

Conflict Minerals Alert

The Government Accountability Office (GAO) released a report on August 23rd indicating that gold mined in the Democratic Republic of Congo (DRC) remains difficult to track. According to Section 1502 of the Dodd-Frank Act, companies registered with the Security and Exchange Commission (SEC) must conduct supply-chain audits to determine whether or not their manufactured products contain any of four designated “conflict minerals” originating from the DRC. These conflict minerals include gold, tantalum, tin, and tungsten. Of the four minerals, gold continues to be exploited by armed groups as a funding source for the ongoing conflict.

ASM Mining

Artisanal and small-scale mining (ASM) operations are significant supporters of the DRC economy. According to the DRC, the annual ASM gold production equates to 279 kilograms (0.28 metric tons) at a value of \$10.1 million. However, other reports indicate that the figure is far greater. The International Peace Information Service (IPIS) reported the annual ASM production to be 12 metric tons at a value of \$437 million. This drastic difference in reporting between the DRC and international watchdogs is just one example of why it is difficult to track originating countries for gold.

The ability to track DRC gold is complicated further by the differences between the official and unofficial ASM supply chains. In the official supply chain, the DRC government grants authorization to miners, local traders (known as *negociants*), exporters (known as *comptoirs*) to execute the movement of gold along the supply chain to the global market. However, unauthorized ASM mining operations infiltrate the unofficial supply chain, where both authorized and unauthorized traders and exporters smuggle gold out of the DRC to sell to regional buyers in Africa who introduce it onto the global market.

Since this gold is smuggled out of the DRC, national tax records and export statistics do not nearly come close to accurately reflecting the extent of ASM operations. Furthermore, even authorized exporters contribute to the problem by engaging in tax avoidance schemes which skew the data on ASM gold exports. According to a United Nations Group of Experts (UNGoE) report, unreported exports of ASM gold from the DRC and its bordering countries neared \$200 million.

The GAO report lists influential factors for smuggling operations including:

- Limited government control over ASM gold production sites
- Inadequate infrastructure
- Corruption



The limited government control by the DRC at the sites gives way to armed groups, usually members of the Armed Forces of the Democratic Republic of the Congo (FARDC), running operations imposing illegal taxes on miners, and forcing locals into hard labor.

Responsible Sourcing Initiatives

The Dubai Multi-Commodities Centre established a voluntary accreditation program in 2012 to encourage responsible sourcing to gold refiners. Although accredited refiners typically stay clear of purchasing gold from the DRC and its surrounding countries, the GAO report points out that some of them admit to buying gold from souks (local markets) that require little-to-no documentation regarding the origination of the purchased gold.

The Traceability Initiative for Artisanal Gold (ITOA) was developed by the DRC in 2015 to promote conflict-free ASM gold and is set to be launched this summer. In the program, ITOA agents control the chain of custody of the gold and track it throughout the supply chain. However, the program lacks the proper incentives for boosting membership. Among the challenges to the program are the lack of validated licenses to operate at approved mines and the steep provincial taxes imposed on mining operations.

The United States Agency for International Development partnered with Tetra Tech through the Capacity Building for Responsible Minerals Trade Program and Partnership Africa Canada (PAC) to increase the scale of operations that produce conflict-free gold while also securing traceability systems. However, a limited number of willing participants and security concerns pose threats to the programs.

The International Conference on the Great Lakes Region runs a regional certification program to allow the tracing of conflict minerals, but recent reports show that traceability schemes for gold are deteriorating.

The London Bullion Market Association (LBMA) ensures that accredited members purchase conflict-free gold through the issuance of its “Responsible Gold Guidance” which is mandatory for selling on the London market. Currently, USAID is hoping to recruit refiners from this program for their pilot projects.



Congressional Outlook

In June, the House passed legislation that would repeal the Section 1502 conflict material provision, with the full support of President Donald Trump. The Section 1502 rule allows for recycled minerals to be labeled as “DRC conflict free,” in accordance with the guidelines set forth by OECD. Contrary to the Federal Trade Commission (FTC) “all or virtually all” standard for making an unqualified “Made in USA” claim, OECD guidelines state that the country of origin is that in which recycled minerals are refined. The difficulty in determining the mines of extraction, especially for DRC gold, makes the OECD’s guidelines more accommodating for the precious metal market.