



## **GemFair Policy on Sourcing Minerals from Conflict-Affected and High-Risk Areas**

### **Scope**

This Policy on Sourcing from Conflict-Affected and High-Risk Areas (CAHRA) outlines the GemFair Programme's supply chain risks related to sourcing **artisanal and small-scale-mined goods** from either a Conflict-Affected or High-Risk Area.

This Policy is a subset of De Beers Group's Responsible Sourcing Policy for Diamonds, but it pertains to sourcing risks unique to the GemFair Programme. GemFair is committed to following the Five-Step Framework of the Organisation for Economic Cooperation and Development's (OECD) '*Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.*' As such, this Policy forms part of the GemFair Programme's efforts to follow the OECD's Guidance.<sup>1</sup>

This Policy is incorporated into all contracts with artisanal and small-scale mining Members of the GemFair Programme and is a contractually binding requirement.

### **Background on artisanal and small-scale mining supply chain risks**

The GemFair Programme recognizes that the operational reality for artisanal and small-scale miners (ASM) is different from the large-scale mining sector and therefore the risks of sourcing from ASM differ from the formal, large-scale mining sector. GemFair therefore engages with ASM miners who meet a threshold for risk, which is based on, but goes beyond Annex II of the OECD Guidance. The GemFair Programme's response to avoid, manage or eliminate these risks depends on the level of severity. This section includes a high-level overview of the ways in which GemFair ranks supply chain risks. The scope of this policy is limited primarily to the risks listed in the OECD Guidance.

GemFair's "Core Requirements" are set out in Paragraphs A-G below. These include but are not limited to: (i) serious human rights abuses associated with the extraction, transport or trade of rough diamonds, (ii) the use of the worst forms of child labour or forced/compulsory labour, (iii) contributing to war crimes, (iv) direct/indirect support of non-state armed groups, (v) money laundering and the financing of terrorist groups, (vi) sexual and gender-based violence, (vii) impeding traceability in any way and (viii) otherwise bringing the industry into disrepute. GemFair will not engage with ASM miners whose business practices or mining operations are contributing to conflict or human rights violations and the above-mentioned abuses. If there are confirmed incidents at the Member's Mine Site (as determined by GemFair, in its absolute discretion), this will be considered a breach of GemFair's Core Requirements, resulting in GemFair's immediate disengagement.

GemFair's "General Requirements" are set out in Paragraphs H-J below and include unlawful engagement with armed groups and financial crimes, such as the failure to pay taxes and fees. If GemFair confirms any of these incidents at the Member's Mine Site, GemFair will, in the most extreme case, immediately disengage with the Member or, for a less severe case, GemFair will develop and monitor the implementation of a Risk Management Plan (RMP) with the Member. The RMP will set out clear milestones and a timeline based on the scope and magnitude of the risk identified, not to exceed 18 months. If the Member does not undertake measurable improvement during this time, GemFair may suspend or expel the Member from the GemFair Programme. Re-entry will be determined on a case-by-case basis.

### **How the GemFair Programme monitors artisanal mining supply chain risks**

GemFair works in partnership with its ASM Members, government and civil society organisations to assess, monitor and mitigate supply chain-related risks. GemFair's primary means to assess these risks and to develop a Risk Management Plan is the GemFair Artisanal and Small-Scale Mining (ASM) Standard Requirements, Assessment Surveys and GemFair ASM Standard Manual (all forming the GemFair

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<sup>1</sup> Recognizing that GemFair is itself an exporter, the elements of the OECD Guidance's Annex II that refer to armed groups controlling exporters do not apply.



Responsible ASM Assurance Programme). The GemFair ASM Standard documents are designed to assess, monitor and mitigate all OECD Guidance Annex II risks, among others.

The GemFair Programme completes baseline and follow-up Assessment Surveys on the Member's Mine Site and business operations on a regular basis within an 18-month period. The Assessment Survey is based on GemFair's ASM Standard Requirements, including, but not limited to, the Core, Legitimacy and General Requirements. GemFair Members are obliged to furnish any required evidence at GemFair's request and supply any answers truthfully and in good faith. Where GemFair identifies any non-material compliance gaps, GemFair will give the Member the opportunity to correct those gaps before GemFair's next assessment visit.

### **Sections A-G provide a description of the GemFair Programme's Core Requirements:**

#### **A. Serious abuses associated with the extraction, transport or trade of minerals:**

1. While sourcing from, or operating in, a CAHRA,<sup>2</sup> GemFair will neither tolerate nor by any means profit from, contribute to, assist with or facilitate the commission by any party of:
  - a. gross human rights violations, including torture, cruel, inhuman and degrading treatment, war crimes, sexual and gender-based violence and other violations of international human rights law;
  - b. the use of the worst forms of child labour or forced labour;
  - c. the use of forced or compulsory labour; and
  - d. militarization of mine sites.

#### **B. Direct or indirect support of non-state armed groups:**

2. GemFair will not tolerate any direct or indirect support to non-state armed groups through the extraction, transport, trade, handling or export of ASM-mined minerals. GemFair uses the OECD's definition of 'direct or indirect support' to non-state armed groups<sup>3</sup> who:
  - a. Illegally control mine sites or otherwise control transport routes, points where minerals are traded and upstream actors in the supply chain;<sup>4</sup> and
  - b. Illegally tax or extort money or minerals at points of access to mine sites, along transportation routes or at points where minerals are traded.

#### **C. Money laundering and financing of terrorist activities:**

3. Every Member from whom GemFair purchases minerals is subject to the GemFair Programme's Anti-Money Laundering and Combatting the Financing of Terrorism procedures, which include initial and ongoing monitoring of the Member's profile on an international database for crimes, sanctions and political involvement.
4. Each cash transaction GemFair performs is accompanied by a GemFair Transaction Receipt (including a Goods and Services Tax ("GST") receipt, where applicable).

#### **D. Bribery and facilitation payments**

5. GemFair Members must not offer, promise, give or demand any bribes and must resist the solicitation of bribes to conceal or disguise the origin of minerals, to misrepresent taxes, fees and royalties paid to governments for the purposes of mineral extraction, trade, handling, transport and export.

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<sup>2</sup> Conflict-affected and high-risk areas are defined by the OECD Guidance as areas with "the presence of armed conflict or other forms of harm to people. Armed conflict may take a variety of forms, such as conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars, etc. *High-risk areas* may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. Such areas are often characterised by widespread human rights abuses and violations of national or international law.

<sup>3</sup> According to the OECD, direct or indirect support to non-state armed groups includes 'procuring minerals from, making payments to or otherwise providing logistical assistance or equipment to, non-state armed groups

<sup>4</sup> Such as: "overseeing extraction, including granting access to mine sites and/or coordinating downstream sales to intermediaries."



**E. Payment of taxes, fees and royalties due to governments:**

6. GemFair expects that all taxes, fees and royalties related to mineral extraction, trade and export from conflict-affected and high-risk areas are paid to governments and, in accordance with the GemFair Programme's position as both a rough diamond buyer and an exporter, GemFair commits to disclose payments in accordance with the principles set forth under the Extractive Industry Transparency Initiative.

**F. Impeding diamond traceability in any way**

7. The GemFair Programme requires its Members to take part in efforts to achieve total traceability of the rough diamonds mined in their operations by keeping up to date records of the following:
- Location of the mining license;
  - Number and age of all Workers;
  - Work agreements between the Member and each worker;
  - Payments made to the government for licensing, taxes, royalties, fees or tribute purposes;
  - Payments made to workers, both casual and permanent workers; and
  - Quantities of mined minerals.
8. GemFair Members must not attempt to by-pass the GemFair Programme's chain-of-custody measures, including by logging ineligible stones in the GemFair's App.

**G. Otherwise bringing the industry into disrepute**

9. GemFair has adopted De Beers Group's Best Practice Principles provision on bringing the diamond industry into disrepute.<sup>5</sup> GemFair Members must not:
- aid or participate in any activity that may result in a criminal conviction;
  - commit acts (or omissions) which intentionally or recklessly endanger or harm the health and/or welfare of individuals; and/or
  - aid or participate in any conduct that seeks to deceive, cheat or delude the GemFair Programme or any of its officers, employees, agents or representatives, including smuggling or engaging in any undeclared or misrepresented trade in treated diamonds, whole or partial synthetic diamonds or diamond stimulants, and any trade that misrepresents the colour, clarity, caratage, cut and/or provenance of a rough diamond.

**Sections H-I detail the GemFair Programme's Management of the GemFair Core Requirements**

**H. The GemFair Programme takes a zero-tolerance approach to the following risks:**

- Serious abuses associated with the extraction, transport or trade of minerals;
- Direct or indirect support of non-state armed groups;
- Money laundering and financing of terrorist activities;
- Bribery and facilitation payments;
- Non-payment of taxes, royalties or fees;
- Sacrificing traceability of diamonds in any way; and
- Otherwise bringing the industry into disrepute.

- I. If the GemFair Programme determines the presence of any of the above risks during the period of the Member's relationship with GemFair (as determined by GemFair, in its absolute discretion), GemFair will immediately disengage with the Member.

**Section J describes the GemFair Programme's General Requirements and GemFair's expectations of its Members' response:**

**J. Public or private security forces:**

10. GemFair Members must agree to eliminate, in accordance with paragraph 2 under Section B above, direct or indirect support to public or private security forces who illegally control mine sites,

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<sup>5</sup> De Beers Group of Companies, 2017. *Best Practice Principles: The Assurance Programme Requirements*, p.7.



transportation routes and upstream actors in the supply chain; illegally tax or extort money or minerals at the point of access to mine sites, along transportation routes or at points where minerals are traded; or illegally tax or extort intermediaries;<sup>6</sup>

11. The role of public and/or private security forces at mine sites and/or surrounding areas and/or along transportation routes should be solely to maintain the rule of law, including safeguarding human rights, providing security to mine workers, equipment and facilities, and protecting the mine site or transportation routes from interference with legitimate extraction and trade.

#### **Section K details the GemFair Programme's Management of General Requirements**

##### **K. Public and/or private security forces**

12. Where the GemFair Programme or any GemFair Members contract public and/or private security forces, GemFair will require that such security forces are engaged in accordance with the Voluntary Principles on Security and Human Rights ("VPSHR"). In particular, GemFair requires the security company to sign a Human Rights Declaration on behalf of themselves and/or their company. GemFair also requires a VPSHR clause to be incorporated into all security provider contracts.
13. GemFair will engage with central and local authorities, international organisations and local and international civil society organisations to contribute to workable solutions on how transparency, proportionality and accountability in payments made to public security forces for the provision of security could be improved.
14. GemFair will engage with local authorities to avoid or minimize the exposure of vulnerable groups, in particular, artisanal and small-scale miners and workers (including women), to adverse impacts associated with the presence of security forces, public and/or private, on mine sites.

#### **Conclusion**

This Policy forms part of the GemFair Programme's due diligence activities for sourcing artisanal and small-scale mined products from CAHRA. This policy is intended to guide both the GemFair Programme, GemFair Members and the public on the circumstances under which the GemFair Programme will engage with a Member vis-a-vis the circumstances that require GemFair's immediate disengagement. This Policy is subject to revision periodically, as and when the context in which GemFair operates changes.

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<sup>6</sup> Per the OECD Guidance's definition, 'direct or indirect support' does not apply to legally required forms of support, such as taxes fees and/or royalties that companies pay to the government.