



(COP 7) SOURCING FROM ARTISANAL AND SMALL-SCALE MINING

A *Definitions and applicability*

Artisanal and Small-Scale Mining (ASM) are formal or informal operations with predominantly simplified forms of exploration, extraction, processing and transportation. ASM is normally low capital intensive and uses high labour intensive technology.

ASM can include men and women working on an individual basis as well as those working in family groups, in partnership or as members of cooperatives or other types of legal associations and enterprises involving hundreds or thousands of miners.

Source:

- *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas – Supplement on Gold, Second Edition (2012)*
www.oecd.org/fr/daf/inv/mne/mining.htm

The **Sourcing from Artisanal and Small-Scale Mining** section of the COP is applicable to those Members who source gold, diamond or platinum group metal directly from ASM producers. This will require RJC Members to explicitly identify whether this provision is, or is not, applicable to them for the audit process. Indirect sourcing from ASM producers is captured more broadly under **Human Rights**, as part of implementation of the UN Guiding Principles on Business and Human Rights.

The **Sourcing from Artisanal and Small-Scale Mining** section of the COP should be read and implemented in conjunction with the **Business Partners**, **Human Rights**, **Conflict-Affected Areas**, **Security**, **Child Labour**, **Forced Labour**, **Community Engagement**, **Impact Assessment**, **Artisanal and Small-Scale Mining**, and **Mercury** sections of the COP, as appropriate.

B *Issue background*

Background information about ASM is provided under the guidance for **Artisanal and Small-Scale Mining**.

As noted in the guidance for **Business Partners**, companies operating in a global economy are increasingly called upon to assume greater responsibility for business ethics, human rights, and social and environmental performance in their supply chains. Sourcing gold, diamond or platinum group metal from ASM producers raises the potential to contribute to harmful practices from ASM, including the use of forced and child labour, risks to health and safety of workers and communities, and major environmental impacts. However ASM is increasingly being recognised as a sector that presents real development opportunities for impoverished families and communities worldwide. ASM is central to a number of international development agendas and a broad spectrum of market players can play a part in positive transformation of the sector.

While all companies have a responsibility to respect human rights and apply due diligence, this provision focuses on Members sourcing directly from ASM producers. Members with direct sourcing relationships are in the best position to assess risks and, as customers, to work directly with their suppliers to provide for or cooperate in remediation of identified impacts wherever possible. This COP provision and the accompanying guidance therefore aims to provide more information on the ASM sector for Members carrying out due diligence under COP6 on **Human Rights**, since ASM represent an important part of the extractives sector in the jewellery supply chain.

Best endeavours

Best endeavours means acting honestly, reasonably and making a positive effort to perform the relevant obligation, in this case to reduce or avoid risks of ASM producers engaging in human rights abuses, unsafe work, and generating major environmental impacts.

Ability to influence

Members' influence over ASM producers will vary, depending on the economic and social context of the business and the nature of commercial relations between them and the ASM (if any). Auditors will take a Member's ability to influence into account when assessing best endeavours.

C Key initiatives

The obligation to assess and reduce or avoid risks caused by ASM suppliers' practices is consistent with and supports a number of international human rights instruments, including the UN Guiding Principles on Business and Human Rights, the Universal Declaration of Human Rights, and the ILO Conventions on labour rights. For further information see the guidance for [Human Rights](#).

Standards for responsible ASM practices in gold and diamonds are the focus of organisations such as the Alliance for Responsible Mining (ARM), the Diamond Development Initiative International (DDII) and Fairtrade International (FLO). See the guidance for [Artisanal and Small-Scale Mining](#).

D Suggested implementation approach

The Suggested implementation approach provides general guidance for implementing the mandatory requirements of the Code of Practices. The guidance is not normative and should be seen as a starting point for information and support.

COP 7: SOURCING FROM ASM:

Members that source Diamonds, Gold and/or Platinum Group Metals directly from ASM producers that are not under the Control of the Member shall:

- a. Regularly assess Risks of Forced Labour, Worst Forms of Child Labour, unsafe working conditions, uncontrolled mercury use, and other significant environmental impacts, and**
- b. Use best endeavours to positively influence practices and reduce or avoid the Risks and provide for or cooperate in remediation of adverse human rights and environmental impacts.**

Points to consider:

- If the ASM suppliers are located within the area of operation of a Member with mining facilities, the Member should identify risks, and conduct efforts to reduce or avoid risks, as an integral part of its community engagement program and impact assessments and risk mitigation planning (see [Artisanal and Small-Scale Mining](#), [Community Engagement](#), [Conflict-Affected Areas](#), [Impact Assessment](#), [Mercury](#), [Environmental Management](#) and [Child Labour](#)).
- If the ASM suppliers are located in a different area from the Member, the Member should conduct due diligence appropriate to the circumstances to identify potential risks. Due diligence measures could be conducted in-house and/or use professionals with local experience, and should include site visits.
- If a Member is sourcing directly from ASM producers, the Member should confirm that the ASM producers are operating legally, or make best efforts to support the legalisation of the ASM producers. Legalisation may happen in a range of ways, including:
 - the ASM producers themselves meet the requirements of local law and register independently, if that law is appropriate to producers in the ASM sector¹;
 - if local law permits, the Member could enter into an agreement with the ASM producers operating in the Member's permit area that allows the ASM producers to work on the land of the Member. The process suggested in the following bullet may be used develop this kind of agreement.
- A policy needs be developed, which should be done in collaboration with ASM producers. The process could involve: the Member drafts a policy, ASM producers are then given the opportunity to respond and share comments/concerns about the policy, and finally the Member completes the policy based on feedback received from ASM producers. This policy can be used to set out the conditions and practices that should be followed by both the Member and the ASM suppliers, with allowance made for remedial actions that may need to be undertaken to meet the requirements over time. The policy can clarify any conditions or activities that would cause the Member to withdraw from the relationship.

¹ In some countries, the requirements to register and operate as a legal entity were developed for the large-scale mining sector and may not be realistic for ASM producers.

D Suggested implementation approach (cont)

- Approaches to monitoring and remediating the identified risks could include:
 - Monitoring of site conditions and practices, potentially via site visits by the Member or its representatives.
 - Training and other forms of technical assistance and advice to improve working conditions and reduce impacts, particularly with respect to the use of mercury, environmental management, and health and safety.
 - Capacity-building measures, such as support for community health and educational projects, and community education on forced and child labour issues.
 - Financial incentives, where appropriate, to encourage and facilitate improvements to site conditions and practices.
- Mercury use in ASM gold production is of significant international concern. Strong efforts should be made to support the phasing out of the worst practices in line with the Minamata Convention: whole ore amalgamation, open burning of amalgam or processed amalgam, and burning of amalgam in residential areas; and cyanide leaching in sediment, ore or tailings to which mercury has been added without first removing the mercury. See the [Mercury](#) guidance for further information.

CHECK

- Can you show the auditor how you have assessed the risks associated with direct ASM suppliers of gold, diamonds or platinum group metals?
- Can you show the auditor the approaches you have taken to reduce or avoid the risks?

E Further information

The following websites have further information on artisanal and small-scale mining:

- Alliance for Responsible Mining (ARM)
www.communitymining.org
- Alliance for Responsible Mining (ARM) – Legalization Guide for Artisanal and Small-Scale Mining (ASM) – Draft for Discussion (2011)
www.communitymining.org/attachments/059_ARM_Series5_Legalisation_guide_ASM.pdf
- Alliance for Responsible Mining (ARM) – Rock-Solid Changes for Responsible Mining (2011)
www.communitymining.org/attachments/059_RSC_FINAL_web_low.pdf
- AngloGold Ashanti – Approach to artisanal and small scale mining (2006)
www.anglogoldashanti.com/subwebs/InformationForInvestors/ReportToSociety06/artisanal-mining.htm
- Artisanal and Small-Scale Mining in Protected Areas and Critical Ecosystems Programme (ASM-PACE)
www.asm-pace.org
- Artisanal Gold Council (AGC)
www.artisanalgold.org/home
- CommDev – Artisanal and Small-Scale Mining (ASM) (2012)
commdev.org/section/topics/artisanal_mining
- CommDev/CASM/ICMM - Working Together: How large-scale mining can engage with artisanal and small-scale miners (2008)
commdev.org/content/document/detail/2018/
- Communities and Small-Scale Mining (CASM) – hosted by World Bank Group
www.artisanalmining.org/index.cfm
- Diamond Development Initiative (DDI) – Artisanal Alluvial Diamond Mining (2009)
www.ddiglobal.org/pages/ddi_artisanaldiamond.php
- Diamond Development Initiative (DDI) – Mechanization of Artisanal Alluvial Diamond Mining: Barriers and Success Factors (2010)
www.ddiglobal.org/login/Upload/Mechanisation-Alluvial-Artisanal-Diamond-Mining.pdf
- Estelle Levin Ltd. – Publications
www.estellelevin.com/publications

E Further information (cont)

- Human Rights Watch - A Poisonous Mix. Child Labor, Mercury, and Artisanal Gold Mining in Mali (2011)
www.hrw.org/sites/default/files/reports/mali1211_forinsertWebUpload_0.pdf
- International Labour Organisation (ILO) – Facts on Small Scale Mining
www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_067582.pdf
- International Institute for Environment and Development (IIED) - Responding to the challenge of artisanal and small-scale mining: How can knowledge networks help? (2013)
pubs.iied.org/16532IIED.html?c=energy/mining
- Global Mercury Project – Global Impacts of Mercury Supply and Demand in Small-Scale Mining (2007)
www.globalmercuryproject.org/documents/non_country%20specific/2006%20GMP%20Report%20to%20UNEP%20GC24.pdf
- OECD Due Diligence Guidance on the Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, Second Edition (2012)
www.oecd.org/fr/daf/inv/mne/mining.htm
- United Nations Environment Programme (UNEP) Global Mercury Partnership – A Practical Guide: Reducing Mercury Use in Artisanal and Small-Scale Gold Mining (2012)
www.unep.org/hazardoussubstances/Portals/9/Mercury/Documents/ASGM/Techdoc/UNEP%20Tech%20Doc%20APRIL%202012_120608b_web.pdf
- United Nations Environment Programme (UNEP) Global Mercury Partnership - Analysis of formalization approaches in the artisanal and small-scale gold mining sector based on experiences in Ecuador, Mongolia, Peru, Tanzania and Uganda (2012)
www.unep.org/hazardoussubstances/Portals/9/Mercury/Documents/ASGM/Formalization_ARM/Formalization%20Document%20Final%20June%202012.pdf
- The World Bank - Gender Dimensions of Artisanal and Small-Scale Mining: A Rapid Assessment Toolkit (2012)
commdev.org/userfiles/Gender_and_ASM_Toolkit.pdf