

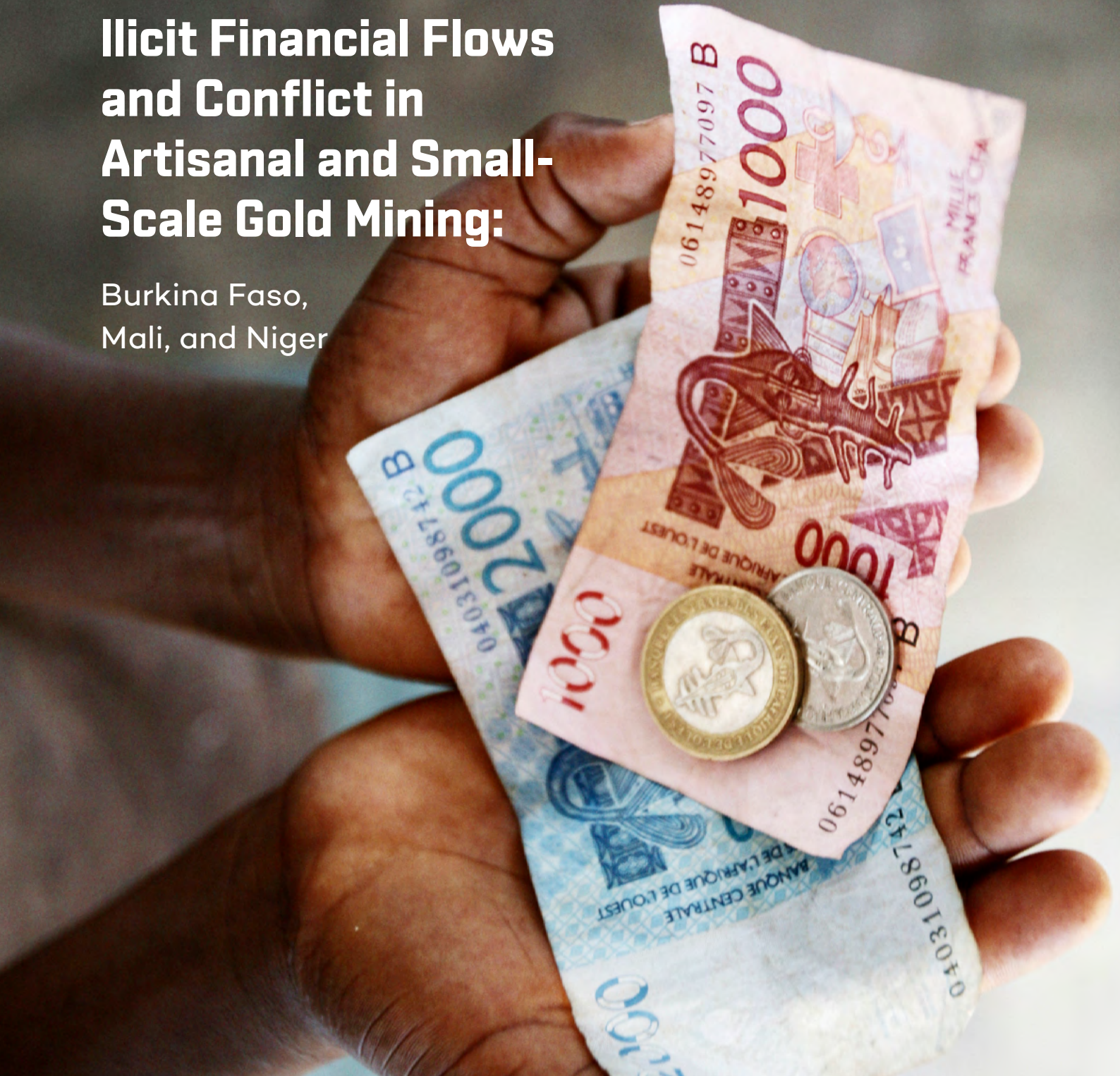


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Sustainable Development

Illicit Financial Flows and Conflict in Artisanal and Small- Scale Gold Mining:

Burkina Faso,
Mali, and Niger



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Illicit Financial Flows and Conflict in Artisanal and Small-Scale Gold Mining: Burkina Faso, Mali, and Niger

September 2022

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List of Abbreviations

AEA	artisanal mining licence
ANEEMAS	Agence nationale d'encadrement des exploitations minières artisanales et semi-mécanisées (National Agency for the Supervision of Artisanal and Semi-Mechanised Mines)
ASGM	artisanal and small-scale gold mining
ASM	artisanal and small-scale mining
BNAF	National Anti-Fraud Brigade for Gold
CENTIF	National Financial Intelligence Processing Unit
CMA	Coordination of the Movement of Azawad
CMC	Community Mining Code
DEMPEC	Direction des Exploitations Minières à Petite Échelle et des Carrières (Small-Scale Mining and Quarrying Directorate)
ECOWAS	Economic Community of West African States
EITI	Extractives Industry Transparency Initiative
GIABA	Intergovernmental Action Group against Money Laundering in West Africa
GSIM	Group for the Support of Islam and Muslims (Jama'at Nasr al-Islam wal Muslimin [JNIM])
ICG	International Crisis Group
IDP	internally displaced person
IFF	illicit financial flow
IGF	Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development
IISD	International Institute for Sustainable Development
ISGS	Islamic State in the Greater Sahara
ISS	Institute for Security Studies
LSM	large-scale mining
OECD	Organisation for Economic Co-operation and Development
SGBV	sexual- and gender-based violence
SOPAMIN	Société du Patrimoine des Mines du Niger (Niger Mining Heritage Company)
UAE	United Arab Emirates
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNIDO	United Nations Industrial Development Organization
USGS	United States Geological Survey
VDP	Volontaires pour la défense de la patrie (Volunteers for the Defence of the Homeland)
WAEMU	West African Economic and Monetary Union



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1.0 Introduction

Artisanal and small-scale mining (ASM) is an essential component of West African economies. Millions of people within the region depend on it, either directly or indirectly, for their livelihoods, and it is responsible for a significant proportion of the region's mineral and metal production. When effectively governed and supported, the sector offers an excellent opportunity to advance national and regional sustainable development goals, including through the mobilization of national revenues and the creation of employment for the most vulnerable.

This is particularly true for artisanal and small-scale gold mining (ASGM), or gold mining, which has a longstanding history in West Africa. Millions of people within the region depend on gold mining, directly or indirectly, for their livelihoods and income. The activities of the gold mining supply chain, including exploration, mining, processing, trading, and the myriad of small businesses that support artisanal miners and communities around gold mining sites, can be a year-round primary occupation for women and men, a seasonal livelihood strategy, or a means of supplementing and diversifying other income sources. And while gold mining has been a livelihood strategy for centuries, it has expanded considerably over the past decade. A rich vein of gold stretching across the Sahel from east to west was first discovered in Sudan in 2012 and then in Chad, Niger, and Mali; by 2016, artisanal gold mining along this vein had spread westward to Mauritania (International Crisis Group [ICG], 2019). As a result of this rush, gold mining has expanded and is now thought to account for a third of total gold production in the Sahel—and this is in a region with a long history of industrial gold mining (ICG, 2019).

The gold mining sector in the region is still largely informal and comprised of diverse actors playing different roles, most of whom are artisanal miners. Artisanal miners include all those who extract and process gold in an artisanal way, such as diggers or labourers, blasters, mill workers, ore washing, and concentration shed owners. Most gold miners fall into a specific social category comprising uneducated, unschooled, and economically disadvantaged people, including women and children. In general, several factors determine the practice of gold mining. These factors include economic and bioclimatic factors (famine, poverty, unsuccessful agricultural activities, precarious living conditions) and socio-political factors (subregional political crises, unemployment, loss of temporal employment).

Unfortunately, the discovery and subsequent gold rush coincided with a rise in religious extremism, conflict, and crime in the Sahel, particularly in the three countries that make up the Liptako-Gourma region: Niger, Burkina Faso, and Mali. Illegal activities, including armed



violence, terrorism, and organized crime, have exacerbated governance problems in parts of the three countries; large areas at the confluence of the three borders are now beyond the control of governments and are expanding. The informality of the gold mining sector in this border region also means that these activities remain largely untaxed. Therefore, rather than a commensurate increase in local development and government revenue, the increase in artisanal gold mining has occurred against a backdrop of increasing insecurity, illicit financial flows (IFFs), human rights abuses, porous borders, and corruption. The increase in gold mining activities has also been accompanied by a climate crisis and a global health pandemic, which have increased the economic vulnerability of rural areas and increased the number of people abandoning agriculture as a livelihood in favour of artisanal mining.

Armed groups and criminal organizations have taken advantage of this fertile ground by taking control of some artisanal mining sites and targeting artisanal miners to extract gold and collect taxes in the absence of the state (ICG, 2019; Munshi, 2021). This is a vicious circle; more funding from gold mining increases the capacity and incentive for non-state armed groups to take over more territory and artisanal mining sites while increasing their recruits and the quantities of gold collected. For some artisanal miners, the presence of these groups has brought stability and presented new socio-economic opportunities. For the most part, however, these groups benefit financially from these resources at the expense of small-scale miners, communities, and their governments. Gold miners and their communities are caught in the crossfire; attacks have killed thousands, and hundreds of thousands have fled (Munshi, 2021).

There is an urgent need to further support the governments of Niger, Mali, and Burkina Faso in their efforts to restore stability, protect their citizens and the environment, formalize ASGM operations, reduce corruption, and increase tax revenues to the sector. Significant efforts have already been made in all three countries, including the implementation of the Organisation for Economic Co-operation and Development (OECD) *Guide on Due Diligence for Responsible Mineral Supply Chains from Conflict and High-Risk Areas*, which has also been translated into three local languages. In addition, awareness-raising workshops for law enforcement agencies were held, and a baseline assessment of gold in the three countries was completed in 2018. Institutional partners and donors, such as the World Bank, are actively supporting the governments in their efforts to formalize sector activities. In addition, the countries have benefited from capacity building provided by the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) on strengthening legal and policy frameworks, as well as on mining tax policy and administration. There is a need to build on and complement this work and to further support a coordinated response between the three governments and the wider West African region to combat the rise in crime, violence, and IFFs associated with gold mining. While this is a complex and difficult challenge, it is essential if gold mining is to become a genuine vehicle for sustainable development.



1.1 Gold Mining in the Countries of the Liptako-Gourma Region: Burkina Faso, Mali, and Niger

Gold mining has a longstanding history in all three countries, although the activity has changed, both in terms of scale and geographical coverage, over the years.¹ For many individuals and communities, artisanal mining has traditionally been a livelihood diversification strategy, used in times of drought or rinderpest to supplement income when crops fail or livestock struggle to survive (Nikièma et al., 2020). As such, the importance of this type of gold mining in West Africa in general—and in Niger, Burkina Faso, and Mali in particular—is well established, both in terms of the income it generates and the livelihoods it creates.

Artisanal and small-scale gold production in the three countries has exploded over the past decade, matching the rapid growth of economic activity across West Africa. Most of the gold is exported to the Middle East, either directly from the three countries or via neighbouring states (ICG, 2019). In most cases, data available is sparse, both on production and on the number of people directly or indirectly involved in artisanal gold mining (IGF, 2017). According to a 2018 OECD report, the combined artisanal and small-scale gold production of Mali, Burkina Faso, and Niger is estimated to be between 15 and 85 tonnes, with a probability of 50 tonnes per year.

The Government of Niger, through the Small-Scale Mining and Quarrying Directorate (Direction des Exploitations Minières à Petite Échelle et des Carrières) (DEMPEC), reported artisanal gold production of 5,726 kg in 2018.² The largely informal nature of gold mining in the country means that the true figure is probably much higher. It is estimated that 450,000 people are directly involved in ASGM operations more generally, and while gold mining dominates the sector, artisanal miners also focus on gypsum, coloured gems, cassiterite, and salt. Considering the households of these workers, ASGM supports 20% of the Nigerien population as a primary or supplementary source of livelihoods (United Nations Economic Commission for Africa, n.d.).

In Burkina Faso, the scale of ASGM is perhaps even greater; it is now estimated that the country's 1 million gold miners are responsible for half the country's gold production (Munshi, 2021). The Burkinabe government estimates that 9.5 tonnes of artisanal gold is produced annually in the country (National Institute of Statistics and Demography, 2016); other sources estimate that this figure could be as high as 20–25 tonnes (OECD, 2018). The National Agency for the Supervision of Artisanal and Semi-Mechanised Mines (Agence nationale d'encadrement des exploitations minières artisanales et semi-mécanisées) (ANEEMAS), the government agency overseeing ASGM in Burkina Faso, estimates that there were more than 800 active ASGM sites in the country in 2019 (Jong, 2019). While gold accounts for much of the production and value of these sites, artisanal miners also mine manganese, phosphates, copper, limestone, marble, zinc, bauxite, antimony, and sand (International Institute for Environment and Development, 2002).

1 Gold mining in Niger expanded following droughts in 1984–1985 and became widespread in the regions of Tillabéry and Agadez (Djado, Aïr, Tafassasset) and southern Maradi. It has become a permanent economic activity using rudimentary production methods and tools.

2 Data shared by DEMPEC: Conclusions of the workshop in Niamey from March 29 to 31, 2022, on gold mining, illicit financial flows, and conflicts.



Finally, gold production is at the heart of the Malian economy. The country is the third-largest producer of the metal in Africa, and although much of this production comes from large-scale mining, there are significant ASM activities across the country, with the Ministry of Mines estimating production of 20 tonnes in 2016.³ In 2018, it was estimated that ASGM directly employed around 400,000 people in the country (OECD, 2018). While gold is the country's most popular commodity, especially for ASM, the country also has bauxite, iron, uranium, and diamond deposits (Extractive Industries Transparency Initiative [EITI], 2020). The Mining Code recognizes ASGM, which is managed by local authorities, although this regulation needs to be better clarified and enforced (OECD, 2018).

Considerable efforts have been made by governments, civil society, international partners, and artisanal gold miners themselves to support the sector and its positive impacts on households, communities, and the environment. These efforts include significant work on improving the legal frameworks governing ASGM (see Chapter 2) and programs focused on formalization, including licensing; capacity building and training; provision of equipment; support to gold mining associations; dissemination of information on laws and regulations; and efforts to improve water, health, and education services in gold mining communities. These efforts are largely directed at further improving working conditions, environmental performance, and the societal contribution of gold mining at the local and national levels.

Important environmental, health, social, security and economic challenges persist (see Table 1). The control, management, and monitoring of gold mining activities is a complex task for countries in the Sahel. Most countries have found themselves dealing with illegal gold mining or the negative impacts of an informal sector in a curative manner, without having had the opportunity to develop a vision or strategic guidelines for artisanal mining upstream that would allow it to become a real economic development tool for the population (Nikièma et al., 2020). There is therefore a lack of normative coherence in the governance of artisanal gold mining.

These challenges continue to hamper investment and action in the sector and are often exacerbated by the porous nature of the region's borders, with the free movement of labour between West African Economic and Monetary Union (WAEMU) countries meaning that efforts to formalize national artisanal gold miners are often complicated by the presence of nationals from neighbouring countries operating mines in other jurisdictions. Security concerns, in particular, are so extreme that governments have responded accordingly; the state of Burkina Faso has banned all artisanal mining in its Sahelian region in order to stop the flow of revenue from artisanal gold mining to terrorist groups and organized crime. However, informal operations, active smuggling routes, and soaring gold prices have exacerbated the targeting of gold mining sites by terrorist groups and criminal organizations.

3 Malian Ministry of Mines, shared via PowerPoint presentation (internal document).



TABLE 1. Artisanal mining in the countries of the Liptako-Gourma region

Challenges	Opportunities
<ul style="list-style-type: none"> • Environmental challenges: Use of cyanide and mercury and their significant adverse impacts on soils, living beings, and water resources; abandoned sites, polluted waters; uncontrolled deforestation, landslides • Health challenges: Drugs, sexually transmitted infections, epidemics, insalubrity, noise pollution, dust emissions • Social challenges: Human rights violations (child labour, human trafficking, gender-based violence), harsh and precarious working conditions for artisanal miners, destruction of land for housing • Security challenges: Violation of occupational health and safety rules (lack of personal protective equipment), banditry or even the presence of armed gangs, accidents, recurrent conflicts, armed conflicts • Economic challenges: Difficult to access the formal market; inflation; fraud; smuggling, money laundering, trafficking in illicit products 	<ul style="list-style-type: none"> • Direct and indirect job creation and reduction of unemployment • Reduction of rural depopulation and revitalization of rural areas • Poverty reduction for the most vulnerable segments of the population • Tax benefits to government and local authorities • Increased and visible contributions to local development of artisanal mining areas • Transfer and appropriation of new technologies and management methods • Improved environmental protection and management in artisanal mining areas • Increased corporate citizenship activities by artisanal miners as part of their social responsibility • Local and national economic benefits • Development of national “champions” for a transition to semi-mechanized and industrial exploitation

Source: Adapted from Nikiéma et al., 2020.

The challenges are great, but so are the opportunities. Governments, both within their borders and in collaboration with their neighbours, can redouble their efforts with artisanal miners, large-scale mining companies, civil society, and their international partners to regulate, secure, and formalize gold mining sites and activities to help the sector become a source of dignified and sustainable livelihoods.

This report presents an analysis of the context of artisanal mining in border areas currently plagued by violence and conflict. The analysis focuses on three key areas.

Chapter 2 of the report examines the current regional and national governance frameworks for ASGM. Building on and updating the International Institute for Sustainable Development’s (IISD’s) 2020 analysis of legal frameworks for artisanal mining in West Africa, the section describes the extent to which artisanal mining has been integrated into national and regional legal and policy frameworks, including the strengths and weaknesses of current efforts to formalize artisanal mining and the national and local institutions involved in its governance.



Chapter 3 of the report looks at the IFFs associated with artisanal gold mining in the region, in order to understand the scale of IFFs and how they move in and out of the region. It examines regional and national tax regimes and measures in place to combat IFFs as they relate to artisanal gold mining. This includes an analysis of current levels of taxation and tax harmonization in the three countries, as well as high-level analysis of IFFs associated with artisanal mining and conflict/crime. The section explores the drivers of IFFs associated with artisanal mining, the scale of the problem, and some of the ways in which the three governments and their development partners are addressing the problem.

Chapter 4 of the analysis seeks to understand the links between conflict, crime, and artisanal gold mining. It includes a high-level analysis of the conflict dynamics currently affecting artisanal mining in the three countries. This includes the drivers, actors, and impacts of violence and crime on local communities and the environment, with a particular focus on artisanal mining areas outside government control. This analysis will be set in the wider national context, with formally and peacefully functioning gold operations also examined to understand what works elsewhere and why.

The final part of the analysis, Chapter 5, offers recommendations to the governments of Burkina Faso, Mali, and Niger on how they can strengthen their response to the threat of IFFs, conflict, and crime associated with ASGM.



2.0 Legislative and Regulatory Frameworks for Gold Mining in Burkina Faso, Mali, and Niger

This chapter analyzes the legal frameworks for artisanal gold mining in the countries of the Liptako-Gourma region: Niger, Burkina Faso, and Mali. The analysis is based in part on the conclusions of the IISD report, *Analyse comparative des textes juridiques applicables à l'exploitation minière artisanale de l'or dans l'espace UEMOA* (Nikiéma et al., 2020⁴) and provides an update. More specifically, this chapter focuses on the legal tools for preventing and combatting organized crime and terrorism and their ramifications for gold mining. It also addresses the major challenges and potential legal obstacles to the effective formalization of the sector. Formalization is, moreover, presented as a potentially effective instrument to reduce the sector's vulnerability to criminal activities and terrorism and fight against illicit financial flows in the sector⁵ (Hunter et al., 2017).

With regard to the regime for the exploitation of mining substances, particularly gold, the legislative and regulatory texts of the three countries set out, in their mining codes and related application texts, the main principles of the legal framework for artisanal mining, including gold mining. This general legal regime is complemented by sectoral texts governing activities in other areas, such as the environment, health and safety at work, or taxation. All these legal tools constitute a translation into the coercive standards of the vision of the mining sector of these countries as reflected in their mining policies. The full list of laws, regulations, and guidance documents is provided in Appendix A of this report.

As members of WAEMU and the Economic Community of West African States (ECOWAS), Burkina Faso, Niger, and Mali are subject to the community law rules governing this sector. The WAEMU community regulation concerns the exercise of artisanal mining activities. ECOWAS directives concern the mobility of people and goods within the regional area,⁶ as

4 This report's title translates to *Comparative Analysis of Legal Texts Applicable to Artisanal Gold Mining in the WAEMU Area*.

5 Sector informality enables criminal exploitation, for example, through money laundering or extortion and bribery (Hunter et al., 2017).

6 Art. 59 of the Treaty of the Economic Community of West African States.



well as Directive C/DIR 3/05/09 dated May 27, 2009, on the harmonization of guidelines and policies in the mining sector. At the WAEMU level, Regulation n°18/2003 on the adoption of the Community Mining Code (CMC) is binding for member states. The revised CMC text was approved by the ministers of the member states on June 29, 2019, but has not yet been adopted by the Conference of Heads of State.

TABLE 2. Main laws and regulations on gold mining in force in Burkina Faso, Mali, and Niger

Country	Date of last revision of the mining code	Main implementing legislation
Burkina Faso	<ul style="list-style-type: none"> • 2015 (Law n°036/CNT of 26 June 2015 on the Mining Code of Burkina Faso). • Law n°028-2017/AN on the marketing of gold and other precious substances 	<ul style="list-style-type: none"> • Decree n°2018-0249/PRES/PM/MMC/MINEFID/MCIA of 29 March 2018 on the conditions for granting and renewing approval for the marketing of gold and other precious substances of artisanal and semi-mechanized production. • Decree n°2018-1017 PRES / PM / MMC / MINEFID / MEEVCC / MCIA / MATD / MSECUCU/MFPTPS on the organization of artisanal and semi-mechanized gold and other precious substances mining. • Decree n°2018-0969 determining the maximum quantities of raw gold and other precious substances authorized in possession or detention. • Decree n°2017-036 of 26 January 2017 on the management of mining permits and authorizations. • Decree n°2017-0023/PRES/PM/MEMC/MINEFID on the determination of mining taxes and royalties. • Decree n°2017-0047/PRES/PM/MENC/MINEFID/MEEVCC/MATDSI of 01 February 2017 on the organization, functioning, and modalities of collection of resources of the Fund for the rehabilitation and securing of artisanal mining sites and the fight against the use of prohibited chemicals. • Decree n°2015-1420/PRES-TRANS/PMMEF/MME of 30 November 2015 establishing ANEEMAS.



Country	Date of last revision of the mining code	Main implementing legislation
Mali	<ul style="list-style-type: none"> • Ordinance n°2019-022/P-RM of 27 September 2019 on the Mining Code in the Republic of Mali. • Law n°2012-015 of 27 February 2012 on the Mining Code. 	<ul style="list-style-type: none"> • Decree No. 2020-0177/PT-RM of 12 November 2020 setting the conditions and modalities for the application of the Mining Code in the Republic of Mali. • Decree No. 2012-311/P-RM of 21 June 2012 setting the conditions and modalities of application of the Mining Code law. This implementing decree was amended in 2013 (Decree No. 2013-690-P-RM of 28 August 2013).
Niger	<ul style="list-style-type: none"> • Law n°2018-48 modifying the ordinance n°93-16 of 02 March 1993, on mining law. • Mining code or mining law of 29 June 2022 enacted in September 6, 2022. 	<ul style="list-style-type: none"> • Decree No. 2017-628/PRN/MM of 20 June 2017 amending and supplementing Decree No. 2006-265/PRN/MM/E of 18 August 2006 laying down the terms and conditions for the application of the Mining Code. • Decree n°2006-265/PRN/MM/E of 18 August 2006 laying down the modalities for the application of the Mining Code.

It is important to note that ASGM has developed rapidly in all three countries, as has the commercial exploitation of gold.⁷ Although ASGM has become an important activity and the livelihoods and financial flows associated with it have increased in volume and complexity, legislation has not kept pace. Specific rules for ASGM were introduced in most countries in the early 2000s, as it was acknowledged that treating it as an illegal activity was counterproductive. However, the rules were generally based on medium- and large-scale mining regulations. As governments went through a learning process and improved their understanding of the methods and drivers of ASGM, attempts were made to adapt the regulations to the specific circumstances of the activity. However, the fact that these circumstances are in a state of continuous change has complicated the task.

Table 2 reproduces the main legislative and regulatory texts in force relating to gold mining in Burkina Faso, Mali, and Niger.

The rules governing gold mining are multi-faceted and often difficult to identify and access, especially given that the majority of gold miners are poorly educated and struggle to understand the complexity of administrative and regulatory procedures. It would be useful to create guides or documents consolidating the main legal requirements applicable to artisanal mining with a view to making them available in official and national languages.

⁷ The estimated value of gold exports in 2000 was USD 5 million in Burkina Faso, USD 171 million in Mali (which had large commercial gold mines at the time), and negligible in Niger. By 2010, value had increased to USD 869 million, USD 1,198 million, and USD 100 million, respectively (UNCTADStat, n.d.). We use United Nations Conference on Trade and Development (UNCTAD) figures because they are estimates based on analyses of international trade flows and therefore attempt to include both declared and unreported exports.



2.1 Institutional Models for Artisanal Mining and the Authority Responsible for Issuing Artisanal Mining Permits

ANEEMAS, a special agency responsible for the supervision and promotion of the artisanal mining sector, was recently established in Burkina Faso. Created in 2015 and in operation since 2018, the agency works under the technical supervision of the ministry in charge of mines and quarries. Gold mining appears to be the primary focus of the agency's work, with its scope covering the administrative and regulatory framework of gold mining as well as the regulation of marketing and environmental management.

In Mali, local communities are responsible for managing artisanal mining corridors, supported by technical advice from the mining authorities.⁸

In Niger, the management of the artisanal aspect of mining is the responsibility of the Direction des Mines et des Carrières (Directorate of Mines and Quarries) and is delegated to the decentralized departments, in particular, the regional directorates of geology and mines. However, since 2017, the Société du Patrimoine des Mines du Niger (Niger Mining Heritage Company) (SOPAMIN) has been entrusted with the mandate to supervise mining operators, raise awareness of health and safety rules, and supervise and monitor activities in areas dedicated to artisanal mining (art. 46 of Decree 2017-628).

There is no evidence that these structures collaborate effectively with other governmental or decentralized structures on IFFs. Inter-ministerial coordination is indeed essential to ensuring a comprehensive and effective response to the fight against this scourge in the long term.

TABLE 3. Institutional models and responsible authorities for ASGM

Management model	Assets	Challenges
Autonomous national agency (Burkina Faso)	<ul style="list-style-type: none"> • Management and financial autonomy • Predictability in budget allocation • Coordinated and planned management at the national level • Integrated vision and consistency in implementation • Collaboration with other facilitated government agencies (Office of Mines and Geology of Burkina Faso [BUMIGEB], finance, economic police) 	<ul style="list-style-type: none"> • Poor decentralization of actions on the ground if standalone offices are not created • Limited accessibility for local actors • Weak monitoring of mine sites

⁸ Mali Mining Code (2019), art. 47. The modalities for the management of artisanal mining outside of artisanal mining corridors will be specified in the application texts currently being adopted.



Management model	Assets	Challenges
Communal management with the collaboration of decentralized services (Mali)	<ul style="list-style-type: none"> • Decentralization; proximity to local actors • Effective presence in the field • Speed of response to emergencies in the field • Better consideration of the realities on the ground and increased ability to respond • Accessibility of services for users 	<ul style="list-style-type: none"> • Limited financial and human resources • Weak monitoring of mine sites • Complexity of collaboration with other governmental actors involved in IFF prevention
Managed by SOPAMIN and by decentralized services (Niger)	<ul style="list-style-type: none"> • Management at the central and decentralized levels • Decentralized management and proximity to local actors • Better presence on the ground • Speed of response to emergencies in the field • Accessibility of services by users 	<ul style="list-style-type: none"> • Weak decentralization • Inaction and lack of leadership by SOPAMIN • Lack of intergovernmental and stakeholder coordination • Limited financial, material, and human resources • Mismatch of profiles and jobs within the administration • Lack of synergy between state actors and local authorities

Source: Adapted from Nikiéma et al., 2020.

In addition to institutional structures, it is important to understand the legal design and requirements for engaging in artisanal mining in the countries of the Liptako-Gourma region and to analyze actual practices on the ground in order to identify difficulties in formalizing the sector and preventing illicit financial flows.

2.2 Legal Frameworks and the Challenges of Formalizing the Sector

Despite the importance of the sector in terms of production and revenue generated, the legal frameworks of the three countries have still not been able to offer incentive approaches to promote effective formalization of the sector. However, formalization and an adequate legal framework would make it possible to combat organized crime on mining sites and prevent IFFs (Hunter, 2019). Added to this is the institutional weakness and lack of capacity of government actors not only to support and equip gold miners but also to adequately manage, control, and monitor activities on mining sites.

The major issues of the legal and institutional frameworks are as follows:



i) A range of different definitions of artisanal mining

Artisanal mining, as currently practised in Burkina Faso, Mali, and Niger, generally involves the use of manual and traditional methods and processes in the recovery of gold. However, to account for the increasing practice of using mechanical equipment at artisanal mining sites, some modern legislation now introduces an acceptable mechanization threshold for artisanal mining in the WAEMU region. With the revision of Niger's Mining Code, the country sets itself apart from the other two countries by allowing a minimum level of mechanization while explicitly prohibiting the use of explosives and chemicals.

However, the threshold of mechanization tolerated and the equipment authorized in the case of gold mining is not clearly defined and would benefit from being specified in the application decrees of the mining codes currently being adopted in order to reinforce the chances of compliance by mining operators and to avoid any substitution/confusion with semi-mechanized mining, particularly in the context of Niger and Mali.⁹ It is worth noting that Mali, which had enshrined the notion of mechanization in 2012, abandoned it in its new mining code in 2019, probably because of the difficulties of applying this provision.

In its legal arsenal, Niger also provides for the artisanal mining of heaps, dumps, and tailings from mines and quarries, which consists of mine waste (spoils, waste, and tailings) being treated and valorized.¹⁰

The different definitions of artisanal mining are set out in Table 4.

Depending on the jurisdiction, the definitions of artisanal mining, semi-mechanized mining, and small-scale mining can vary significantly. Only Mali provides a legal definition of gold mining in its mining code.

As far as Niger is concerned, the introduction of mechanization, which considers the reality of the mining sites, could encourage mining operators to leave the informal sector and join the formal sector; this would not only improve productivity but also environmental, health, and safety conditions on the artisanal sites. However, public authorities should put in place support measures, technical training, and access to loans for the acquisition of equipment at a reasonable cost and avoid repeating the experience of Mali¹¹ (Nikiéma et al., 2020).

⁹ Niger uses the concept of semi-mechanized artisanal exploitation, but the term artisanal does not appear in the Malian and Burkinabe definitions (see Table 4 for definitions).

¹⁰ Implementing Decree 2017-628 of Niger.

¹¹ The issue of mechanization is analyzed in depth in the IISD report (2020).



TABLE 4. Official definitions of artisanal mining

Country	Artisanal mining	Semi-mechanized mining	Small-scale mining	Gold mining
Burkina Faso	“All operations that consist in extracting and concentrating mineral substances such as gold, diamonds and other gems from primary and secondary outcropping deposits and recovering marketable products using manual and traditional methods and processes” (art. 5, Mining Code 2015).	All operations that consist of extracting and concentrating mineral substances and recovering their marketable products for disposal using some mechanical means in the chain of operations (art. 5, Mining Code 2015).	Small-scale mining includes semi-mechanized mining, mining of waste rock piles, slag heaps, quarries, and artisanal mining (art. 5, Mining Code 2015).	N/A
Mali	Any small-scale operation involving the extraction and concentration of mineral substances from primary and secondary outcropping or sub-outcropping deposits and the recovery of marketable products using manual or traditional methods and processes, including artisanal gold mining (art. 1, Mining Code 2019).	Any small-scale operation that consists of extracting and concentrating mineral substances from primary and secondary outcropping or sub-outcropping deposits and recovering the marketable products using a combination of manual methods and small mechanical means (art. 1, Mining Code 2019).	N/A	The small-scale activity of recovering gold from primary, alluvial, and eluvial deposits within an artisanal mining corridor by manual processes using rudimentary equipment, without the use of chemicals, which may be referred to as traditional gold mining or artisanal or manual gold mining, all of which refer to the same activity carried out within an artisanal mining corridor (art. 1, Mining Code 2019).



Country	Artisanal mining	Semi-mechanized mining	Small-scale mining	Gold mining
Niger	“Artisanal exploitation consists of extracting and concentrating minerals with a view to recovering the useful substance(s) they contain by manual and traditional methods and processes without the requirement of prior identification of a deposit” (art. 43 ordinance of 1993 amended by ordinance n°2017-03 of 30 June 2017).	Semi-mechanized artisanal mining, which consists of extracting and concentrating mineral substances and recovering the products using semi-mechanized methods and means without the requirement of prior identification of a deposit (implementing decree 2017-628).	N/A	N/A
Niger Mining Code of 2022	“All activities that consist of extracting and concentrating mineral substances and recovering marketable mining products using manual and traditional methods and processes. However, the use of a minimum of mechanization and electrical energy is allowed, but explosives and chemicals are prohibited. It is not based on the prior identification of a deposit” (art. 1 of the Mining Law of 2022).	All operations that consist of extracting and concentrating mineral substances and recovering the commercial mining products for disposal using methods and some mechanical means in the chain of operations (art. 1 of the Mining Code of 2022).	N/A	N/A

Note: See the Appendix for a list of all mining codes cited in this table and throughout the paper. Quoted material has been translated by the authors.



ii) The permit required for artisanal mining and its unattractive legal status

Burkina Faso, Mali, and Niger have made efforts to formalize the sector. Thus, no artisanal mining can legally take place without a mining permit. All the mining codes analyzed state that no artisanal mining activity can take place without an artisanal mining licence (AEA). Therefore, any artisanal mining without a licence is illegal in all three countries and in the whole of the WAEMU region.¹² An AEA is valid for 2 years in Burkina Faso and 3 years in Mali and Niger, with the possibility of renewal after the conditions for granting the AEA have been met.

Artisanal gold mining must be delineated in Mali's so-called gold mining corridors and managed by local communities benefiting from technical advice from the central government.¹³ Burkina Faso and Niger have also provided for gold mining zones, which remain largely ineffective for the time being.

The granting of mining permits in Burkina Faso is guided by the principle of "first come, first served." However, in exceptional cases, the state could subject permits to a competitive bidding process.¹⁴ This is not the case in Mali and Niger, where the law is silent on how permits are awarded. The AEA confers an exclusive right to prospect, explore, and exploit within the allocated area in all three countries.¹⁵ In Mali, it constitutes an indivisible, assignable, and transferable movable right, but it is not susceptible to pledging. However, in Niger, the AEA is neither assignable nor transferable and even less susceptible to pledging, either under current legislation or under the new Mining Code of 2022. In Burkina, it is not transferable but is transmissible in the event of the death or personal incapacity of the holder; as in Niger, it is not susceptible to pledging but remains assignable under certain conditions.¹⁶

The prerogatives attached to holding an AEA appear precarious as they cannot prevent exploration activities in the same area. Due to the possibility of overlapping mining permits, artisanal miners may be forced to relocate to make way for holders of an exploration or industrial exploitation permit.¹⁷ This instability does not increase the confidence of gold miners to join the formal system from which they perceive there is no practical benefit. Furthermore, the AEA does not confer any particular right to subsequently obtain any other permit in Burkina Faso.¹⁸ Even if this particular right were granted, few operators would be able to meet the requirements of a semi-mechanized exploitation licence due to its high entry costs, significant taxation, and conditions, such as an environmental and social impact study and a financial statement demonstrating significant capacity.

The AEA may be withdrawn after 30 days' notice in Burkina Faso and 60 days' notice in Niger in the event of a failure to meet the obligations imposed on the holder.¹⁹

12 This requirement is also in line with the 2003 CMC. The deadline for granting the AEA is 3 months in Niger.

13 Art. 45 to 47 of Ordinance n°2019-022/P-RM of 27 September 2019 on the Mining Code in the Republic of Mali.

14 Art. 1 of Decree n°2017-036 of 26 January 2017 on the management of mining permits and licences.

15 Art. 72 of the Burkina Mining Code, art. 49 of the Mali Mining Code, art. 67 of the Niger Mining Code of 2022.

16 Art. 49 Mali's Mining Code; art. 67 of Niger's 2022 Mining Code, art. 74 and 80 of Burkina Faso.

17 Art. 73 and 79 of the Burkina Mining Code, art. 46 of the Mali Mining Code.

18 Art. 72 of the Burkina Faso Mining Code.

19 Art. 82 of Burkina's Mining Code, 74 of Niger's t 2022 Mining Code.



In terms of obligations, AEA holders must commit to an environmental and social management plan developed by the authorities and meet its obligations. In Burkina Faso, a bond for environmental restoration was instituted by the 2015 mining code (art. 78), as well as a fund for rehabilitation, securing artisanal mining sites and combatting the use of prohibited chemicals (art. 28). These fiscal obligations include a range of taxes, duties, and fees to be paid, the amounts of which are significant.

In view of the precariousness of AEAs, it would be useful to strengthen the legal status of the AEA in order to make it more attractive to gold miners while taking into account the sociological realities in the gold mining sector. This could attract new categories of investors who are more concerned about compliance with regulations and help to clean up the gold mining sector (Nikiéma et al., 2020).

In these three countries and throughout the WAEMU region, the use of explosives and hazardous chemicals, including cyanide, mercury, and acids in artisanal mining activities, is prohibited. The same applies to child labour. However, it is clear that these provisions are not respected, as shown by the tragic explosion at the Gomgombiro site in Burkina Faso in February 2022, which killed more than 60 people (Radio France Internationale, 2022).

In Niger, access to mining sites is normally conditional on obtaining an individual access card issued by the Nigerien authorities.²⁰ However, the current Mining Code does not describe or limit the list of actors who can access mining sites. It would be useful to establish a mapping of the gold mining value chain based on the real needs at the sites and in the gold mining supply chain. This would allow the various trades to be categorized, formalized, and regulated in order to establish innovative working relationships, offer better protection to the most vulnerable actors, and prevent the infiltration of malevolent actors into the gold mining sites. This also implies a mechanism for securing and monitoring the sites in order to be able to carry out inspections.

iii) The nationality of the beneficiaries of the artisanal mining permit

In Burkina Faso, Mali, and Niger,²¹ artisanal mining is reserved either for nationals or nationals of other states subject to reciprocity. Gold mining is also forbidden for anyone under the age of 18 in the three countries and is therefore open to all natural persons of legal age as well as to legal persons, particularly groups and associations. Furthermore, interpretation of the mining texts leads to the conclusion that these age requirements only concern the AEA applicant and not the workers on-site (Nikiéma et al., 2020). National child protection legislation should be relied upon to infer a total ban on mining work for any type of activity.

The cross-border mobility of gold miners is an undeniable reality. It seems almost impossible to identify or control the nationality of gold miners in a sector that is largely informal and poorly regulated, whether it is a “clandestine” site or under an AEA (Nikiéma et al., 2020). Furthermore, the administrations responsible for monitoring do not always have information on the exhaustive list of countries that grant reciprocity to their citizens in order to carry out appropriate monitoring. The lack of site monitoring and data sharing between administrations makes it easy to circumvent nationality requirements. Foreign actors could use local aliases²²

²⁰ Art. 72 of the 2022 Nigerien Mining Code.

²¹ Burkina Faso (art. 71 Mining Code 2015), Mali (art. 48 Mining Code 2019), Niger (art. 40 New Decree 2017-628).

²² This is the case of some Chinese investors, according to the statements of actors consulted in the framework of this project.



to access AEAs and engage in mining activities for which they would not have otherwise been eligible. Gold traders in the sub-region could easily circumvent the customs declaration requirement in their regional movements without much concern. In the Sahel, the great challenge for administrations remains monitoring the gold circuit, the restriction of access, and the securing of artisanal mining sites while respecting the principle of the free movement of people and the right of establishment in the WAEMU and ECOWAS space.

iv) Taxation of artisanal mining and the challenges of different regimes

In Burkina Faso, Mali, and Niger, legislation provides for a variety of taxes to be applied to artisanal gold mining, trade, and export. The mining codes and implementing legislation outline the taxation applicable to the artisanal mining sector. However, additional rules are specified in the general tax codes of the three countries and within the framework of WAEMU community requirements. This is the case for flat-rate levies called “synthetic taxes” on informal activities.

For formal gold mining, miners are subject to a variety of fiscal products that include fixed fees, taxes, royalties, and flat-rate taxes on activities and small-scale mining units paid by the operators at the mining sites. For example, the variation between the fixed fees paid at the granting of the AEA or authorization for semi-mechanized exploitation (in French, *autorisation d'exploitation semi-mécanisée*) is marginal between the three countries but also with the other countries in the sub-region. However, the difference becomes very significant with regard to surface taxes (CFA 1,000,000 in Burkina compared to CFA 10,000 in Niger), the marketing or export tax (CFA 465,000/kg in Mali compared to CFA 30,000/kg in Togo), and flat-rate or proportional royalties.

This significant disparity in gold export taxes opens the door to fraudulent behaviour on the part of actors who seek to sell their products in the highest bidding markets. This partly explains the flow of gold produced from artisanal mining from Mali, Niger, and Burkina Faso to Togo, as the rates are more attractive in these destinations than in the countries of ore production.

Table 5 provides a comparison of tax levels between Burkina Faso, Mali, and Niger for artisanal mining.

Artisanal miners are subject to other taxes and duties in all three countries, including

- Tax on the means of transporting ore (tax on velocipedes, tax stickers)
- Tax on the artisanal miner's card
- Tax on transport certificates for artisanal mining products
- Personal guarantee for the rehabilitation and securing of sites.

In addition to the above list, in Niger, a tax is associated with the use of equipment such as large machines, trucks, tankers, grinders, and crushers (CFA 1,000,000); metal detectors (CFA 200,000), sluice and mills and other small dry grinders (CFA 20,000); and small wet grinder-separators (CFA 40,000).²³ Cooperatives or economic interest groups holding an AEA are subject to the payment of taxes on industrial and commercial profits (Impot sur les sociétés/ Bénéfices industriels et commerciaux [ISBIC]) in Burkina Faso, Mali, and Niger.²⁴

²³ Art. 136 of Ordinance No 2017-03 of 30 June 2017.

²⁴ General Tax Code in Mali (art. 43 and 46)



TABLE 5. Comparison of tax levels between Burkina Faso, Mali, and Niger with regard to ASGM

Types of taxes, royalties, and fees	Amount in CFA		
	Burkina Faso	Mali	Niger
Fixed concession fee – Allocation	500,000 ²⁵	100,000 ²⁶	150,000
Concession fee – Fixed renewal	1,000,000 ²⁷	100,000 ²⁸	250,000 ²⁹
Surface taxes ³⁰	1,000,000/km ² /year	100,000/km ² /year	10,000/m ² /year
Annual fee (flat rate)	50,000	100,000	N/A
Mining royalty (Niger's new Mining Code)	N/A	N/A	Ad valorem tax based on the holding's turnover excluding VAT ³¹ (small-scale mining ³²).
Artisanal mining tax	N/A	N/A	2.5% of the value of the product ³³
Export levy or tax ³⁴	3% to 5% 1% if ANEEMAS ³⁵	At 3% on the first 50 kg; 0% after 50 kg 2% since 2017	6%
Commercialization tax	3% of the value of the product to be exported		

25 Art. 4 of the Decree n°2017-0023/PRES/PM/MEMC/MINEFID establishing mining taxes and royalties.

26 Art. 208 of Decree n°2020-0177/PT-RM of 12 November 2020 setting the conditions and modalities for the application of the Mining Code in the Republic of Mali. It should be noted that this amount is increased to CFA 10 million for the semi-mechanized exploitation permit with regard to its attribution, renewal, and transfer.

27 Art. 4 of the Decree n°2017-0023/PRES/PM/MEMC/MINEFID establishing mining taxes and royalties.

28 Art. 208 of Decree n°2020-0177.

29 Art. 69 of Decree No. 2017-628/PRN/MM amending and supplementing Decree No. 2006-265/PRN/MMF establishing the modalities of application of the Mining Law.

30 The surface tax is CFA 4,000 per hectare per year in Côte d'Ivoire.

31 Art. 187, new Mining Code of 2022, and it will be valid only for small-scale mining.

32 Art. 1 of the new Mining Code defines small-scale mining as small-scale, permanent, well-planned, and coordinated mining with the deployment of semi-mechanized or fully mechanized means, based on the prior identification of a deposit and whose production does not exceed 15,000 tonnes per month or 180,000 tonnes per year of processed ore.

33 Article 189 of Niger new Mining Code of 2022

34 Côte d'Ivoire, Guinea, and Sierra Leone have also adopted the same tax rate for gold exports, set at 3%. Prior to 2017, Mali applied this rate to the first 50 kg of gold, which was considered a loophole. The fee is reduced to 1% if the gold is sold directly to ANEEMAS.

35 As well as a CFA 200/g analysis fee.



v) The tax burden

An examination of the summary table shows that there is significant economic cost to artisanal miners in adhering to formalization. It is difficult to estimate the total costs that have an impact on the profitability of an artisanal miner's activities in a given country, as reliable data is almost non-existent. This task is made even more difficult when a comparison between several countries is undertaken. In addition to the multiplicity and overlap of fees, taxes, and royalties payable to state institutions, there are also the costs incurred by miners to ensure their security at the mine sites. It has been reported that even state security forces impose taxes on artisanal miners to ensure their security. This economic burden is exacerbated when security is provided by private groups, or worse, when the mine site is under the control of organized criminals. The following chapters discuss these issues in more detail.

Given the magnitude of this economic and fiscal burden and the lack of incentives,³⁶ in order to promote the formalization of the sector, a significant number of actors will be tempted to evade their tax obligations. This behaviour is supported and encouraged by rampant corruption in the gold mining sector. The lack of transparency in administrations on the use of taxes creates suspicion about the final destination of the money and reinforces tax avoidance behaviour. Existing legal frameworks can also make it difficult for artisanal miners to comply with regulations when these prove too complicated or costly (Levin Sources, 2020).

vi) Inadequate taxation in a complex sector

Finding the fairest, most equitable, and most effective approaches to taxing actors in the gold mining sector is no mean feat. The diversity of actors, combined with the fact that the tax regime is generally determined at the level of central administrations located far from the realities on the ground, allows some actors to escape any taxation in the current configuration of legislation. Neither the general regime provided for in the finance laws nor the mining codes provides a framework for the specific situation of certain actors who thus escape all taxation, even if they are the best paid, such as landowners and owners of holes. Moreover, the current scheme does not allow for the taxation of all actors in the production chain who are paid in minerals or cash (Nikièma et al., 2020).

vii) Ineffective legal and institutional tools for tax collection

While there is certainly room for improvement in legislation, a more important concern is the need to improve enforcement. The resources allocated to regulatory bodies have not kept pace with the expansion of ASGM. As a result, and because local traditional authorities often have greater credibility than national government officials, formal regulatory procedures have been replaced in some places by informal arrangements where local traditional authorities take over the granting of permits. In Mali, a practical solution to the dilemma has been found: the right to issue artisanal permits has been devolved to municipalities. However, it is noted that the implementation of the new procedures is not always perfect, particularly with regard to the registration of permits (Nikièma et al., 2020).

The collection of taxes, duties, and fees is local and is done directly with artisanal miners on the sites where they operate or on the occasion of events such as the renewal or transfer of the AEA. In general, the liquidation of taxes, duties, and fees are collected centrally at the national level before being distributed to the local authorities. This sometimes leads to a lack

³⁶ Access to health facilities, schooling for children, support for the acquisition of equipment, loans, etc.



of interest on the part of local authorities to monitor and assist in the collection of taxes on these activities, especially when these taxes are not directly redistributed to them.

Another reality is that, in order to meet their cash flow needs, decentralized local governments levy non-legal taxes or legal taxes on illegal gold mining sites without AEAs. This poses a serious risk of collusion or tolerance of activities of non-state armed groups in some municipalities. The risk of turning a blind eye may be exacerbated by threats to local authorities and the absence of law enforcement on the ground.

viii) Commercialization of gold: Marketing licences and monitoring of buying houses

In Burkina Faso, Mali, and Niger, the marketing of gold from mining operations is done legally through buying houses and/or approved natural and legal persons. In Niger, artisanal mining permit holders, as well as artisanal miners working on their own account, are obliged to sell all mined substances to natural or legal persons approved by the Minister of Mines.³⁷ Approval may be granted to Nigerien natural persons or legal persons whose capital is at least 30% owned by Nigeriens.³⁸ In Burkina Faso, it is reserved exclusively for legal entities.³⁹

In addition to the fixed fees required for the acquisition of a marketing licence (CFA 5 million in Burkina, CFA 3 million in Niger, CFA 5 million in Mali),⁴⁰ the law requires a deposit with the public treasury of CFA 5 million in Burkina Faso and CFA 10 million in Mali. This deposit is returned in the event of a definitive cessation of activities after it is established that the company or office is not indebted to the state in any respect whatsoever. The agreement is valid for a period of 3 years in Burkina Faso and 3 years in Mali. The marketing agreement is valid for 5 years for the processing of heaps and semi-mechanized exploitation and 2 years for artisanal mining in Niger.

For gold exports in Burkina Faso, the proportional royalty varies between 3% and 5% for private gold export buying houses. However, it is reduced to CFA 200/g when the export is done through the state channel (art. 14 of Decree No. 2017-023 on 23 January 2017 of Burkina Faso; OECD, 2018). In addition to taxes, exporters of artisanally mined gold must complete certain prior formalities and make arrangements to repatriate the export proceeds.⁴¹

The 2020 implementing decree of Mali's Mining Code does not cover marketing issues, which are referred to in other application texts. Nevertheless, there are buying houses in Mali and Burkina and not yet in Niger. The mandate to institutionalize gold marketing seems to have been given to SOPAMIN, but the creation of buying houses is not yet a reality.

Only Burkina Faso appears to have updated and detailed legislation on the requirements for maintaining a marketing licence, including the obligation to reside and keep records of production, purchase, sale, or export of artisanal gold. Penalties for fraud are also provided. These sanctions include relatively dissuasive fines equal to twice the value of the unregistered

37 Art. 20 of the law n°028-2017 of Burkina Faso.

38 Art. 77 of Niger's new Mining Code of 2022.

39 Art. 2 of Decree n°2018-0249 /PRES/PM/MMC/MINEFID/MCIA of 29 March 2018 on the conditions for granting and renewing approval for the marketing of gold and other precious substances from artisanal and semi-mechanized production in Burkina.

40 Ibid.

41 This obligation to repatriate revenues from the sale of mined and exported gold is a result of monetary regulations issued by the Central Bank of West African States.



gold and can in no case be less than CFA 2 million. The penalty can go as far as confiscation of all fraudulently traded gold and/or imprisonment for 3–12 months.⁴² In Burkina and Niger, when gold is fraudulently traded to finance terrorist activities, the penalty can include 10 years of imprisonment and a fine of at least five times the value of the property or funds linked to the criminal operations (Groupe Intergouvernemental d'Action Contre le Blanchiment d'Argent en Afrique de l'Ouest [GIABA], 2021).

Another problem is that the regulations do not take into account the complex and sophisticated trading networks that have developed in recent years, with the supply chain fragmented among many different actors who perform roles that did not exist before. While legislation assumes that the licensee sells directly for export, there may now be a number of intermediaries and actors who have facilitating roles and are essential in the new trading environment. As the business has become established, the short duration of licences has become an issue that prevents investment and mechanization (2 years in Burkina Faso and Niger, 3 years in Mali) (Nikiéma et al., 2020). Licensees are unlikely to invest if they do not have the longer-term security of a permit. This means that opportunities for mechanization are not taken up. Partly to address this problem, the 2015 Burkina Faso Mining Code created two categories of permits relevant to ASGM: an artisanal mining licence and a semi-mechanized mining licence. The artisanal licence is valid for 2 years, while the semi-mechanized exploitation permit is valid for 5 years (Jong, 2019).

⁴² Art. 34 and 35 of Law N°028-201 of Burkina.



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3.0 ASGM and IFFs in Burkina Faso, Mali, and Niger

3.1 IFFs in ASGM in Burkina Faso, Mali, and Niger

This section provides an overview of IFFs related to ASGM in Burkina Faso, Mali, and Niger. It is based on existing research, but given the informality of the sector, many elements remain unknown or are only estimates. The chapter does not address the financing of terrorism as this is covered in Chapter 4 on conflict.

3.1.1 Informal Buying and Trading

Gold is often sold and traded through informal channels, which can result in IFFs. Pre-financing relationships between buyers and traders on the one hand and mine owners and artisanal miners on the other are part of informal trade. Buyers and traders finance mining operations and, in return, take a margin on the gold sold, often at the expense of upstream producers (OECD, 2018). They also benefit from preferential purchasing rights (Raineri, 2020). These informal pre-financing relationships exist partly because of the lack of access to formal finance in producing countries and partly because artisanal miners have very few financial resources of their own (Reichel, 2018). The pre-financing relationship can take the form of an entire chain from downstream buyers, for example, in the United Arab Emirates (UAE), which finances gold traders in large cities, who in turn finance small buyers (Martin & Helbig de Balzac, 2016).

In Burkina Faso, most gold trade transactions are informal—only 10 out of 67 registered traders report gold purchases or sales that are not subject to written agreements and not traceable. The country's ASGM sector operates with a system of local buyers who purchase small quantities directly from artisanal miners. For example, in the southwest of the country, unregistered and self-financed local traders often accumulate between 50g and 100g of gold, which they melt into batches and then sell to regional traders. Sometimes regional traders send local traders to the mine sites, providing them with pre-financing or simply giving them a commission on the gold collected. The regional trader accumulates several hundred grams before selling the merchandise in the capital, Ouagadougou, to an exporter, who in turn accumulates a few kilos before reselling them (Alvarez et al., 2016).



In Niger, political actors appear to be directly involved in the informal gold trade, with some buying gold from ASGM operators and selling it to foreign buyers (Pellerin, 2017). Other political actors also sometimes provide pre-financing in exchange for payment of part of the minerals or profits. They hope not only to obtain additional revenues but also the support of potential voters (Pellerin, 2017). Given the informality, it is difficult to precisely estimate the involvement of these political actors on the ground. Beyond the political and military elites, other groups of pre-gold buyers finance artisanal miners and thus maintain strong dependency relationships with them.

3.1.2 Smuggling

Informal trade does not stop at the point of export. Mineral smuggling is widespread in all three countries and is perhaps the largest source of IFFs related to ASGM. According to Raineri (2020), the value of gold smuggling activities is greater than that of drug or migrant smuggling in the region. The vast majority of artisanally mined gold is smuggled across borders instead of being exported through official channels (OECD, 2018; Raineri, 2020). Gold from Burkina Faso is mainly exported to the UAE and Lebanon via Togo and Ghana. In Mali, some gold from the border regions is sold to Guinea and Togo via Burkina Faso. Gold from Niger is sold to the UAE via Togo and Benin or from the north of the country to Chad, Sudan, and then to the UAE and other Arab countries (United Nations Industrial Development Organization [UNIDO], 2018). Mali itself is a smuggling hub (Raineri, 2020), as is Togo. According to trade data, however, Togo's gold exports declined dramatically after 2018, to around 1 tonne in 2020. This may be linked to the report by a Swiss non-governmental organization that revealed that gold from Burkina Faso—among other things, produced using child labour—was being smuggled through Togo to Swiss refineries, leading the latter to stop buying gold from Togo (Berne Declaration, 2015). Dubai is the main destination for smuggled West African gold (Raineri, 2020). Import and customs controls in the UAE are very lax, and the many refineries and banks do not carry out any checks on the legality of the gold they buy (Reichel, 2018). The UAE even exempts gold imported in hand luggage from customs declarations (Martin & Helbig de Balzac, 2016). India is also becoming an increasingly important destination country for West African gold (OECD, 2018). Smuggling is often done by car, with the ore hidden in the vehicle. At other times, smugglers carry the material on their person, for example, in belts (OECD, 2018) or in hand luggage on planes.

In Mali, customs authorities estimate that 20 tonnes of ASGM gold leaves Bamako International Airport each year, mainly through smuggling. This contrasts with the 4 tonnes of ASM gold reportedly produced in the country in 2017 (OECD, 2018). Similarly, while the National Anti-Fraud Brigade for Gold reported no official exports of ASM gold in 2015, various estimates put production in Burkina Faso at between 15 and 30 tonnes per year (Alvarez et al., 2016). In years when legal exports are recorded, they are estimated to represent only 3% of actual production (Jong, 2019). In Niger, estimates indicate that 12 tonnes of gold was produced by artisanal mines in 2017 and 5.7 tonnes was produced in 2018 (Hill & Afane, 2020). In Togo, and probably in other places, gold smuggling networks operate through hawala or telephone transfer systems that do not require the physical movement of money (OECD, 2018).

Various factors explain this high prevalence of smuggling. One is the difference in royalty rates, export tax, and, in general, tax regimes between countries. Another explanation is that gold is also used as a currency of exchange, which allows economic agents to avoid official banking and exchange channels and to escape all taxes. Gold can be an attractive currency in



countries where banking systems do not function well and where transporting large amounts of cash can be inconvenient and risky. Traders in West Africa have long used gold to buy goods, avoiding taxes, currency exchange, and official banking regulations. One reason that gold is smuggled abroad is that it can be used as an untraceable currency for trading goods (Alvarez et al., 2016). This may also allow regional gold traders to charge a premium price.

3.1.3 Corruption, Extortion, and Informal Taxation

In all three countries, corruption, extortion, and informal taxation are widespread in the artisanal gold mining industry. They are used by state and non-state actors in exchange for protection, officials turning a blind eye to illicit activities, or the issuance of unofficial mining permits. Chapter 4 on conflict provides more information on this aspect of IFFs.

3.1.4 Money Laundering

Gold is often linked to money laundering, and Niger, Mali, and Burkina Faso are no exception (ICG, 2019). Gold's anonymity, stable value, ease of smuggling, and the fact that it can be used as currency make it particularly attractive to those who want to launder money.

The National Risk Assessment in Niger found that the precious metals and stones trading sector is the fourth most exposed sector to money laundering and terrorist financing, after real estate, gambling, and the hotel industry (GIABA, 2021). Common problems that enable money laundering were reported for Niger, namely, a lack of reporting of suspicious transactions; very low coverage of the formal banking sector, which means that transactions are mainly conducted in cash; and low government capacity in terms of investigations (GIABA, 2021).

In Burkina Faso, Mali, and Niger, gold traders hold mining permits or partner with mining permit holders to pass the gold they buy from illicit or informal mines off as legal. Those applying for a licence to trade in gold do not have to undergo rigorous background checks,⁴³ and there is no provision for traceability or origin of funds, which benefits criminal or terrorist groups seeking to launder the profits of their crimes. These actors can use the profits from illegal activities to buy gold, which they then trade through official channels (OECD, 2018).

3.1.5 Convergence

Illicit economies often overlap, and criminal actors who are involved in one illegal trade can benefit from their involvement in others. The term convergence describes when these illicit markets overlap and reinforce each other. One problem enabling the convergence of these criminal economies is the lack of coordination between different government agencies, for example, those regulating the gold trade and those regulating the trade in other goods (UNIDO, 2018).

This also applies to the ASGM sector in the three countries studied. In northern Niger and Mali, for example, some of the major gold mining entrepreneurs are or were also major players in drug trafficking (ICG, 2019). Also, in northern Niger, it has been reported that Nigerien criminal groups or traffickers with links to Algerian criminal groups own some mining sites, notably in the Tchibarakaten region (Pellerin, 2017). It is likely that these groups were first involved in the

⁴³ Burkina Faso requires a certificate of non-bankruptcy for legal persons, and Niger requires a criminal record check for natural persons.



drug trade and other illicit economies before they began to exploit the ASGM sector as an additional source of income and a means to launder the proceeds of their criminal activities.

Another overlap exists between the gold sector and arms trafficking. In northern Niger, the opening of gold mines combined with the destabilization of Libya has marked an increase in arms trafficking, probably due to the sudden influx of wealth, chronic instability, and the limited capacity of the government to manage the situation. Trafficked weapons are mainly small arms coming from Libya or Chad (Pellerin, 2017). Artisanal miners from Chad play an important role in this trade. Before returning to their country, they sell their weapons to artisanal miners living in Niger. Similarly, Chadian army soldiers mine in northern Niger, and it has been reported that they sell some of their military equipment before leaving the region (Pellerin, 2017).

Human trafficking is another illicit economy linked to ASGM in northern Niger. It mainly involves bringing artisanal miners to the mining areas. At the beginning of 2016, an estimated 80 networks were working to transport workers to the Djado and Tchibarakaten sites. Some smugglers charge a fixed price in exchange for transport, while others ask those destined for gold mining to buy goods from them (Pellerin, 2017). In Burkina Faso, there are also concerns about the complicity of public officials in human trafficking by putting pressure on the police and judiciary to drop trafficking cases, particularly in the mining sector (U.S. Department of State, 2020).

Mercury is another element commonly associated with ASM, as this substance is often traded and used for amalgamation (Pellerin, 2017). Mercury is almost exclusively imported into the ECOWAS region, mostly illegally. It is estimated that several hundred tonnes is imported into ECOWAS each year, yet the net import recorded between 2010 and 2015 was 49 tonnes per year. Burkina Faso, Mali, and Niger also do not record high enough mercury imports to support the use of mercury by ASM. China is a potential source country for mercury, and the chemical is imported via Togo and Ghana. Togo plays an important transit role because of its free trade zone and attractive tax benefits. In addition, transit shipments are generally not subject to controls. Most of the mercury is then transported to Burkina Faso, where it is allegedly supplied to the industrial sector, but in reality, it also ends up on the black market. Burkinabe traders play a particularly important role in the illegal mercury trade (UNIDO, 2018). In northern Niger, mercury from Libya is sold to artisanal miners (Pellerin, 2017). The illegal trade in gold and mercury are therefore closely linked and must be tackled together (UNIDO, 2018).

Banditry has become a problem linked to artisanal gold mining sites, particularly in northern Niger, along the mineral transport routes. There are both professional and casual bandits that come from different groups, including Nigeriens from other parts of the country, Toubous and Zaghawas from Chad and Libya, and members of the national security forces. Artisanal miners from Chad and Sudan are also reported to have committed theft and banditry. Attacking gold miners is less risky than trying to rob a drug convoy. It is estimated that up to 30% of vehicles coming from mining sites without a military escort are attacked (Pellerin, 2017).

3.2 Extent of IFFs

Before discussing measures that could be used to counter IFFs related to ASGM, it is useful to try to assess the scale of the problem or at least its order of magnitude. Several estimates of total illicit flows and revenue losses to governments can be found in the literature (see



Section 3.1 for examples). These estimates are generally based on comparisons between the amount collected from different types of taxes and what should be paid based on estimated production and exports, often contrasting declared and estimated export volumes and values. Several of these estimates focused on the role of the UAE and found discrepancies—sometimes very large—between the gold exports reported by the three countries studied and the imports from these countries reported by the UAE. The estimates are based on the United Nations (UN) Comtrade database.⁴⁴

In order to get an idea of possible discrepancies, a simple analysis of the UN Comtrade data was carried out. It is well known that the database contains several errors, as it is based on self-reported data without any correction. Therefore, any classification or data entry errors made at the country level are reflected in the database. However, it seems that the quality of the data has improved in recent years. The large discrepancies between export and import figures seen in previous years have mostly disappeared. This makes it easier to identify discrepancies and figures that can possibly be attributed to gold smuggling.

One way to identify discrepancies is to compare different data sources. To do this, UN Comtrade data for gold exports for the three countries studied over the period 2016–2020 were compared with the same data from the United Nations Conference on Trade and Development (UNCTAD)⁴⁵; the reason for the comparison is that the UNCTAD data were screened to eliminate at least obvious misclassification and unit errors. For Burkina Faso and Mali, the differences between the two data sets are small, generally less than 10%, with no clear trend in either direction. For Niger, the differences are larger but not systematically in either direction. A further comparison was made with production figures from the United States Geological Survey (USGS) (2021). Again, the data is relatively consistent for Burkina Faso and Mali but much less so for Niger, with the USGS estimating that Niger's gold production is much lower than its reported exports.

An anomaly was found in a comparison of the three countries' export data to trading partners, including India, Lebanon, Switzerland, and the UAE, with the import data of the trading partners. Mali reports relatively small exports to the UAE, but the UAE reports considerably larger imports from Mali. There are two possible explanations for this discrepancy: the gold reported as coming from Mali may be smuggled gold from that country or gold from neighbouring countries that has transited through Mali. In both cases, it is unlikely that royalties and taxes have been paid.

An attempt was then made to see if it was possible to identify clear cases of smuggled gold exports from these three countries recorded as imports into the UAE from other neighbouring countries. No significant anomalies of this type have been found in recent years. It was observed that UAE gold imports from Togo, which has often been identified in the past as a transit country for gold from Burkina Faso and Niger, have decreased significantly, from USD 566 million in 2017 to USD 24 million in 2019 and USD 52 million in 2020 (according to UN Comtrade), which corresponds to less than 1 tonne of gold. In contrast, UAE imports from Benin, which has also been identified as a transit country, have remained high, at around USD 500 million per year (according to UN Comtrade), equivalent to about 10 tonnes of gold.

Finally, an estimate of the total loss of government revenue was made by comparing the amount of royalties collected according to EITI reports for the three countries with what

44 The UN Comtrade database can be accessed here: <https://comtrade.un.org/data/>.

45 UNCTAD data can be found here: <https://unctadstat.unctad.org>.



should have been paid based on gold imports by trading partners and making the same comparison for the UAE only. The results are presented in Table 6.

TABLE 6. Gold exports and royalties, 2019 (in USD million)

	Burkina Faso	Mali	Niger*
1. Declared exports, 2019	2270.0	2657.1	189.7
2. Imports declared by Lebanon, Switzerland, and the UAE	1723.2	4490.9	457.0
3. Difference 2-1	-546.8	1833.8	267.3
4. Exports to the UAE declared	0.0	19.5	0-3
5. Imports declared by the UAE	0.0	3218.7	457.0
6. Difference 5-4	0.0	3199.2	456.7
7. Royalties according to EITI	102.4	42.0	11.9
8. Theoretical royalties on total exports (1)	107.5	79.8	10.4
9. Theoretical royalties on imports of the three countries (2)	82.3	96.0	25.1
10. Theoretical royalties on exports to the UAE (4)	0.0	0.6	0.0
11. Theoretical royalties on imports into the UAE (5)	0.0	96.0	25.1
12. Difference 7-8	-5.1	-37.8	1.5
13. Difference 7-9	20.1	-54.0	-13.2
14. Difference 10-11	0.0	-96.0	-25.1
15. Largest difference as a share of government revenue, in %	0.16	2.59	1.08

* Niger applies progressive royalties ranging from 5.5% to 12% of the value of sales. For the calculations in lines 8 to 11, the lowest percentage, 5.5%, was used.

Source: EITI, 2020, 2021a, 2021b; UN Comtrade, n.d.

No significant discrepancies were found for Burkina Faso (USD 5 million less collected than expected, or 0.16% of total government revenue). For Mali, assuming that the entire difference between Malian exports to the UAE and UAE imports from Mali represents gold smuggled out of Mali, the loss would be USD 96 million less collected, or 2.59% of total government revenue. It should be noted that several sources have reported that, in recent years, gold has been smuggled into Mali, so the difference between the royalties collected and the figure attributed to exports may represent the loss to other governments rather than to Mali. The loss to Niger could amount to 1.08% of government revenues (USD 25 million).



In conclusion, although the sums involved may be substantial, the argument for controlling and preventing IFFs related to ASGM is not extremely strong if it is based solely on the loss of potential government revenue. If this is the only concern, taking into account the cost of tax collection, a more attractive proposal would be to strengthen tax controls on the largest taxpayers, including formal mining companies. However, the case for tackling IFFs is not based solely on public finance considerations. IFFs are the result of illegal or at least informal ASGM operations, and the problems associated with this situation go far beyond unpaid taxes. There are good reasons to address IFFs in the ASGM sector from a development perspective. ASGM is an important livelihood for many people, but if IFFs are allowed to prevail, many artisanal miners working under exploitative conditions will be subject to extortion and onerous informal taxation and will not benefit from their work to the extent that they should. In addition, the under-reporting of gold exports means that official figures paint an inaccurate picture of the country's true balance of payments situation. Full reporting of gold exports could have a positive effect on the country's perceived economic health—and possibly on its credit rating—by reducing the cost of government borrowing. These positive effects would, of course, be enhanced if ASGM were part of the formal sector and all duties and taxes were paid in full.

3.3 Measures to Combat IFFs in ASGM

3.3.1 Government Institutions Involved in the Prevention of IFFs

As far as can be ascertained, none of the countries has an agency specifically dedicated to the identification and prevention of IFFs. Responsibilities are divided among several agencies with very different mandates and competencies. This shows that government policies on IFFs are formulated with other considerations in mind. Not surprisingly, given the countries' recent history, counterterrorism and related security concerns seem to have been at the forefront of these considerations.

All three countries have National Financial Intelligence Processing Units (CENTIF) set up within the framework of GIABA, which is a specialized ECOWAS institute created in 2000. The CENTIFs are intended to coordinate actions against money laundering and other illicit financial flows and to serve as information exchange centres. However, these entities do not focus on ASGM as a vehicle for money laundering or other IFFs.⁴⁶ The main reason appears to be that the illicit flows associated with ASGM in the three countries, at least from the authorities' point of view, are related to tax evasion and fraud rather than money laundering or terrorist financing, and the level of ambition in relation to the central mandate has varied.⁴⁷ The resulting IFFs mainly use cash for gold, and the instruments used against other forms of IFFs, which mainly pass through the banking system, cannot be used to identify the flows. For example, the information analyzed by CENTIF in Mali comes mainly from banks, as other reporting entities do not meet their reporting obligations (GIABIA, 2019). In Niger, administrative measures include the closure of artisanal gold mining sites and their surveillance by security forces. However, these measures are motivated by the need to contain

⁴⁶ In Mali, the Inter-Ministerial Committee is the national coordination mechanism at policy level. However, the committee does not include some key stakeholders, such as CENTIF, and according to the assessment conducted by GIABA, there is room for improvement as law enforcement officers at the operational level seem to work in silos (GIABA, 2019).

⁴⁷ In Niger, the authorities have concluded that ASGM plays a very limited role in terrorist financing (GIABA, 2021).



the massive influx of individuals whose presence poses a security threat rather than the IFFs associated with ASGM (GIABIA, 2019).

In addition to specialized financial institutions, other government authorities are, of course, involved in preventing IFFs associated with ASGM, including gold smuggling to avoid export duties and taxes. The system relies on close cooperation between the licensing agencies for ASGM, the tax authorities, the agencies responsible for gold content certification, and customs. Although Burkina Faso has seen a recent initiative to relax the close links between the different types of permits and licences (see Section 3.3.2), the fact that artisanal miners and traders must be able to present a full set of documents covering all aspects and stages of the supply chain can be a barrier to formalization.

3.3.2 Tax Regimes

Most governments in countries with a significant ASGM sector see this as a tax opportunity that should not be missed. However, as it is virtually impossible to levy taxes directly on the profits of artisanal miners, the three countries have, like most West African countries, chosen to levy flat fees and taxes on particular activities and equipment. Naturally, the relationship between these fees and the size and profitability of the operation is far from clear, and they are therefore often seen as unfair and arbitrary. In addition, the multitude of taxes that have to be paid to various authorities is a major complicating factor for artisanal operators, and they increase the cost of tax collection.⁴⁸

The most important taxes levied on ASGM are royalties and export taxes. Not surprisingly, the rationale for most IFFs related to ASGM is to avoid payment of these taxes; their non-payment is the biggest loss to governments.⁴⁹ Taxes can be imposed at different stages of the value chain, but as domestic demand for gold is modest in all three countries, the collection of taxes on gold exports takes priority. As a result, systems have been put in place to ensure that taxes are paid on all exported gold.

At the same time, governments try to use the export regime to ensure that ASGM operators comply with regulations and pay all duties. As a result, exporters are generally required to provide documentation to prove that the gold they plan to export is from legitimate operations. However, these requirements create a problem for compliant gold traders. They cannot buy gold from operations that are not fully compliant, and the latter turn to less demanding buyers who are willing to move gold out of the country through illicit channels. In some cases, the illicit trade is more profitable and much easier than legal export. In Burkina Faso, for example, exporters typically buy ASM gold at a high price (over 99% of the London Precious Metals Market Association price) and are then subject to an export tax of 1.75% of the London Precious Metals Market Association value and government laboratory analysis fees (0.2%). This means that the exporter must export the gold at above-market prices to make a profit. In addition, regulatory requirements are strict, and the process of exporting gold is cumbersome and complex: the exporter must obtain an export document from the Chamber of Commerce and Industry, signed by customs and the dealer's bank, which must be

⁴⁸ See Table 7, page 37, in Nikièma et al., 2020 for an overview of the different taxes.

⁴⁹ In this context, it is perhaps important to stress, first, that the loss to governments is not represented by the total value of the illicit flows but only by the taxes that should have been paid on these flows, and second, that these losses may often be exaggerated as they compare the existing situation to an ideal situation, where the right amount of taxes is collected on all taxable income. The ideal situation may well be unattainable in practice.



licensed in the country. In addition, all revenues from the export must be repatriated (Alvarez et al., 2016).

Export taxes are not the only cost that can deter traders from using legal channels. Testing fees and costs up the supply chain, namely mining permits, environmental assessments, buyer's licences, and access to land, add to the costs of legal gold exports (UNIDO, 2018). All of these factors make legal export costly and burdensome and make smuggling more attractive (Alvarez et al., 2016). As a result, traders have strong commercial incentives to bypass legal export channels. In the three countries studied, export fees and taxes are higher than in some neighbouring countries, such as Togo. The differences are not huge, in the order of 2%–3% of the world market price, which seems to imply that traders' margins are very thin, given the cost of transport. Regional traders (exporters) are reported to pay local traders around 97%–98% of the world market price (Alvarez et al., 2016). Most West African countries apply a tax rate on gold exports of about 3%–5% of the international price, but because the tax base is calculated differently, the amounts paid on export vary. Mali, for example, imposed a 3% export tax on the basis of an estimated value well below market value. Moreover, the 3% tax only applies to the first 50 kg exported, which is a major loophole in the application of the tax. As a result, the country has become an important gold trading hub in the region (Martin & Helbig de Balzac, 2016; OECD, 2018). Togo is a similar example, imposing a 4.5% export tax based on the value of the gold. This value is calculated on the basis of a gold price set by the Togolese government, the official price or mercury price, which is CFA 1,000 per gram or USD 56 per troy ounce (Togolese Republic, 2010).

If differences in royalty rates and export taxes are the cause of at least part of the illicit gold trade, it would seem that the solution is to harmonize these tax rates, and this argument has, in fact, been made repeatedly in recent years. However, royalty rates vary, and efforts to harmonize have had limited success. From the point of view of a particular government, it may be tempting to tax all gold exports without inquiring into the origin of the material, at the expense of neighbouring, more stringent countries. It may even be tempting to levy a lower fee in order to attract gold from neighbouring countries, whether legally exported or not. Opportunities for smuggling will narrow only if all countries within a certain distance from the mining operations in a region—and given the relatively low transport costs, this distance can be quite large—apply the same export fees and taxes. So far, it has proved difficult to achieve such broad harmonization. It may be useful to look at the experience of the Mano River Union, as tax harmonization has been a topic in the region for some time.

In conclusion, there seems to be no simple answer to the question of how to ensure that more gold production is subject to taxes.

3.3.3 Formalizing ASGM

As discussed earlier in this section, some of the efforts made to ensure that duties and taxes are paid and that the activities of artisanal miners are in compliance with regulations appear not to be having the desired effect and may even, in some cases, appear to be counterproductive.

Widespread informality and the consequent lack of regulation and control are important factors that facilitate IFFs in the ASGM sector. In Burkina Faso, for example, the rules on ASGM are not properly implemented and enforced. As the ASGM sector has grown considerably, the government does not have the resources to monitor it properly. The ASGM



sector is also a constantly evolving one, with sites closing and opening at a rapid pace, making monitoring difficult (Arnaldi di Balme & Lanzano, 2013). In Burkina Faso, the National Anti-Fraud Brigade for Gold is supposed to monitor gold trading, but the agency does not have its own budget and has only a small team (Alvarez et al., 2016). In Niger, the situation is also characterized by informality. Financial intermediaries deal mainly in cash, and Niger has no professional gold traders, with gold trading being carried out by merchants who often also provide foreign exchange services. In the 1990s, ASGM in the Liptako region was regulated by a variety of government officials, including mining, health, and security agencies. In 2016, this monitoring system ceased to function due to a lack of financial resources and because security forces were instead required for counterterrorism operations (OECD, 2018). These are only anecdotal references for a region with a predominantly informal ASGM sector.

The answer to this problem could be to simplify the formalization process and make it more attractive to artisanal miners. It has been argued that experience elsewhere shows that operators would appreciate a more structured and regulated environment, even if it meant paying taxes (Hilson, 2020).

It has also been argued that artisanal miners would be encouraged to enter the formal sector if the government paid a higher price than in the informal market. However, experience in Niger is ambiguous on this point. Workers were reluctant, perhaps because they had obligations to permit holders, landowners, or commercial networks and did not trust the authorities (Nikièma et al., 2020).

Simplifying regulations seems to have positive effects on formalization. In Burkina Faso, identity cards have been introduced that have replaced licensing requirements for many types of actors. In addition, a specific category, the approved intermediary, has been created to address both the problem of industrial research permits for ASGM and the problem of ASGM in large sites under customary control where traditional licensing is impractical. In this scenario, the responsible authority, ANEEMAS, negotiates an agreement between an organized entity—such as a cooperative, customary site manager, or site financier—and the government. Under this agreement, the terms of operation are established, including a provision that some or all of the production must be sold to ANEEMAS, either directly or through small-scale buyers.



Photo: Ollivier Girard/CIFOR (CC BY-NC-ND 2.0)

4.0 Links Between ASGM Value Chains and Conflict and Crime in Burkina Faso, Mali, and Niger

4.1 Conflict Dynamics and Their Impacts

4.1.1 Introduction

This chapter identifies and explores the conflict dynamics surrounding ASGM in Burkina Faso, Mali, and Niger, and their impacts on the stability and security of the region—in particular, on ASGM communities. It describes the geographical co-location of the conflict and ASGM, as well as the general drivers and impacts of the conflict related to ASGM in the Central Sahel region. The following sections then analyze the direct and indirect links of ASGM with non-state armed forces as well as with state and private security forces. Finally, recommendations for government responses are given in the last section.

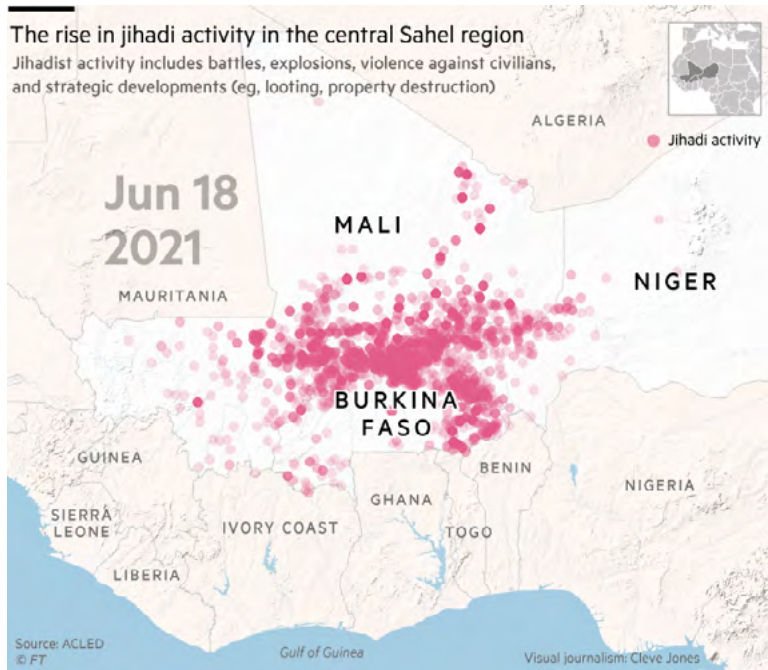
4.1.2 Geographic Co-Location

A significant proportion of artisanal gold mining sites within the Central Sahel region are located in the Sikasso, Koulikoro, and Kayes regions of Mali, in the Tillabéri and Agadez regions of Niger, and throughout Burkina Faso (OECD, 2018; Raineri, 2020). At the same time, numerous non-state armed groups operate in the tri-border area, near the Mopti-Niamey line, and along the Niger River (Global Centre for the Responsibility to Protect, 2021; OECD, 2018). Figure 1 describes the concentration of violence by non-state armed groups in the three countries. Figure 2 zooms in on mining sites in Burkina Faso. It was reported that between 2017 and 2019, almost half of the identified artisanal mining sites in Burkina Faso were within 25 km of documented violent non-state armed groups activity (Lewis & McNeill, 2019). In addition, in the Tillabéri gold region of Niger, more than 600 civilians were killed as a result of the conflict in 2021 (Global Centre for the Responsibility to Protect, 2021). In addition, according to an expert interview, in the Agadez region of northern Niger, where most of the artisanal gold sites are located, a transnational criminal network is reportedly active in the Djado and Aïr desert areas. In the Kidal region of Mali, the majority of ASGM sites are reportedly controlled by politico-military groups (ICG, 2019). While there is a clear



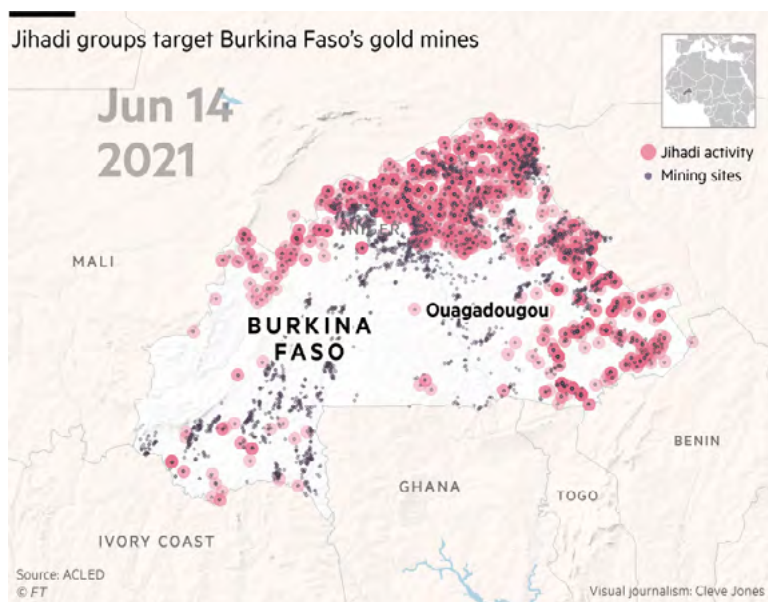
geographical co-location of ASGM and the violent activities of non-state armed groups, the links between the two are not automatically a given and are subject to important nuances, as the following sections show.

FIGURE 1. The rise of jihadist activity in the Central Sahel region



Source: Munshi, 2021.

FIGURE 2. Jihadist groups target Burkina Faso gold mines



Source: Munshi, 2021.



4.1.3 Drivers of Conflict

Conflict drivers can be defined as the concrete tipping points that transform instability into violence. In order to better understand the relationship between artisanal gold mining and conflict in the Central Sahel region, four main driving forces and reasons were identified for the conflict and violence surrounding ASGM. These categories can be summarized as: i) limited state presence; ii) political economy, including corruption; iii) socio-economic need and opportunity; and iv) competition for land and resources. These categories do not represent an exhaustive list of conflict drivers but rather reflect the most consistent patterns found in this study.

i) Limited state presence

The limited presence of the state in some areas of the region—including, in some cases, the absence of public security forces (explored in more detail in Section 4.3)—and a lack of implementation of policies to support ASGM communities and their formalization are said to have generated a climate of anarchy and a general environment conducive to tension, violence, and conflict. ASGM sites in remote areas are often subject to exploitation by various actors due to the lack of government resources and insufficient efforts to control remote areas (Hilson et al., 2019; ICG, 2019; Raineri, 2020). This is thought to be due to the limited human and technical resources of the authorities to manage a rapidly proliferating sector, as well as an insufficient understanding of artisanal gold production, the needs of local ASGM communities, and how to formalize ASGM (Martin & Helbig de Balzac, 2016). The resulting localized power vacuums have created instances of lawlessness that particularly benefit non-state armed groups (Institute for Security Studies [ISS], 2020; Lanzano et al., 2021; Lewis & McNeill, 2019). These actors often find ways to instrumentalize the discontent of members of gold mining communities to challenge the state and powerful private actors (Hien, 2020; ICG, 2019). For example, after the departure of President Compaoré in Burkina Faso, governance gaps were left in the ASGM sector, leading to a situation where several non-state armed groups took advantage of the state vacuum to compete for control of mining sites (Raineri, 2020). Government authorities in Burkina Faso, Mali, and Niger therefore frequently face challenges in dealing with threats from external actors to gold mining operations and in deterring and preventing potential conflicts in the sector (ISS, 2021; Raineri, 2020).

ii) Political economy and corruption

A second key conflict factor relates to the current political economy of Burkina Faso, Mali, and Niger, including the prevalence of alleged corruption and the involvement of politically exposed individuals linked to the gold mining sector. In general, the proximity of high-level and local political elites to private sector actors, such as site concessionaires and “violent entrepreneurs”⁵⁰ who operate at ASGM sites, and the mutual profitability of these relationships suggest that state actors have vested interests in the sector. For example, research in Mali suggests that the allocation of gold mining exploration, exploitation, and export permits is a highly politicized and opaque process in which important political figures appear to intervene for their own benefit (Raineri, 2020). As a result, there are cases of artisanal miners being evicted from land they previously used for mining when ownership has

50 The term “violent entrepreneur” refers to private actors who earn their living through violence (Raineri, 2020). Violent entrepreneurship has been defined as “a set of organisational decisions and action strategies that enable the conversion of organised force (or organised violence) into money or other market resources on the permanent market” (Volkov, 1999, p. 3).



been allocated to concessionaires with links to political elites. This non-transparent licensing system would then clash with customary and formal land rights, leading to discontent among artisanal miners, which in turn would drive them to join banditry or non-state armed groups. Similar tensions have been observed in Burkina Faso, where many gold mining licences have reportedly been awarded over the past 3 decades to family, friends, and party members of prominent politicians (Raineri, 2020). According to local interviews, these practices have largely ceased to prevail due to the country's political instability as well as the increased presence of journalists at ASGM sites, thus contributing to the transparency of the sector. In Niger, local elites have reportedly been given the right to exploit plots already used by artisanal miners, and ministers, mayors, and senior army officers are themselves said to own valuable mines (ICG, 2020; Martin & Helbig de Balzac, 2016; Raineri, 2020). As these forms of corruption are prevalent in both the large-scale mining (LSM) and ASGM sectors, they are a driving force behind the conflict dynamics: political figures are directly linked to and benefit from ASGM, triggering resentment among ASGM communities who feel discriminated against and dispossessed. This then contributes to political upheaval and increased acceptance by ASGM communities of non-state armed groups that challenge the authorities and politically connected elites (Lanzano, Luning & Ouédraogo, 2021; Raineri, 2020).

iii) Socio-economic need and opportunity

In the rural areas of the Central Sahel region, ASGM offers an opportunity for employment and socio-economic mobility. Working as an artisanal gold miner often generates a higher income than farming, and while climate change directly affects the crops of farming communities, mining remains a fairly reliable source of income (Raineri, 2020). This alternative source of income attracts both locals and internal and external migrants. However, this “gold rush” can lead to tensions, sometimes even violence, within migrant groups and with local communities affected by mining⁵¹ when norms, values, and rules prove incompatible (Bohbot, 2017). In addition, the socio-economic, financial, and other benefits resulting from gold production and trade also attract other (often opportunistic) actors, some of whom may have criminal motivations or links to parties to the conflict (see Section 4. 2) (Lewis & McNeill, 2019; Martin & Helbig de Balzac, 2016).

In addition, the presence of LSM and ASM gold sites in some cases leads to jealousy and suspicion among neighbouring communities affected by mining, which may suffer adverse consequences, such as the breakdown of social norms and values and environmental degradation, without benefiting from the economic opportunities of gold mining. Although neighbouring villages often enjoy certain benefits from the presence of particularly LSM sites, such as improved infrastructure and more health centres and schools, some mining sites remain “islands of prosperity” where the wealth does not reach neighbouring communities. In the case of such socio-economic inequality, coupled with social disruption and loss of agricultural land due to pollution or forced displacement, tensions rise (Lenfant & Traore, 2015).

51 The term “mining-affected communities” in this report refers to community members who are involved with and/or affected by the operations of an ASGM site. These include (i) occupation communities (i.e., households or families that derive income from mining), (ii) residential communities (i.e., households or families that live in a geographical area affected by gold mining operations), and (iii) Indigenous communities (i.e., households or families that have an ancient or cultural attachment to the land where gold mining operations are taking place or impacting the land) (International Institute for Environment and Development, 2002).



iv) Competition for land and resources

As an ultimate driver, competition for land in ASGM sites and communities can lead to ongoing conflicts and tensions between a myriad of actors (Raineri, 2020). Due to a dearth of legally documented property rights in rural communities, as well as the general informality of ASGM activities, which is offset by verbal or customary permission, cases of perceived encroachment and land disputes around ASGM sites are common in the Central Sahel region (Lenfant & Traore, 2015; Sangare & Mundler, 2016). Highly centralized governance arrangements, slow bureaucratic processes, and long and potentially perilous journeys to obtain legal land ownership documents all contribute to further perpetuating informality and land conflicts (Hilson et al., 2019).⁵² These land conflicts are further accentuated in the cases of gold ASM and LSM. For example, by 2019, the Burkinabe government had authorized over 100 industrial exploration permits, each covering an area of up to 250 km², leaving little space for artisanal gold miners (Jong, 2019). In Niger, in response to the government's difficulties in issuing legal documents on land ownership, rural communities depend on a local *chef de canton* who brokers local economic transactions regarding ASGM (Hilson et al., 2019).

In addition, another source of tension at the local level stems from the perceived inadequate compensation for local communities when LSM operations arrive or expand, resulting in the displacement or destruction of agricultural land⁵³ (OECD, 2018). In such cases, artisanal miners are also often restricted or banned from operating within the LSM company's perimeter, leading to widespread frustration and anger among ASGM communities (Jong, 2019; PanAfGeo, 2019). This source of grievance is compounded when ASGM sites are forcibly closed by public authorities in favour of LSM operations. These grievances are often exploited by non-state armed groups and criminal opportunists (Lewis & McNeill, 2019) (see Section 4.2). The perceived lack of transparency in the way land is governed and licensed by state officials, and, in some cases, also linked to alleged corruption, incites further conflict as communities feel neglect and resentment (Bohbot, 2017).⁵⁴ ASGM communities in several parts of the Central Sahel region also expressed their discontent when state authorities allocated them gold-poor mining areas to make way for LSM on more productive deposits (ISS, 2021). In response to violent clashes between LSM and ASM gold miners in Burkina Faso between 2012 and 2014, a mitigation approach focusing on cohabitation and negotiation generated some successful outcomes, allowing ANEEMAS to play a mediating role.

v) ASGM as a driver of peace and stability

Apart from the aforementioned drivers of conflict in the context of ASGM in the Central Sahel region, it is worth noting here that the ASGM sector has proven to be a driver of positive

52 For example, in Niger, artisanal gold miners in Djado had to travel about 2,000 km to the capital, Niamey, to register their land tenure and formalize their mining licence. This process included a treacherous journey across the desert. Even after this journey, artisanal miners were not guaranteed a prompt assessment of their application (Hilson et al., 2019).

53 It was reported that the village of Chirfa in Djabo municipality, which had less than 1,000 inhabitants, saw its population increase to around 27,000 with the advent of gold mining. The main activity of the Indigenous communities was the cultivation and harvesting of dates. Today, this activity is tending to disappear due to the destruction of the land by artisanal mining (conclusions of the Niamey workshop of March 2022).

54 For example, when the Burkinabe government issued a permit to the Canadian mining company True Gold in 2013, anger and concern erupted in a nearby community over the possible relocation of the village and the destruction of a traditional holy site. In January 2015, local citizens burned down True Gold's facilities in response (Bohbot, 2017).



change and stability in some cases as well (ICG, 2019, 2020). Overall, in all three countries, ASGM is a force for economic and social development, especially in remote and isolated areas (Alvarez et al., 2016; OECD, 2018). An expansion of the ASGM value chain opportunities has been shown to offer an alternative to banditry or rebellion against the state (OECD, 2018). Anecdotal evidence exists of the disarmament, demobilization, and reintegration of former combatants from non-state armed groups in Niger and Mali due to the employment opportunities offered by ASGM (ICG, 2019). Therefore, although direct and indirect links exist between the ASGM sector and the wider conflict dynamics in the region, the prevalence of ASGM activities should not be seen solely as a driver of conflict but instead also as an opportunity for stability and development (see Section 4.4).

4.1.4 Impacts of Conflict

The conflict dynamics surrounding ASGM in the Central Sahel region present many challenges for artisanal gold mining communities. This section explores some of the main impacts of the conflict context in which the ASGM operates. These impacts can be divided into three broad categories: (i) increased numbers of internally displaced persons (IDPs) and human exploitation, (ii) sexual and gender-based violence (SGBV) and gender inequality, and (iii) environmental degradation and pollution.

i) Increased numbers of IDPs and human exploitation

First, due to the ongoing conflict in the Central Sahel region, one of the fastest-growing displacement crises is currently taking place there, with an estimated 2.6 million internally displaced people (Global Centre for the Responsibility to Protect, 2021; United Nations High Commissioner for Refugees, 2022). Having lost their land, property, and livelihoods through displacement, it is clear that IDPs are turning to ASGM as one of the few options they have for survival. According to interviews with experts, in Burkina Faso, IDP camps seem to be popping up next to ASGM sites. According to some reports, these IDPs are easily exploited at the ASGM sites and often take the most dangerous and precarious jobs. In addition, there is evidence that human traffickers are exploiting this growing number of displaced people in the region to force adults and children to work in artisanal gold mines (U.S. Department of State, 2020). In addition, in some informal artisanal gold sites where non-state armed groups and criminal organizations are present, an environment is created where human exploitation could occur. These groups generally consider human trafficking to be highly profitable, and victims are occasionally brought to work at the ASGM sites (Schwartz et al., 2021). There, victims of human trafficking may be subjected to multiple forms of modern slavery, such as forced labour exploitation, debt bondage, and child labour (Martin & Helbig de Balzac, 2016; OECD, 2018; Schwartz et al., 2021).

ii) Sexual and gender-based violence and gender inequality

Secondly, although the ASGM sector generally offers women and girls opportunities for socio-economic empowerment and personal freedom, in times of instability and violence, marginalized women and genders are disproportionately affected by conflict in the ASGM context (Mednick, 2021a, 2021b; Schwartz et al., 2021; Werthmann, 2009). SGBV “encompasses all harmful acts perpetrated against a person’s will, based on gender norms and unequal power relations” (Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH, 2020, p. xi). Women constitute the majority of victims of human trafficking, are more likely to experience (sexual) assault and exploitation in contexts of control of ASGM sites



by non-state armed groups, and are more likely to lose their livelihoods in violent contexts (ISS, 2021; Lenfant & Traore, 2015; OECD, 2018; Oxfam International, 2020; Werthmann, 2009). For example, studies show that where the arrival of non-state armed groups causes social instability, women, particularly among the displaced, are at higher risk of sexual assault and forced sex work (Mednick, 2021b). Victims of human trafficking who end up in forced sex work in mining towns or large cities adjacent to small-scale mines are deprived of their phones, passports, and money and suffer sexual and physical abuse. Fear of reprisals from conflict actors prevents women from making complaints and receiving justice (Mednick, 2021a). In addition, interviews in the region have shown that most women forced to work as forced labourers on artisanal gold mining sites in Burkina Faso were lured there by human traffickers in Nigeria with the promise of a job in a shop or salon (Mednick, 2021a, 2021b).

Unfortunately, more in-depth research on the impact of conflict on women and marginalized genders in the ASGM value chains of the Central Sahel region is currently lacking. And while the links between mineral supply and sex work are often widely discussed, in recent years, the negative image of sex work around mine sites has been contested as it erases the agency and experiences of women who voluntarily choose to participate in sex work (Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH, 2020).

iii) Environmental degradation and pollution

Finally, there are reports that regional conflicts are driving or exacerbating the environmental impact of gold mining operations in the Central Sahel region. This relates in particular to the degradation of ecosystems as well as the pollution of water and air resources. For example, there are cases where non-state armed groups and other conflict actors have taken control of mines in protected areas and then encouraged artisanal gold miners to extract gold despite government bans and conservation efforts (Lewis & McNeill, 2019). In addition, the limited state presence caused by the territorial control of non-state armed groups is also believed to have led to an increase in the use of banned toxic chemicals, such as mercury and cyanide, and to general environmentally damaging gold mining practices that are no longer controlled by state authorities (Hilson et al., 2019; ISS, 2021; Martin & Helbig de Balzac, 2016).

4.2 Direct and Indirect Links to Non-State Armed Groups

As non-state armed groups expand their activities across the Central Sahel region, reports increasingly highlight the risks of the ASGM sector becoming a key source of terrorist financing (Global Centre for the Responsibility to Protect, 2021; ICG, 2019; OECD, 2018). In recent years, evidence of links between artisanal gold and non-state armed groups has been largely inconclusive (OECD, 2018). However, recent reports indicate that non-state armed groups are increasingly benefiting, directly and indirectly, from gold mining in Burkina Faso, Niger, and Mali—albeit in different ways in all three countries (ICG, 2019; Munshi, 2021; Smith, 2021).

The classification of non-state armed groups refers to all non-state parties involved in international or national armed conflict (Bouchet-Saulnier, 2013). The three main non-state armed jihadist groups in the Sahel region are the Group for the Support of Islam and Muslims (GSIM), the Islamic State in the Greater Sahara (ISGS), and Ansarul Islam (Munshi, 2021; OECD, 2018). In addition, various other non-state armed groups are present in the region, such as the Coordination of the Movement of Azawad (CMA) and the Plateforme nationalistes (European Council on Foreign Relations, 2022; ICG, 2019).



This section analyzes the links between artisanal and small-scale gold production and trade and the potential direct or indirect support of these activities to non-state armed groups operating in the Central Sahel region. Direct support, according to the OECD (2018), refers to the benefits of direct control of ASGM sites through physical presence and gold trading. Indirect support includes all means by which non-state armed groups benefit from economic links to the ASGM sector or through kidnapping for ransom, extortion, security services, or attacks and looting (OECD, 2018). In addition, other forms of support beyond financial benefits have also been considered—such as the recruitment of ASGM operators or the use of ASGM sites for training. The impacts of these linkages on conflict dynamics across ASGM communities are also presented.

4.2.1 Direct Links

There is evidence that several non-state armed groups physically control various ASGM sites in the three countries (Africanews, 2019; ICG, 2019; Lanzano et al., 2021; Munshi, 2021; Smith, 2021). For example, in the Kidal region of Mali, the majority of ASGM sites are controlled by the CMA, and in the eastern region of Burkina Faso, the ISGS and GSIM reportedly control several ASGM sites in mainly the less accessible forests and reserves (ICG, 2019). In addition, according to local experts, in the department of Torodi in southwestern Niger, non-state armed groups reportedly control artisanal mining sites for payment, with the complicity of the local chief. Once non-state armed groups take control of an artisanal gold mine, local artisans usually continue to work at the site in exchange for security, shares in gold production, the right to move freely in the area, and other benefits.

One of the preferred sources of funding for non-state armed groups—kidnapping for ransom—is reportedly becoming an increasingly rare source of income. In addition, the coronavirus pandemic has led to the closure of ports and borders, reducing many of the traditional sources of income for the GSIM and ISGS (such as human trafficking and drug, arms, and cigarette smuggling). As a result, these groups now appear to be increasing their involvement in gold production and trade to fill the financial gap. For example, over the past year, these jihadist groups in the Gourma region of Mali have engaged in a battle for control of mining sites (Munshi, 2021). With gold prices expected to continue to soar in 2022, the ICG estimates that the dependence of non-state armed groups on gold will increase as they expand into other mineral-rich regions (ICG, 2019; Munshi, 2021).

As a result, ASM gold has become an important source of funding for non-state armed groups, particularly in Burkina Faso and Mali (Munshi, 2021; Smith, 2021; U.S. Department of State, 2020). For example, in Burkina Faso, the Economic and Social Observatory reported that between 2016 and 2020, non-state armed groups obtained approximately USD 126 million (CFA 70 billion) from attacking gold mining sites (Hien, 2020; U.S. Department of State, 2020). However, while this indicates that ASM gold is an important source of income in absolute terms for non-state armed groups, it is a relatively small proportion of the overall annual production of artisanal gold in Burkina Faso, which is estimated by the OECD and the government to be between 15 and 20 tonnes per year, worth USD 720 million–960 million (CFA 418 billion–560 billion) (Lewis & McNeill, 2019). In Niger, according to interviews with local experts, ASM gold appears to finance non-state armed groups to a lesser extent, as no Nigerien territory is currently under the full control of non-state armed groups and artisanal gold mines are only sporadically targeted.



In addition, gold sites controlled by non-state armed groups can be used as training grounds, including for the handling of explosives, and for weapons storage (Africanews, 2019; Hien, 2020). Members of one jihadist group in Mali, Ansar Dine, have reportedly been trained in the handling of explosives in artisanal gold mines in the northern border region of Côte d'Ivoire (ICG, 2019). In addition, the illicit sale of dynamite is linked to ASGM in northern Niger (see Section 3.1) (ICG, 2019; Pellerin, 2017; U.S. Department of State, 2020), although local interviews provided little evidence that the informal trade in explosives contributes to the supply of ammunition to non-state armed groups or other organized criminal groups. Rather, the explosives appear to be used simply for gold mining.

In conclusion, direct control of ASGM sites was rare a few years ago but has increased in recent years, notably in Burkina Faso. This development also seems to be motivated by the closure of borders due to the coronavirus pandemic. Non-state armed groups benefit financially but also in terms of access to the informal trade in explosives linked to ASGM.

4.2.2 Indirect Links

In addition to their direct control over ASGM sites across the Central Sahel region, non-state armed groups also benefit indirectly from gold production and trade. One of the most important links reported is the extortion of money and minerals from both ASM and LSM gold operators and gold traders along the transport routes (ICG, 2019; OECD, 2018; Smith, 2021; Lanzano et al., 2021). Particularly in the Sahel region of Burkina Faso, ASGM operators are regularly exposed to extortion (OECD, 2018). It is also common for non-state armed groups to offer and demand payment for security services from mine workers and to levy a tax (zakat) on mined gold, strategies that have been used by ISGS and GSIM in eastern Burkina Faso, by the CMA, and Ansar Dine in northern Mali, and by other armed groups in western Niger and southern Mali (ICG, 2019; Lanzano et al., 2021; Smith, 2021).

A second way in which non-state armed groups benefit economically from ASM and LSM is by looting gold stocks and attacking or kidnapping mining operators at sites and along transport routes for ransom (ICG, 2019; ISS, 2021; Jong, 2019; Lanzano et al. 2021; Lewis et al., 2019; Munshi, 2021; OECD, 2018). LSM operations mainly experience attacks on convoys using improvised explosive devices, which has led several industrial mining sites to suspend operations or increase security measures (OECD, 2018).

A final indirect financial link is the illicit trafficking of gold and mercury by non-state armed forces—see Section 3.1 (Hien, 2020; ISS, 2021; OECD, 2018).

In addition to using ASGM as a source of revenue through the above strategies, ASGM sites also provide a recruitment ground for non-state armed groups (Africanews, 2019; Hien, 2020; ICG, 2019; Munshi, 2021). In the eastern region of Burkina Faso and western Niger, jihadist groups have reportedly promoted respect for Sharia law at mining sites, exploiting the moral objection of mining-affected communities to the presence of alcohol consumption, theft, and prostitution at ASGM sites (ICG, 2019).

The impacts of these indirect links between non-state armed groups and ASGM are diverse. On the one hand, non-state armed groups have benefited substantially financially from extortion, raids, security provision, and illicit trafficking (ICG, 2019; ISS, 2021) and have been able to grow by recruiting from ASGM sites (Africanews, 2019; Hien, 2020; ICG, 2019; Munshi, 2021). This would indicate that the influence of non-state armed groups in the Central Sahel region is strengthened by their links to gold mining and the ASGM trade (OECD, 2018). On the



other hand, in parts of Burkina Faso, Mali, and Niger, it is clear that artisanal gold miners do not always see these groups as exploitative or coercive, but as beneficial to them, and their support for non-state armed groups is growing. Some ASGM miners willingly cooperate with non-state armed groups for many reasons: they often offer protection to artisanal miners from thieves, resolve community conflicts, and secure economic opportunities by buying gold and reopening gold mines previously closed by government authorities (ICG, 2019; Lanzano et al., 2021; Munshi, 2021). Non-state armed groups often exploit the frustration of ASGM communities with government mining policies, which often appear to favour LSM, and with state counterterrorism operations that target artisanal gold mining facilities (Lanzano et al., 2021; Munshi, 2021). In doing so, they sometimes succeed in legitimizing their control over ASGM mines by combining social and religious discourses that capitalize on the grievances of dispossessed and marginalized communities (Raineri, 2020). This demonstrates how some ASGM communities embrace non-state armed forces when they feel neglected by the state (ISS, 2021).

It can therefore be concluded that there are various indirect links between non-state armed groups and ASGM activities. These groups may use different strategies in the Central Sahel region at different times. These may include levying a tax on mining operations, looting gold, attacking ASGM actors along the value chain, trafficking in gold or mercury, spreading their ideology and recruiting new members from ASGM communities, offering protection to gold miners, and engaging in economic exchanges with artisanal gold miners.

4.3 Links With Public and Private Security Forces

ASGM operators, traders, and communities in the Central Sahel region are often protected by—and have links with—public and private security forces. Reports on the aggravating or mitigating impact that security forces can have on local conflict dynamics require further attention. This section therefore analyzes the roles and impacts of these actors in the conflict dynamics surrounding ASGM in Burkina Faso, Niger, and Mali, as well as how they are, in some cases, also linked to and/or benefit from the ASGM value chain.

4.3.1 Public Security Forces

Public security forces include law enforcement actors at all levels of governance who are responsible for maintaining the rule of law. In ASGM value chains specifically, they may be responsible for protecting ASGM sites and transport routes from interference with legitimate gold extraction and trade (OECD, 2016). The actions of public security forces appear to both reduce and fuel violence, depending on the context. For example, police officers have reportedly committed acts of violence against informal ASGM workers and communities in Burkina Faso and Mali (Belemnaba, 2018). In September 2021, eight people died when police used tear gas against unauthorized gold miners at an LSM site in Burkina Faso (Ndiaga, 2021). And in southern Mali, regional experts reported that cases of violence against artisanal gold miners by public security forces protecting LSM sites claimed several lives in 2018. These actions fuel grievances among artisanal miners and communities that make them more welcoming of the presence of non-state armed groups, as described above. On the other hand, reports that public security forces are successfully protecting artisanal miners from theft and managing tensions in Niger's ASGM communities are also widespread (ICG, 2019, 2020; Pellerin, 2017).



A second link between public security forces, ASGM, and conflict dynamics is related to the fact that these actors benefit from the production and trade of artisanal gold. First, public security agents in Burkina Faso, Mali, and Niger have reportedly bribed ASGM operators to (temporarily) re-access state-sanctioned and closed ASGM sites in exchange for payment or have themselves operated officially closed ASGM sites to seize gold (Hilson et al., 2019; OECD, 2018; Pellerin, 2017). The closure of ASGM sites occurs either at a fixed time each year (e.g., during the rainy season) or in response to, for example, the presence of non-state armed groups or the arrival of an industrial mine (ICG, 2019). For example, in January 2019, small-scale mining across eastern and northern Burkina Faso was banned in response to the conquest of territory by non-state armed groups (Lewis & McNeill, 2019). In some cases, this has led to violent clashes between artisanal miners and public security forces (OECD, 2018). Similarly, ASGM production sites in northern Niger (Djado and Tchibarkaten) were officially closed by the government through military enforcement, and, according to expert interviews, conservation officers from the W National Park in southern Niger are reportedly operating the closed gold sites in collusion with artisanal miners.

Second, in northern Niger, national security forces are accused of seizing equipment from artisanal miners—particularly foreigners—and only returning it in exchange for a so-called fine. Soldiers have also been known to impose a tax on the use of metal detectors or to seize them for resale (Pellerin, 2017). Third, there are also cases of public security agents charged with protecting gold transport routes extorting gold traders or raiding supplies. For example, in Agadez, in central Niger, the army reportedly demands payment to secure vehicles carrying goods (Pellerin, 2017). In one particular case, in January 2022, a gold convoy in Agadez was attacked, and 125 kg of gold was taken. According to interviews with local experts, the judicial investigation revealed the complicity of the national guard and the guards involved were arrested. Finally, there are reports of bribes along well-known gold transport routes being used to ensure that customs and police officials turn a blind eye to smuggling activities (OECD, 2018).

On the other hand, in some cases, it is the absence of state authorities and lack of law enforcement at ASGM sites, particularly in remote territories, that has reportedly led to non-state armed groups securing gold extraction sites with relative ease (ICG, 2019; Pellerin, 2017).

Due to the ambiguous relationship between ASGM communities and public security forces, grievances against state authorities are often heightened when protection services appear inadequate or come into contact with cases of extortion or violence, as well as when state authorities are sent to deny access to or close down artisanal gold mines (Belemnaba, 2018; Global Centre for the Responsibility to Protect, 2021; Lanzano et al., 2021; Martin & Helbig de Balzac, 2016; Raineri, 2020;). When ASGM communities refuse to comply, the use of draconian enforcement measures tends to “exacerbate the situation, alienating artisanal miners and pushing them further into the illicit trade or leading to avoidable violence” (Martin & Helbig de Balzac, 2016, p. 2). Non-state armed groups then instrumentalize the frustration of ASGM communities with state authorities in their recruitment tactics (Hien, 2020).

4.3.2 Private Security Forces

In addition to public security forces, private security forces are usually hired by site concessionaires for the purpose of protecting LSM or ASM sites from gold and transport routes. They can take a variety of organizational forms, such as unofficial mining police forces that provide security in exchange for the taxation of artisanal mines and pit owners, usually



recruited by private security companies, or from the group of traditional and customary hunters called *Dozo* in Mali and Burkina Faso. They may also include former bandits or members of rebel groups in Niger (ICG, 2019; Munshi, 2021; Raineri, 2020).

Studies in the Central Sahel region show that, like public authorities, the presence of these security providers may be associated with extortion, theft, and violence against ASGM communities (Bohbot, 2017; OECD, 2018). Private security forces hired to protect ASGM operations have reportedly engaged in violent conflicts with artisanal gold miners, for example, by dislodging ASGM workers who were already mining gold in the land before the arrival of an industrial mining company (Bohbot, 2017).

In addition, customary security actors in Mali and Burkina Faso, such as the *Dozo*, would also benefit from artisanal gold mining and trade. These traditional and customary security providers may demand payment, often in the form of ore, from artisanal miners before allowing them to work on-site. This is partly related to the fact that workers operate on community land and therefore fall under the “jurisdiction” of these community actors, who may consider it their customary right to tax mining activities and charge for their security services (OECD, 2018). These actors may become part of the conflict dynamic—for example, in 2019, several *Dozos* were accused of killing suspected bandits near a mining site in the Koulikoro region of Mali. Another example of customary security providers is the *Tomboloma* in southern Mali. These are informal mining police employed by the *damantigui* (site owners) who represent the village chiefs (Hilson et al., 2019; ICG, 2019; OECD, 2018). In Mali, local authorities do not issue mining permits and therefore do not receive taxes from the permitting process. Instead, the *Tomboloma* require payment from artisanal miners for permission to mine or enter the site. Their role includes determining compensation for landowners on whose land the ASGM operators operate, maintaining order, and supervising mining operations. They are often also responsible for punishing transgressions and disputes or even cases of theft or murder (Benda-Beckmann & Pirie, 2007; Keita, 2017).

In addition, some private and customary security forces usually claim to fill the gap in state security and protect ASGM sites from gold banditry or return land resources to local communities previously denied access by state authorities (Raineri, 2020). In many cases, these private security forces are tolerated or even encouraged by the state to provide necessary and inexpensive protection of mining sites from interference by non-state armed groups or criminal organizations. For example, in Burkina Faso, some mining sites in the north-central region are protected by the Volunteers for the Defence of the Homeland (VDP). This “self-defence group” was created in 2020 by the Burkinabe government and army with the dual aim of mobilizing communities against attacks by non-state armed groups and gaining greater government control over the militias. However, the VDP is accused of aggravating inter-communal conflicts and committing serious human rights violations, particularly against Fulani civilians, who are pastoralists. Nevertheless, the government has indicated that the VDP remains a central security response to extremism in the region (Munshi, 2021; Schmauder & Willeme, 2021).

As the power of some private security forces is sometimes legitimized by the support of local communities and, in some cases, political figures and public authorities, a hybrid security economy is fostered in the Central Sahel region (Raineri, 2020). This hybrid security economy, where public and private protection services are increasingly intertwined, is often created out of necessity for the state to tolerate or encourage private security forces (ICG, 2019; Raineri, 2020). This is particularly prevalent in remote areas where there is little state



presence, where the number of artisanal gold miners is increasing, or where non-state armed groups are gaining territory (ICG, 2019). However, there are cases where these groups “behave less like a private police force tasked with securing gold mines, and more like a militarised group acting outside state control, likely to develop its own agenda and seize mineral resources” (ICG, 2019, p. 4). The involvement of private security forces in the fight against non-state armed groups has thus raised the question of an erosion of the state monopoly on violence (Lanzano et al., 2021).

It can therefore be summarized that different private security forces play different roles in the conflict dynamics surrounding ASGM in the Central Sahel region. On the one hand, the private security forces engaged in protecting LSM regularly engage with the ASGM communities through extortion or violence. On the other hand, customary mining police forces provide protection services to gold mining communities and may benefit from gold mining operations through tax collection but have also demonstrated violent forms of sanctions.



5.0 Recommendations

5.1 Chapter 2 Recommendations

Strengthen the legal framework for the ASGM sector and its implementation.

In Burkina Faso, Mali, and Niger, the legal texts governing artisanal mining need to be improved and the realities of gold mining taken into account in order to increase the chances of compliance by gold miners. The following measures should be taken:

- Establish or strengthen institutions and agencies responsible for overseeing and supporting the gold mining sector and ensure that they have sufficient financial and human resources (e.g., ANEEMAS in Burkina Faso and DEMPEC in Niger).
- Improve enforcement and coordination of monitoring and control of legislation between the different central and decentralized administrations (for mines, finance, tax, territorial administration, defence). This also requires clarification of institutional mandates and responsibilities between the ministries involved in the formalization and implementation of this strategy (beyond the Ministry of Mines).
- Simplify licensing and authorization procedures and requirements for ASGM operators and value chain actors.
- Respect and strengthen the sanctions regime on illicit financial flows and terrorist financing. Provide incentives to encourage compliance and fulfillment of legal obligations. This could include the provision of and access to basic social services directly from earmarked tax revenues.
- Improve the data available on the ASGM sector to ensure that formalization measures reflect the reality of the sector through more systematic monitoring of key data points, such as where mining takes place, how many people are involved, how much gold is produced and traded, etc., and greater digitalization and integration of monitoring systems, such as cadastral and inspection missions, regular ASGM sector monitoring data, and inspections and controls at export points and customs.



- Adopt a specific tax regime for gold mining that is more appropriate than the regime applicable to the whole of ASM. This should be consistent with broader poverty reduction objectives and macro-economic planning.
- Create areas exclusively reserved for gold mining based on prior knowledge of their mineral potential and remove the possibility of superimposing an AEA with an exploration permit for existing AEAs.
- Strengthen the legal status of AEAs in their regulations to make it attractive while taking into account the sociological and economic realities of the gold mining sector.
- Explore the possibility of transferring the power to grant AEAs to local communities or at least requiring community input into the selection of artisanal sites before AEAs are granted and renewed.
- Make the legislation on gold mining more accessible by creating guides or documents that bring together the main legal requirements for artisanal mining, with a view to disseminating them in official and national languages.
- Undertake stocktaking on the effectiveness of reforms undertaken in the ASM sector and create inclusive consultation frameworks to define national visions for the sector.
- Put in place strategies to raise awareness, educate, and support artisanal miners on IFF issues and conflicts.

5.2 Chapter 3 Recommendations

Simplify national regulatory regimes to reduce gold smuggling and support the formalization of the ASGM sector.

Gold smuggling in the ASGM sector occurs partly due to the fact that artisanal miners, traders, and exporters face difficulties in the form of unnecessarily complicated administrative procedures, high fees, or rigid regulations that cannot meet their needs. Removing these barriers could lead to more supply chain actors operating formally and reduce incentives to smuggle products. Formalization would also make artisanal operators less vulnerable to exploitation, extortion, and onerous informal taxation. Examples of measures include:

- Simplifying licensing and permit procedures and requirements for ASGM operators and value chain actors, for example, by reducing the number of permits required.
- Rationalizing costs and eliminating the multiplication of different costs.
- Simplifying the ASM tax regime to avoid actors being taxed in different places and by different agencies. Explore the opportunity of creating a one-stop-shop for the liquidation of ASM-related taxes and fees.
- Imposing levies on the place of production rather than on exports.
- Involving the socio-professional organizations of artisanal miners in tax collection. This can be done by legalizing current practices that have proven to be effective and formalizing the role of certain actors in the value chain. The landowner can become an ally in the collection of taxes on his site. This requires:
 - Facilitating access to loans and equipment that can increase the efficiency of gold mining activities in reserved areas or gold mining corridors.



- Establishing and promoting gold processing centres under the control of relevant government agencies.
- Conducting strategic environmental and social assessments to integrate environmental, social, health, safety, and cultural issues into mining planning at the regional level prior to the granting of an AEA.
- Promoting the financial inclusion of artisanal miners to combat their dependence on informal and sometimes abusive pre-financing relationships.
- Defining the criteria for pricing and/or taxing artisanal mining activities, taxable activities and those liable to pay tax on the basis of accurate and up-to-date mapping of the actors in the value chain.
- Establishing an official network of gold buying, marketing, and export offices, particularly in reserved gold mining areas. This should include the establishment of local gold buying offices that pay as close to the world market price as possible and pay artisanal miners in a timely manner.

Improve the monitoring of the ASGM sector

Many of the problems associated with ASM gold are due to the fact that governments do not have good information on this activity. These steps could be taken to improve the situation:

- Ensure a permanent state presence at ASGM sites.
- Establish a central coordination unit for ASGM within the Ministry of Mines that is responsible for the formulation and implementation of state policy in this area.
- Support local authorities in their licensing obligations, provided that they provide full and regular reports.
- Use the preparation of regular EITI reports as an opportunity to take stock of achievements.
- Establish effective and anonymous whistleblowing mechanisms to report corruption and other IFFs.
- Promote greater digitalization of public revenue collection (taxes, fees, levies), if possible, through mobile money platforms.

Develop a comprehensive approach to combatting IFFs at national and regional levels.

IFFs are allowed to flourish because governments and regional institutions have not put in place the appropriate frameworks to combat them. Given the links between different IFFs and the number of public bodies involved, a comprehensive approach is essential. Measures may include:

- A multi-agency approach to combatting IFFs, with coordination and information exchange between law enforcement, customs, trade and export, mining, revenue, anti-corruption, and financial intelligence authorities.
- The development of effective legislation on IFFs, including money laundering, corruption, and bribery, ideally harmonized between neighbouring countries. The recommendations of the Financial Action Task Force can provide an important basis for this.



- Strengthening the surveillance and investigation capacity of customs and strengthening collaboration between customs and the ministries of mines to monitor compliance with declarations.
- Strengthening collaboration between the ministries of mines and finance, as well as central banks, for the repatriation of foreign exchange.
- Developing information exchange and regional cooperation to combat IFFs in West Africa. This is currently focused on the banking system. Efforts are needed to improve information sharing on cash-based activities in general, including ASGM. To this end, links between customs, mining, revenue, financial intelligence, and law enforcement agencies need to be strengthened through information exchange mechanisms and inter-agency coordination.

Harmonize royalty regimes and trade regulations at the regional level.

Given that ASGM is a cross-border activity and that workers and precious metals move around the region, regional organizations have an important role to play. It is crucial to eliminate differences in royalty rates and the base on which the royalty is levied, as well as to simplify and harmonize other fees. This would go a long way toward reducing the incentive to smuggle. In this context, the costs and benefits of the complete abolition of the ASM gold royalty could be assessed.

Solicit donor support for formalization.

Many countries struggle with IFFs due to a lack of resources, capacity, and expertise. Donors have an important role to play in supporting the fight against IFFs in the area of ASGM, which is part of wider trends to combat illicit finance in the interests of development finance, domestic resource mobilization, and security. Incentives for artisanal miners to enter the formal sector can be costly, and the benefits are often non-monetary. As a result, the three governments studied may find it difficult to fund them.

Donor support is therefore needed and can be provided through the following measures:

- Using their political influence to persuade trading partners and other value chain actors outside the region not to undermine, and preferably to support, governments' efforts to reduce gold IFFs, including by removing incentives for smuggling and money laundering and by strengthening due diligence on gold from West Africa.
- Supporting capacity building for public authorities – investigating IFFs and detecting red flags—for example, at customs—requires considerable expertise. Government agencies often lack the expertise to spot red flags and investigate financial crimes when they occur. Donors can play an important role in capacity building in this regard, focusing on investigative skills.

5.3 Chapter 4 Recommendations

Increase and regulate state presence through multi-level partnerships for ASGM governance.

To address the persistent challenges that fuel conflict and instability in the context of gold mining, it is important to encourage decentralized governance arrangements in which



different local partners are actively involved. The overall objective should be to establish long-term sustainable relationships with trusted intermediaries so that local communities feel heard and governments can easily communicate and collaborate with gold mining communities to ensure mutual respect (thus reducing grievances of feeling neglected or discriminated against). Governments in the region, supported by international development partners, should consider the following steps toward such multi-level partnerships for better governance of the ASGM sector:

- Engage with actors already involved in the management and oversight of the ASGM sector, including local authorities and municipalities, as well as informal and customary or traditional actors such as community leaders, local security forces, canton chiefs, landowners, and independent third-party bodies such as local and international non-governmental organizations to include them in formalization strategies and to work with them. This could eventually lead to the possibility of state authorities adopting localized community mining codes in their national policies.
- Establish multistakeholder dialogue forums at local and national levels to bring together value chain actors, authorities, communities, and civil society, as well as security providers and, where possible, non-state armed groups, to negotiate local peace and development programs.
- Ensure the presence of the Defence and Security Forces and establish collaborative efforts with private security forces to avoid the risk of these actors filling potential power vacancies. Rather than accepting private security forces as temporary solutions in the event of conflict (which ultimately perpetuates instability), one option could be to accept that private security forces can operate in specific locations, but with clearly defined rules of engagement (e.g., respect human rights with zero tolerance for exploitative practices; otherwise, the “contract” will be terminated if it is breached and the private security forces replaced).

Tackling high-level corruption, ensuring transparency, and preventing local grievances due to abuse of power by public authorities.

The current political economy in Burkina Faso, Mali, and Niger has allowed for high-level corruption in the ASGM sector. This, along with other forms of abuse of power by public authorities, has fuelled local grievances. To combat resentment of the state by gold mining communities, which in some cases has contributed to the growing role of non-state armed groups, it is important to address corruption and ensure transparency. It should be noted here that it is vitally important that the Chapter 3 recommendations are implemented, as this will limit the space in which corruption can occur. Specific additional measures could include:

- Creating and implementing appropriate anti-corruption measures, such as a transparent extortion dispute resolution mechanism or an anti-corruption hotline where artisanal miners can report interference by public actors.
- Developing training for public security forces on appropriate engagement with gold mining communities to address issues related to human rights violations or exploitative and extortionate practices.



Maximize the potential of the ASGM sector as a driver for positive change.

Accelerating the formalization of the sector and the value chains of ASGM and making gold mining a legitimate part of the economy alongside LSM would allow the sector to become a driver for peace and stability. This requires a shift in perspective, where state regulation of the sector aims to govern gold mining through positive incentives. Formalization of the sector could also help marginalized and remote communities to take advantage of the economic, income, and livelihood opportunities gold mining presents, thereby mitigating grievances against the state. Practical measures to formalize ASGM are discussed in more detail in the recommendations sections of Chapters 2 and 3, but could be enhanced in terms of conflict reduction by:

- Supporting value chain actors in the implementation of due diligence and chain of custody and strengthening the capacity of government agencies to oversee the implementation of these measures, including customs, police, and agencies.
- Working with women's representative organizations to formulate gender-sensitive solutions to the problems faced by women in mining-affected communities and ensure equal economic opportunities.
- Strengthening youth employment programs, as well as small and medium-sized enterprise development programs, and linking them to the gold mining and value chain sector. Fostering economic linkages offered by the sector provides livelihoods for communities in ancillary sectors, thus contributing to the objective of avoiding recruitment into non-state armed groups.
- Mitigating tensions between migrant gold miners and local communities by ensuring that local artisans have priority access to work and by working with migrant representatives to mitigate potential tensions due to differences in local norms, values, and religions.

Ensure equity and transparency in resource allocation in the ASGM sector.

To address the problems associated with land disputes surrounding gold mining communities, which are largely due to the informality of the sector, the following measures could be considered:

- Implement and strengthen integrated, transparent, and participatory land-use planning and management that is truly devolved and aims to legally recognize customary and private land rights in and around gold mining sites, particularly in remote areas. Women's access to land rights in such a system would require particular attention.
- Improve the security of tenure for artisanal miners by extending the duration of permits and removing the precedence of industrial-scale mining permits (large companies can develop permit purchase procedures).
- Establish conflict resolution mechanisms in areas where industrial mining companies operate in the vicinity of gold mining sites through the multistakeholder forums mentioned above.



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Appendix. Key Legislation, Regulations, and Guidance Documents

Legal Regime for Mining

Regional framework

- Regulation n° 18/2003/CM/UEMOA, of 22 December 2003, adopting the UEMOA Mining Code

Burkina Faso

Laws

- Law n°036-2015/CNT of 26 June 2015 on the Mining Code of Burkina Faso
- Law n°006-2013/AN on the Environmental Code of Burkina Faso
- Law n°058-2017/AN on the general tax code of Burkina Faso

Regulations

- Decree n°2017-0028 of 26 January 2017 on the management of mining titles and authorisations
- Decree n°2017-0023/PRES/PM/MEMC/MINEFID establishing mining taxes and royalties
- Decree n°2017-0047/PRES/PM/MENC/MINEFID/MEEVCC/MATDSI of 01 February 2017 on the organisation, functioning and modalities of collection of resources of the Fund for the rehabilitation and securing of artisanal mining sites and the fight against the use of prohibited chemicals
- Decree n°2015-1420/PRES-TRANS/PMMEF/MME of 30 November 2015 on the creation of the National Agency for the Supervision of Artisanal and Semi-Mechanised Mining Operations, abbreviated as 'ANEEMAS
- Decree n°2018-1017 PRES/PM/MMC/MINEFID/MEEVCC/MCIA/MATD/MSECU/MFPTPS on the organisation of artisanal and semi-mechanised mining of gold and other precious substances

Orders

- Inter-ministerial order n°09-001/MCE/MEFMCPE of 3 February 2009 on the conditions of approval and specifications for the purchase, sale, and export of gold in Burkina Faso

Guidance documents

- Mining Sector Policy 2014-2025, adopted in May 2013



Mali

Laws

- Ordinance N°2019-022/P-RM of 27 September 2019 on the Mining Code in the Republic of Mali
- Law n°2012-015 of 27 February 2012 on the Mining Code
- Law n°2012-016 of 27 February 2012 on the Investment Code

Regulations

- Decree No. 08-346 P-RM of 26 June 2008 on the environmental and social impact study
- Decree n°2012-311 P-RM of 21 June 2012 fixing the conditions and modalities of application of the law on the Mining Code

Guidance documents

- National Mining and Oil Sector Development Policy 2018-2022, adopted in June 2018

Niger

Laws

- 2022 Mining Law (adopted by the Parliament)
- Law n°2018-48 amending order n°93-16 of 02 March 1993, on mining law
- Ordinance No. 2017-03 of 30 June 2017 amending Ordinance No. 93-16 of 2 March 1993 on the mining law
- Law n°2006-26 of 9 August 2006, amending ordinance n°93-16 of 02 March 1993 on mining law
- Law No. 98-56 of 29 December 1998 on the framework law on environmental management
- Law n°2014-09 of 16 April 2014 on the Investment Code in the Republic of Niger
- Ordinance n°93-16 of 2 March 1993 on mining law

Regulations

- Decree No. 2017-628/PRN/MM of 20 June 2017 amending and supplementing Decree No. 2006-265/PRN/MM/E of 18 August 2006 laying down the terms and conditions for the application of the Mining Law
- Decree n°2006-265/PRN/MM/E of 18 August 2006 establishing the modalities of application of the Mining Law

Guidance documents

- National Mining Policy 2020-2035



IGF

INTERGOVERNMENTAL FORUM
on Mining, Minerals, Metals and
Sustainable Development