials for ASM miners (on both technical and business topics);
  - Examples of communication campaigns (aimed at miners, communities) and a catalogue of existing campaign materials (posters, advertisements, information pamphlets) that could be used by other programs (this information platform could be managed through, or in collaboration with, the Secretariat for the Minamata Convention, and potentially with the Swiss IKH).
- The EPRM could explore opportunities for establishing a stakeholder match-making, networking and capacity “summit” at the next OECD Forum on responsible mineral supply chains. This summit would do two things:
  - Bring together ASM practitioners and experts, and relevant departments from producer countries, to present on their experiences with ASM management and formalisation, and share relevant expertise;
  - Bring together buyers, traders and members of the downstream, to not only help link the upstream to the downstream, but also enable each supply chain segment to explain what they need to enable an expansion of the trade in responsible 3TGs.<sup>9</sup> It is worth noting that

the OECD is actively looking into how they can better integrate ASM into their process and this is a concrete example of how that could be realised.

### **Downstream recommendations**

Possible downstream projects and activities that the EPRM could implement are summarised below (also see section 4.3):

- Develop a global risk management (CAHRA) portal with tools that assist in improving the capacity of European downstream companies and their suppliers to effectively identify and assess risks and implement human rights and due diligence-based risk management. This can help to avoid the duplication of costs involved in carrying out these risk assessments on an individual basis;
- Establish an EU technical help desk on responsible minerals for European downstream companies (especially SMEs), to assist with general information, advice and tools on due diligence, responsible sourcing and compliance with the upcoming EU legislation on conflict minerals;
- Encourage participating companies (in both the upstream and downstream) to annually submit and potentially publish a “communication of progress” detailing practical actions taken to source 3TG responsibly;
- Support the uptake and improvement of existing traceability and verification systems for 3TG minerals from CAHRAs, in cooperation with initiatives and organisations such as iTSCi, German Federal Institute of Geosciences and Natural Resources (BGR), Responsible Jewellery Council (RJC), CFSP, MineralCare, Geotraceability, etc;
- Collaborate with the IDH’s TWG to develop incentive and out-reach guides for EU downstream companies to support upstream actors in their efforts to implement due diligence in their supply chains;
- Establish convening activities (such as workshops, conferences, etc.) to link EU downstream companies with upstream companies, in order to foster inclusive business, develop trade relationships, and create market incentives for responsible minerals.
- Invite upstream governments to participate in the EPRM;
- Implement activities and tools (e.g. ‘train the trainer’ modules) to strengthen the capacity of government officials to support due diligence amongst upstream actors; and
- Support the development of tools, such as rankings and indexes on responsible sourcing of 3TG minerals, to raise awareness, enable comparison of responsible sourcing performance of companies, and thereby strengthen investors’ and consumer’s capacities to effectively influence downstream companies to improve their sourcing of 3TG. The ITRI Code of Conduct, which is currently in development, will contain information of this nature and could be supported by the EPRM.<sup>10</sup>

### **Community of practice recommendations**

Possible community of practice activities and projects that the EPRM could implement include:

- Develop a theory of change for the EPRM, including a framework for impact and monitoring and evaluation (it is strongly advised that this be developed prior to the selection of country/ies of focus);
- Develop a knowledge platform for use by upstream and downstream members, including an online knowledge portal where items on the topic of responsible minerals are shared, such as: research reports, briefs, country profiles, incentive guides, impact assessments and articles;
- Engage with other knowledge-based organisations and knowledge hubs (e.g. Africa Minerals Development Centre, the Sustainable Artisanal Mining (SAM) and SDC International ASM Knowledge Hub, etc.);

- Consider providing investment to the SAM/SDC Knowledge Hub to support its incubation and/or launch phase, currently being conceived;
- Establish a grant-making system, establishing periodic open calls for proposals and eventually providing one-year or multi-year funding to organisations with impactful projects on responsible sourcing of 3TG minerals from CAHRAs;
- Harmonise the funding strategies of EU donor agencies on responsible 3TG minerals, and coordinate the funding of these projects; and
- Explore collaboration with the Public-Private Alliance for Responsible Minerals Trade (PPA) to facilitate access to credit and development of ASMs in CAHRAs. Consider setting up a joint fund for:
  - Supporting investments in the development of responsible ASM sources and supply chains; and
  - Building the financial and business literacy skills of ASM supply chain operators in order to meet criteria for obtaining credit.
- Support the development of a dedicated crowdfunding platform for financing of responsible ASM projects within CAHRAs.



## Introduction

The European Partnership for Responsible Minerals (EPRM) is an initiative of the Netherlands Ministry of Foreign Affairs. It was launched on 12 May 2016 by a number of European Union (EU) member states, the European Commission (EC), businesses and NGOs. The EPRM is a public-private partnership aimed at developing and enhancing responsible mineral supply chains and making a difference on the ground in conflict-affected and high-risk areas (CAHRA).

The partnership was set up in response to the on-going EU regulatory process on conflict minerals with the intention of enhancing the trade in responsible minerals. This is to be achieved via the EPRM functioning as a strategic financing vehicle for responsible mineral projects and as a knowledge platform that facilitates knowledge sharing on the implementation of due diligence in mineral supply chains.

Prior to the launch of the EPRM, the Netherlands Ministry of Foreign Affairs commissioned this study, with the mandate to scope the possible activities that the EPRM could undertake to encourage the responsible sourcing of 3TG (tin, tungsten, tantalum and gold) from conflict-affected and high-risk areas. Profundo and Estelle Levin Ltd. (ELL) were commissioned to perform this research by the Netherlands Ministry of Foreign Affairs.

The study's methodology included a survey, semi-structured interviews, input from conference calls with members of a reference group pre-selected by the Netherlands Ministry of Foreign Affairs, and desk research. The survey, interviews with the reference group and experts on downstream projects as well as downstream and community of practice desk research were conducted primarily by Profundo, while the upstream desk research and interviews with country experts were conducted by ELL.

For this scoping study, the researchers chose to adopt the OECD's definition of upstream and downstream. The OECD defines upstream as the 'minerals supply chain from the mine to smelters/refiners'. Consequently, upstream companies include: 'miners (ASMs and LSMs), local traders or exporters from the country of mineral origin, international concentrate traders, mineral re-processors and smelters/refiners'. Downstream is defined as the 'minerals supply chain from smelters/refiners to retailers'. Downstream companies include 'metal traders and exchanges, component manufacturers, product manufacturers, original equipment manufacturers (OEMs) and retailers'.<sup>11</sup>

This report presents the findings and recommendations of the research. The structure of the report is as follows: Chapter 1 overviews the methodology of this study. Chapter 2 details the background research. Chapter 3 explores the main findings of the survey, interviews and desk research. Chapter 4 examines the general and specific recommendations as to which activities and projects the EPRM could undertake to realise its goals.

## Chapter 1 Research Approach

This chapter outlines the research approach based on the defined Terms of reference (ToR) and the methodology used in the scoping study.

### 1.1 Terms of Reference (ToR) of the study

The objectives of the study were as follows:

- Identify as specifically as possible (including costs) which projects and/or tools for responsible sourcing of 3TG minerals have the largest potential for successfully aligning public and private interests, have on-the-ground impact in conflict affected and high-risk regions and will improve 3TG supply chains overall;
- Advise to which existing minimum standards the private parties would be willing to commit themselves in terms of due diligence regarding their supply chains; and
- Develop a detailed concept note on how the PPP could serve as a knowledge platform for industry and other stakeholders on responsible 3TG sourcing.

Based on these objectives, the study's research questions were framed as follows:

- Which activities to improve the capacity of local upstream 3TG companies in conflict-affected and high-risk regions are required in order to enhance the capacity of European (downstream) companies to source 3TG responsibly?
- As specifically as possible, in terms of geography, mineral(s), position in the supply chain and kind of intervention, what kinds of projects have the most potential for public private cooperation, and what are the costs of these projects?
- Which tools (including minimum due diligence standards, public procurement contracts, etc.) are required in order to improve the capacity of European (downstream) companies to source 3TG responsibly from mid-stream and downstream suppliers?
- To which existing minimum standards would European (downstream) companies be willing to commit themselves in terms of due diligence regarding their 3TG supply chains?
- What type of support/advice do European (downstream) companies need most in relation to their 3TG supply chains?
- What is the most appropriate organisational set-up for the PPP to serve as a knowledge platform and strategic financing vehicle on issues related to 3TG supply chains and which information sharing techniques should be used?

The project's deliverables were as follows:

- A preliminary report detailing the study's initial findings and recommendations, and a presentation to the reference group;
- A draft report on the study's findings and recommendations that integrated the reference group's initial feedback, and a presentation to the reference group;
- A final report detailing the study's findings and recommendations (this report) that integrated the reference group's feedback on the draft report.

## 1.2 Methodology

This section overviews the research methods used in this scoping study.

### 1.2.1 Survey

To survey members of the reference group, a short questionnaire was developed. The researchers used Survey Monkey to make the questionnaire accessible online by all participants, and to analyse the final results. The questionnaire was sent to 50 reference group members comprising representatives of European companies, European government officials, NGOs and other institutions. Overall, 25 reference group members participated in the survey.

### 1.2.2 Semi-structured interviews

Semi-structured interview techniques were used to conduct follow-up interviews with volunteers from the reference group, and to engage with upstream country experts during the desk research. Follow-up interviews were conducted with 16 of the survey participants. In addition, 19 experts outside the reference group, from Colombia, Côte d'Ivoire, DR Congo, European countries, Indonesia and the United States were interviewed (see Figure 2).

### 1.2.3 Feedback from reference group members

During the study, three conference calls with members of the reference group were held. The conference calls were used to discuss aspects of the study and obtain feedback and suggestions from the reference group. Members of the reference group provided input to the Terms of Reference, preliminary findings, and the draft report.

### 1.2.4 Desk research

Desk research, consisting of document analyses (reports, laws and regulations, journal and newspaper articles, and websites) and semi-structured interviews, was the foundation of this study's research methodology.

### 1.2.5 Country case study selection

The selection process for the four countries analysed in this study, Colombia, Côte d'Ivoire, DRC and Indonesia, consisted of three stages. Firstly, the Netherlands Ministry of Foreign Affairs presented the research team with a list of eight countries considered to be of particular interest to the EPRM. From this list, the research team nominated four countries to be included in the study, based on several factors, including: the type of minerals produced therein, the scale of production, the presence of ASM activities (and large-scale mining [LSM] operations), and the presence of OECD DDG red flags (based on an analysis of existing research). This list of four countries was then presented to the reference group, some members of which advocated for the inclusion of other countries from the original list of eight. After consideration of the reference group's preferences, and receiving approval from the Netherlands Ministry of Foreign Affairs, the final list of four countries was confirmed.

### 1.2.6 Limitations of the study

The short timeframe for the completion of this study limited the number of interviews that could be conducted, and the scope of the desk research. For these reasons, this report details several additional research projects that it is advised the EPRM undertake prior to deciding whether to engage in a particular country, and in what manner. In addition, due to lack of publicly available information, the researchers found it challenging to provide an estimation of costs for many of the projects and activities outlined or proposed herein.

## Chapter 2 Background Research

This chapter explores the 3TG industries of Colombia, Côte d'Ivoire, DRC and Indonesia. It also contains a table of existing 3TG certification and multi-stakeholder initiatives, for ease of reference.

### 2.1 Country Context Analysis

The following overviews the 3TG industries of Colombia, Côte d'Ivoire, DRC and Indonesia, focusing on upstream capacity, barriers to upstream engagement, and vested interests. This information was collated using desk-based research methods, including semi-structured interviews with a total of 17 country experts.

#### 2.1.1 Colombia

Colombia is a resource rich country. It holds the largest coal reserves in Latin America and contains important gold, platinum, and silver reserves.<sup>12</sup> Minerals on a smaller scale, including coltan,<sup>13</sup> tungsten<sup>14</sup> and emeralds, are also mined.<sup>15</sup> Gold is found in 44% of Colombia's regional administrative jurisdictions (known as departments),<sup>16</sup> providing a living to an estimated five million people.<sup>17</sup>

Mining in Colombia is carried out entirely by the private sector.<sup>18</sup> There are three types of mining activities, including:

- ASM often practised by Afro-Colombian, indigenous and rural communities;
- Medium-scale mining (MSM) that uses larger-scale machinery like dredgers; and
- LSM, in which open-pit mining is carried out by multinational companies.<sup>19</sup>

ASM takes place largely along the country's Pacific coasts (in the departments of Chocó, Cauca, and Nariño), whilst hard-rock ASM occurs in Antioquia, Santander and Huila.<sup>20</sup> Over 340,000 Colombians depend directly on ASM and MSM for their income.<sup>21</sup>

The following OECD DDG red flags<sup>22</sup> occur with frequency in Colombia:

- Worst forms of child labour;<sup>23</sup>
- Mining in conflict-affected areas and illegal armed groups benefitting from artisanal and small scale mining;<sup>24</sup>
- Money laundering;<sup>25</sup>
- Human rights violations and human trafficking;<sup>26</sup>
- Smuggling of minerals.<sup>27</sup>

#### Upstream Capacity

The mining sector, which nearly trebled its exports from 2005 to 2010,<sup>28</sup> constitutes 2.1% of the country's gross domestic product (GDP).<sup>29</sup> This has aided the economic growth of Colombia; the state's GDP rose by 4.6% in 2014, with an average growth of 4.8% in the preceding ten years.<sup>30</sup> Mining has particularly benefited from the significant Foreign Direct Investment (FDI) that has entered the country (USD 16 billion in 2014<sup>31</sup>), receiving a total of 30.49% of FDI in 2010 alone.<sup>32</sup> Untapped mineral resources are estimated to constitute as much as 70% of the country's natural endowments.<sup>33</sup>

Mining in Colombia remains challenging, however. 6.3 million people have been internally displaced by civil war, averaging 300,000 each year from 2000 to 2015<sup>34</sup>—the second highest number in the world after the Syrian civil war.<sup>35</sup> Although the government began formal peace negotiations with the Revolutionary Armed Forces of Colombia (FARC) in 2012 and has made attempts to reassert its control over Colombia,<sup>36</sup> there remain deep, and often violent, divides across the country. This conflict is correlated with the minerals trade, particularly gold. According to President Juan Manuel Santos, illegal mining is worth approximately USD2.5 billion a year and *'has now eclipsed cocaine trafficking as the main driver of violence and a source of dirty money in Colombia.'*<sup>37</sup> Around 80% of all gold produced from Colombia is thought to be illicit.<sup>38</sup> Authorities estimate that FARC obtain nearly 20% of their financing from illicit gold, coltan, and tungsten industries.<sup>39</sup>

### **Barriers to Upstream Engagement**

There are numerous challenges to upstream engagement with responsible mineral supply chains in Colombia, as summarised below:

- **Widespread informality:** The US Geological Survey reports unlicensed gold miners accounted for 87% of all gold production in Colombia as of 2011. That figure was thought to have risen in 2012, although official numbers were not available.<sup>40</sup>
- **Geography:** The geography of Colombia is diverse, with territory that encompasses flat coastal lowlands, central highlands, high Andes Mountains, and eastern lowland plains.<sup>41</sup> Gold and precious minerals are often located in places that have little to no state presence, precarious infrastructure, and limited services. Communication between mining communities and authorities is often difficult, exacerbating the lack of state control and supervision.<sup>42</sup>
- **Criminal and armed groups:** The conditions of informality and weak state action have been determining factors for illegal groups benefitting from the mineral sector.<sup>43</sup> Wagner (2016) argues that despite responsible sourcing initiatives, local governments have largely been unable to combat illicit mineral sector activities due to the strength of the criminal groups,<sup>44</sup> and their willingness to corrupt local officials, either through bribery or intimidation.<sup>45</sup> Finances raised from extortion in informal mining sector contexts also fund an array of activities by armed groups.<sup>46</sup>
- **Government capacity and transparency:** Government capacity limits the support it can provide to the mining sector, particularly ASM.<sup>47</sup> Sarmiento (2013) writes that 'in practice, regional and local authorities have difficulties in enforcing the law.'<sup>48</sup> Money from royalties is rarely properly spent. Moreover, municipal administrators often hold informal agreements with small-scale miners, authorising their activity in return for bribes, regardless of legality or environmental impact. Limited capacity means that control is precarious, and there is a weak application of the law.<sup>49</sup>
- **Lack of clarity in legislation:** Imprecise definitions of illegal, informal and criminal mining continue to undermine the interests of the ASM sector. Prior to 2013, the law had defined ASM as i) legal: those with a title or license, or ii) illegal: those without a title of license.<sup>50</sup> Echavarría (2014) argues that this confusion resulted in police authorities destroying equipment and confiscating gold from informal miners who could not produce the required legal documentation, eventually triggering strikes and protests by ASM and MSM community members. This led to the 2013 Formalisation Decree (Decree 933) that redefined traditional mining as 'informal'.<sup>51</sup> However, confusion and the misuse of definitions persist.
- **Licensing system, land rights, and ethnic groups:** The licensing system is such that legality is nearly impossible for most ASM actors and undermines land rights and ethnic groups. Although Free, Prior, and Informed Consent (FPIC) and indigenous rights are enshrined in law, they are rarely applied.<sup>52</sup>

- LSM privileging: As it stands, most mineable land in Colombia has been allocated to LSM.<sup>53</sup> Exacerbate this situation is the fact that the mining code fails to differentiate between size of mining operations, operating under a 'one size fits all' principle without offering any further support to ASM, or taking into account location, scale and capacity of the mining site.<sup>54</sup> ASM enterprises must pay the same tax as any other concession holder to obtain a license, making the required financial outlay merely aspirational for most ASM.<sup>55</sup>

### **Vested Interests**

The barriers to upstream engagement in responsible mineral supply chains also shed light on the vested interests in the sector, as summarised below (in no particular order):

- Criminal groups: The various armed groups operating in Colombia and benefiting financially from the extortion of remote ASM are likely to resist efforts to improve a sector that currently works to their advantage. Idrobo, Mejia and Tribin (2014) found that in Colombia, an increase in the levels of violence is often not caused by provocation or in retaliation to other violence, but in fact correlates with the extraction of gold; criminal groups are able to take advantage of weak property rights and the failure of the state to monitor and control its own territory.<sup>56</sup> Mineral sector activities controlled by criminal groups are estimated to be worth 7 billion pesos a year.<sup>57</sup> (EUR 2.1 million)<sup>58</sup>
- Ethnic groups: Indigenous and Afro-Colombian communities make up 30.5% of the population in Colombia,<sup>59</sup> and for many centuries have formed an integral part of the ASM sector. Colombia has 102 indigenous groups and more than four million people of Afro-descent.<sup>60</sup> These ethnic groups often suffer as a result of government legislation and LSM favouritism.<sup>61</sup> To quote Armeni (2011), 'the focus on large-scale mining favours multinationals over local mining companies. But large mining developments displace the subsistence artisanal mining practiced by large numbers of Indigenous and Afro-Colombian populations by excluding them from the larger concession zones.'<sup>62</sup>
- Environmental stakeholders:<sup>63</sup> The informal nature of the mining sector and its use of mercury have been detrimental to Colombia's environment. 11% of Colombia is classified as 'protected'—natural parks that are home to many endemic species.<sup>64</sup> Colombia contains 10% of the world's biological diversity.<sup>65</sup> This unique ecosystem is under threat from unregulated mining.<sup>66</sup> In 2012, Sandra Bessudo, Minister for Biodiversity, asserted that it would cost roughly USD 10.8 billion and take anywhere from 25 to 40 years to repair the environmental damage caused by deforestation and contaminated mine sites.<sup>67</sup>
- Government: A lack of coordination between various departments, weak state capacity to regulate mining and a confused mining law has led to increases in informal mining and the infiltration of armed groups into certain mining areas (to extort miners and fund conflict). However, there is an enormous incentive for the government to work to address these capacity constraints to help ensure ASM can drive economic growth without criminal involvement.
- ASM: There is a clear demand amongst informal ASM actors to improve conditions in the sector via formalising their operations. From 2012 to 2013, the Ministry of Mines and Energy pushed the National Program of Mining Formalisation (PRONAFOMI) (the seventh mining formalisation programme in Colombia) to help develop the sector. However, a government-commissioned report on the programme stated that 'we found a low knowledge of the PRONAFOMI by informal gold miners.' Only 25% of leaders of informal gold mining units (Unidad de Producción Minera de Oro Informal - UPMOI) were aware of the programme, and only one in ten had ever participated in a formalisation programme other than PRONAFOMI. 'Despite the low historical participation in mining formalisation or low knowledge of the existing formalisation programmes, 97% of UPMOI leaders reported to be interested in formalising their activity.'<sup>68</sup> Thus, while many actors in the ASM sector are in favour of formalisation, they must be engaged with as key stakeholders to ensure they are aware of their rights and the tools available to them.

- LSM: There may be resistance from LSM to change the status quo. There have been reports in the past of large-scale mining companies paying paramilitary groups to eliminate ASM and union leaders. For example, in November 2013, Pedro César García Moreno, leader of the opposition to the La Colossa project of AngloGold Ashanti,<sup>69</sup> was shot and killed.<sup>70</sup> AngloGold Ashanti have in the past been accused of collaborating with criminal groups to eliminate threats to their mining interests.<sup>71</sup> That said, some LSM projects have allowed ASM to be sub-contracted on their concessions (further explored in section 4.2), which has been relatively successful. AngloGold has rejected this accusation publicly in response to civil society's pressure.<sup>72</sup>

### 2.1.2 Côte d'Ivoire

Côte d'Ivoire (CDI) is recovering from a history of recent conflict. According to the most recent report by the United Nations (UN) Group of Experts for the Côte d'Ivoire (GoECDI) (2016), nation-wide stabilisation efforts are progressing well.<sup>73</sup> That being said, the disarmament, demobilization and reintegration process that ended in 2015 was not entirely successful, and the Group continues to receive reports of corruption, impunity and weapons trading amongst Ivorian security forces.<sup>74</sup> The smuggling of diamonds, gold, and agricultural goods remains high.<sup>75</sup>

Two-thirds of Ivorians are dependent on agriculture-related livelihoods.<sup>76</sup> Mining is taking on a larger role in the country's economy, in part because the government is encouraging this trend.<sup>77</sup> Côte d'Ivoire is best known in the responsible sourcing arena for diamond mining, but the country also has a thriving artisanal gold mining sector.<sup>78</sup> There are a dozen or so semi-industrial gold mines, but they do not yet seem to be in operation. There are several large-scale mining companies working in the country, including the British Randgold's Tongon mine,<sup>79</sup> the Australian Endeavour Mining's Agbaou, Ity, Nzema and Tabakoto gold mines,<sup>80</sup> Newcrest's Bonikro mine<sup>81</sup> and several state-owned companies, including *Société des Mines d'Ity and Société d'Etat pour le Developpement Minier de la Côte d'Ivoire*.<sup>82</sup> Iron, nickel, cobalt, copper, manganese and bauxite are also mined in Côte d'Ivoire.<sup>83</sup>

OECD DDG red flags<sup>84</sup> take place with little to some regularity in Côte d'Ivoire:

- Worst forms of child labour<sup>85</sup>
- Warlords and illegal armed groups control or are benefiting from artisanal gold mining sites.<sup>86</sup>
- Smuggling of gold over the border takes place on a regular basis<sup>87</sup>
- Human rights violations, including forced labour, child prostitution, and killings, occur with some regularity in the upstream gold mining sector<sup>88</sup>

#### Upstream capacity

It is estimated that tens of thousands of artisanal gold miners (AGM) operate in Côte d'Ivoire, although a census has not been conducted.<sup>89</sup> The mining activities can range from alluvial panning to semi-mechanised activities. The majority of mining is semi-mechanised. Mercury usage is commonplace.

According to the GoECDI (2015), the majority of artisanal gold miners in many regions of the country come from other countries, including Mali, Burkina Faso, and Guinea.<sup>90</sup> The GoECDI (2016) has reported that there are nine illegal artisanal gold cooperatives operating in the Tengrela region of the country, where gold is allegedly being smuggled over the border to Mali.<sup>91</sup> It also expressed concerns about links between these mining activities and conflict financing for armed groups, including jihadists.<sup>92</sup> The profits from mining activities in this region of CDI are estimated to be as high as USD 7 million per year.<sup>93</sup>

In 2013, the Ivorian Ministry of Industry and Mines (MIM) launched a three-year programme to formalise artisanal gold miners (called the *Programme de rationalization d'orpillage-PRO*).<sup>94</sup> The programme was conceived of and designed by the MIM and set extremely ambitious targets. The results were the Ministry issued fourteen comptoir licenses to *export*, but not *mine* gold.<sup>95</sup> The programme has not, to date, registered any artisanal gold miners or other mining actors like gold buyers or traders.<sup>96</sup> As such, according to several informants, there is no legal artisanal gold mining or trading in CDI. The government has seemed to take a forceful eviction response to artisanal gold mining generally, with an approach that is, according to one informant, "repressive." Recent GoECDI reports confirm the Ivorian government's propensity to evict artisanal gold miners from areas already licensed for research or industrial mining.<sup>97</sup>

### **Barriers to upstream engagement**

Key barriers for upstream industry engagement in responsible gold mining in Côte d'Ivoire include:

- Incomplete MIM Formalisation Efforts and a disabling policy environment. The government has issued permits for gold traders, but not the artisanal miners themselves.<sup>98</sup> The application for an ASM permit is reportedly arduous, costly, and there are reports of applications submitted six or more months ago, and with no response from the MIM.
- There is no ministry in Côte d'Ivoire mandated to govern the entire mining sector; meanwhile the focus for the MIM remains on large-scale mining.<sup>99</sup>
- There are few incentives for miners to formalise. Given the long wait times for applications and the difficult requirements of the licenses and the inability of the government to access all of the mine sites, miners are unmotivated to change their illegal behaviour.
- There are few incentives for miners to operate informally. The areas the government has identified for AGM are not geologically viable,<sup>100</sup> which incentivises miners to return to "sites whence they have been evicted."<sup>101</sup> Ex-warlords and other powerful violent actors have a vested interest in the gold sector.<sup>102</sup> One source explained that the gold sector is especially challenging to reform because '[in this post-conflict country] there are still a lot of people profiting from excessive positions of control they built up during the chaos of the war.'
- There are wide-scale human rights violations, according to the GoECDI, which has received numerous reports of violations including the worst forms of child labour, exploitation, and extrajudicial killings.<sup>103</sup> Environmental conditions are also sub-par and there have been reports of widespread chemical pollution, including from mercury and cyanide.<sup>104</sup>
- The worst forms of child labour are present.<sup>105</sup> The jobs held by children are primarily supporting roles like carrying gravel, but there are also children who enter quarries where only small bodies can fit. Child prostitution is also widespread.<sup>106</sup>
- Military and other armed groups present at mine sites.<sup>107</sup> In addition, there are entire regions that are under the control of Wattao. Rebel groups, including a group affiliated with Wattao, reportedly directly finance many mining teams.<sup>108</sup> Gold buying houses, also called comptoirs, reportedly hire private security forces, or pay rebel groups directly for protection.<sup>109</sup>

No chain-of-custody of gold is established. While the government has issued export licenses for some of the country's gold buying houses, it does not appear that the government is obliging buying houses to produce any documentation of where or from whom they purchased the gold.

### **Upstream level of due diligence knowledge and expertise**

Upstream knowledge and application of formal due diligence processes is scant in CDI. The OECD recently carried out training in CDI with gold mining businesses on what the DDG entails, but only one mining company attended. Additional impediments include:



- Artisanal gold miners are often non-Ivorian nationals without permission to work in CDI. Even if they had permission to work, there is no legal framework to mine gold;
- Many comptoirs are allegedly part of a criminal network that extends to multiple levels of formal and informal governance, according to multiple sources. There does not seem to be much interest on the part of this group to engage in responsible business practices. This is suggestive of the CDI's ASGM sector supporting money laundering and other IFFs.
- Approximately a dozen exporters do possess permits, but source from illegal traders and miners.

### **Vested interests**

The barriers to upstream engagement in responsible mineral supply chains highlight the vested interests in the current state of affairs. Arranged in order of significance, key actors include:

- Ministry of Industry and Mining: The informants interviewed for this study stressed that a major vested interest preventing tangible reform in the AGM sector is the MIM itself: "the government's mentality is capable (...) what they are not good at is process: legitimacy of decisions, creating political space for others, including donors." The GCDI seem wary of including external actors or experts in decision-making.
- Warlords & Armed Groups: GoECDI reports from the past several years confirm that there are still warlords - Wattao, in particular - who control significant areas of the country. In turn, armed actors, including, allegedly, members of the Ivorian army, also control many of the mining areas and transport routes.<sup>110</sup> According to one interviewed expert, 'people with power and in power are benefiting from a status quo, which is an AGM supply chain that is 95-100% illicit. You're talking about large quantities of gold being produced, potentially rivalling that of large-scale actors.' The supply chain has been linked to transnational crime networks and at home, authorities from state and customary levels, as well as security forces, may also benefit from illegal gold mining.
- Comptoirs: There is allegedly a strict network of comptoirs operating in the country and the Group of Experts has heard allegations of outsiders trying to enter the gold trading space being murdered.<sup>111</sup>

### **2.1.3 Democratic Republic of Congo**

The Democratic Republic of Congo produces diamonds, gold, coloured gems, tin, tantalum, tungsten and more.

The following OECD DDG red flags incidents take place with little to some regularity in the DRC:

- Armed groups profit from the minerals trade, and, in some areas, armed groups control mine sites and transport routes;<sup>112</sup>
- Widespread sexual violence;<sup>113</sup>
- Gold smuggling;<sup>114</sup>
- Worst Forms of Child labour;<sup>115</sup>
- Gross human rights abuses;<sup>116</sup>
- Bribery and corruption;<sup>117</sup>
- Tax evasion;<sup>118</sup>
- Money laundering.<sup>119</sup>

### Upstream capacity

The upstream 3T's mining sector of the DRC has seen the entrance of many programmes aimed to help upstream businesses<sup>120</sup> carry out due diligence and traceability of their operations and suppliers. In North and South Kivu, Maniema, and Katanga the International Tin Research Institute (ITRI) and the Tantalum-Niobium Information Centre (TIC)'s International Tin Supply Chain Initiative (iTSCi) programme, implemented by Pact and SAESSCAM (the Assistance Service for Small-scale Mining) and Synergy Global Consulting carries out preliminary site audits and third-party evaluations, training for government agencies and due diligence capacity building for upstream companies, among others (see section 3.4.1 for more information). iTSCi is moving into Phase 3 of activities, which will focus on gender equality, business skills, stability and security, and improved human rights.<sup>121</sup>

BGR is partnering with the DRC Ministry of Mines and associated technical agencies in a EUR 7.3 million (current phase) multi-year project to support ASM formalisation and national 3TG certification.<sup>122</sup> This project includes a responsible gold supply chains pilot launched in September 2015 at Kampene, Maniema province. The pilot, which features a bottom-up approach to formalisation, is attempting to route gold production through a unique selling point, transport and commercialise the gold in a transparent manner to international buyers, and monitor associated financial transactions.<sup>123</sup>

The Capacity Building for Responsible Minerals Trade: Democratic Republic of Congo (CBRMT-DRC) programme was launched in 2014 with a USD 5.7 million grant from the United States Agency for International Development (USAID).<sup>124</sup> The programme was originally set to last for 18 months, but according to one source, USAID provided additional funding until June 2017.

The objectives of the CBRMT project are to:

- Provide legal and policy framework guidance for the government of the DRC's on the mining sector;
- Build capacity of upstream actors in the 3TG sector as they try to achieve conflict-free status of their minerals;
- Evaluate conflict-free mineral certification and traceability systems and "Scale up systems for 3Ts and gold"; and
- Build the credibility and capacity of the International Conference on the Great Lakes Region's independent mineral chain auditing capabilities.<sup>125</sup>

The programme is based in Kinshasa, with field offices in Goma. CBRMT plans to scale up conflict free mineral certification and traceability systems and prevent smuggling in 250-400 additional mine sites. They are presently working with the Better Sourcing Programme and Partnership Africa Canada (PAC) on conflict-free sourcing pilots for tantalum and gold.

With respect to gold, CBRMT and PAC have launched a pilot chain of custody and due diligence system with an artisanal mining community in Matete, Maniema. The objective of the pilot is to export "legal artisanal gold from DR Congo."<sup>126</sup> The Matete pilot takes place outside of Banro Mining's Namoya concession. According to one source, CBRMT and PAC are working with a group of legal miners who have formed a cooperative, on a green mine site, and with a vetted comptoir. CBRMT plans to partner with a gold refiner further downstream. The pilot will make use of the GDRC's own chain-of-custody system and ore will be transported from the mine site to a *point de vente* by the International Organization for Migration (IOM) and USAID.

The Better Sourcing Program offers due diligence and traceability services to upstream and downstream 3TG industry players, but, as of this writing, it has yet to be rolled out in the DRC (see section 3.4.5 for more information). Partnership Africa Canada is piloting its legal, conflict-free and traceable artisanal gold “Just Gold” programme in Ituri and expects to roll out a second pilot in South Kivu.<sup>127</sup>

Artisanal mining in DRC is an important source of employment, creating jobs for an estimated 2 million people across all minerals.<sup>128</sup> An estimated 150,000 to 300,000 people are involved in gold mining, and tens of thousands in mining.

At the majority of artisanal mining sites in the DRC, diggers work under a boss and/or cooperative with customary, informal and/or legal rights to the site.<sup>129</sup> In the case of 3Ts covered under the iTSCi programme, the pit boss or cooperative holds legal rights to the land. Once ore is mined, the pit boss sells it to a *négociant*, who in turn upgrades the ore and sells it to an *entité de traitement/comptoir* (exporter). The *négociant* position is often embedded within an artisanal mining cooperative. Cooperatives in DRC, however, are notoriously run as businesses with primary beneficiaries, rather than cooperatives in the true sense of the word (where the profits are more broadly shared or reinvested into the cooperative).<sup>130</sup> Furthermore, in more informal settings, miners may have to mine for other officials from national and customary authorities, handing over all of a day’s production to pay a ‘rent’ to one type and another day’s to another type, and so on.<sup>131</sup>

Changing commodity prices for 3Ts in the past year have reportedly resulted in some artisanal tin, tantalum and tungsten miners abandoning the 3T’s mines and migrating to gold sites. Until recently gold had been neglected in the due diligence and traceability space, and existing efforts are still getting off the ground, making this influx of new gold miners makes tackling this situation even more crucial.

### **Key barriers to upstream engagement in responsible mineral trade**

The UN Group of Experts on the Democratic Republic of Congo (GoEDRC) (2015) lauded the progress the DRC has made in recent years on due diligence and traceability of 3T minerals, but the group cautions that there is still more to address with respect to smuggling (particularly of gold), armed group involvement in minerals trade and the established link between Congolese gold and markets in the United Arab Emirates. (UAE)<sup>132</sup> Key barriers identified before 2016 include:

- Armed group involvement in mineral exploitation and trade: Despite the best efforts of 3Ts traceability and due diligence programmes, there continues to be armed group involvement in some areas of the country not covered by iTSCi, including Mapimo, Lulingu, Kikuni, all in the Shabunda Territory of South Kivu.<sup>133</sup>
- Over-onerous fiscal and para-fiscal burden: Unreasonably high tax burdens on all supply chain operators in DRC make it commercially unattractive to operate formally.<sup>134135</sup>
- Smuggling: 97% of the artisanal gold traded and exported in DRC is done outside of the law.<sup>136</sup> The GoEDRC has reported established smuggling routes between DRC and Uganda and DRC and Burundi<sup>137</sup> The border between Rwanda and DRC is reportedly ‘open’. Exporting from Rwanda is reportedly seamless and more profitable for upstream operators, particularly *négociants*. According to sources interviewed by the GoEDRC (2015), whilst smuggling from the mines of Rubaya, North Kivu (the most recent province to join the iTSCi programme, as of late 2014) has decreased since the arrival of the iTSCi programme, it still occurs.<sup>138</sup> ITRI responded to the Group of Expert’s report, saying that the incidents described were supported with very little evidence and did not make a clear connection to conflict or human rights abuses.<sup>139</sup>

- IFFs and Financial Sector Barriers: pre-financing networks tied to illegal buying networks and corruption contribute to illicit financial flows in DRC's gold sector.<sup>140</sup> Furthermore, the volume of counter-trade between gold and import businesses evidences the use of gold as a financial instrument to avoid costly, time-consuming and un-trusted banking services in Eastern DRC.<sup>141</sup>
- Environmental Impact: Artisanal gold mining continues to take place in protected areas, including Garamba National Park, Itombwe Nature Reserve and Okapi Flora and Fauna Reserve.<sup>142 143</sup> There is evidence of illegal armed groups using protected areas as refuges as well as sites of immense economic opportunity, creating a threat to conservationists and local communities.<sup>144 145</sup>
- Too few opportunities for formal ASM: There are only five validated green, or 'conflict-free' zones. Of 662 active ASM sites, only 18 are located in artisanal mining zones (ZEAs), as of 2014.<sup>146</sup>
- Child labour: "Child labour is a reality in some of artisanal mines of the...DRC, where boys and girls aged perhaps from five years upward are engaged in an array of work in and around the mines from lower risk...to some instances of worst forms of labor involving actual mining and mineral processing."<sup>147</sup>
- Human rights abuses:<sup>148</sup> There continues to be forced labour and Forces démocratiques de libération du Rwanda (FDLR) control of artisanal gold mining activities at several sites in North Kivu, including Oninga, Kusugho, Bunyatenge, Kigogo, Lubumba and Kibumba.<sup>149</sup> The Group also alleges that the FDLR trades gold for weapons with members of the Congolese army.<sup>150</sup> Mai Mai Morgan, an armed group consisting of the followers of the Mai Mai Militia leader Morgan, who was killed last year, have looted gold mines and carried out rapes of women and attacks on Congolese soldiers in the Ituri District of Orientale Province.<sup>151</sup>
- Child soldiers. The GoEDRC (2015) confirms the presence of child soldiers in the FDLR, Nyatura, Allied Democratic Forces and Nduma Defense for Congo armed groups.<sup>152</sup> The Group has not confirmed whether the children were involved in artisanal mining activities.
- Weak capacity of the Government of DRC.<sup>153 154 155</sup>
- Unwieldy bureaucracy and improper allocation of land.<sup>156 157</sup>
- Decline in commodity prices globally.<sup>158 159</sup>
- Financial solvency and sustainability of due diligence and traceability programmes.<sup>160 161</sup>
- Monopolisation of sectors, and competition between traceability and due diligence programmes.<sup>162 163</sup>

### **Vested interests**

- Armed Groups: The GoEDRC (2015) has stated that there continue to be links between AGM and Congolese and foreign armed groups (including factions of the Congolese army<sup>164</sup>) and other regional investors.<sup>165</sup>
- Intermediate gold traders (middle stream supply chain): The United Arab Emirates is reportedly one of the largest destinations for gold from the DRC. According to the GoEDRC (2015) the Government of the UAE 'undertook measure to address gold coming from conflict zones but those measures continue to fall short' of the tenets of due diligence.<sup>166</sup> The GoEDRC (2015) report highlights that mid-stream companies in Dubai do not ask questions about where their gold comes from.<sup>167</sup> Blore (2015) points out that the 'hand-carry exemption' is a loophole that enables tons of gold to be exported from Uganda (as a regional trading hub) and imported 'legally' without evidence of origin needing to be provided.<sup>168</sup>

- **Négociants:** Actors who sit between the miners and the exporters profit significantly from illegal behaviour and iTSCi tagged miners. For instance, according to two sources interviewed for this study, when the 3T's market slumps, the négociants still take their share; the other two ends of the upstream—on the one end, the entités de traitement, who lose money if the commodity prices for 3T's diminish, and on the other end the miners, who have no bargaining position to speak of, lose the most. In the gold sector, négociants are one of the most important vested interests: petits négociants provide pre-financing to miners and pit bosses and purchase the operators' production in exchange for that support.<sup>169</sup> Another, more wealthy and influential group of investors advance the petits négociants and hold an exclusive purchasing agreement. None of this financing is legal. According to Blore (2015), when illegal négociants pre-finance, "the gold is contraband before it comes out of the ground."<sup>170</sup>
- **Artisanal mining cooperatives:** Artisanal mining cooperatives in DRC do not necessarily include traditional cooperative activities: collective bargaining and sharing of profits, etc.<sup>171</sup> Instead, artisanal mining cooperatives in Congo function as umbrella organisations that purchase ore from their members.<sup>172</sup> Many miners have complained that cooperatives do not serve their purpose; the management pays the miners for their ore, but sometimes it is not a competitive price. What is more, many of the miners and civil society organisations that the author spoke to in 2013 agreed that miner members do not receive the benefits they would expect from a cooperative, namely equipment, protective gear, health and safety training, lobbying on their behalf with the government, etc.<sup>173</sup>

#### 2.1.4 Indonesia

Indonesia has thriving artisanal gold and tin sectors, and is one of the world's largest producers of tin.<sup>174</sup> Minerals mined in Indonesia reportedly do not originate in conflict-affected areas.<sup>175</sup> Nonetheless, the sustainability, labour rights, and occupational health and safety risks associated with the country's minerals sector require attention.

The following OECD DDG red flags<sup>176</sup> may take place with little to some regularity in Indonesia:

- Hazardous<sup>177</sup> child labour<sup>178</sup> and potentially the worst forms of child labour;<sup>179</sup>
- Bribery and fraudulent misrepresentation of the origin of minerals;
- Money laundering;
- Tax evasion and / or non-disclosure of informal payments to government actors (e.g. artisanal miners routinely pay individual police or government officials in exchange for protection from raids); and
- Artisanal gold mining is taking place in Aceh, which has historically been a conflict area, but according to one source, that conflict is dissipating and AGM is not a factor.

#### Tin

Indonesia is the second largest producer of tin in the world, after China<sup>180</sup> and contributes one-third of the global tin supply.<sup>181</sup> Tin mining is concentrated in the western province of Bangka-Belitung (BaBel), where it has been taking place for centuries.<sup>182</sup> The International Labour Organisation (ILO) estimates that tin exports from BaBel contributed to 91.3% of Indonesia's total exports of 191,237 tons in 2012, which was nearly half of global exports that year.<sup>183</sup> The upstream tin sector in Indonesia consists of artisanal (micro) onshore and offshore miners, medium-scale mining companies and independent smelters and one state-owned large-scale miner and integrated smelter called PT Timah.<sup>184</sup>

Tin mining has been linked to a number of environmental concerns, including water pollution, soil degradation, forest clearing, lack of rehabilitation, mining in protected forests, coral reef and mangrove damage, coastline abrasion, depletion of fish stocks and health problems for miners and surrounding communities.<sup>185</sup> In the past year, the tin mining sector has been significantly impacted by the tin price on the international exchange. Particularly for independent smelters, their numbers have fluctuated on a monthly basis, depending on the price. With the drop in global commodity prices of tin during 2015 and 2016, the tin sector in Indonesia has suffered, leading some prominent smelters, including Refined Bangka Tin, to close their doors.<sup>186</sup> A recent decree from the provincial government to stop offshore mining and an increase of audits of the smelters have also impacted Bangka's tin sector.<sup>187</sup>

## Gold

Indonesia is the world's seventh largest gold producer.<sup>188</sup> Artisanal gold mining takes place in 31 (out of 33) provinces,<sup>189</sup> with the largest concentration of miners in Papua, Sumbawa, and East and Central Kalimantan, but it takes place all over the country. The upstream gold mining industry is comprised of artisanal miners, medium-scale miners and several industrial mines, including Freeport McMoRan Copper & Gold Inc.'s Grasberg mine in Papua<sup>190</sup> - the largest gold mine in the country.<sup>191</sup>

Artisanal gold mining in Indonesia is notorious for the sector's substantial use of mercury to amalgamate gold ore. The human and environmental health impacts of mercury emissions are serious and far-reaching, including permanent brain and kidney damage, neurological damage, water contamination and contaminate fish, rice and other staple foods.<sup>192</sup>

Anecdotal evidence from two interviewed sources points to a changing trend in Indonesia from individuals carrying out rudimentary mining (so-called micro-mining) to groups of miners teaming up and using semi-mechanised equipment like jack-hammers, drills and mills. According to these sources, the investment in the artisanal mining sector seems to have increased, but they were uncertain of from where that investment is coming. This is likely to intensify HSE risks. While banned in Indonesia, mercury amalgamation is commonplace in the artisanal gold sector, according to several sources.

### *Upstream Capacity*

There are anywhere between 15,000 and 50,000 artisanal tin miners.<sup>193</sup> Finding precise numbers of artisanal gold miners is difficult, and estimates range from 300,000 to 2.4 million people involved in the sector.<sup>194</sup> In Indonesia, artisanal mining is called 'unconventional mining' to differentiate it from 'conventional' medium- and large-scale mining. Unconventional is not to be confused with 'illegal', although the majority of artisanal mining in Indonesia is informal, and in some cases, illegal.<sup>195</sup> The majority of artisanal miners in Indonesia are Indonesian, but there is a lot of island-to-island migration.

Artisanal gold and tin miners carry out mining under a variety of circumstances, using differing methods:

#### Gold:

- Panning and sluice box concentration;<sup>196</sup>
- Whole ore amalgamation to capture ore;<sup>197</sup>
- Processing using cyanidation tanks (often after the ore has been amalgamated with mercury, creating an especially damaging compound of mercury-cyanide);<sup>198</sup>
- Digging 50-meter deep shafts, each worked by a team of five to ten miners;<sup>199</sup>
- Manual crushing of ore, then processing in ball mills, where mercury is added;<sup>200</sup> and
- River and lake dredging, which takes place all over the country, according to one source

Tin:

- Onshore, there is bucket panning, as well as semi-mechanised colluvial and alluvial mining;<sup>201</sup> and
- Offshore, there is small to large rafts, converted fishing boats and pontoons, manned by teams of two to a dozen people. Some boats or rafts go two to three kilometres or more out to sea and dive for ore in the wake of the large-scale cutter-suction dredges. Others stay closer to shore and use makeshift drills to capture tin ore under the base level of sand on the ocean floor.<sup>202</sup>

According to ITRI (nd) there are many more offshore miners than onshore, due to the decreasing availability of surface ore on land.<sup>203</sup>

Collectors serve a very functional role in the tin and gold trade; they provide miners with pre-financing, equipment, land on which to mine and even meals. In return, the mining teams are usually obliged to sell their ore to their collector-patron.<sup>204</sup> After collecting the tin ore, these middlemen upgrade it and then sell it to an integrated smelter<sup>205</sup>, or, in the case of gold, likely to the next trader on the supply chain.<sup>206</sup>

There are an estimated 30 independent tin smelters in BaBel, but that number fluctuates, depending on the market and capital each smelter has on any given day to keep its operations going.<sup>207</sup> Independent smelters source the majority of their products from unconventional miners, which is problematic from an environmental impact and occupational health and safety point of view.<sup>208</sup> Many informants the author interviewed in 2013 for the Tin Working Group (TWG) study expressed frustration with the independent smelters' continuous sourcing from unconventional miners via collectors, without consideration of their dangerous working conditions and the impact they were having on BaBel's forest and marine ecosystems.<sup>209</sup>

The smelting activities, too, carry their own environmental impacts. BaBel is not only rich in tin, but the soil also contains rare earths, such as monazite and zircon, which, when released from the earth, can become radioactive. The smelting of tin ore creates slag—refuse material—which the smelters do not necessarily have the ability to store or dispose well.<sup>210</sup> The material could pose a threat to the health and safety of independent smelter workers and the surrounding communities at large, but this issue needs to be investigated further.

PT Timah is a state-owned exploration and mining company and integrated smelter, which have operated in Bangka-Belitung since 1976.<sup>211</sup> The company receives approximately 25% of its production from subcontractors—small-scale and unconventional miners—who collectively possess about 4000ha of Timah's concession.<sup>212</sup> According to one interviewed source, 50% of BaBel's tin production comes from PT Timah, and the other 50% comes from unconventional miners and independent smelters. The mining company and integrated smelter is the third largest tin miner in the world and its onshore concession takes up approximately 25% of the land area of Bangka Island and approximately 200,000ha offshore, where it operates a fleet of 32 dredger ships.<sup>213</sup> Collectively, PT Timah's licenses area amounts to 90% of Bangka and Belitung Islands' onshore mining areas.<sup>214</sup>

### **Barriers to Upstream Engagement**

Indonesia is not a 'conflict or high-risk country', with the exception of Aceh, where, according to one informant and the author's literature search, artisanal mining is not the cause. That being said, there are still red flag issues, but they form part of a larger web of environmental sustainability and miner occupational health and safety issues. These include:

- Corruption, smuggling and fraud: Indonesia is one of the worst performing countries in the world in terms of corruption.<sup>215</sup> Corruption, smuggling and fraud play a large role in both the tin and gold mining sectors in Indonesia. According to Stocklin-Weinberg, et al (2013), the sector can be characterised by “corruption and the embedding of vested interests”<sup>216</sup> Corruption permeates all levels of governance of the mining sector, but at a local level, according to multiple informants, it is petty corruption and bribes that support the continuation of illegal unconventional mining.
- Child labour: Aside from a report on child labour in tin mining from the International Labour Organisation (2015) there is not a great deal of published data on children working in Indonesia’s artisanal mining sector.<sup>217</sup> The authors of that report (2015) stress it is difficult to make estimations.<sup>218</sup> PBS Newshour recently did a profile on child mining in Indonesia’s artisanal gold sector, highlighting that children play near heavy equipment and are exposed to mercury, which is often burned directly at the mine site or at miners’ houses.<sup>219</sup>
- It is practically impossible to conduct legal ASM: The legal environment is complicated and ever changing in Indonesia. Whilst artisanal mining is incorporated into the Indonesian Mining Law, many of the policies for how local government should regulate the sector have yet to be published. As an offset, there is nothing on paper for local government to enforce. Furthermore, since the specific regulations for the Mining Law pertaining to artisanal mining have yet to be ratified in the House of Representatives, the provincial governments have not issued any new mining licenses since the latest iteration of the Mining Law was published in 2009.<sup>220</sup> As a result, unless an artisanal miner or mining organisation received a parcel of land prior to 2009, they are technically mining illegally. What is more, according to one informant, the artisanal mining zones (WPR) are often in areas that are unviable for mining. As such, there are very few incentives for people to mine legally, even if they have a permit.
- Lack of enforcement of existing regulations: The majority of mining actors in BaBel do not rehabilitate the land, in part because there is no incentive for unconventional miners to do so; neither is there a great deal of enforcement from the local government.<sup>221</sup> As it stands, the majority of the few legal mining areas are not very viable. What is more, unconventional miners are not working with geological data, so they sometimes will dig in areas where viable tin deposits are not located.
- Conflicts between artisanal and large-scale miners: The dearth of mining areas for artisanal gold and tin miners has created a situation where medium- and large-scale concessions are sometimes overrun with unconventional miners. The occurrence of conflicts between these two types of mining actors is frequent and, in some cases, violent.<sup>222</sup>
- Lack of civil society organisations monitoring the artisanal mining sector: In the tin mining sector, there are very few legitimate NGOs running campaigns on sustainability issues or carrying out research.<sup>223</sup> As a consequence, artisanal miners do not have a means of voicing their concerns, blowing the whistle on dangerous working practices, and they do not have a local resource to which they can turn for capacity building, training, and support for claiming their human rights.

### **Vested Interests**

- Tin collectors: According to ITRI (2007), tin buyers, landowners and equipment owners—so-called ‘middlemen’, called ‘collectors’ in Indonesia—are the key actors profiting from tin mining in BaBel.<sup>224</sup> According to Pöyönen (2009) it is the collectors who earn the highest margin on the production because they are able to upgrade the concentrates to 70% tin before they sell it on to the independent smelters.<sup>225</sup>
- Independent smelters (tin): In Indonesia’s tin sector, independent smelters are likely the most influential vested interest. If even some of the companies in this stakeholder group could be convinced to put pressure on unconventional miners to employ health and safety measure and rehabilitate the land, there would be significant transformation. Independent smelters are also the legal ‘choke-point’ in the tin supply chain, because it is from this point in the supply chain where the illegally mined tin leaves the country—unless it is smuggled out in raw form.<sup>226</sup>



- Government of Indonesia is not enforcing its own regulations pertaining to ASM: There do exist environmental regulations pertaining to how upstream mining operators need to mine and then reclaim their permit area.<sup>227</sup> However, the mining authority, police and other authorities do not have sufficient capacity to enforce these regulations.<sup>228</sup> A lack of capacity is not the only side of the story; corruption is commonplace in BaBel's tin mining sector and the environmental requirements of mining businesses, including independent smelters, can be overlooked in exchange for a payoff. The situation is slightly different for unconventional miners because they are mining outside of the law. As such, these actors have even less of an incentive to care about the environmental impacts of their activities—the likelihood that they will be held to account for their activities is negligible.
- ITRI: Many of the independent smelters, as well as PT Timah, are members of ITRI. ITRI has been engaged in BaBel's tin mining sector for quite some time and is an important and influential stakeholder in this space. This industry organisation conducts its own research tin mining issues<sup>229</sup> in Bangka-Belitung and publishes summarised versions of its findings on its website.

## Upstream Expertise

*Tin:* Upstream knowledge of the DDG requirements is low (likely due to its lack of relevance in the country) but for different reasons in the tin versus gold sector. In tin, some upstream actors may have some knowledge of the tenets of the DDG based on their engagement with the Conflict-Free Sourcing Initiative (CFSI) and ITRI.

*Gold:* There is less of a focus on conflict minerals issues in the gold sector, and even more money to be made through the illegal gold trade. None of the gold experts the author consulted were aware of the OECD's DDG. What has been and remains the focus of interventions in the Indonesian ASGM sector from both government and non-government stakeholders, and donors, is mercury management. The government has ambitious plans for its national action plan on the implementation of the Minamata Convention on mercury, which sets the stage for a concerted effort to formalise the ASM sector. However, issues related to human rights, smuggling, and child labour appear to be less on the government's radar.

## 2.2 Existing initiatives for 3TG minerals

This section presents an inventory of some of the existing certifications, guidelines and multi-stakeholder initiatives applicable to 3TG minerals. It also and briefly touches on the issue of new 'conflict-free' product label vs. harmonisation of existing initiatives.

### 2.2.1 Inventory of Initiatives addressing the issue of conflict minerals

The EU is a major trading hub for minerals, like tin, tantalum, tungsten, and gold (3TG) that are at risk of funding conflicts and human rights abuses around the world.<sup>230</sup> Significant quantities of these minerals enter the EU in numerous products including light bulbs, jewellery, circuit boards, engines, and mobile phones, catering for the needs of the EU's 500 million consumers.<sup>231</sup> According to data from UN Comtrade, in 2013, the EU was the world's second largest importer of mobile phones and laptops, importing 240 million mobile phones and over 100 million laptops worth approximately EUR58 billion. Both of these products contain 3TGs. In 2013, the EU was responsible for roughly one-fifth (EUR28.5 billion) of the global trade of 3TGs and metals, which was worth over EUR123 billion.<sup>232</sup>

The EU is expected to pass legislation on company requirements regarding 3TGs later this year. Thus, while some EU companies do complete conflict minerals reporting requests for their US-based customers, companies in the EU are currently not under any legal obligation to conduct due diligence on their 3TG supply chains.

Nonetheless, several voluntary standards, certifications and multi-stakeholder initiatives exist that seek to assist companies in implementing supply chain due diligence and engaging in responsible mineral sourcing from conflict-affected and high-risk areas. Table 1 contains an overview of these standards, certifications and initiatives.

**Table 1 Inventory of existing certifications, industry and government initiatives and guidelines for responsible 3TG minerals**

Initiatives	Established by	Initiative Type	3TG minerals coverage	Chain & country coverage
Better Sourcing Standard <sup>233</sup>	Better Sourcing Program (BSP) <sup>234</sup>	Certification	All	Miners, Smelters and downstream companies.
CMCC Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains <sup>235</sup>	China Chamber of Commerce of Metals, Minerals and Chemicals Importers & Exporters (CMCC)	Guideline	All	Chinese companies upstream (involved in exploration, extraction, trading, transporting and storing, processing, refining, smelting, and the downstream
Conflict-Free Smelter Initiative (CFSI) / Conflict-Free Smelter Program (CFSP) <sup>236</sup>	Electronic Industry Citizenship Coalition (EICC) & Global e-Sustainability Initiative (GESI)	Validation program <sup>237</sup>	All	Smelters; downstream companies and their suppliers
DMCC Practical Guidance for Market Participants in the Gold and Precious Metals Industry <sup>238</sup>	Dubai Multi-Commodities Centre (DMCC)	Government	Gold	Licensed and non-licensed upstream and downstream companies in UAE
Dodd-Frank Act, Section 1502: Conflict minerals <sup>239</sup>	US Government – Securities and Exchange Commission (SEC)	Law	All	Downstream companies doing business in the US. Scope: DRC and adjoining countries.
Extractive Industries Transparency Initiative (EITI) <sup>240</sup>	UK Department for International Development (DFID)	Government	All	Governments
Electronic Industry Citizenship Coalition (EICC) <sup>241</sup>	Electronics industry	Industry	All	Downstream companies
Fairmined <sup>242</sup>	Alliance for Responsible Mining (ARM)	Certification	Gold	ASMs
Fairtrade Gold <sup>243</sup>	Fairtrade International	Certification	Gold	ASMs, Goldsmiths, Jewellers

Initiatives	Established by	Initiative Type	3TG minerals coverage	Chain & country coverage
Gold Programme <sup>244</sup>	Solidaridad	Solidaridad uses market-based certification systems, such as Fairtrade, Fairmined and Responsible Jewellery Council Code of Practices, as tools in its work.	Gold	Peru, Colombia, Bolivia, Argentina, Ghana, Uganda, Tanzania and Kenya (current), but works at all supply chain levels
ITSCI <sup>245</sup>	International Tin Research Institute (ITRI)	Certification	3Ts	ASMs, Exporters, Smelters, Traders and downstream companies
The Initiative for Responsible Mining Assurance <sup>246</sup>	Coalition of nongovernment organizations, businesses purchasing minerals and metals for resale in other products, affected communities, mining companies, and trade unions	Certification	All	Industrial Miners, downstream companies
LBMA Responsible Gold Guidance <sup>247</sup>	London Bullion Market Association (LBMA)	Guideline	Gold	Refiners
OECD Due Diligence Guidance for Responsible Minerals from Conflict-Affected and High-Risk Areas <sup>248</sup>	The Organisation for Economic Co-operation and Development (OECD)	Guideline	All	Upstream and Downstream companies
Regional Certification Mechanism (RCM) <sup>249</sup>	International Conference on the Great Lake Region ICGLR - Regional Initiative against the Illegal Exploitation of Natural Resources (RINR)	Government	All	ASMs, mine operators; comptoirs (buying centres); processors; smelters; traders; exporters
RJC Code of Practices and Chain of Custody Standard	Responsible Jewellery Council (RJC)	Certification	Gold	Entire gold, platinum, and diamond supply chain from mine to retail
Tungsten Industry – Conflict Minerals Council (TI-CMC)	Refractory Metals Association (RMA) and the International Tungsten Industry Association (ITIA)	Industry	Tungsten	Smelters
WBC Conflict-Free Gold Standards <sup>250</sup>	World Gold Council (WGC)	Certification	Gold	Mining companies (LSMs and ASMs)

Sources: Websites of all listed initiatives (see links in References)

Table 2 contains an overview of some the main existing multi-stakeholder initiatives and working groups engaged in the responsible sourcing of 3TGs in conflict-affected and high-risk areas.

**Table 2 Inventory of existing multistakeholder initiatives and working groups on responsible 3TG minerals**

Initiatives	Established or Initiated by	Initiative Type	3TG minerals coverage and country scope	Goal / Aim / Purpose
European Partnership for Responsible Minerals (EPRM) <sup>251</sup>	Netherlands Ministry of Foreign Affairs, European Commission-DEVCO, UK Foreign office, Philips, Intel, CFSI, IPIS, and Solidaridad	Multistakeholder, PPP	All 3TG minerals. Initially Colombia, Côte d'Ivoire, DR Congo and Indonesia.	Aimed at making mineral supply chains sustainable and making a difference on the ground in conflict-affected and high-risk areas and in the EU industry sourcing minerals.
IDH Tin Working Group <sup>252</sup>	Sustainable Trade Initiative (IDH)	Working Group	Tin  Bangka and Belitung, Indonesia	To positively contribute to addressing the sustainability challenges of tin mining and smelting in Bangka and Belitung while recognizing the economic benefits of the sector in terms of development and poverty reduction
International Council on Mining and Metals (ICMM) <sup>253</sup>	Board of the International Council on Metals and the Environment (ICME)	Multistakeholder, PPP	All 3TG	Committed to improving the sustainable development performance of the mining and metals industry
JEITA Responsible Minerals Trade Working Group <sup>254</sup>	Japan Electronics and Information Technology Industries Association (JEITA)	Working Group	All 3TG Minerals.	To develop and promote policies and action plans for responsible minerals sourcing (including conflict minerals) as JEITA. Present recommendations of JEITA members to EICC/GeSI Extractives WG. Being positioned as a hub, to build a multi-industry collaborative network toward solutions on responsible minerals sourcing.
Public-Private Alliance for Responsible Minerals Trade <sup>255</sup>	United States Government (Department of State), secretariat in Resolve	Multistakeholder, PPP	All 3TG Minerals  DR Congo and the Great Lakes Region (GLR) of Central Africa	Supports pilot programmes, with the ultimate goal of producing scalable, self-sustaining systems, to demonstrate a fully traced and validated supply chain in a way that is credible to companies, civil society, and government.
Responsible Minerals Multi-Stakeholder Network <sup>256</sup>	Responsible Sourcing Network	Multi-stakeholder, PPP	All 3TG Minerals.  DR Congo	A community to learn, share, and coordinate activities that benefit everyone working toward a peaceful and prosperous minerals trade.

Sources: Websites of all listed initiatives (see links in References).

### 2.2.2 New 'Conflict-free' label vs. harmonising existing certifications

During the scoping study, there were some suggestions for the EPRM to support an EU product "conflict-free" certification label. There are currently no 'conflict-free' product certifications schemes that require third-party verification. Such an initiative could provide marketing opportunities for downstream companies to demonstrate the 'conflict-free' status of their goods to their customers and investors. (Any certification schemes of this nature should ensure that any benefits accrued are also shared with responsible upstream actors).

However, it is important to note that the option of "*consumer product label indicating conflict free 3TG minerals*" was the least supported option by survey participants in relation to how the EPRM could assist the downstream with responsible mineral sourcing. (See Section 3.2.4 for a full run-down of survey results). The majority of participants instead stressed the need to harmonise existing 3TG initiatives, rather than support the creation of new ones (See Section 4.3.3).

Such an initiative may require further consideration by the EPRM in the future. Trends to date observed by ELL suggest that product labelling is generally favoured by smaller, mission-based retailers, whose value proposition rests on an ethical positioning in the market; by contrast, larger retail brands in the ICT and jewellery sector generally prefer mass balancing responsibly sourced minerals into their mainstream mineral supply chains, enabling responsible sourcing disclosures in reporting rather than through labelling on the product. An exception would be Chopard's use of Fairmined gold in their Green Carpet Challenge, for example.

## Chapter 3 Findings of the survey and follow-up interviews

This chapter presents the findings of the survey and follow-up semi-structured interviews with reference group members. This is presented in two sections:

- Overview of participation in the survey and interviews; and
- Findings.

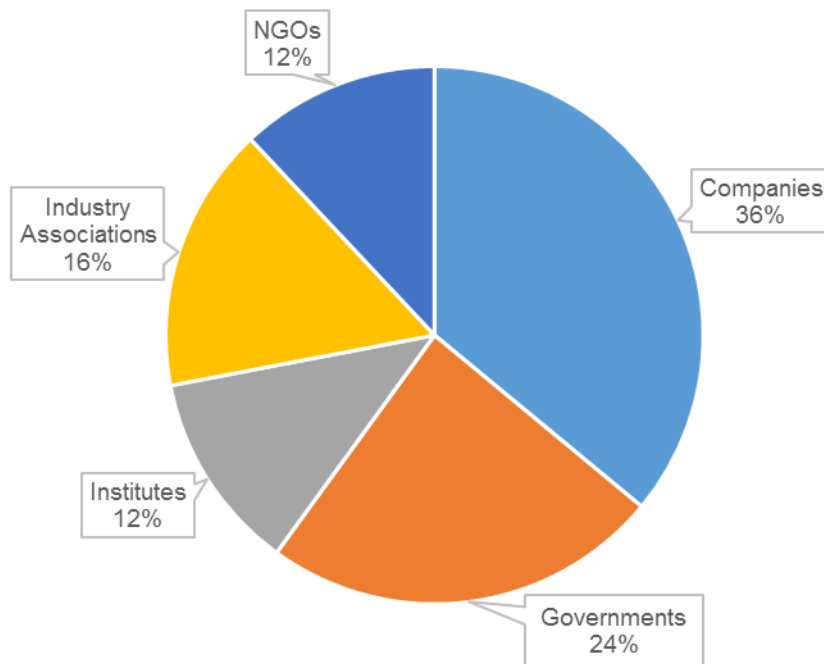
### 3.1 Overview of participation

This section provides an overview of participation to the survey and interviews by the reference group as well as other experts.

#### 3.1.1 Survey participation

50 participants representing 41 European or Europe-based organisations were invited (as reference group members) to participate in the survey and follow-up interviews. 25 people completed the questionnaire. Figure 1 shows the division of survey respondents by participant groups.

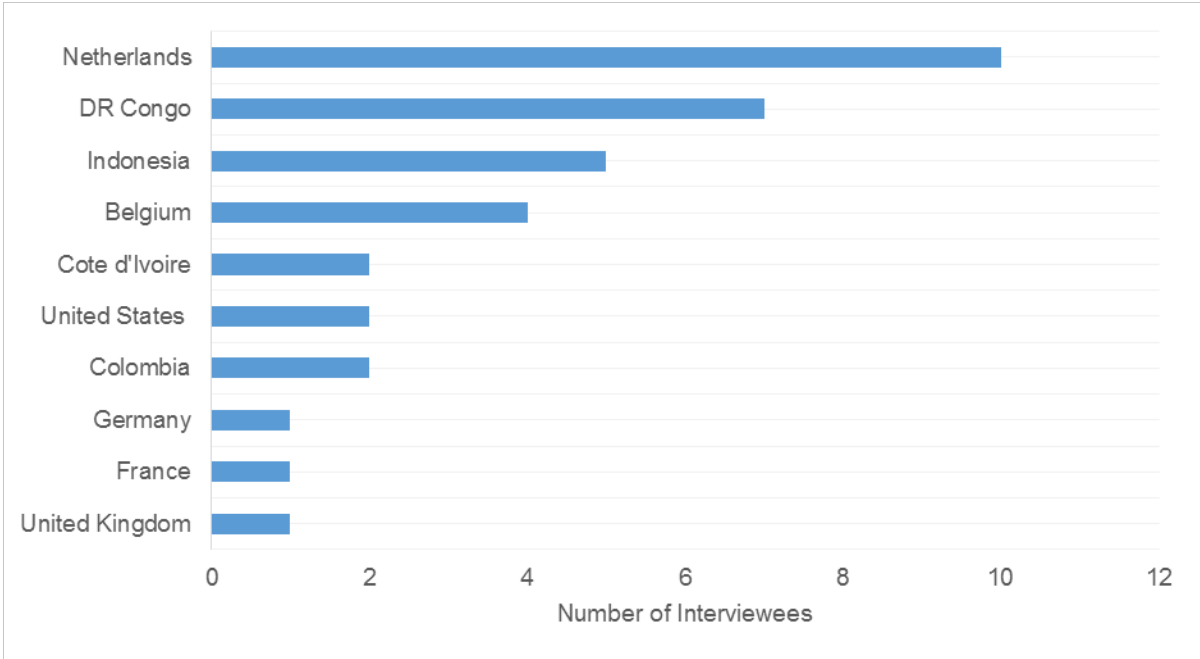
Figure 1 Division of survey respondents by groups



#### 3.1.2 Interview participation

In total, 35 persons were interviewed for the study. 16 were reference group members, while 19 were experts outside the reference group. Figure 2 shows the division of interviewees by location.

**Figure 2** Division of interviewees by location



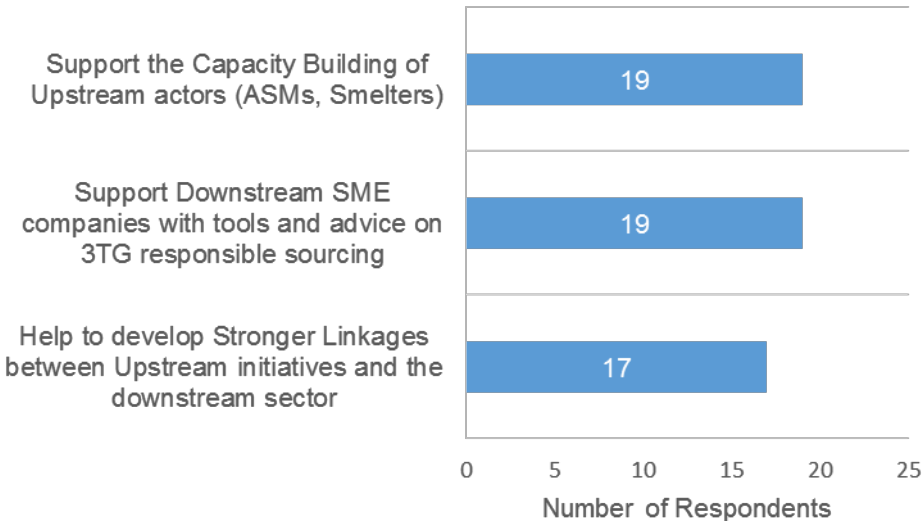
**3.2 Findings from the Survey and Interviews**

This section provides the findings of this study based on the results of the survey and interviews with the reference group members as well as other experts.

**3.2.1 Added value of EPRM**

Survey participants were asked to indicate in which ways the EPRM could add value in promoting the responsible sourcing of 3TG minerals. Figure 3 shows the top three suggestions indicated by the respondents, based on a total of 25 responses given.

**Figure 3** Main suggestions for EPRM’s added value



The participants’ suggestions regarding desirable capacity-building activities for the ASM sector and other upstream stakeholders, as well as suggestions as to the kinds of support downstream companies require are further outlined in sections 3.2.3 and 3.2.4 respectively.

Other ways the EPRM could add value include:

- Developing expertise and guidance for the identification of conflict-affected and high-risk areas;
- Developing a harmonised approach to identifying and managing supply chain risks;
- Developing an independent advisory service for supply chain actors;
- Monitoring and reporting on global developments and initiatives on responsible sourcing;
- Establishing cooperation with “obscure” players in the supply chain, e.g. refineries;
- Promoting good governance in the mining sector and in targeted mining countries; and
- Coordinating the harmonisation of existing initiatives on responsible minerals.

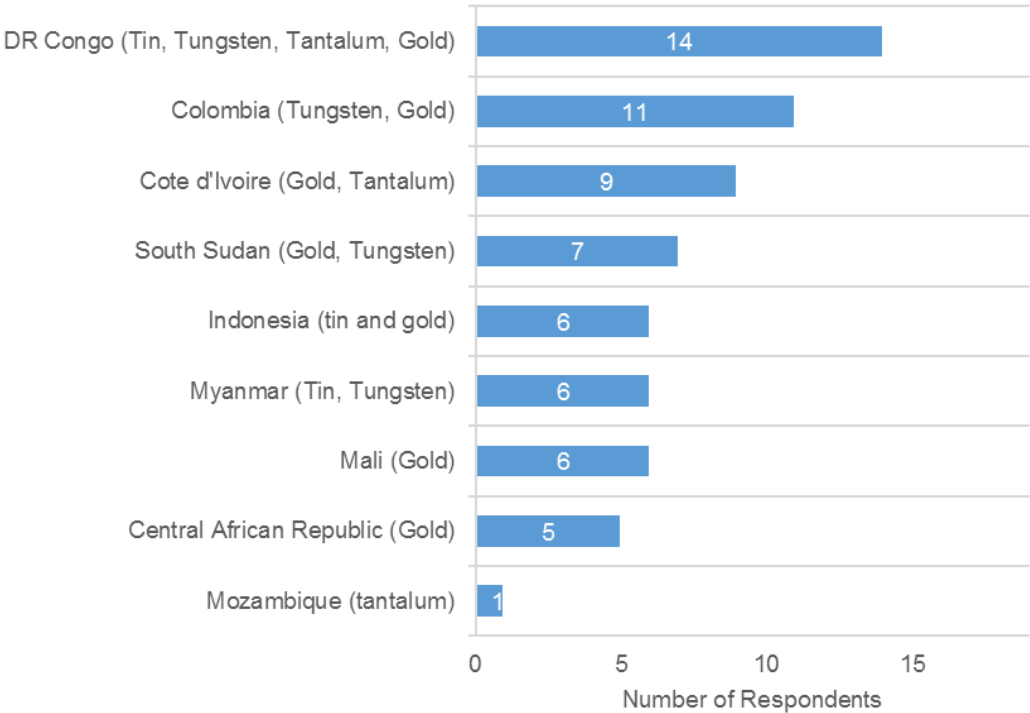
A number of participants suggest that the EPRM’s theory of change should first be established before discussing the projects or framework of activities that the EPRM can support.<sup>257</sup>

These suggestions were considered in developing the final recommendations for this study. Chapter 4 for a full breakdown of these recommendations.

**3.2.2 Country and Minerals Scope**

In cooperation with the EPRM, four countries were selected for this study, including: Colombia, Côte d’Ivoire, DRC and Indonesia. In the follow-up interviews, reference group members were asked to indicate their preference for which country and mineral combinations they would want the EPRM to focus on. Figure 4 shows the participants’ preferences for country and 3TG mineral combinations, based on a total of 17 responses given.

**Figure 4 Preference for countries and 3TG mineral combinations**





Many respondents affirm the selection of Colombia, Côte d'Ivoire and the DRC for the scoping study. Indonesia was less popular, due to some concerns as to whether it could be considered a conflict-affected and/or high-risk country. However, although it may not be recognised as a conflict-affected country, environmental and social risks associated with its tin production are well documented (as explored in section 2.1.4). SOMO (2015) has also reported on violent government suppression of miners and local groups who oppose mining activities in Indonesia.<sup>258</sup>

Although the EPRM will commence with a focus on 3TGs in conflict-affected and high-risk countries, most interviewees argued that the EPRM should not be limited to the pre-selected countries, or to 3TG, and it should have a broader ambition to expand its focus from conflict-associated human rights issues to human rights issues more generally, and consideration for the environment. The EPRM should consequently consider a progressive expansion to include other countries and minerals as well as broader human rights issues. A few participants also suggested the inclusion of vulnerable 'trading hubs', such as the UAE, in the future.<sup>259</sup> In addition, it was suggested that in selecting countries for its projects, the EPRM could consider focusing on the countries that are heavily dependent on the mining sector coupled with the issues found around ASM mining for specific minerals.

The suggestion to go beyond 3TGs and conflict-affected countries was also highlighted in the outcome statement by NGOs at the recent GoodElectronics roundtable<sup>260</sup> hosted by the Netherlands Ministry of Foreign Affairs. The EPRM has stated its intention to eventually have a global focus.<sup>261</sup>

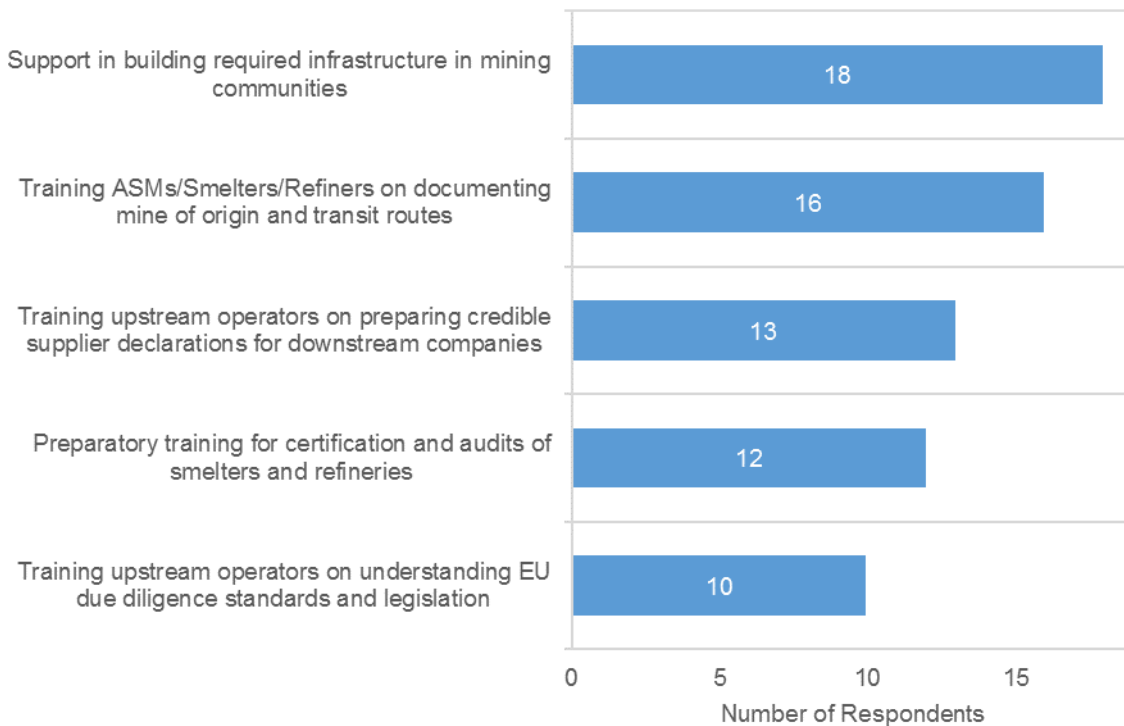
A few reasons why the EPRM should consider broadening its mandate to cover human rights and environmental issues and other 'non-conflict' minerals are outlined below:

- The "conflict-free" framework advocates that mineral sector proceeds should not go to armed or rebel groups. This sets the bar for accountability in mineral supply chains far too low. "Conflict-free" does not mean that these minerals are free from the myriad human rights abuses and environmental degradation that can be associated with minerals industries.<sup>262 263</sup>
- Armed conflicts are not exclusively associated with these four minerals. Non-3TG minerals are often sourced alongside 3TGs in conflict-affected areas, such as Colombia or the eastern DRC. SOMO, in its analysis of the Heidelberg Conflict Barometer,<sup>264</sup> concludes that violent conflicts associated with non-3TG minerals were located in 13 countries worldwide - amongst others, Myanmar, Peru, Brazil, Ecuador, Philippines, Mexico, Pakistan and Sudan.<sup>265</sup> Global Witness has very recently released a report alleging a relationship between payments to the Taliban and Afghanistan's lapis lazuli sector, building off of allegations also by the UNSC Group of Experts for Afghanistan in 2015.<sup>266 267</sup>
- Recently the OECD published its third edition of the DDG. This version provides clarification on the scope of the DDG by removing language that was perceived to limit its application only to the supply chains of 3TGs. The updated edition now states that it is a framework for detailed due diligence as a basis for responsible supply chain management of all minerals. As the DDG was the minimum standard against which EPRM members should be expected to conform, according to survey participants, this clarification is significant to the potential scope of the EPRM.

### 3.2.3 Capacity building activities Upstream

Survey participants were asked to indicate which capacity building activities the EPRM could support and/or initiate in the upstream sector. Figure 5 shows the main suggestions indicated by the respondents, based on a total of 25 responses given.

Figure 5 Suggestions for upstream capacity building activities



As shown in Figure 5, the participants see training for ASMs, smelters and refiners as essential to improving their communication/information disclosure and compliance, thereby enhancing downstream companies' abilities to carry out due diligence and meet any reporting requirements.

Other suggestions from participants for potential upstream projects include:

- The organisation and formalisation of informal ASMs;
- Tools (manuals or platforms) to help ASM miners connect with international buyers;
- Strengthen relevant regional training institutions, e.g. ICGLR Lusaka Centre;
- Working with the African Minerals Development Centre (AMDC) to ensure alignment of certification schemes with the Africa Mining Vision;
- Training upstream suppliers on how to do business responsibly in a fragile context: To comply with governmental laws and policies and take the lead in an environment with non-compliant competitors and/or non-facilitating governmental institutions; and
- Engaging the right local and international civil society networks working in CAHRAs.

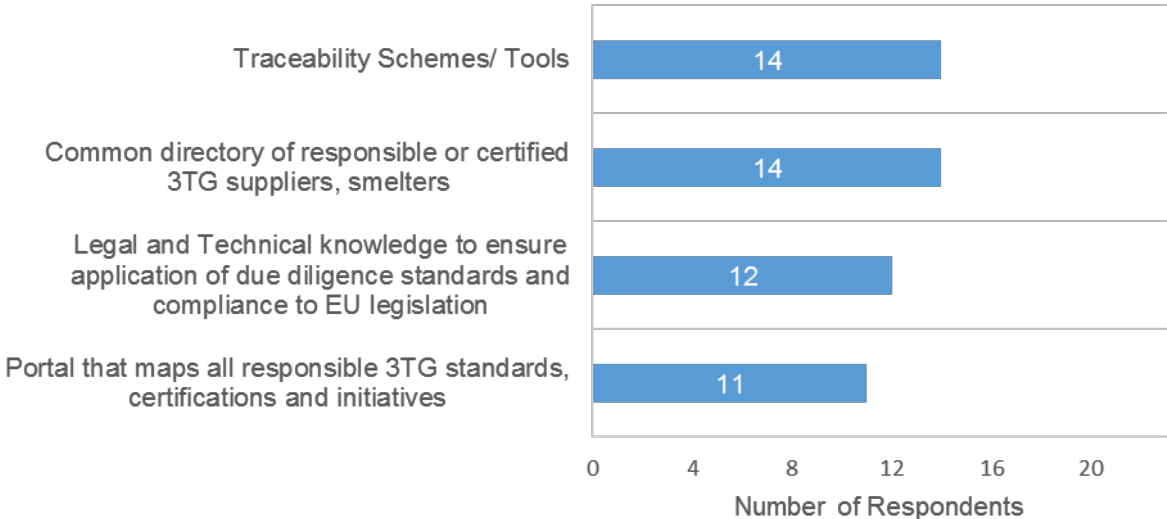
During the follow-up interviews, many participants stressed the need for the EPRM to allocate most of its funds to upstream projects. When selecting projects at the mine-site level, it was advised that the EPRM should evaluate 'whether the mining site is sustainable, and can 'survive' market fluctuations' (the researchers also strongly recommend that the EPRM consider the selection criteria detailed in the executive summary, and Section 4.1.1). It is also important for the EPRM to establish a Theory of Change and define KPIs before starting any project, to enable the setting of reasonable expectations, objective project evaluation, and transparency. Beyond conflict issues, activities

supported by the EPRM should take into account some transversal themes (such as such as governance, gender, and the environment) in order to increase overall sustainability. Furthermore, setting up “conflict-free” supply chains should only be a starting point; upstream projects selected for EPRM support should be designed to have long-term sustainable impact by contributing towards the welfare and economic development of local mining communities (thus ultimately increasing the peace dividend and reducing the chances of conflict in the longer term).

**3.2.4 Support tools for European downstream companies and SMEs**

Participants stressed that European (downstream) companies mainly need practical and knowledge-based tools to assist with understanding and realising supply chain transparency, traceability and risk management. In the survey, participants were asked to indicate which support tools or activities the EPRM could provide to downstream players. Figure 6 shows four main suggestions indicated by respondents, based on a total of 23 responses given.

**Figure 6 Suggestions for projects or tools for EU downstream companies and SMEs**



Participants stressed that they expect the EPRM to establish a platform for assisting European downstream companies (especially SMEs) and upstream actors to exchange relevant information and good practice on responsible sourcing of conflict minerals, as well as to better understand and effectively apply due diligence frameworks to enable their compliance with the upcoming EU regulation on conflict minerals. The EPRM should create a due diligence knowledge-sharing space for upstream and downstream companies that is based on clear provisions for confidentiality.

Some participants also argued that although certified ‘conflict-free’ smelters and refiners already exist (through the CFSP, for example), the EPRM should also support initiatives aimed at increasing the demand for ‘conflict-free’ minerals to encourage other smelters and refiners to become certified. In addition, some of the participants stated that it would send a strong signal if participating economic operators (manufacturers, importers, exporters, etc.), especially EU AEOs,, would commit to purchasing 3TG from only those smelters and refiners that have been certified by, for example, the CFSP. One interesting suggestion was that the EPRM could investigate the possibility of setting up a financial vehicle for governments to subsidise a majority (e.g. 75/80%) of corporate investments in upstream solutions for responsible minerals trading to incentivise more downstream companies to engage in this kind of activity.

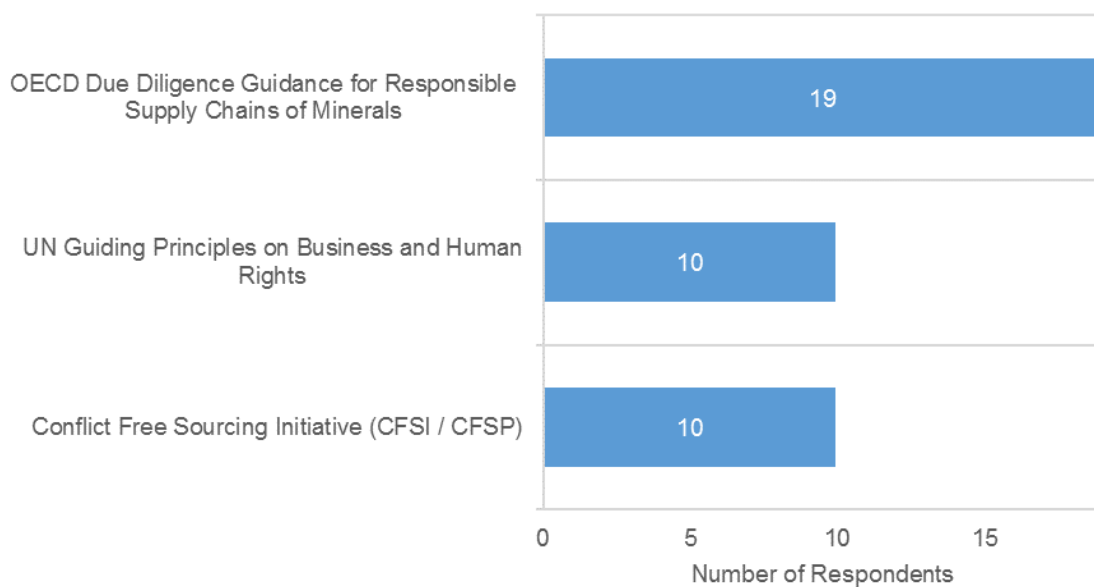
Other suggestions of potential tools or projects the EPRM could initiate to support EU downstream actors included:

- A country risk profile portal linking identified issues and applicable certifications;
- Guidance tools with common definitions for key terms, such as: Responsible Sourcing, Conflict-affected Areas, High Risk Areas, etc;
- A lexicon of countries' mining, trading and exporting licensing requirements, procedures, and regulations and templates/examples of supporting paperwork to help mineral importers and smelters and refiners identify fraudulent practices in their supply chains when doing their due diligence; and
- Creating a whistleblowing and grievance platform on the ground to report and risks grievances back to downstream companies when they are identified.

### 3.2.5 Minimum standards for EU downstream companies

Survey participants were asked to indicate which existing initiative the participating EU downstream companies would be willing to commit to as a minimum standard. Figure 7 shows the preference for minimum standards indicated by the respondents, based on a total of 24 responses given.

Figure 7 Minimum standards which EU downstream companies should commit to



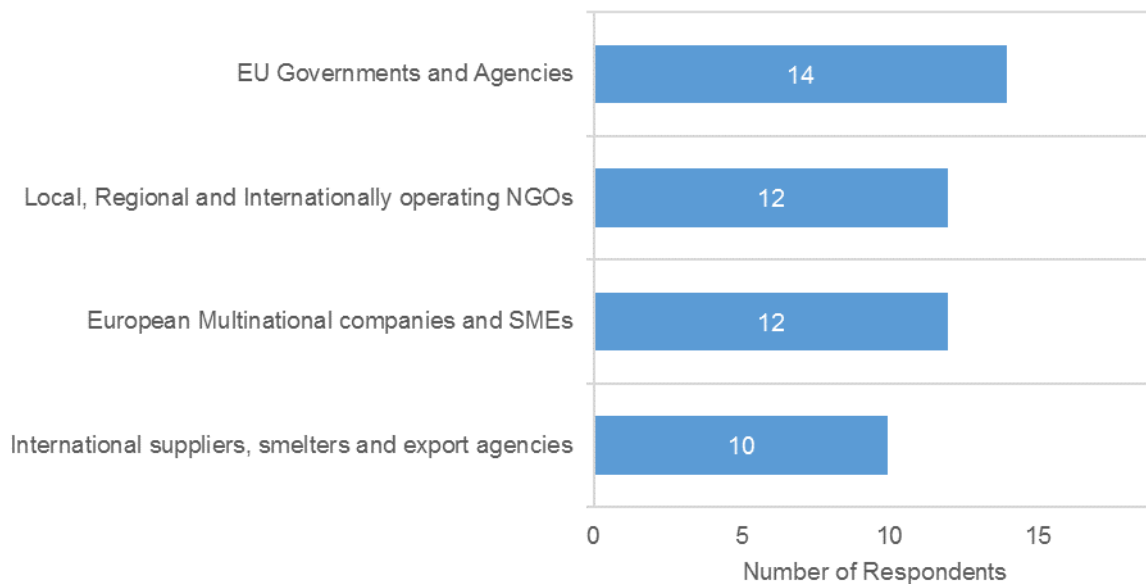
The majority of participants agree that there is no 'one size fits all' standard, but generally maintain that the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals should be the minimum commitment for participating downstream companies. Next to this, the UN Guiding Principles on Business and Human Rights was highlighted as a key minimum standard for EU downstream companies. Both guidelines are often referenced or recognized as minimum standards by other initiatives. With respect to compliance to for example, the Dodd-Frank Act and the upcoming EU regulation on responsible minerals, we find that downstream companies expect the EPRM platform to be used for assisting them (especially SMEs) in 'breaking down' these standards for ease of application and compliance.

Overall, the researchers noted about 20 existing initiatives which downstream companies are already implementing or are part of (see some examples in the inventory made in Table 1). Table 1). Most of the interviewees stressed that the EPRM should endeavour to coordinate or collaborate with some of the existing initiatives in order to seek areas where it can add value to their work and avoid *'reinventing the wheel'*, duplicating activities and projects, and thus either wasting resources and/or potentially undermining existing initiatives. Already, the EPRM and the Public Private Alliance (PPA) have signed an MoU to regularly coordinate with each other (especially on activities in the Great Lakes Region) and to actively pursue synergies to promote alignment and reduce overlap and transaction costs to members.<sup>268</sup> The EPRM is encouraged to also coordinate with other actors, such as the EICC, which is open to discussing collaboration especially on downstream aspects once the eventual scope and goals of the EPRM are determined.<sup>269</sup>

### 3.2.6 Organisational set-up of EPRM

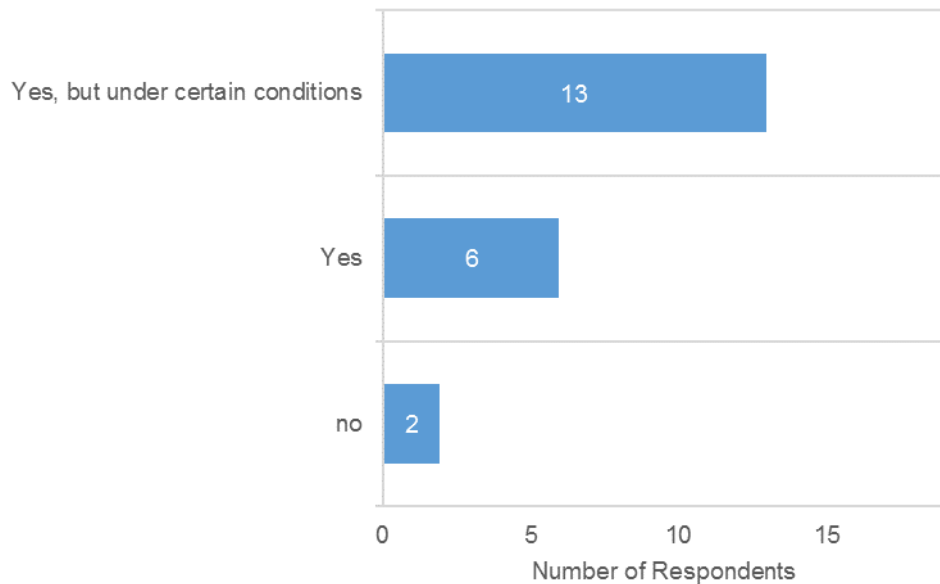
Participants were asked to indicate which parties they expect to be members of the EPRM, Figure 8 shows the responses, based on a total of 23 responses given.

**Figure 8** Expected participant groups for the EPRM



EU governments and agencies; EU multinationals and SMEs; Local, Regional and International operating NGOs and international suppliers, smelters and export agencies were identified as the desirable key participants of the EPRM. Depending on the direction of the EPRM, certain groups such as knowledge institutions, consultancy and advisory agencies, etc. may also become participants. Participants were further asked if the organisations they represent would participate in the EPRM. Figure 9 shows the responses, based on a total of 21 responses given.

Figure 9 Respondent's organisation participating in the EPRM



Almost all respondents indicated their organisation's willingness to participate in the EPRM. A majority stressed that their organisation's participation would occur with certain conditions, including some of the following:

- The financial costs involved (contingent upon availability of financial resources);
- Obtaining approval from their commissioning authorities;
- The EPRM's ultimate governance structure;
- If the EPRM's projects will consider systemic challenges for local communities upstream;
- If the EPRM adds value and is complimentary to and supports the harmonisation and improvement of existing responsible sourcing initiatives, where practical; and
- If the EPRM will focus mainly on due diligence, traceability and transparency issues in mineral supply chains.

A few organisations also stated that they are considering becoming 'founding partners' of the EPRM. Some participants stressed the importance of involving consumer-based NGOs and investors as members of the EPRM, as consumers and investors are perceived as being key drivers of corporate sustainability. Other participants stressed the need to invite upstream governments to join the EPRM and involve stakeholders from the countries/regions of origin or at least have regular consultation with them. Section 4.3.24.3.2 highlights a few ways in which the EPRM could involve and engage with upstream governments. The Swiss Agency for Development and Cooperation (SDC) was suggested as a key participant to be involved in the EPRM, given its extensive experience with supporting upstream projects especially in the formalisation of AMSs in Latin America and Asia (Mongolia) and taking a human rights-based approach.<sup>270</sup>

Survey and interview participants were also asked to indicate the most preferred organisational set up for the EPRM. The most preferred organisational set up indicated was:

*"A global membership network funded by contributions from members (including NGOs) and institutional donors, in a matching fund; governed by a steering or governance group made up of members (including NGOs) and donors, and managed from a central secretariat by an independent private agency".*

### 3.2.7 Communication and information sharing tools

Participants were asked to indicate which communication and information sharing tools they would recommend the EPRM to use. Most of the respondents consider all the tools listed below as relevant to fostering fruitful vertical and horizontal knowledge sharing. There was also a recognised need that these tools be made available in multiple languages.

The communication and information sharing tools recommended are:

- Online knowledge portal (with e.g. repository of reports, briefs, regulations, standards, certifications, toolkits and articles on 3TG sourcing);
- Dedicated website;
- Open online consultations on 3TG responsible sourcing topics;
- International conferences;
- Working groups meetings (online);
- Webinars; and
- Social media communication (Twitter, LinkedIn group and Facebook).

## Chapter 4 Recommendations

This chapter presents the recommendations of activities or projects that the EPRM could initiate or support to enhance the responsible sourcing of 3TG minerals. The recommendations are outlined in four sections. The first section covers recommended criteria for the selection of projects or activities, as well as some recommended areas of further (in-depth) research that the EPRM could commission. The second section covers the main recommendations for upstream activities or projects that the EPRM could support in the four pre-selected countries. The third section covers the main recommendations for downstream activities or projects that the EPRM could initiate to support EU downstream companies. The fourth section covers the main recommendations for the community of practice activities or projects of the EPRM.

### 4.1 General Recommendations

This section outlines two general recommendations: 1) a few recommendations for what to consider in the selection of projects to be supported by the EPRM; 2) recommended areas for further commissioned research by the EPRM.

#### 4.1.1 Criteria for selection of projects

In selecting the first projects to support, the research team recommends that the EPRM consider some or all of the following questions:

All projects:

- Does the project align with the EPRM's strategic goals?
- Does the project have a theory of change and accountability framework that is proportionate to its purpose and robust?
- Upstream: Does the project measure and report on how it contributes to or generates positive and negative impacts on the social and economic development of local mining and trading communities in 3TG producer nations?
- Upstream or downstream: Does the project measure and report on how it reduces or removes commercial barriers to responsible business in any or multiple tiers of the 3TG supply chains?

- Does the project provide value for money for the EPRM in terms of impact generated for money invested?
- Does the project provide a ready and open opportunity to continue successful work that has already been initiated but has an expiration date, or to transform an unsuccessful project on the basis of lessons learned?
- Will the project add value to or leverage other existing initiatives promoting responsible sourcing or good governance, or could it detract or undermine these?
- Will the project optimise due diligence practices at downstream and upstream levels?
- Does the project have the potential to grow to scale?
- Is there evidence of potential in-country partners who can be networked with the project to create an enabled and impactful local community of practice?
- Is the project feasible and realistic?
- Does the project have a realistic time frame, budget and cost-benefit balance?
- Is there an enabling environment for improving the chances of success for the project?
- Does the project have local ownership and legitimacy?
- Is there a risk mitigation plan for the project?
- Is the project appropriate for receiving funds from blended public and private donors?

All upstream projects should have at least two components from the following list:

- Does the project create market incentives for both demand and supply of responsible 3TG minerals;
- Does the project have a capacity-building component? Preference given to projects improving the capacity of either a.) Operators upstream of including smelters and refiners and ASM supply chains (e.g. ASM enterprises, traders, exporters, in-country smelters or refiners) or b.) Due diligence or sustainable development related service-providers to these operators;
- Does the project develop or improve required infrastructure in mining or trading communities that will increase the volumes or value of minerals being responsibly sourced?
- Does the project promote good or improving governance in focus countries;

All downstream projects should have at least two components from the following list:

- Does the project build the knowledge of downstream companies?
- Does the project build the capacity of SMEs to do due diligence better?
- Does the project create tools that will increase the efficiency and feasibility of due diligence and responsible sourcing?
- Does the project promote the take-up of the UN Guiding Principles for Business and Human Rights in relation to responsible sourcing, and supporting normative documents such as the OECD Guidelines for Multinational Enterprises and/or the OECD DDG?



#### 4.1.2 Areas for further research

The following overviews a selection of general areas that it is advised the EPRM consider for further research:

- Governance research: The EPRM is recommended to conduct further research into possible governance structures for the organisation. The EPRM is to be set up within the next six months. In the meantime, the researchers recommend that the EPRM (as it stands today) establish a secretariat to be managed by an independent private agency, and a (multi-stakeholder) governance group. These parties should be responsible for decision-making in relation to the ultimate governance structure of the EPRM, including the drafting of the organisation's Charter. In addition, it is the researchers' recommendation that three committees (which would sit beneath the governance group) be established to oversee certain elements of the EPRM: a membership and partnerships committee; a projects committee; and a knowledge platform committee.
- Solutions research: This is needed to identify opportunities for overcoming commercial barriers to responsible sourcing, like pre-financing
- Funding research: This scoping study was not tasked with considering various funding options for the EPRM, however this should be prioritised moving forward.
- Landscape research: It is imperative for the EPRM to establish key strategic partners at national, regional and global levels. This scoping study has illustrated a broad variety of ways in which this engagement could be realised, however, due to the short timeframe for this research, it was not possible for this issue to be addressed in a comprehensive manner. In addition, given the desire of many members of the reference group to focus on countries beyond the four analysed in this study, it is recommended that the EPRM conduct a broader analysis to map responsible sourcing initiatives and projects (in the upstream and downstream), and further identify opportunities for value-addition.
- Field research: Finally, the research team recommends that the EPRM discuss, in collaboration with the reference group, the most desirable locations for follow-up field research, based both on the findings and recommendations of this study, and the strategic goals of the EPRM and its membership.

#### 4.2 Recommended Upstream Activities and Projects

This section contains recommendations for concrete upstream activities or projects in Colombia, Côte d'Ivoire, DRC and Indonesia, which the EPRM could support to enhance responsible mineral sourcing from conflict-affected and high-risk areas.

##### 4.2.1 Colombia

###### **BioREDD+: Gran Colombia, USAID, and Chemonics<sup>271</sup>**

BIOREDD+ was an environmental programme initiated by the U.S. Agency for International Development (USAID) in Colombia, which ran from 2011 to 2014. It provided legal and technical assistance to ASM in Colombia, to help them become licensed and empower them to understand and protect their rights. This programme also worked to eliminate the use of mercury, promoting alternative technologies.<sup>272</sup> The total project investment was USD27.8 million.<sup>273</sup> USAID contracted Chemonics, an international development consulting company,<sup>274</sup> to implement the BioREDD+ programme. USAID teamed up with the Ministry of Environment and Sustainable Development, Department of Planning, the Instituto de Hidrología, Meteorología y Estudios Ambientales de Colombia (IDEAM), Corporaciones Autonomas Regionales (CARs), Afro-Colombian Consejos, Indigenous Collective Territories (Resguardos), and local NGOs to see the project realised.<sup>275</sup>

In 2013, Chemonics began a project in Antioquia, Colombia, to address the root causes of illegal mining and to 'develop solutions that built local capacity and created shared value for the companies and mining communities.'<sup>276</sup> To reach their stated aim, they partnered with Gran Colombia Gold (CGC), a Canadian gold and silver mining company with operations in Colombia.<sup>277</sup> GCG offered private contracts—'formalisation subcontracts'<sup>278</sup>—to small informal mining units operating on their concession. This legalised their businesses, and offered them access to new technologies on site. This in turn increased their productivity, whilst reducing their environmental footprint.<sup>279</sup> The miners agreed to sell their gold directly to CGC at international market price. Gran Colombia also provides explosives to ASM, so that they can mine more productively without incurring this expense.<sup>280</sup> This LSM-ASM engagement has dissipated the tensions arising from GCG operating on traditionally ASM land.

#### *Key Takeaways:*

**Strengths:** A government commissioned report (Ortiz et al., 2014) described how the contracts helped to formalise the activities of ASM. Furthermore, as the use of mercury was halted through utilising cyanide instead, 'the ore is processed in the Gran Colombia Gold plant, which not only allows for a higher recovery rate, but it mitigates the environmental impacts'. In 2014, 30 operation contracts had been signed with families, associations and mining cooperatives in Segovia (Antioquia) and 22 at Marmato (Caldas).<sup>281</sup> By 2015, they were reported as working with 20 artisanal and small-scale mining organisations (ASMOs) and over 4,000 artisanal miners.<sup>282</sup> These ASMOs retain their independence and decision-making processes under the contract. Ortiz et al. praised this initiative for showing how this type of relationship with a community can promote responsible practices in the mining industry. They applauded its demonstration of the benefits that a partnership between ASM and LSM can bring to the economy and society.<sup>283</sup>

**Weaknesses:** Claudia Cadavid, Secretary of Mines of Antioquia, has been quoted as saying that there is room for greater transparency in formalisation sub-contracts. Cadavid argues that the regulation, which allows for this type of sub-contracting, may lead to abuse by title-holders as it currently stands, especially since most ASM miners negotiate contracts under threat of penalisation or confiscation of equipment. Cadavid recommends developing minimum standards for contracts to ensure equity and transparency, and suggests that these private contracts should be publicly available for civil society to scrutinise.<sup>284</sup>

#### **Oro Legal**

Oro Legal is a five-year, USD 20 million programme,<sup>285 286</sup> funded by USAID and implemented by Chemonics. It is designed to control and improve artisanal mining in the departments of Antioquia and Chocó. Launched on 4 March 2016, the programme is a continuation of a 22-month pilot in the mining municipalities of Antioquia.<sup>287</sup> The programme works with the public (Colombian government) and private (LSM) sectors to create a shared agenda for sustainable change in the mining sector in alignment with current and emerging mining policies.<sup>288</sup> 'The Programme acts as a neutral stakeholder, neither expanding nor reducing mining activity per se; rather supporting responsible mining where it is technically, financially and legally feasible to do so.'<sup>289</sup> The public and private entities that have joined this project include: the National Mining Agency, the Government of Antioquia and Choco, and companies Gran Colombia Gold, Mineros SA, Continent Gold, Group of Bullet, Angel Gold, and South Oro.<sup>290</sup>

The programme will also offer workshops, conferences and legal consulting, working to improve practices related to social development and environmental conservation. They have thus far taught courses in labour law, industrial safety and occupational health.<sup>291</sup> There are several objectives for the programme:<sup>292</sup>

Build effective government capacity for ASGM activities by:

- Strengthening the Colombian government to enforce gold mining legislation;
- Enhancing the participation of artisanal gold mining associations and Afro Colombian and indigenous communities in mining formalization programmes; and
- Providing training and technical assistance to artisanal miners.

Increase the capacity of Colombian government entities, communities and the private sector to address the environmental impact caused by illegal mining through:

- Reforestation of degraded areas;
- Generating alternative livelihoods for communities that cannot or should not be involved in gold mining; and
- Improve drinking water quality in mining areas.

*Key Takeaway:*

As this project was initiated in early 2016, it is too soon to judge its strengths and weaknesses.

### **Resolve; Solutions for Hope: CAPAZ - Cadenas de Paz**

Cadenas de Paz (CAPAZ) is a Solutions for Hope project that has been operating in Colombia since 2014. The project is funded by a grant from the Motorola Solutions Foundation administered to Resolve, and supported by the Canadian Department of Foreign Affairs, Trade and Development.<sup>293</sup> Solutions for Hope works with companies, civil society organisations, and government partners to *'build responsible minerals supply chains from regions where due diligence and market access are limited by both armed conflict and supply chains with limited transparency.'*<sup>294</sup> The programme in Colombia works to support transparency in the gold, tantalum and tungsten sectors in partnership with peace-building and economic development efforts.<sup>295</sup> The project is still in the piloting stage, *'testing validation approaches with local refineries, supporting formalisation programmes, providing a sourcing opportunity for artisanal scale miners and cooperatives meeting conflict-free standards; and capacity-building at all levels of the supply chain.'*<sup>296</sup>

The project's pilot programmes are supporting the development of regional systems and encouraging communication and partnership between upstream, mid-stream, and downstream actors. The aim is to develop a voluntary programme that ensures the first traceable Colombian gold production (in line with the OECD DDG).<sup>297</sup> From the planning stages initiated in 2014 to date, there are three steps to first production:<sup>298</sup>

- Formal production and validation with a local refinery already using a well-established traceability system;
- Artisanal sourcing of ARM-certified conflict-free sources, among others; and
- ASM engaging in formalisation programmes, with cooperating mining companies and refineries.

*Key Takeaways:*

Although the project is only in the piloting phase, Resolve has released some initial feedback from the process so far, as well as considerations for the future:<sup>299</sup>

- It is necessary to address primary bottlenecks and challenges, and avoid creating unnecessary red tape/bureaucracy or perverse incentives;
- Build off what is working; where there are good relationships and practice, this should be developed;
- Address upstream support and capacity building opportunities;
- Work with the downstream; and
- Opportunities for improved communications should be explored.

## **Fairmined<sup>300</sup>**

Fairmined is not a project, but an ASGM certification scheme created by the Alliance for Responsible Mining (ARM) in 2009 and applicable to ASM organisations all over the world. It developed from the 2006 Standard Zero. ARM was formally established in 2004 by a network of independent organisations representing community-based miners, environmentalists, NGOs, jewellers, traders, and ASM experts from around the world.<sup>301</sup> Fairmined sets certain standards with which the ASMO and other supply chain operators must comply in order to achieve certification. This assures that the gold was mined responsibly, and those involved in the extraction received a fair price. Furthermore, a premium is paid by the consumer, which goes back towards community social, environmental, and economic development.<sup>302</sup>

ARM works with the entire supply chain. A mine is Fairmined certified, an operator can become Fairmined authorised, and a retailer or brand must also meet certain requirements to become Fairmined licensed. Furthermore, there is the 'Ecological Gold' standard,<sup>303</sup> inspired by Oro Verde. This addresses additional environmental issues, particularly the use of mercury or cyanide as processing chemicals.<sup>304</sup> (Buyers can elect to buy Fairmined gold that is also certified as Ecological Gold, however this has a higher price point). ARM has supported two mine sites to reach full certification in Colombia, Iquira and La Llanada,<sup>305</sup> and they are currently supporting a further six Colombian mines in achieving Fairmined certification.<sup>306</sup> ARM has certified 10 mines across the world, and 25 are in the process of application, with a total number of beneficiaries in the region of 20,000.<sup>307</sup>

### *Key Takeaways:*

**Lessons Learned:** Downstream demand is crucial to the sustainability of an initiative, and the ability to upscale it. Strong communications and public collaborations with strategic downstream actors (as explored below) help to create positive publicity.

**Strengths:** Fairmined serves as evidence of the feasibility of a fully traceable gold supply chain from mine to retailer.<sup>308</sup> There are flexible options available for buyers to suit their needs. Whilst 'Fairmined Labelled' guarantees 100% FM gold from mine to market, there is also the option of mass balancing, 'Fairmined Incorporated', which promises traceability from mine to smelter; and a book and claim option, 'Fairmined Certificates Model,' which guarantees the premium goes back to the community, without physical traceability of the gold. ARM has entered into high profile partnerships with downstream brands, most notably Chopard. Chopard has gone beyond purchasing gold to directly fund mines working to achieve Fairmined certification.<sup>309</sup>

**Weaknesses:** ARM has struggled to upscale. To quote Resolve, 'a future challenge for initiatives like ARM is their ability to scale-up significantly with regard to numbers of sites and market share. Further, some have raised questions about the need for more rigorous standards.'<sup>310</sup> Lina Villa, director of ARM, at a conference in London at the Goldsmith's Centre, 19 April 2016, spoke about the challenges of upscaling the Fairmined standard, which she attributed largely to a lack of downstream demand. Furthermore, there is only a limited amount of gold available and there are commercial challenges associated with the price of the premium.<sup>311</sup>

Fairmined may also be an aspirational rather than practical minimum standard.<sup>312</sup> Because ASM miners must already be producing a sufficient amount of gold to trade directly with the international market, belong to market-trading democratically organised cooperatives, and have an operating bank account, there are many miners who are excluded. There have also been questions raised with regard to the applicability of Fairmined in the technology sector, as the focus has thus been on the jewellery industry. Resolve in particular highlights this as a problem, stating that 'ARM's approach is not likely to be scalable for target electronics minerals in the near future without dedicated resources and action.' Resolve identified the following as challenges in this regard:<sup>313</sup>

- ARM has identified jewellers willing to pay an additional price premium, but it is not clear if this strategy can be applied to industrial metals;
- ARM promotes the labelling of a product for consumers, telling the story of the mineral and the community that benefited. It is not clear that this is applicable to industrial metals or consumer electronics;
- A jewellery product and supply chain is relatively coherent, and is easier to brand as 'responsibly sourced'. This would be harder with electronics where chain-of-custody for one mineral could be marked as responsibly sourced, and yet it only makes up a very small portion of the material of that particular phone;
- It is not clear that the ARM approach is applicable in or near conflict zones—this needs further investigation; and
- ARM's capacity to up-scale its effort to more sites and/or other minerals may present a challenge.

#### **Value-adding Opportunities for the EPRM:**

The EPRM could contribute to the realisation of responsible gold supply chains in Colombia by:

- Engaging with government to explore opportunities for capacity building with the ultimate goal to increase formalisation in the ASM sector.
- Helping to build awareness of PRONAFOMI amongst ASM sector operators and stakeholders.
- Exploring with OECD opportunities for collaboration on enhancing the trade in responsible minerals.<sup>314</sup> The OECD Secretariat, in coordination with the Government of Colombia,<sup>315</sup> is undertaking baseline assessments of the gold trade to form practical recommendations.<sup>316</sup>
- Supporting an on-going pilot such as Solutions for Hope and Resolve's Cadenas de Paz (CAPAZ) or the Oro Legal Project.
- Continuing the success of the BioREDD+, Gran Colombia, USAID and Chemonics initiative (that ran from 2011-2014) by bringing scale to the previous project.<sup>317</sup> This model was deemed a success as it provided the ASM sector with a fast and sustainable path to formalisation via the LSM sector.<sup>318</sup>
- The Government of Antioquia, Anglo Gold Ashanti (AGA) and the University of British Columbia have launched a Training Centre for Artisanal Miners Programme (TCAM) with artisanal miners from AGA's concession. The programme is currently in planning stages, but its aim is to introduce a Training of Trainers model to artisanal mining, large-scale mining and government stakeholder participants.
- Consider support to extend and expand the 'Somos Tesoro' project (2013-2017) to reduce Child Labour in Colombia, initiated by the US Department of Labour and implemented in partnership with Pact, Fundación Alianza por la Minería Responsable (ARM), Fundación Mi Sangre (FMS), and Fondo para la Acción and Ambiental y la Niñez (FA).<sup>319</sup>

Recommendations as to how the EPRM could support ARM on a global level are considered in section 4.2.5.

#### 4.2.2 Côte d'Ivoire

##### **Property Rights and Artisanal Diamond Development (PRADD) II: Côte d'Ivoire**

Financed with a USD19 million five-year grant by the USAID and the EU, the Property Rights and Diamond Development II (PRADD II) programme in Côte d'Ivoire was launched in 2013.<sup>320</sup> The goal of the programme is to support the Ivorian government's compliance with the Kimberley Process (KP) and 'increase the percentage of diamonds entering legal chain of custody, while improving the livelihoods of artisanal diamond mining communities.'<sup>321</sup> As such PRADD II is focused on diamond sector formalisation, and does not have mandate from its donor to work in gold.<sup>322</sup>

PRADD II is focusing on the following activities at both the mining and policy level:

- Providing the Ivorian government with technical assistance and internal supply chain controls and export procedures to finalise its compliance with the Kimberley Process (KP) (2014);<sup>323</sup>
- Supporting artisanal (also called alluvial) diamond miners to secure their land tenure and "creating positive incentives for miners to be good stewards of the land";
- Formalisation of artisanal diamond miners in 21 mining communities (as of 2015);<sup>324</sup>
- Design of "alternative systems of financing, equipment, and marketing, which benefits" all upstream supply chain actors;<sup>325</sup>
- Mobilisation of civil society actors to "change communication approaches to alter the way miners view diamond trade and production" ;<sup>326</sup> and
- Provision of training and capacity building for both mining, government and customs stakeholders on diamond valuation through the distribution of portable weighing scales.<sup>327</sup>

##### *Key Takeaways:*

- The PRADD II programme in CDI has seen success in a very short period of time (it has only been in country for some 18 months). The key elements of success for PRADD II are, according to one informant, communication, persistence, and patience with the government. In some cases, the PRADD II staff had to go directly to the cabinet of the president to get an answer on an important decision.
- The decision-making process of the GCDI is extremely opaque, but PRADD II has been able to leverage the international pressure coming from the UN's diamond embargo to create an opening to appeal to the government.

##### **Société de l'Etat pour le Développement Minier de Côte d'Ivoire**

There are many lessons that the gold sector can learn from the long history of diamond mining in CDI. One positive activity in the diamond industry was, according to two sources, the co-sharing agreement between the state-owned diamond mining company, *Société de l'Etat pour le Développement minier de Côte d'Ivoire* (SODEMI) and artisanal miners.

In the 1980s, the government, for a short period, legalised artisanal diamond mining. SODEMI had the mandate to organise the artisanal miners working on their permits. The company did this by organising small cooperatives at the community level, comprised of local land chiefs, land owners and other influential local level actors. If the miners wanted to mine in any given area, they had to make their case to this cooperative group. The community group would in turn lobby with the mining company on the miners' behalf. If SODEMI granted the miners permission, the cooperative group would oversee the mining activities, ensuring that they were keeping to their designated area.

The cooperative group would then take possession of the diamonds produced each day. Each mining team's production would be put into a separate marked envelope and kept in the possession of the cooperative group. Then each given village would hold regular public sales session. The profits from each sales session would then be divided so that 8% of the revenue would go to SODEMI; 12% would go to the cooperative group, which would in turn invest in community infrastructure; the rest of the revenue would go to the mining teams. The mining company's fee would go toward providing technical assistance to the miners, such as excavation and drilling. The benefit for the mining company of this arrangement was that the miners agree not to touch kimberlite (primary) deposits.

*Key Takeaways:*

This SODEMI system took some time to put in place but when it was in operation, it worked well. All actors had a financial incentive to engage, from the local monitoring and organisations that got to control what was taking place on their own land; the artisanal miners, who were given technical assistance, a viable area to mine and the majority of the revenue from their production; to the mining company, which was able to continue exploring for viable kimberlites.

**Regional Resource Governance in Fragile States of West Africa (REGOWA)**

The Regional Resource Governance in Fragile States of West Africa programme is funded with a USD 13.5 million grant by the German Federal Ministry for Economic Cooperation and Development (BMZ) and executed by the Ministry of Mines of Mano River Union member states of Côte d'Ivoire, Guinea, Liberia and Sierra Leone, with technical assistance from GIZ.<sup>328</sup>

The objective of the programme is to "Support Mano River Union states, mining companies and civil society "enact the provisions of the African Union's African Mining Vision."<sup>329</sup> The programme focuses on four pillars, including:

- Increasing revenue and driving transparency;
- Legal framework;
- Socio-economic development at local level; and
- Regional cooperation.<sup>330</sup>

The GIZ-REGOWA programme is in early stages in Côte d'Ivoire, and therefore it is still determining which direction it wants to take. The focus of the programme's mandate is the mining sector in general, so gold falls within their mandate. However, the government of Côte d'Ivoire is not welcoming a lot of advice from donors or international parties at present, according to one source. Nonetheless, REGOWA recently facilitated a visit from representatives of the OECD to present the *Due Diligence Guidance* to members of the upstream industry. Only one medium-scale mining company attended this workshop. Thus, there is still much awareness raising that needs to be conducted on this subject.

*Key Takeaways:*

GIZ sees the OECD's *Due Diligence Guidance* as the most logical entry point for working on reforming the gold sector, but it seems that it will take some time to get the government and the mining industry sensitized to the principles of due diligence.

**Reducing Mercury Risks from Artisanal and Small Scale Gold Mining in Côte d'Ivoire**

Between 2012 and 2014, the United Nations Industrial Organisation and the Strategic Approach to International Chemicals Management (SAICM) Quick Start Programme Trust Fund co-funded the "Reducing Mercury Risks from Artisanal and Small Scale Gold Mining in Côte d'Ivoire."<sup>331</sup> The total funding provided for this programme was USD 191,000. The goal of the programme was the support the Ivorian Government in its development of a National Action Plan on AGM, particularly where it pertains to sustainable management and reduction of mercury emissions into the atmosphere.<sup>332</sup>

*Key Takeaways:*

Whilst the programme did not have a focus on conflict minerals, it may be useful to consult Ludovic Bernaudat,<sup>333</sup> a former focal point at UNIDO now leading the Global Mercury Partnership at UNEP, about what they learned from engaging with the Ivorian government and ASGM miners. Mr. Bernaudat is also likely to be able to provide guidance to the EPRM on strategic entry points for supporting the Global Mercury Partnership's work on ASM Formalisation (seen as the means for managing and eliminating the use of mercury in ASM) both in CDI and internationally, and as mandated by the Minamata Convention. The GMP is in a phase of design of National Action Plans in a range of countries, providing an opportunity for supply chain due diligence and responsible sourcing considerations to be wrapped in effectively to satisfy other mandates alongside those of the Minamata Convention.

**Value-adding Opportunities for the EPRM:**

There are no public-private cooperation projects in the artisanal gold mining sector in Côte d'Ivoire. However, there is a sizeable ASGM population and gold trading industry that could be assisted via the EPRM's engagement. It is recommended that the EPRM consider the following:

- Supporting MIM to conduct an ASGM census to deliver baseline data on the ASGM sector and build the capacity for on-going data gathering, analysis, and management over time. Data could include much needed demographic information on the miners, including methods and motivations; impacts of their activities; and where they are mining. The EPRM could also scope its provision of technical assistance in the form of mobile technology to help the government collect data on tracking, buying and selling and spatial analysis of production by site, which could help the government to monitor and regulate the upstream gold supply chain. This technical assistance could be delivered with the help of other development agencies once needs have been identified.
- Support Government ASGM Training Efforts. The government currently requires the ASM sector to undergo training in order to be eligible to apply for a permit. Although the sector is largely unregulated and the process doesn't appear to be running yet, this requirement could provide the EPRM with an entry point for an ASM training pilot programme, developed in cooperation with the government, based on their priorities.
- Explore options for providing or facilitating human rights training on the UNGPs to government agents. This would provide them with an understanding of their duty to protect human rights, and could help motivate action.
- Engage with the OECD to explore potential opportunities for collaboration. The OECD has thus far chosen to focus its efforts in Côte d'Ivoire on sensitising the mining industry to the DDG; using the DDG as a normative framework would therefore be a useful entry-point for the EPRM to reform the sector, due to the high incidence of red flags in the ASGM sector.



- Inclusion of the Ivorian government in its board/membership could enable ASGM and due diligence knowledge sharing and capacity building. (The cooperation of the Government and Ministry of Industry and Mines (MIM) is also fundamental to the establishment and success of any project.)
- Form alliances with existing programmes in Côte d'Ivoire, namely GIZ-REGOWA and PRADD II.
- Pilot a model gold supply chain based on the successful SODEMI model (for diamonds). Engagement with the LSM sector may be a strong starting point; for example, Newcrest and Randgold operate in Côte d'Ivoire. The pilot, if successfully launched, could set a positive precedent for engagement with ASGM at the government level, while also being a useful tool in the formalisation of artisanal miners.
- Organise a national dialogue on ASM and how to generate better economic returns for the sector, whilst protecting the rights of other economic users. The ultimate goal of this would be to increase the formalisation and professionalization of the ASM sector. Consideration should be given to the fact that businesses in the upstream also need to be educated on what their rights are, so miners can claim them. This work should be carried out in cooperation with NGOs in both the gold and diamond sectors; more often than not these two industries are inextricably linked via many arteries, and thus a unified approach could be more effective. Enlist collective support of the affected parties – especially landowners, civilians and the people who live near gold mining sites – to form community-led monitoring groups and systems for whistle-blowing and grievance management to address the violent behaviour of warlords, armed groups and the mafia of comptoirs. Consider working with initiatives like Ulula or Integrity Action whose tools enable reporting and grievance mitigation.
- Build on and complement PRADD's work in Côte d'Ivoire.<sup>334</sup> The PRADD II programme has seen significant success in a very short period of time, in part because of its ability to navigate the politics and bureaucracy of the country. The diamond and gold industries in Côte d'Ivoire are inextricably linked. The EPRM could engage with PRADD II to explore options for supporting the programme and/or developing a gold pilot based on a similar model. Leaders of PRADD II are keen to engage with the EPRM to discuss this further.<sup>335</sup>
- Support MIM's on-going evaluation of its formalisation programme for the artisanal gold sector. The EPRM could use the release of this report as a platform for engagement with the Ivorian government to determine how the EPRM could assist with the development of the ASM sector and its formalisation.
- Seek to use the EPRM's leverage to push forward the policy agenda and transform the political attitude towards ASM. This can include: engaging the government of CDI and other stakeholders to understand the government's typical forceful eviction response to artisanal gold mining; increasing basic understanding of the gold supply chain including potentially commissioning a study on the political economy of gold supply chains in order to unpack vested interests as a barrier to ASM formalization. Work with the EITI and other integrity-focused and ASM formalization organisations as well as existing donors and implementing organisations to support this initiative.
- Engage with the GEF and Global Mercury Partnership to ascertain if / when the Minamata Convention provides mandate for a National Action Plan on ASM Formalisation and mercury management in CDI.
- Engage the GIFF Project to establish a local and potentially regional dialogue on IFFs in CDI and neighbouring countries, e.g. the Mano River Union and Ghana, Burkina Faso, Togo, all of which are known either for large gold production or are hubs for gold trading and export from the region.
- EPRM could a.) Assess development interventions providing support to GCDI on mineral sector reform, good governance and/or ASM formalisation to identify an entry point for influence or engagement by EPRM or EPRM stakeholders, and b.) Potentially commission a needs assessment of GCDI in relation to 'good governance' of CDI's gold sector.

### 4.2.3 Democratic Republic of Congo

#### **Public-Private Alliance for Responsible Minerals Trade**

Launched in 2011, the Public Private Alliance for Responsible Mineral Trade (PPA) is a coalition of the US government (US Department of State), development agencies USAID, NGOs, and industry actors. The PPA is managed by RESOLVE. The purpose of the PPA is to “support supply chain solutions to the challenges associated with conflict minerals, and promote conflict-free mineral supply chains in DRC and the Great Lakes Region of Africa.”<sup>336</sup>

#### *Key Takeaway:*

- The PPA often funds small pilots on short timeframes. This does not work in Congo, where success must be measured over years, not several months. It may be possible to achieve greater impact by having at least a year of funding behind each project; and Basket funds can be a useful mechanism. The money needs to be bigger than it has been with the PPA: make it less about research and more about action-oriented projects.

#### **iTSCi**

iTSCi is a joint industry membership programme designed to assist companies with traceability, due diligence and audit requirements on purchase of minerals from high risk areas as recommended by the OECD Due Diligence Guidelines and UN recommendations. The Programme establishes traceability in the upstream supply chain from mine to smelter, and downstream, companies (product manufacturers, etc.) and assists companies to establish due diligence through independent audits and risk assessments.<sup>337</sup>

iTSCi is presently the only traceability and due diligence system presently exporting tin and tantalum legally from the DRC. iTSCi suffers from criticism by some stakeholders, but has managed to enter a very challenging and dangerous space, scale up, and provide downstream industry with certifications of conflict-free tin and tantalum. ITRI (2014) states that “iTSCi is implemented at both 100% of accessible officially validated 3T mine sites in four DRC provinces, plus a large number of additional sites pre-evaluated by an equivalent process to validation. There is only one major 3T area in DRC where iTSCi remains to be implemented. Statistics show that 87% of DRC cassiterite was included in iTSCi in DRC.”<sup>338</sup> Another source adds that iTSCi covers the highest producing sites in DRC.

According to one source, there is no coverage by iTSCi in the following areas:

- Shabunda, South Kivu
- Orientale Province

#### *Key Takeaway:*

According to one source, iTSCi is an inclusive system. ‘If you try to keep too many out, they will burn it down; we make it worth their while.’

#### **Capacity Building for Responsible Minerals Trade: Democratic Republic of Congo**

The Capacity Building for Responsible Minerals Trade: Democratic Republic of Congo (CBRMT-DRC) programme was launched in 2014 with a USD 5.7 million grant from USAID.<sup>339</sup> The programme was originally set to last for 18 months till end 2016, but USAID has provided additional funding until June 2017.

The objectives of the CBRMT project are to:

- Provide legal and policy framework guidance for the government of the DRC's on the mining sector;
- Build capacity of upstream actors in the 3TG sector as they try to achieve conflict-free status of their minerals;
- Evaluate conflict-free mineral certification and traceability systems and "Scale up systems for 3Ts and gold"; and
- Build the credibility and capacity of the International Conference on the Great Lakes Region's independent mineral chain auditing capabilities.<sup>340</sup>

The programme is based in Kinshasa, with field offices in Goma. CBRMT plans to scale up conflict free mineral certification and traceability systems and prevent smuggling in 250-400 additional mine sites. They are presently working with the Better Sourcing Program and Partnership Africa Canada on conflict-free sourcing pilots for tantalum and gold.

*Key Takeaway:*

Blore (2015), commissioned by the CBRMT programme, provides a suite of tangible recommendations for a future gold pilot that warrant consideration should the EPRM decide to support a gold pilot in DRC or elsewhere.

**Partnership Africa Canada's Just Gold pilot**

Also known as the Partnership Africa Canada (PAC) *Trading House model*, the purpose of this pilot is to "establish a project buying house on-site as close as possible to the area of production. Miners who took advantage of PAC technical assistance would be required to sell their gold to the Trading House, which would purchase at rates competitive with other local *négociants*"<sup>341</sup> *thereby bypassing the existing négociants*. The Artisanal Gold Council plans to provide technical assistance. The programme has not been launched yet, but it is receiving financial support from the CBRMT and PPA.

*Key Takeaways:*

- For various reasons, this pilot has suffered delays. One cause of this delay is the challenge of finding a legal and viable mining area. One informant lamented that it has been difficult to negotiate with the GDRC around this issue. The MinMines seems to be deploying delaying tactics, like insisting that the CBRMT programme pay for senior officials to fly to the east and inspect the mining area themselves, according to one source.
- One source pointed out that PAC is trying to do too much in one pilot, including making the gold mining mercury free, child labour free, conflict free, etc. The source suggested that PAC narrow its focus at the beginning so that they can at least get off the ground.

A representative at PAC was not consulted for this study, and as such, PAC has not had a chance to respond to these critiques by external observers.

**Better Sourcing Programme & GeoTraceability**

The Better Sourcing Programme (BSP) (which is not yet implemented) "identifies and works with responsible producers and exporters to implement the required measures to achieve a conflict-free supply chain."<sup>342</sup> It is a programme operationalizing the OECD's *Due Diligence Guidance*<sup>343</sup> upstream, and it works in consultation with smelters and downstream companies to ensure that their suppliers are meeting the requirements of the Conflict-Free Sourcing Initiative.

At its current pilot stage the BSP is working in partnership with GeoTraceability (GeoT) and implements that company's traceability system and platform. The goal of the BSP is to provide traceability, risk mitigation and harmonised reporting solutions for its customers, whilst ensuring that OECD's DDG is being implemented according to its five-step process.<sup>344</sup> The BSP does not have a geographical focus, but it is going to be being piloted in the DRC (with support from USAID) and in Rwanda (with private sector support).<sup>345</sup>

The Better Sourcing standard for supply chain validation (2014) can apply to artisanal and semi-mechanised mining operations and is not limited to a particular mineral or metal.<sup>346</sup> The standard's criteria contain two types, status and progress. The former group of criteria must be achieved, whilst the latter group can be achieved over a period of time as continuous validation is conditioned by improvement of supply chain circumstances.<sup>347</sup>

The status criteria include:<sup>348</sup>

- Conflict-free
- Absence of serious human rights abuses
- Traceability
- Transparency
- Legality
- The progress criteria include:
  - Working conditions
  - Child labour
  - Security and human rights
  - Combating bribery
  - Community engagement and development
  - Artisanal and small-scale mining operations
  - Management of natural resources and dangerous substances
  - Environmental impact
  - Business partnerships<sup>349</sup>

Better Sourcing supply chains may be independently audited individually or as part of programme field audit. The audit protocol is under development in consultation with CFSI, as upstream audit is not a requirement under the OECD DDG.<sup>350</sup> According to a senior official in the Ministry of Mines of the DRC, GeoTraceability has signed a Memorandum of Understanding with the GDRC for a new traceability system that would "break the monopoly of the International Tin Research Institute."<sup>351</sup> The BSP is GeoTraceability's implementing partner in that country.

### **MineralCare**

MineralCare is a technology and solutions provider with over 10 years' experience and a proven track record in the African minerals compliance sector. MineralCare has a strategic alignment and agreement with international, accredited refiners as well as financial service providers, allowing it to provide an integrated package of compliance and traceability technology, financing solutions, and product expertise and know-how (particularly on gold) to its chain of custody clients. MineralCare has effectively provided traceability and compliance services on artisanal gold supply chains in Guinea, Conakry. MineralCare has signed a service agreement with the Dubai Multi Commodities Centre (DMCC) in UAE for compliance and due diligence services specific to Dubai Good Delivery Refiners. It has also signed an agreement in Nigeria for two ASM pilot sites in the Zamfara State specific to MineCare.

MineralCare is developing a pilot for responsible sourcing of gold in DRC. To that end, it has signed a regional "Arrete" with the Governor of the Province of Orientale (to be honoured by the new provinces), stipulating the identification and registration by MineralCare of all artisanal supply chain stakeholders in Province Orientale. Furthermore, MineralCare has signed a 'Protocol D'accord' with the Ministry of Mines for the deployment of MineralCare's Compliance & Traceability Supply Chain Solution, MineCare, in DRC. In July 2016 it will be holding a strategic workshop with the Ministry of Mines and government officials in order to kick off its pilot projects. Further strategic workshops will take place in two provinces with the governors and their teams to identify gold pilot sites based on the national Protocol d'Accord.

#### *Key Takeaways*

MineralCare is an interesting option for the EPRM since it has been entirely private sector led to date, making it very likely to be a commercially viable and thus sustainable solution for businesses.

#### **Value-added Opportunities for the EPRM:**

The DRC operating context, in particular relating to the 3TGs is saturated compared to the other case study countries. Therefore, many opportunities exist to bolster and complement on-going work rather than creating something from scratch.

The EPRM could strengthen due diligence efforts:

- Support the Government's attempts to improve governance of DRC's mineral sector, including encouraging it to follow up on the UN Group of Experts' recommendations, to engage fully in ICGLR negotiations and to progress with implementing the African Mining Vision. The EPRM could invite the Government of DRC to join the initiative;
- Build capacity of ASM enterprises in DRC, including those involved in existing initiatives, to understand and implement due diligence, worker rights and protections, and so on. This would also assist downstream actors in developing trade relationships with these entities.
- Provide training to governments along the supply chain on how they can fulfil their duty to protect human rights by creating an enabling environment for businesses operating in or sourcing from their jurisdictions to conform with the DDG.

The EPRM could complement or support on-going work in the following ways:

- Conduct a cost-benefit analysis or impact-focused robust strategic assessment of all initiatives presently operational and in the pipeline in order to drive efficiency and performance. Assess their design and how their performance is presently monitored and evaluated. Understand exactly what's not covered, what's partially covered, what's being done well and could be leveraged / enhanced / furthered / scaled through EPRM support. Assessment beyond this report could, for example, explore options for streamlining and harmonisation of third party audits, in close collaboration with ICGLR Audit Committee and iTSCi, as well as other stakeholders in DRC.
- If considering a new pilot programme for gold, examine further the CBRMT-DRC and PAC Just Gold programmes<sup>352</sup> and investigate private sector initiatives in the gold sector that may merit support, e.g. Agrimining, MineralCare.
- Since the 3Ts are already well covered by a number of donors and initiatives, the EPRM might add the most value by supporting initiatives in the artisanal gold mining sector, like PAC's JustGold programme or MineralCare.
- PPA in the DRC (and in the broader GLR) adding value in places not in its scope.

- BSP pilot with AVX and other stakeholders in the DRC (Numbi) as well as Rwanda in Q3 2016.<sup>353</sup> Value-addition opportunities include: Technical support for expanding BSP's information management system (a BSP tool used by exporters as part of their risk mitigation strategy) and targeted development projects improving supply chain circumstances, Better Sourcing validation and business continuity.
- Engage with iTSCi directly to scope potential opportunities for value adding to the initiative's activities on the ground. The scale of iTSCi's activities suggests that the EPRM could have considerable impact by electing to support the initiative in this manner. Some of the direct ways the EPRM could assist iTSCi with its implementation of traceability and due diligence include:<sup>354</sup>
  - Base level funding support to ensure local presence and stability for on-the-ground field teams, thus ensuring inclusive open market access to all mines and avoid cherry picking large productive mines;
  - Roll out of mobile electronic data collection through hardware and training support and enable communication and linkages between all reporting systems and locations globally; and
  - Extend local NGO incident investigation system from Kivus to all other covered areas.

Additional opportunities to add value:

- Play a convening coordinating role. If EPRM were to concentrate its efforts on the DRC, the cooperation might be well placed to facilitate open lines of communication between iTSCi, the BSP, CBRMT, IOM, PPA, BGR, etc. For example, donors working on 3TG due diligence issues in DRC used to have a regular call, organised by USAID. Since leadership in USAID-DRC has changed, calls have become less regular. The programmes thus all risk creating information silos where collaboration would be useful.
- Think Beyond 3TG. Coloured gemstones offer scope for making a meaningful positive impact in a sub-sector, which has not yet come under the control of the political and economic elites.<sup>355</sup> This could allow for genuine grass-roots mining-sector development, working with local communities to create equitable cooperatives.
- Consider investigating and tackling the issue of illegal mining in protected areas, and its potential association with the illegal wildlife trade, armed groups, IFFs, and human rights violations.

#### 4.2.4 Indonesia

##### **IDH Indonesian Tin Working Group**

In 2013, the Dutch Sustainable Trade Initiative (IDH) convened members of the Electronic Industry Citizenship Coalition (EICC), Friends of the Earth (FoE), the international tin industry association (ITRI) and corporate members of the electronics and tinplate industry<sup>356</sup> into an Indonesian Tin Working Group (TWG).<sup>357</sup> According to IDH, the purpose of the Indonesian Tin Working Group is "to positively contribute to addressing the sustainability challenges of tin mining and smelting in Bangka and Belitung while recognizing the economic benefits of the sector in terms of development and poverty reduction."<sup>358</sup>

TWG activities include:

- Creation of a Roadmap of Sustainable Tin Mining Operations in Indonesia: The Roadmap will cover six key areas, including:
- Harmonisation of legal and policy framework, particularly as it pertains to artisanal and small-scale mining;<sup>359</sup>
- Developing and implementing standards of responsible mining industry practices;<sup>360</sup>
- Creating common fund from tin mining revenue to assist with land reclamation and capacity building;<sup>361</sup>
- Improving environmental management of mining and smelting;

- Socio-economic development of mining communities in Bangka-Belitung, including building alternative industries to lessen dependency on tin; and <sup>362</sup>
- Creation of incentives for TWG members to produce lasting tin industry transformation.<sup>363</sup>
- There are other projects in the pipeline, including the development of a training programme for artisanal miners and their stakeholders, which has been designed by artisanal mining experts from the University of British Columbia, with NGO and industry partners within and outside of Indonesia.

IDH will discontinue its role as convenor and coordinator of the TWG at the end of 2016. The organisation is concerned that, given how far the TWG has come in the past three years, and the relationships and trust they have built on the ground, the goals of the TWG will not be achieved over the long-term. Whilst there is a great deal of on-the-ground support from the tin industry, namely the industry association for the independent smelters, as well several ministries in the Indonesian government, including the Ministry of Coordinating Ministry for Economic Affairs and the Ministry for Energy and Mineral Resources, IDH feels that there needs to be an international convener to coordinate the priorities and activities of international and Indonesian actors.<sup>364</sup>

#### *Key Takeaways:*

- A major success of the TWG was its ability to engage the government of Indonesia every step of the way. The Roadmap it has created has substantial government buy-in, according to one source.
- One drawback of the TWG, however, is that it does not have much to show for itself in terms of tangible activities. The Group began its engagement in Indonesia with a situational analysis and sustainability assessment,<sup>365</sup> and the recommendations therein have yet to be implemented (aside from engagement with the government). It should be noted, however, that some of the recommendations have been taken forward by individual group members (see Apple section below.)
- The TWG's slow move to action is in part due to the slowness of progress in responsible mining in Indonesia more generally. The Government of Indonesia and industry stakeholders possess a great deal of resource nationalism and are reticent to take guidance from international actors. It therefore took the TWG much time to take the international agendas around responsible mining as reflected in the mandate of the Group and implement it in Indonesia in a manner palatable to stakeholders on the ground.
- Whilst the TWG has enlisted the support of an industry association for the independent smelters, PT Timah has yet to commit itself fully to the TWG's roadmap. This reluctance on the part of PT Timah is due in large part to the historic tension between the mining company and the independent smelters, and, according to one source, the apparent link between IDH and the independent smelters. This was viewed as biased by some other stakeholders.
- The TWG anticipates launching several pilot projects within the framework of the Roadmap in the next several months. There is no logframe for those pilots, but IDH expects a general Theory of Change will be developed as the pilots roll out.

#### **Pure Earth-Blacksmith Institute's ethical gold mining scheme**

Pure Earth has recently been in conversation with the Ministry of Environment and Forestry about establishing a supply chain management system for artisanally mined gold, where the government of Indonesia, for example through the central bank or a regional business enterprise, could purchase gold from artisanal miners.

The goal of the programme is to incentivise miners to formalise their activities and become members of cooperatives that would help them get their gold to markets with a competitive price instead of the black market.

The programme would offer a “mercury-free” certification for compliant ore. Beyond mercury-free, however, Pure Earth hopes that the certification standard will also include guidelines around land reclamation.

The programme is based on incentives:

- For miners: Technical training and capacity building would be available for the miners and cooperatives. Their production would improve with introduction of new “mercury free” technologies. The miners would receive regular training sessions from the government to help them improve the health and safety aspects of their practices as well.
- For local government: Local government would participate because miners would be reclaiming land they had already mined, so this burden would not fall on the government.

*Key Takeaway:*

Consider Lessons Learned before Proceeding. There is a wealth of knowledge that Pure Earth and the Government of Indonesia could benefit from if it embarks on this programme. For example, the plan is for this supply chain to by-pass some of the illegal collectors and middlemen. This approach is problematic and has been proven unworkable in a variety of country contexts. There are also lessons learned from SDC’s project, ESEC II in Mongolia, which has created and piloted a ‘Frugal Rehabilitation methodology’ that can be adapted and applied in different geographies, including Indonesia (or any of the countries in scope for the EPRM).

**Indonesian Centre for Artisanal Mining (Gold)**

A joint effort by the Indonesian Agency for the Assessment and Application of Technology (BPPT), University of British Columbia (UBC), University of Mataram’s International Research Centre for the Management of Degraded and Mining Lands (IRC-MEDMIND) and Massey University, has a mission to contribute to the Government’s agenda on mercury reduction through technology innovation and the education of miners.

The Indonesian Centre for Artisanal Mining (INCAM) builds on UBC’s experience with the launch and completion of the Global Mercury Project in Indonesia in the early 2000’s. INCAM is expected to become a national node for Indonesian and international expertise working to secure a better future for the artisanal and small-scale mining sector. INCAM has the potential to harmonise national and international efforts in this space. INCAM’s flagship programme is the Training Centre for Artisanal Miners (TCAM) model, which was developed at UBC by leading artisanal gold mining expert, Marcello Veiga. The purpose of TCAM is to train mining actors (including government) on what best possible practice looks like within a particular country and regional context. The scale, scope, content and timeline of this programme will be developed following a pilot phase in one mining area.

*Key Takeaway:*

An ongoing pilot may be of interest for further engagement.

INCAM’s first anticipated pilot artisanal mining training programme will take place in Nusa Tenggara Barat Province in East Indonesia. The pilot will take place on the concession of PT Indotan, a medium-scale gold mining company that has requested guidance on how to engage with and purchase from artisanal miners on their concessions in a fair and responsible manner. Depending on the results of the pilot, the project will attempt to scale up to other areas of the country, including West Java, Sumatra and Central Kalimantan.



### **Sustainable Development of Artisanal and Small-Scale Gold Mining in Indonesia (Gold)**

Working with a grant from Global Affairs Canada, the Artisanal Gold Council and Yaysan Tambuhak Sinta Kalimantan plan to carry out a five-year programme on training and building multi-stakeholder in Indonesia's artisanal gold mining sector. The key activities of the project, according to Global Affairs Canada (2016), are: "(1) provide training on better practices and men and women miners; (2) provide training to targeted government and civil society groups on ASGM regulation and management and (3) establish collaborative mechanisms with other relevant initiatives promoting responsible gold and diversification of the ASGM economy."<sup>366</sup> The programme will support the Government of Indonesia as it develops its National Action Plan for the Minamata Convention on Mercury.<sup>367</sup> This programme has not yet been launched.

### **Additional Research Projects**

The following details a selection of research projects that could inform or present potential opportunities for the EPRM's engagement in Indonesia's mining sector.

All of these research projects and concepts were either commissioned by or explored with Apple.<sup>368</sup> They have been included in this report with Apple's permission, and the approval of all of the relevant research partners.

### **Bangka and Belitung Social Investigation (with Telapak)<sup>369</sup>**

In 2015 Telapak collected real stories from the people living in Bangka-Belitung province to understand their problems and needs and to collect their ideas on strategies for long term solutions to manage environmental degradation and social impact caused by unsustainable mining practices in the area.

Telapak researchers spent a month embedded with communities across Bangka and Belitung to carry out social investigative research which resulted in a map of tin trade flows (e.g., extraction, collection, smelting, sale/export); an analysis of migratory patterns of seasonal miners, and miner populations by site/location; an assessment of the economic opportunities available to villagers, in mining or alternative livelihoods; step-by-step processes undertaken by miners and the added value of tin ore processing; and an analysis of the social and environmental impacts perceived at the local level.

The findings are useful in consideration of impact, mitigation or development projects, and which locations are most suitable based on community willingness and metrics. The findings also indicate that there is an opportunity for increased earnings (price recovery) for miners who are better trained in the use of certain processing equipment.

### **Local CSR Impact Fund for seeding Restoration and Alternative Livelihoods (with AETI)**

AETI is an association of private tin exporters in Indonesia that envisions sustainable tin mining. The association has recently launched a CSR Fund, wherein member companies allocate a portion of sales from every metric ton of tin exported into the fund. The association expects the CSR Fund will be used to co-finance projects on the ground which contribute to restoration of post-mined lands and employment alternatives for the local community, such as in aquaculture, cash crops or biomass feedstock cultivation.

The seeded projects are envisaged to be cash positive, with profit sharing between the site and the community in order to sustain the outcomes and opportunities for local people. One project of interest to AETI is cleaner, less damaging offshore mining through technological improvements in the drilling process, including borehole mining in lieu of older dredging approaches.

### **Landscape Restoration & Land Use Design (with Fred Phillips Consulting (FPC))<sup>370</sup>**

In 2015 Fred Phillips Consulting LLC (FPC) developed a capability statement for how stakeholders and contractors could work together on the implementation of three different pilot reclamation projects for tin mining lands on the Bangka-Belitung island areas:

- Bangka Bamboo Farming and Forest Restoration Project (BRFRP) – (10-50 Hectares)
- E Belitung/PT Timah Ecotourism Project – (500 Hectares)
- Bangka Tengah/AETI Agricultural/Biomass/Restoration Project (500 Hectares)

FPC proposed developing a conceptual master plan for the first of the three reclamation pilot projects. The lessons learned from implementation of these pilot projects would provide a framework to design future reclamation projects. Interesting recommendations from FPC's report included:

- A workshop to get experts, industry leaders and others together to present research, case studies, past projects and new ideas that could lead to a "lessons learned" document that provides clear information on the impacts of tin mining and best management practices for all the different aspects of mine land reclamation.
- A literature review and find studies documenting the effects of tin mining on mangroves, coral reefs, riparian areas and upland forests. In addition, a similar review should be done on documents and case studies of successful and failed restoration projects on the same or similar habitats found on tin mine lands. A list of best management practices could be developed for reclamation of mine lands in Indonesia.
- Establish cooperatives throughout the region that would provide small business financing (through government or large mining/palm oil/bamboo/pepper corporations) for local entrepreneurs to vision, plan and implement agricultural industries that may be an alternative to tin mining including:
  - Region-wide composting industry that includes the collection and composting of plant material, food scraps, compostable waste (cardboard/plant-based products) and animal waste
  - The implementation of a "dillo dirt" industry that composts human and plant waste together
  - African Palm Oil, bamboo, pepper, livestock, and other agriculture that have stable sustainable markets.
- Develop a Bangka Conservation Corps or augment an existing programme that provides training and jobs for women and youth in the reclamation of tin mining lands.
- Work with local schools and regional universities to survey and establish baseline environmental conditions on pristine ecological areas to compare to degraded inland, wetland and offshore mine land areas so that long-term monitoring can be measured after areas are restored".

### **Training for Artisanal Miners' best practices (with University of British Columbia (UBC))<sup>371</sup>**

#### *Training Centre for Artisanal Miners*

The Tin Working Group is exploring impact projects, including the development of a training programme for artisanal miners and their stakeholders, which has been designed by artisanal mining experts from the University of British Columbia (UBC), with NGO and industry partners within and outside of Indonesia. The Training Center for Artisanal Mining's (TCAM) mandate is to:

- Promote national and local awareness of artisanal mining issues such as health problems, occupational risks and many social and environmental problems that can be localized and specific to a region;
- Develop appropriate technological and educational programmes to meet local needs;

- Help artisanal mining communities improve their quality of life;
- Help artisanal miners increase mineral recovery, thus increasing profit margins;
- Establish vocational courses (mining and other subjects); and
- Assist governmental agencies in understanding issues in artisanal mining.

The ultimate vision of the project concept is to elevate Bangka-Belitung's (BaBel) responsible tin mining sector to a stage that it brings benefit and reduces harm for all stakeholders, the environment and future generations. Accordingly, the Training Programme component plugs in a model which **transforms artisanal miners from a state of Risk and Poverty toward Health and Wealth**. A key intended outcome of this educational programme is a pathway toward formalisation and legalisation of artisanal mining communities where responsible management practices have been integrated into the work".

#### *Why Implement a Training-of-Trainers Programme for Artisanal Miners?*

Many of the aforementioned issues plaguing Bangka-Belitung's tin mining sector can be mitigated in part with the implementation of a training programme.<sup>372</sup> TCAM uses a flexible, results and evidence-based approach, in combination with a permanent in-country presence. Training **improves livelihoods** by introducing miners and mining actors to methods, which are more productive and therefore increase their income. Combined with the introduction of more efficient, productive and less environmentally destructive mining practices (both on- and offshore) the TCAM curriculum **improves the health** of miners through the introduction of inexpensive and accessible occupational health and safety (OHS) measures. The contents of OHS module of TCAM's curriculum helps miners decrease the spread of disease, water contamination and workplace accidents.

#### **Pact:**<sup>373</sup>

Following a scoping visit to Bangka and Belitung in March & April 2016 by Pact's Mine to Market programme and country office leadership, Pact envisages a multi-year integrated programme containing the following components:

- Organisational capacity development and mentoring for Bangka-based civil society (specifically: Telapak)
- Efficient mining and mine safety programme for ASM cassiterite miners (implemented in close collaboration with University of British Columbia)
- Environmental capacity building for government, civil society, mining units
- Advocacy component focused on positive legal frameworks and government coordination

The programme is in fundraising phase and could begin immediately upon finalization of funding approvals from selected partners. It will be led by locally-recruited Indonesian staff to be based in Jakarta and Bangka, and supported by Pact's international experts. Pact would collaborate with the University of British Columbia (UBC) to design the technical content of the mining components, particularly component II. The programme will also have the express goal of building local capacity and ownership via close partnership with all levels of government and civil society.

### Value-adding Opportunities for the EPRM:

- Take on convening role of the Tin Working Group (TWG) after IDH completes its work at the end of 2016. This would increase the TWG's membership and influence with the EPRM's existing European membership. The TWG has already made many inroads with people in the tin industry on both sides of the supply chain.<sup>374</sup> It takes time and trust-building to take an issue important on the international agenda and have it be taken up at the local level. The TWG has been able to achieve this level of trust and action on the part of its upstream members. It would be far easier for the EPRM to carry on where IDH left off than to start from scratch. The TWG is also partially funded by the Dutch Ministry of Foreign Affairs, which could ease the transition. The total programme-related costs for this project for the 2014 were EUR2.2 million.<sup>375</sup>
- Improve Due Diligence Awareness & Implementation. The key barrier to responsible trade between the Indonesian upstream and the downstream is a lack of knowledge of due diligence, and the OECD DDG. The tin industry has a higher level of awareness than the gold sector due to the involvement of the CFSI and ITRI, but still performs poorly. This would be an activity that the EPRM could either lead or support, in consultation with the government. The EPRM should ensure to engage CFSI, ITRI and BGR in this process.
- Fund a viability study of land allocated to ASM & Pilot. Unconventional miners mine in a haphazard manner because they do not possess geological data. What the miners may need is to be given areas where they can mine profitably—either on their own permit or within the concession of an industrial operator. An opportunity exists for a project to include research, consultation and a pilot on a legal mining area. The study and pilot could also include training on responsible mining techniques, to reduce negative social and environmental impacts of the ASM sectors.
- Monitor Pure Earth's discussions with the Ministry of Environment and Forestry concerning a chain of custody and certification programme for gold. The goal of the programme is to incentivise miners to formalise their activities and become members of cooperatives that would help them get their gold to markets with a competitive price instead of the black market. This initiative is exciting because both parties are Indonesian and the programme has the potential to be an Indonesian-owned example of best practice in the artisanal mining community.
- Conduct research into child labour in Indonesia's mining industry. There is a lack of data and information on the scale of this issue, but it does appear to occur in certain mining areas and have devastating impacts.<sup>376</sup> An assessment of the child labour risks associated with mining in Indonesia would inform potential activities and also demonstrate that the industry is being proactive and not reactive in tackling child labour supply chains. This could be modelled on the approach taken by the US Department of Labor in Colombia, in cooperation with ARM and Pact.
- Convene a workshop in Indonesia exploring best practices globally on ethical sourcing of artisanally mined goods, including, but not limited to, the Fairtrade and Fairmined programmes in implementation, etc.
- Consider options for potential pilot programmes informed by previous industry-led research into Indonesia's minerals industry.

#### 4.2.5 Global upstream opportunities

The following global upstream opportunities also exist for the EPRM to consider:

- In cooperation with the government of the United Arab Emirates (UAE), carry out review of the measures being taken by businesses and industry associations operating in its jurisdiction to find entry points and incentives to tackle illegal gold trading (from DRC and elsewhere) and promote conformance with the DDG. The EPRM could also facilitate increased communication between governments, OECD, and industry actors in Europe and the UAE in order to build awareness and understanding as to the commercial ramifications of inadequate measures in UAE both on downstream businesses and potentially on those in the UAE businesses. The members of the EPRM can offer the opportunity of organising roundtable where EU and UAE companies can learn from each other and transfer their acquired knowledge on due diligence.
- Investigating and tackling the issue of illegal mining in protected areas, and its potential association with the illegal wildlife trade, armed groups, IFFs, and human rights violations;
- Facilitate engagement with upstream countries to enable MineralCare's presentation of a business model for their ASM sectors, covering issues such as the registration of artisanal miners and the deployment of mineral compliance and traceability solutions in specific sites (and provide feasibility study funding for assessing specific sites for the application of the MineralCare model);
- Address the penetration of criminal groups in the gold supply chain, a key impediment to upstream market access. The EPRM could engage with the Gold and Illicit Financial Flows (GIFF) Project,<sup>377</sup> a project launched by the Global Initiative against Transnational Organized Crime and Estelle Levin Ltd., to better understand Illicit Financial Flows and provide greater insight into this issue to develop solutions can improve efforts to the formalisation of the ASGM sector globally. The GIFF Project creates and adapts tools to assess illegal financial flows in the gold sector including a lens which examines mine sites, towns and provinces to map financial flows and how they make the mines function; and national level tools which examine key data, including export and import levels, and mine stats to illuminate regional and global flows.
- One specific opportunity sits with the RJC. The RJC has stated a desire to pursue in coordination with the EPRM "funding for (1) developing sample supply chains from medium size mines; (2) convene a meeting (which could be a precursor to establishing a forum)", ideally in coordination with other relevant stakeholders.<sup>378</sup>
- Train, support and equip civil society to take part in monitoring, reporting and evaluating issues related to the DD and traceability process in an effort to reinforce the voice of civil society, improve accountability structures in CAHRA, and render existing efforts more effective, accurate and sustainable.<sup>379</sup>
- Implement technology-based stakeholder engagement/feedback tools (e.g. those of Ulula or Integrity Action) that can support community- and civil society-based monitoring and reporting, and provide and reinforce grievance channels for local communities.
- Build civil society's capacity to monitor, track and report positive and negative impacts and incidents, and to create or strengthen mechanisms that can address negative impacts (grievances) or risk incidents. Use this data to inform a process for managing and addressing grievances that brings together civil society, government, industry and other actors, potentially building upon existing tri-partite mechanisms (such as the *Comité Local de Suivi* (CLS) and the *Comité Provincial de Pilotage* (CPP) in the DRC), where risk incidents are reported, discussed and resolved.
- Enable businesses and governments along the supply chain to ensure full alignment with the DDG and capitalise on the opportunities it creates for building responsible business relationships between European importers and ASM sectors. See further "Artisanal and Small-Scale Mining (ASM) and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Focus on ASM Gold - Frequently Asked Questions", soon to be published by the OECD.

- Support the development of an online Inventory of Documents for Supply Chain Due Diligence Purposes. This inventory would document all laws, policies, and documentation a refiner or smelter should take into consideration when carrying out due diligence on upstream entities either registered in the country, operating in the country, or sourcing from the country. This could include templates of documentation such as mining licence, trading license, export license, receipts for taxes paid (local, national) and so on that are specific to the country to help counteract fraud. This could be compiled in cooperation with customs agents in the major importing countries, like Belgium, Switzerland, UAE, as well as customs and other authorities of the governments in question.
- Engage with the Alliance for Responsible Mining (ARM) and Resolve, who are seeking to better operationalise the OECD DDG (as per the Supplement on Gold) in ASM sectors in CAHRAs via the development of a Market Entry Standard. Given the open-source nature of this standard's development and ARM's plans for broad stakeholder consultation, the EPRM could play a role in supporting coordination efforts and/or adding value to other stakeholders.<sup>380</sup>
- Create or commission an information platform to enable good practice ASM formalisation and mercury management and elimination in line with the Minamata Convention and the OECD DDG.<sup>381</sup> The purpose would be to build the capacity of governments to formalise their sectors well, to help businesses to do due diligence on their sources better, and to enable initiatives to identify appropriate solutions to barriers to ASM formalisation. The EPRM could assist with the creation of an information platform by supporting specific products such as:
  - A comprehensive list of (with links to) current ASM/ASGM elements of mining codes around the world, with a critical / comparative analysis of the most innovative and progressive elements that are being introduced in the most modern codes;
    - An inventory of other ASM-relevant regulations, such as EIA requirements for ASM, as well as a critical analysis of the effectiveness of such regulations and proposals for improved approaches;
    - A guide to the legal status of mercury use in ASGM around the world;
    - An evaluation of trade regulations regarding gold and mercury;
    - Documentation of financial models that have been tested to increase access to credit for miners, to purchase better equipment necessary for mercury-free mining;
    - Case studies, project descriptions and other materials documenting successful implementation of better mining and processing practices;
    - A guide to available training courses/materials for ASM miners (on both technical and business topics);
    - Examples of communication campaigns (aimed at miners, communities) and a catalogue of existing campaign materials (posters, advertisements, information pamphlets) that could be used by other programs (this information platform could be managed through, or in collaboration with, the Secretariat for the Minamata Convention, and potentially with the Swiss IKH).
  - Further to this point, the EPRM could explore opportunities for establishing a stakeholder match-making, networking and capacity "summit" at the next OECD Forum on responsible mineral supply chains. This summit would do two things: 1) Bring together ASM practitioners and experts, and relevant departments from producer countries, to present on their experiences with ASM management and formalisation, and share relevant expertise; 2) Bring together buyers, traders and members of the downstream, to not only help link the upstream to the downstream, but also enable each supply chain segment to explain what they need to enable an expansion of the trade in responsible 3TGs.<sup>382</sup>

## 4.3 Recommended Downstream Activities and Projects

This section outlines recommendations of activities or projects that the EPRM could initiate to improve the ability of EU downstream companies to source responsible minerals coming from conflict-affected and high-risk areas. Indicative costs were challenging to obtain and as such were not included.

### 4.3.1 Transparency and traceability

#### **Downstream communication of progress on conflict minerals**

According to a recent research by SOMO, 88% of the EU downstream companies they surveyed do not mention conflict minerals on their websites. An EC survey indicates that 93% of EU companies working with 3TGs (that are not already indirectly affected by the Dodd Frank Act) do not make reference to a conflict minerals policy on their websites or in their annual reports.

To help address this gap, the EPRM could encourage its downstream members to annually submit and publish a "*communication of progress*" detailing practical actions taken to source conflict minerals responsibly. PPP platforms such as the UN Global Compact<sup>383</sup> already use such a medium to encourage companies to be more transparent about how they are addressing issues in their supply chains.

Furthermore, companies in the EPRM and their suppliers should also be encouraged to make publicly available all taxes paid in mineral supply chains in conflict-affected or high-risk countries. The EPRM could also support local civil society groups who promote tax transparency, in cooperation with Publish What You Pay (PWYP), the Natural Resource Governance Institute, and the OECD, to progress the government's illustration of a direct link between taxation and community development (the provision of services, infrastructure, etc.).

#### **EU Helpdesk on Responsible Minerals for Downstream Suppliers and SMEs**

Research commissioned by BGR reveals that EU downstream SMEs often struggle with the conflict mineral reporting requests of their customers.<sup>384</sup> These findings indicate a need for more advice, information and support to improve SMEs' capabilities to provide their customers with reliable information about conflict minerals in their supply chains. The EPRM could contribute to this by establishing a central EU Helpdesk for Responsible Mineral Sourcing. This helpdesk could assist EU downstream SMEs and OEMs with advice on, for example, the conflict mineral issue, completing reporting requests, developing conflict mineral policies, checking contractual clauses with suppliers, training suppliers, and the requirements of the upcoming EU legislation.

The impact of this help desk could be significant, as the upcoming EU regulation on conflict minerals is likely to indirectly affect up to 800,000 EU downstream companies, 99% of which would be SMEs. Also, the costs of complying with due diligence tend to be slightly higher for SMEs than for larger companies.<sup>385</sup>

In establishing this helpdesk, the EPRM could benefit from the experiences of downstream companies who have established help desks for their suppliers. Philips, for example, established a *conflict minerals helpdesk*<sup>386</sup> to increase awareness amongst their priority suppliers, offering them different background materials, a list of frequently asked questions, trainings and webinars in different languages. It could also benefit from other experiences, such as: The Netherlands-established REACH helpdesk<sup>387</sup> on chemical substances to assist SMEs comply with the legislation. The European Commission currently supports several helpdesks for European companies and SMEs; some examples are the DG-GROW funded *European IPR Help desk*<sup>388</sup> and the European Commission DG-Trade's *Export Help desk*.<sup>389</sup> The EPRM could consider liaising with DG-GROW on possibilities for assisting SMEs within this help desk.

### **Robust traceability and verification tool for conflict minerals**

Significant efforts on the traceability and verification of upstream supply chains by organisations such as ITRI, CFSP and BGR are helping to increase the availability of responsibly-sourced minerals from conflict-affected and high-risk areas,<sup>390</sup> there are still barriers to uptake and inclusion of huge volumes of minerals. Furthermore, there is need for alignment among existing schemes in certain geographies, like DRC and the Great Lakes Region.<sup>391</sup> The EPRM could support the development of a common traceability scheme for 3TG minerals from conflict-affected and high risk areas, collaborating with initiatives and organisations that already have experience in traceability such as ITRI- iTSCI's 'bag and tag' system in Katanga Province of the DRC and Rwanda, RJC's Chain of Custody certification, BGR's Analytical Finger Print, AFP method, and refiners and smelters that have their own proprietary systems. Alternatively, the EPRM could assess how to help pilot and bring to scale emergent traceability systems like GeoTraceability, MineralCare, MetTrak and others.

The EPRM could also work with existing initiatives to improve data collection and management along supply chains of downstream companies. Based on a thorough assessment of existing traceability mechanisms, the EPRM could support the development of workable digital technologies and examine how to introduce better data management practices to ensure that suppliers are better equipped when trying to comply with downstream due diligence expectations.

### **Global Risk (CAHRA) Map for Responsible Minerals Sourcing**

The EPRM could commission the development of a Global Risk Map for Responsible Minerals Sourcing – A dynamic, data-driven web portal with up-to-date country risk profiles and potential social and environmental issues that need to be taken into account when sourcing from different regions, linked to a continuously updated list of certified smelters and refineries available in those regions. The risk portal can also offer EU downstream companies further tips on due diligence practices and how to exert influence and advise their suppliers to address social, human rights and environmental issues, etc. The Netherlands Ministry of Foreign Affairs has commissioned a slightly similar project on identifying corporate social responsibility (CSR) risk: *MVO risico Risico Checker* (CSR Risk Checker) developed by the Dutch NGO, MVO Nederland (CSR Netherlands),<sup>392</sup> which benefits SMEs doing business globally. Ideas and experiences could be explored with MVO Nederland in relation to their project.<sup>393</sup>

In addition, the EPRM could align with the World Gold Council (WGC) to connect with both idea and contents of its Global Gold Facts Map.<sup>394</sup> The project should rely on collaborations with other already existing grievance mechanisms for early-warning risk awareness (e.g. from iTSCI), and rapid response alerts, whistle-blower mechanism (e.g. from ICGLR), third-party global risk forecast platforms (e.g. Verisk Maplecroft) and compliant smelter lists from the existing initiatives (e.g. from CFSP), amongst others.



#### 4.3.2 Linking the downstream and upstream

##### **Linking downstream companies with upstream suppliers**

The EPRM could play a role in linking downstream companies to responsible or certified upstream companies in CAHRAs, thereby facilitating trade relationships between both sectors, creating market incentive for downstream companies and ensuring inclusive business. The EPRM could set up networking activities and convene workshops and seminars where actors could explore innovative solutions, including drawing inspiration from other non-mineral commodities. Some of the in-region speed-dating events can be organised or facilitated by the embassies of some of the EU governments who are members of the EPRM.

The EPRM could also promote or facilitate training that is designed to help actors pass any audits associated with an initiative. While reliable auditing systems and tools are essential to any initiative, it is imperative that relevant parties receive training on how to reach compliance and pass an audit. Collaboration with initiatives such as the CFSP would be necessary in implementing such training. In addition, under this match-making platform, the EPRM could provide guidance to companies who want to source from CAHRAs on where to start or what are options are available. This is seen as one of the main needs of companies.<sup>395</sup>

The EPRM could collaborate with the IDH's TWG and other 3TG sector pioneers to develop incentive guides for EU downstream companies to support upstream actors in their efforts to address due diligence in their supply chains. The IDH's incentive guide on Tin already exists and can be adopted for members of the EPRM, and both the EPRM and IDH could collaborate in developing expand to all other 3TG minerals.

##### **Linking downstream players with upstream governments**

To ensure maximum engagement, the EPRM could invite governments from sourcing countries to join the partnership. The EPRM could coordinate with the Global Mercury Partnership, the GEF and relevant country governments to identify ways in which it could support the National Action Plans for ASGM Formalisation as directed by the Minamata Convention, including ensuring this opportunity is utilised to cover supply chain formalisation and sectorial good governance as well as formalisation of mining activities in the interest of creating an enabling environment for responsible business practices to flourish.<sup>396</sup>

The EPRM could establish a 'train the trainer' programme to teach government officials to ultimately train stakeholders in the upstream, such as SMEs, on topics such as due diligence, and record and data management.<sup>397</sup> This would address two issues: a lack of necessary skills in government, and a lack of knowledge amongst suppliers as to how to reach compliance with downstream requirements; it also puts government into an enabling position, providing extension services to businesses in their capacity as duty bearers to ensure the fulfilment of human rights.

Furthermore, the EPRM could facilitate trainings and knowledge exchange for customs officials in downstream, upstream and transit countries, on how to recognise and prevent smuggled minerals from exiting mineral-producing countries and entering global trading hubs and how to mitigate transfer pricing and other strategies of tax avoidance.

#### 4.3.3 Harmonisation of industry initiatives

The EPRM could coordinate the harmonisation and alignment of international due diligence initiatives with national legislation. In addition, the EPRM could help to facilitate the harmonisation of existing responsible mineral initiatives, to limit duplication and reduce costs for downstream and

upstream companies, while promoting efficiency. As a start, the EPRM could establish a forum for exploring opportunities for harmonisation and cross-recognition between existing initiatives.

#### 4.3.4 Empowering consumers and investors

The EPRM could support awareness-raising tools to strengthen investor and consumer capacities to demand conflict-free minerals. The EPRM could support the work of the Dutch NGO Responsible Mining Foundation in the development of analytical tools such as the Responsible Mining Index<sup>398</sup> or *Responsible Conflict Minerals Index*, which may be used by investors and customers to assess companies' approach to the responsible sourcing of 3TG minerals. Moreover, the EPRM could also welcome the development of user-friendly rankings and consumers action guides, such as the Conflict Minerals Company Rankings developed by Enough Project<sup>399</sup> and Conflict Minerals Response Performance Rating by Responsible Sourcing Network, RSN.<sup>400</sup> These types of initiatives can help consumers understand companies' actions on responsible sourcing of minerals and make more responsible purchasing decisions.

### 4.4 Recommended Community of Practice Activities and Projects

This section examines two aspects of the EPRM's community of practice: the knowledge platform, and the strategic financing vehicle for responsible 3TG projects.

#### 4.4.1 Knowledge Platform on Responsible Minerals

The EPRM aims to function partly as a knowledge platform, some recommended features of which are outlined below.

##### Set-up

In setting up the EPRM's knowledge platform, we recommend using the format, ideas and lessons from the Dutch knowledge platforms and the knowledge policy initiated by the Ministry of Foreign Affairs of the Netherlands. The Ministry already has previous experience in setting up knowledge platforms together with other stakeholders, in other important sectors (e.g. Food and beverage - Knowledge4food, Security and rule of law, Water, Inclusive development - INCLUDE, sexual health and reproductive rights - Sharenet).<sup>401</sup> In addition, the EPRM should connect with the SDC, which is establishing an International ASM Knowledge Hub as part of Phase 4 of the SAM project in Mongolia. They can explore collaboration and integration opportunities.

##### Goal

To create a community of practice among different stakeholders in global mineral supply chains, including upstream and downstream companies, policymakers, academic institutions, research organisations, civil society organizations, and the general public, for sharing and exchanging relevant information promoting vertical and horizontal learning, developing innovative ideas and best practice, and creating awareness on responsible mineral supply chains.

Key aspects of the knowledge platform could include:

- Maintaining a knowledge portal containing relevant documents, reports, briefs, laws and guidelines on conflict mineral issues, toolkits, impact assessments, and newspaper and journal articles. This should be available online and in several languages (English, French, Spanish, Dutch, German, Portuguese, etc.), to facilitate easier access by the upstream and downstream, and interactive knowledge exchange between stakeholders;
- Fostering proactive networking among target groups;

- Facilitating peer learning (especially South-South peer learning) and the documentation of best practices, lessons learned, and impacts; and
- Supporting interactive multi-stakeholder dialogue, debate and collaboration among target groups.

### **Target countries and groups**

It is advised that stakeholders in all mineral producing countries be invited to engage (especially those in conflict-affected and/or high-risk countries), and stakeholders in all EU countries. Some information could be made public in order for the platform to be of value to the general public. The knowledge platform should be structured to enable communication between stakeholders in an open and transparent manner.

### **Thematic focus**

The thematic focus of the knowledge platform should initially be enhancing the production and trade of responsibly produced 3TG, and should expand to focus on broader issues within the minerals sector, including human rights issues and environmental sustainability.

### **Establish Theory of Change and M&E Framework**

The EPRM should establish a theory of change for its activities, based on a framework for monitoring and evaluating (M&E) and reporting on impacts, outcomes and activities. The EPRM could consider developing a specific 'Conflict Minerals Monitoring & Evaluation Framework'. Most conflict minerals data focuses on the information required to carry out traceability and due diligence in line with the OECD DDG. Measuring the impact of implementation of this guidance, and measuring positive transformation towards peace, stability and prosperity in conflict-affected and high-risk countries through responsible sourcing (and in relation to the European regulation) requires a broader set of indicators and data than what is presently being used. The EPRM could consider activities that generate concrete recommendations for refining existing metrics, developing new ones and increasing uptake by key actors responsible for monitoring and evaluating the extent to which conflict minerals are indeed driving positive changes in relevant countries. This would inform the content and implementation of the framework. Such a framework would provide the goals, impacts, outcomes, outputs, activities, and key performance indicators (thus data) necessary for knowing if, how, and to what extent the responsible sourcing of conflict minerals in line with the suite of conflict minerals norms (including but not limited to the OECD DDG and the Dodd-Frank Act) are achieving the higher goals that many stakeholders prioritise.<sup>402</sup>

### **Establish collaborations**

The knowledge platform should engage with other relevant knowledge initiatives including (but not limited to) the Africa Minerals Development Centre, GMP, the GIFF Project, IIED, ARM and Pact,<sup>403</sup> and the aforementioned SDC ASM Knowledge Hub in Mongolia,<sup>404</sup> to encourage knowledge sharing around efforts to legitimise, formalise, and professionalise the ASM sector.

#### **4.4.2 Project Financing**

The EPRM aims to partly function as a strategic financing vehicle for impactful projects in responsible 3TG supply chains. The following considers how this could be achieved.

#### **Grant-making**

Depending on the eventual operating structure of the EPRM, the EPRM could establish a grant-making system, establishing periodic open calls for proposals and eventually providing one-year or multi-year funding to organisations with impactful projects in responsible mineral sourcing. The aforementioned proposed secretariat and projects committee would collaborate in selecting viable projects based on defined Terms of Reference.

### **Coordinating the role of EU donor agencies in funding projects on responsible 3TG**

There is need for coordinating the role of EU donor agencies and aligning the strategies of OECD member states in enhancing the trade in responsible minerals, especially across the various foreign ministries. The EPRM could play a coordinating role in this by linking together their funding, development, growth and geopolitical agendas as they relate to conflict minerals. The OECD, ICGLR and World Bank commissioned a study on how donor agencies can support host governments in relation to the supply of minerals from the Great Lakes Region.<sup>405</sup> The EPRM could build on the findings of this study.

### **ASM Fund**

Many upstream companies, especially ASMs face major challenges when trying to access credit. The ASM sector is still largely informal in many mineral-producing countries, which can undermine efforts to establish responsible mineral supply chains. Lack of sustainable financing can stymie the professionalization and formalization of the mining and trading entities, limit production levels and the feasibility of mitigating impacts of conflict and human violations. The EPRM could set up a separate financing scheme for the development of ASMs. This could include a.) Supporting investments in the development of responsible AS sources and supply chains and b.) Building the financial and business literacy skills of ASM supply chain operators in order to meet criteria for obtaining credit or investment. Depending on the decision of the EPRM to work in the Great Lakes Region, the EPRM could still explore collaboration with the PPA on setting up this joint ASM fund.

In addition, the EPRM could scope best practice solutions in credit for the ASM sector, and assist ASMs with trainings on financial and business literacy, to improve their application process for obtaining credits. The EPRM could catalyse sustainable investments in responsible ASM) mining from international and local banks in order to improve access to finance and support entrepreneurship and development of mining communities.

### **Crowd-funding platform for ASM projects**

The EPRM could support the development of a dedicated crowd-funding platform for financing of small-scale responsible artisanal mining projects from CAHRAs.<sup>406</sup> This has the potential to attract attracting and engage end-users of consumer goods in the financing of the responsible mining of 3TGs. Such a platform is not yet in existence although there are other generic and specialised crowd-funding platforms such as Ulule, one percent club, kick starter, Indiegogo, Fairfriends, etc.<sup>407</sup> To gain further insight into the feasibility of such an initiative, the EPRM could consult Fairphone, who has extensive experience with this model.

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