



Step-by-step Plan

How to approach refiners about due diligence in the gold sector

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1. Introduction

The Netherlands is committed to the provisions of the OECD Guidelines on Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, and in 2017, endorsed the Dutch Gold Sector International RBC Agreement (the Agreement). The Agreement was signed by companies, the Government, trade associations, and NGOs active in the Dutch gold sector. Its aim is the implementation of international RBC frameworks through due diligence to reduce potential adverse human and environmental impacts associated with the mining, refining and trade in gold and gold bearing materials.

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (CAHRA) includes recommendations on the due diligence practices of refiners and smelters in a company's supply chain.¹ Companies that have identified refiners in their supply chain are encouraged to engage with these refiners to receive information on their due diligence practices.²

In line with this the Taskforce on Outreach to Refiners and Smelters was established on behalf of the Responsible Gold Agreement to jointly influence smelters and refiners to improve their transparency and align their gold procurement processes with OECD guidelines. The taskforce's ultimate goal is rooted in Article 5.6³ of the Responsible Gold Agreement which states that parties will use their collective leverage to request identified refiners to publicly disclose the countries where they source gold from, and publicly disclose the risks identified in their due diligence. That is why the Taskforce on Outreach to Refiners and Smelters advised member companies of the Agreement to have these conversations with identified refiners. This is a first step for companies towards positive and constructive engagement with refiners and/or smelters in their supply chain. During the term of the agreement the taskforce set up several dialogue sessions with refiners that were identified. As a result this step-by-step plan was drafted for companies in the gold sector.

The Agreement encourages companies in the gold sector to either individually or collectively approach (as was done under the Agreement) their supply chain partners including refiners/smelters for a constructive conversation about the refiner's due diligence practices and ASM engagement. Companies are encouraged to use this step-by-step plan when they reach out to refiners or smelters in their supply chain.

In the Annex you can find a list of guiding questions, a template for an invitation and a template for a background research on identified refiners in your supply chain.

2. Objective

The objective of a meeting with a refiner and/or smelter in your supply chain is to have an open conversation to improve current and future engagement between the tiers in your supply chain. The ideal outcome of such a meeting is a better understanding of how your refiners and smelters operate, including the red flags or challenges they encounter and how they deal with those. By no means it should be the intention to make the meeting a box-checking exercise to assess whether the refiner adheres to relevant standards and/or certification schemes. It is important to clarify this when reaching out to a refiner in your supply chain.

¹ OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, p. 106.

² OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, p. 43.

³ Dutch Gold Sector IRBC Agreement on international responsible business conduct of companies in the Netherlands with gold or gold bearing materials in their value chains, p. 27.

Due diligence is an ongoing process with improvements that are achieved gradually. Companies should encourage positive change by engaging in a constructive manner with their suppliers.⁴ Setting up a conversation with a refiner or smelter in your supply chain is a tool that will help you to perform adequate due diligence.

3. Step-by-step plan

Step 1: background research on the identified refiner

The first step is to do a background desk research on the refiner that you have identified in your supply chain. Use publicly available information. This desk research could focus on their standards, transparency and risk disclosure. Filling in the template in annex one will help you further in the process of setting up a dialogue session with identified refiners and smelters.

Step 2: reaching out to identified refiner

The second step is to reach out to the identified refiner and/or smelter. The invitation mail in annex two was used for member companies of the Agreement that reached out to refiners. It could be used as an example for companies to explain the importance of such a conversation.

Step 3: preparation of the conversation

Prepare the dialogue session by deciding what questions you ought to ask that are in line with your due diligence policies and management systems. It is advised to be transparent about this towards the refiner. You could share the questions in advance. In annex three you can find a list of questions that can guide the conversation. Communicate how the outcome supports your company to perform an adequate due diligence. This could help to create a safe environment for an honest conversation.

Step 4: follow up

Use the outcome of the conversation to get better insights in your due diligence status. Is your risk-based approach still feasible? Do you need to take an extra step to mitigate any actual or possible risks in the supply chain? Or are you on track? If necessary adjust your due diligence practices.

⁴ <https://www.duediligenceguidance.org/>

Annex 1

Template for background research on refiner

General information			
Name			
Subsidiaries		yes/no	
Geographical location			
Brief description of business activities			
Due diligence policy			
Due diligence policy publicly available		yes/no [<i>link to document/website page</i>]	
Standards			
Standard	Status	Last audit	Audit report
Transparency			
Origin of country/region from which gold is sourced			
How is this verified?			
Origin of recycled gold			
Percentage of gold that is recycled			
How is this verified?			
Risk disclosure			
Is there information available about any identified risks (i.e. from audit reports)?			
Annex II risks: OECD Guidance		yes/no [<i>link to document/website page</i>]	
Other risks (i.e. land rights, biodiversity/environmental issues, minimum wage, etc.)?			
Does the refiner work with a CAHRA list?		yes/no [<i>elaboration</i>]	

Annex 2**Draft e-mail to refiner**

Dear Madam/Sir,

I am writing you on behalf of [*company name*] to invite you to a meeting with us. We have identified [*name refiner*] in our supply chain.

In the past years we were a member of the Responsible Gold Agreement. This agreement ended as of the 1st of July 2022. It was a multi-stakeholder initiative on the International Responsible Business Conduct of companies in the Netherlands with gold or gold-bearing materials in their supply chains. Signatories included jewelers, goldsmiths, recyclers, electronic companies, NGOs, trade unions and the government. The aim of the Agreement was to create a positive impact in the gold supply chain and reduce potential adverse human and environmental impacts associated with the mining, refining and trade in gold and gold bearing materials. We achieved this by implementing due diligence and taking part in collective projects geared towards better social and environmental conditions in the sector.

Part of the mandate of the Agreement was to increase transparency in the gold supply chain by engaging with refiners on their due diligence practices to better understand what challenges there are around gold mining, sourcing and refining and Artisanal and Small-Scale Mining (ASM), and possible opportunities for connection or collaboration. It is in this respect, since we want to keep creating a positive impact in our gold supply chain, that we write to invite you to a meeting with us. We would like to engage with you on some parts of your corporate policy with regards to gold. Our intention is simply to engage, and to have a conversation on issues around gold mining, sourcing and refining. Should you accept this invitation, I will furnish you with a list of questions under such themes as transparency, risk-disclosure, and ASM sourcing to enable you to prepare for the meeting beforehand.

As [*name refiner*] is an important player in the gold refining and (recycling) sector, we believe this can be an opportunity to get a better insight from a refiners perspective on the themes mentioned above in this consultation. Therefore we are hopeful that you will respond positively to our request. If you have any further questions, please do not hesitate to contact me.

I look forward to hearing from you.

Signed,

[*name*]

Annex 3

Question list

Transparency (Origin of gold)

1. Are you currently sourcing gold from mines, or did you source gold from mines in the past one year? If yes, how do you check the origin of gold you are buying? What are the main tools or processes that you use to obtain that information? What percentage of your input does the mined gold represent?
2. Do you share information about the country of origin with your customers (downstream purchasers)?
3. Would you be willing to publicly disclose the countries from which your source? If not, what is preventing your company from doing this?
4. How do you guarantee the traceability or chain of custody to mine of origin? Could you explain a little more about your new Secured Data Storage (SDS) and how would that increase transparency and information sharing in the sourcing process?
5. Due diligence is designed to be a tool for engagement, and to operate and source responsibly in high-risk contexts. Are there any countries from where the company does not accept materials, and if so: could you explain the reasoning behind this approach, what were the criteria used?
6. What multi-stakeholder initiatives are you part of and what contributions and benefits do you derive from it?

Risk disclosure

1. Have you identified red flags in your supply chain and what are the main red flags you have identified? Are there challenges in identifying or addressing them?
2. Do you conduct spot-checks on suppliers and mines? If yes, what are the main issues you encounter on these checks?
3. Do you publicly disclose the risks found in your supply chain in your reporting or other documents? If not, What is preventing your company from doing this? Do you share your findings with any other actors?
4. How integrated is your due diligence policy within the business, which departments and internal stakeholders are involved, and escalation protocol?
5. Could you explain, perhaps with a concrete example, how your management system operates to identify the risks associated with the sourcing and trade of minerals prior to refining?
6. How do you monitor, track performance and communicate about your risk mitigation processes?

ASM Sourcing

Already sourcing

1. What are the biggest challenges and bottlenecks that you have encountered when sourcing ASM Gold?
2. Could you share your experience with working with ASM and the projects in which you are involved. What do you think is needed (from upstream and downstream actors) to upscale these initiatives?
3. How do you support the legitimization, professionalization and formalization of ASM, and what do you think is the role of downstream actors to advance on this?

Not sourcing yet

1. What is preventing your company from sourcing from ASM? What are the biggest challenges and bottlenecks that you think exist?
2. What do you think is driving other refiners to engage and source from ASM?
3. What do you think is needed (from upstream and downstream actors, MSPs, Industry initiatives, CSO, Governments, etc.) to support engagement with ASM?
4. What do you think is the role of downstream actors to support the professionalization and formalization of ASM?

Back-up questions

1. What are the biggest challenges in implementing your due diligence policy? How do you communicate your expectations to your suppliers?
2. How do you engage with upstream actors to support compliance? What has and what has not worked in your experience?
3. How can downstream companies support refiners efforts to transform some of the practices of upstream actors ?
4. What do you think the greatest priority should be for scaling up implementation of due diligence of minerals supply chains and enhancing its impact?
5. What incentives/ disincentives do you encounter for engaging with "risky suppliers"?
6. What is your experience with auditors and conducting the third-party audit? Pros and Cons?
7. Has your involvement with industry initiatives had a direct impact on your sourcing practices?
8. How do you benefit from being part of multi-stakeholder partnerships such as EPRM and the Swiss Better Gold Association?
9. How do you use your leverage over suppliers who can most effectively prevent or mitigate the risks you have identified in your supply chain?
10. In its risk identification process, does your company consider the specific risks and differentiated impacts of business activities on vulnerable groups such as women, migrant workers and children? How?
11. How does your company check the situation on the ground? Which stakeholders/mine-site auditors/etc. What are the main challenges?
12. What challenges are you encountering in incorporating environmental, sustainability and governance responsibilities aligned to LBMA RGG Version 8?
13. How do you see this emerging trend of customers requesting for recycled gold only? (for refiners making use of only recycled gold)



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Foto: Solidaridad / David Mansell Moullin

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