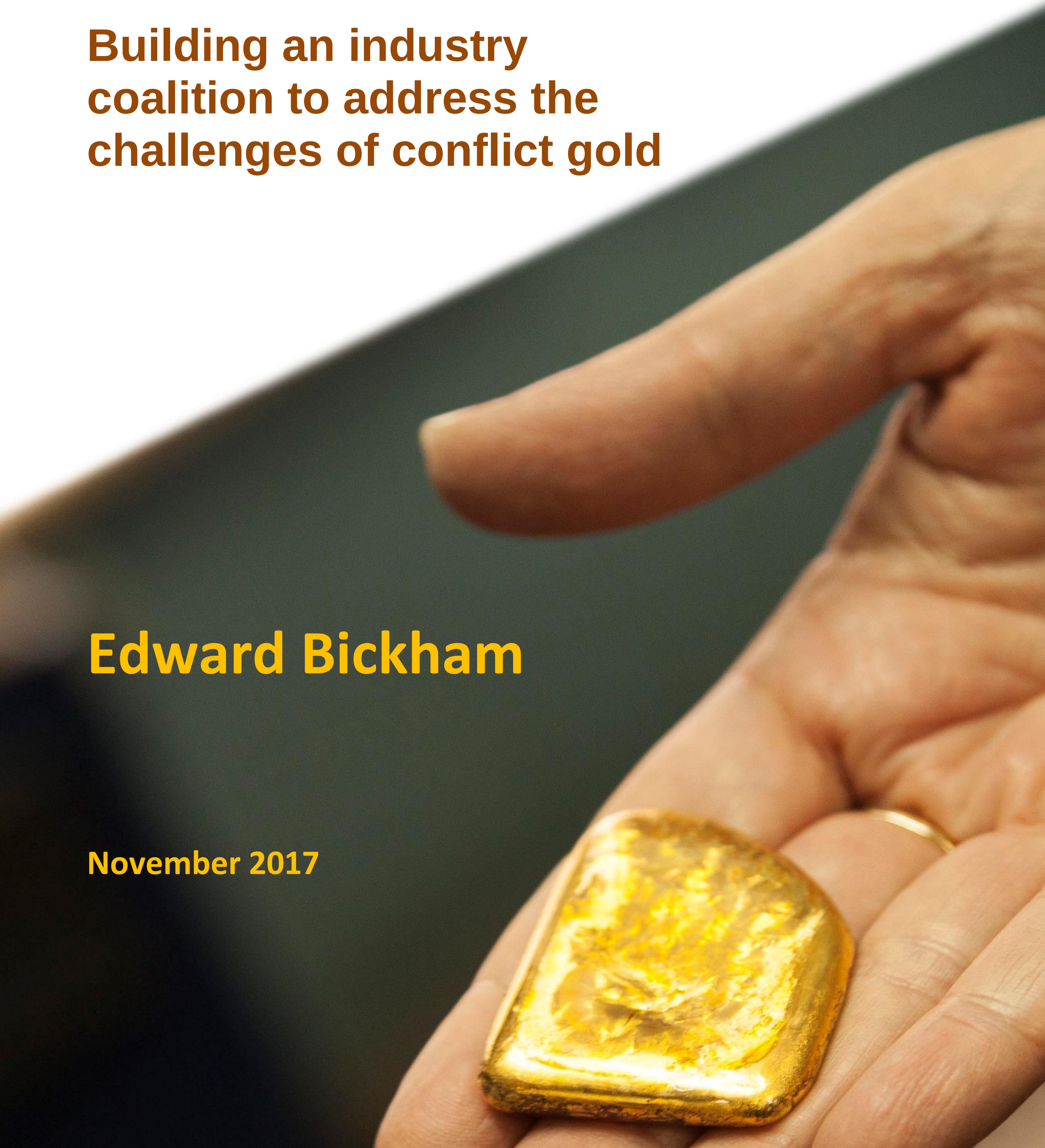
HARVARD Kennedy School
Corporate Responsibility Initiative

Cranfield School of Management
Doughty Centre for Corporate Responsibility

The Conflict-Free Gold Standard:

Building an industry coalition to address the challenges of conflict gold



Edward Bickham

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The Doughty Centre for Corporate Responsibility, Cranfield School of Management and the CSR Initiative at the Harvard Kennedy School

Front Cover Photograph supplied by the World Gold Council

Table of Contents

Appendices

Boxes

Diagrams

Foreword

Professor David Grayson CBE

Director of the Doughty Centre for Corporate Responsibility

Jane Nelson

Director of The Corporate Responsibility Initiative M-RCBG

The binary choice: markets or regulation is increasingly anachronistic. In recent decades, the relative roles of markets and regulation as drivers of corporate behaviour and responsible business practices have become increasingly complemented by voluntary corporate responsibility standards and self-regulation mechanisms. These are being developed and implemented by a combination of individual companies, collective industry coalitions, and multi-stakeholder partnerships or collaborative governance initiatives involving public, private and civil society organizations.

We wrote about the evolution of Corporate Responsibility Coalitions as a key driver of these new forms of hybrid governance models in our 2013 book: *Corporate Responsibility Coalitions: The Past, Present and Future of Alliances for Sustainable Capitalism.* (Stanford University Press and Greenleaf Publishing). We and other colleagues in the centres that we direct, continue to focus on new types of collaboration as a significant research theme, both in terms of their role in improving corporate responsibility and accountability, and their role in leveraging diverse resources to address complex global development challenges. In particular, we are interested in the growing number of business-led and multi-stakeholder initiatives that are industry or issue-specific. Here, business representative organisations, trade associations and industry leadership-bodies have an important role to play.

We are enormously grateful to Edward Bickham – a friend and colleague to both of us for several decades – for masterminding and writing this important and insightful case study. Edward is a great example of what Professor Joseph Nye at Harvard Kennedy School calls a “tri-sector athlete” – individuals who are empathetic to and can function effectively in each of public, private and voluntary sectors. As Edward’s biography shows, he has been a special adviser to several UK Secretaries of State, held senior positions in companies and is a board member or chair of several charities and NGOs.

One of his previous advisory roles was working with the World Gold Council on the evolution of their comprehensive Conflict-Free Gold Standard. The Standard was published in 2012 after an extensive stakeholder consultation process that was undertaken within and beyond the industry over a period of three years. Given the growing interest in new models of partnership and industry-specific corporate responsibility coalitions, we encouraged Edward to draw on this experience to provide a “reflective practitioner” insight into the development of the Standard. The result is an informative case study, which illustrates both the challenges of achieving industry-wide consensus and multi-stakeholder engagement, and the serious commitment that leading companies are making in the way they approach their responsibilities to society. The case study demonstrates *inter alia* the importance of:

- **Top-level and sustained commitment by individual business leaders and their companies**
- **Wide-spread stakeholder engagement and meaningful consultation**
- **Identification and inclusion of advice from credible, third-party technical experts**
- **Effective ecosystem-mapping and coordination with other relevant initiatives**
- **Having credible, independent third-party convenors to facilitate stakeholder dialogue**
- **The role of a backbone or intermediary organization, in this case the WGC, to coordinate activities, develop a shared vision and ensure mutual accountability**

Above all, the case study illustrates the vital and inter-locking roles of both individual leadership and institutional leadership in developing a shared vision and practical solutions to addressing complex, systemic challenges.

We are grateful to the World Gold Council (WGC) and its management team for their openness in sharing the process that was undertaken to develop the Standard and their willingness to share lessons more broadly. This is an excellent practice for other industry-led initiatives to learn from and emulate.

As Edward shows, collaborative work is not an easy fix or a panacea, but done well, it can expand business’s licence to operate and advance responsible business practices. We hope this report will be useful to public affairs specialists both inside business and in corporate responsibility coalitions, trade associations and industry leadership bodies, as well as a valuable resource for students of business, public policy, government and international relations.

Our two centres will continue to analyse industry-led and issue specific corporate responsibility coalitions and multi-stakeholder initiatives, and to explore the critical success factors and skills that managers and their companies need to make these new forms of hybrid governance and partnership effective.

Foreword

Aram Shishmanian

Chief Executive Officer
World Gold Council

Across cultures and time, gold has been a symbol of trust. Investors trust gold to preserve wealth against the ravages of inflation. Young couples trust gold to express their love and commitment to each other. Scientists trust gold to deliver exceptional performance in a variety of technological applications.

In order to maintain this trust in the metal, it is critical to ensure that there is confidence in the manner in which the metal is produced. A large number of standards and guidelines exist relating to responsible mining, but in 2009, the Board of the World Gold Council recognised that there was no consistent approach in place regarding unlawful armed conflict. And so the Board, representing the world's largest gold miners, asked us to take the lead in developing the first industry-led approach to operating a business responsibly in a conflict-affected area.

This was an ambitious objective; the first time that a group of competitors had come together to address issues which most of them had no direct experience of, given that most did not operate in areas considered to be conflict-affected or high-risk. But all of the gold miners recognised that in order for gold to appeal to the broadest group of consumers and investors, leading gold mining companies needed to develop and operate under a recognised set of standards that provide consistency, trust and transparency in gold and the gold industry.

The development of the Conflict-Free Gold Standard represented an unknown leap for the World Gold Council. It was the first time that the organisation, whose focus is on the demand market, had intervened in the supply side. It challenged us to develop relationships with a broad group of stakeholders, including producing countries, civil society activities and the entire gold supply chain. Without the support of these stakeholders, a credible Standard simply could not be developed. At the same time, the Standard needed to be pragmatic, otherwise it would not have been adopted by gold mining companies.

This naturally presented challenges to the organisation – both in developing new capabilities and re-defining the way in which we, and the gold industry more broadly, interacted with society as a whole. But with persistence and a clear vision of the principles we were seeking to address, we proudly launched the Conflict-Free Gold Standard less than three years after the idea was first raised, an impressive feat in the often slow-moving world of standard setting.

I hope that by sharing our experiences others can gain insight into the process and mechanics that underpin effective standard development. This case study realistically sets out the "inner workings", acknowledging the many hurdles that need to be overcome to coalesce around not just a principle, but also specific objectives across disparate stakeholders.

I am sure that the learnings from our experience will be helpful to others, and provide insight to those questioning not just the “physical characteristics of the product itself, but also the manner in which that product has been produced.

I am delighted that the World Gold Council has been able to play a role in helping move this agenda forward. I would like to thank the author of this case study for setting out so clearly the issues that had to be addressed, and how by doing so, the gold industry has helped reinforce the trust that people place in this precious metal.

Executive Summary

This case study describes why and how the World Gold Council led the development of the Conflict-Free Gold Standard (the Standard) from 2010 to the end of 2012. The Standard provides a common, voluntary approach through which gold mining companies can undertake due diligence and provide assurance to stakeholders, based on compliance with accepted international benchmarks, that their gold has been extracted in a manner that does not cause, support or benefit unlawful armed conflict or contribute to serious human rights abuses or breaches of international humanitarian law.

The Standard creates a framework to help gold miners to implement the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, and in the process to meet the due diligence expectations of actors further along the supply chain, especially gold refiners. In addition, it provides benchmarks to guide mining companies as to the steps they need to take in order to operate responsibly in conflict-affected or high-risk territories.

The study gives an account of the leadership role taken by an industry association in addressing a societal problem. It explains the particularities of the gold market with three main sources of supply – recycled material; newly-mined material from formal sector, industrial mines; and newly-mined gold from informal artisanal and smaller-scale operations. Once a piece of gold has been mixed with other feedstocks at the refining stage it is virtually impossible to establish its mine of origin; a major difference from diamonds which can be traced via the Kimberley Process.

The World Gold Council is a membership organisation funded by the leading gold mining companies. Its work is focussed primarily on markets and demand creation rather than on supply issues and it acts as an advocate for gold from all feedstocks, including recycled gold. The development of the Standard, therefore, raised questions as tithe scope of its mandate, whether it had expertise in supply side issues, and whether it should act primarily on behalf of its member companies or as a champion of responsible practices at all stages of the gold value chain? The study outlines the challenges involved in accommodating differing company perspectives, geographical exposures and business models. It also considers the extent to which it is appropriate or feasible for an industry association to seek to establish standards for other actors in a highly complex supply chain.

The Standard was conceived as a voluntary corporate responsibility initiative, driven in part by seeking to anticipate consumer concerns. Over the course of its development, however, the context was changed radically by the passage of U.S. legislation, in the form of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act 2010. This created a disclosure requirement for U.S. listed companies to determine whether their products contain minerals from the Democratic Republic of Congo or surrounding countries, that may have been tainted by conflict, through carrying out supply chain due diligence. As a result of this, together with the emergence of the OECD Due Diligence Guidance on the Responsible Sourcing of Minerals and its Gold Supplement, the Standard became part of a broader ecosystem of regulatory, normative and market-based initiatives all aimed at tackling the challenge of 'conflict minerals' and at implementing the corporate responsibility to respect human rights more broadly. These included the Dodd-Frank Act focussed on Central

Africa, the OECD Due Diligence Guidance with global application and industry schemes covering gold mining, refining, jewellery and technology companies.

Source: Terry Heymann: World Gold Council

The study summarises the debates about alternative approaches to identifying and recognising ‘armed conflict’ and around whether the Standard should focus on supporting compliance with established regulatory requirements relating to Central Africa or provide an anticipatory, normative framework for handling gold production in conflict situations globally.

The World Gold Council and its member companies recognised that there would have been limited utility in developing a Standard if it didn’t command trust and credibility from external stakeholders. They sought to achieve this in two ways. Firstly, the Standard is based on accepted international benchmarks; secondly the study describes an unusually extensive, inclusive and innovative consultation process. This involved the publication of two consultation drafts and consisted of a combination of bilateral stakeholder meetings, soliciting written submissions, promoting the Standard at third party events and the staging of seven independently hosted and facilitated roundtable meetings. Consultation events were held in Africa, Australia, Europe and North and South America and involved engagement with sixteen governments together with international institutions, civil society organisations, labour groups, academics, investors and gold value chain participants. The study reviews the significant impact which these external inputs had on the development and content of the Standard and the perceived benefits of such engagement for the industry.

The study notes that the Standard had a limited direct impact on the misuse of gold mining to fund illegal armed conflict, since this phenomenon is overwhelmingly attributable to informal or illegal smaller-scale mining rather than to the activities of the industrial mining sector. Nonetheless, it generated both public policy and sectoral benefits, including for the reputation of gold. Implementation of the Standard helped to establish that formal gold mining companies were largely free of a conflict taint and thereby to increase stakeholder trust.

It reportedly[1]improved the integration of initiatives such as aspects of the UN Guiding Principles on Business and Human Rights and the Voluntary Principles on Security and Human Rights with core site-level management systems, since implementation of the Standard (in conflict-affected and high risk areas) is subject to independent assurance. The Standard also, in principle, increased the pressure on host governments, civil society and international institutions to improve governance arrangements for artisanal and small-scale mining which is otherwise sometimes associated with organised crime, smuggling and poor social and environmental practices.

The Standard delivered two other benefits to the companies. Firstly, it helps those companies with mines in fragile environments which may become 'conflict-affected' to continue to operate – with benefits for the surrounding area in terms of jobs, public services and stability – for as long as they are able to establish, through objective and transparent criteria, that they are working responsibly and not causing or funding conflict. Secondly, the companies had been concerned that consumer concerns around conflict might escalate rapidly, as they had once threatened to do around 'blood diamonds'. By taking anticipatory steps the companies were ahead of the curve and had a process in place to address such concerns. Thus, in both respects, the Standard represented good risk management.

[1] Feedback interviews and questionnaire responses from companies that participated in the Standard development process

Finally, the study considers the lessons for other industries from developing such an industry-wide Standard in terms of organisation and accommodating differing business priorities amongst competitor companies. Amongst the learnings to emerge from the process is the importance of:

- **a clear mandate and a reasonable level of consensus between the participating companies;**
- **avoiding asymmetric benefits or burdens as between companies;**
- **pursuing realistic objectives (the Standard almost foundered because its initial scope was considered by some companies to be too ambitious);**
- **good communication between company representatives on an association's board and their colleagues charged with implementation;**
- **an acceptance of the legitimacy of the process on the part of those who are intended to be covered by the rules – it is unlikely, for example, that rules generated by one group of commercial actors in a supply chain will necessarily be accepted by others;**
- **competent secretariat support to prepare policy options, liaise with external parties and prepare decisions; and**
- **authoritative and respected leadership – able to broker agreements between companies.**

Methodology & Acknowledgements

Edward Bickham

Case Study Author

I would like to thank the World Gold Council for their support for this project, especially in providing access to all papers relating to the development of the Standard. They bear no responsibility for the views expressed and interpretations made which are my own. Particular thanks are due to those, within the gold mining sector and outsiders, who gave freely of their time in responding to questions or reviewing texts.

The case study drew upon:

- **Over 600 pages of World Gold Council documents**
- **Reports, draft regulations and other documentation from the United Nations Expert Panel on the Democratic Republic of Congo, the Organisation for Economic Co-operation and Development, the International Conference on the Great Lakes Region, the European Union and the US Securities and Exchange Commission;**
- **Reports and materials on minerals and conflict from civil society groups, industry associations, professional services firms and sustainability reports from gold mining companies**
- **Questionnaires administered to the companies which participated in the 'Responsible Gold' Steering Committee and external organisations which hosted consultation roundtables; and**
- **Over 20 in-depth internal and external interviews including with personnel from AngloGold Ashanti, Barrick Gold, Fund for Peace, GIZ/International Conference on the Great Lakes Region, Global Witness, Goldcorp, Gold Fields, IAM Gold, Kinross Gold, London Bullion Market Association, Newmont Mining Corporation, the Organisation for Economic Co-operation and Development (OECD), PAMP, Rand Refinery, US State Department and from the World Gold Council (Aram Shishmanian (Chief Executive), Terry Heymann (Director of Strategy and then Director, Responsible Gold), Gareth Llewellyn (contractor) and Justine McGuinness (contractor).**
- **The case study is focussed on the development process for the Standard not the quality or breadth of its implementation.**

Thanks are particularly due to David Grayson and Jane Nelson for encouraging me to write the study; and to Aram Shishmanian, Terry Heymann, John Mulligan (for data and fact-checking) and to Lindsey Hefford and Lynne Lewis for their work on the design of the document.

I. Background

1) Introduction to the concept of ‘Conflict Minerals’

Securing control over natural resources has been a cause of conflict in many countries because such resources can frequently be used to finance the military capabilities of armed groups. Since the 1970s, albeit with greater momentum from the 1990s onwards, a number of academics and NGOs have been collecting evidence and building awareness of this problem. They have urged Western governments to concentrate some of their peace-building and conflict prevention activities on choking off natural resource-based sources of funding for illegal militias. At the same time, they have challenged consumers to use their purchasing power to prevent the misuse of natural resources to fund conflict and associated human rights abuses. Examples of malign use of natural resources have included the role of logging in funding the conflict in Cambodia in the 1980s and the smuggling and sale of artisanally-mined diamonds in financing insurgencies in Sierra Leone, Liberia, the Democratic Republic of Congo (DRC) and Angola in the 1990s.

Campaigns against ‘conflict’ or ‘blood’ diamonds galvanised governments, business and civil society groups to work together to protect the reputation of those diamonds that contribute to development such as those sourced from Botswana, Namibia and South Africa. These collaborative efforts led to the establishment of the Kimberley Process Certification Scheme, which began to operate in 2003.

Since 2000, successive reports from United Nations Expert Panels have highlighted the importance of control over mineral resources as a source of funding for armed groups in the DRC. By 2010, that conflict had resulted in five million deaths but peace making had remained stubbornly elusive in the eastern provinces of North and South Kivu and Maniema. Activist campaigns focussed public attention in the West on three ‘conflict minerals’, tin, tantalum and tungsten (collectively known as the ‘3Ts’), and their use in consumer electronics, including mobile phones. Latterly, attention came to rest on the role of gold mining as a source of finance for armed groups.

Issues associated with artisanal and small-scale mining are explored in Box 4 (see page 51-53). It is important to appreciate that newly-mined gold comes from two distinct sources – large-scale (LSM) or industrial gold mining and artisanal and small-scale mining (ASM). A high proportion of artisanal production in many countries occurs outside the legal framework and is associated with poor environmental and safety standards, non-payment of taxes and with phenomena such as child labour and mercury-use. Conversely it often provides large numbers of livelihoods. The association between a significant proportion of ASM activity, especially in weak governance zones, and illegality increases the risk of it being subject to extortion by armed groups. Thus the ‘conflict’ risk associated with ASM is elevated compared with other forms of gold mining.

This study describes the juxtaposition between: the Conflict-Free Gold Standard, an industry initiative: the normative OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and its Gold Supplement; and the impact of US legislation on ‘conflict minerals’, in the shape of section 1502 of the Dodd-Frank Act. It focuses, in particular, on the motivations of the companies that participated in the creation of the Conflict-Free Gold Standard and the interactions between them, as well as the extensive stakeholder consultation process that underpinned the Standard's development and the key policy issues that had to be resolved.

2) Distinctive features of the gold market and value chain

The gold supply chain is complex and it is important for readers to understand the potential implications that these complexities have for the development and implementation of both public sector and industry-led efforts to improve the provenance of gold supplies.

i) **Gold is highly recyclable:** almost all of the gold ever mined is still in existence. High gold prices attract more recycled material to the market. Thus, in the years 2009 to 2013, recycled material amounted to between 35% and 40% of total gold supply. Although it is possible to finger-print and trace newly mined gold to a specific mine, traceability is lost once it has been mixed with material from other sources.

ii) **Gold demand is concentrated in three sectors:** for the period 2008 to 2012, 49% of gold demand was accounted for by jewellery; 11% by technological and health-related applications; and 40% related to investment products and central bank purchases[i2]. Gold is indispensable to the manufacture and functionality of many electronic products including computers and mobile phones and it is increasingly used in industrial and medical procedures. Because of the role of bullion banks, a gold bar delivered in 2010 may be acquired and stored and not used to manufacture a consumer product until decades later. Since the majority of gold in use in society is mixed from a combination of gold-bearing material from different mines, from recycled gold or from gold stocks it is usually impossible for an end user to trace the origin of gold used in their product, in the absence of a 'closed pipe' supply process.

iii) **The gold market is highly liquid:** Gold is not only used to make things it is also a store of value, a parallel currency and a refuge for savers during times of market and political turbulence. Participants in the gold market are resistant to actions which threaten to create different tiers of gold, to impede free trade in gold or to affect the value of their savings.

iv) **The gold market is dominated by demand from Asian markets:** The balance of global economic power has been shifting from West to East over the last twenty years. This is illustrated by the gold market where, in 2012 China and India combined accounted for some 53.5% of global demand(compared with less than 25% in 2000[3]). In addition to its growing role as a gold consumer, China has also emerged as the biggest gold producer in

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[2] Source: Thomson Reuters, GFMS, World Gold Council

[3] Metals Focus, World Gold Council

recent years but gold is produced on every continent of the world except Antarctica. The concerns in some Western markets about the origins of gold and their connection to conflict found only a limited echo in Asian markets.

v) **A significant minority of new gold production comes from the informal sector:** Whilst 85% of newly mined gold (which currently accounts for around two thirds of total supply to the market) is produced by large-scale miners, up to 15% of newly-mined production comes from artisanal or small-scale miners (ASM). Most of this production, which is estimated to provide livelihoods for around 15 million people and economic support for up to 100 million people, is illegal or occurs in the informal economy. Much of it is not recorded and does not generate royalties or direct taxes for host governments; and a significant proportion is smuggled.

vi) **Gold is a portable, high value product:** Unlike tin, tantalum and tungsten, which were initially identified with funding conflict in the DRC, gold is easily smuggled and highly portable (a significant value can be transported, for example, in a pocket or a small case).

vii) **The formal gold sector has robust management systems and long-standing regulatory requirements to prevent the leakage or misuse of gold for criminal purposes:** Because of the value at stake, regulators in most jurisdictions insist on tight oversight of gold transactions through Anti-Money Laundering (AML) and Know Your Customer (KYC) controls at all stages of the supply chain. At the level of individual mines, the potential for the loss of revenue through the theft of gold-bearing material means that formal-sector gold miners have very tight controls over the movement of such material around the mine site with checks along the production process. Such operators and their insurance companies also regard it as an imperative to protect transport routes from interception by armed groups.

3) Overview of the World Gold Council

The World Gold Council is the market development organisation for the gold industry. It is an association whose members comprise most of the world's leading gold mining companies[4]. It is a business 'leadership' organisation in the sense that most member companies are represented on the organisation's Board by their Chairman and/or Chief Executive Officer. The World Gold Council works with the investment, jewellery and technology sectors as well as engaging with governments and central banks with a view to providing industry leadership whilst stimulating and sustaining demand for gold. In common with the governing bodies of most other industry associations, the World Gold Council Board seeks to operate by consensus.

The World Gold Council has traditionally focussed on the gold market and demand for gold. Despite representing the leading gold miners, with the exception of occasionally countering initiatives such as the US-based 'No Dirty Gold' campaign during the early years of the Century, it has had little involvement in advocacy around mining and supply-chain related issues. As noted elsewhere in this case study, however, in its horizon-scanning role, by 2010, the World Gold Council, was becoming increasingly alert to the emergence of a trend in parts of the market of consumers wanting to understand more about the provenance of their gold.

The development of the Conflict-Free Gold Standard took the World Gold Council closer to its member companies' core business activities–bringing it into contact with a group of corporate executives within the companies not previously used to working together; and outside the areas of focus in which member companies traditionally regarded the organisation as authoritative. One interviewee also reflected that at the start of the dialogue around gold and conflict the World Gold Council had 'virtually zero' contact with relevant stakeholders in governments, international institutions, 'socially responsible' investors and NGOs.

[4] Member companies in 2013 were African Barrick Gold plc (now Acacia Mining plc), Agnico-Eagle Mines Limited, Alamos Gold Inc., AngloGold Ashanti, Barrick Gold Corporation, Centerra Gold Inc., Cia de Minas Buenaventura SAA, Eldorado Gold Corporation, Franco-Nevada Corporation, Gold Fields Limited, Goldcorp Inc., Golden Star Resources Limited, IAMGOLD Corporation, Kinross Gold Corporation, New Gold Inc., Newcrest Mining Limited, Newmont Mining Corporation, Primero Mining Corporation, Royal Gold Inc., Yamana Gold Inc..

II) Overview of the Conflict-Free Gold Standard

This section describes the final structure and content of the Conflict-Free Gold Standard as published in October 2012 in order to make the subsequent sections, which describe the process of negotiation and consultation around the Standard, more easily comprehensible.

The Standard is framed by a 'Declaration on Mining and Armed Conflict': https://www.gold.org/sites/default/files/documents/Conflict_Free_Gold_Standard_English.pdf.

The Declaration sets out the signatory companies' support for relevant international conventions. They committed, *inter alia*, to "respect human rights at our operations and in our dealings with stakeholders and seek to use our influence to prevent abuses being committed by others in the vicinity of our operations". In addition they committed to:

- **Ensure that mine security providers have not been associated with 'financing or benefitting armed groups involved in serious human rights abuses';**
- **Put in place controls to prevent their operations or agents having any involvement in bribing or providing illegal payments or benefits in-kind to third parties for use in illegal armed conflict;**
- **Publicly disclose payments made to governments, unless prohibited by law from doing so;**
- **Establish processes through which stakeholders can raise concerns and grievances;**
- **Utilise transport services that are 'not involved in or associated with financing or benefitting unlawful armed groups'; and**
- **Implement due diligence procedures to ensure that any suppliers of gold-bearing materials to their mine conform with the Principles.**

The Standard takes the form of a five-part decision tree. Each section sets out decisions that determine whether gold is produced in conformance with the Standard. In each case criteria are identified together with the process for assessing conformance.

Part A -Conflict Assessment – primarily uses external criteria, augmented by company due diligence, to assess whether the area or country in which a company is mining, or through which it transports doré, should be assessed as 'conflict-affected or high risk'.

Part B – Company Assessment – where the area or country is considered to be 'conflict-affected or high risk' this section provides criteria against which to judge whether the company has appropriate management systems to gauge whether it is fulfilling its corporate obligations to avoid fuelling or funding conflict and associated human rights abuses or breaches of international humanitarian law. Part B draws extensively on external benchmarks such as the UN Guiding Principles on Business and Human Rights and the Voluntary Principles on Security and Human Rights.

Part C – **Commodity Assessment** - where the area or country where a mine is located, or the route through which doré is transported, is assessed as 'conflict-affected or high risk' this section provides a framework for assessing how and by whom gold bearing material is handled and the potential for this to contribute to causing or funding conflict. It focuses on the adequacy of the systems for the control of gold at key points in the transportation and production process.

Part D – **External Sources of Gold Assessment –** when the company or operating site acquires gold, this section assesses the process that needs to be in place to ensure that appropriate due diligence is undertaken so as to exclude any gold tainted by conflict.

Part E – **Statement of Conformance Documentation –** where the company has shown its conformance with earlier sections, an appropriate statement of comfort needs to be provided to the next party in the chain of custody.

Part A - Conflict Assessment

A description of the options considered in designing this part of the Standard is given in Section 4, Part 2:Focus on the Identification and Recognition of Conflict. The two major elements of this part of the Standard involve checking: i) whether a country or region is the subject of sanctions imposed by a respected international organisation; and ii) establishing whether a mine is located in a conflict area through reference to respected third party assessments, principally the Heidelberg Conflict Barometer. If a mine is found to be in a sanctioned location or in a conflict-affected or high-risk area, then an implementing company is required to go through the requirements of Section B (Company Assessment) and Section C (Commodity Assessment).

The process for determining whether a mine is located in a conflict-affected or high-risk area is set out in the diagram below:

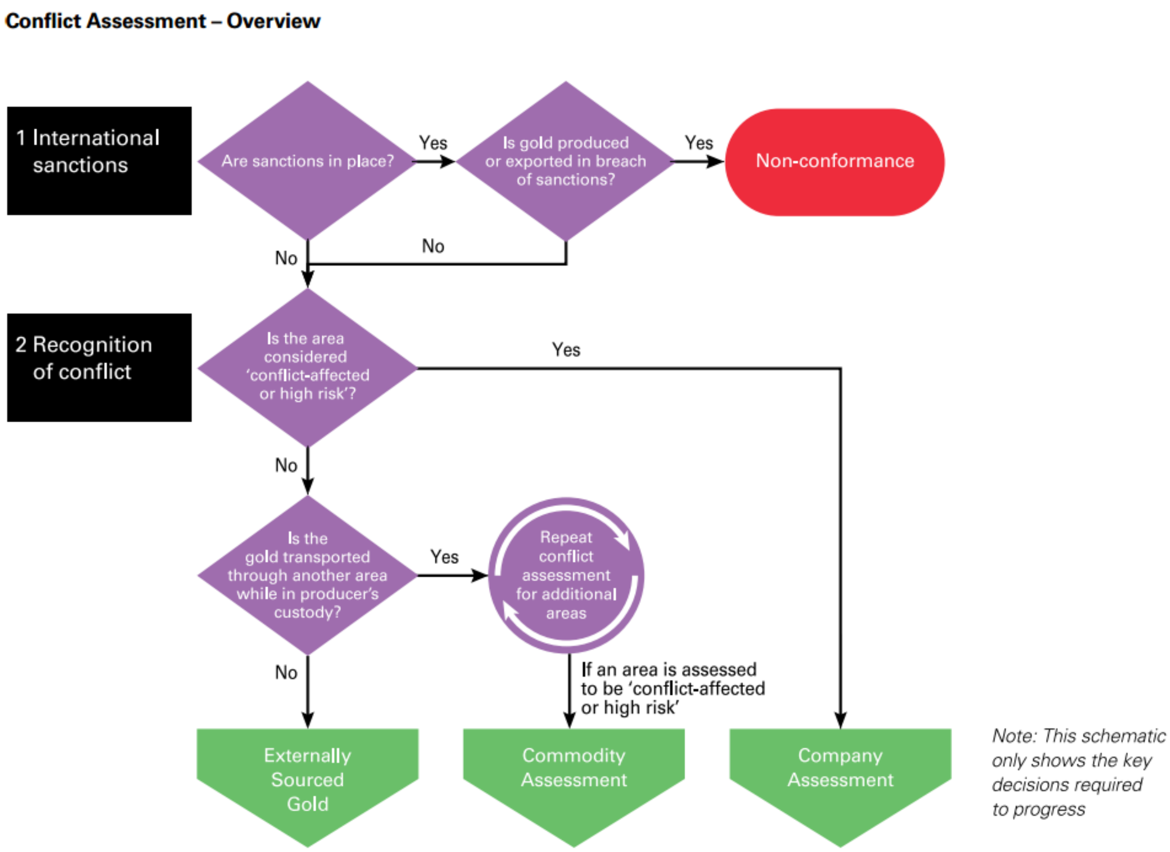

Diagram 1: Source: World Gold Council

Part B - Company Assessment

The diagram on page 19 provides a simplified version of the stages required to check that a company has the processes and management systems to ensure it can operate responsibly in a conflict-affected area without 'causing, supporting or benefitting unlawful armed conflict or contributing to serious human rights abuses or breaches of international humanitarian law.' The Standard recognises that 'there are companies that do not meet internationally accepted norms of business practice and by their activities and behaviour may complicate or exploit already difficult situations in countries with weak governance.' The Company Assessment contains five elements:

- **Commitment to human rights**
- **Corporate activities**
- **Security**
- **Payments and benefits in-kind**
- **Processes for engagement and for handling complaints and grievances.**

The company's commitment to human rights must make clear that it will not 'support unlawful armed conflict', and will respect 'human rights and international humanitarian law, including not tolerating exploitative child labour' and will implement the Voluntary Principles on Security and Human Rights or comparable systems'. The Voluntary Principles have been enacted by leading oil and mining companies since 2001.[5] Nevertheless, implementers of the Standard were the first to be required to obtain third party assurance of the strength of their implementation processes and management systems.

The criterion for the assessment of 'corporate activities' is defined as 'Gold produced by a company that respects human rights and which uses its influence to prevent abuses being committed by others in the vicinity of its operations.' The section also covers situations where a company may be accused of involvement in human rights abuses. It recognises, however, that such allegations may not be quickly or easily resolved by formal legal or judicial procedures(and in some jurisdictions never resolved in this manner), and whilst noting that companies are entitled to a presumption of innocence, the Standard suggests that during the period of time that such matters are unresolved through legal or judicial procedures, companies should undertake a review of the issues causing the complaint and 'if the circumstances and evidence support it, initiate any remedial measures which may be required'.

The third step involves the objective of 'ensuring, as far as possible, that mine security providers or personnel do not cause or contribute to promoting or maintaining conflict in the locality of the mine'. The primary mechanism for helping companies to deliver on this objective is the Voluntary Principles on Security and Human Rights which cover good practice in: undertaking security risk assessments;

[5] As of end 2015 supporting companies involved with implementation of the Voluntary Principles on Security and Human Rights were; Anglo American, AngloGold Ashanti, Barrick Gold, BHP Billiton, BP, Chevron, Conoco-Phillips, ExxonMobil, Freeport McMoRan, Glencore, Goldcorp, Hess, Newcrest Mining, Newmont Mining, Norsk Hydro, Pacific Exploration and Production, PanAust, Repsol, Rio Tinto, Seven Energy, Shell, Sherritt International, Statoil, Total, Tullow Oil, Vale, Woodside Energy.

the selection and control of private security providers; and the governance of public security forces contracted to protect mining operations.

The fourth step relates to the ‘making of payments and benefits in-kind’. This requires that a company should, except where legally prohibited: disclose its payments to government entities; not make payments or provide benefits-in-kind to non-governmental entities ‘that cause, support or benefit unlawful armed conflict’; and carry out risk-based due diligence so as to mitigate the possibility of making payments to such entities.

The final step assesses the interactions between the mine, its employees, contractors and local communities (including traditionally marginalised groups such as women, youth and indigenous people) so as to ensure that the mine understands the nature of its impacts on people – a key requirement of the UN Guiding Principles on Business and Human Rights. The Standard also requires the mine to have a whistle blower facility and grievance mechanism in order to ensure that clandestine and other types of negative activity can be brought to management attention and that redress is available for people affected by such activity. The adequacy of the grievance mechanism has to be assessed by reference to criteria set out in the UN Guiding Principles. The Standard requires that engagement plans should include interactions with artisanal miners ‘including assessing the extent to which their activities may be considered ‘legitimate’ including them seeking to behave in good faith and to seek formalisation’.

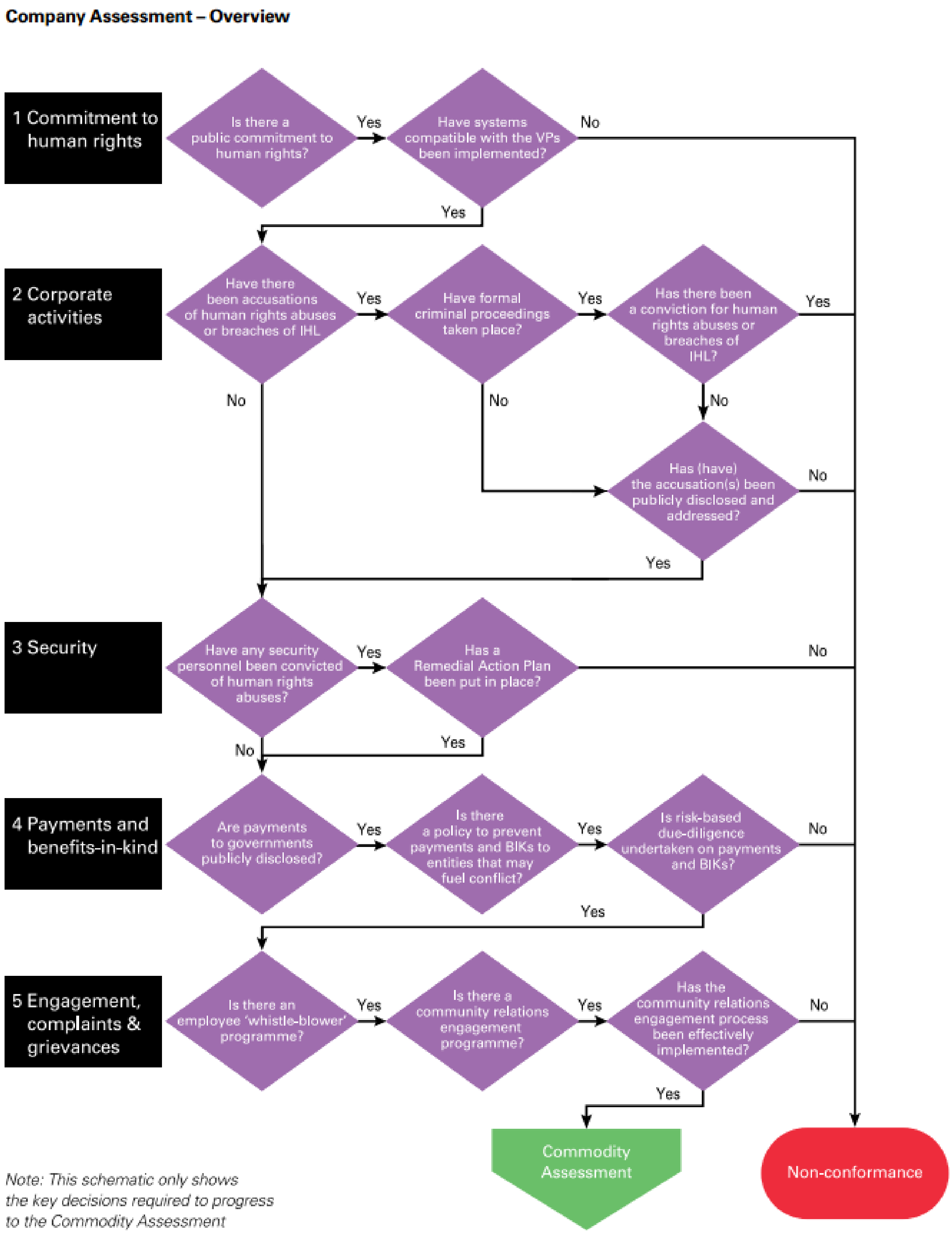

Diagram 2: Source: World Gold Council

Part C - Commodity Assessment

Part C covers the control of gold at a mine-site and during transport to the next point of processing. The first step is to ascertain whether the gold bearing material leaves the site in a form from which it is easy to extract gold and, thereby to generate revenue. For example, gold in a concentrate with other metals is unlikely to be easily extracted without access to industrial-scale equipment. In most circumstances, this is unlikely to be an accessible, cost-effective or attractive source of revenue for militias or criminal gangs.

At the mine site it is essential to ensure that gold-bearing material is tracked so as to detect if any theft of gold is occurring and to assess the potential for consignments of gold to be tampered with.

The third step is to look at risks associated with the routes used to transport the doré from the mine to the next processing point (normally a refinery) with the objectives of: ensuring that the integrity of the material is preserved; that it is not subject to extortion or illegal handling which might be used to fund conflict; and checking that those handling the gold are not parties to unlawful armed conflict or associated with severe human rights abuses.

In reality, gold is typically handled and monitored at mine sites with great care and rigorous control systems to guard against theft; and refiners are subject to anti-money laundering and know your customer procedures, so the Standard aims to ensure that its requirements mesh well with existing management processes.

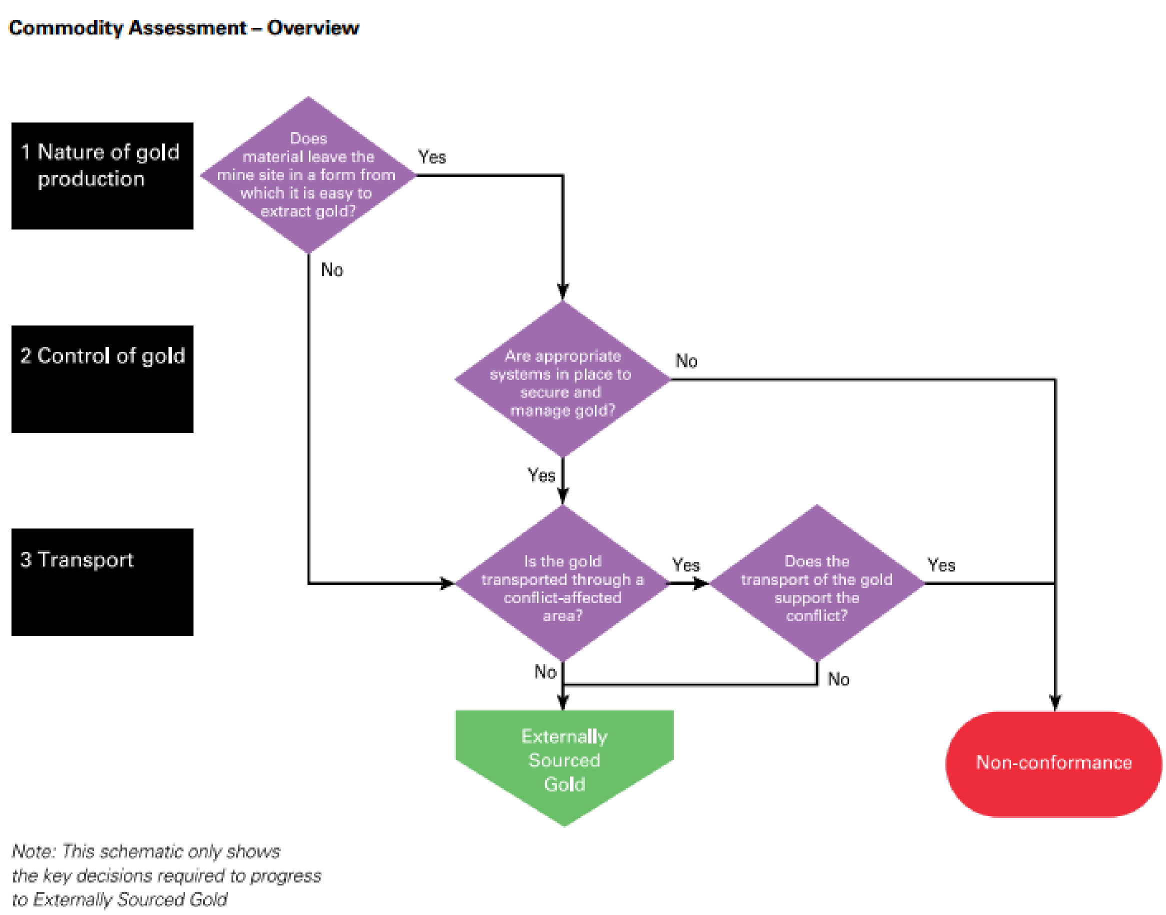

Diagram 3:Source: World Gold Council

Parts D & E - Externally Sourced Gold and Management Statement of Conformance

Part D exists to support responsibly operated mines which wish to acquire gold from third parties, including from legitimate small-scale and artisanal miners. The section is closely aligned with the steps set out in the OECD Due Diligence Guidance and aims to ensure that none of the gold acquired has been implicated in causing or funding conflict or associated serious human rights abuses or breaches of international humanitarian law.

Part E – the Management Statement of Conformance – requires mine management to make a declaration to refiners (or other recipients of the gold-bearing material) that it believes its gold is produced in conformance with the Standard.

Public Reporting and Deviations from Conformance

Public reporting – Companies that voluntarily elect to apply the Standard[6] are expected to report at least annually on their conformance (or otherwise), either through a publicly accessible stand-alone Conflict-Free Gold Report or in their Annual or Sustainability Reports.

The review of conformance must be done for each operating asset controlled by the company. The Conflict-Free Gold Report must specify: the location of the operations covered; the management structure responsible for delivering conformance; and details of due diligence procedures undertaken in relation to any sourcing of gold from third parties.

Further public disclosures are set out in the Standard and are at the discretion of each company, subject to considerations such as security. An external assurance provider is retained to report on whether the commissioning company's Conflict-Free Gold Report is prepared in accordance with the Standard.

Deviations from conformance - In the event that a mine does not comply with one or more of the Standard's assessment criteria it can remain in conformance with the Standard if it adopts a Remedial Action Plan.

A Plan must be devised and implementation commenced within 90 days from the point at which management becomes aware of a problem and must identify the remedial steps to be taken and the estimated time needed for their implementation. The deviation from conformance must be communicated to the next actor in the supply chain and to the company's assurance provider.

The company's Conflict-Free Gold Report must acknowledge the deviation and describe what was done to address it.

[6] The Conflict-Free Gold Standard is an open-access framework which may be used by all gold mining companies – subject to their satisfying its requirements and obtaining credible independent assurance of their performance – and is not confined to member companies of the World Gold Council

The Standard also sets out the consequences if ‘a situation has arisen that blatantly contravenes both the letter and spirit of the Standard, such as being found to be implicated in funding unlawful armed groups’ such that a Remedial Action Plan may be an insufficient response.

A company is unable to issue a Management Statement of Conformance if it: fails to implement a Remedial Action Plan in a timely manner; declines to adopt a Remedial Action Plan following a breach; or if it recognises that a Remedial Action Plan would be an insufficient response to the seriousness of the breach.

III). The origins of the Conflict-Free Gold Standard

A number of strands of thought converged around the idea that the World Gold Council should produce proposals to prevent the misuse of gold to fund illegal armed conflict. What is clear is that its early advocates saw it as a voluntary corporate responsibility leadership initiative, rather than one motivated by the imminent fear of regulation.

One strand of thinking was initiated by Thero Setiloane, who at the time was a Board Director of AngloGold Ashanti, Chairman of Rand Refinery in South Africa and a World Gold Council Board member, and Mehdi Barkhordar, who was Managing Director of Pamp, which operates refineries in Switzerland and India. Their initial focus was on what they termed 'stolen gold', that is artisanally-mined gold produced illegally from within formal mining concessions and sometimes involving links to organised crime or armed groups. There was particular concern about the processing of 'stolen' and conflict-tainted gold in the refineries of Dubai. Setiloane and Barkhordar wanted to create incentives for 'responsible' social and environmental practices on the part of both large-scale and legitimate artisanal and small-scale (ASM) operators. Pamp had piloted a successful due diligence programme for artisanal gold production in Ghana.

AngloGold Ashanti's approach appears to have had four drivers. First their mines in Ghana (especially Obuasi) and Tanzania (Geita) suffered from extensive safety, security and social problems caused by illegal mining. Secondly, the company had been subject to a controversy at its Mongbwalu project in the DRC in 2005 when it was accused by Human Rights Watch of providing 'recognition' to an armed group, the FNI, implicated in serious human rights abuses[7]. Thirdly, it was the biggest shareholder in the Rand Refinery, which sourced the great majority of its doré from Africa and so was concerned by any developments which risked stigmatising African gold on the basis of a perceived conflict 'taint'. Finally, Setiloane recognised the common belief amongst many NGOs and some international stakeholders that large-scale miners 'bought-in' gold doré from illegal artisanal and small-scale miners without carrying out adequate due diligence on issues like child labour, use of mercury and the funding of armed groups, as a significant reputational risk – even though that belief was seemingly unsubstantiated by evidence on the ground.

The AngloGold Ashanti/Pamp concept was to create a certification process for both formal mining companies and responsible informal producers to establish the integrity of the gold supply chain in relation to child labour, environmental stewardship, human rights, money laundering and anti-corruption. A meeting was held in Geneva in early autumn 2009 to flesh out the concept. It involved Mehdi Barkhordar of Pamp, Thero Setiloane

[7] Human Rights Watch 2005 'The Curse of Gold' https://www.hrw.org/report/2005/06/01/curse-gold

and Paul Hollesen of AngloGold Ashanti and Aram Shishmanian, Chief Executive of the World Gold Council.

In parallel, a number of senior executives in the gold supply chain believed that western consumers of gold (especially of jewellery) were likely to become increasingly insistent on knowing more about the provenance and attributes of the gold that they purchase. Hence for the mass market, Walmart was working with Newmont and Rio Tinto on the creation of the ‘Love Earth’ jewellery range; and luxury brands like Tiffany and Cartier were exploring the creation of a traceable gold product.

During 2008 and 2009, Philip Olden, then Deputy Chief Executive of the World Gold Council, had worked with Paul Hollesen to develop ‘messaging’ on key supply issues such as the use of cyanide and child labour. The outcomes seemed, however, relatively insubstantial in the face of growing stakeholder scrutiny and were critiqued by the World Gold Council’s then public relations advisers who warned, in rather alarmist terms, that persistent questioning could ‘take the organisation down’ and urged that more robust risk management work was necessary. Getting member companies to adopt the ICMM sustainable development principles and associated standards had also been discussed as an option by the World Gold Council, but this approach was deemed to be unattractive by some of the smaller gold companies on grounds of imposing additional complexity and cost on their operations.

In the final quarter of 2009, the World Gold Council secretariat produced a horizon-scanning paper which aimed to alert the Board to growing public interest in whether the processes involved in the production of gold were ‘responsible’. In particular it referred to the possible emergence of gold’s role in the funding of conflict, as a significant public policy and consumer issue.

Aram Shishmanian tabled a paper for the Board in December 2009 reflecting some of these strands of thought. It was primarily based on an analysis of emerging trends in the jewellery market and suggested that consideration should be given to the creation of a range of ‘responsible gold’ standards. For many safety, social and environmental issues widely accepted performance standards already existed in the mining industry[8]. However, there was no standard to help companies navigate the challenges of operating in a conflict area. Thus, it was proposed that the World Gold Council secretariat should produce an options paper for some form of ‘conflict-related’ standard and for a chain of custody process which could be developed in such a way as to create ‘consumer confidence, reassure the market, create value for (World Gold Council) members and establish credibility with external parties’. The chain of custody standard could, once established and if so desired, be used to certify performance against a range of environmental and social standards.

[8] For example, the International Finance Corporation Performance Standards, the Voluntary Principles on Security and Human Rights and the International Council on Mining and Metals(ICMM) Sustainable Development Framework (which consists of ten Principles and a number of supporting Position Statements)

Earlier in the year, Senator Sam Brownback had introduced a Bill in the U.S. Congress relating to the role of minerals in funding and fuelling the conflict in the Democratic Republic of Congo. It sought to cover the supply chains for tin, tantalum and tungsten, but not for gold. At the time of the World Gold Council Board discussion it seemed unlikely that this Bill would become law and it was not perceived to be of immediate relevance.

When interviewed for this study, Aram Shishmanian explained that he had seen the issue of conflict gold as constituting a significant reputational risk for the gold industry – taking the analogy of 'blood diamonds' for responsible diamond producers. He observed that: "Our assessment at the end of 2009 was that it was a significant but not imminent risk. On the other hand the timing of when it might turn critical was unpredictable and if it had suddenly become an elevated risk it would have been too late to do anything about it."

In summary, the factors that initially motivated the World Gold Council to establish its conflict-free gold programme appear to have been:

- **to protect the reputation of gold from concerns about conflict and associated human rights abuses;**
- **to explore the potential for creating a 'premium' gold product to address growing interest in the provenance of gold;**
- **to address a significant societal problem; and**
- **to create a framework for addressing aspects of the problem of illegal gold mining.**

A working group comprising the sustainable development heads of a number of member companies[9] and representatives of three refiners – Rand (jointly owned by AngloGold Ashanti and Gold Fields), Valcambi (of which Newmont was then the largest shareholder) and Pamp (the ownership of which was independent of gold mining interests)- was formed in Spring 2010. It was to be known as the 'Responsible Gold' Steering Committee. Gareth Llewellyn, a former Group Head of Sustainable Development at diversified miner, Anglo American plc, was retained as project manager, a role he played until April 2011. He was initially supported on a part-time basis by: Terry Heymann, the World Gold Council's Director of Strategy; and Maureen Upton, a sustainable development consultant, based in Colorado, who had previously worked with Newmont Mining Corporation.

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[9] AngloGold Ashanti, Barrick Gold, Kinross Gold, Newmont Mining and Alamos were initially invited to participate. Alamos were intended to represent the views of smaller member companies but rarely attended. Goldcorp joined from early 2011

IV Developing the Conflict-Free Gold Standard

1. The early stages of project development (December 2009 – September 2010)

Following the Board's commission, work proceeded rapidly. By March 2010, Gareth Llewellyn had produced two papers reviewing commodity certification schemes and international sustainability standards in other sectors.

A paper on **commodity certification schemes** analysed ten existing or would-be initiatives. In each case, the paper detailed: the nature of stakeholder engagement and governance arrangements; whether the scheme involved third party or self-certification; the extent to which it was based on adapting recognised international standards or creating new benchmarks; whether it set absolute requirements or was designed to incentivise continuous improvement; and its scope.

All of the certification schemes reviewed had NGO involvement in reviewing standards and processes but only two, the Kimberley Process and the Marine Stewardship Council, had direct government participation. In addition to these two examples, other schemes reviewed included: the Better Cotton Initiative; the Roundtable on Sustainable Palm Oil; the Roundtable on Sustainable Soy; the Responsible Jewellery Council; and the work of the Forest Stewardship Council. The paper noted that most chain of custody schemes, especially the Forest Stewardship and Marine Stewardship Councils and the Kimberley Process, were based on segregation between certifiable and non-compliant material, whilst the Responsible Palm Oil Roundtable depended on a 'mass balance' approach. The majority involved third party certification and most proceeded on the basis of continuous improvement rather than achieving immediate flawless performance.

A second paper, on **international sustainability standards,** drew on diverse sources of good practice guidance from ethical governance, transparency, environmental, human rights and health and safety initiatives. It demonstrated the substantial body of existing guidance including: the OECD Guidelines for Multinational Enterprises; the UN Global Compact; the IFC Performance Standards; guidance for mining companies from the International Council on Mining and Metals (ICMM); the Responsible Jewellery Council and Fair Trade/Fair Mined standards; the Danish Institute for Human Rights framework; and the International Cyanide Management Code. It also illustrated that there was something of a lacuna around standards for operating in conflict areas – other than the Voluntary Principles on Security and Human Rights.

Based on these analyses, a paper was submitted to the World Gold Council Board in March 2010 proposing the creation of an 'umbrella' chain of custody scheme to encapsulate the best elements of existing standards, with the aim of 'increasing confidence along the value chain'. It noted that the programme would 'initially focus on conflict gold'. Because of the fungibility of gold, the paper took the Roundtable on Sustainable Palm Oil

(RSPO),rather than the Kimberley Process, as providing the most applicable model. The paper advocated a scheme that captured the whole value chain with segregation and traceability for gold meeting defined standards whilst, at the other end, users could purchase 'credits' from those miners who were feeding certified gold in to the value chain. It conceded that complete segregation of different sources of gold was unlikely 'to be achievable in the immediate future' and so pointed to the RSPO's use of different levels of certification based on the levels of segregation achieved in the early years.

The paper acknowledged that any 'Responsible Gold' certification scheme would ultimately have to cover other sources of production. Thus, it was hoped to persuade actors involved in the production of recycled gold to define parallel 'responsibility' standards and to work with the Alliance for Responsible Mining (ARM) and the Fair Trade movement to produce a mutual recognition scheme for ASM. It acknowledged too the lack of reliable market data on the potential demand drivers for a certified gold product in the technology and jewellery sectors and proposed the need for a study to determine whether the market might support a premium price for 'traceable' gold. Stakeholders for the design of any scheme were identified as:

World Gold Council member companies	**Other corporate gold miners**
Jewellery manufacturers	**Retailers**
Technology companies	**Traders & trading bodies**
ASM representative groups	**NGOs**
Scrap traders/brokers	**Bullion banks**
Large refineries	**Small refineries**
International institutions	**Governments**

The Board supported the proposed approach and remitted detailed work to the Responsible Gold Steering Committee.

The model recommended to the Steering Committee was a tiered process for certification of gold with minimum standards but moving producers through to higher levels as the range of standards on which they were able to achieve certification increased. It also envisaged that this approach would 'largely rely on existing, independently developed standards, but that the World Gold Council would intervene to orchestrate new standards 'when necessary' if gaps appeared. Bespoke certification of an individual element of the 'umbrella' standards would be used only when 'absolutely necessary' so as to encourage audit/assurance synergies with existing corporate reporting processes.

The Steering Committee met again on 11th May 2010. From the minutes and subsequent interviews, some unease was evident about the speed at which work was being progressed given the complexity of the issues raised. The intention, at this stage, was for the Standard to govern gold from the start of mining to the conclusion of refining. There was, however, no clarity about how such certified gold would progress to consumer markets for use in the jewellery and technology sectors. An early draft of the 'Conflict Gold' Standard was discussed and it was agreed that member companies should conduct 'desk-top' pilots. Only some did so.

In June 2010 the Board gave its 'in principle' approval to the 'Conflict-Free Gold Standard' and approved the implementation of desk-top pilots. The approval was subject to the Standard being able to:

- **'generate sensible conclusions';**
- **be implemented in a 'cost effective and time efficient' manner; and**
- **to use 'credible reference points'.**

The Board sanctioned engagement by the World Gold Council Secretariat, in consultation with those member companies with a presence in Washington D.C., around Section 1502 the Dodd-Frank Bill provisions on 'conflict minerals', which was awaiting Presidential approval. The Board also expressed interest in the idea of creating a World Gold Council 'Responsible Gold' brand that could be stamped on gold bars etc. In interviews conducted after the publication of the Standard, many actors concluded that this had been an overly-complex and ambitious proposal, and one sceptic commented: 'My perception is that the Board had been seeking for some time to define what it meant to be a World Gold Council member company and here suddenly was an idea that stitched it all together around an attractive-sounding narrative.'

The Board paper set out a tenet, which was to become an important guiding principle for the Standard and to figure prominently in the eventual Declaration on Mining and Armed Conflict:

"Well managed companies operating to high standards of corporate behaviour can be a 'force for good' when operating in countries with weak governance…Where conflict is particularly severe even the best managed company will find it difficult to ensure that its activities or commodity do not contribute either directly or indirectly to the conflict. The Conflict-Free Gold Standard is intended to put an objective framework around determining whether gold is free of conflict or of contributing to conflict."

This rationale challenged what was perceived to have become 'conventional wisdom' whereby NGOs tended to put pressure on extractive companies to withdraw from difficult operating environments in the belief that their presence would probably make matters worse. The problem with such withdrawal or divestment, from a public policy perspective, is that it tends to destroy livelihoods in the formal economy, reduces government revenues, weakens infrastructure, and can thereby increase fragility and further decrease the presence of the State. The desirability of retaining ‘responsible’ investors *in situ* and of retaining trading activities in order to maintain livelihoods and promote stability underpinned the work of the OECD’s Guidance on Due Diligence on Responsible Mineral Supply Chains[10]. Moreover, if a framework were to be devised that could preserve the ability of a mine (with its attendant ‘sunk’ investment) to continue to operate in a conflict-affected area, through demonstrating by objective criteria that it not exacerbating conflict or associated human rights abuses, then it would contribute to building a business case for companies’ participation in developing a Conflict-Free Gold Standard.

The Steering Committee had its next meeting on 20th July 2010. The minutes indicate different perspectives on motivations for the Standard. Three rationales were suggested, namely: to ‘create a worthwhile legacy[11]’; to create competitive advantage *vis a vis* non-World Gold Council member companies; and/or to pre-empt or anticipate legislation or regulatory initiatives. No conclusions were reached as between them. Interviews subsequently conducted for this study with Steering Committee participants, highlighted that a number felt that their World Gold Council Board representatives had not clearly communicated the Board’s original mandate within their companies. Although the Board’s December 2009 decision, reinforced in March 2010, was often cited by the World Gold Council team as the source of authority for the Steering Committee’s work, some of the company representatives came to doubt whether the Board had thought through the complexity of the issues raised. Whether fair or not, this perception became a significant factor in the process becoming increasingly contentious between the companies from the end of 2010.

The Steering Committee signed-off guidance on implementing the desk-top pilots. It was also agreed on a confidential basis to seek engagement with four NGOs: WWF, Amnesty International, Fund for Peace and International Alert around themes of relevance to each of these organisations.

The first draft of a Chain of Custody Standard was also tabled at the meeting. This could ultimately be used to establish the traceability of gold conforming to a variety of standards of which the ‘conflict’ standard might be the first. The Chain of Custody draft Standard was thought by the Committee to be ‘workable’ albeit ‘likely to add complexity and costs’. Some Committee members questioned the extent of the value likely to be realised through the creation of such a system, the extent to which NGOs would see it as credible, and whether it risked duplicating work being done through ICMM. Nevertheless, the Committee agreed the approach for piloting with a view to roll-out in March 2011.

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[10] See also work by International Alert and by the UN Global Compact especially ‘UNGC: The role of the private sector in zones of conflict’ (2001) and UNGC and Principles for Responsible Investment (PRI) ‘Business in Conflict-Affected and High-Risk Areas: A Resource for Companies and Investors’ 2010

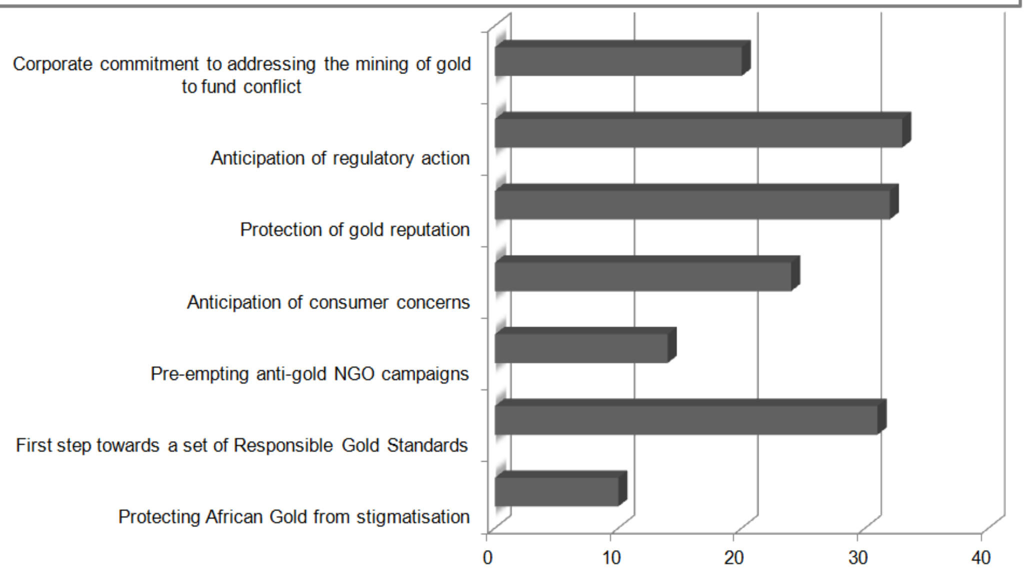
[11] World Gold Council Steering Committee minutes

Box 1: What motivated companies to become involved in the development of the Conflict-Free Gold Standard?

In a survey conducted for this study in early 2015 (after the launch of the Standard and so with the benefit of hindsight), company representatives involved in the Steering Committee were asked to identify what motivated their company's participation in the process. The dominant factors were in order: anticipation of regulatory action (although this didn't appear to be an imminent risk when the work started); the protection of gold's reputation; taking the first step in instituting a set of Responsible Gold standards; anticipation of consumer concerns; and a corporate responsibility commitment to address the issue of gold and conflict funding.

Q. Motivation for companies to support the development of The Conflict-Free Gold Standard

Commentary: 7 gold mining companies responded. Each was asked to rank the importance of the following factors in motivating their participation and points were then derived from their rankings and then aggregated.



Although mention was made of 'consumer concerns', at that time these were largely the preserve of a niche group in the jewellery market and of student activists. Rather there was a *concern* amongst some companies that consumer interest might suddenly be galvanised. Attention was increasingly focused on the technology sector where brands like Apple, Motorola Solutions and Hewlett-Packard were vulnerable to attack about the origins of the minerals used in their mobile devices and were working through the Electronics Industry Citizenship Coalition (EICC) to improve the traceability of their minerals. Their approach, however, became increasingly driven by compliance considerations around Section1502 of the Dodd-Frank Act to the extent that some World Gold Council member companies saw the EICC approach as liable to lead to avoidance or stigmatisation of African gold.

2. Increasing interaction with public sector initiatives on addressing 'conflict minerals' (September 2010 – June 2011)

From September 2010 onwards, the landscape for the development of the Standard became increasingly influenced by the passing of Section1502 of the U.S. Dodd-Frank Act[12]and by the process for developing the OECD Due Diligence Guidance on Responsible Sourcing of Minerals from Conflict-Affected and High-Risk Areas. Issues such as the compatibility between the World Gold Council's draft conflict Standard and the U.S. regulatory and OECD normative initiatives, and how the gold industry should influence these processes, became significant dimensions of the work programme.

Overview of the U.S. legislative and OECD normative initiatives

The inclusion of sections 1502, 1503 and 1504 in the Dodd-Frank Wall Street Reform and Consumer Protection Act, seemed surprising and anomalous to many non-U.S. observers since, in an Act focused on financial services, these sections deal respectively with 'conflict minerals', mine safety and the mandatory publication of listed extractive company payments to governments. Indeed, they appeared in the Bill at a late stage and without substantive debate.

The 'conflict minerals' provisions require those companies that file reports to the U.S. Securities and Exchange Commission (SEC) and that are involved in the manufacture of products involving the use of tin, tantalum, tungsten and gold, to conduct a reasonable 'country of origin' inquiry to determine whether any of their minerals originated in the Democratic Republic of Congo or eight adjoining countries (termed in the Act, the 'DRC countries') or from scrap or recycled sources. If there is a possibility that the minerals did so originate, then companies are required to conduct due diligence and determine whether their production may have financed or benefitted armed groups. It was initially unclear whether these provisions would be applied directly by the SEC to mining companies or only in the sense that downstream users of gold, such as technology, jewellery, automotive and industrial product companies, would need to seek assurance from miners about the circumstances in which their gold was produced. Ultimately mining companies were excluded from direct application because the US standard industrial classifications do not define mining as a 'manufacturing' activity.

The OECD was initially handed the remit of developing Due Diligence Guidance on the responsible sourcing of minerals by the G8 countries as a means of preventing illicit financing of conflict(the G8 first took an interest in the topic under German Chairmanship through the Heiligendamm Declaration of 2007).Its work was then endorsed in 2010 by the UN Security Council and by the Heads of State of the eleven countries, which make up the International Conference on the Great Lakes

[12] A full description of the provisions of s. 1502 are given in an SEC Fact Sheet http://www.sec.gov/News/Article/Detail/Article/1365171562058

Region (ICGLR)[13]. The OECD had first established its credentials to work on these issues in 2006 when it produced a Risk Awareness Toolbox for companies operating in Weak Governance Zones.

Two key differences are worth highlighting between the Dodd-Frank and OECD approaches – what one observer typified as being ‘a matter of product versus process’:

- **First, Dodd-Frank focuses on conducting due diligence around the origins of specific tranches of metal whereas the OECD system focuses on increasing the effectiveness of due diligence processes.**
- **Second, Dodd-Frank focuses exclusively on the African Great Lakes region while the OECD Guidance covers mineral-producing countries or regions affected by conflict anywhere in the world[14].**

The ‘conflict minerals’ section of Dodd-Frank was hailed as a success that would catalyse moves to clean-up supply chains from the Eastern DRC and adjacent countries by advocacy-focussed NGOs such as the Enough Project and Global Witness. Concerns grew, however, amongst some governments, companies and implementation-focussed NGOs that the inflexibility of the Dodd-Frank provisions would serve to incentivise companies simply to avoid sourcing minerals from Africa as the easiest and most cost-effective means of discharging their legal obligations – which had the potential to damage other African gold producing countries not included in the Act. The World Gold Council was tasked by its Board with ensuring that the SEC and OECD officials understood the distinct characteristics of the gold market with the aim of avoiding damaging knock-on impacts or unintended consequences. The companies were particularly sensitive to the potential impact on gold’s reputation through it being labelled in law as a ‘conflict mineral’ and advocated, ultimately unsuccessfully, against the inclusion of the phrase in the SEC rule-making. At this point, the working title of the draft Standard was quietly changed to the ‘Conflict**-Free** Gold Standard’

Section 1502 was controversial with many US businesses because of what they saw as disproportionate compliance costs. Initially the SEC estimated these would be around $70 million but subsequently revised this estimate to an upfront cost of $3 to $4 billion with an ongoing annual cost of $200 million – whilst some industry groups suggested the true figure was over $10 billion.

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[13] At the time the ICGLR comprised Angola, Burundi, Central African Republic, Democratic Republic of Congo, Kenya, Republic of Congo, Rwanda, Sudan, Tanzania, Uganda and Zambia. South Sudan acceded later following its secession from Sudan.

[14] Dodd-Frank can, on the initiative of the US Secretary of State be applied to other minerals, such as cobalt, beyond gold and the 3Ts, produced in the DRC and surrounding countries. The OECD Due Diligence Guidance could be applied to other minerals if further mineral-specific supplements were to be produced. Discussions have been held about the possibility of applying the Guidance to gemstones.

Some academics and think tanks were also concerned that the incentives created by the legislation for the avoidance of minerals from central Africa, would lead to an effective boycott of minerals from the region. For example in a paper commissioned by the Centre for Global Development and published in January 2012, Assistant Professor Laura Seay of Morehouse College, a DRC specialist, noted the creation of a *de facto* ban on Congolese mineral exports had, "put anywhere from tens of thousands up to two million Congolese miners out of work in the eastern Congo and …done little to improve the security situation or the daily lives of most Congolese."[15] A similar case was made in a later book by the Financial Times' Tom Burgis[16] who commented: 'If there is a lesson of 1502, it may be this. It's relatively easy to source minerals in a war zone and to pour them into an international market that demands ever niftier gadgets. But regulating the supply chains of our global economy without inflicting harm on whole communities by choking off livelihoods is an altogether harder task.'[17]

The last minute addition of the mining-related clauses to the Dodd-Frank Bill caused additional problems around a perceived lack of consultation on the part of the countries most affected. The governments of the targeted Central African nations learned of the passage of the law with some bewilderment since they had not been involved in the design of the legislation and were presented with a *fait accompli*. State Department posts in the region were similarly caught off guard and had the job of explaining the intention and modalities of the legislation to their host governments[18].

Steering Committee work programme: The World Gold Council Responsible Gold Steering Committee reviewed feedback from the 'desktop' exercise in September 2010. This highlighted concerns about how best to define whether a mine was located in a conflict area or not, and the need to develop a process for the handling and processing of gold and copper concentrates (as opposed to gold in the form of doré).In addition, some company representatives felt that the draft provisions on 'community relations' were too rigid. These provisions were later substantively rewritten.

On the Chain of Custody Standard, further work was being undertaken with the Rand and Pamp refineries. The Swiss refiners, in particular, stressed the importance of building on their existing and very demanding Anti-Money Laundering (AML) and Know Your Customer (KYC) provisions, rather than inventing parallel processes.

The refiners also strongly believed in the need for greater clarity about how gold from artisanal miners and scrap/recycled gold would be treated in any 'responsible gold'

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[15] 'What's wrong with Dodd-Frank 1502? Conflict Minerals, Civilian Livelihoods and the Unintended Consequences of Western Advocacy' – Paper 284, 5th January 2012

[16] 'The Looting Machine: Warlords, Oligarchs, Corporations, Smugglers, and the Theft of Africa's Wealth' (2015

[17] Article in Politico Magazine, May 10th 2015

[18] Based on the author's conversations with Tanzanian Government and State Department officials during 2011.

regime. Some of the people or organisations consulted took the view that all ‘scrap’ or recycled gold should be treated as ‘non-compliant’ since it was impossible to establish its ultimate origin. Others saw this as likely to result in ‘unfair labelling’ implying that newly-mined gold was ethically superior. In response, some argued that scrap/recycled material should automatically be ‘grandfathered’ as ‘compliant’ – but this had the potential to create a covert route for laundering ‘non-compliant’ gold into ‘compliant’ material.

At this stage the Steering Committee planned that the Standard should define ‘conflict gold’ as involving:

- **Gold which ‘enables, fuel or maintains conflict’;**
- **Armed aggression between two or more parties which leads to severe abuses of human rights; and**
- **An association with severe abuses of human rights – genocide; ethnic cleansing; or widespread instances of sexual abuse of women and children, torture, enslavement, human trafficking or multiple unlawful killings.**

Tyler Gillard, one of the OECD officials tasked with drafting the Due Diligence Guidance on the Responsible Sourcing of Minerals and with considering the case for a Gold Supplement, attended the Responsible Gold Steering Committee meeting on 2nd December 2010. The first formal interactions with the OECD had occurred earlier in the Autumn when Gareth Llewellyn was invited to speak at a joint OECD/International Conference on the Great Lakes Region multi-stakeholder meeting on the drafting of the due diligence guidance in Nairobi.

By the time of the December meeting[19], there was growing evidence of disquiet amongst some, especially North American, member companies about the far-reaching and complex nature of the World Gold Council scheme. Those without operations in Africa were unconvinced of the need for a wider geographical scope, flagging the potential for different commercial interests to colour the perspectives of companies involved in the process. One company representative requested a ‘back to basics’ review, noting that: ‘from our perspective the current public perception of conflict gold is largely associated with a single region (DRC/surrounds). The WGC scheme not only opens up this definition to gold produced in any other region of the world but it also expands the scope from gold which ‘finances’ conflict to that which is simply produced in or even close to or adjacent to conflict…. I am not convinced that we have assessed all the risks of the scheme and where it could lead. Nor do I feel we have a sufficient handle on the potential value that the scheme may offer

[19]In November 2010, the author of this study joined the project team as a senior adviser on policy and international corporate responsibility best practices, stakeholder engagement and communication. His responsibilities flexed between these areas over the period of the project and its immediate aftermath

WGC member companies, especially given the evolution of the regulatory landscape'. This elicited the response from one of the refiners that they had tested 'the merits of our intention to implement the scheme with other players in the upstream and downstream market place…. We have received unequivocal support from these sectors to proceed'.

These differences were debated at the Steering Committee on 1st December 2010. The Committee revisited the objectives of the project and agreed:

- **That the core objective was to 'demonstrate that gold miners and refiners act in a responsible manner';**
- **That the initiative would 'take time to encompass all of what could be considered as "responsible" and should be long-term in nature since conflict is only one area of concern'; and**
- **That the "Responsible Gold" initiative should both 'create consumer confidence and demonstrate value to the companies involved'.**

Some of the challenges involved in delivering against these aims were discussed and the Committee highlighted:

- **A lack of detailed understanding of the scheme within member companies;**
- **The risks associated with supply chains outside the scope of the scheme (i.e. scrap/recycled; concentrates and artisanally-mined gold)**
- **The importance of interactions with 'alternative' schemes such as the one being pursued by the Responsible Jewellery Council.**

Three main questions were posed:

- **Whether it was necessary, at least in the short-term to go beyond assurance of gold produced in central Africa?**
- **Whether it was necessary for the draft Standard to go beyond the parameters created by the Dodd-Frank Act and the OECD Guidance? and**
- **Were the on-the-ground implementation requirements more complicated than originally envisaged?**

The Committee agreed to postpone the site-level pilots given the uncertainties caused by regulatory developments. A newly-formed Refiners' Committee was asked to work on the treatment of scrap/recycled material bearing in mind the need to avoid creating a means of by-passing the protections that the Conflict Free Gold Standard was being designed to create, whilst also recognising that 'if all scrap is excluded it risks significantly changing the structure, equilibrium and potential confidence in the gold market.'

Box 2: The identification and recognition of conflict

As noted in the description of the final Standard provided in Section 2, the initial Conflict Assessment (Part A) requires participating companies to determine whether any of their operations are located in a 'conflict-affected or high risk' area or whether their gold is transported through such an area. A finding of a potential interaction with conflict triggers a requirement to implement Parts B and C of the Standard – the Company and Commodity Assessments.

In September 2011, the Steering Committee decided to drop devising its own definition of what constitutes a 'conflict-affected' area in favour of alignment with the wording used in the OECD Due Diligence Guidance Gold Supplement. Thus, the definition used in the final version of the Standard is:

"Areas identified by the presence of armed conflict, widespread violence, including violence generated by criminal networks, or other risks of serious and widespread harm to people. Armed conflict may take a number of forms, such as conflict of an international or non-international character, which may involve two or more states, or may consist of wars of liberation, insurgencies or civil wars. 'High risk' areas are those where there is a high risk of conflict or of widespread or serious abuses as defined in paragraph 1 of Annex II of the OECD Guidance. Such areas are often characterised by political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure, widespread violence and violations of national or international law."

The first stage gate of the Standard's 'conflict assessment' process is to check that the mining and transportation of gold does not take place in breach of international sanctions. The relevant sanctions are deemed to be those imposed by the United Nations[20] or leading regional bodies such as the African Union, European Union, or the Organization of American States rather than those imposed by an individual country, albeit a given company might find itself bound by a sanctions regime imposed by its home country government.

The second stage gate was to identify whether a mine – or the transport routes for its doré – was in a conflict-affected area.

[20] Between 1966 and 2015 the UN Security Council has imposed sanctions on 26 countries: Rhodesia, South Africa, former Yugoslavia, Haiti, Iraq, Angola, Sierra Leone, Somalia, Eritrea, Liberia, the DRC, Cote d'Ivoire, Sudan (2), Lebanon, North Korea, Iran, Libya (2), Guinea-Bissau, Central African Republic, Yemen and South Sudan as well as against Al Qaeda and the Taliban.

If, like the OECD Guidance, the Standard was to have global application rather than be confined to central Africa, then a credible means of identifying gold producing conflict areas would need to be at the heart of its design. The companies wanted to find a mechanism that was independent and respected by third parties such as governments and NGOs. They wanted a degree of automaticity between the objective assessment of an area's conflict status and the actions that a company would have to take to provide assurance that its activities were not exacerbating conflict. They wanted to avoid companies being saddled with the primary responsibility for identifying whether an area was 'conflict-affected or high risk' since it was not their area of expertise.

Moreover, an individual company publicly designating an area 'conflict-affected or high risk' may be controversial with host governments who may, simultaneously, be trying to promote investment and 'normalise' perceptions of a region. Such tensions take on wider significance because host governments determine mining companies' legal license to operate and their broader enabling environment. The issue became a significant point of disagreement between industry and the OECD Secretariat since OECD countries seemingly regarded it as too politically sensitive to produce a master list of which countries/regions should be considered 'conflict-affected or high risk' but were, nevertheless, seemingly content to push the responsibility for reaching such determinations on to individual companies.

The need to have a common point of reference was important for the companies. They feared that the credibility of the Standard would be damaged if, for example, without a common source of guidance different companies, operating in proximity to each other, came to contradictory conclusions about whether their operations were located in a conflict-affected or high risk zone. In summary, Peter Sinclair, Barrick's Steering Committee representative commented: 'We were worried about a system that was too discretionary and would potentially result in companies coming to different conclusions about broadly the same locations and also about companies becoming caught up in political debates with host governments about the conflict-status of specific regions. So we looked for an authoritative benchmark.'

Consideration was given to basing judgements about the conflict status of regions on UN Security Council resolutions. This would have had the advantage that the UN's legitimacy is widely accepted and not seen as dominated by Western interests. However, the disadvantage of such a reliance was that the UN list of situations constituting a risk to international 'peace and security' contains a number of essentially frozen conflicts – such as those in Cyprus or Western Sahara – whereas a number of active conflicts are not so designated because of a lack of consensus between the five Permanent Members of the Security Council. Thus the Steering Committee concluded that the list would be insufficient to meet the concerns of activists or consumers in Western markets.

Early in the process of the Standard design, three indices were identified as potential benchmarks: Fund for Peace's *Failed States Index*; the Stockholm International Peace Research Institute's *Armed Conflict Database;* and the Heidelberg Institute for International Conflict Research's *Conflict Barometer*. For a period during 2011, the Steering Committee considered establishing an entirely new multi-stakeholder advisory panel to provide guidance on conflict areas. This was ultimately deemed impracticable because of the timescales involved in establishing the independence, credibility and track record for such a group. After further consideration, the Steering Committee concluded that the Heidelberg Conflict Barometer should be the primary data source.

The Heidelberg Conflict Barometer (http://www.hiik.de/en/konfliktbarometer) is refreshed annually and rates the conflict status of different areas and regions. The Barometer divides countries and regions into five tiers: 5 – war; 4 – limited war; 3 – violent crisis; 2 – non-violent crime; and 1 – dispute. Early internal drafts of the Standard suggested that all areas ranked '3' or above should trigger implementation of the 'Company' and 'Commodity' assessment elements of the Conflict Free Gold Standard and that gold from operations in tier 5 countries would not be certified. After piloting it was agreed that tier '4' and '5' regions constituted a sufficiently demanding threshold to meet public expectations and that the idea of a blanket exclusion of operations in tier 5 regions was contrary to the intention of encouraging responsible economic activity and of exercising 'due diligence'.

An additional concern was that there should be a 'proximity to conflict' test. Thus, a high conflict risk rating for a large country with localised conflicts, such as Russia (Dagestan, Ingushetia); India (Naxalite conflicts); or the DRC (North and South Kivu), should not have implications for mines located hundreds of miles from the conflict.

A Heidelberg ranking of '5' or '4' for a location[21] (or such a ranking during the previous two years) triggers the need for a mine to implement the Company (Part B) and Commodity (Part C) Assessments of the Standard. If the transport route for doré is implicated then the company is obliged to implement the Commodity Assessment. Some discretion is, however, provided to companies in both directions. Thus, if a company disagrees with the Heidelberg rating for their mine location (in either a more conservative or more liberal direction), then they can come to a different conclusion, subject to providing evidence of the reasonableness of their conclusion to an independent assurance provider.

[21] In respect of 2012 the Heidelberg Conflict Barometer defined the following significant gold producing countries as containing areas which were rated '5' or '4': Colombia; Cote d'Ivoire; Democratic Republic of Congo; Egypt, Mali, Mauritania, Mexico, Russia, Sudan and Turkey. Of which Mexico, Colombia and Mali would rank in the top twenty – along with Russia, but in the latter case, only a tiny proportion of gold came from conflict-affected areas.

The Standard references other authoritative sources of guidance upon which companies can draw, including the UN Security Council and UN Groups of Experts, the European Union, the African Union and the Organisation of American States together with 'widely respected civil society organisations' such as the International Crisis Group and the International Committee of the Red Cross.

The Standard also notes that Principle 23 of the UN Guiding Principles on Business and Human Rights creates an expectation of regular due diligence and that companies need to "take appropriate action if there is reasonable cause to believe that through changing circumstances an area could be considered to have become 'conflict-affected' or 'high risk'".

Sources of division: The World Gold Council Board met on 7th December 2010 in New York. Its discussions reflected the different concerns manifested at the previous Steering Committee meeting. Some companies questioned whether the Standard should, at least initially, just relate to Central Africa and whether the Standard should be confined to mining rather than also embracing the refining stage. They asked for a review and barred any external communication about the initiative until this had been undertaken. Based on the minutes of meetings and on subsequent interviews with company representatives it appears that the issues at the heart of the internal debate were:

- **Unease about whether, with Section 1502 of the Dodd-Frank Act having defined a baseline for business to meet public expectations about minerals funding conflict, the gold industry should be going significantly further. In particular, if U.S. legislation suggested that the problem was specific to the African Great Lakes Region why should the industry risk communicating to consumers that there was potentially a wider taint?**
- **With complex legislation on the U.S. statute book was it better to concentrate on implementing that and avoiding, at least in the short term, creating a plethora of different compliance approaches?**
- **There were differences in perspective based on the location of each company's mines. For those with significant assets in Africa or which were headquartered in Africa, the issue of 'conflict gold' and the danger of stigmatising African gold production, was more immediate than for those with operations primarily in developed countries or, for example, in South America.**
- **Uncertainty about the likely extent of consumer demand for gold certified against a range of social, environmental and governance standards. Some companies saw this as duplicative of ICMM's role.**

- **Whether the heavy-lifting would be more appropriately undertaken by other industry schemes, such as those being developed by the Electronic Industries' Citizenship Coalition (EICC) and the Responsible Jewellery Council. But some companies were uneasy that, for example, the EICC 'Conflict-Free Smelter programme identified refiners as the pinch-point in the gold supply chain and, therefore, in the driving seat in policing compliance. They feared that this could result in rules being imposed upon miners rather than the mining companies taking a leadership role.**
- **Whether the Standard could or should seek to create rules for the whole gold supply chain rather than being restricted to those things under member company control – i.e. large-scale gold mining in the formal sector. This highlighted a tension in the role of the World Gold Council itself, which was created by gold mining companies but plays a wider role as the voice of gold in the market rather than being focussed on mining issues. To achieve comprehensive coverage, a Conflict-Free Gold Standard would need to create rules for actors in the scrap/recycled gold business and for artisanal and small-scale miners; neither appeared to be feasible or realistic.**
- **There were concerns that the plan to set performance requirements through to the end of the refinery could create competitive advantage for those companies[22] that owned stakes in refineries compared with miners without such integration. Some companies were concerned, for example, that they might not be able to persuade their refiners to 'segregate' conforming from 'non-conforming' gold feedstocks, given the costs involved. Some refiners were suspicious and thought that gold miners were seeking to dictate their practices and to establish a premium for newly mined gold relative to recycled material.**
- **There were anxieties too that the creation of a stream of 'Responsible Gold' might 'bifurcate' the gold market, especially as between East and West (since, as previously noted, research indicated that consumers in the East were less concerned about provenance and conflict issues) and that the creation of different 'categories' of gold could disrupt the smooth operation of the global gold market, thereby causing economic dislocation, potentially reducing prices and undermining relationships with key industry stakeholders such as the bullion banks.**

These were the major policy and philosophical issues that fell to be resolved over the next twenty months. The dynamics of the Standard development process had been interrupted by the passage of U.S. legislation, which concentrated attention on issues of legal compliance. Moreover, whilst the World Gold Council's Project

[22] At the time AngloGold Ashanti, Gold Fields and Newmont owned stakes in refineries

Manager had been adept at driving progress and devising solutions to problems as they occurred, he had been unable – and this may have been inevitable given the breadth of interests round the table – to build sufficient consensus. It also became clear in the months that followed, that the Steering Committee's work needed a clearer connection to the Board in order to ensure that it was following a clear mandate and so as to make it easier for senior level dialogue to resolve important points of difference.

On 15th December 2010, the U.S. SEC published the draft Rules to implement Section1502 of Dodd-Frank with a deadline – later extended – for comments of the end of January 2011. It is not the purpose of this case study to probe the finer points of the SEC's rule-making other than to observe the extent to which it affected the processes for developing the Standard and aspects of the public policy environment. Following a meeting with member companies in Toronto in January 2011, two corporate members of the Steering Committee, together with the World Gold Council's Gareth Llewellyn and Holly Lewis, a US attorney, met SEC officials with the intention of briefing them about the complexities of the gold supply chain.

The World Gold Council followed up the meeting with a submission to the SEC. Its main message was that its member companies strongly supported the objective of s.1502 in seeking to break the connection between mining and the funding of armed groups. It objected, however, to the labelling of gold as a 'conflict mineral' given that only a small proportion of gold was tainted by such an association. This was supported by some relatively technical, but important, points relating to: the exclusion of gold mining from the ambit of the regulation since under established US industrial classifications it was not a 'manufacturing' activity; a call for a *de minimis* exemption for very small quantities of gold used in medicine and as catalysts; the lack of relevant existing audit standards; and the danger of implementation being required in advance of manufacturers having time to put the necessary supply chain management systems in place.

A more detailed paper was also submitted by the World Gold Council, drawing on material provided by the Chambers of Mines of South Africa, Ghana and Tanzania. This explained, *inter alia*, the role of gold in the Tanzanian economy and the danger of the legislation having severe unintended consequences both for formal sector gold production in Tanzania and on the livelihoods of legitimate artisanal miners, unconnected with conflict. Tanzania's mining output is dominated by large-scale formal mining (including mines operated by two World Gold Council member companies) and has a different structure from the largely informal, artisanal model existing in the DRC, which was vulnerable to control by armed groups. In 2009, even after allowing for illegal production, the DRC accounted for only 0.6% of newly mined gold compared with two and a half times that level from Tanzania. The paper suggested that gold mined and certified to have come from formal sector mines in Tanzania should not trigger the requirement for a manufacturer using this gold to produce a Conflict Minerals Report.

Finding a way forward: In parallel, work was underway to define a way forward on the design of the Standard. The Steering Committee recommended that the

‘Responsible Gold Initiative should continue’ and that the refiners should remain in the process, but with a clearer delineation as to the point at which responsibility was to be transferred between the mine and the refinery. In relation to the conflict assessment, the need for a ‘proximity to conflict’ test was agreed. In addition, a consensus was reached on the need for a clearer distinction to be drawn between the status of illegal armed groups and official armed forces in relation, for example, to payments to governments. The description of ‘conflict’ used in the Standard was henceforth to refer to ‘**unlawful** armed conflict’. The Committee also agreed to integrate aspects of the risk assessment framework provided by the Voluntary Principles on Security and Human Rights into the Standard and on aligning the definition of the term 'benefitting’ armed groups with the approach taken in Section1502 of Dodd-Frank.

In February 2011, the Steering Committee began consideration of a ‘Declaration of Core Principles’. This had been proposed by Ed Opitz of Kinross Gold as a means of framing the intent of the Standard. Some saw the idea as providing a text that all companies could adopt with the Standard becoming an auditable guide to implementation. Ultimately this model was not adopted but the Declaration was eventually to form a ‘chapeau’ for the Standard. It was judged to provide a useful summary of objectives, to underline participating companies’ commitment to responsible gold production, and to link the initiative to best practice frameworks such as the Extractive Industries Transparency Initiative (EITI), the UN Guiding Principles on Business and Human Rights, and the Voluntary Principles on Security and Human Rights.

The World Gold Council Board meeting in March 2011 provided an opportunity to re-set the development programme for the Standard. Member companies agreed that, with the growing prominence of the ‘conflict mineral’ issue, gold miners should be constructively and actively engaged in public policy debates. It authorised continued engagement with the SEC and U.S. State Department and proposed that the draft Standard should be shared with the OECD as a contribution to the development of the OECD’s Due Diligence Gold Supplement. The Board was persuaded too of the need for continuing engagement with other industry associations and responsibility initiatives, such as the Electronic Industry Citizenship Coalition (EICC) and the Responsible Jewellery Council, to ensure alignment between these different but related industry frameworks. Since, AngloGold Ashanti and Gold Fields had already featured their involvement in the design of a Conflict-Free Standard in their annual Sustainable Development reports, it was also agreed that a low key announcement could be made about the work and drafts of the Standards released for external consultation. The Board was persuaded that making the work visible would increase the industry’s ability to influence the public policy debate and engage other stakeholders. The Board also agreed that member companies should ‘stress-test’ the workability of the Standards at some of their operations.

A more active stance from the gold refining industry: Before the draft Standards were released, however, the London Bullion Market Association (LBMA) announced that it would develop its own ‘Responsible Gold Guidance’ to help refiners to meet their conflict-related due diligence obligations. The LBMA takes the lead on regulatory issues for refiners and bullion banks who participate in the London gold market. It had participated in some of the World Gold Council's meetings on the development of the Conflict-Free Gold Standard. The LBMA's action was motivated by disquiet amongst its members. Some refiners, for example, disliked aspects of the EICC's Conflict-Free Smelter/Refiner programme including the cost of additional audits and felt that the refining industry should be master of its own fate rather than having rules imposed upon it by the electronics industry – or indeed by gold miners. Other members were suspicious of the motives of the large gold mining companies fearing either that they were seeking to create a 'premium' newly-mined product or that the new process might make it more difficult for refiners to acquire doré from artisanal miners who might be unable to fulfil increasingly demanding due diligence requirements. Some refiners were particularly concerned about the emphasis on 'segregation' of materials in the draft Chain of Custody Standard and the inflexibilities and additional costs that this might create.

Moreover the bullion banks and some refiners were concerned about causing the gold market to bifurcate. Relations between the World Gold Council and the LBMA remained co-operative despite the démarche. It also made it easier for the World Gold Council to consider simplifying the scope of its own programme since it would be able to transfer responsibility for due diligence at the refinery to the LBMA's regulatory and audit framework.

Box 3: Recreating trust between the companies and rebuilding momentum

Trust between the companies, around the project, had been eroded during the final months of 2010 and there was no certainty that the World Gold Council would be able to bring the work to a successful conclusion.

Thus, the first half of 2011 was primarily occupied with seeking to re-establish common ground and with making the case for continuing to work together on developing a Conflict-Free Gold Standard. Given the unprecedented array of legislative, normative and industry initiatives being pursued, there was a strong argument for the gold companies to work together in order to influence the debate. For a period, external initiatives came to dominate the companies' thinking.

In April 2011, Gareth Llewellyn resigned to take up another appointment and Terry Heymann became Project Manager and Director, Responsible Gold. He set about building a collaborative approach with internal and external stakeholders and recruiting a project team of up to ten people. The team was in place by September 2011. It was composed of a mixture of full and part-time members and included two secondees – Jessica van Onselen from AngloGold Ashanti and Ounesh Reebye from Goldcorp – to strengthen linkages with the companies. The team's tasks included improving understanding within the World Gold Council and member companies of a number of topics.

Team portfolios included: consumer issues and attitudes towards the provenance of gold; gold supply and flows – including increasing understanding of Artisanal and Small-Scale Mining; policy and stakeholder engagement; gold for development; Standard implementation and development; jewellery; and communications.

In addition, during the autumn, a team from KPMG was retained to work on an assurance framework, including supporting site-level piloting of the Standard. A transformational change also occurred in governance arrangements through the appointment of Pierre Lassonde, a former Chairman and long-standing Board member of the World Gold Council, to Chair the Responsible Gold Steering Committee. He was Chairman of Franco Nevada, a former President of Newmont and one of the most senior and respected figures in the gold industry.

His appointment was perceived to give the programme greater authority with the Board and amongst member companies and within the industry more broadly. In addition, it was agreed to widen Steering Committee participation, leading to IAMGold, Gold Fields, Golden Star and Agnico Eagle being invited to join Barrick, Kinross, Newmont, AngloGold Ashanti, Gold Corp and the refiners on the Steering Committee.

3) The work on the Standard goes public (June 2011 – April 2012)

The publication of the consultation drafts of the two Standards in June 2011 was accompanied by a low-key press announcement and direct outreach to almost 300 stakeholder groups inviting their input within three months. Telephone and in-person briefings were offered to all World Gold Council member companies.

In the interim, the Steering Committee met in July with Pierre Lassonde in the Chair for the first time. In briefing the Committee on the outcomes of the recent Board meeting, he emphasised the mandate to engage substantively with the SEC,U.S. State Department and the OECD and to seek to maximise co-operation and integration with the other industry schemes under development. He emphasised the importance of serving the interests of member companies rather than seeking to make rules for the whole gold supply chain. He noted, in particular, that whilst formalising the ASM gold sector in the Democratic Republic of Congo was an important challenge it was beyond the power or remit of the World Gold Council or its member companies to devise solutions. The industry should play its part, but devising a means by which large-scale gold miners could demonstrate that their gold was free from the taint of funding conflict should not create the expectation that the formal gold sector would take responsibility for cleaning up the ASM-sector when this was a responsibility of national governments with the support of international institutions.

KPMG also made a first presentation to the Committee on certification, labelling and assurance options for implementation of a Conflict-Free Gold Standard.

The OECD's Tyler Gillard spoke to the Committee about the adoption of the Due Diligence Guidance for Responsible Mineral Chains of Minerals from Conflict-Affected and High-Risk Areas and the start of work on drafting a Gold Supplement. The presentation made clear the extent to which the OECD process was being used as a means of addressing concerns that the Dodd-Frank provisions were incentivising U.S.-listed manufacturers to avoid sourcing from the African Great Lakes region. He acknowledged the limited traction that the conflict issue had in Asian markets and outlined the work that the OECD was doing to engage with Indian and Chinese authorities and with the Dubai Multi-Commodity Centre (DMCC). The Centre had been established to regulate the gold refineries in the territory where much of the smuggled gold from Africa was believed to be sent for processing. Tyler Gillard underlined that the OECD would not produce or endorse an official global map of conflict areas and acknowledged that the OECD was not in a position to motivate substantive progress in encouraging the formalisation of ASM. The companies expressed concerns about the security implications for gold miners of replicating the transparency provisions of the Tin, Tantalum and Tungsten Supplement in relation, for example, to transport routes for doré.

The Committee agreed a proposed consultation programme and as part of this process held a workshop involving companies and a wider group of refiners, facilitated by the NGOs, Fund for Peace and International Alert. The workshop focused on good practices for businesses on conflict and human rights. Both NGOs had extensive experience in supporting companies in implementing the

Voluntary Principles on Security and Human Rights, and were able to share useful insights and lessons learned to date.

Over the summer, Terry Heymann and company representatives held meetings in Washington with three SEC Commissioners – Paredes, Aguilar and Walters – and provided a briefing on the gold market for U.S. State Department officials. The latter were concerned about the unintended consequences of Section 1502 of the Dodd-Frank Act in relation to the destruction of legitimate livelihoods in the eastern DRC and surrounding countries.

In parallel, the Electronics Industry Citizenship Coalition (EICC) had published its gold refinery protocol. This caused significant concern amongst some gold miners since – because of its focus on Dodd-Frank compliance rather than alignment with the OECD approach - its list of countries requiring 'additional due diligence' was overwhelmingly dominated by African countries implying that the link between 'conflict' and gold was essentially an African problem.

Narrowing the scope of the work programme: The September 2011 Steering Committee meeting settled two important strategic issues relating to scope and assurance. Firstly, it jettisoned the Chain of Custody Standard and decided to terminate the application of the Conflict-Free Gold Standard at the point where responsibility passes from miner to refiner; thereafter dorė would be subject to the LBMA's Responsible Gold Guidance. The decision to stop work on the Chain of Custody meant abandoning, for the foreseeable future, the idea of creating a 'Responsible Gold' brand or stamped bars and with it the idea of using the mechanism to certify broader conformance with social and environmental performance standards. It also marked a decisive shift away from the original rationale for the Standard as a wide-ranging corporate responsibility initiative. In addition, it signalled an end to any attempt to set rules for the gold market as a whole and a move towards a narrower outcome focussed on gold miners operating in the formal sector and aligned with the emerging government-led regulatory and normative initiatives. The minutes recorded the basis for this decision as being:

> ***"The reluctance of many refiners to segregate their production by source makes the opportunity to create a separate category of WGC members' gold currently impracticable. Moreover, there are concerns that this activity could accelerate the potential bifurcation of the gold market and there is seen to be limited commercial appetite for such gold."***

The decision made it easier to accelerate progress since, henceforth, the challenges contained in the Standard were more directly within the control of the companies and impinged less on potentially competitive issues between them.

There is little doubt that there was a danger of the process failing without such a retrenchment of scope, especially given the differences of perspective between the African and American focused companies. A representative of one of the more cautious companies observed positively that: "the turning point for me was when we concentrated on the needs and requirements of the member companies and stopped trying to set standards for the rest of the industry. Once we jettisoned the Chain of Custody, we were able to concentrate on items under our control"[23]. Conversely, a representative of one of the more ambitious companies commented: "we compromised because we didn't want the best to become the enemy of the good. Had we continued to press for the more ambitious model, there was a real possibility that the whole process could have collapsed. Even my company was split on the issue. Some saw the retreat as frustrating and cowardly, others saw it as realistic."[24]

Clarifying the assurance process: The second issue on which the Steering Committee made important decisions was assurance. Bearing in mind the potential conflicts of interest involved, the Committee agreed that the World Gold Council could not simultaneously be a membership organisation and a certification body. Instead, the World Gold Council would publish guidelines for auditing against the Standard and selection criteria for assurance providers. The choice of an independent assurance provider would then be at the discretion of each implementing company. Integration with other forms of public reporting – whether on financial or sustainability issues – would be encouraged. World Gold Council members (and other implementing companies) would be expected to publish a statement of conformance with the Standard. The Committee also agreed KPMG's recommendation that the next iteration of the Standard should be drafted with a view to reducing 'grey areas' and, thereby, improving auditability.

Another meeting of the Committee was held in November to review external stakeholder comments arising from the consultation (see pages 56-62 relating to consultation and outreach) and to decide what changes should be included in the Standard. A more substantive meeting followed in December 2011. Amongst the issues decided were:

- **The definition of conflict-affected areas should be aligned with that used in the OECD Due Diligence Guidance Gold Supplement;**
- **Implementing companies would be required to disclose in their annual reports if their gold had been produced in conformance (or not) with the Conflict-Free Gold Standard;**
- **This statement would be externally assured; and**
- **Language would be included to make it clear that making legally mandated tax or royalty payments to a recognised host government should not open the company concerned to criticism under the Standard.**

[23] Interview with case study author

[24] Interview with case study author

Piloting the Standard: Early in 2012, the first pilot of the revised draft Standard was undertaken involving a joint World Gold Council and KPMG team at Gold Field's Tarkwa and Damang mines in Ghana. These operations were not in a 'conflict area' but were chosen because of potential risks related to illegal artisanal mining in the concession area and localised conflict. This pilot generated amendments to Part C in regard to control of gold processes together with lessons related to staffing issues.

On a Steering Committee call on 16th January 2012, it was agreed that the principles set out in the Standard should apply throughout the mine lifecycle but that implementation could only be assured during the gold producing years and that if one operation in a company's portfolio were to become non-compliant, then it should not have implications for other mines under the same ownership. It was also agreed to remove references to alignment with Section1502 of the Dodd-Frank Act.

The Steering Committee met again on 2nd February 2012 and agreed to recommend a further round of consultations to be carried out from the end of March and involving a new set of roundtables. The objectives of these would be to ensure as wide as possible stakeholder alignment with the draft; to keep a seat at the table of international policy discussions on 'conflict' issues; and to seek endorsements from international opinion formers.

At this point the implementation date for Section1502 of the Dodd-Frank Act was still unclear, despite the fact that the legislation stipulated a start date of spring 2011. Neither had the OECD Gold Supplement received Ministerial endorsement, albeit the substantive negotiations within the multi-stakeholder working group had almost been completed.

Ruth Crowell of the LBMA confirmed finalisation of the Responsible Gold Guidance (RGG) but noted the need for further work on appropriate audit protocols. She confirmed the LBMA's desire to have a smooth 'handshake' procedure as between the Conflict-Free Gold Standard and the RGG. The Committee agreed that the final Standard should be complemented by two additional documents: 'Guidance for Implementing Companies' and 'Guidance for Assurance Providers'. The former was intended to support companies moving to implementation for the first time and the second to promote greater uniformity of approach as between assurance providers – including discouraging them from adopting an unreasonably expansive interpretation of the Standard.

The Committee also agreed to include a requirement for companies to have an employee whistle-blower programme at implementing operations and a more demanding formulation around companies' obligations to implement the Voluntary Principles on Security and Human Rights or equivalent systems.

In addition, it was agreed that it was unnecessary to agree separate provisions covering concentrates, since it would be difficult for a local armed group or militia to extract gold from, for example, copper concentrate without having access to industrial-scale plant.

Finally, feedback was provided from a second pilot, undertaken at Goldcorp's Los Filos mine in Mexico. The Heidelberg Conflict Barometer identified the mine as being in a conflict-affected area.

Despite local towns having experienced drug-related murders and other violence, it was notable that local management found it difficult to accept that their mine was in a conflict zone. This may have evidenced an inclination on the part of local managers in a 'frontier' industry like mining, to 'cope' with local conditions rather than attaching a 'conflict' label to the areas where they work. This pilot provided useful input on formats for record keeping at site level and on improving the auditability of the Standard.

Engaging with international stakeholders: further Steering Committee meetings were held on 29th March and 30th April 2012 and included input from international experts.

External speakers at the April meeting, which was held in Paris, included Mamadou Barry, a World Bank expert on artisanal and small-scale mining; and Lahra Liberti from the OECD who confirmed the completion of work on the Gold Supplement and briefed the Committee on plans for its implementation.

Julie McDowell from Standard Life spoke on behalf of investment institutions with a focus on ethical, governance and sustainability issues. Her remarks were strongly supportive of the Standard and she welcomed the industry having taken a lead in pro-actively addressing a risk of significant concern to wider society and to gold's reputation.

Other items that dominated these meetings were: the extent to which implementing companies should be allowed to dissent from the Heidelberg Conflict Barometer ratings (it was decided that there should be some discretion but that any company exercising this right should have to provide justification to their assurance provider); and which audit protocol should be used for auditing against the Voluntary Principles on Security and Human Rights, since the Conflict-Free Gold Standard would involve companies having their implementation independently assured[25].

Meanwhile, news from the United States indicated that Mary Shapiro, the Chairman of the SEC, had voiced disquiet about the implementation costs of Section1502 of the Dodd-Frank Act and whether it would withstand cost-benefit analysis. She had also shown little enthusiasm for using securities legislation to achieve foreign policy objectives[26].The U.S. State Department had, meanwhile,

[25] Through the good offices of the UN Global Compact Network Canada, a guidance document was agreed in Q1 2016: ''Auditing Implementation of the Voluntary Principles on Security and Human Rights: A Guidance Document to Assist Companies and their Auditors Assess Implementation of the Voluntary Principles on Security and Human Rights'.

[26] The final rule was adopted by the SEC on 22nd August 2012. Its approach remains different from that of the OECD Guidance and it does not create specific obligations for mining, as opposed to downstream, companies. Thus, the CFGS does not explicitly reference the Dodd-Frank provisions. However, since miners have to provide due diligence information to downstream users,

pledged an initial $4 million towards a programme (the Public-Private Alliance - PPA) designed to support responsibly produced minerals from the DRC to find a path to market. The World Gold Council became a supporter, agreed to make a contribution to the PPA's costs and was elected to the PPA's Steering Committee.

Remedial Action Plans: In addition, the Steering Committee agreed to develop a paper on how operations that deviate from conformance should address lapses and restore their compliance through implementing a Remedial Action Plan (RAP) (see also description of the regime in section 2).

It was agreed that some deviations from conformance could be so serious in betraying the intention and letter of the Standard – such as exposure of direct funding going to an unlawful armed group or a company being implicated in serious human rights abuses related to a conflict situation - that a Remediation Action Plan would be an inadequate response. It was also agreed that RAPs must be initiated and implemented quickly. In the earlier stages of designing the Standard, and when the CFGS had been anticipated to cover more of the supply chain, it had been thought that non-conforming gold might be in reputational limbo and the sale of such gold might need to be diverted to charitable objectives so as to avoid the taint of non-conforming gold being sold in to the market.

After extensive debate and not wishing to be draconian to companies that could demonstrate that they had been seeking to do the right thing, the final Standard leaves the fate of non-conforming gold in the hands of the company concerned – albeit in the context of expectations of transparency.

Finally, an internal discussion paper about the ongoing role of the World Gold Council following completion of the Standard noted that through the programme: "The World Gold Council has built up a broad and deep network of contacts across a number of multilateral institutions, governments, key NGOs and gold-supply chain participants' and was engaged in two ongoing multi-stakeholder processes – the OECD working group on due diligence and responsible mineral chains and the U.S. Government-led Public Private Alliance, thereby providing the organisation with a valuable legacy of a continuing presence in relevant public policy discussions around responsible supply chain issues.

Implementation of the Standard is relevant to US listed companies since the Standard is aligned with the OECD Guidance and the Guidance is, in turn, the only due diligence framework specifically to be referenced by the SEC rule.

BOX 4: Conflict-Free Gold and Artisanal and Small-Scale Mining

Artisanal and small-scale mining (ASM) is a traditional source of livelihoods, especially in developing countries and accounts for an estimated 15-20% of newly mined gold production. Across all commodities (with gold mining being the single biggest element) the International Institute for the Environment and Development (IIED) estimates that between twenty and thirty million jobs derive from ASM activity and that it provides economic support for up to five times that number.[27]

However, as with much economic activity in developing countries, the majority of ASM activity occurs in the informal sector and a significant proportion takes place outside the law. Much of it does not involve paying taxes or royalties to the State and there is a strong association between ASM and environmental degradation, poor safety standards, child labour and the sexual exploitation of women. In particular, most ASM involves the use of mercury, with the sector accounting for an estimated 30% of global emissions and of this mercury use, 90% is released in to the environment[28].

ASM use of mercury can result in the pollution of water courses and, through people inhaling its vapours, significant damage to health.

The context for ASM may vary significantly. In some cases it may be a regular and traditional source of activity alongside agriculture involving a degree of seasonality. In other cases, it may involve a gold 'rush' with significant adverse impacts upon host communities through uncontrolled in-migration and highly damaging environmental practices by people with no ongoing connection to the affected land.

Factors encouraging uptake of ASM include poverty, natural disasters, decreasing viability of some sorts of agriculture (especially in Africa) and the lack of alternative livelihoods which are as lucrative.

In some countries, especially on the basis of the involvement of Chinese syndicates, traditional small-scale gold mining practices have increasingly been replaced by the use of more highly mechanised processes; this has particularly been a factor in Ghana, Peru (Madre de Dios) and Indonesia.

[27] 'Responding to the challenge of Artisanal and Small-Scale Mining: How can knowledge networks help?' International Institute for the Environment and Development, London, February 2013

[28] Using 2010 data the United Nations Environment Programme's Global Mercury Assessment 2013 attributes over 720 metric tons of mercury release to artisanal and small-scale mining

Relations between large-scale gold mines and ASM are often tense and sometimes conflictual because of a number of factors including:

- **A significant proportion of ASM occurs illegally on formal mining concessions. This can generate direct competition for gold deposits or to direct theft from company operations leading to violence between illegal miners and company personnel or to unsafe practices by the illegal miners.**
- **Host governments may grant a formal mining concession to a large-scale mining operation in areas where there may previously have been small-scale mining. This may lead to resentment on the part of the local population especially if community members have not been compensated for loss of livelihoods or because, with the allocation of land to the mining project, community access for growing food may be reduced. In other situations there may be an influx of people during the exploration and development phases of a new mine.**
- **Because ASM activities are often associated with unsafe practices and with devastating environmental impacts, large-scale miners are concerned that they may face legal liability for environmental costs associated with illegal mining in their concession area or sustain reputational damage through association with mining fatalities or child labour**
- **Host governments may be critical of a mining company if it is insufficiently tough in evicting illegal miners from their concession area, thereby damaging the company's legal license to operate.**

Over the years, a number of large-scale mines have taken initiatives to seek more harmonious and constructive relations with local ASM producers such as the 'live and let live' model developed in the late 1990s at the Damang mine in Ghana whereby a section of the concession area was allocated for use by artisanal miners. However, few such schemes have proved to be sustainable over the medium term because of, for example, in-migration making the model unsustainable; because gold price changes have led companies to want to reclaim formerly marginal concession areas being worked by ASM; or because the deposits most suited for artisanal production have been exhausted. In other cases, large-scale mining (LSM) operators have provided or facilitated access to training on issues like safety, health or environmental good practices or have provided support to 'legitimate' ASM actors through helping them access finance and markets.

In general, however, large-scale gold miners have been reluctant to adopt active stances on ASM in order to manage expectations and to avoid host governments or others seeking to transfer responsibility for 'solving' the complex nexus of issues associated with ASM on to the shoulders of business with accompanying legal, political and operational burdens.

Given the very different dynamics around ASM and LSM and what are sometimes conflictual relations between them, it was never likely that a process led by the World Gold Council would be able to generate a Standard applicable to, and accepted by, ASM producers. Whilst, in principle, the Conflict-Free Gold Standard could be applied to larger scale formalised mining co-operatives, page 3 of the Standard acknowledges that: "It is recognised that implementation of these demanding criteria, as well as the requirement for external assurance may be beyond the capacity of many artisanal and small-scale enterprises".

The highest risk of gold mining becoming a source of funding for conflict or armed groups arises from ASM because of its relative lack of scale and its illegality or informality which makes small-scale operators vulnerable to extortion by armed groups. The OECD Due Diligence Guidance Gold Supplement acknowledges, however, the difficulty of simultaneously blocking conflict tainted gold from entering the market through stronger due diligence hurdles whilst preserving market access for 'legitimate' ASM. The Annex to the Supplement sets out a framework which 'aims to minimise the risk of marginalisation of the artisanal and small-scale mining sector". It, therefore, "proposes measures to build secure, transparent and verifiable gold supply chains from mine to market and to enable due diligence for legitimate ASM gold to achieve these objectives including through formalisation and legalisation." It urges that stakeholders including host governments, donors, mining companies, supply chain participants and civil society, should collaborate in furthering these goals.

In parallel to the drafting of the OECD Gold Supplement, the negotiations on the Minamata Convention on Mercury were being brought to a conclusion. This created an additional motivation for host governments and international stakeholders to tackle unacceptable social and environmental practices in the ASM sector. Nonetheless, as of early 2017, the momentum for reform and formalisation in the ASM sector has been disappointing. The amount of illegal gold mining and smuggling and its openness to exploitation by criminal groups in countries like Colombia, Ghana, Indonesia and Peru remains a significant risk for the gold industry and arguably a threat to the stability of some relatively fragile countries.

Part D of the CFGS, which covers procedures for externally-sourced gold was included, in part, in response to the agreement on Appendix 1 of the OECD Gold Supplement in that it sets out procedures which a mine must follow if it sources externally-mined gold, such as from ASM producers. Part D sets out the due diligence steps required. The Standard provides the following commentary: "Companies sourcing from artisanal or small-scale miners are encouraged to note Appendix 1 of the OECD Gold Supplement which suggests that these companies 'should assist and enable ASM producers from whom they source to build secure, transparent and verifiable gold supply chains", and it recommends that implementing companies should encourage the formalisation of legitimate ASM activities.

4. Finalising the Standard

The final months of the development process involved intensive negotiation between the companies. In addition, a number of groups of company specialists such as Security Managers (collectively) and General Counsel (individually) became involved. Finally, input from the final round of external consultations had to be integrated, implementation support materials had to be finalised, training commenced and a communications strategy implemented.

Some relatively small adjustments were made to the text between April and August. These, *inter alia*, drew a stronger distinction between the treatment of company payments to governments and to non-governmental bodies; and provided greater discretion to companies on public disclosure requirements[29] and in the handling of complaints about compliance with the Standard. An attempt to replace the phrase ‘seek to ensure’ with the weaker ‘seek reasonable assurances’ in several places in the Standard was rejected by the Steering Committee.

Alignment with the OECD Guidance: The World Gold Council and its member companies were anxious to ensure that the Standard was: credible in delivering against the objectives of the OECD Due Diligence Guidance Gold Supplement; practicable in building-on existing company procedures; and adaptable to local contexts and security environments. Alignment with the OECD Guidance was seen as important in ensuring that companies would not have to undertake additional activities on top of the Standard in meeting the due diligence expectations of downstream users.

The World Gold Council, therefore, commissioned PWC to review alignment between the OECD Guidance Gold Supplement and the Standard. PWC produced two documents: one a textual analysis (the comparison report) and the other (the ‘Viewpoint’ Report) a review of the nature of the alignment between the objectives of the documents and the correct balance between a compliance driven approach and one based on empowering management to deliver against objectives but with a high degree of external accountability.[30] PWC’s Viewpoint Report noted: “As a result of the programme led by the World Gold Council, the industry now has a standard against which conformance, progress and performance will be externally assured. This is a fundamental point of difference to the OECD Due Diligence

[29] Section 4 of the text on the ‘Responsibilities of Implementing Companies’, for example, reads: ‘Management’s responsibility is to conform to the Standard and it is up to them to determine how they are going to demonstrate conformance with the criteria. Implementing companies are responsible for determining their approach to conformance reflecting their own specific circumstances.’ This approach should be agreed with the external assurance provider and may include consultation with other relevant stakeholders.’

[30] PWC: ‘Comparison between the OECD Gold Supplement and World Gold Council Conflict-Free Gold Standard – A summary for Implementing Companies’ and ‘PWC Viewpoint Report: ‘Golden Opportunity – Building and industry commitment to conflict-free gold production’. http://www.pwc.co.uk/industries/mining/insights/golden-opportunity-building-an-industry-commitment-to-conflict-free-fold-production.html

Guidance. Companies are expected to implement the OECD Guidance but it remains guidance – companies are not required to comply with it and are not mandated to seek external assurance"[31]. The 'Comparison' Report noted areas where the Standard is less specific than the Guidance (e.g. levels of detail in external disclosure and management system requirements) and where the Standard imposes higher requirements (e.g. mine security; and provisions on whistle-blowing and stakeholder engagement). Overall the report concluded that the alignment is strong but that: "the critical difference is that the Conflict-Free Gold Standard places accountability on companies to decide what needs to be done to meet its criteria, particularly in determining: the structure of processes and organisation; supply chain collaboration; and disclosure of information.[32]"

Comparison between OECD Gold Supplement and the Conflict-Free Gold Standard

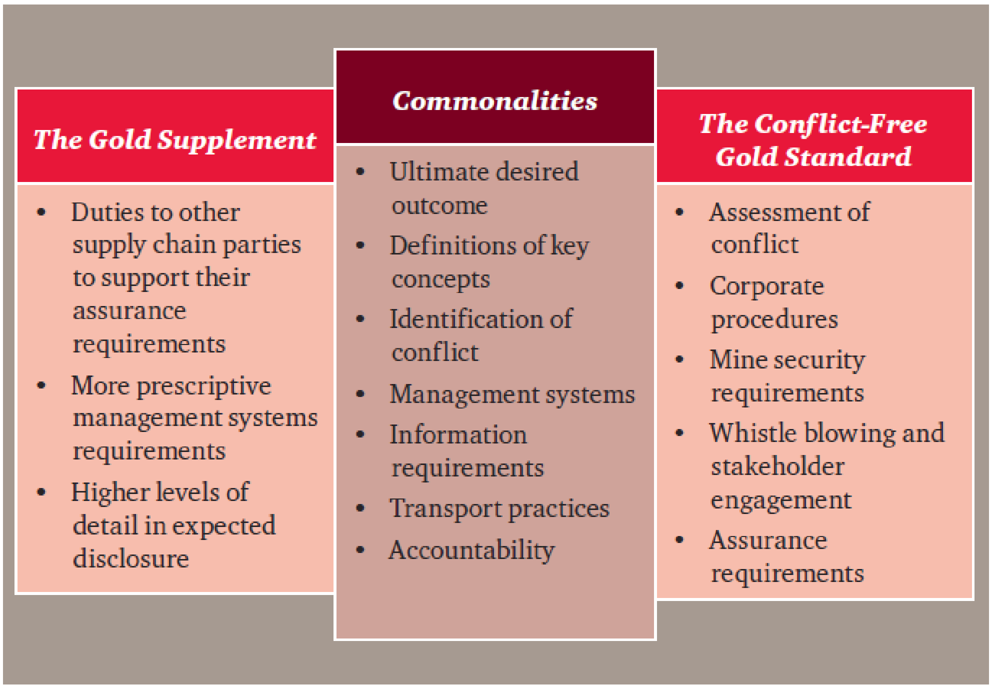

Diagram 4: Source: PwC 'Comparison between the OECD Gold Supplement and World Gold Council Conflict-Free Gold Standard – A summary for implementing companies'

The OECD adopted a largely pragmatic approach to the areas where their Guidance and the Standard diverged and in recognising that the Standard would constitute an 'industry scheme' for the implementation of the Guidance. During interviews for this study, however, sources within the OECD were critical of the limited extent to which most individual gold mining companies had been willing themselves to attend the OECD meetings rather than leaving representation to the World Gold Council. In an interview for this study, Tyler Gillard of the OECD

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[31] PWC Viewpoint Report: 'Golden Opportunity – Building an Industry Commitment to Conflict-Free Gold Production', October 2012

[32] PWC: 'Comparison between the OECD Gold Supplement and the World Gold Council Conflict-Free Gold Standard – A Summary for Implementing Companies'

suggested that he had reservations around the centrality of the Heidelberg Conflict Barometer in the Standard, not because it runs counter to the intentions of the Guidance but because some stakeholders have suggested that it may create false confidence and make the judgement of what constitutes a 'conflict-affected and high risk' area too binary.

v. Stakeholder outreach and consultation

There was acceptance on the part of the World Gold Council Board and Steering Committee that there would be little point in developing a Standard if it appeared to be self-serving, ignored authoritative external guidance, omitted stakeholder input or failed to command credibility and broad support. Three strategies were intended to deliver this:

- **Broadly-based stakeholder consultation and engagement;**
- **Alignment with the OECD Due Diligence framework; and**
- **The inclusion of well-established benchmarks such as the Voluntary Principles on Security and Human Rights, the UN Guiding Principles on Business and Human Rights and the Extractive Industries Transparency Initiative.**

This section focuses on development against the first of these strategies.

i) **The First Round of Consultation:** In June 2011,the first draft of the Standard was sent to over 300 stakeholder groups worldwide and roundtables were held in New York, London and Johannesburg. In addition, the development of the Standard was informed by World Gold Council representatives participating in the drafting of the Gold Supplement to the OECD Due Diligence Guidance, which involved extensive interaction by them with stakeholders on many of the same issues raised in the Conflict-Free Gold Standard.

The roundtables typically lasted for half a day and each was hosted and chaired by an independent, unremunerated organisation that would also take responsibility for convening and facilitating the meeting, issuing invitations and writing up a summary of the discussion. The invitation lists were jointly drawn-up by the host organisation and the World Gold Council. The host organisations retained editorial control of the meeting summaries, albeit the World Gold Council commented on them prior to publication. The hosts were Fund for Peace (New York), Chatham House (London) and the South African Institute for International Affairs (Johannesburg).

The **New York** roundtable included strong representation from some of the leading gold mining companies alongside the Canadian and U.S. Governments, the UN Group of Experts on the DRC, the DRC-focused advocacy NGO the Enough Project, academics and jewellery industry representatives. The main items discussed were the benchmarks to be used to identify conflict areas (with views polarised between those urging the primacy of UN designation and those advocating the creation of a multi-stakeholder advisory group); the need for the Standard to cover ASM in order to address the risk of increasing the marginalisation of those working in the informal sector; the role of host country governments; audit and transparency arrangements; and the need to have credible means for companies that commit errors to remedy them.

The Chatham House event in **London** included diplomats, development think tanks, NGOs (such as Global Witness and the Alliance for Responsible Mining), and industry actors including refiners, bullion banks and a security company. Once again much of the discussion focused on: the position of ASM; the designation of conflict areas; and how to remedy deviations from compliance. In addition, some probed the extent to which the objective was to achieve complete alignment with the OECD Guidance or to create something broader? In relation to ASM, some stakeholders urged that large-scale miners should 'buy-in' doré from local small-scale miners but it was acknowledged that it would be impossible to do so if such material was mined illegally or was tainted by the use of mercury or by child labour.

The **South African** roundtable was opened by Ghana's Deputy Minister of Mines and included representatives from the Governments of South Africa and Kenya and from the International Conference on the Great Lakes Region, South African NGOs and think tanks and a range of industry participants. On the definition of conflict there was support for the use of definitions based on international humanitarian law and UN resolutions but also an appreciation that this might not provide sufficient regional granularity. There was concern about: the stigmatisation of African gold due to the Dodd-Frank Act; and adverse impacts on the competitiveness of African gold through higher compliance costs. There were notable differences of view as between developing country governments and civil society perspectives on the extent to which the Standard should look at human rights abuses by State security forces rather than just by militia groups.

As part of its efforts to engage stakeholder interest and seek feedback, during this period the World Gold Council also supplied speakers on the Standard for third party events in New York, Washington, Montreal, Las Vegas, Denver, Brussels, London and Accra.

In addition, around 420 individuals and organisations responded in writing, albeit almost 400 of these related to a campaign by students lobbying against the development of gold resources in Tibet and urging that the territory be deemed a 'conflict-affected and high risk' area. Written comments were also received from: the Governments of Canada, Switzerland and the UK; the International Crisis Group, Global Witness, the International Institute for the Environment and Development, International Alert, and the ENOUGH Project; and refiners and investor representatives.

Amongst the issues raised by these submissions were:

- **The identification of conflict-areas and the need for companies to have access to authoritative guidance;**
- **The need for greater clarity around the remediation of non-conformances;**
- **The potential role of a complaints mechanism around implementation of the Standard;**
- **Greater clarity on information disclosure and transparency;**
- **Sharpening the language in the Standard to improve auditability;**
- **The relationship between the Standard's focus on newly-mined gold and ASM-originated and recycled/scrap gold;**
- **More emphasis on local community engagement; and**
- **Greater alignment with the language used in the UN Guiding Principles on Business and Human Rights**.

This input was influential in motivating the addition of Part D of the Standard governing the buying-in of doré, although such buying-in still appears to be a rare occurrence, in order to encourage greater cooperation between legitimate ASM producers and large-scale mining operations. Changes to achieve greater alignment between the Standard and the UN Guiding Principles on Business and Human Rights were included together with revisions to increase auditability.

ii) Second-Round Consultations: The 'Exposure' draft of the Conflict-Free Gold Standard was published on 29th March 2012. This launched a new round of consultations starting with letters to 750 stakeholder groups from World Gold Council CEO, Aram Shishmanian, inviting their comments. Feedback was also provided to those who had participated in the first round consultations, illustrating how their comments had been incorporated or if they hadn't, explaining why not. A further five roundtables were planned: in London for potential assurance providers; in Brussels hosted by the European Centre for Development Policy Management (ECDPM); in Lima hosted by IDEHPUCP – the Peruvian Institute for Democracy and Human Rights; in Dar-es-Salaam jointly hosted with GIZ the German Development Agency and the ICGLR; and in Melbourne by the Australian Centre for Corporate Social Responsibility (and facilitated on a personal basis by Serena Lillywhite, Oxfam Australia's mining advocacy lead).

The second round of consultations involved participation by over one hundred individuals and organisations. Among the sixteen governments to have some involvement were those from the U.S., Australia, Tanzania, DRC, Peru, Switzerland, Guyana and Indonesia together with international institutions such as the EU, OECD and the Inter-American Development Bank. Amongst the international civil society groups to be involved was the International Committee of the Red Cross, Global Witness, Partnership Africa Canada, Oxfam, the Worldwide Fund for Nature (WWF), the International Institute for the Environment and Development (IIED) and the Alliance for Responsible Mining. In addition, a significant number of national NGOs, industry actors and investor representatives participated together with ICEM (the International Federation of Chemical, Energy, Mining and General Workers Unions), the leading trade union association in the mining sector, and labour rights groups such as Verite – Fair Labour Worldwide.

The **Brussels** roundtable discussion focussed on transparency and disclosure requirements; urged that assurance providers should be accredited (the model used by the Responsible Jewellery Council and the LBMA) so as to achieve greater consistency of approach; suggested a more activist continuing role for the World Gold Council in, for example, curating a website for all Responsible Gold Reports that would aid comparisons; and advocated for the creation of a grievance mechanism to resolve complaints about implementation of the Standard.

In **Lima** there was a distinctive discourse with the conversation being dominated by whether the Standard should cover ‘social’ conflict rather than only ‘armed’ conflict. Others suggested extending the Standard’s framework to embrace water and environmental issues or to use the IFC Performance Standards as a ‘responsibility’ benchmark. There was broad support for considering localised zones of conflict which might be much smaller than the regions covered by the Heidelberg Conflict Barometer, and several voices were raised to urge consideration of the conditions that facilitate human trafficking and poor regard for labour rights. Unsurprisingly, given the importance of the issue in the Andean countries, many organisations urged that the Standard and the implementation of more demanding due diligence requirements should not further marginalise ASM producers and backed multi-stakeholder approaches to formalisation.

In **Dar-es-Salaam**, there were animated discussions about compliance costs, the competitiveness of gold from the region and whether the ICGLR should treat certified conformance with the Conflict-Free Gold Standard by large-scale miners as discharging the due diligence requirements of its certification regime? There was a general belief that the approach set out in the Standard should apply to a range of metals, not just to gold mining. There was debate around the extent or desirability of a role for large-scale miners in assisting ‘legitimate’ ASM producers to access international markets and to raise their social and environmental standards. As in Brussels, there was a feeling that whilst the World Gold Council could not act as a certification body, it should continue to exercise active stewardship of the Standard after its finalisation.

In **Melbourne,** where there had previously been limited exposure to the debate about ‘conflict minerals’, there was support for a focus on ‘social’ conflict rather than just armed conflict and curiosity as to why the threshold of concern was set at ‘serious’ human rights abuses rather than rejecting all human rights abuses. There were also calls for greater specificity about which type of company grievance mechanisms were ‘Ruggie compliant’, i.e. aligned with the UN Guiding Principles on Business and Human Rights,[33] and for stronger community consultation requirements, including with marginalised groups, as a means of better understanding corporate impacts. There was support for integrating assurance of conformance with the Standard with other sustainability audit processes.

Bilateral engagement and written feedback: The roundtables ran through to the end of July 2012. In parallel, bilateral meetings continued to take place and written submissions to be received. The International Committee on the Red Cross emphasised the importance of the Standard more clearly distinguishing between ‘international humanitarian’ and ‘human rights’ corpuses of law and of including references to both throughout the document – feedback that was largely reflected in the final text of the Standard.

Global Witness criticised the Exposure Draft as representing a free-standing Standard rather than being a more stripped down guidance document for the implementation of the OECD Guidance – which was their interpretation of what an ‘industry scheme’ for the implementation of the OECD document should be. They argued that the Standard should be more explicit in setting out implementing companies’ due diligence responsibilities and called for greater transparency around topics such as each company’s approach to supplier due diligence and arrangements for sharing information with actors further down the supply chain; and the management structures and systems responsible for due diligence – some of which information the gold companies thought would be too sensitive for wider disclosure on security grounds.

The OECD Secretariat provided extensive comments. They cautioned against too passive a reliance on the Heidelberg ratings rather than companies focusing on their own due diligence, especially as conditions can change quite rapidly (a point which the final draft of the Standard reflected in a number of places). They urged a more qualitative approach to judging the adequacy of company human rights policies. In addition, the OECD argued that references be included to ‘direct **and indirect** support for armed groups’ (which was not accepted as the companies felt that the term was too open-ended). They also urged inclusion of encouragement for implementing companies to engage constructively with legitimate ASM operators. This was met by changes to ‘Part D - the External

[33] Principle 25 of the UN Guiding Principles on Business and Human Rights, authored by Professor John Ruggie, provides the following description of a ‘grievance’ mechanism: ‘For the purpose of these Guiding Principles, a grievance is understood to be a perceived injustice evoking an individual’s or a group’s sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities. The term grievance mechanism is used to indicate any routinized, State-based or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought.’ Principle 31 sets out the following criteria (which are reflected in section B5 of the Conflict-Free Gold Standard) for an operational-level grievance mechanism, namely that it should be: legitimate, accessible, predictable, and equitable in its operation, transparent, rights-compatible, a source of continuous learning and based on the principle for dialogue and engagement.

Sources of Gold Assessment' – especially around urging companies to support 'formalisation' and through including artisanal miners as stakeholders to be consulted during company risk assessments.

There was little stakeholder criticism of the move away from the earlier, more comprehensive and integrated coverage of both mining and refining and from the aspiration to cover other feedstocks. A significant number of stakeholders noted what they saw as improvements as between the original consultation version and the 'Exposure' draft. Although the relationship between large-scale mining and ASM was a major topic for discussion at the roundtables, most of the written comments accepted that it was not feasible for the Standard to cover ASM due diligence challenges substantively. This was because of the structural differences between the two types of mining and because large-scale miners potentially have different interests from those in the small-scale and informal sectors.

A number of issues raised by labour groups were added to the final text of the Standard including the addition of 'assassinations' and 'human trafficking' to the examples of 'serious' human rights abuses, using research produced by trade union groups as a source of due diligence guidance and including employee input through channels such as company grievance and whistleblowing mechanisms.

Another issue explored in the external submissions was whether the Standard should relate only to the certification of gold production or whether it should also apply during exploration, project development and closure. Such a change would have required a fundamental rethink of the scope and purpose of the Standard. Nevertheless the following language was added to the Executive Summary:

> ***"This Standard is designed to be used at mines that are producing gold. Nonetheless, the World Gold Council and its member companies recognise that if a mine development project is located in an area assessed to be conflict-affected or high risk, adherence to the processes included in the Standard represents good practice, to the extent to which they are applicable. Furthermore, they recognise the importance of conducting exploration and project development after appropriate consultation with potentially affected communities and other stakeholders, to identify and mitigate the effects of their activity and so minimise the risk of causing, supporting or benefitting unlawful armed conflict."***

In relation to demands for a mechanism through which stakeholders could raise concerns about a company's implementation of the Standard, the companies were presented with a recommendation for an independent complaints mechanism. They decided, however, to refer would-be complainants to the assurance providers of the company being complained against. In a similar vein, the World Gold Council, whilst retaining ownership of the Standard and responsibility for undertaking periodic reviews, resisted calls for it to have a more active stewardship role for fear of creating real or perceived conflicts of interest. Notwithstanding these and a few other instances where the companies were not to be swayed, emphasising the fact that this was ultimately an industry-led process, the two rounds of extensive stakeholder consultation had a significant impact on the Standard. The stakeholders seem to have been reasonably satisfied with the process since only Global Witness publicly criticised the overall approach adopted in the Standard.

An account of the proceedings of each of the consultation roundtables can be found on the World Gold Council website http://www.gold.org/gold-mining/responsible-mining/conflict-free.

iii) Feedback from the organisations that hosted roundtables: As part of the research for this case study, the organisations which acted as roundtable hosts were asked to assess their experiences of the development of the Standard. Six out of the seven host organisations responded. They were asked about their motives for agreeing to take on this responsibility. The most common reasons given were: “a desire to contribute to good corporate practices”, followed by “facilitation of dialogue between business, CSOs and governments” and “helping mining companies to develop stronger policies on human rights and conflict”. A number of the organisations had some existing involvement in the ‘conflict minerals’ debate and some were concerned to prevent the stigmatisation of African gold.

They were then asked to comment on their perceptions of the World Gold Council’s motives in asking them to host an event. As can be seen, all four of the suggested reasons received similar levels of support, although having an independent, third-party to provide a neutral platform for engagement was marginally ranked as the most important motivation.

Diagram 5

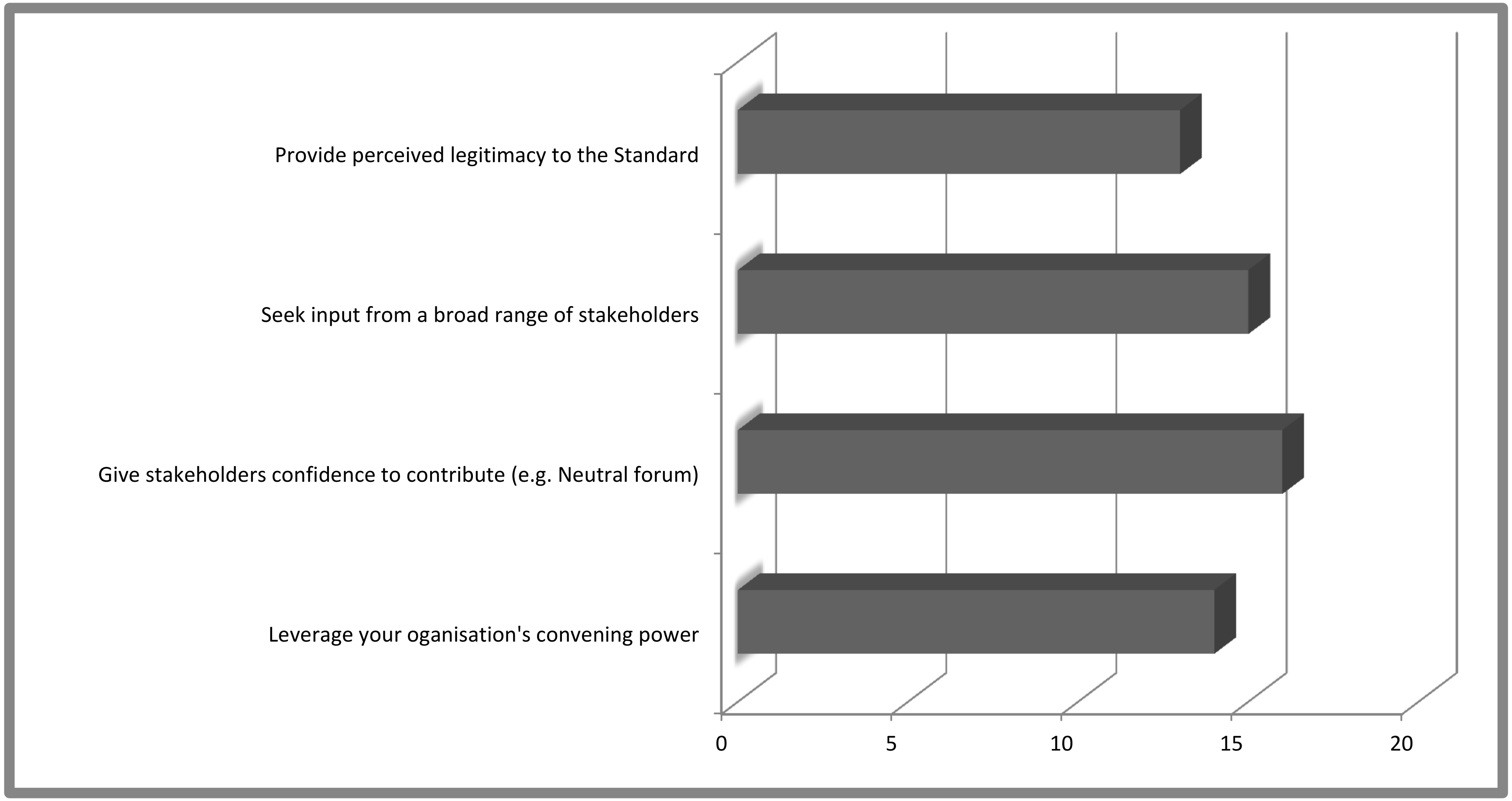
Q: What was your perception of the World Gold Council's objectives in asking your organisation to host the roundtable?

Commentary: Based on responses from 6 organisations. Respondents were asked to rank factors and their rankings were then aggregated.

Diagram 6

Q: What motivated your organisation to host a roundtable?

Commentary: Based on responses from 6 organisations. Respondents were asked to rank factors and their answers were then aggregated.



All six hosting organisations felt ‘that the roundtable offered a good cross-section of opinions relevant to the subjects covered by the Conflict-Free Gold Standard’. When asked about their level of confidence in the integrity of the consultative process, four rated it ‘very high’ and two ‘high’.

When asked whether they felt that their roundtable was intended by the World Gold Council to have a meaningful impact on the development of the Standard, four out of six said ‘yes’; one said ‘no’ and one said that they ‘didn’t know’.

The host organisations were also invited to identify what they saw as the learnings for similar initiatives seeking stakeholder input. Their comments included:

“Guarantee the presence not only of NGOs but also of the populations directly affected.”

“Having a third party facilitator can help to broaden participation and create an atmosphere of greater dialogue. It is important to focus on dialogue rather than presenting to an audience in a one-way manner. I’ve been to other such engagements and participants were treated as an ‘audience’. WGC had its consultation set up in a roundtable format which led to greater dialogue.”

“Be well prepared, have clear objectives, be transparent, have independent facilitation, be open to discussion, don’t have too large a group.”

“We have been associated with the development of a number of standards. The WGC process was good and provides a good template for other sectors.”

“The process of the development of the Standard was very impressive. The challenge not clearly addressed by the WGC is the follow-up. I have no idea how the Standard is effectively applied and how best to find information about it. So a focus on the transparency of implementation… to broaden the experiences and lessons drawn from practices on the ground is key for the overall credibility of the Standard.”

Finally, one of the host organisations included the following observation about their roundtable:

“One of the things that I found most interesting was a representative of civil society basically admitting that it had focused on industry in regard to conflict gold because it was the set of stakeholders on which they could apply the most pressure. It recognized completely that industry could do little to address some of the broader issues, particularly alone. But industry could help to finance initiatives and use leverage with other stakeholders to build initiatives. It seemed less important to this individual that industry had standards and should perform well and more important that they be responsible publicly and invest in initiatives that go well beyond their direct impact.”

Making allowance for perceptions of my own potential bias, but based on stakeholder feedback, overall the consultation on the development of the Conflict-Free Gold Standard appears to represent a rigorous, comprehensive and best-practice example of an industry-led consultation process.

It involved strong stakeholder identification (the trade unions felt marginalised in the first round of consultation but became involved in the second round) and techniques designed to create stakeholder confidence and credibility through independent hosting, facilitation and writing up of the discussions.

The breadth of participation was impressive and to hold events in Africa, Europe, North and South America and Australia provided the opportunity for regional perspectives to be contributed.

The World Gold Council also ensured that substantive changes, albeit ones that did not impact on areas where the companies felt unable to compromise, were made to both the structure and the content of the Standard and fed back to participants at the end of both rounds of consultation.

VI. Evaluating the process and the lessons learned

1. What were the implications for the World Gold Council of its involvement in, and outcomes from, developing the Conflict-Free Gold Standard?

The interview process for this study identified five substantive challenges for the World Gold Council in leading the development of the Standard:

- **Work on supply issues was outside the organisation's traditional remit:**
- **Member companies had different business models (e.g. in relation to the extent of their ownership/integration with a refinery) and differing corporate priorities and geographic exposures (e.g. arising out of their various levels of exposure to Africa) and the Standard cut across these issues;**
- **The World Gold Council and most of the companies had previously had few contacts with important stakeholders in the debate around conflict issues;**
- **It appeared to be uncertain throughout much of the process whether the outcome should be the delivery of benefits to member companies or protection for the 'category' reputation of gold? Should it cover only those elements of the supply chain directly influenced by industrial gold producers or range more widely?**
- **The vagueness of the original mandate and ambiguity about the extent to which non-member companies should be encouraged to adopt the Standard even though they had made no financial contribution to its creation.[34]**

Interviews with World Gold Council CEO, Aram Shishmanian, and project managers Gareth Llewellyn and Terry Heymann provided 'insider' perspectives on the implications of the development of the Standard for the World Gold Council. Although working beyond its traditional remit, its horizon scanning had been instrumental in engaging the leading gold mining companies on the issue and in identifying risks for the reputation of gold from inaction. When the companies showed signs of serious disagreements between themselves about the direction and objectives of the programme, this threatened to have implications for the core relationship between the organisation and its members.

As Aram Shishmanian identified, this point of tension was ultimately relieved by reducing the scope of the initiative to focus on delivering benefits to member companies (although ultimately the Standard is an open-access document which can be, and is, applied by non-

[34] The World Gold Council estimates that it invested over $5 million over the three years between January 2010 and December 2012 in salaries and professional fees; translation, design and printing; travel and event costs connected with the development of the Standard – a very substantial commitment to a corporate responsibility objective.

members), by providing flexibility on the timescales for implementation and by identifying a senior industry figure to chair the process.

By the end of the development process the organisation generally received tributes from the companies and third parties for its skill during the development of the Standard. Aram Shishmanian felt that: "the development of the Standard raised the stature and authority of the World Gold Council. In parallel, it provided significant credibility to the gold mining industry and provided consumers with confidence in the integrity of the product they purchase."[35]

Although the original concept of developing a suite of standards against which gold produced by member companies would be certified and of tracking gold from the start of mining to the end of refining did not get implemented, the Standard met the primary objectives of the programme in two ways:

- **It protected the image and reputation of gold from being tainted by a widespread perception of an association with conflict and serious human rights abuses; and**
- **It created a process that could be deployed to manage risks in conflict situations worldwide for companies operating in high risk or fragile contexts.**

Most importantly from a commercial perspective, the Standard created a process through which implementing companies could meet the due diligence requirements of refiners arising from the OECD Guidance and the LBMA's Responsible Gold Guidance. The external drivers evolved somewhat during the process since the feared consumer backlash did not materialise, but public policy and regulatory considerations and the expectations and requirements of other actors in the supply chain became increasingly important.

Finally, although the theme did not figure prominently in the company feedback set out below, a further benefit delivered by the development of the Standard was the creation of a widely supported and credible framework for governing corporate conduct in conflict areas. Creating a consensus around what constitutes 'good practice' in such circumstances may be of considerable value to both society and to individual companies.

It allows the commonly experienced pressure on companies active in fragile areas to withdraw their investment, to be replaced by a more nuanced response –inviting stakeholder scrutiny of whether the mining company is operating responsibly judged against objective benchmarks.

[35] Interview conducted with case study author

Competitive issues: The different business models and geographic exposures of member companies created some problems during the development process. They raised concerns (whether justified or not is unclear) that particular approaches might create competitive advantages for some companies over others – which is unsustainable for an industry association where members will have a reasonable expectation of parity of treatment and neutrality of outcomes. This perception also came to influence the attitudes of some refiners who thought that gold mining companies might be seeking to present newly-mined gold as more ethical or responsible than recycled gold.[36] Ultimately, these risks were removed by narrowing the scope of the Standard and largely separating it from the refining stage.

Had the Steering Committee persisted with the initial model many interviewees felt that there was a real danger of the process ending in failure or, if it had succeeded of adversely impacting the gold market through causing a 'bifurcation' between different types of gold or between Asian and Western markets. The lesson from this is that whilst, an ambitious approach to corporate responsibility initiatives is admirable in theory, it is unlikely that an industry association will be the most effective vehicle for delivering against such objectives if there are concerns of thereby producing a competitive imbalance. At the same time, industry associations can play a valuable role in scaling the implementation and impact of corporate responsibility initiatives if they are able to achieve consensus and to create a level competitive playing field among their members. As such, there can be a trade-off between the level of ambition and the scale of uptake and implementation.

Lack of corporate engagement with key stakeholders: The surprising lack of existing company engagement with some of the stakeholders involved in policy-making around mining and conflict – in particular governments, international institutions and international NGOs – was attributed by some interviewees as being a product of individual companies' having little incentive to engage beyond their home and host country governments and to a history of adversarial relationships with some NGOs. The World Gold Council initially lacked many relevant relationships but brought people in to the Standard development team who had such contacts and could rectify the gap. Interviews suggest that this relationship building was one of the aspects of the project most valued by the member companies. The issue of engagement highlights the growing importance for businesses in a low-trust environment of investing time in building key stakeholder relationships, both on an individual basis as well as collectively though industry-wide platforms and multi-stakeholder initiatives.

Delivering benefits to member companies: The Conflict-Free Gold Standard was conceived as a voluntary corporate responsibility initiative. The expectation was that it should deliver societal as well as industry benefits. The initial attempt to produce a relatively comprehensive Standard covering both mining and refining and embracing artisanally-mined and recycled feedstocks as well as newly-mined industrial gold, reflected the World Gold Council's normal role of being a generic advocate for gold. In moving closer to the operational concerns of member companies the dynamics changed. Member

[36] In fairness it should be noted that there had been activity from some refiners in the opposite direction to present recycled gold as 'greener'

companies had an expectation that their interests should be decisive in shaping the scope of the Standard. Some companies believed the process was in danger of failure because it was too ambitious in seeking to set broader industry standards that would ultimately create expectations for industry participants beyond the mining stage of the gold value chain.

Some companies, for example, were wary of being seen to take responsibility for designing a framework for artisanal and small-scale (and often illegal) mining when they had strong and, arguably well-founded concerns that host governments might seek to make them primarily responsible for resolving the social and environmental challenges associated with ASM. Others, probably realistically, felt that artisanal miners would be unlikely to implement a Standard with high enough due diligence and performance requirements to have international credibility or one shaped by industrial miners. It was more likely to be productive for the World Gold Council to work through the multi-stakeholder OECD process, in order to galvanise greater focus on the need to formalise and regulate ASM and on creating 'closed pipe' supply chains from conflict-affected areas to specific refiners.

With hindsight, it seems improbable that a comprehensive miner-refiner combined standard would have secured the necessary critical mass of support amongst the refiners. This is because of: the complexities of operating different regimes for newly-mined, recycled, ASM and historic stocks of gold; the hostility of at least two of the major refining companies to a segregation model; and the non-participation of many refineries whose output was not orientated around supplying Western markets. In any case, the decision by the LBMA to develop the 'Responsible Gold Guidance' removed the need for the World Gold Council to continue searching for a comprehensive solution.

The downside, judged through the lens of the initial motivations for the initiative, was that it took off the table the ability to develop a range of social and environmental standards delivered through the same chain of custody process – but by the time the decision was made none of the companies was prepared to go out on a limb to preserve that option as anything beyond a distant aspiration. As one of the more sceptical company representatives observed "the turning point was when we said that the refiners were not World Gold Council members and concentrated instead on the needs and requirements of the members and stopped trying to set standards for the rest of the industry. Thereafter we were able to concentrate on matters under our control."[37]

Ultimately the World Gold Council's primary accountability was to the companies that contributed to its running costs and that were paying for the programme to develop the Standard. It had started with a more ambitious position than was ultimately sustainable and which would probably have ended in failure if there had not been significant compromises.

As an industry scheme, the Conflict-Free Gold Standard represents a framework that is regarded as practicable and credible by the major players in the gold mining industry. That

[37] Company representative interview with case study author

should not be a surprise. But, as can be seen from the section on consultation, the companies also accepted that in some instances they needed to go beyond positions with which they felt comfortable, so as to ensure the Standard was both workable and credible to external stakeholders.

Clarity of mandate: In terms of learning points for other industry associations, it is of critical importance to have clarity of mandate. Most of the company participants perceived the initial Board decision as not being based on a rigorous understanding of the complexity of the work they had commissioned; and one year later there seemed to be insufficient support to sustain the project without a re-set. The Steering Committee members in turn, seem to have been in some doubt about the strength of their mandate and two interviewees wondered whether the process took longer than it needed because some representatives were not empowered by their companies. A key element in ensuring that a Standard successfully emerged was the appointment of respected industry heavyweight and Board member, Pierre Lassonde, to lead the process. He could speak with authority about the views of his peers and steer the decision-making process in a way that, despite their abilities, the World Gold Council project managers could not.

2. What did the companies see as the challenges and benefits of their participation in the development of the Conflict-Free Gold Standard?

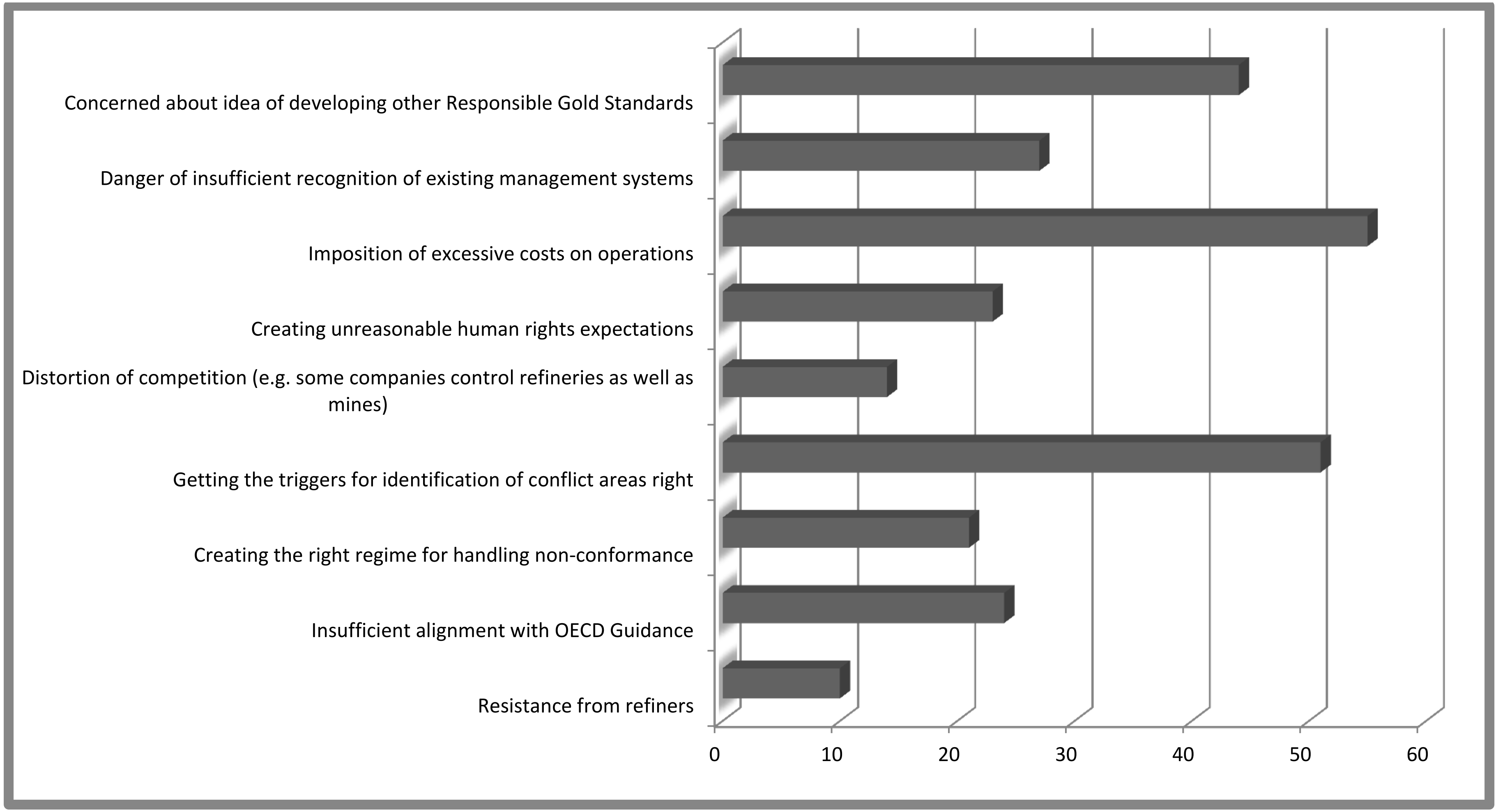
This section is primarily based on an analysis of a questionnaire (see Appendix 3) to which members of the Steering Committee representing mining companies were asked to respond. Seven responded out of nine mining company representatives who were involved at one time or another in the development process. All of the major companies responded. As can be seen from the graph below, participating companies had a variety of concerns connected with the Standard with concerns about 'excessive costs' arising from compliance emerging as the most important followed by problems in identifying whether a mine is located in a 'conflict-affected' area.

The third most important concern for some companies was the concept of the Conflict-Free Standard being just one of a suite of standards. While some companies supported this concept, others feared that it could be duplicative of work in other forums, such as ICMM, and standard-setting initiatives. Fourth was a fear that the Standard would 'reinvent the wheel' and not give sufficient weight to existing company management systems followed by a concern that the Standard would not be recognised as an official 'industry scheme' for implementing the OECD Due Diligence Guidance.

In interviews, it appeared that competition issues relating to integration between some miners and refiners and fears of resistance from some refiners to aspects of the Standard, were a significant factor in causing tension between the companies during the negotiating process, nevertheless these 'industry' factors ranked low in the responses given in the assessment questionnaires. This might be attributable to only a limited number of the companies questioned having these concerns – even though they may have felt strongly about them – or because the issues were largely resolved by half way through the development process, through jettisoning the Chain of Custody approach - and were, therefore, less salient by the completion of the project.

Diagram 7:

Q: What were your or your company's biggest concerns during the process for developing the Conflict-Free Gold Standard?



The next question sought to gauge what the companies felt that they had gained directly through their participation. In this case, providing reassurance to external stakeholders, including refiners as the next link in the supply chain, emerged as the most important benefit with 'increased internal awareness' of good practice in operating in armed conflict situations ranking second.

The only other significant benefit – which was also mentioned in a number of interviews – was perceived to be the 'improvement of internal company systems'.

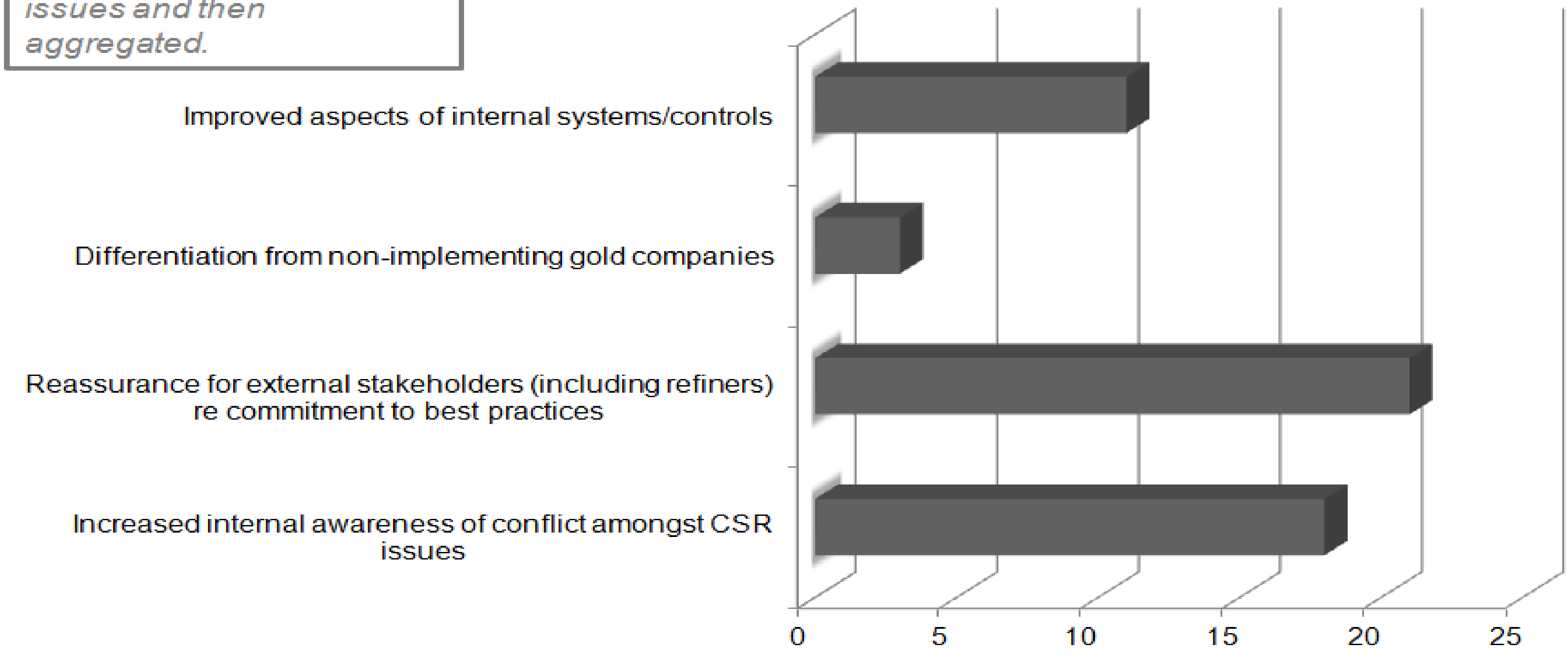
In an interview one of the companies explained what they meant by this: "Implementing the Standard helped us to discover that processes that we had previously taken for granted were not as embedded and robust as we had assumed. It helped us pick up shortcomings both in relation to human-rights related processes and some metallurgical controls."[38]

[38] Interview with case study author

Diagram 8

Q. What benefits has your company achieved through its participation in the development of the CFGS?

7 companies responded. Points were allocated according to their ranking of issues and then aggregated.



The third question gauged participating company perceptions of the benefits accruing to the gold mining industry from developing the Standard.

The most common and highly rated response was recognition of the value for participating miners of being able to provide credible ‘conflict free’ assurance to refiners.

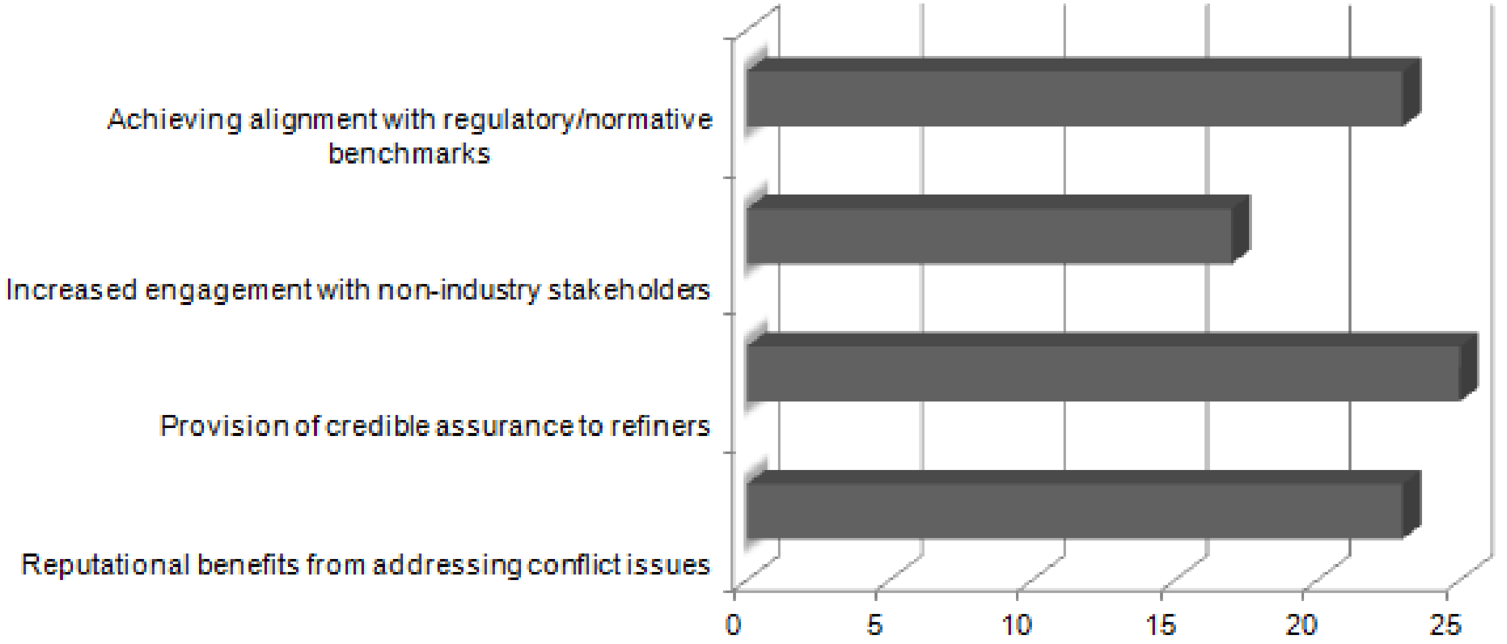
The two benefits jointly ranked second were ‘reputational’ benefits from being seen to address conflict-finance issues’ and ‘achieving alignment with regulatory and normative benchmarks’

In fourth place, but still with significant support, was that the process of developing the Standard had led to a new level of ‘engagement with non-industry stakeholders’ – an attribute which also came through strongly in the research interviews.

Diagram 9

Q. What benefits do you think the <u>gold mining industry</u> has derived from the development of the Conflict-Free Gold Standard?

7 companies responded. Each was asked to rank the benefits accruing from the development of the CFGS. Points were allocated according to their ranking of issues and then aggregated.



Company representatives were also asked open-ended questions. When asked whether they had experienced significant pushback from within their companies, they were unanimous that there had been no substantive resistance to the Standard at a corporate level. Two of the company representatives observed, however, that there had been some scepticism at site level, with one observing that: “there was some resistance at site-level as they sometimes feel over-burdened and resentful about the centre seeking to create greater visibility about what is happening at the mine”.

A different representative said that “there was no resistance because the rationale had been sold upfront and been endorsed by the Executive”; and another that: “there was an internal consensus that the Standard would help us to address Dodd-Frank requirements and the processes in the Standard were largely built on programmes we were already implementing”.

The company representatives were then asked to identify what had been done well during the development of the Standard. The most consistent area for praise related to ‘broad engagement’ with stakeholders and thereby increasing understanding of the industry amongst governments and NGOs. There was also appreciation both of the perseverance of the company representatives involved in the Steering Committee and of the professionalism of the World Gold Council secretariat. Finally, the widespread acceptance of the credibility of the Standard by other initiatives and groups active in this area of work was seen as a real achievement.

Conversely, company representatives were asked to identify what could have been done better? Two felt that the initial agenda had simply been too ambitious and that similar initiatives in the future should seek to advance through ‘bite size’ chunks. One of these companies observed that: “The World Gold Council staff had moved very fast towards a very extensive, dual-track standard and it took a long-time and effort by the Steering Committee to pull them back to something that was workable”[39].

Another company felt that the involvement of refiners had complicated the dynamics of the process between the companies. An additional interviewee emphasised that in such an ambitious enterprise, strong internal communication between key functions within each member company was important so as to ensure that there was full business alignment. He also suggested that more regular feedback to World Gold Council member companies not involved in the Steering Committee would have improved the process.

In addition, a South African company representative remarked that although the process had been: “very well managed. It would have been good for it to have been faster. Nevertheless, we needed to get companies and stakeholders over the line. It would have been desirable, however, for more company representatives to have had greater exposure themselves to external stakeholders and their concerns rather than relying on the World

[39] Written response to questionnaire

Company alignment with the process: Gold Council secretariat to do this"[40]. More positively, however, the same representative noted that the dynamics of the Steering Group had by the end become such that, "when one member tried to derail the process at the last moment, by proposing substantive changes of approach, he was firmly and politely prevented from doing so by peer pressure."[41]

Finally, the company representatives were asked about their level of satisfaction with what had been achieved through the creation of the Standard. Almost all expressed themselves to be 'satisfied' and only one of the seven companies (a North American company) said that they were 'disappointed', explaining that 'the final form of the Standard was a departure from the original vision of the Board'[42].

Company perceptions of what was done well and what could have been improved: Another noted that it would be essential to invest in marketing and awareness-raising so as to maintain the Standard's credibility.

A South African company noted that 'the fact that we didn't incur a penalty or a discount as a result of mishandling the issue should not be under-estimated so I am very happy'[43]. Another company representative noted that a number of non-World Gold Council companies have to varying extents adopted the Standard which they saw as signalling the Standard's 'widespread acceptance'.

This company representative also said 'Conflict gold seems to have fallen off the NGO radar remarkably quickly and I cannot help but think that the Conflict-Free Gold Standard is at least partly responsible for this.[44]'

3. How did the interactions with legislative and normative initiatives change the dynamics of developing the Standard?

As already noted, the Standard was conceived as a voluntary, corporate responsibility initiative intended to: improve industry practices; contribute to reducing the financing of conflict ; anticipate potential consumer concern about tracing gold used in jewellery and technology products; and, potentially, provide an opportunity for differentiating participating companies from less scrupulous operators.

The creation of a regulatory motivation for companies to address the conflict minerals challenge, through the unexpected passage of Section 1502 of the Dodd-Frank Act, and the increasing profile of the OECD process to create a normative due diligence framework,

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[40] Written response to questionnaire

[41] Interview with case study author

[42] Written response to questionnaire

[43] Written response to questionnaire

[44] Interview with case study author

radically changed the context of the companies' work on the Standard. Amongst other things these developments:

- **Raised the salience of the issue of minerals and conflict;**
- **Created an impetus to ensure that whatever was developed within the Standard would also assist companies in meeting compliance requirements arising from Dodd-Frank and the OECD process;**
- **Provided an external discipline since, were the Standard development process to have failed, it would have damaged the credibility of the World Gold Council and of the large-scale gold mining sector in contributing to policy-making initiatives; and**
- **Created a strong incentive for industrial gold miners to develop an assurance process to satisfy the emerging due diligence requirements of refiners and end-users.**

An analysis of the World Gold Council papers suggest that some of the companies became more focused on the need to influence the U.S. SEC at around the same time that they became less enthusiastic about the direction of the work on the Standard. It may be that their mind set changed from creative co-operation on a voluntary initiative to becoming much more concerned with mitigating potential compliance burdens and, in some cases, not seeing the need to go above and beyond what was being mandated by law since this could be seen as an authoritative definition of societal expectations.

Company satisfaction: Conversely, when the momentum behind the project was weakest in Q1/Q2 2011, a factor that seems to have convinced the companies collectively, especially at the Board level, that they should continue to work on the Standard was the importance of keeping a 'seat at the table' so as to allow the industry access to regulators and policy-makers. One of the more sceptical company representatives commented to the author: "the original plans for the Standard were simply too ambitious. I only felt comfortable about staying in the process because it was the potential answer to emerging regulatory pressures."[45]

Member companies were very concerned that the bodies involved in drawing up the implementation framework for Dodd-Frank and the OECD's Due Diligence Gold Supplement had little knowledge of the gold market and feared that this might lead to poorly drafted and counter-productive interventions, especially if there was a failure to differentiate between the markets for gold and the three 'Ts'. Thus, they mandated the World Gold Council to work to increase the understanding of the gold market amongst both groups of policy-makers.

It is difficult to assess how effective the World Gold Council and its member companies were in influencing the SEC; although they may deserve some credit for the fact that miners

[45] Interview with case study author

ultimately were exempted from the direct impact of the legislation. World Gold Council briefings for Commissioners and SEC staff, at the very least, improved the SEC's understanding of the dynamics of the gold market. On the other hand, the engagement effort failed to obtain a special regime, for example, for large-scale, formal sector miners in peaceful Tanzania (designated by the Dodd-Frank Act as a 'DRC country') compared with conflict-affected artisanal miners in the eastern DRC or any narrowing of the use 'conflict mineral'.

The evidence is stronger that the World Gold Council was a significant player in the drafting of the OECD Gold Supplement.[46] There can be little doubt that its influence would have been greatly diminished if it had not been engaged in working on developing an 'industry scheme' alongside the LBMA's, the Responsible Jewellery Council's and the Electronics Industry Citizenship Coalition's work on their respective parts of the gold supply chain.

Terry Heymann observed: "The work on the Gold Supplement gave us the chance to sell the need and potential benefits from the Standard to the member companies. The Standard provided a means of operationalising the OECD Guidance for large-scale operators. Drafting the Standard also meant that we were better able to give mature input to the OECD and, subsequently, to the European Commission".[47]

In summary, the passage of the Dodd-Frank Act, in particular, made some gold mining companies question whether they needed to go further in addressing the conflict finance issue than the U.S. legislation, especially in relation to taking a global approach. It also distracted from the implementation model that, up to that point, had been under consideration. However, the existence of regulatory pressures heightened the perceived importance of the issue, and the emerging need to satisfy the due diligence requirements of actors further along the supply chain made it more difficult for companies to walk away from the project.

4. What has been the impact of the Conflict-Free Gold Standard? What have the public policy benefits been?

Objectively, there was little evidence that formal sector industrial gold mining was a source of funding for unlawful armed groups in the Democratic Republic of Congo. Indeed, when the Dodd-Frank legislation was passed no new, formal sector, gold mine had been opened in the DRC for over twenty-five years. Things are changing and three such mines have been opened in the last five years[48] and their presence has become a catalyst for generating revenues for government, for increasing the central government's presence in the areas around the mines and for reducing illegal gold mining in the surrounding areas. As far as the author is aware, there are no industrial gold mines elsewhere in the world which are currently credibly accused of being a major source of finance for insurgent

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[46] Inter alia, interview with Tyler Gillard

[47] At the time of writing (March 2016) the text of an EU Conflict Minerals Regulation was still under negotiation between the European Commission, the Council of Ministers and the European Parliament. The World Gold Council had regular meetings with Commission officials during the preparation of an initial legislative proposal in the period 2012-14.

[48] Randgold and Anglo Gold Ashanti's Kibali mine and Banro Corporation's Twangiza and Namoya gold mines

groups – albeit pressures for extortion certainly cannot be ruled out in some geographies. In 2010, however, industry critics would probably have pointed to three sources of concern:

- **An incident in the DRC, highlighted in a report by Human Rights Watch[49], in which it was alleged that AngloGold Ashanti (AGA) had paid $10,000 (under duress) to the militia group the FNI (*the Front des Nationalistes et Intégrationnistes)* at its Mongbwalu project in Orientale Province. They further alleged that the FNI, which stood accused of war crimes and serious human rights abuses, had benefitted from 'recognition' and other non-financial support from AGA.**
- **Although consistently denied by the international gold mining companies, some NGOs believed that in the early years of the century some major gold mining companies 'bought in' artisanally-mined gold without conducting due diligence to assure themselves that it had not been tainted by conflict or human rights abuses.**
- **In conflict-affected gold-mining areas, such as parts of Mexico, if a mine is operating in the zone of influence of a well-organised militia or criminal group, without strong safeguards there is a risk that gold-bearing material may be stolen during processing. This might occur, theoretically, as a result of collusion amongst employees working in parts of the operation where gold-bearing material is relatively concentrated or even with the connivance of management as a result of extortion or corruption.**

However, in an interview with the author in late 2014, a representative of a US-based, DRC-focussed NGO told the author: "we are not really concerned about large mining companies and we don't believe now that they are buying-in conflict gold and mixing it with their own output." Reflecting on the fact that the Conflict-Free Gold Standard and the Responsible Gold Guidance effectively add a further layer of assurance to operators who were already working in a 'conflict aware' manner, Ruth Crowell of the LBMA acknowledged that there was some merit in the criticism that 'we have collectively made the good better but haven't really sorted out the 'bad'.'[50]

Jessica van Onselen, formerly at AngloGold Ashanti commented: "Two truths can exist simultaneously. We didn't solve all the problems connecting gold production to the funding of armed groups and we didn't, through the process, solve the problems of ASM. But, we did achieve a number of worthwhile things. For example we heard and made an effort to respond to the common perception amongst NGOs - at the time - that we were implicated in

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[49] 'The Curse of Gold' June 2005

[50] Interview with case study author

paying off warlords or otherwise co-operating with armed groups and we created a Standard that reflects several international best practices and got a wider group of gold miners to adopt them. A lot of the value of developing the Standard was around education and participating in a global conversation. That involvement is certainly not valueless."[51]

Does the fact that the Conflict Free Gold Standard addresses a relatively low-risk potential source of conflict finance mean that it was irrelevant? Not necessarily. From the industry perspective it heightened awareness of the danger of mining operations being used to fund armed groups and created a framework through which companies can provide assurance that they are not involved in such activities, while arguably also reducing the risk of such problems occurring due to greater risk awareness, improved due diligence and the better integration of relevant management systems. It has protected the integrity and reputation of gold as a commodity, with benefits for the hundreds of thousands of people who honestly and responsibly earn their living from gold mining or in other gold-related downstream activities.

From a public policy perspective, it has closed loopholes through which armed groups could theoretically receive support and increased confidence in the *bona fides* of the biggest single source of newly-mined gold production. It could also be an advance for good governance and stability in some countries if demands for assurance around the provenance of gold increasingly permeate other parts of the gold supply chain and galvanise developing country governments, donor agencies and ASM operators into finding ways of providing comparable assurance for artisanally-mined gold as part of a broader push for formalisation of legitimate ASM operations.

5. How did the creation of the Standard affect attitudes towards the gold mining industry?

Since only a small number of civil society organizations[52] were interviewed as part of the research for this case study, it is not possible to provide a comprehensive analysis in response to this question. However, it is fair to note that representatives of Pact, Global Witness, the Alliance for Responsible Mining and of the Fair Trade Foundation appeared in World Gold Council videos[53] designed to educate stakeholders about the objectives and operation of the Standard – at least implying that they had no problem in associating themselves and their organisations with the initiative.

Similarly, a number of leading governments, including the USA, the UK, Switzerland and Canada, were comfortable to be associated with the Standard through participating in videos about it or providing platforms from which the Standard could be promoted. Within the gold supply chain there seems to be satisfaction with the assurance which the Standard provides to refiners and jewellers.

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[51] Interview with case study author

[52] Representatives of the ENOUGH Project, International Alert and Fund for Peace

[53] https://www.gold.org/research/introduction-conflict-free-gold-standard-video and https://www.gold.org/news-and-events/press-releases/world-gold-council-launches-new-video-impact-conflict-free-gold

Moreover, a number of company representatives noted that following their implementation of the Standard, there have been few challenges to large-scale gold miners for alleged insensitivity to the 'minerals and conflict' agenda from leading NGOs.

This conveys a sense that most of the more engaged NGOs believe that the formal sector gold miners have been willing to change their business processes, increase their transparency and accountability and contribute to increasing integrity and the reliability of due diligence initiatives within the gold supply chain.

A number of company representatives stressed, however, that the current absence of a 'hue and cry' on the issue, doesn't mean that the conflict issue was never a serious reputational threat. Rather, they believe that through their anticipatory engagement in developing the Standard they pre-empted ongoing controversy and showed that industry and civil society share the same objective of preventing the mining of gold being used to trigger, prolong or fund unlawful armed conflict and associated human rights abuses.

VII. Conclusions

In summary, against a backdrop of a complex interaction between regulatory, normative and voluntary initiatives, the Conflict-Free Gold Standard fell short of delivering on some of the initial aspirations of its advocates. Judged against these ambitions, it failed:

- **To create a single due diligence framework that operates across all major gold feedstocks including recycled or scrap gold or production from artisanal or informal sources;**

- **To establish a framework for wider certification of 'responsible' gold production across a range of social and environmental performance standards; or probably**

- **To reduce significantly the level of finance going to unlawful armed groups, since the general belief is that in recent years, industrial-scale gold mining has not been a significant source of such finance.**

However, it was probably unrealistic for an industry association, albeit one whose mission is advocacy for gold in general rather than only for gold produced by its member companies, to seek to create a comprehensive Standard that would create rules for supply-chain actors.

This was true for two reasons.

Firstly, actors (primarily refiners, bullion banks and artisanal mining groups) in other parts of the value chain were not prepared to accept rule-making by a different group of commercial interests; and secondly, many of the World Gold Council's member companies came to the view that the development of the Standard should primarily serve their interests; should not imply a willingness to take responsibility for regularising the activities of illegal artisanal and smaller-scale miners; and should not potentially benefit some member companies more than others.

Judged by potentially more achievable goals, the Standard can boast a number of achievements:

- **It raised the salience of the issue of the misuse of gold to fund unlawful armed groups. It also provided gold mining companies with a broadly accepted framework within which to discharge their due diligence and assurance obligations.**
- **It seems likely to have improved the performance of several mines located in potential conflict zones. Benchmarks such as the Voluntary Principles on Security and Human Rights and aspects of the UN Guiding Principles on Business and Human Rights, for example, are likely to have become better embedded in corporate management systems as a result of the Standard since their implementation became (at least in conflict-affected and high risk areas) subject, for the first time, to independent assurance. There is also anecdotal evidence[54] that some companies found it useful in tightening other relevant aspects of their corporate practices (e.g. due diligence on payments to community groups and NGOs, due diligence on suppliers and control of gold within sites).**
- **It reduced the potential for large-scale gold miners to be involved in, or to be legitimately suspected of involvement in, the funding of unlawful armed groups. By insulating formal-sector operations from funding illegal armed groups and improving their understanding of conflict dynamics in their vicinity, Companies may, in turn, have increased the pressure for improving the oversight of other parts of the value chain. After all, it could be argued, if refiners were able to receive a high level of assurance from industrial miners it might encourage them to be more searching in their due diligence expectations of other sources of supply.**
- **It created greater engagement with and, in many cases, better alignment between industrial gold miners and governments and civil society, thereby facilitating co-operation including, potentially, on issues such as improving the legal, social and environmental performance of artisanal miners and on supply chain due diligence. It also helped to improve the level of trust and dialogue between companies and NGOs and, thereby, to defuse the risk of a consumer-orientated campaign purporting to show that newly-mined gold is widely tainted by the funding of conflict.**
- **It created a process that had the buy-in of influential third parties (such as the OECD, governments, the LBMA, the Responsible Jewellery Council, and leading refiners) and conformance with which could be relied on by other actors in the gold supply chain, when conducting their due diligence. Although different parts of the gold supply chain, such as the refiners, jewellers and technology companies, operate separate assurance or certification schemes, rather than a single 'chain of custody' system, there is reasonable integration between them.**

[54] Company interviews with case study author

From the point of view of the gold mining industry, the unusually thorough and comprehensive consultation exercise appears to have led to the creation of a credible Standard with wide buy-in. It also gave the industry better access to policy makers than would have been the case if the industry had not been seen to be making a contribution to the 'conflict minerals' challenge. In the process the World Gold Council and its member companies appear to have become more closely engaged with their governmental and civil society stakeholders and thereby to influence policy.

In terms of learnings for corporate responsibility initiatives in other sectors, the following four points are particularly relevant:

- **An industry association led initiative is unlikely to succeed if it lacks a clear mandate, adequate resourcing or authoritative leadership;**
- **The objectives of such an initiative must be realistic in terms of the organisation's authority and remit. It will always be difficult for one part of a value chain to seek to make rules for others. The Kimberley Process is arguably an exception to this but that was made possible by De Beers' dominance of the diamond industry and the fact that the rules were ultimately agreed and enforced by governments;**
- **It is unlikely that an industry-association led initiative that impacts the core commercial interests of member companies will succeed if some companies perceive it to have asymmetric costs or benefits as between them; and**
- **If an industry association is engaged in designing a framework through which its members can address a societal issue, it will only be credible and succeed if it understands the concerns and earns the trust of key external stakeholders. This may involve going some way beyond the companies' 'comfort zone'.**

APPENDIX 1: Conflict-Free Gold Standard – Glossary

Anti-Money Laundering (AML) Regulations – Regulations applied to refiners and other actors in the gold value chain designed to combat money laundering. Money laundering means exchanging money or assets that were obtained criminally for money or other assets that are 'clean'. The clean money or assets don't have an obvious link with any criminal activity. Money laundering is also commonly understood to include money that's used to fund terrorism

Artisanal and Small-Scale Mining – formal or informal mining operations with predominantly simplified forms of exploration, extraction and processing. ASM is normally labour- rather than capital-intensive. It may involve men and women working on an individual basis as well as those working in families or community groups, or in co-operatives, partnerships or other types of association or enterprise involving hundreds or even thousands of miners.

Assurance – assurance is an evaluation method that uses a set of principles and standards to assess the quality of a reporting organisation's subject matter, such as reports, and the systems, processes and competencies that underpin its performance. Assurance includes the communication of the results of this evaluation to provide credibility to the subject matter for its users (AA1000 AS)

Bullion – metal formed into bars or ingots

Bullion bank - bullion banks are investment banks that function as wholesale suppliers dealing in large quantities of gold. All bullion banks are members of the London Bullion Market Association.

Conflict-Free Smelter Programme (CFSP) – the CFSP is the flagship programme of the Conflict Free Sourcing Initiative operated by the Electronics Industry Citizenship Coalition (see below). Focusing on a "pinch point" (a point with relatively few actors) in specific metals supply chains, the CFSP uses an independent third-party audit to identify smelters and refiners that have systems in place to provide assurance that they are sourcing only conflict-free materials. Companies can then use this information to inform their sourcing choices.

Cyanide - A chemical used to dissolve and thereby separate gold and silver from ore.

Doré - Unrefined gold and silver bullion bars usually consisting of approximately 90 percent precious metals that will be further refined to almost pure metal.

Due diligence – is an ongoing, proactive process through which companies can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts on stakeholders as an integral part of business decision-making and risk management processes. Due diligence can help companies ensure that they observe the principles of international law and comply with domestic laws, including those governing the illicit trade in minerals, and UN sanctions.

Electronics Industry Citizenship Coalition – The EICC was founded in 2004 by a small group of companies seeking to create an industry-wide standard on social, environmental and ethical issues in the electronics industry supply chain. In 2008, the EICC and the Global e-Sustainability Initiative established, the Conflict-Free Sourcing Initiative to help companies to address ‘conflict minerals’ issues in their supply chains. As of 2014, over 180 companies from seven industries were participating in the CFSI. www.eiccoalition.org

Extractive Industries Transparency Initiative (EITI) - the EITI is a global Standard to promote the open and accountable management of natural resources. Launched in 2003, it seeks: to strengthen government and company reporting systems especially relating to tax and royalty payments; to promote greater accountability in areas such as the allocation of mining and oil and gas licences; to inform public debate and to enhance trust. In each implementing country it is supported by a coalition of governments, companies and civil society working together: www.eiti.org

Heidelberg Conflict Barometer - The Conflict Barometer has been produced annually by the Heidelberg Institute for International Conflict Research since 1992, It provides an annual analysis of global conflict events and ratings for specific countries and regions. It covers non-violent and violent crises, wars, coups and the progress of peace negotiations: http://www.hiik.de/en/konfliktbarometer

Heidelberg Institute for International Institute for Conflict Research - The Heidelberg Institute for International Conflict Research (HIIK) is an independent and interdisciplinary registered association located at the Department of Political Science at the University of Heidelberg. It is dedicated to the distribution of knowledge over the emergence, course, and settlement of interstate and intrastate political conflicts. http://www.hiik.de/en/index.html

Industry scheme – an initiative or programme created and managed by an industry organisation or similar initiative to support and advance some or all of the recommendations of the OECD Due Diligence Guidance.

International Conference on the Great Lakes Region (ICGLR) – founded in 2000, the ICGLR is an inter-governmental organisation comprised of the twelve countries of the African Great Lakes Region. It was established in recognition of the fact that political instability and conflicts in the countries around the Great Lakes have a significant regional dimension. Most notable among the conflicts that have had cross-border impacts or origins are the 1994 Rwandan genocide that led to the loss of more than 800,000 lives, and the ongoing conflict and political instability in DRC, which has accounted for the loss of some five million people. The ICGLR is composed of twelve member states, namely: Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Uganda, Rwanda, Republic of South Sudan, Sudan, Tanzania and Zambia. The ICGLR operates the Regional Initiative to Fight against the Illegal Exploitation of Natural Resources. Inter alia, this has developed six tools to aid member states in seeking to break the link between armed conflict and the illegal exploitation of natural resources in the region. http://www.icglr.org

International Council on Mining and Metals (ICMM) - The International Council on Mining and Metals (ICMM) was founded in 2001 to improve sustainable development performance in the mining and metals industry. Today, it has 25 mining and metals companies in membership as well as 34 national and regional mining and global commodity associations.

ICMM serves as an agent for change and continual improvement on issues relating to mining and sustainable development. It requires member companies to make a public commitment to improve their sustainability performance and report against their progress on an annual basis. In addition, to augment these efforts, it engages with a broad range of stakeholders (governments, international organizations, communities and indigenous peoples, civil society and academia) to build strategic partnerships.

International Cyanide Management Code - The International Cyanide Management Code for the Manufacture, Transport, and Use of Cyanide in the Production of Gold was developed by a multi-stakeholder Steering Committee under the guidance of the United Nations Environment Program (UNEP) and the then-International Council on Metals and the Environment (ICME). The Code is a voluntary initiative for the gold mining industry and the producers and transporters of the cyanide used in gold mining. www.cyanidecode.org

Intergovernmental Forum on Mining and Sustainable Development–emerged from the United Nations Summit on Sustainable Development in Johannesburg in 2002. It provides its 62 national government members, mining companies, industry associations and relevant civil society groups with a unique forum for dialogues including on issues such as governance, policy development, fiscal optimisation, environmental stewardship and artisanal and small-scale mining.

International Human Rights Law - The Universal Declaration of Human Rights is generally agreed to be the foundation of international human rights law. Adopted in 1948, the Declaration has inspired a rich body of legally binding international human rights treaties. It represents the universal recognition that basic rights and fundamental freedoms are inherent to all human beings, inalienable and equally applicable to everyone, and that every one of us is born free and equal in dignity and rights.

International Humanitarian Law - International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflict. International humanitarian law is part of international law, which is the body of rules governing relations between States.

Know Your Customer (KYC) regulations –set out the standards to be employed by businesses in verifying the identity of clients as a deterrent to financial crimes such as bribery, money laundering, fraud and the financing of terrorist organisations.

London Bullion Market Association (LBMA) - The London Bullion Market Association was formally incorporated on 14 December 1987 to represent the interest of the participants in the wholesale bullion market and to encourage the development of the London market in every possible way. www.lbma.org.uk

LBMA Good Delivery List – the Good Delivery list sets out the names of gold and silver refiners whose bars meet the standards (of fineness, weight, marks and appearance) required by the London Bullion Market Association. 'Good Delivery' is an international standard requiring gold bars to have a minimum gold purity of 99.5%. Central banks normally hold gold in the form of bars produced to this specification.

Management Systems – management processes, standards and documentation which together provide a systematic framework for ensuring that tasks are performed correctly, consistently and effectively so as to achieve desired outcomes and which support continuing improvements in performance.

Mill - A processing facility where ore is finely ground and thereafter undergoes physical or chemical treatment to extract valuable metals.

Organisation for Economic Co-operation and Development (OECD) - the OECD was established in 1961 and now has 34 member states. It acts as a think tank for member governments with its primary mission being to help them to foster prosperity and fight poverty through economic growth and financial stability. As part of its work to promote international investment in 1976 it first developed the OECD Guidelines for Multinational Enterprises (last updated in 2011) which set out normative ‘recommendations for responsible business conduct’: www.oecd.org

OECD Due Diligence Guidance on Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas – is the first example of a collaborative government-backed, multi-stakeholder initiative on the responsible supply chain management of minerals from conflict-affected areas. Its objective is to help companies to respect human rights and avoid contributing to conflict through their mineral sourcing practices. The Guidance is also intended to cultivate transparent mineral supply chains and sustainable corporate engagement in the mineral sector with a view to enabling countries to benefit from their natural mineral resources and to prevent the extraction and trade of minerals from becoming a source of conflict, human rights abuses and insecurity. http://www.oecd.org/daf/inv/mne/mining.htm

Refinery – refining is the final stage of gold production. It involves removing impurities that remain after the smelting process. Gold refineries receive doré bars, as well as scrap gold, and melt the metal in a furnace. They then separate the pure gold from other precious and less precious metals. A sample is then assayed to measure the gold content with a target of around 99.9 % purity.

Responsible Jewellery Council (RJC) – the RJC has over 700 member companies spanning the jewellery supply chain from mine to retail. It is an independent standard setting and certification organisation. RJC Members commit to and are independently audited against the RJC Code of Practices

RJC Code of Practices – an international standard on responsible business practices for diamonds, gold and platinum group metals. The Code of Practices addresses a range of topics including human rights, labour rights, environmental impacts, mining practices and product disclosure. RJC also works with multi-stakeholder initiatives on responsible sourcing and supply chain due diligence. The RJC’s Chain-of-Custody Certification for precious metals supports these initiatives: www.responsiblejewellery.com

Risk Assessments - the overall process of risk analysis and evaluation using a systematic process to determine how often a specific event occurs or has the potential to occur, the likely magnitude of such an event’s consequence, as well as prioritising the management of those events.

Smelting – the process of melting ores or concentrates to separate out metal from impurities.

Supply-chain due diligence – in regard to supply chain due diligence for responsible mineral sourcing, risk based due diligence refers to the steps that companies should take to identify, prevent and mitigate actual and potential adverse impacts and to ensure that they respect human rights and do not contribute to conflict through their supply chain.

UN Global Compact – describes itself as the world's largest corporate sustainability initiative involving over 12,000 companies in 170 countries. It is based on ten universal Principles covering human rights, labour and environmental issues and anti-corruption. The UN Global Compact, strives to create a sustainable and inclusive global economy that delivers lasting benefits to people, communities and markets: www.unglobalcompact.org.

UN Guiding Principles on Business and Human Rights – authoritative guidance on the implementation of the United Nations 'Protect, Respect and Remedy' framework. The development of the Principles was led by the United Nations Secretary General's Special Representative on Business and Human Rights, Professor John Ruggie, through an extensive consultative process. The Principles provide a roadmap to increased accountability of businesses for human rights abuses and corporate-related harm. www.ohchr.org

Voluntary Principles on Security and Human Rights – established in 2000 as a source of best practice guidance, the Voluntary Principles involve participation by governments, oil, gas and mining companies and civil society organisations. The Principles are designed to guide extractive companies in maintaining the safety and security of their operations within an operating framework that encourages respect for the human rights of members of surrounding communities. The Principles provide guidance in three areas: good practice in undertaking security risk assessments; the control of private security; and the control of public security forces: www.voluntaryprinciples.org

APPENDIX 2: Timeline

Year/Month	CFGS-related developments	Other industry initiatives	Legislative and Normative developments
April 2009			Senator Sam Brownback introduces Bill to require electronics companies to 'verify and disclose' their sources of Tin, Tungsten and Tantalum. The Bill fails in Committee.
December 2009	World Gold Council Board requests the organisation to develop an options paper around the theme of preventing gold-mining being misused to fund conflict.		
March 2010	Responsible Gold Steering Committee formed comprising representatives of a selection of World Gold Council members and refineries.		
April 2010	World Gold Council Board approves concept of Conflict-Free Gold and Chain of Custody Standards to cover gold production from mine to end of refinery.	Electronics Industry Citizenship Coalition (EICC) and Resolve publish 'Tracing the Path Forward: A Study of the Supply Chain for Target Metals used in Electronics', focussed on 3 Ts and cobalt and the African Great Lakes region.	
June 2010	World Gold Council Board approves desktop piloting of draft 'Conflict' Standard		

Year/Month	CFGS-related developments	Other industry initiatives	Legislative and Normative developments
July 16 2010			US Congress approves the Dodd-Frank Act including s.1502 on 'conflict minerals'. SEC given 270 days to produce implementing rules.
20 July 2010	First draft of Chain of Custody Standard submitted to Responsible Gold Steering Committee. Agreement to proceed with desktop assessments of Conflict Standard at a selection of World Gold Council member company mines.		
September 2010	World Gold Council Board gives approval, in principle, to the CFGS and Chain of Custody Standards subject to detailed review by Steering Committee.		First meeting of OECD/ICGLR multi stakeholder group on Due Diligence Guidance for the Responsible Sourcing of Minerals in Nairobi.
15 November 2010			Report to UN Security Council by UN Panel of Experts on the Democratic Republic of Congo emphasises the continuing role of resources in funding the ongoing conflict in Eastern DRC.
7 December 2010	The World Gold Council Board meeting in New York, questions whether a Conflict-Free Gold Standard scheme should initially be limited in scope to the DRC and adjoining countries. Questions are raised about the Chain of Custody Standard and the inclusion of refiners. External communication about the initiative placed on hold.		

Year/Month	CFGS-related developments	Other industry initiatives	Legislative and Normative developments
December 2010			Heads of State of 11 Intergovernmental Conference on the Great Lakes Region (ICGLR) states endorse OECD Guidance on Due Diligence and 6 tools of the Regional Certification Initiative.
15 December 2010			US Securities and Exchange Commission (SEC) publishes draft rules for implementing s.1502 of the Dodd Frank Act – with only a six week comment period; later extended.
18/19 January 2011	Meeting held in Washington by World Gold Council representatives with SEC officials to explain the complexities of the gold market.		
26 January 2011	Responsible Gold Steering Committee agrees to continue to involve refiners in work on the Standard albeit with greater clarity about the handover of responsibility for gold-bearing material. The implementation schedule was lengthened to reflect uncertainties over Dodd Frank and the completion of the OECD Guidance Gold Supplement.		
25 February 2011	Responsible Gold Steering Committee approves Dodd Frank submission to the SEC and supplementary paper on the potential impact of the legislation on Tanzania. It was agreed to emphasise the formal gold mining sector's		

Year/Month	CFGS-related developments	Other industry initiatives	Legislative and Normative developments
	commitment to established corporate responsibility standards. Considered a first draft of a 'Declaration of Core Principles on Mining and Conflict' to frame the standard.		
31 March 2011	World Gold Council Board authorises continued engagement with OECD and SEC, especially with a view to preventing the stigmatisation of African gold. Agreed importance of continuing to develop the Conflict-Free Gold Standard in the context of cooperation with RJC and EICC. Authorises launch of low-profile consultation on text of the Standard.		
End April 2011			SEC announces that promulgation of Rules to Implement s.1502 will be postponed until August-December 2011.
4 May 2011			Meeting of OECD-hosted Multi-Stakeholder Working Group. Start of drafting Gold Supplement.
May 2011		LBMA announces intention to develop Responsible Gold Guidance to cover gold refining process.	Ministerial meeting chaired by US Secretary of State Hillary Clinton, adopts the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High Risk Areas.
7 June 2011			World Gold Council represented at stakeholder meeting in Washington with

Year/Month	CFGS-related developments	Other industry initiatives	Legislative and Normative developments
			State Department Under Secretaries Hormats (Economic Affairs) and Ortero (Democracy and Global Affairs) on avoiding adverse consequences for Central Africa from implementation of s.1502 of Dodd Frank Act.
16 June 2011	Publication of consultation drafts of Conflict-Free Gold Standard and Chain of Custody Standard.		
19-21 July 2011	Under new Chairman, Pierre Lassonde, Responsible Gold Steering Committee is briefed by OECD and meets with LBMA, EICC and Responsible Jewellery Council representatives to discuss alignment with their certification schemes. Holds workshop (including refiners) on conflict-mineral issues facilitated by NGOs, International Alert and Fund for Peace.		
July 2011		London Bullion Market Association (LBMA) Referees and Regulatory Affairs Committee adopts draft Responsible Gold Guidance.	Joint letter to SEC from 50 organisations (including World Gold Council) urging it to recognise the OECD Guidance on Due Diligence as framework for its implementing rules.
August 2011	WGC representatives meet with three SEC Commissioners re s.1502.	LBMA issue draft Responsible Gold Guidance to refiners for feedback.	
16/17 August 2011			SEC roundtable with stakeholders on s.1502 rule-making (gold miners

Year/Month	CFGS-related developments	Other industry initiatives	Legislative and Normative developments
			represented by Yedwa Simelane of AngloGold Ashanti).
6 September 2011	Responsible Gold Steering Committee meeting jettisons The chain of Custody and decides the CFGS should not cover the refining stage, it makes substantive progress on identification of conflict areas and on approach to assurance.		
September 2011	Expansion of internal CFGS development team and addition of KPMG Team focussed on assurance framework.		
September – October 2011	First round of consultative roundtables held in New York, London and Johannesburg.		
13 October 2011	Gold for Development workshop held with World Bank in Washington.		
18 October 2011			World Gold Council meetings with EU Commission and European Parliamentarians re potential conflict minerals initiative.
28 October 2011			Joint letter to SEC from WGC, LBMA and Responsible Jewellery Council re alignment between s.1502 role-making and treatment of recycled materials and gold stocks.

Year/Month	CFGS-related developments	Other industry initiatives	Legislative and Normative developments
2 November 2011	Presentation to Intergovernmental Forum on Mining and Sustainable Development on conflict minerals and CFGS – input invited from participating governments.		
15 November 2011		Launch of US State Department led Public Private Alliance on Responsible Mineral Trade (focussed on African Great Lakes Region).	
18 November 2011			OECD Working Group meeting in Paris and substantive progress with development of Gold Supplement.
12-15 December 2011	Pilot implementation of Standard conducted at Goldfields' Tarkwa mine in Ghana.		
January 2012	Pilot implementation of Standard conducted at Goldcorp's Los Filos mine in Mexico.		
31 January 2012		Finalisation of LBMA Responsible Gold Guidance.	
2 February 2012			Adoption of recommended draft Gold Supplement to OECD Due Diligence Guidance by multi-stakeholder working group.

Year/Month	CFGS-related developments	Other industry initiatives	Legislative and Normative developments
29 March 2012	Publication of Conflict-Free Gold Standard 'Exposure' Draft		
18 April 2012	World Gold Council presentation on Standard at MINEX Central Asia Conference.		
24 April		World Gold Council invited by US Government chair to present to Kimberley Process Review Committee on its approach to the identification and recognition of conflict affected and high-risk areas.	
2-3 May 2012			Meeting of OECD Guidance Working Group and Gold Working Group.
11-12 May 2012		EICC-GESI Conflict Free Smelter Programme workshop at which World Gold Council presented on CFGS.	
17 May 2012	Conflict-Free Gold Standard Consultation Roundtable in Lima hosted by IDEHPUCP.		
3 June 2012	World Gold Council presentation on the Standard at JCK jewellery conference in Las Vegas.		
5-6 June 2012	First Standard company support implementation workshop – Mexico City.		

Year/Month	CFGS-related developments	Other industry initiatives	Legislative and Normative developments
15 June 2012	Conflict-Free Gold Standard Assurance Framework consultation roundtable in London.		
18 June 2012	Consultation roundtable re Standard for EU stakeholders hosted by European Centre for Development Policy Management.	Finalisation of LBMA Responsible Gold Guidance Audit Protocol.	
21 June 2012	Conflict-Free Gold Standard company implementation support workshop in Toronto.		
2/3 July 2012	Conflict-Free Gold Standard company implementation support workshop, Accra.		
4/5 July 2012	Conflict-Free Gold Standard company implementation support workshop, Johannesburg.		
6 July 2012	Conflict-Free Gold Standard consultation workshop in Dar es Salaam, jointly hosted by ICGLR, BGR/GIZ (German geological and development agencies) and World Gold Council.		
9 July 2012	Conflict-Free Gold Standard company implementation support workshop, Melbourne.		
10 July 2012	Conflict-Free Gold Standard consultation roundtable in Melbourne hosted by Australian Centre for Corporate Social Responsibility.		

Year/Month	CFGS-related developments	Other industry initiatives	Legislative and Normative developments
17 July 2012			Adoption of OECD Due Diligence Guidance Gold Supplement by the OECD Ministerial Council.
16 August 2012	Responsible Gold Steering Committee considers outputs from consultation on the Conflict-Free Exposure Draft and approves Standard and accompanying guidance documents for Assurance Providers and Implementing Companies.		
22 August 2012			SEC adopts final rule for the implementation of Dodd Frank s.1502.
10 September 2012	Adoption of Conflict Free Gold Standard by World Gold Council Board.		
18 October 2012	Publication of Conflict-Free Gold Standard to coincide with meeting of the Intergovernmental Forum on Mining and Sustainable Development meeting in Geneva.		

APPENDIX 3:

Research Questionnaires

A. Developing the Conflict-Free Gold Standard Case Study: Questionnaire for Gold Mining Company Steering Group Representatives

Name: **Company:**

1. **Please rank in order of importance *(1 most important; rank only those points that apply)* what you see as the most important motivations for the development of the Conflict-Free Gold Standard?**

    a. Corporate commitment to address the problem of gold being misused to fund unlawful armed conflict…………………………………………………………………………

    b. Anticipation of potential regulatory action…………………………………………….

    c. Protection of gold's reputation……………………………………………………………..

    d. Anticipation of consumer concerns……………………………………………………….

    e. Pre-empting a new NGO anti-gold mining campaign……………………………

    f. First step in development of 'responsible gold' standards……………………

    g. Other (please specify)…………………………………………………

2. **What were your greatest concerns during the development of the development of the Conflict-Free Gold Standard***(please rank the factors listed below in importance; only provide a rank for those that apply)*?

    a. Concerns about the idea of developing other standards and their potential overlap with the work of other initiatives (e.g. ICMM)

    b. Concerns that existing management systems would be insufficiently recognised

    c. Imposing excessive costs on operations from implementation or assurance

    d. Creating unreasonable expectations in relation to human rights

    e. Distorting competition between companies because some have control over refiners and some do not

    f. Concerns about getting the definitions of conflict-affected areas or triggers for the company and commodity assessments wrong

    g. Getting the right regime for governing 'deviations from conformance'

    h. Doing insufficient to ensure alignment with the OECD Guidance

i. Imposing obligations which your refiners would be unwilling to meet

j. Other (please specify)

3. **What do you see as the most difficult issues that had to be resolved during the development of the Conflict-Free Gold Standard? Please rank in importance *(1 most important; only rank those issues that apply)*?**

   a. Geographical scope………………………………………………………………

   b. Whether to maintain a chain of custody standard……………………………

   c. Whether to restrict scope to large scale, newly-mined gold………..

   d. Defining conflict-affected areas…………………………………………………

   e. The regime for concentrates……………………………………………………..

   f. How to provide for assurance……………………………………………………

   g. Other (please specify)

4. **Based on your experience of the Conflict-Free Gold Standard, do you believe that the gold mining industry should look to establish other parallel standards in due course?**

   Yes………… No……. Possibly but not yet……..

5. **What in your opinion was the key motivation for the decision to move away from a chain of custody approach and for stopping assurance at the point where responsibility for material passes to the refiner?**

6. **Did you encounter any significant resistance from within your company in relation to committing to implement the Conflict-Free Gold Standard? If so can you share on which issues there was 'push-back' and from which functions in the company?**

7. **What benefits do you think the gold mining industry derived from developing and implementing the Conflict-Free Gold Standard *(please rank in order with 1 as most important; only rank those propositions that apply)*?**

   a. Achieving alignment with regulatory and normative benchmarks……..

   b. Increased engagement with non-industry stakeholders……………………

   c. Being able to provide assurance to refiners………………………………………

   d. Reputational benefits from being seen to address conflict issues…………

8. **What benefits has your company achieved through participating in the development and implementation of the Conflict-Free Gold Standard?***(rank the following in order with 1 as most important; only rank those propositions that apply)?*

   a. Improved aspects of internal systems…………………………………..

   b. Differentiation from non-implementing gold companies……..

   c. Reassurance for external stakeholders about your company's commitment to best practices…………………………………………….

   d. Increased internal awareness of a range of conflict-related and corporate responsibility issues……………………………………………………

   e. Other (please specify)……………………………………………………………………………………

9. **What do you think could have been done better during the development of the Conflict-Free Gold Standard? What lessons should be learned for the future?**

10. **What do you think was done well during the development of the Conflict-Free Gold Standard?**

11. **Please give any concrete examples that illustrate any benefits for your company from implementing the Conflict-Free Gold Standard?**

12. **Do you think that it would be desirable to make any significant adjustments to the Conflict-Free Gold Standard in the future in terms of content, assurance or governance arrangements? If so what should they be?**

13. **Are you satisfied or disappointed by the reception given to the Standard and by its impact? If disappointed, what would increase approval, take-up or impact?**

B. Questionnaire for organisations which hosted consultative roundtables during the development of the Conflict-Free Gold Standard

Name: **Organisation:**

1. **What motivated your organisation to agree to host a consultative roundtable during the development of the Conflict-Free Gold Standard?**(please rank the following responses, scoring as many as you feel apply to your organisation)

    a. Existing strong involvement around the topic of 'conflict minerals'…………

    b. To make a contribution to developing good practice in corporate responsibility…………………………………………………………………..

    c. To help mining companies to develop stronger policies and processes to protect human rights and prevent the funding of conflict……………………………...

    d. To play a facilitating role in encouraging dialogue between government, the private sector and civil society………………………………………………...

    e. To help prevent the stigmatisation of gold produced in Africa through developing a standard that would ensure that responsibly produced gold would retain market access…………………………………………………………………

    f. To help companies to develop an industry standard to implement the OECD Due Diligence Guidance………………………………………………………………

    g. Other (please specify)………………………………………………………………

2. **What did you perceive to be the World Gold Council's objectives in asking your organisation to become involved in hosting a consultative roundtable?**(please rank the following responses, scoring as many or as few as you feel apply)

    a. To provide perceived legitimacy to the development of an industry-led Standard……………………………………………………………………………….

    b. To seek input to the development of the Standard from a broad range of stakeholders………………………………………………………………………..

    c. To give stakeholders confidence to contribute in a neutral forum and with independent facilitation………………………………………………………….

    d. To leverage the convening power of your organisation to encourage wider participation/ input to the development of the Standard than might otherwise have been possible …………………………………………………………………

    e. Other (please specify)…………………………………………………………....

3. **Did you feel that the roundtable involved a good cross-section of opinions relevant to the Conflict-Free Gold Standard?**

   Yes……… No….. Any comments? ……………………..

4. **What level of confidence did you feel around the integrity of the consultative process?**
   - Very high……………………….
   - High……………………………….
   - Moderate………………………
   - Low……………………..
   - Don't Know…………..

5. **What do you recall as being the main theme(s) of stakeholder feedback at the roundtable which you hosted? To what extent, if any, were the points made reflected in the final Standard?**

6. **Please rate your level of satisfaction with each of the following elements of the roundtable (1 being 'very high' and '5' being 'low'):**

   i) Selecting invitees …………..

   ii) Facilitation of the roundtable …………

   iii) Drafting and agreeing the record of conclusions ……………

7. **Did you feel that the roundtable did or was intended to have a meaningful input to the development of the Conflict-Free Gold Standard?**

   Yes - Largely Cosmetic - No - Don't Know –

8. **Are there ways in which you feel that the consultation process might have been improved?**

9. **What lessons, if any, do you feel could be learned by other sectoral Standard development processes from the stakeholder engagement undertaken by the World Gold Council in creating the Conflict-Free Gold Standard?**

APPENDIX 4:

About the Author

Edward Bickham

Edward Bickham graduated in law from the University of Oxford in 1977. He worked in publishing and then on European policy before being appointed as Special Adviser to the Secretary of State for Northern Ireland (1983-85) and then Special Adviser to the Home Secretary (1985-88). He became Director of Corporate Communications for British Satellite Broadcasting (BSB) during the early years of regulated satellite television in Britain (1988-1990). Following the merger between BSB and Sky Television, he returned to Whitehall as Special Adviser to the Foreign Secretary (1991-93) during the Maastricht Treaty negotiations, the collapse of the Soviet Union and the early years of the Balkans conflict.

He was appointed as Managing Director of Public and Corporate Affairs for Hill and Knowlton UK (1993-2000) advising clients in sectors including broadcasting, nuclear energy, financial services and healthcare. In 2000 he became Executive Vice President External Relations for natural resources company Anglo American plc, a role he fulfilled until the end of 2009. Whilst with Anglo, he developed a professional cadre of some 120 people at the corporate level and in operations dedicated to social development, government relations and communication and created systems for the management of government relations and of corporate reputation. He led a programme with the objective of making Anglo American a partner of choice for governments and communities interested in using mining as a motor for wider development including through capacity building, enterprise development and establishing partnerships between governments, business and civil society. He led the development of the award-winning Socio-Economic Assessment Toolbox process which enables operations located in emerging markets to improve their understanding of their impacts and their engagement with stakeholders and provided tools for addressing their distinct socio-economic and environmental challenges.

Whilst with Anglo American Edward led the International Council on Mining and Metals (ICMM) working groups on human rights and communication and was involved in the governance of the Voluntary Principles on Security and Human Rights, the Investment Climate Facility (for Africa) and the Extractive Industries Transparency Initiative (EITI). Having served on the EITI's International Advisory Group, which drafted the initiative's initial governance arrangements (2004-6) he represented Anglo and then the ICMM on the EITI Board from 2007-2013.Since 2010 he has fulfilled senior advisory roles for a number of organisations including Critical Resource Ltd, the ICMM (2010-2015) and the World Gold Council (2010-14) and advises oil, gas and mining companies on license to operate issues. In 2014, he became Chairman of the Institute of Business Ethics and a Trustee of development NGO, Care International UK, whose Programme and Policy Committee he chairs. He is a member of the Steering Board of the UK's National Contact Point for the OECD Guidelines and a Visiting Fellow of the Cranfield School of Management.

APPENDIX5:

About the Doughty Centre for Corporate Responsibility

The Doughty Centre aims to combine rigorous research and leading-edge practice. We focus on three things:

- Knowledge creation: rigorous and relevant research into how companies can embed responsible business into the way they do business;
- Knowledge dissemination: introducing Corporate Responsibility more systemically into existing graduate and executive education (both in relevant open programmes and customised, in-company programmes); and
- Knowledge application: working with alumni, corporate partners and others to implement our knowledge and learning.

HARVARD Kennedy School
Corporate Responsibility Initiative

About the Corporate Responsibility Initiative (CRI)

The Corporate Responsibility Initiative (CRI) at the Harvard Kennedy School's Mossavar-Rahmani Centre for Business and Government (M-RCBG) is a multi-disciplinary and multi-stakeholder program that seeks to study and enhance the public contributions of private enterprise.

The initiative explores the intersection of corporate responsibility, corporate governance, and public policy, with a focus on analysing institutional innovations that help to implement the corporate responsibility to respect human rights, enhance governance and accountability and achieve key international development goals.

It bridges theory and practice, builds leadership skills, and supports constructive dialogue and collaboration among business, government, civil society and academics. Founded in 2004, the CR Initiative works with a small Corporate Leadership Group consisting of global companies that are leaders in the fields of corporate responsibility, sustainability or creating shared value.

The Initiative also works with other leading corporate responsibility and sustainability organizations, government bodies, non-governmental organizations, foundations and companies to leverage innovative policy research and examples of good practice in this field.

Corporate Responsibility Initiative
Harvard Kennedy School
79 John F Kennedy Street
Cambridge
MA01238
USA

Tel: +1 617-495-1100
www.hks.harvard.edu

The Doughty Centre for Corporate Responsibility
Cranfield University School of Management
Bedfordshire
MK43 0AL
UK

Tel: +44 01234 751122
www.cranfield.ac.uk