



A SHORT GUIDE TO USING THE LBMA ASM TOOLKIT

V1, 21.03.2024

Introduction

GDL refiners can either source ASM gold directly or via suppliers. The LBMA's ASM Toolkit is intended for use by GDL refiners sourcing directly from artisanal miners, and for the others who source or intend to source from suppliers. The toolkit is also intended for those suppliers, to enable them to comply with GDL refiners and the LBMA's requirements from them.

What follows is a short guide to how the toolkit can be used by each of these supply chain participants. Included in this guide is further detail on what 'progressive improvement' means in each context.

One: Regulatory Environment

1.1 Is primarily for GDL refiners, which need to assess whether national legislative and regulatory environment in the country where the ASM gold originates is sufficiently robust for the refiner to be able to source the gold legally and responsibly. Where GDL refiners are sourcing from suppliers, these suppliers must assist in the provision of this information.

In 2023, Phuzumoya Consulting researched, wrote and distributed to the Refiners' Committee and Task Force reports on precisely this matter for the seven countries we considered most prospective for responsible ASM sourcing, detailing all the issues mentioned in this section. We recommended particular concentration on four – Ghana, Tanzania, Peru, and Philippines. We are also monitoring Cote d'Ivoire and Senegal. ASM gold from other countries is not impossible to source from responsibly, but in our judgement it is harder.

1.2 This is relevant for GDL refiners looking to source from suppliers, in order to assess if these suppliers are complying with national regulations. Suppliers must provide this evidence.

1.3 Environmental licences are required in all the countries that we have focused on, where they are enforced by national inspectorates. Most ASM gold producing countries have comparable legislation, though implementation is weak to non-existent in many, if not most jurisdictions. In the countries we have identified, the possession of environmental licences by legal ASM producers, plus satisfactory results from on-site visits to a sample of sites, should, in the absence of other negative factors, be a sufficient prerequisite for sourcing.

1.4 National regulations on mercury use vary globally. The minimum requirement should be that the ASM mines suppliers and GDL refiners are looking to source from either are compliant or are credibly working towards compliance with national regulations. Where national regulations and their enforcement by the state are insufficient on their own to make the mines mercury-free, once the trading relationship is established and trust has been built over a nine month period, a progressive improvement programme should be designed with input from all the stakeholders, to reduce mercury use over the longer term.

GDL refinery onsite visit to in-country supplier

2.1 Is about the supplier's own supply chain. Provenance is a critical component of responsible sourcing, so the supplier must supply this information to the GDL refiner.

2.2 Must also be provided by the prospective supplier to the GDL refiner as a matter of course, and the same is true of 2.3.

- 2.3 To mitigate money laundering and terrorism financing risks, GDL refiners should in addition conduct sufficient due diligence on their potential suppliers to determine whether there is reasonably discoverable evidence of these suppliers' involvement in these activities.
- 2.4 This must include determination of the suppliers' beneficial owners, and research into the conduct and reputation of these owners.
- 2.5 This information must be provided to the GDL refiner by the supplier, backed up by documentary evidence.
- 2.6 Ditto, at least for the previous three years.
- 2.7 The precise number of sources a supplier has is interesting, but ultimately of less significance than information about the nature of these sources, and the nature of the relationship between the supplier and its ASM sources. Such information requires research by/on behalf of the GDL refiner, and must be part of third party verification.

Suppliers sourcing from multiple countries and aggregating in one present significant due diligence challenges for the downstream, and in our view, this should be treated as a red flag by GDL refiners, requiring further careful investigation before proceeding further.

For GDL offtakers to buy with confidence, suppliers must be able to demonstrate that they are sourcing legally mined ASM gold from ASM miners working in accordance with the law, and that must include information about where exactly they are sourcing from. Either the GDL refiner or a contracted third party or both must prior to and during the course of their trading relationship make their own onsite visits to a sample of the suppliers' sites to triangulate the information already provided them by their supplier.

Crucially, third party evaluation on behalf of GDL refiners must include consideration of the nature of the pricing mechanism used by suppliers when paying ASM miners, with a view to determining whether suppliers are paying a fair price for the ASM gold.

- 2.8 The supplier can give this information to the GDL refiner, and if the supplier does not already have one, it must develop a suitable supply chain policy within six months of the start of the trading relationship. The due diligence of the suppliers, meanwhile, must be informed by the Toolkit and this Guide, and should also be developed and improved in partnership over time with the GDL refiner that is buying.
- 2.9 If suppliers are recognised or accredited, that is all to the good. If they are not, that should not in itself be a reason for GDL non-engagement. Accreditation is a positive step, however, and suppliers to the GDL must explore and where possible seek to acquire it. We anticipate that as engagement continues, it is likely to become more and more in the supplier's own interest to acquire that accreditation.

On-site mining visits

For GDL refiners sourcing directly from ASM, like BSP, this aspect is critical, and they need a good, regularly updated understanding of what is happening in each one. GDL refiners sourcing from suppliers must conduct, and/or to commission third parties to conduct on-site visits to a selection of mine sites. The aim must be to prioritise visiting the most productive, and the riskiest ones.

Suppliers of responsibly mined ASM gold to GDL refiners must carry out and/or commission frequent mine visits and have a good working understanding of what is happening at the mine sites they source from. This toolkit provides a guide to them of what to look out for.

3.1 As stated above, where a supplier is sourcing from multiple sites, the supplier must visit all of them, and supply the relevant information to the GDL refiner. The GDL refiner and/or a contracted third party must visit a sample of sites to triangulate/check this information.

Also as argued above, it will not be necessary for all these sites to be visited by the GDL refiner and/or contracted third party before the GDL refiner starts a trading relationship with the supplier. If visits to sample sites are positive, this is sufficient, providing the rest of the refiner's due diligence yields satisfactory results, for a trading relationship to commence, on the understanding that the refiner and/or third party will visit subsequent sites thereafter. GDL refiners should continue to be proactive and increase their understanding of their suppliers' supply chains, including by on-site visits, and should respond accordingly to the information that these visits reveal.

3.2 - 3.6 should all be covered by the environmental permitting system in place in the ASM mining jurisdiction. They all certainly are in the four countries where we are recommending further GDL engagement. To mitigate the risk of deficiencies in a country's environmental permitting system resulting in false findings on these issues, the supplier must triangulate the information with their own research, and present the findings to the GDL offtaker. The offtaker must take steps to verify this information during its own site visits.

Over time, GDL refiners and suppliers can liaise with the government's environmental inspectorates to work together to address ongoing challenges. In other jurisdictions, environmental controls may be weaker and/or more weakly enforced. Refiners must make an evaluation of this in each case, and if the existing permitting system and inspection regime are insufficient to provide sufficient assurance that suitable environmental mitigation measures have been put in place by miners, which is likely, they and their suppliers must supplement this with their own progressive improvement. Environmental progressive improvement targets should be agreed by stakeholders, and reported on by the GDL refiner, along with implementation updates.

3.7 If the mine is approved by an ASM standard, that is good news. If a mine is not accredited, this is not, however, bad news, and is not a reason in itself for a GDL refiner to eschew engagement. Nonetheless,

approval by an ASM standard is desirable, and should be attempted where possible by the mine permit holder, with the support of the supplier and GDL refiner, within twelve months of the start of the trading relationship.

3.8 There is a strong call from ASM miners and civil society organisations/NGOs that work with them for 'legitimate' but not legal ASM to be sourced by the GDL. However, based on interactions with GDL refiners and LBMA-member banks, we see an ongoing international bullion market need for ASM miners from which GDL refiners ultimately source to be legally registered and mining legally.

The four countries cited earlier were selected in part because they all have significant populations of legally registered ASM miners who are also mining legally. In other ASM mining jurisdictions that we have examined, legality is more difficult and fewer ASM miners, and much less of their mining output has thus far acquired it.

3.9 Suppliers in the source countries must have this information and be able to show it to GDL refiners. Refiners like BSP that source directly from ASM miners must also have this information.

3.10 This information should already be contained in the various official permits held by ASM miners. The information must be collected by suppliers, and by refiners that source directly from ASM, as part of their due diligence. GDL refiners sourcing from suppliers must be given and must evaluate a sample of this documentation.

3.12 This is part of supplier due diligence, providing the supplier and GDL refiner with an indication of the effectiveness of the state's implementation of its own regulations relating to ASM mining. Where implementation is found to be weak, the refiner, supplier and ASM producers must work together over time to achieve progressive improvement in addressing the gaps.

3.13 Is an important component of supplier due diligence, particularly somewhere like Tanzania where there is a risk of supply chain contamination from gold from neighbouring CAHRAs. Suppliers must conduct due diligence and document it. GDL refiners must evaluate this, and the issue must be part of third-party verification checks.

3.14 It is critical for the integrity of a responsible mining value chain that the suppliers demonstrate to GDL refiners that the gold they are selling genuinely comes from the sites they have previously indicated they are sourcing from, and on which they have conducted due diligence.

3.15 Is mainly of relevance in CAHRAs, since if miners onsite are also selling to others, among whom are conflict actors, this makes GDL offtake problematic. But in non-CAHRAs, the issue seems to us of less

relevance, and we propose that in these jurisdictions, the listing who the other offtakers are from a given mine site should be the object of ongoing research during a trading relationship, but not a minimum requirement prior to its agreement.

3.16 This can be difficult to ascertain, due to seasonal variations. A baseline level of production must, however, be established by the supplier and communicated to the GDL refiner before the trading relationship commences, to enable subsequent monitoring of unusual fluctuations. Again, this issue is more critical in CAHRAs than non-CAHRAs.

3.17 – 3.29 Must all be part of suppliers' initial and ongoing due diligence of their ASM supply chains. Sufficient summaries must be supplied to GDL refiners sourcing from these suppliers. There are no "right" answers here, and in most cases, responses are unlikely present red flags and trigger disengagement.

Answers, such as to 3.20, will fluctuate with time and will require ongoing monitoring. As the toolkit indicates, 3.16 and 3.17 should be established prior to a trading arrangement being put in place, but the others can come over time. This is one of the areas where there is considerable potential for progressive improvement in practices.

Security

3.37 – 3.44 were initially developed to apply only to ASM in CAHRAs, but their scope has since been widened to all ASM sourcing.

3.45 Concerns corruption. GDL refiners need satisfactory answers (either 'no', or an answer that indicates an immediate, realistic prospect of effective mitigation) from suppliers before committing to a trading relationship. Where the issue emerges once a trading relationship has been established, it must be swiftly and effectively mitigated or else the relationship should be suspended.

Child Labour

4.1 – 4.3 If the answer is 'yes' to 4.1, a trading relationship cannot begin until the issue is resolved. If the answer to 4.2 is yes, engagement is possible but there must be a plan for effective mitigation over time.

ESG

5.1 – 5.8 Must be part of the due diligence of the supplier on their supply chain.

Site visits by the supplier, and sample site visits by the GDL refiner and/or a contracted third party must be used to generate information missing from environmental permits.

Of the eight questions in 5.1-5.8, only a 'yes' to one of them, 5.7 concerning forced labour, need trigger GDL refiner non- or disengagement. All the other factors can be progressively improved and the refiner, supplier, and miners must work together during the course of the trading relationship to seek to achieve this.

Stakeholders should set objectives and targets, and these should be made public. GDL refiners should report annually on progress towards meeting these objectives.

Supply Chain Control, Transparency, and Information Collection

6.1 Information must be given to the GDL refiner by the supplier, and the refiner must take effective steps to verify it.

6.2 Obviously largely relates to sourcing from CAHRAs, but not exclusively so. Particularly in non-CAHRAs, but also potentially in CAHRAs, incidents such as this are not inherently reason for refiner disengagement, any more than strike action that turns violent at a large-scale mine should be treated as a reason for disengagement. Where violent incidents are identified, suppliers and refiners must take sufficient steps to understand what has happened, and to formulate an effective response that should include potential disengagement if the issue cannot be effectively mitigated over the next six months.

6.3 A traceability system must be in place before a trading relationship can begin. However, at the beginning, this system may be rudimentary and in need of improvement.

Where there are no other significant risk factors presenting, we propose that a need for improvement in the traceability system should not in itself be sufficient reason for dis/non-engagement by GDL refiners.

6.4 This concerns supply chain contamination. Mitigating this risk is essential for responsible sourcing to be credible in the market, so this is a minimum requirement.

As discussed in our November 2023 report, the IRMA Standards for Responsible Mining and Responsible Mineral Processing provide three chain of custody options:

- i) Identity preserved,
- ii) Segregation,
- iii) Mass balance.

Identity preserved means a chain of custody and traceability system that provides segregation throughout the supply chain, such that the mined mineral can be traced back to a specific mine site. Segregation means that responsibly mined gold is kept strictly separated from other materials as they move through the supply chain, from the mine to the end product. With the mass balance system, physical inputs of gold that do not meet responsibly mined standards are mixed by a supplier with inputs of ASM gold that do meet the standards according to a transparent formula (e.g. 50/50).¹

¹ IRMA, *IRMA Chain of Custody Standard for Responsibly Mined Minerals*, page 7.

Provenance claims are strongest where options i) or ii) hold, since they apply to the actual gold being traded. It would in our view, however, be problematic for a GDL refiner to source ASM gold from a supplier who is using the mass balance system, since it would inevitably mean the GDL refiner knowingly purchasing some gold that has not been responsibly mined.

Transport

7.1 - 7.3 Are essentially amplifications of 6.1. In CAHRAs, the point of these questions is to enable refiners to establish whether or not the transport section of the supply chain is financing conflict. In non-CAHRAs, the answers to 7.1 - 7.3 are less likely to have this critical edge but are relevant in other ways. For example, if it is a long way from mine site to purchasing spot, there may be an increased supply chain contamination risk.

7.4 If the answer is yes to this question, it will be highly challenging for GDL refiners to source the material, unless it can be conclusively established that the armed groups in question in no way benefit from the ASM gold value chain.

Government and Taxes

8.1 - 8.2 There is consensus among GDL refiners that responsible sourcing must include suppliers' compliance with tax law in their jurisdiction. Suppliers must provide documentary evidence of this, and refiners must evaluate it.

Other Key Responsible Sourcing Issues Not in the Toolkit

Assisting legitimate, responsible ASM

GG9 called on refiners "where appropriate" to assist in establishing processes to assist legitimate (and, we would add, responsible) ASM and local traders in improving their supply chain. Once a trading relationship has been established between a refiner and supplier of responsibly mined ASM gold, both should work together with miners to achieve this. This must be third party evaluated. Stakeholders must agree and establish objectives and targets, and make these public. GDL refiners must report annually on progress towards achieving these targets.

Fair pricing

Fair pricing is critical to responsible sourcing, since if more ASM gold is sourced by the GDL but the miners who mined it are underpaid, the impact and point of the LBMA's work on ASM will be undermined. Suppliers must articulate their ASM gold purchasing mechanism to their GDL counterparts, and this must also be part of third-party evaluation.

National Legislation

Situations may arise where LBMA toolkit requirements exceed national legislation. In such situations, we propose that suppliers be required by GDL refiners to meet national legislative requirements as a precondition for a trading relationship, and that achieving the outcome of suppliers meeting the higher

standard stipulated in the toolkit be part of progressive improvement. Placing time limits on this is problematic, but it seems reasonable to require that there be evidence of effective mitigation within six months, to be evaluated by a third party.

Authored by Gregory Mthembu-Salter, Phuzumoya Consulting