3rd GLOBAL GOLD DORE FORUM 2019

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"A perspective on policy framework for responsible dore sourcing".

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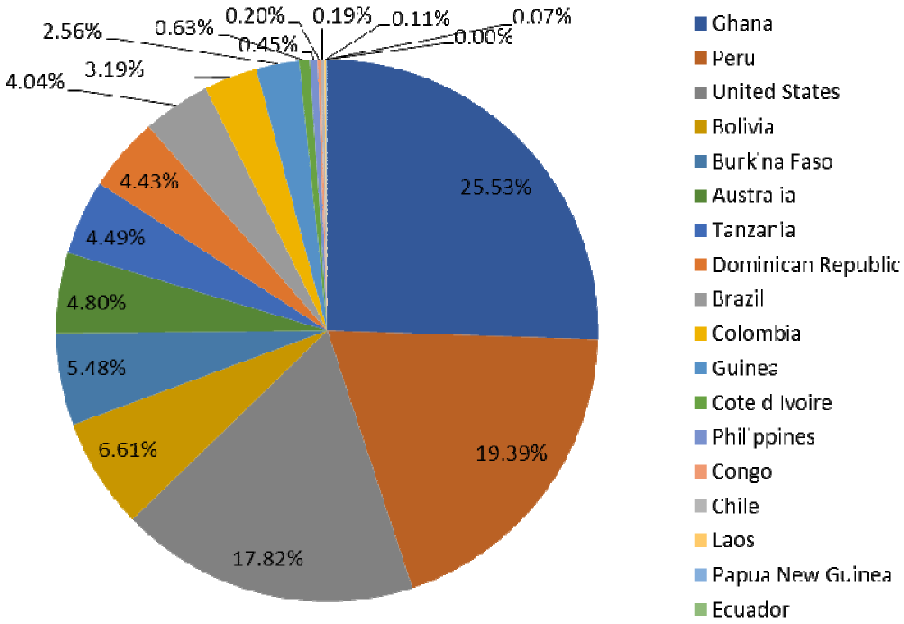
INDIA GOLD POLICY CENTRE

Why are we talking about responsible sourcing

Country share in import of dore (CY 2018 ~$11 bn imported)



Source: Ministry of commerce; Thomson Reuters

Where are the risks

- Out of the list only US and Brazil are FATF member countries, that is only 21% of the total supplies
- 26% of supplies from Ghana which is in the list of other monitored jurisdictions* by FATF
- India imports almost 80% from Non-FATF member countries
- Here is the list of FATF member countries (38)

Argentina
Australia
Austria
Belgium
Brazil
Canada
China
Denmark
European Commission
Finland
France
Germany
Greece
Gulf Co-operation Council
Hong Kong, China
Iceland
India
Ireland
Israel
Italy
Japan
Republic of Korea
Luxembourg
Malaysia
Mexico
Netherlands, Kingdom of
New Zealand
Norway
Portugal
Russian Federation
Singapore
South Africa
Spain
Sweden
Switzerland
Turkey
United Kingdom
United States

*Source: http://www.fatf-gafi.org/countries/#high-risk

Why is FATF membership important for India?

- India became 34th country member of FATF on 25th June 2010
- *FATF membership is very important for India in its quest to become a major player in the International finance. It will help India to build the capacity to fight terrorism and trace terrorist money and to successfully investigate and prosecute money laundering and terrorist financing offences. India will benefit in securing a more transparent and stable financial system by ensuring that financial institutions are not vulnerable to infiltration or abuse by organized crime groups. The FATF process will also help us in co-ordination of anti-money laundering (AML) and combating the financing of terrorism (CFT) efforts at the international level.*
- FATF is one of OECD programmes, similarly India although is not a OECD member country it is member of various such programmes under OECD
- “Department of Economic Affairs is building a strong sectoral relationship with the OECD to develop close and fruitful collaboration with the OECD. Considering that the OECD plays a significant role in supporting the work of the G20, especially in several strategically significant areas like digital taxation and future of work, we look forward to forging a more structured and focussed relationship in the near future. We appreciate OECD’s policy of opening the door of its major bodies for the participation of its Key Partners. Our work with the OECD is also guided by the objective that the OECD reflects India’s and developing world’s perspective better and in a rightful manner in their deliberations on global economic discourse.” **Subhash Chandra Garg, Secretary, Department of Economic Affairs, Ministry of Finance***

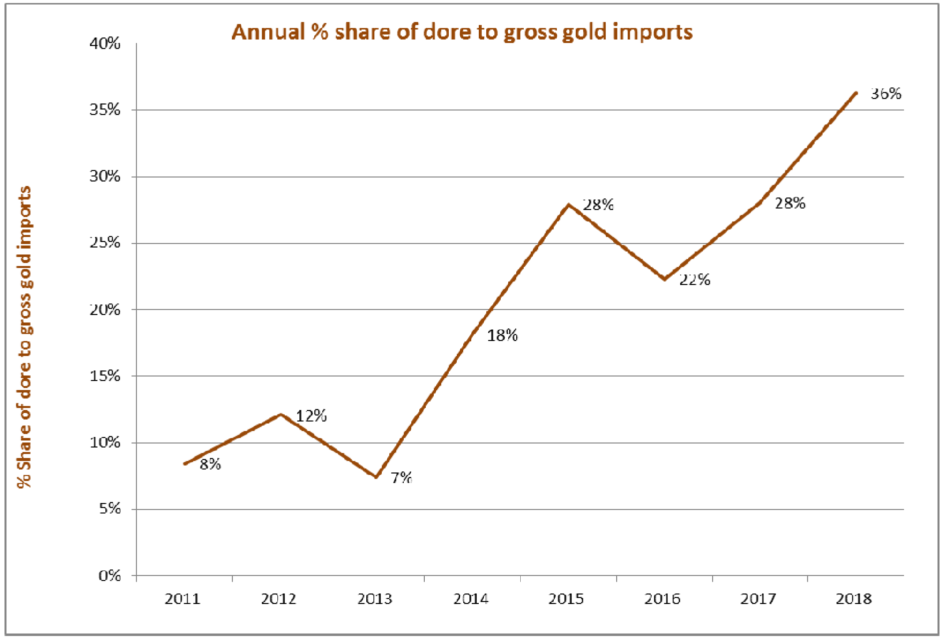
Source: http://www.oecd.org/india/Active_with_India.pdf

Some of the challenges that a policy maker looks at!

- Source is just one aspect, the agents involved from mining to refining are equally important when looking at responsible sourcing.
- At policy level one would think, when we are aiming for the country to grow towards a $5 trillion economy in next few years how much can this $8 billion of imports from Non-FATF countries throw spanner into country's growth?
- When nominated banks and agencies import bullion through international bullion banks paying 10%, is this 0.65% differential for dore import compromising on the compliance because anyone with a BIS license can import and doesn't have to go through RBI's regulatory framework but for the remittance on imports ?

  In other words is the trade off worth for importing gold at a discounted price?
  It is a concern when share of import of dore is increasing year on year and is now 36%; more worrisome as it can build bad reputation in export market if we do not have responsible sourcing mechanism in place.

- Can we address the above two questions convincingly and make way for India become refiner for the world? The upside is agreeably significant when Switzerland annually exports ~ $85 bn gold



Source: Ministry of commerce; Thomson Reuters

Import regulations in India

What regulations says?

a) Gold dore bar, having gold content not exceeding 95%

b) the goods are directly shipped from the country in which they were produced and each bar has a weight of 5 kg. or above;

c) the goods are imported in accordance with the packing list issued by the mining company by whom they were produced;

d) the importer produces before the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, an assay certificate issued by the mining company or the laboratory attached to it, giving detailed precious metal content in the dore bar;

e) the gold dore bars are imported by the actual user for the purpose of refining and manufacture of standard gold bars of purity 99.5% and above; and

f) the silver dore bars are imported by the actual user for the purpose of refining and manufacture of silver bars of purity 99.9% and above.

g) Gold dore imports are under "restricted" and not in "Free" list or "Negative" list. Prior to 30th Nov 2018 it was under "Free" list.

Source:

https://dgft.gov.in/sites/default/files/Notification%20No-45%28E%29.pdf

Customs Notification No.12/ 2012 – 17th March 2012

How it is being executed

Agreeable that 5kg criteria doesn't make sense, due to which each pack is to be identified to a single miner although it would come from an aggregator of nuggets from various artisanal miners.

The mining company in the packing list are largely not of miners but are actually aggregators. There aren't concrete evidence that dore has come from a registered mine. "Layering" is something common. However that may not be the case who follow complete due dilligence of complete supply chain.

In most of the instances payments are in cash to aggregator although funds from India are remitted to the third party located in UAE in line with RBI guidelines.

Regulations on payments: Third party payments for export / import transactions

IMPORT TRANSACTIONS

- AD banks are allowed to make payments to a third party for import of goods, subject to conditions as under:
  - Firm irrevocable purchase order / tripartite agreement should be in place;
  - Third party payment should be made to a Financial Action Task Force (FATF) compliant country and through the banking channel only;
  - The Invoice should contain a narration that the related payment has to be made to the (named) third party;
  - Bill of Entry should mention the name of the shipper as also the narration that the related payment has to be made to the (named) third party;
  - Importer should comply with the related extant instructions relating to imports including those on advance payment being made for import of goods; and
  - The amount of an import transaction eligible for third party payment should not exceed USD 100,000. This limit will be revised as and when considered expedient.

Source: https://rbi.org.in/Scripts/NotificationUser.aspx?Id=8559&Mode=0

How do we determine the sourcing: Walk a sustainable path

- OECD's five step framework provides a comprehensive way towards creating a compliant sourcing guideline both at the upstream and downstream
  - All it takes is to mandate that all the refiners in India should necessarily follow the OECD's DDG by being audited based on the programmes recognized by them.
  - Result would be many refiners will be forced to shut the business because the cost of compliance is higher and is not affordable for the volumes they do.
- That is however the most easiest path as a policy advisor
- Our recommendation to government would be to give a two year time period for refiners and effective April 2021 only refiners who take up the required due diligence audit can become eligible for the differential customs duty.
- Develop guidelines that takes to consideration dynamics of India market

Our recommendation to industry is:

- Industry need to take initiative in building a common platform like that of Swiss Better Gold Association, Fairtrade Gold UK, Alliance for Responsible Gold in Colombia.
- How do these initiatives help:
  - Scale in sourcing
  - Mutual recognition with government of India and supplier country
  - Helps nurture a trade that is safe with respect to- financial, the ecology of that country and also help develop stronger communities
- For instance if India already had one it could have initiated dialogue with United Nations Global Environment Facility Gold programme (GEF Gold) for accessing the $180 million fund. This programme aims to reduce the use of mercury in artisanal gold mining and introduce and facilitate access to mercury-free extraction methods, while also working with governments to :

  a) formalize the sector,
  b) promoting miners rights,
  c) safety and their access to markets.

OECD Due Diligence Guidance for Minerals – 5-Step Framework for Upstream and Downstream Supply Chains

Upstream

1 STRONG COMPANY MANAGEMENT SYSTEMS

- Adopt a policy for responsible mineral supply chains (Model Policy in Annex II of OECD Guidance)
- Communicate policy to suppliers and incorporate due diligence expectations into contracts
- Establish traceability or chain of custody system over mineral supply chain

2 IDENTIFY & ASSESS RISKS IN THE SUPPLY CHAIN

- Identify and verify traceability or chain of custody information (e.g. mine of origin, trade routes, suppliers)
- For red flag locations, suppliers or circumstances, undertake on-the-ground assessments to identify risks of contributing to conflict or serious abuses (ref Annex II Model Policy for risks)

3 MANAGE RISKS

- Report identified risks to senior management and fix internal systems
- Disengage from suppliers associated with the most serious impacts
- Mitigate risk, monitor and track progress!

SUPPORT SMELTER / REFINER AUDIT

- Allow smelter / refine auditors access to company sites, documentation and records.
- Facilitate auditor contact and logistics with other upstream actors and local stakeholders.

5 PUBLICLY REPORT ON DUE DILIGENCE

- Annually describe all due diligence efforts (Steps 1-4), e.g. risk assessment & mitigation, with due regard for business confidentiality and other competitive or security concerns (e.g. supplier relationships, price information, or identities of whistle-blowers or sources should not be disclosed)
- Smelters should publish (a summary of) their independent audit report
- Make report publicly available, in offices and / or on company website

Smelters & Refiners Choke Point

4 AUDIT OF SMELTER / REFINER DUE DILIGENCE PRACTICES

- Smelters/refiners should participate in industry programmes to have their due diligence practices audited against an audit standard aligned with OECD Guidance
- Prepare all documentation for audit (e.g. chain of custody or traceability documentation, risk assessment and management documentation for red flagged sources)
- Allow auditors to access company documentation, and records.
- Facilitate auditor access to sample of suppliers as appropriate.
- Publish summary audit report with audit conclusions

Downstream

1 STRONG COMPANY MANAGEMENT SYSTEMS

- Adopt a policy for responsible mineral supply chains (Model Policy in Annex II of OECD Guidance)
- Communicate policy to suppliers and incorporate due diligence expectations into contracts
- Establish transparency systems over supply chain to collect data on supply chain and smelter/refiners

2 IDENTIFY & ASSESS RISKS IN THE SUPPLY CHAIN

- Identify products containing 3TG
- Use best efforts to identify smelter / refiners for 3TG products, prioritizing as appropriate to your supply chain. For very complex products, focus on smelter engagement and direct sourcing to responsible smelters (see Step 3)
- Assess risk by evaluating whether smelters undertake due diligence, for example by reviewing audit participation and any available audit information

3 MANAGE RISKS

- Report identified risks to senior management and fix internal systems
- Disengage from suppliers associated with any smelters / refiners that may be contributing to the most serious impacts (e.g. non-state armed groups, serious abuses)
- Through individual or collaborative efforts, encourage more identified smelters / refiners to become audited
- Design and implement due diligence capacity building for suppliers, direct sourcing to responsible smelter /refiners
- Implement risk management plan, monitor and track progress

SUPPORT SMELTER / REFINER AUDIT

- Periodically assess quality of those programmes
- Communicate and use leverage to strengthen programmes

5 PUBLICLY REPORT ON DUE DILIGENCE

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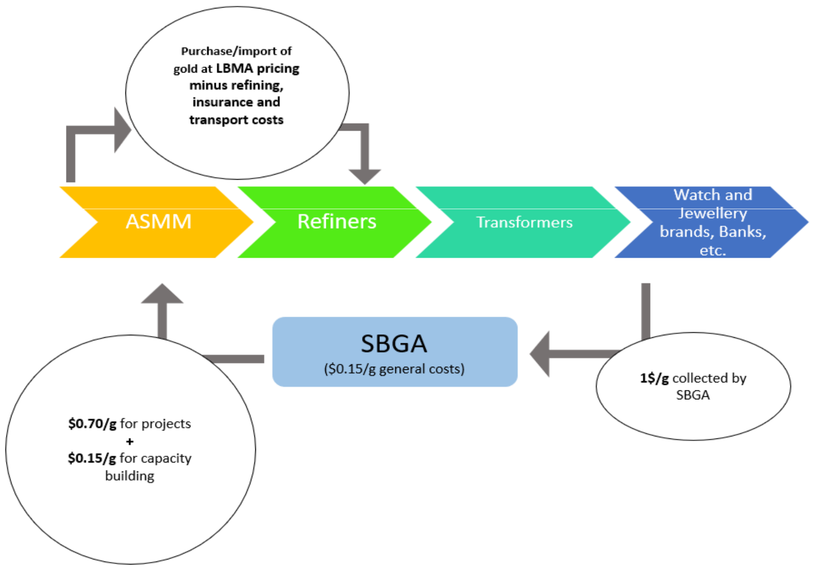
! CAN USE INDUSTRY PROGRAMMES

mneguidelines.oecd.org/mining.htm

The Swiss Better Gold Association and the Better Gold Initiative for ASM

Process



https://www.swissbettergold.ch/en/about-process

How they work

- **Goal**
  The main goal of SBGA is the development of an efficient, effective and sustainable business of Better Gold supply from ASM. This is achieved through:
  - Creating transparency in the gold supply chain.
  - Enabling traceability in the value chain through a chain of custody system.
  - Enabling compliance with volunteer sustainability standards (VSS) & best practices, e.g. Alliance for Responsible Mining (ARM) - Fairmined, Fairtrade International gold, Responsible Jewellery Council Code of Practices (RJC CoP) and Chain of Custody (RJC CoC).
  - Facilitating access to capital for ASM-related investment at fair conditions.
  - Providing access to market and supporting sustainable development of mining in the production countries.

- To achieve its goals, the SBGA collaborates closely with key stakeholders:
  - the BGI and the Swiss Government
  - through BGI, central and regional governments in the gold producing countries
  - through BGI, a number of local players/actors active in promoting goals similar to those of SBGA
  - mines certification partners, i.e. ARM, Fairtrade and the Responsible Jewellery Council
  - selected/relevant Non-Governmental Organisations (NGOs) in key markets.

- **Approach**
  The approach chosen by SBGA is to:
  - Accept only metal originating from responsible ASM.
  - Achieve shorter supply chains and facilitate direct exports for ASM production.
  - Mobilize actors along the supply chain to improve efficiency.
  - Promote environmental and social projects locally through the Better Gold Project Development Fund (BGF).
  - Identify specific projects funded by members that allows for faster ASM operations' improvement.

Global Environment Facility Gold Programme

- Background Artisanal and small-scale gold mining (ASGM) is a source of employment for 10-20 million miners in over 80 countries, producing roughly 20% of the world's gold. ASGM represents a development opportunity for rural populations who often do not have other alternatives for livelihoods. However, the sector is also the largest source of global mercury pollution in the world, accounting for over a third of global anthropogenic emissions. The Minamata Convention on Mercury requires countries with significant ASGM to take steps to reduce and, where feasible, eliminate mercury use in the sector.
- The GEF GOLD Programme The Global Environment Facility Programme:

Global Opportunities for Long-term Development of ASGM Sector ("GEF GOLD") aims to eliminate mercury from the supply chain of gold produced from the artisanal and small-scale mining sector by:

a) Supporting formalization, including the regulatory and policy environment,

b) Piloting models for access to finance and investment for artisanal and small-scale miners and their communities,

c) Facilitating access to formal gold supply chains, in partnership with gold buyers and industrial users,

d) Introducing and facilitating access to mercury-free technologies and best practices, emphasizing the benefits of more efficient, cleaner, non-mercury techniques.

GEF GOLD works in eight countries, and includes a global component for knowledge management, communication and outreach: Burkina Faso, Colombia, Guyana, Indonesia, Kenya, Mongolia, Philippines and Peru

GEF GOLD Implementing Agencies: UNIDO, UN Environment, UNDP, Conservation International

https://www.thegef.org/about/funding

Thank you