

Consultative Roundtable on the draft Responsible Gold Mining Principles (RGMPs)

An event organised by the European Centre for Development Policy Management (ECDPM) in partnership with the World Gold Council

Monday 9th July, 2018

NH Brussels EU Berlaymont, Boulevard Charlemagne 11-19, Brussels, Belgium

Report

Introduction

On the 9th of July 2018, the European Centre for Development Policy Management (ECDPM), in partnership with the World Gold Council (WGC), convened a half day consultative roundtable on the [draft Responsible Gold Mining Principles](#) (RGMPs) at the NH hotel in Brussels, Belgium. This was the first of a series of consultation meetings on the draft RGMPs, with others scheduled by the WGC for Washington and South Africa as well as an ongoing [WGC online consultation](#). The purpose of these consultations is to introduce the WGC draft RGMPs to key stakeholders in the gold mining sector and receive feedback on the content so as to strengthen the document.

The meeting brought together representatives from a number of organisations from the private sector (in particular associations representing mining industries, metal producers and recyclers), CSOs, think tanks and academics, international organisations and government officials.

Dr San Bilal from ECDPM moderated the discussion, welcomed the participants and explained the purpose of the gathering.

The opening remarks were given by Terry Heymann of the WGC who gave an overview of the context, drivers and interaction of the draft Principles with existing industry standards. He started by introducing the WGC which he explained was well supported by companies in gold mining and refining. Its membership consists of CEO's of 24 leading gold mining companies and it is based in London. The objective of WGC is to support and stimulate the demand for gold to make sure there is a continued, well-functioning market for the precious metal. The WGC is global in scope and is focused on key markets such as China, India and North America, including supporting a policy agenda around how the gold industry can support development and encourage responsible gold mining.

The Principles elaborated by the WGC are not intended to be a new standard but rather to define what attributes define 'responsible mining', to bring together the plethora of codes and standards within a single, assurable framework and to spread implementation from a relatively small leadership group of companies to a much wider universe of gold miners.

Edward Bickham of the WGC presented the 10 principles, divided into 3 categories; a) Governance; b) Environment; c) Social and Human Rights. The principles cover the following topics:

10 Responsible Gold Mining Principles

Governance	Environment	Social and Human Rights
1. Integrity, anti-corruption	6. Environmental responsibility	2. Safety and Health
9. Supply chain	7. Water	3. Human Rights
10. Engagement, transparency and corporate governance	8. Energy and Climate change	4. Labour rights
		5. Socio-economic advancement of local communities

To come up with these principles, the WGC went through a benchmarking process by consulting key normative documents; *The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High Risk Areas and Supplement of Gold*, *UN Guiding Principles on Business and Human Rights*, *the Extractive Industries Transparency Initiative (EITI)*, *The International Organization for Standardization (ISO)*, *International Cyanide Management Code For the Manufacture, Transport, and Use of Cyanide In the Production of Gold*, *the Voluntary Principles on Security and Human Rights*, *the Global Reporting Initiative Mining and Metals Sector Supplement*, *LBMA Responsible Gold Guidance*, and *the Mining Association of Canada's Towards Sustainable Mining Framework*, (which Finland, Botswana and Argentina have also adopted). Once the principles have been adopted, WGC will focus on implementation by creating a separate reporting and assurance framework during the first Quarter of 2019.

WGC is also working with the London Bullion Market Association (LBMA) which maintains an approved list 'Good Delivery' refiners and regulates the wholesale trade in gold, they determine which refiners should be allowed to supply gold in to the London market, based on quality, purity and responsible sourcing. Since the *OECD Due Diligence Guidance* was completed, the LBMA has maintained and policed the *Responsible Gold Guidance (RGG)* which covers anti-money laundering, anti-terrorism finance and conflict-related issues and will from the start of 2019 also cover environmental, social and governance issues. Both WGC and LBMA acknowledge the need for broad engagement with members, to integrate refiners and miners so they all adhere to the same standards. The intention is to have finalised the drafts of both the expanded RGG and the RGMPs by the end of the year.

The following captures the main feedback provided by participants during the roundtable discussion on how the draft RGMPs could be improved.

General feedback

Generally, participants welcomed the draft Principles as a positive initiative, a step in the right direction. The WGC was commended for its initiative, its effort to promote comprehensive principles and constructively engage with a broad range of stakeholders, as in this roundtable.

The discussion focused on how these draft principles could be best improved before their adoption by the WGC member companies.

There was an overarching concern with the possible duplication and hence effectiveness of the Principles, as many schemes already exist. Specific concerns related mainly to the wording throughout the document, which was not always seen as clear and specific enough. Participants therefore questioned if the principles are going to be standalone or will be complemented by a more detailed comprehensive guidance or implementation document.

In response, the WGC representatives welcomed suggestions for improved wording and indicated that the Principles will be supported by a detailed implementation guide and guide for assurance providers.

There was concern over the lack of a requirement for remediation actions/mechanisms and undemanding and vague reporting requirements throughout the document. Participants highlighted the need to emphasise due diligence throughout the whole mining process/life cycle and suggested to include wording in reference to the IFC guidance for engagement in mining (notably the Environmental, Health, and Safety 'EHS' Guidelines for mining), as part of the reference documents for benchmarking, which are seen as sharp 'godfather' guidance for the industry. Participants also highlighted the problem

at the exploration and mine development stages of junior companies sometimes being careless with the promises that they make to communities – promises which are then not lived up to when an operation changes ownership. They also suggested the importance of declarations of beneficial ownership so that the control of opaque entities, such as joint ventures involving a local partner, can be made clear and so that ‘politically connected’ persons are not ultimately, corruptly in control.

It was furthermore suggested that closer attention should be paid to the recent adoption of the *OECD Due Diligence Guidance for Responsible Business Conduct*, a new OECD guidance document on due diligence which applies across all sectors. This might usefully be added as a reference document in section B of the Principles, which covers the related responsible mining and sourcing codes.

A. Governance

Principle 1 (integrity, anti-corruption), Principle 9 (supply chain) and Principle 10 (engagement, transparency and corporate governance)

There are a lot of existing initiatives and standards in the industry, which can be confusing. The issues of whether voluntary standards are sufficient, and how they relate to domestic and international laws were also raised. It was suggested that the commitment to obey ‘applicable laws’ applies to both home and host country laws, but should also extend to international standards. Adherent companies should also have regard to the leading best practice frameworks, subject to the fact that to be assurable which codes and conventions apply would need to be specifically identified. Besides, the Principles should be demanding in relation to the completeness of internal management systems to monitor compliance and for grievance mechanisms to act as a long-stop against abuse and poor practices.

Need greater transparency

The EU financial regulations (including the Accounting Directive and Transparency Directive, as well as the Markets in Financial Instruments Directive II) require greater transparency and reporting requirement for companies, included in the extractive sector. In addition, the new EU action plan on sustainable finance also includes proposals to improve transparency requirements relating to sustainable investments and sustainability risks. Such dimensions could be better reflected in the Principles. There is a need for greater clarification on cooperation among stakeholders along the value chains with regard not only to alignment with industry standards, but also their effective implementation, which can be lacking. The Principles should also address the midstream gap (supply chain from the mine to smelters/refiners).

Need for clarification

It should be made explicit if the Principles will complement the *WGC Conflict Free Gold Standard*. The Principles should reflect that mining companies do not work alone especially in supply chains. In terms of structure, a number of participants suggested that some concepts – such as due diligence, engagement, impact assessment and handling of grievances apply across all the other principles rather than being limited, for example, to either just the social or just the environmental ‘chapters’.

Key recommendations that emerged for the 3 principles under the governance cluster are as follows;

Principle 1 – Ethical conduct

- This principle should explicitly include a commitment by adherent companies to conduct due diligence, with a clear reference to the OECD Due Diligence Guidance.
- It should be made explicit that ‘applicable laws’ are both domestic and international laws; besides, this principle should also address issues of compliance with national laws *versus* international laws; for example, in DRC there is a requirement to pay per diem for taxation officials to come to mining sites although this is not inscribed in law but is, in effect, extra-legal taxation
- When referring to corruption, it should be made explicit that it concerns corruption ‘along the value chains’ (and not on site only).

Principle 9 - Supply Chain

- The last point on “supporting access to markets” needs further explaining to clarify whether it is for large or small-scale activities.
- There is a need to distinguish between buying from traders whose sources of supply may be difficult to discover and buying directly from artisanal miners, in which case there is better control and visibility.
- Since Artisanal and Small-scale Mining (ASM) commonly takes place outside (or in a context of poorly implemented) legal frameworks, there is need to mention issues of customary rights and extracting gold as well as how companies can buy gold extracted through ASM.
- All relevant stakeholders along the value chain must engage in dialogue on how miners and companies should effectively work together (as per Appendix 1 of the *Gold Supplement to the OECD Due Diligence Guidance*).

Principle 10 - Engagement, transparency and corporate governance

- It should be made explicit what it means to support the Principles and whether this applies to countries that are not members of the Extractive Industries Transparency Initiative (EITI). It should also be clear whether contract disclosures are included.
- The principle is missing policy and accountability issues that build on assurance and reporting
- There is no clear indication of how due diligence will be assured in this principle.
- Since the Principles are trying to bring everyone on board there is need to acknowledge that companies differ and operate at different stages of development and so the assurance framework should provide for an element of continuous improvement.
- This principle is trying to deal with a range of situations but does not explain for example the best models for acquisition of gold from third parties – albeit it was pointed out that this guidance is given in the Conflict-Free Gold Standard.

B. Environment

Principle 6, Environmental responsibility; Principle 7. Water; Principle 8. Energy and Climate change

There was a lot of discussion on how mining companies should mitigate against the adverse effects of mercury and cyanide on the environment. Participants stressed the importance of implementing the *Minamata Convention on Mercury*, the *International Cyanide Management Code* and the UNEP's *Awareness and Preparedness for Emergencies at Local Level (APELL)* programme. The issues raised on the principles covering the environment are as follows:

Principle 6 - Environmental responsibility

- The principle should address the issues of mines that do not have proper waste disposal or storage facilities. The principle also does not adequately address issues of environmental ecosystems and biodiversity (balance between species and human development at local level).
- There is a need to address the issue of heritage sites and areas protected by national law that are being challenged by mining companies to be allowed to mine there. This issue is not included in the principle.
- This principle needs to comment on sustainability of mining sites including rehabilitation of mines after closure and the efficient management of future emissions such as acid mine drainage.
- One representative stressed their government's support for the Principles. A lead on responsibility by large-scale miners is particularly welcomed when compared with the environmental damage being caused in some countries by illegal mining.
- Another representative urged that the Principles should have something to say on the issue of whether riverine and submarine tailings disposal are acceptable practices.
- In addition to setting out an approach to mercury use in the production of gold, the issue of mercury as a by-product being 'liberated' into the environment needs to be addressed.

Principle 7 - Water

- Issues of water quality and quantity both need to be addressed, including collaboration on risk management.
- The principle should mention issues around the recommended methodologies for the quantification of water and greenhouse gas emissions. Where there is an abundance or excess of water, quantification helps to drive the process of improving performance.
- There is need to have a discussion on investor responsibility in water use.

Principle 8 - Energy and climate change

- The word “support” should be rephrased to “commit” for greater effect.
- The *Paris Agreement* on the reduction of carbon emissions should be considered as a reference for this principle.
- The level of detail on reporting needs to be specifically spelled out – quantification helps to drive performance improvements.

C. Social and Human Rights

Principle 2 Safety and Health; Principle 3. Human Rights; Principle 4. Labour rights; Principle 5. Socio-economic advancement of local communities

Some participants shared the view that the Principles could be accused of inconsistency and need to be more explicit about the approach adopted. The requirement details should be included in the actual document and not in a supporting document. A few important frameworks were suggested as good additional benchmarks including; the *Occupational Health and Safety Management System OHSAS 18001*, the IFC Performance Standards and *UK Modern Slavery Act* among others, as they are addressing similar issues. Community consultations when commencing mining operations were highlighted as crucial together with the importance of setting up monitoring systems to identify early tensions between mining activities and surrounding communities.

Principle 2 -Safety and Health

- This principle was seen as very weak by participants. The Principle should mention the need to manage diseases such as Tuberculosis and HIV as they are opportunistic diseases that are rampant around some gold mines, especially in Africa, due to the migrant/remote working nature of the workforce.
- A participant indicated that monitoring is not sufficient, and suggested to add that adherent companies “should seek to eliminate environments that pose significant health and safety risk”.
- It was noted that although strong company management systems are important, they need to be complemented by public health and local health facilities.

Principle 3 - Human Rights

- This principle should mention issues of gender. As an example, it was noted that legislation in the DRC prohibits pregnant women from being in high risk jobs and that women are barred from mining sites because of the possibility they might be pregnant. It was also mentioned that in some Muslim countries women are not allowed to work entirely.
- The component on “complaints/grievances” should also be included in this principle, not just in Principle 1.
- Linkages between Principles should be explicitly recognised – e.g. environmental infringements can have human rights consequences.
- Implementation of the Voluntary Principles on Security and Human Rights should be explicitly referenced.

Principle 4 - Labour Rights

- Labour unions and Civil Society Organisations (CSOs) should be consulted as they have a stake in this discussion.
- Issues of remedies should also be included in this principle and it needs to clarify activities.
- The principle should consider negative effects of automation on employment especially the need to re-skill local communities in developing countries.
- This principle needs to make clear whether ASM workers are included, if not then it should highlight who is responsible for the safety of ASM workers.
- Women employment should be more explicitly addressed (e.g. pregnancy issue).

Principle 5 - Socioeconomic development of local communities

- The issue of resettlement should be addressed more comprehensively, perhaps in line with IFC Performance Standard 5. What should be the formulation for compensation in relation to collectively owned land?
- The principle should address issues of land e.g. if it is informally owned or collectively owned.
- The post closure phase should also be covered in this principle.
- There should be an ambition to build capacities locally that comes out clearly in this principle.
- The principle needs to have a separate point for national development and local development.
- There should also be separation of employment and local economic development, making it clear the role that mining activities should play in job creation and supporting local businesses away from the mine site. It was specifically recommended to add a reference to local sourcing.
- Involuntary resettlement should be cited as a last resort in the principle, it should be avoided unless it is truly unavoidable.
- The rights of indigenous people should be more strongly recognised – the Principles, for example, do not recognise the right to Free, Prior and Informed Consent.
- The Principles should put some quality expectations around the social dimension of Environmental and Social Impact Assessments (ESIAs) and, in particular, there should be requirements around accessibility of ESIAs to affected people and the time allowed for the analysis of what are often complex documents.

D. What is missing?

The main issue that came out of this part of the discussion was the lack of enforcement of assurance and reporting throughout the document. Additionally:

- The Principles need to include what failure to implement looks like, including issues of company reputation and the ability to get gold refined and accepted by others in the supply chain.
- The Principles could be more reflective of the relationship between the industry and host governments including on issues of taxation and influencing/enforcement of regulation.
- The WGC needs to reconsider the structure of the document, ordering of principles as well as what should be included in the actual principles and what should be in the supporting document. There needs to be more detail on minimum reporting requirements.
- It is worth stressing that these 10 principles are non-negotiable. There needs to be a risk assessment message that comes across in the document detailing what the risks are and how they will be managed (perhaps in the Preamble).
- Access to markets for ASM remains a crucial point, hence the Principles need to encourage companies and legitimate ASM to cohabit and work better together.
- The WGC should ensure alignment with the language of the OECD due diligence guidance.
- The Principles should be seen as creating opportunities for stakeholders to challenge and ask challenging questions.