



## Consultation Results Synopsis

Information to Stakeholders on the Outcome of the Second Round of Consultation

### Review of the FAIRMINED Standard for Gold and Associated Precious Metals

<b>To:</b>	Artisanal and Small-scale Miners, Local Support Organizations, Producer Networks, Labeling Initiatives, Jewelers, Traders, External Partners and Experts
<b>Consultation Period:</b>	07.15.2013 – 09.15.2013
<b>Contact details:</b>	María Luisa Villa – Policy and Standards marialuisav@communitymining.org

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## PART 1 Introduction

### General Introduction

The Alliance for Responsible Mining would like to thank all stakeholders for their participation in the consultation of the ***Fairmined Standard for Gold from Artisanal and Small-Scale Mining, including Associated Precious Metals***. The consultation process concluded on 15<sup>th</sup> of September, 2013 and benefited from the contribution of stakeholders that participated in workshops, conference calls and one on ones with members of ARM's technical team; activities were done and documents made public in English and Spanish, assuring an ample geographical scope in the consultation process. The feedback received provided the Standard with a detailed insight into the needs and challenges faced by every actor in the supply chain. The final and revised version of the Fairmined Standard acknowledges these needs and whenever possible provides effective and innovative solutions.

This document provides a general overview of the consultation process, outlining the steps that were developed, the individuals and organizations involved and the decision making mechanisms that were put in place to assure transparency and representation. It also includes the major changes the Standard went through and their rationale, as well as ay forward for the Fairmined Standard in the short and medium term.

**Should you have any queries or remarks concerning this report, please contact María L. Villa at [marialuisav@communitymining.org](mailto:marialuisav@communitymining.org).**

### 1.1. Executive Summary

The revision process of the Fairmined Standard was triggered by the need to make the certification more accessible to a larger number of artisanal and small-scale miners in the Global South, and making the model more friendly and accessible to market actors. The Standard has been restructured to improve the clarity and to ensure more flexible options for different market segments, without compromising the development benefits for the miners. It is, as a whole, a tool for the promotion of formalization of the ASM sector. Today, 4 mining organizations are certified against the Standard. The certified ASMOs come from the Global South and work has also begun with miners in Africa and Asia; by 2015 Arm expects to have 15 certified ASMOs in the system producing an estimated 1 ton of Fairmined gold per year. Market players from 3 continents and 32 countries are currently purchasing all of the Fairmined Gold supply. The revised Fairmined Standard is aimed at facilitating the achievement of these goals and broadening the scope of the system's benefits on both side of the supply chain.

This consultation process was developed over a 2-month period and through a myriad of activities that included online and personal workshops, one on ones between stakeholders and ARM's staff and online formats and consultation documents. The issues that received most attention in the general Standard document were: the definition and scope of the Fairmined System of Production, Fairmined Internal Control System and the ASMOS, the procedures and scope of the determination of areas of temporary exclusion, the pro-active responsibilities of the ASMO over the mining community and the local environment, product scope and compliance with the OECD guidelines on conflict and high risk areas.

With regards to the Market Annex, comments were mainly focused on: the Fairmined premium governance and negotiation, differentiation of actors in the supply chain and the certificates model.

## 1.2. Way Forward

The next steps also includes de drafting, translating and publishing of the Explanatory Documents to the Standard, that provide further guidance in specific issues such as the definition of areas of temporary exclusion and the management of the Fairmined Premium and the posting of key information on the ARM webpage, such as the application questionnaire for ASMOS, the table of costs of the Fairmined development fee and the annual registry fee to cover the Fairmined Information System.

The proposed timeline for the production of the Explanatory Documents is the following:

DOCUMENT	PROPOSED DELIVERY DATE
Indicators for traceability and procedures for documentation of disproportionate costs	April 2014
Procedures, roles and responsibilities for handling Ecological premium	May 2014
Guidance on mapping the System of Production, rules for inclusion and non inclusion of miners and how the Internal Control System assures traceability	June 2014
Explanatory document and procedures for determination of Areas of Temporary Exclusions - ATEs	July 2014
Procedures relating to Governance, representation, accountability, transparency, roles and responsibilities for handling the FM premium	August 2014

## PART 2 Consultation

### 2.1. Consultation Process

Before the consultation process began ARM developed a workshop with ASM miners in Sabaneta, Colombia to inform them about the upcoming process and get their feedback on the general proposed changes. The official consultation period was meant to last between 15 July and 15 August 2013, but ARM decided to extend it until 15 September to allow all interested parties to participate in the process. During this time a series of communication and informational activities were developed, including a webinar on the general structure and content of the Market Annex and one on one meeting and teleconferences with interested stakeholders.

Once the consultation phase was completed the process entered the revision phase in which ARM's technical team analyzed and compiled all the comments and feedback received. This phase began with a sistematization of all comments and a detailed analysis of each to determine if the proposed changes were feasible, aligned with the standard and ARM's vision and whether they are of a technical or strategic nature. Technical changes were approved by ARM's staff and its Standard Coordinator and the strategic decisions were brought to the Standard Committee. This Committee convened 3 times between October and November of 2013 and decided upon critical matters such as the level of silver premium, the scope of the ASMO's and the systems of production and the definition of exclusion areas.

### 2.2. Organizations

A total of 41 organizations and individuals participated in the second consultation process. Most feedback came from organizations and individuals in Latin America (13) and North America (12) followed by Africa (9), Europe (6) and Asia (1). NGOs, jewelers, refiners, artisanal and small-scale mining organizations, mining support organizations, academics, experts and government representatives participated in the process.

### 2.3. Consultation Synopsis

This Synopsis covers the main changes proposed to the Standard and the feedback received during the consultation process. It is arranged by chapters and it compiles the most strategic changes and comments received (e.g. style changes are not reflected in this document).

#### ***General Description and Guidance***

##### *Proposals:*

- The incorporation of a 10-year minimum of operation with appropriate licenses as evidence of a sustainable environmental management from ASM activity in environmentally sensitive areas.
- A broad ASM classification with a detailed explanation of the type of ASM that are accepted by the Standard.
- Have a productivity threshold to determine whether a mining organization is considered as ASM.
- The implementation of the System of Production, tied to an internal control system for the certified metal and a more detailed characterization of the scope of mining area within the System of Production.

- The ASMO's scope for FAIRMINED gold to be traced through a System of Production and a more detailed guidance for the inclusion and non inclusion from the SOP.
- Broaden the responsibility of ASMOs over surrounding communities to include areas, entities and people not part of the ASMO's mining area or System of Production and detailed guidance on the limits of this responsibility.
- Greater precision regarding the types of alluvial mining allowed by the Standard, including further requirements for smaller dredges.
- Geographic scope of producers extended from Latin America to "global south". Existing ASM in North America, Greenland and Europe (e.g. Inuit communities) remains excluded, as opening the scope to high income countries could lead to applications from local recreational mining groups
- Exclusion areas are defined in more detail and introducing environmentally protected areas explicitly (which were de facto already excluded) as well as (new:) environmentally sensitive areas and conflict areas. Exclusion is general in such areas, but always allow for a case-by-case evaluation of exceptions of duly justified responsible ASMOs with positive track records.
- Incorporation of the use of red flags based on the "OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-affected and High-risk Areas" with "Appendix 1" of its "Supplement for Gold", directly targeted at ASM.
- Armed Conflict section adapted to reflect alignment with "OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas"

*Feedback:*

- During the consultation process it was commented that allowing the existence of a separate FAIRMINED system of production within the broader area of an ASMO represents the risk of double standards.
- On the other hand, the respondents expressed that if internal controls are well managed, the FAIRMINED system could play a powerful demonstrative role in the transformation of all operations within an ASMO.
- With regards to the Fairmined System of Production, comments were made requesting the Standard needed to be clearer as to whether all individuals working in an area in a Fairmined System of Production also had to be registered as part of the System of Production. These considerations were based on the premise that the FAIRMINED standard should not encourage situations where people working side by side were governed by different rules.
- Questions were raised whether the System of Production was a sub-set of the ASMO or if the concept was more related to the supply chain. Specifically, questions were made regarding if and under what conditions could external service providers (such as gold shops or processing plants outside the ASMO's mining area) be part of the System of Production? Consultation comments identified gold shops as strategic points in the supply chain, with a great potential in the reduction of mercury emissions if engaged in responsible processes.
- A risk was identified that the use of external service providers may be used to avoid obligations of the standard.
- Some stakeholders stated that the productivity entry requirement might be punishing efficiency levels, and suggested that a threshold of 2.5g/person/day may leave out of the system many Peruvian ASMOs

- Another question regarding the productivity criteria was the time span in which the average productivity level was estimated, since productivity levels can vary over time.
- Comments were received suggesting that ASMOs should have 3<sup>rd</sup> level responsibilities regarding water stewardship and forest conservations. The main arguments that supported this proposal were that “Forest conservation” is very specific and it should be broadened to include other ecosystems, and that given the current world situation on climate change and food security, water conservation is a very relevant subject. It was argued that 3<sup>rd</sup> level responsibilities should be linked to indirect impacts of mining activity, and that the intent of the original text of the standard was to address the demand for timber and for firewood in ASM communities that causes deforestation outside the mining area.
- Examples and proofs were presented to support the argument that small dredges, when used in fast and abundant water bodies, can have a minimal environmental impact; in many cases heavy rain could cause more sedimentation than the dredges. An account of an Afro Colombian leader was quoted, stating that dredges operations were a source of employment and an economic opportunity for distant communities, as long as their use was framed within the community’s internal regulations.
- The text of the consulted proposal of the standard states that ARM has to maintain an updated list of the ATEs and that environmental NGOs are invited to provide input. It was stated that the intent of this requirement is to have a specific list that relates to the scope of the standard and therefore having a global list of critical ecosystems exceeds ARM’s mandate
- It was mentioned that the current wording, regarding ARM’s responsibility of maintaining a list, might lead people to believe that ARM is compiling a global list of critical ecosystems and a suggestion was made that standard clearly states that the process is triggered by specific cases and, that the list will be updated and the environmental NGOs consulted on a case-by-case basis.
- The determination of the requirement for ASMOs to have a 10-year trajectory working in the protected area was also commented on. During the consultation process, ARM received comments stating that this requirement should be modified because in some cases ASMOs had been present in the area before the region was declared an ATE and so they had an acquired previous right. It was also mentioned that this requirement could block the engagement of ASM in critical ecosystems and may hinder the role the standard could play in the management of these areas.

### **General Requirements**

#### *Proposals:*

- Establishment of alternative mechanisms to accredit the ASM nature of an ASMO. The STANDARD shall use first the national legislation to determine if an ASMO fits the ASM criteria. Where prescriptive legal definitions do not exist the Standard shall use the PRODUCTIVITY criteria defined by Grams of gold/worker/day in a month of 26 days.
- Further clarification on system of production, registered and non-registered miners, and illegal miners in the ASMO area.
- Chapter on democracy and participation within the ASMO was deleted, as the organizational scope is no longer limited to exclusively member-based organizations. Democracy, participation and transparency are now embodied in the premium committee. Transparency is always required (see e.g. 1.2.3). Democracy and participation is maintained at level of Premium Governance in the FAIRMINED standard.
- Physical traceability is maintained as far as possible up to the point of sale to the refiner, importer or jeweler who pays the premium. Where full compliance to physical traceability requirements imposes



disproportional costs, operators are exempt from physical traceability requirements. However, full documentary traceability and transparency, need to be ensured at all times

*Feedback:*

- Because of the nature of domestic plants, they should not be compelled to comply with requirements as stringent as those asked of industrial plants.

**Environmental Protection**

*Proposals:*

- Further guidance on when it is 'reasonably possible' for ASM to recover gold without the use of mercury is provided.
- Inclusion of no less than 10 years of licensed operations as condition for entry is considered evidence of good environmental management.
- Elimination of the following text: *"that ensures the local ecosystem is not placed beyond the capacity to recover" due to lack of objective knowledge for auditors to define "ensures capacity to recover"*. The key activity is implementation of an environmental management plan.
- Addition to recognize the self-determination of the local community, and to support improved income and economic diversification. This requirement is set at the ASMO level.

*Feedback:*

- Comments were made suggesting this criterion should be asked of from the beginning due to the dangers involved in the management of these substances. Nevertheless, there is a problem of availability of qualified training opportunities. (2.1.11 – cyanide leaching plants must be operated by trained personnel in the safe and proper use of cyanide).

**Labor Conditions**

*Proposals:*

- Adapt the text to reflect differential roles and responsibilities between the FAIRMINED System of production as the lead and example on better mining practices, and the ASMO as the certification umbrella with a mandate to promote better mining practices in its mining area as a whole.
- The Standards will now begin with health and safety requirements, social protection, and conditions of employment, followed by forced labor, child labor- child protection, and freedom from discrimination, ending with requirements around freedom of association and collective bargaining. In this manner, the order of the chapter better reflects the progressiveness of labor formalizations processes and of improvements in ASM.
- Include a register of work related accidents, fatalities and illnesses. The register shall provide a useful monitoring tool to track H&S performance in FAIRMINED system of production
- Because medical information is confidential taking the medical check should be voluntary unless dictated by law.
- Incorporate adjustments to enable a progressive formalization of workers, but also acknowledge self-employment as part of the nature of ASM, and seek to ensure fair work arrangements for these miners as well.



- Adjustments to recognize the combination of both contracted and self-employed workers in ASM.
- New requirement benefitting workers to ensure that work arrangements between owners and independent self-employed miners or workers in FAIRMINED systems of production are fair, made in a timely manner, and transparently registered.
- Strengthen section on forced labor in terms of alignment with ILO Conventions.
- Include provisions against human trafficking and the protection of the rights of migrant workers.
- A differentiated approach is included in the child labor sub chapter.

*Feedback:*

- The employment policy requirement should be eliminated because it can sometimes become a bureaucratic and inefficient mechanism.

***Fairmined Premium Governance and Development Plan***

*Proposals*

- Production of a specific explanatory document on Premium governance and use, providing guidelines on fair representation of all relevant groups, non-discrimination, and on premium use policy, plans, and accountability.

*Feedback:*

- The text calls for a broad based assessment in the process of premium governance, where local organizations are part of the process and it was stated that this is not very realistic and diminishes the value of the premium as an incentive to join the system. The standard needs to be careful not to raise expectations about community participation in the premium governance process and it was suggested that the text be modified to state that representatives of all social groups of the System of Production must be part of the premium committee and they can, if they choose to, invite participants or observers from local communities and organizations. It was commented that the standard is asking miners to be responsible business men and women and in that sense it needs to allow them to exercise governance processes on their own.
- It was mentioned that the Premium Investment Plan was not very practical since ASMOs don't have certainty of how much Premium they will get in a determined period.
- The importance of transparency in the premium allocation process was highlighted as well as the investment plan's role in communicating impact and as a negotiating tool for the miners.

***Trading Relationships***

*Proposals*

- Since the FAIRMINED premium will be paid to the ASMO directly and not to the registered miner who sells the FAIRMINED gold registered miners are part of the certified FAIRMINED System of Production, meaning they have to comply with all the STANDARD requirements, and are controlled by the ASMO through the Internal Control System and audited by a certification body.
- Incorporation of a Market Annex to the structure of the Standard document
- Inclusions of specific requirements for third party operators to make sure that those ASMOs are adequately protected in such arrangements.





- Set Fairmined Premium at 4,500USD per kilogram of FAIRMINED gold, reflecting the 10% premium at the price of gold around 1400 USD per ounce.
- Introduce a large volumes scheme to ensure that the smaller mines receive a Premium that guarantees continuous improvement and development, but at the same time permit the larger/more advanced ASMOs in the system more flexibility to secure contracts for large volumes
- Introduce an established contribution, rather than charging a license fee, to ensure the sustainability of the Fairmined System
- Add basic requirements of the down payment fund management mechanism.
- Fairmined gold and associated silver and platinum shall offer alternatives for both the 100% physically traceable, labeled product, and documentary traceability for B2B ethical supply chains, from the point where the metal leaves the ASMO's hands, usually the refinery, jeweler or importer who pays the premium at moment of purchase of the certified metal in order to enable market take up and access to market for the Fairmined ASMOs without reducing the development benefits of the Premium.
- Accept exception of physical traceability for down-stream operators where disproportionate costs imply loss of market for FAIRMINED ASMO's.

*Feedback:*

- A Proposal was made to calculate the FAIRMINED Premium as: The 10% of the monthly average of the London Fix of the five years previous to the year of application. This rate would be fixed during the whole year of application. As an example: The FAIRMINED Premium for 2013 would be: the 10% of the monthly average of the London Fix from 2008 until 2012 this is 4,000 USD per Kilogram for the year 2013
- The "product composition" section of the old standard and the fact that the 15% of pre-fabricated items cannot be sourced through Fairmined models is a really difficult thing to measure.
- A comment was made stating that the Silver premium is too low. 80USD per kilo is not sufficient incentive.
- Another comment said there were high licensing cost. What percentage is assigned to maintaining licensing system and what percentage is used to develop more sourcing? This should be specified and fully thought out. The language is too vague at the moment.