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<b>Consultation Results Synopsis</b> <b>Information to Stakeholders on the Outcome of the 1st Round of Consultation</b> <b>Review of the Fairtrade Standard for Gold and Associated Precious Metals for Artisanal and Small-scale Organizations</b>	
<b>To</b>	Stakeholders
<b>Consultation Period</b>	15 August 2019 – 20 September 2019
<b>Project Manager Contact Details</b>	Kerstin Cron, Standards Project Manager <a href="mailto:standards-pricing@fairtrade.net">standards-pricing@fairtrade.net</a>

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## **PART 1 Introduction**

### **1.1. General Introduction**

Fairtrade International's Standards & Pricing (S&P) would like to thank all stakeholders for the time and effort they have put into participating in the first round of consultation on the Review of the Fairtrade Standard for Gold and Associated Precious Metals for Artisanal and Small-scale Mining Organizations. The consultation concluded on 20 September 2019 with a total of 26 participating stakeholders via 2 workshops in Peru and 28 participating stakeholders via the survey; and the CECLAC (the Standards Committee of the CLAC) who gave Fairtrade International's (FI) S&P their views and perspectives. Thanks to these replies, S&P has gained a good understanding of critical issues and concerns including potential solutions. Together with the results of the research carried out by S&P, this information provides the basis for the second proposal to be published for consultation. The SC decision on the final standard will be taken after the second round of consultation.

This document aims to present the outcome of the consultation in the most transparent way possible without disclosing confidential stakeholder information.

**Should you have any queries or remarks concerning this report, please contact the Project Manager Kerstin Cron at: [standards-pricing@fairtrade.net](mailto:standards-pricing@fairtrade.net) or call: +49-228-949231**

### **1.2. Executive Summary**

The purpose of this project is to review the globally-applied Fairtrade Standard for Gold and Associated Precious Metals for Artisanal and Small-scale Mining Organizations, as part of the regular standard monitoring and review cycle. The overall objective is to adapt the standard to the Artisanal and Small-scale Miners' realities and the needs of the markets; and to connect the standard to the Fairtrade Theory of Change and the Fairtrade Goals (foster sustainable livelihoods and build Fairtrade markets). In particular, it aims to enable ASMOs to formalize, to become strong and inclusive; and to improve working conditions for miners and strengthen mining organizations. It also aims to improve environmental protection and to enhance benefits for miners and their communities through direct market access and building of long-term relationships with buyers.

The first round of consultation focused on refining and clarifying the existing scope of standard and on how the standard could adapt to the needs of mining operators which are structured differently from Small-Scale Producer Organizations. The intention of this exercise is to better characterize which types of artisanal and small-scale mining operators would be covered by the Fairtrade Standard in the future; refining the scope of the standard moving forward.

Building on the outcomes of the first round of consultation, the second round will include a more technical proposal for discussion with stakeholders, including the additional topics identified for review.

Below an overview of the responses per topic:



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Topic	Consultation responses – main outcomes
<p>Topic 1: Definition of Artisanal and Small-scale Mining Organizations</p>	<p><b>Question 1.1.1</b> What is the minimum number of people that should be defined in the standard to preserve the concept of “organization”? Please suggest the <b>minimum number</b> of members an organization needs to have to be eligible for Fairtrade certification as an organization and explain why</p> <p>Workshop participants in Peru opted for 11 or 12 members at minimum, the CECLAC opted for 12. 38% of respondents of the survey voted for 10, 35% voted “other” and 27% voted for 15 as the minimum number.</p> <p><b>Question 1.2.1</b> Would you agree that an operator who has all direct rights (legal rights to operate) but is not an organization (organization meaning miners who are legally organized in groups with equal rights and duties) can become Fairtrade certified?</p> <p>All workshop participants answered “yes”, the CECLAC replied “no”. 56% of the survey participants replied “yes”, 37% replied “no” and 7% replied “don’t know”.</p> <p><b>Question 1.2.2</b> If your answer to 1.2.1 is “Yes” please share your opinion whether the benefits of Fairtrade certification, such as premium and empowerment, should be directed towards the owners/landowners/shareholders of the business or/and the hired workers.</p> <p>Workshop participants selected “to both”. In the survey, 84% of respondents chose “to both”, 11% chose “only to the owners, etc”, and 5% chose “only to the hired workers”.</p> <p><b>Question 1.2.4a)</b> One of the most frequent and challenging reason for conflicts in artisanal and small scale gold mining is about access to land and the right to use land, often only granted for a limited period. Therefor Fairtrade believes that only operators (investors, families) that have the concession rights <b>and</b> the legal property of the land can contribute to the change that Fairtrade promotes at the local level. Do you agree?</p> <p>Workshop participants voted “no”. Respondents of the survey voted “yes” with 58% and 29% voted “no”, while 13% voted “don’t know”.</p> <p><b>Question 1.2.4b)</b> There are scenarios in which the legal owner of the concession has legal permits for surface / land use, but does not own the land. Should Fairtrade in such a scenario only work with a local operator (investor, family) or as well with foreign investors, families? (Here, local operator means a citizen of the country in which the mine is located.)</p> <p>Workshop participants selected “only with local investors and family businesses”. 56% of respondents of the survey selected the same; 44% selected “with both, local and foreign investors and family businesses”.</p> <p><b>Question 1.2.5</b> Describe which requirements should be implemented by these operators in order to balance the interests of owners/shareholders and mining workers:</p> <p>Participants of the workshops in Peru selected almost all options: co-responsible management of the premium; shared use of premium; capacity building for management and workers to understand the benefits of Fairtrade certification and the role of workers; participation in social dialogue; training of workers and management on occupational health and safety, personal protective equipment,</p>



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Topic	Consultation responses – main outcomes
	<p>and environmental protection. Participation in collective bargaining was not selected.</p> <p>In the survey, 20% of respondents selected “capacity building for management and workers...”, 19% selected “training of workers and management...”, and 17% selected “participation in social dialogue”.</p> <p><b>Question 1.3.1a)</b> Would you agree to consider for Fairtrade certification only organizations of artisanal miners that individually have legal rights and obligations and permits to comply with the mining activity; and that organizing constitutes a strengthening strategy that contributes to a better commercial position and potential to process and export the collective production of its members?</p> <p>Workshop participants voted “yes” while the CECLAC also voted “yes”. 61% of respondents of the survey also voted “yes”, 31% voted “no”, and 8% voted “don’t know”.</p> <p><b>Question 1.3.1b)</b> Would you agree to consider only organizations for Fairtrade certification in which all members have the same rights and duties?</p> <p>Workshop participants voted “yes”, the CECLAC voted “yes” as well. 65% of respondents to the survey also voted “yes”, 23% voted “no” and the rest selected “don’t know”.</p> <p><b>Question 1.3.1c)</b> Would you agree to consider organizations for Fairtrade certification as well in which one member has much more economic power than the other members?</p> <p>Workshop participants voted “no” and the CECLAC also voted “no”. 44% of respondents of the survey voted “no”, 40% voted “yes” and 16% voted “don’t know”.</p>
<p>Topic 2: Artisanal mining, formalization and initial certification</p>	<p><b>Question 2.1:</b> Should the Fairtrade Standard distinguish Artisanal from Small-scale Mining, i.e. defining different requirement levels at initial certification and different progress timelines for specific requirements?</p> <p>Workshop participants selected “yes” and the CECLAC replied “no”. In the survey, 80% voted “yes”, 12% voted “no”, and 8% voted “don’t know”.</p> <p><b>Question 2.3:</b> Which levels of formalization should the standard consider at the initial certification?</p> <p>Workshop participants selected “endorsement of formalization by the government”; the CECLAC replied that an organization should comply with the entire process of formalization in accordance with current regulations. In the survey, 35% chose “you are a legally registered entity and have a valid mining/ mineral processing and land right relevant to your operations”; 25% selected “you are a legally registered entity and have a valid mining/ mineral processing and land right relevant to your operations”; 18% selected “you demonstrate to have identified and assessed potential risks, and remediation effects in respect to conflict and human rights abuse [...]”.</p> <p><b>Question 2.4:</b> Should a mining organization have to provide proof of pre-existing market linkages and sales into international markets as a general requirement in the standard? This could be proven e.g. through evidence of actual or trial trades, a letter of intent by the potential clients/ traders and confirmation by the respective National Fairtrade Organisation that indicates a commitment and estimated volumes to be bought under Fairtrade term.</p>



Topic	Consultation responses – main outcomes
	Workshop participants replied “yes”, the CECLAC replied “yes” as well. In the survey, 58% of respondents selected “no”, 21% selected “yes” and 21% selected “don’t know”.
Topic 3: Mining workers	<p><b>Question 3.1:</b> Should the standard requirements be more stringent in operations with e.g. more than 10 hired non-member workers and even more stringent with a higher number of hired workers (e.g. more than 100) in areas such as e.g. wages, contracts, human resources management, conditions of employment, occupational health and safety?</p> <p>Workshop participants voted “no”, the CECLAC equally voted “no”. 38% of respondents to the survey also voted “no”, 35% voted “yes”, and 27% voted “don’t know”.</p> <p><b>Question 3.2:</b> If your answer to 3.1 is “Yes”: Does the breakdown of number (1-10; 11-100; &lt;101) of workers presented in question 3.1 make sense?</p> <p>Workshop respondents replied “don’t know”; the CECLAC replied “no”. In the survey, 39% of respondents replied “no”, 38% replied “yes”, and 23% replied “don’t know”.</p>
Topic 4: Medium- and Large-scale Mining	<p><b>Question 4.1:</b> Should Fairtrade explicitly exclude medium- and large-scale mining businesses (which are not considered artisanal or small-scale mining businesses) as producers from the scope of this standard?</p> <p>Workshop participants replied “yes”, the CECLAC replied “yes” as well. In the survey, the question was misunderstood at least by a few respondents, which is clear when comparing the choice of “yes”/”no” and the relating comment. Therefor the percentages are unclear.</p> <p><b>Question 4.2:</b> Should Fairtrade consider certifying Artisanal Miners recognised by Large Scale Mining Companies and allowed to operate within their mining operations?</p> <p>Workshop participants replied “yes”, and the CECLAC replied “no”. In the survey, 67% of respondents replied “yes”, and 21% replied “don’t know”, while 12% selected “no”.</p>

Note: open-ended questions are not reflected in the above summary.

### 1.3. Way Forward

Based on the results of this consultation, S&P will develop proposals for the second round of consultation. This will also require further research to include more technical topics beyond refining the scope of the standard, such as e.g. environmental protection.

The table below describes the progress to date and next steps:

Activity	Timeline
Scoping	November 2018
Research	December 2018 – July 2019



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Consultation 1 <sup>st</sup> round	August – September 2019
Analysis of consultation responses	September – November 2019
Publication consultation results synopsis	November 2019 tbc
Drafting proposal 2 <sup>nd</sup> round	November 2019 – January 2020
Consultation 2 <sup>nd</sup> round	January – February 2020
Analysis of consultation responses	February – March 2020
Drafting final proposal	March – April 2020
SC decision	June 2020
Publication	Q3 2020

## 1.4. Acronyms and Definitions

### Acronyms:

ASM	Artisanal and Small-scale Mining
ASMO	Artisanal and Small-Scale Mining Organization
FI	Fairtrade International
ILO	International Labour Organisation
LSM	Large-scale Mining
NFO	National Fairtrade Organisation
NGO	Non-Governmental Organisations
PN	Producer Network
PO	Producer Organization
SME	Small and Medium-sized enterprise

### Definitions:

Accumulator	Local intermediary, who has the capacity to accumulate and export gold from multiple artisanal and small scale mining organizations who do not have the capacity to trade and export gold directly. This could be in the form of a local trader, local NGO or local mining entity with formal trade linkages.
Operator	In the context of mining - any possible actor in the mining sector
Organization	In the context of mining - miners that are legally organized in groups with equal rights and duties

## 1.5. Annexes

- Summary of workshop feedback – available upon request
- Feedback by the CECLAC – available upon request

## PART 2 Draft Standards Consultation - Outcome

### 2.1. Consultation process

The consultation in survey format was published online in Survey Monkey and was also available in word format on the Standards section of the Fairtrade website. Both links were sent to all certified Artisanal and Small-scale Mining Organizations, traders and other relevant stakeholders. The survey was open for 37 days. In addition to the possibility to give written feedback, workshops also took place for stakeholders in Peru that enabled verbal feedback and group discussions of topics. S&P particularly thanks the CLAC who organized these workshops and enabled participation in the consultation.



For each of the topics consulted this report considers the responses provided via the survey and the responses provided in workshops in a summarized way in order to protect anonymity.

## 2.2. Participants

### Workshop participants

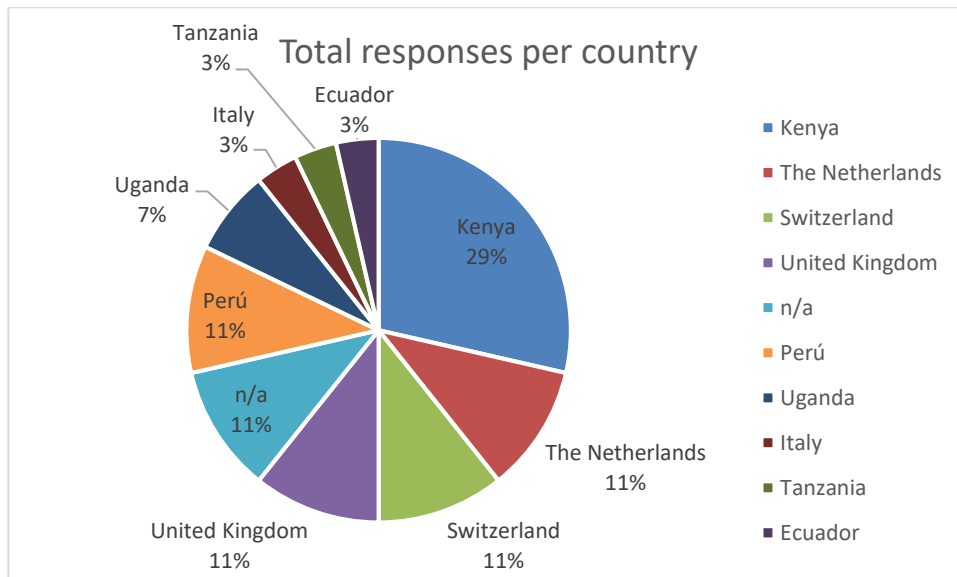
Besides the opportunity to provide feedback through the survey, CLAC organized 2 workshops in Peru for participants to discuss their feedback. The first workshop comprised 18 participants from alluvial mining organizations– either miners or experts on artisanal and small-scale mining – from the regions of Ananea, Juliaca and Puno. The second workshop had 8 participants from underground mining organizations (both miners and experts on ASM) from the regions of Arequipa and Ayacucho.

The responses of the workshop participants were submitted in the written survey format representing collective opinion.

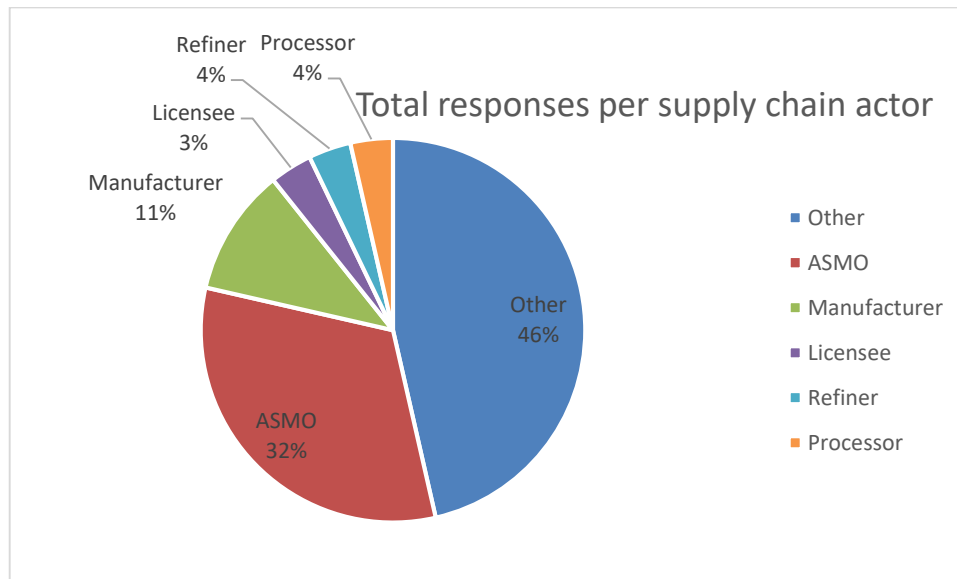
Additionally, the CLAC submitted a collective feedback from the CECLAC (Standards Committee of the CLAC) as input to this consultation and this is analysed as part of the analysis of input through workshops.

### Online participants

In total 28 stakeholders participated via the online tool or provided written responses to the questionnaire. Among them there were 11 women and 17 men. Per country the highest participation came from Kenya 29% (8 participants), followed by 11% (3 participants) from Peru, 11% from The Netherlands (3 participants), 11% from Switzerland (3 participants), 11% from the United Kingdom (3 participants) and 11% who selected n/a (3 participants).



Looking at the distribution per responsibility in the supply chain, in the following chart below, 46% of participants are “other”, meaning NGOs, FLOCERT, researcher or mining expert. 32% of participants are ASMOS, two of which are also processors and one also exporter. The roles of processors, manufacturers and licensees could not be clearly divided.



Please note that we have not combined the participation numbers in the written survey with the participation in the workshops as it is possible that some workshop participants also participated via the online questionnaire.

### 2.3. Consultation Outcome

The first round of consultation focuses on refining and clarifying the existing scope of the standard and on how the standard could adapt to the needs of mining operators which are structured differently from Small-Scale Producer Organizations. The intention of this exercise is to better characterize which types of artisanal and small-scale mining operators would be covered by the Fairtrade Standard in the future; refining the scope of the standard moving forward.

Building on the outcomes of the first round of consultation, the second round will include a more technical proposal for discussion with stakeholders, including the additional topics identified for review.

This section presents the aggregated and high level outcomes of the consultation. For each question, after the topic description, the consultation outcomes are presented in two steps: the input received through the workshops and by the CECLAC followed by input received through written responses. Due to the different dynamics of the two main methods of providing feedback, it is more transparent to keep the results of the workshops separate to the written feedback. Also, we would like to bring particular attention to the outcomes of the workshops as they are results of collective discussions.

For the analysis of the written responses, blank responses were not counted so the number of respondents per question may change.

In the analysis of the responses the Project Manager tried to identify aggregated trends per topics. In addition, the project manager strived to capture areas of common agreements or divergence of views to summarize main opportunities/concerns.





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## Topic 1: Definition of Artisanal and Small-scale Mining Organizations

### Introduction of topic and overall aim of the proposal:

In the Artisanal and Small-Scale Mining sector, mining operations can be set-up in many different ways. There could be e.g. individual miners working in a group selling their yield to an accumulator or members mining jointly in a cooperative or it could be a company run and owned by a family, a group of investors or an individual – or all of these co-exist in one ASMO at the same time. While there could be few or hundreds of shareholders or members or only one owner of the business, there could be few or hundreds of hired mine workers carrying out the manual labour in the mine. The size of the business, the degree of mechanization, rate of recovery, processing and other factors can vary considerably, according to the artisanal or small-scale character of the mine<sup>1</sup>.

The Fairtrade Standard for Gold and Associated Precious Metals for Artisanal and Small-Scale Mining is generally open to all of these set-ups and differently sized mines, as long as they can fulfil all requirements in the section on Business and Development, e.g. on Democracy, Participation and Transparency. Therefore, in practice, only miners formally organized (e.g. in cooperatives) have been able to become Fairtrade certified. In these certified organizations, only the members will be able to take decisions and manage the [Fairtrade Premium](#).

In situations where operators (operator: any possible actor in the mining sector) do not function as an organization in which members have equal rights and duties, current Fairtrade standards do not specifically describe how key Fairtrade principles should be implemented, such as: e.g. traceability, premium use, workers' empowerment, democracy, transparency and participation in decision-making.

The standard allows organizations with direct rights, organizations with indirect rights and operators with a nature different from that of an organization to potentially be certified. However, it does not describe with the necessary accuracy how the Fairtrade principles can be implemented by operators other than an organization.

Given the interest of non-Fairtrade mines to be certified as Fairtrade and the demand for more Fairtrade certified gold from the market-side, this consultation seeks to explore which organizational set-up existing in the ASM-sector should be explicitly included in the scope of Fairtrade and which requirements they should fulfil and which ones should be explicitly excluded.

According to the Standard, page 3 ("Purpose") –

"An ASMO promotes formalization and improvement of mining practices within an ASM community, and has direct (held by the ASMO) or indirect (held by miners of the ASMO) legal or contractual rights and environmental permits to mine.

An ASMO is comprised of and/or held by legal owners, landowners, shareholders and/or members. Under the ASMO's umbrella different artisanal and small-scale miners may be operating with the ASMO's consent: among them there might be self-employed miners, family units, groups of self-employed miners, other community-based organizations like women mineral selectors, micro-enterprises contributing to the family economy, small enterprises, and similar, as well as various types of workers.

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<sup>1</sup> Definition by OECD: Artisanal and Small-scale Mining (ASM) – formal or informal mining operations with predominantly simplified forms of exploration, extraction, processing, and transportation. ASM is normally low capital intensive and uses high labour intensive technology. "ASM" can include men and women working on an individual basis as well as those working in family groups, in partnership, or as members of cooperatives or other types of legal associations and enterprises involving hundreds or even thousands of miners. For example, it is common for work groups of 4-10 individuals, sometimes in family units, to share tasks at one single point of mineral extraction (e.g. excavating one tunnel). At the organisational level, groups of 30-300 miners are common, extracting jointly one mineral deposit (e.g. working in different tunnels), and sometimes sharing processing facilities. <http://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>, p. 65.



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The ASMO is responsible for Fairtrade certification and has either the legal right to grant permission to miners to work under its umbrella or has been appointed by the holders of such rights to jointly represent them in all matters related to Fairtrade certification.”

These are the main characteristics which describe an ASMO eligible for Fairtrade certification: the ASMO should have a legal, formal, transparent and democratic structure; it should have direct or indirect rights to land and concessions and environmental permits to mine; an accreditation for the artisanal and small-scale nature of the organization; members of the ASMO should be community based artisanal and small-scale miners who carry out the work themselves; the ASMO should have clearly defined geographical boundaries.

Taking into account the theoretical potential to certify any ASMO and the current factual limitation of access to Fairtrade certification only for miners that are legally organized in groups with equal rights and duties (“organizations”); Fairtrade wants to consult on the definition of organization and on which forms of ASMOs should be considered for inclusion or exclusion in the scope of Fairtrade certification.

### **1.1 Definition of “organization”**

In this context, given the heterogeneous nature of the artisanal and small-scale mining sector globally, it is important to differentiate in the Fairtrade context between an Organization and an Operator. In fact, under the current regulations only organizations can be certified. Operators could only enjoy the benefits of Fairtrade if they are under the umbrella of a certified organization. Therefore, and given the nature of the sector, it is important to be able to determine what might be the minimum number of people that make up an organization (owners, landowners, shareholders, members).

**Question 1.1.1** What is the minimum number of people that should be defined in the standard to preserve the concept of “organization”? Please suggest the **minimum number** of members an organization needs to have to be eligible for Fairtrade certification as an organization and explain why:

10

15

Other number:

Please explain why:

#### **Feedback from workshops in Peru and by the CECLAC:**

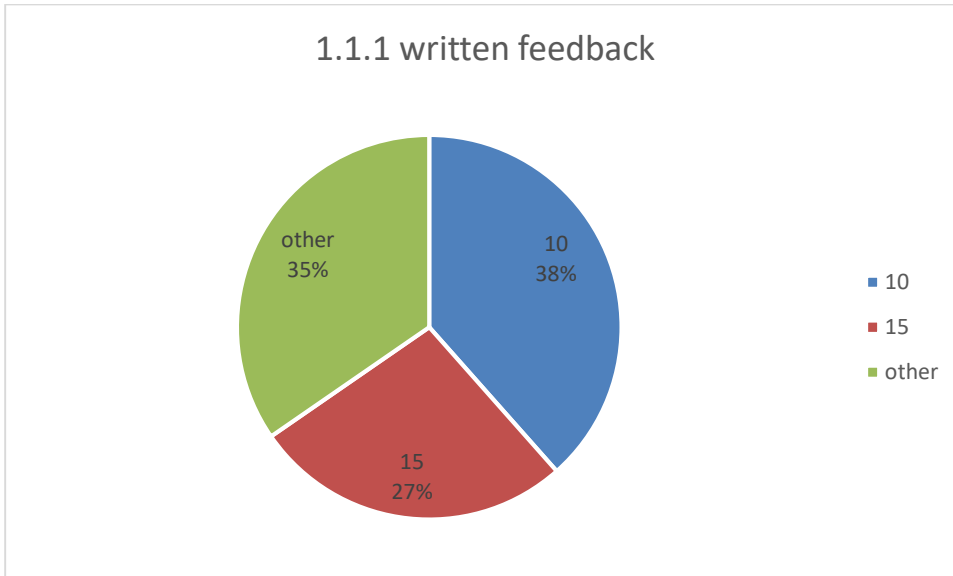
The participants of one workshop collectively decided for a minimum number of 11 members to define an organization and in the other workshop, they decided to put it to 12. The reasoning behind that was that this number was tied to the legally required number of members for the formation of a cooperative.

The CECLAC also decided for 12 as the minimum number of members to an organization because of the legal regulations in Peru. They also stated that it was even more important to define who could be a member of an ASMO and to exclude any external agents who do not own the operation.

#### **Written feedback:**



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Other concrete suggestions by respondents included the following numbers: 30, 25, 5, 3, 2. There were many more suggestions in the comments sections. Participants from ASMOS suggested e.g. that members should have active positions; to bear legal requirements in mind; that members should sit together to make decisions; that organizations should not be formed by families or clans; the size of the business (meaning also degree of mechanization and rate of recovery) should be taken into account; management positions should rotate and fewer members could enable faster agreements and a clear vision of the decisions. Other participants (who do not belong to an ASMO) also suggested that the number of members needs to be in line with legal requirements and positions should rotate. Furthermore, several participants suggested that the number of members was not important, it would be valuable if key Fairtrade principles would be implemented e.g. also in business-owned organizations, so that more miners could benefit from Fairtrade. Another participant suggested that 10 would be a good number because it is difficult to establish organizations in mining.

**1.2 Should the scope of certification be extended to operators with direct rights (operators who have all the legal rights to operate and sell) who are not considered organizations**

There are artisanal and small-scale mining operators, whose nature is not that of an organization, and who have direct legal rights and obligations to explore and exploit a mining concession, these operators can be individuals, family businesses, partnerships with less than the minimum number required to be considered by Fairtrade as an organization and the like.

These different types of operators, under the current rules could – provided the consent of the organisation – operate under the umbrella of a certified organization, but they cannot independently become Fairtrade certified.

**Question 1.2.1** Would you agree that an operator who has all direct rights (legal rights to operate) but is not an organization (organization meaning miners who are legally organized in groups with equal rights and duties) can become Fairtrade certified?

Yes

No



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Don't know

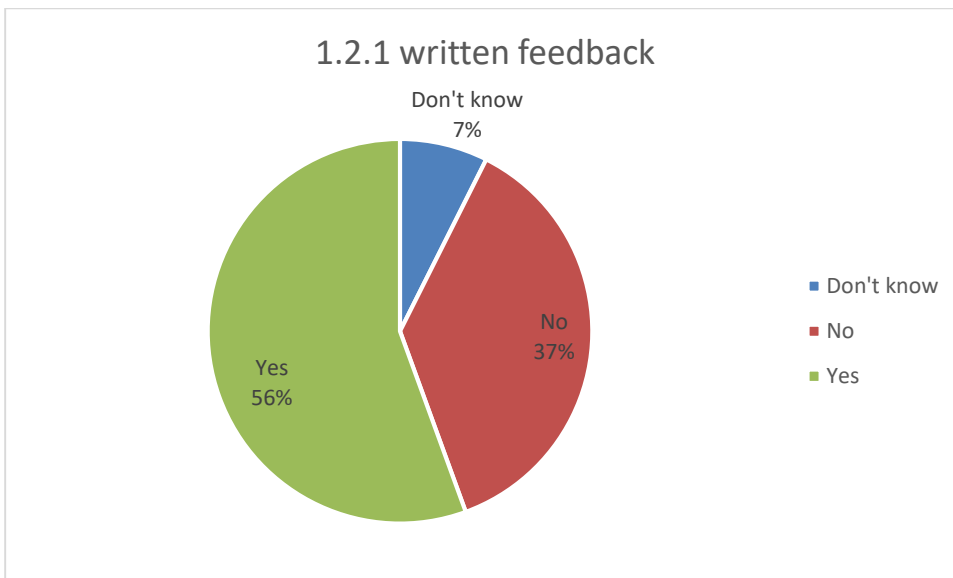
Please explain why:

### Feedback from workshops in Peru and by the CECLAC:

All workshop participants in both workshops answered this questions with a yes, saying that if these groups are within ASM and if they have all the legal permits to start an operation, they should be eligible for Fairtrade certification and not be discriminated against.

The CECLAC voted with a no, expressing their disagreement about intermediaries or companies joining as members of an ASMO.

### Written feedback:



In the survey, 56% of respondents voted yes, while 37% voted no and 7% answered “don’t know”. Those respondents who answered yes (among them only two ASMOs) additionally explained e.g. that if such an operator could meet the standards, there should be no reason not to certify them (this was highlighted several times), since the benefit could reach far. Also, it was said that certifying a formalized operator could benefit women as they were more likely to find jobs in formalized circumstances. It was mentioned that additional requirements might be needed to certify an operator; compliance with workers’ rights would have to be mandatory; that this could be an opportunity to a better life and that these operators should also be formalized. Among those who voted no, there were 7 ASMOs. Many times it was said that Fairtrade should only work with formalized organizations with equal rights and duties of members, where key Fairtrade principles are implemented and that these should be supported by Fairtrade. It was also mentioned that certifying other operators would lead to competition. It was also mentioned by those respondents who voted “don’t know” that Fairtrade might have to redefine many aspects in the standard in case it should be decided to widen certification to other operators.

**Question 1.2.2** If your answer to 1.2.1 is “Yes” please share your opinion whether the benefits of Fairtrade certification, such as premium and empowerment, should be directed towards the owners/landowners/shareholders of the business or/and the hired workers.



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- Only to the owners/landowners/shareholders of the business
- Only to the hired workers
- To both

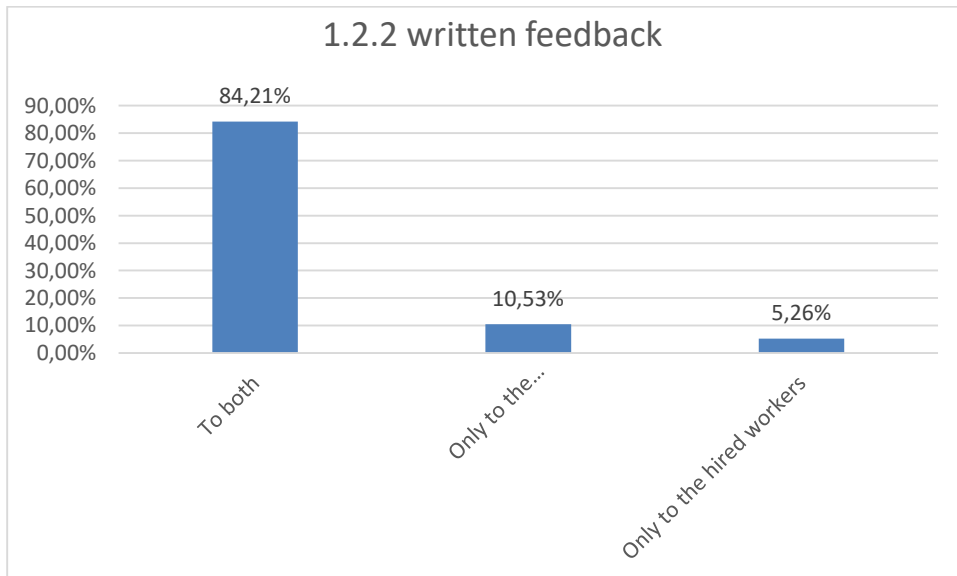
Please explain why: [Click here to enter text.](#)

### Feedback from workshops in Peru and by the CECLAC:

In both workshops in Peru, all participants answered “To both”. The reason was that benefits should be shared because everyone is part of the same company and investment of the premium funds should be for common benefit.

The CECLAC did not answer this question as they had answered “1.2.1 Would you agree that an operator who has all direct rights (legal rights to operate) but is not an organization (organization meaning miners who are legally organized in groups with equal rights and duties) can become Fairtrade certified?” with no.

### Written feedback:



A strong majority of participants of the survey – 84% - are in favour of sharing the benefits of Fairtrade certification both with the owners and the hired workers. 11% prefer directing the benefits only to the owners and 5% only to the hired workers. In their explanations, most stakeholders emphasized their vote without adding any new arguments. The stakeholder who voted “Only to the hired workers” additionally said that the premium should benefit the mining community positively and investment decisions should be taken in line with the needs of the community.



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**Question 1.2.3** If your answer to 1.2.1 is “Yes” please share your opinion how (with which criteria) the Fairtrade eligibility criteria “should be community based” and “should carry out the work themselves” could be applied.

[Click here to enter text.](#)

#### **Feedback from workshops in Peru and by the CECLAC:**

The participants of the two workshops in Peru replied via consensus that this requirement should not be interpreted as “local community” but instead as “Peruvian”. “Should carry out the work themselves” should instead be applied as people should do the work themselves as long as they are in optimal health conditions, since mining is a high-risk job.

The CECLAC did not answer this question as they had answered “1.2.1 Would you agree that an operator who has all direct rights (legal rights to operate) but is not an organization (organization meaning miners who are legally organized in groups with equal rights and duties) can become Fairtrade certified?” with no.

#### **Written feedback:**

In the survey, respondents mention that “should be community based” should be applied in relation to hiring a (large) part of hired workers locally; and the community should have a say in decisions. “Should carry out the work themselves” is not understood as physically carrying out the work but being in charge of it and possibly outsourcing. Additionally, there should be Fairtrade Committees monitoring the benefits of the community. One respondent states that this requirement should be applied strictly in order to reach the objective of certification. Another respondent states that the owner should guarantee a job with decent payment for a longer time to hired workers. It was also mentioned that guidelines on infrastructure are needed.

**Question 1.2.4** If your answer to 1.2.1 is “YES”, i.e. you agree that Operators with direct rights that are not Organizations may be eligible for certification, please answer the following questions:

The change to be achieved through certification and the sales of gold from Artisanal and Small-scale Mining under Fairtrade terms is the promotion of local development and the improvement of the quality of life of miners, families and communities. In this sense, we believe that operators applying for certification should as well enable this impact. Therefore, it is important to identify /describe those types of operators who would be able to contribute to the local change proposed by Fairtrade, i.e. generate decent employment and income for miners and invest profits locally.

**a)** One of the most frequent and challenging reason for conflicts in artisanal and small scale gold mining is about access to land and the right to use land, often only granted for a limited period. Therefor Fairtrade believes that only operators (investors, families) that have the concession rights **and** the legal property of the land can contribute to the change that Fairtrade promotes at the local level. Do you agree?

Yes

No



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Don't know

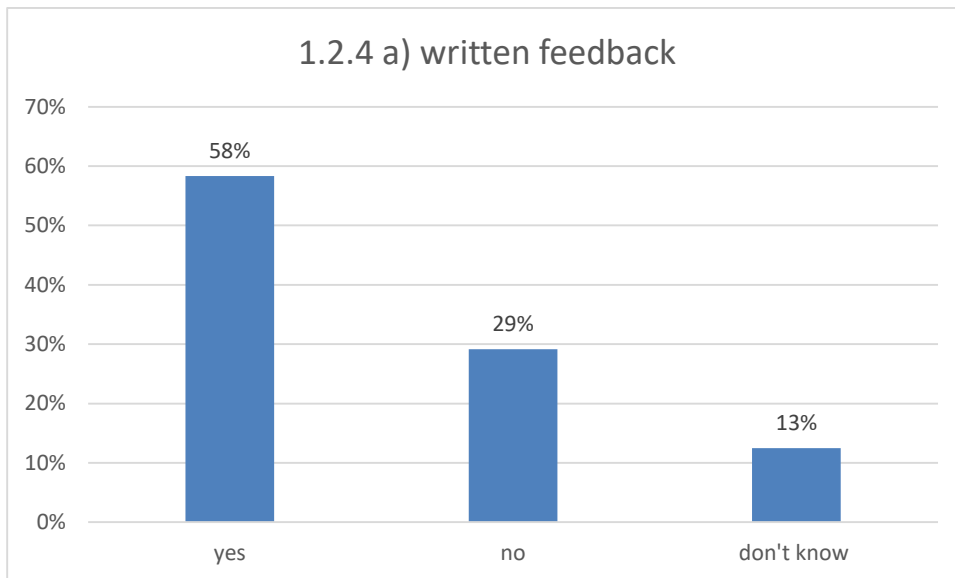
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### Feedback from workshops in Peru and by the CECLAC:

The participants of both workshops in Peru unanimously voted no to this question. They reasoned that in the mining sector there are many legal forms of exploitation, contracts and rights. What would be necessary is that the operators would have to have a contract with the owner of the surface land to avoid any kind of social conflict that could be created.

The CECLAC did not answer this question as they had answered "1.2.1 Would you agree that an operator who has all direct rights (legal rights to operate) but is not an organization (organization meaning miners who are legally organized in groups with equal rights and duties) can become Fairtrade certified?" with no.

### Written feedback:



58% of respondents agree that only operators (investors, families) that have the concession rights and the legal property of the land can contribute to the change that Fairtrade promotes at the local level. Several respondents who voted yes additionally suggested that if owners of these rights run operations, this increases chances for long-term development perspective. It was mentioned that it can be difficult to obtain both concession rights and rights to use land in some countries. Additionally, it was mentioned that Fairtrade should not support land-grabbing and instead Fairtrade certified mines must operate in legal conditions. Finally, it was said that dialogue mechanisms should be encouraged.

29% of respondents voted no. They explained e.g. that in these circumstances, few miners would benefit from certification. Also, only few women hold concession rights and property of land, therefore they would benefit less than men. Sometimes, agreements can be renewed after expiration without problems, or sometimes agreements have a duration of more than 3 years. They also argued that landowners might not have the capacity to solve conflicts in mining areas. Furthermore, owners of rights may not



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have capital to run an operation or might have lost interest and hence might want to rent it to somebody else. 13% of respondents selected “don’t know”.

**b)** There are scenarios in which the legal owner of the concession has legal permits for surface / land use, but does not own the land. Should Fairtrade in such a scenario only work with a local operator (investor, family) or as well with foreign investors, families? (Here, local operator means a citizen of the country in which the mine is located.)

- Only with local investors and family businesses
- With both, local and foreign investors and family businesses
- Don't know

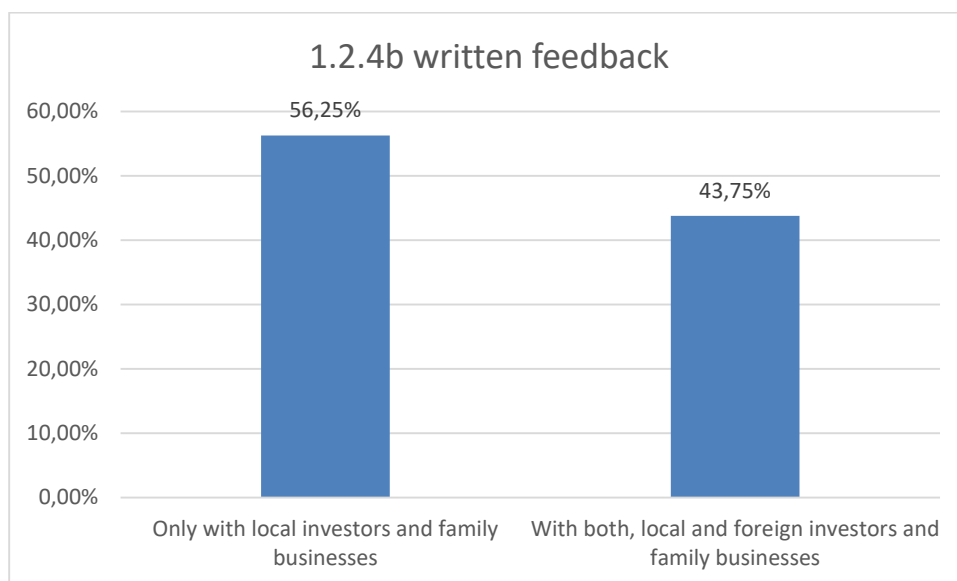
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**Feedback from workshops in Peru and by the CECLAC:**

The participants of both workshops in Peru unanimously selected “Only with local investors and family businesses” to this question. They explained that investments within the national territory energize the economy of the country for a better local development and for their families.

The CECLAC did not answer this question as they had answered “1.2.1 Would you agree that an operator who has all direct rights (legal rights to operate) but is not an organization (organization meaning miners who are legally organized in groups with equal rights and duties) can become Fairtrade certified?” with no.

**Written feedback:**



The majority of respondents (56,25%) selected “Only with local investors and family businesses”, 43,75% of respondents chose “With both, local and foreign investors and family businesses”. “Don’t





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know” was not selected. Those who selected “Only with local investors and family businesses” additionally explained mainly that only local investors and family businesses can promote local development and improve the quality of life of miners and families; whereas foreign investors might not bear the needs of development of the community in mind or act in a way which is not beneficial to the local community. Those respondents who selected “With both, local and foreign investors...” indicated that allowing foreign investors to participate in Fairtrade certification could bring investment through foreign capital which could lead to e.g. a high production standard. The set-up should be regulated through a formal agreement with the landowner and involvement and benefit of the local community. Thus, the impact of such a mining operation could be wider.

**c) Do you have other suggestions for characteristics describing individual operators which would be well capable to contribute to the local change aspired by Fairtrade?**

Please describe and explain why: [Click here to enter text.](#)

#### **Feedback from workshops in Peru and by the CECLAC:**

Workshop participants in Peru collectively decided to suggest that individual marketers or collectors who demonstrate a clear and transparent traceability line would be well capable to contribute to the local change aspired by Fairtrade.

The CECLAC did not answer this question as they had answered “1.2.1 Would you agree that an operator who has all direct rights (legal rights to operate) but is not an organization (organization meaning miners who are legally organized in groups with equal rights and duties) can become Fairtrade certified?” with no.

#### **Written feedback:**

Some trends could be seen when reading all replies to this open-ended question. It was mentioned several times that groups/ organizations should be favoured before individual operators and several reasons were mentioned, e.g. organizing creates strength and Fairtrade should support organizations. It was also mentioned that certifying individual operators could raise competitiveness.

On the other hand, many characteristics were mentioned: e.g. an individual operator should have awareness of gender dimensions and willingness to promote women’s empowerment and protect their rights; and also support single mothers who scrape tailings. An operator can hire workers and improve lives of workers and the community. An operation should have a history of several years in a region, it should not be newly established. The operator should find ways to ensure that the local community is involved not just as workers but as shareholders or board members to steer the actions of the operation.

**Question 1.2.5** Describe which requirements should be implemented by these operators in order to balance the interests of owners/shareholders and mining workers:

- Co-responsible management of the premium
- Shared use of premium



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- Capacity building for management and workers to understand the benefits of Fairtrade certification and the role of workers
- Participation in collective bargaining
- Participation in social dialogue
- Training of workers and management on occupational health and safety, personal protective equipment, and environmental protection
- Others

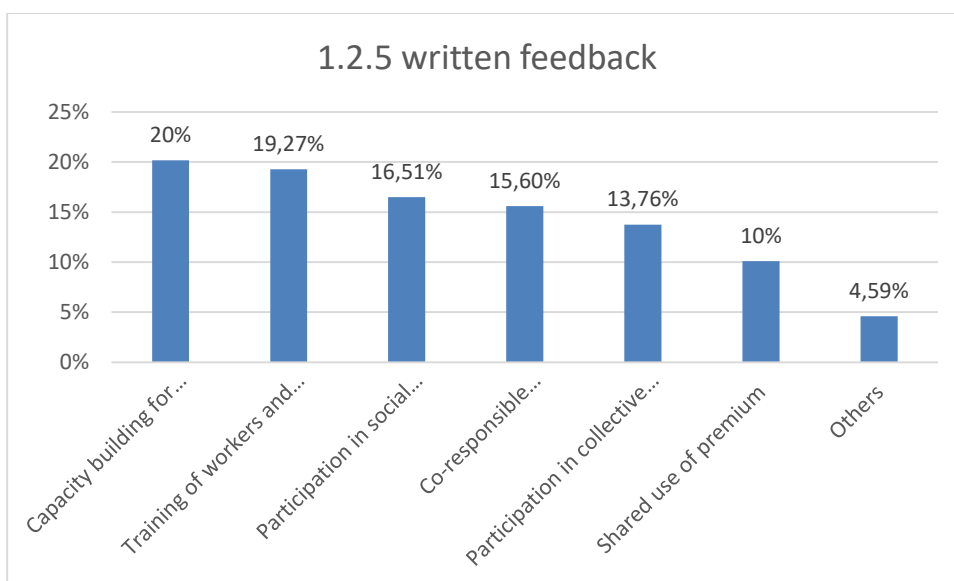
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### Feedback from workshops in Peru and by the CECLAC:

Participants of the workshops in Peru selected almost all options: co-responsible management of the premium; shared use of premium; capacity building for management and workers to understand the benefits of Fairtrade certification and the role of workers; participation in social dialogue; training of workers and management on occupational health and safety, personal protective equipment, and environmental protection. Participation in collective bargaining was not selected. They explained that the operators which are described above could play an important role in ASM if they shared benefits with their workers in a responsible manner; ensuring the proper management of the Premium that benefits the interests of both (worker and employer), improving work and working conditions, and took care of establishing a good working environment.

The CECLAC did not answer this question as their position is that shareholders should not be members of ASMOs.

### Written feedback:



Respondents of the survey chose most often “Capacity building for management and workers...” (20%), “Training of workers and management...” (19%), and “Participation in social dialogue” (16,5%).

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Additionally, a lot of arguments were provided: Several times it was mentioned that all of the principles should apply, as they are basic principles of Fairtrade and operators should apply them as this will balance the interests of all who are involved. It was also mentioned repeatedly that training was very important, e.g. on Fairtrade to understand it properly and to assume responsibility, or e.g. on gender-specific issues to raise awareness, or e.g. as part of continuous learning and improvement. One respondent mentioned that the Hired Labour Standard should fully apply. Also, the importance of organizing and formalizing was highlighted. Another respondent suggested to add transparency on finances to this list.

### **1.3 Should the scope of certification be extended to organizations with indirect rights, consisting of operators with direct rights (operators who individually have all the legal rights to operate and sell)**

The Fairtrade Standard allows organizations with indirect rights to become certified under the legal form of an organization. In such organizations, members individually have direct legal rights and obligations as well as individual control over extraction, processing and marketing.

Given the wide range of possibilities in the membership of such organizations it is important to delimit the scope of this model so that it can be certified in practical terms.

**Question 1.3.1** In the following paragraph we will ask which type of organizations with indirect rights could be considered for certification:

**a)** Would you agree to consider for Fairtrade certification only organizations of artisanal miners that individually have legal rights and obligations and permits to comply with the mining activity; and that organizing constitutes a strengthening strategy that contributes to a better commercial position and potential to process and export the collective production of its members?

Yes

No

I don't know

Please explain why: [Click here to enter text.](#)

### **Feedback from workshops in Peru and by the CECLAC:**

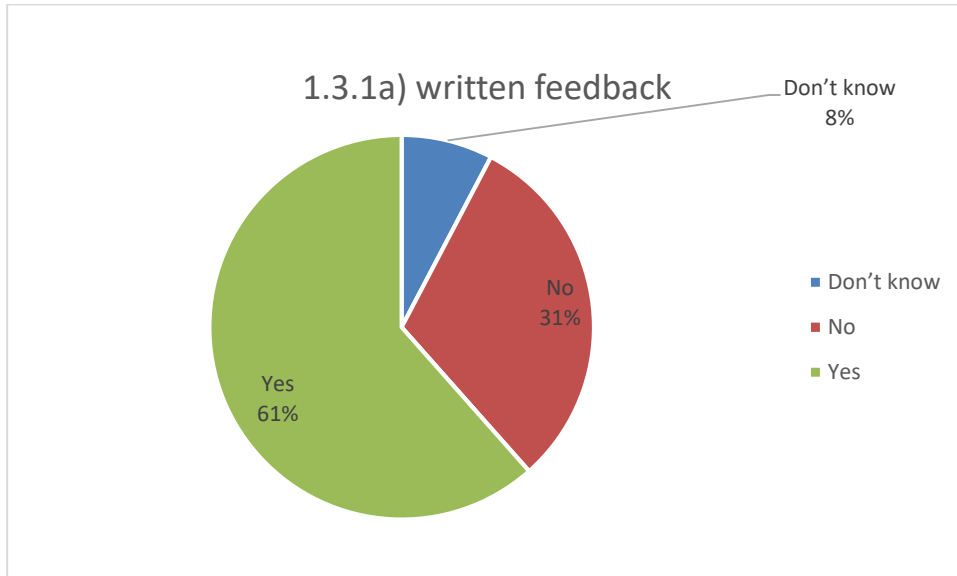
The participants of the workshops in Peru unanimously voted “yes” to this question. They explained that commercialization would allow development and economic growth.

The CECLAC also voted yes to this question and explained that whenever there was a real and legal organization, it could achieve economic development and growth through commercialization.

### **Written feedback:**



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61% of respondents said “yes”, only organizations of artisanal miners that individually have legal rights and obligations and permits to comply with the mining activity should be considered for certification [...]. In their explanations it was often highlighted that an organized group is strong compared to an individual artisanal miner. Also, it should be formalized artisanal mining operating in the legal context of the country. A group could possibly market their yield better compared to individuals. This could be one way of promoting ASMOs and supporting more artisanal miners. Those who replied with a “no” (31%) also listed some arguments, e.g. several respondents stated that it would be difficult to obtain the respective permits needed to run a mining operation for an individual, as this requires both time and money. Also, this approach could demoralize others. It was said that no artisanal miner should be left out and finally it was mentioned that this setting might not be possible in some legal frameworks.

**b) Would you agree to consider only organizations for Fairtrade certification in which all members have the same rights and duties?**

- Yes
- No
- I don't know

Please explain why: [Click here to enter text.](#)

#### **Feedback from workshops in Peru and by the CECLAC:**

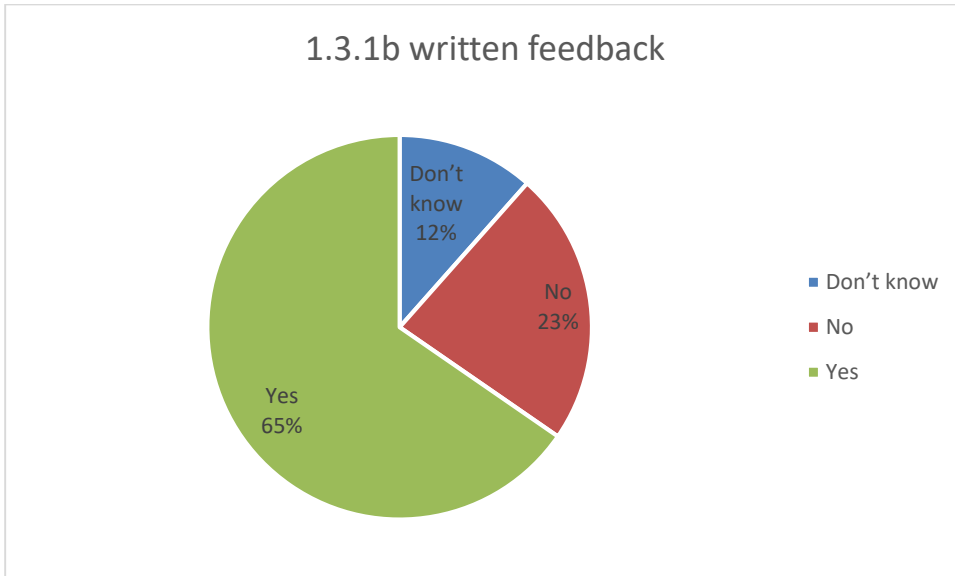
The participants of both workshops replied “yes” to this question, explaining that this rule was based on compliance with the Fairtrade principles which allow equality for all.

The CECLAC replied “yes” to this question, stating exactly the same reason as above.

#### **Written feedback:**



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65% of the respondents replied “yes”, only organizations in which all members have the same rights and duties should be considered for Fairtrade certification. It was stated that democracy can only be achieved if members have the same rights; and that Fairtrade is meant to assist to achieve a situation with the same rights and duties for all members. It was also mentioned that having the same rights and duties would benefit all. One stakeholder mentioned that all members should have the same rights but not the same duties. Another stakeholder explained that having the same rights and duties serves to avoid misunderstandings among members. 23% of respondents replied “no” to this question. They explained e.g. that positive impact in the community does not require equal rights and duties within an organization. It was also argued that limited companies with few decision-makers should also be considered for certification as they can provide employment. One stakeholder explained that a member could take up more responsibility and therefore should have a right to receive more than others. Another stakeholder mentioned that not everybody in an organization carries out the same duties. One of the respondents who selected “don’t know” asked if different types of members with different roles would have different rights and duties as well.

c) Would you agree to consider organizations for Fairtrade certification as well in which one member has much more economic power than the other members?

- Yes
- No
- I don't know

Please explain why: [Click here to enter text.](#)

#### Feedback from workshops in Peru and by the CECLAC:

The workshop participants in Peru unanimously voted “no”. They explained that in this case, the principles of democracy, transparency and decision-making would not be respected, it would concentrate on the one that manages the greatest economic power, which would not be favourable.



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The CECLAC also voted no. The explained exactly the same as the workshop participants, adding that this would contradict Fairtrade principles.

**Written feedback:**



44% of respondents replied no, organizations in which one member has much more economic power than the other members should not be considered for certification. 40% replied yes, and 16% replied don't know. Those who replied yes provided their rationale as well, e.g. one respondent said that members are not economically equal anyway; that members depend on each other's economic contribution; it could be applied in a scenario when an ASM works on the concession of a Medium- or Large-scale Mine; human rights still need to be granted. One proposal was that the biggest member cannot be more than 3 times as the average of all members and mechanisms should be put in place to prevent strong members from controlling or deciding for other members. Those who voted no also offered explanations. E.g. one stakeholder mentioned that this could increase the stronger members' freedom to make decisions that benefit themselves alone, which affects equity. Rules should be introduced to regulate an unequal relationship and measure the risk. It was mentioned several times that all members should have equal rights and duties. It was also said that this could cause conflict or monopoly. Additionally, one stakeholder said that this was contrary to the equity that should be promoted. The respondents who selected "don't know" also provided their rationale: It was mentioned several times that taking on a management position in an organization could already mean assuming more economic power, but everyone would have to be paid fairly. Another respondent added that case studies should be reviewed before taking a decision. Another respondent wrote that owners of small-scale organizations would have greater contributions but benefits should be shared with workers.



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d) In artisanal mining situations the volumes produced can be very low. Additionally, the miners need to sell the gold on a daily or weekly basis because they lack working capital. As long as their organization is not strong enough to accumulate relevant volumes this is a barrier to international markets.

In such situations there is need for a cooperation with an accumulator that a) supports the organization to increasingly develop their own ability to accumulate and b) buys and sells the gold from the organization in a transparent and traceable manner. Therefore, the business relationship between the organization and the accumulator who has the legal right to buy and sell gold is crucial.

What should be the responsibilities of an accumulator who is certified as a trader towards the development of the Artisanal Mining Organization and what could be the benefit of the accumulator from working with the organization?

Please describe and explain why: [Click here to enter text.](#)

### **Feedback from workshops in Peru and by the CECLAC:**

The participants of the 2 workshops in Peru replied collectively, that [the accumulator] provides a fair price and demonstrates a line of reliable traceability, transparent contracts, that builds trust through proper communication.

The CECLAC replied that in these cases the intermediary must be qualified as an exporter. He or she must be responsible for: Paying a fair price and demonstrating a reliable traceability line, transparent contracts, which builds trust, [and] correct communication. Make direct deal with the cooperative and never individually with a member; that the collection of the product is done by the organization with its members; sign a tripartite contract to ensure that the organization is also related to the importer. It would have the benefits of: a direct purchase channel that ensures no violations of rights or exploitation, which gives credibility in the ethical market; the product goes through fewer hands, and obtains it from an institutional channel.

### **Written feedback:**

In the survey, respondents proposed many aspects which could be taken into account when defining the role of the accumulator, below they are divided into obligations and advantages. Most of these were mentioned several times.

#### Obligations of an accumulator:

- The accumulator has to be Fairtrade certified and this role including the responsibilities has to be clearly defined.
- A fair price (or highest possible price) should be paid by the accumulator to the miners. The accumulator should be the Fairtrade price and premium payer. Also, the Fairtrade Minimum Price for gold should be reviewed.
- The accumulator must facilitate traceability (also, maintain a segregated aggregation) and ensure transparent and frequent regular sales (possibly after processing it). This person should not take possession of the product and should substitute middlemen. Altogether, the accumulator should ensure responsible gold production. At the same time the accumulator should facilitate access to international markets for the ASMO.
- The accumulator should support the organization financially, possibly like an investor. This role should facilitate pre-finance and support development of organizations.
- The accumulator should provide security and engage with ASMOs for the long-term.



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- The accumulator should support improvement of working conditions and/ or employ ASMO members.
- The accumulator should provide secure transport.
- The accumulator should be aware of the context of gender specific issues and demonstrate willingness to take action to promote women's empowerment and protect their rights. This role should in general be accessible to women.
- The accumulator should be a local.
- The accumulator should provide capacity training for ASMOs.
- The accumulator should work with miners from different ASMOs.

Advantages for an accumulator:

- The accumulator could benefit from capacity building in ASMOs through Fairtrade certification.
- The accumulator will have stable market access under fair conditions and will be able to commercialize a differentiated product.
- The accumulator could gain financially (i.e. a fixed % of gold price) and potentially income from interest on loans

**Additional comments**

Respondents of the survey mentioned that the Fairtrade Minimum Price for gold should be reviewed and requirements on traceability should also be reviewed.

## **Topic 2: Artisanal mining, formalization and initial certification**

**Introduction of topic and overall aim of the proposal:**

In Artisanal Mining, factors such as techniques for mineral extraction, percentage of recovery, sales volume, operational reliability, volume of capital or labour intensiveness may differ substantially from Small-Scale Mining. Furthermore, artisanal miners could be less formalized than small-scale miners. Each of these factors could be more advanced in a Small-Scale Mining Operation. A clear distinction, though, can only be made by consulting laws of respective jurisdictions. In the Fairtrade standard, both Artisanal and Small-Scale Mining Operations are expected to comply with the same requirements – though the degree of development within an organization, the formalization status and the work equipment of Artisanal or Small-Scale Mining Organizations is different.

When responding please bear in mind that a mining organization does not only need to be certified but will need to meet minimal market entry requirements to be able to sell its product into international supply chains.

In this section there were 4 questions consulted:

**Question 2.1:** Should the Fairtrade Standard distinguish Artisanal from Small-scale Mining, i.e. defining different requirement levels at initial certification and different progress timelines for specific requirements?

Yes

No





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I don't know

Please explain why: [Click here to enter text.](#)

### Feedback from workshops in Peru and by the CECLAC:

Participants of the two workshops in Peru replied collectively “yes”, as according to the labour legislation in the mining sector, there is already a small difference in compliance because the working conditions are different.

The CECLAC replied no, arguing that compliance with the basic (minimum) requirements must be the same for artisanal mining and for small-scale mining. For the development requirements there could be flexibility in compliance in year 3 or year 6.

### Written feedback:



Among the survey respondents, 80% replied yes, the Fairtrade Standard should distinguish Artisanal from Small-scale Mining, i.e. define different requirement levels at initial certification and different progress timelines for specific requirements. 12% replied “no”, and 8% replied “I don’t know”. Some of the respondents who selected “yes”, described artisanal mining set-ups as less formalized with a different labour intensiveness; also with a different level of organization. Therefore compliance could be more difficult at individual level, and artisanal mining should be promoted gradually and could require more assistance in early stages; and should be encouraged by Fairtrade. While one respondent said that fundamental requirements should be the same for artisanal miners and small-scale miners and must be met, another suggested lowering the barrier of entry for artisanal miners. One stakeholder suggested to build a new scheme for artisanal miners to support them to form an association and then eventually move to small-scale mining and become Fairtrade certified. It was suggested that Fairtrade refers to the jurisdiction of the respective country as the definition of what artisanal or small-scale mining is, is included in the legal framework of each country. One respondent who selected “no” advised not to distinguish the two as it was too difficult.



**Question 2.2:** If your answer is “Yes” to 2.1, please list the main requirements or areas of operation that could be addressed differently for artisanal miners in the Fairtrade standard.

Please explain: [Click here to enter text.](#)

### **Feedback from workshops in Peru and by the CECLAC:**

The participants of the two workshops in Peru replied collectively that the type of machinery or equipment that could be used for the gold recovery process could be used to distinguish between artisanal and small-scale mining.

The CECLAC did not reply to question 2.2. as they selected “no” answering question 2.1.

### **Written feedback:**

Respondents listed the following areas – mostly several times – that could be addressed specifically for artisanal miners in the Fairtrade standard: labour aspects (including learning from the SPO standard chapter on labour conditions, e.g. on the protection of workers etc.), completed formalization process, the sort of equipment, engagement with the market, training or education, degree of development within the organization, compliance with local laws, permits and licenses, rehabilitation and restoration, volume of production, duration of operation, number of shareholders, transparency, written contracts, sales reports. Some of the aspects mentioned above appear to be meant as aspects which should definitely be included into requirements for artisanal miners. Another suggestion was to adapt progress timelines for artisanal miners only. It was suggested to promote Fairtrade ecological gold, women’s gold and single mother’s gold.

*The Fairtrade Standard supports the process of formalization. Many artisanal and small-scale mining operations however start or remain informal. Organizations could become Fairtrade certified when they are formalized enough to fulfil all requirements for an initial certification. They might, however, face difficulties even within the first year of certification to fulfil requirements which can only be complied with by an even more mature organization.*



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**Question 2.3:** Which levels of formalization should the standard consider at the initial certification?

- You are a legally registered entity and have a valid mining/ mineral processing and land right relevant to your operations.
- You pay taxes, fees, royalties and other tributes to the relevant authorities, as required by the applicable legislation.
- You demonstrate to have identified and assessed potential risks, and remediation effects in respect to conflict and human rights abuse (reference: [OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas](#)).
- Endorsement of formalization by the government.
- Other

Please explain: [Click here to enter text.](#)

**Feedback from workshops in Peru and by the CECLAC:**

The participants of both workshops collectively selected “Endorsement of formalization by the government.”. They explained that it was important that the organization should comply with the entire formalization process in accordance with the current regulations of the energy and mining sector because then no risk of generating certain social conflicts would arise. The formalization process includes permits, licenses, contracts etc. specific to Peru.

The CECLAC replied that the organization should comply with the entire formalization process in accordance with current regulations in the energy and mining sector because otherwise, there would be a risk of generating certain social conflicts. That is, to have the approval by the government. Further, they selected:

- You are a legally registered entity and have a valid mining/ mineral processing and land right relevant to your operations.
- You pay taxes, fees, royalties and other tributes to the relevant authorities, as required by the applicable legislation.
- You demonstrate to have identified and assessed potential risks, and remediation effects in respect to conflict and human rights abuse

Then they additionally explained that they selected these levels of formalization above so that the standard is aligned with the Fairtrade Standard for Small-scale Producer Organizations and does not include different requirements. It also needs to be taken into account that the gold extraction process is of high risk and associated with environmental costs.

**Written feedback:**

You are a legally registered entity and have a valid mining/ mineral processing and land right relevant to your operations.	34,69%
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You are a legally registered entity and have a valid mining/ mineral processing and land right relevant to your operations.	24,49%
You demonstrate to have identified and assessed potential risks, and remediation effects in respect to conflict and human rights abuse (reference: OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas).	18,37%
Endorsement of formalization by the government.	18,37%
Other	4,08%

34,7% of respondents selected “You are a legally registered entity and have a valid mining/ mineral processing and land right relevant to your operations”. 24,5% selected “You pay taxes, fees, royalties and other tributes to the relevant authorities, as required by the applicable legislation”. 18,4% selected “You demonstrate to have identified and assessed potential risks, and remediation effects in respect to conflict and human rights abuse”. Equally, 18,4% selected “Endorsement of formalization by the government.”. 4,1% of respondents selected “other”. Explanations given by respondents included complying with national laws and formalization or a transition plan towards formalization. It was also said that requirements should be realistic, and instead of legality the concept of legitimacy (as used by the OECD) could be applied together with progress requirements and control of abiding by human rights. Furthermore, it was highlighted that requirements with a lower bar will increase the likelihood that women can access the scheme and benefit from it. One stakeholder mentioned that – depending on the legislation – it may be possible for artisanal miners to run their operation without a legal entity, land rights or a mining concession. Another stakeholder mentioned that achieving any of the options takes time and money for groups of artisanal miners. One respondent highlighted that transparency on taxes was necessary.

*Within the current structure of the Fairtrade standard, it is possible for ASMOs to become Fairtrade certified without any pre-existing formal market linkages. ASMOs therefore do not experience the full Fairtrade benefits, and may not see the value of certification, when they cannot access Fairtrade markets. Acquiring and maintaining certification is a significant investment to the ASMO, and Fairtrade would like to ensure that ASMOs can benefit from certification before they make significant investments.*

**Question 2.4:** Should a mining organization have to provide proof of pre-existing market linkages and sales into international markets as a general requirement in the standard? This could be proven e.g. through evidence of actual or trial trades, a letter of intent by the potential clients/ traders and confirmation by the respective National Fairtrade Organisation that indicates a commitment and estimated volumes to be bought under Fairtrade term.



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- Yes
- No
- Don't know

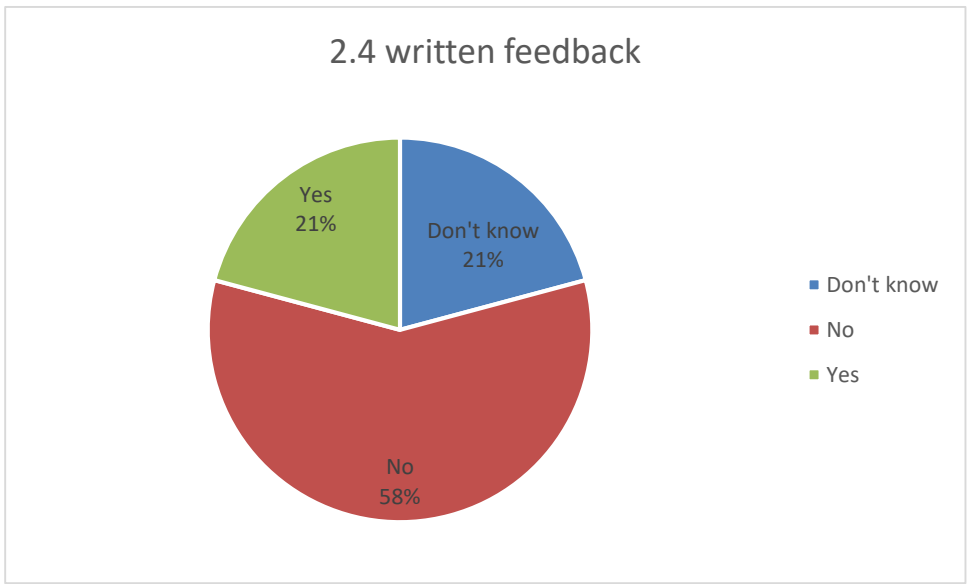
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**Feedback from workshops in Peru and by the CECLAC:**

The participants of the 2 workshops in Peru unanimously replied “yes” and explained that it was important for the mining producer to have marketing experiences and in this way create a commercial relationship with the customer which generates trust and transparency.

The CECLAC also replied yes to this question and stated that it was important for the miner to have marketing experiences and thus create a business relationship that creates trust and transparency with the customer. The tripartite contract must also be included to link the ASMO with its importer. The letter of intent should be removed from the list of documents as evidence of market potential.

**Written feedback:**



58% of respondents replied “no”, mining organization do not have to provide proof of pre-existing market linkages and sales into international markets as a general requirement in the standard. 21% replied “yes”, and likewise 21% replied “don’t know”. Several of those respondents who selected “no” advised that Fairtrade should have an advisory role towards applicants about market potential. A number of other respondents said that ASMOs might not have pre-existing market linkages and that this might leave African ASMOs out. ASMOs were selling to middlemen, therefore they had not yet sold to international markets. It was also said several times that Fairtrade should offer official market channels. Letters of intent would guarantee sales of Fairtrade certified gold in the future. Another stakeholder wrote that there was sufficient market demand, therefore this requirement was not



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needed. There was a need to trust small organizations. It was also said that instead what should be demonstrated was traceability and abiding by the law. Those who replied yes explained that by fulfilling this requirement, the organization could prove that they had a minimum of knowledge of business management. Another respondent said that this would help to ensure sales to international markets and brokers could be avoided. Yet another respondent mentioned that this would help to avoid bad practices. Those who replied don't know also offered explanations: Such a requirement would form an additional burden at the initial stage but market linkages were crucial; it was therefore suggested to evaluate this during the pre-certification stage, e.g. with a pilot export. Another respondent wrote that ASMOs should be able to sell to accumulators, this could also connect miners located in remote areas to international markets. Finally, another respondent mentioned that it might be difficult for artisanal miners to obtain such a proof and it would be important to highlight that such a requirement stimulated formalization and legality of the commercialization of gold.

### Topic 3: Mining workers

Fairtrade certified Organisations, Operators working within a certified Organisation or Operators with the potential to be certified can employ workers.

**Question 3.1:** Should the standard requirements be more stringent in operations with e.g. more than 10 hired non-member workers and even more stringent with a higher number of hired workers (e.g. more than 100) in areas such as e.g. wages, contracts, human resources management, conditions of employment, occupational health and safety?

- Yes
- No
- Don't know

Please explain why: [Click here to enter text.](#)

#### Feedback from workshops in Peru and by the CECLAC:

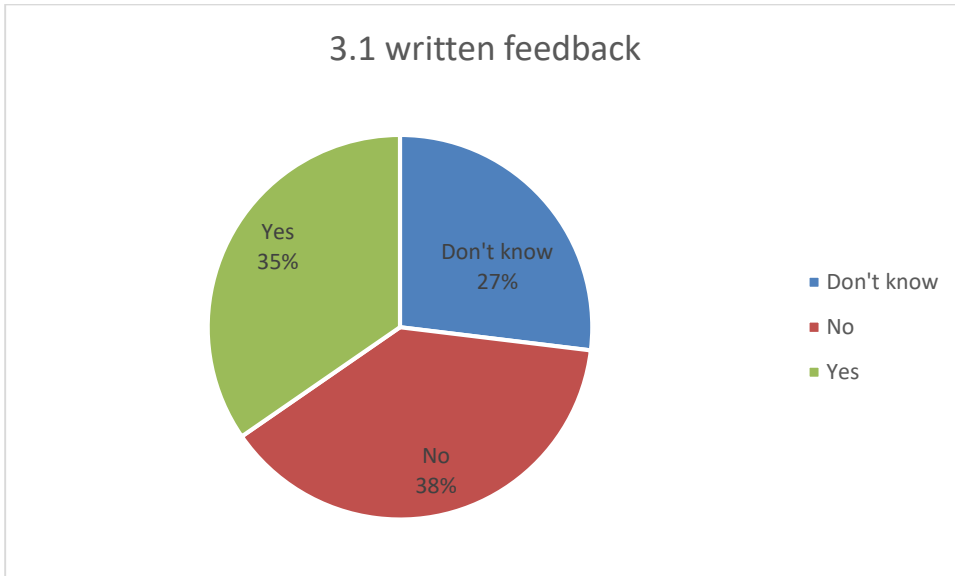
The participants of the 2 workshops in Peru replied “no” to this question, explaining that labour legislation in Peru did not differentiate labour responsibilities and should be respected.

The CECLAC also voted “no” and stated that the labour legislation in Peru does not differentiate labour responsibilities because the risk was equal for all workers and should be respected, regardless of the number of workers hired.

#### Written feedback:



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38% of respondents replied no, standard requirements should not be more stringent in operations with e.g. more than 10 hired non-member workers and even more stringent with a higher number of hired workers (e.g. more than 100) in areas such as e.g. wages, contracts, human resources management, conditions of employment, occupational health and safety. 35% said “yes” and 27% answered “no”. Of those respondents who selected no, one said that it was important to put in place a defined number of workers who make up an organization which is eligible for Fairtrade certification. Another said that there should not be more hired workers than members in an organization. One respondent stated that such a requirement could be a disadvantage for a newly formed ASMO. Another statement given was that this could discourage employment. Another argument was that some ASMOs do not hire this many workers (e.g. 100). Finally, one stakeholder wrote that the main fact was that ASMOs are organized and recognized as organizations and that they kept records of their meetings. Those who replied “yes” to this question mentioned several times that bigger operations could be expected to have more detailed and stringent processes in place while core criteria should still apply for all and smaller organizations should not be burdened with bureaucratic requirements. It was also mentioned that there was a need to ensure fair conditions and exclude the possibility of any exploitation. Another stakeholder said that such a requirement was necessary due to the expansion of human labour demand. Finally, it was stated that this could serve as an initial measure – also to support formalization – to classify the number of actors involved for the certification. Those respondents who selected “don’t know” also gave some explanations, some were torn between yes and no and found this a dilemma. Some reinforced that requirements should be applied equally for all workers, no matter the number of workers. At the same time, they said that e.g. this could be unrealistic in small organizations but this might in the end depend more on the size of the operation than on the number of workers. It was also said that reinforcing requirements on labour conditions could help combat the high turnover of mining workers due to more stable and safer conditions achieved and that workers should be represented in managing health and safety of a larger organization.

**Question 3.2:** If your answer to 3.1 is “Yes”: Does the breakdown of number (1-10; 11-100; <101) of workers presented in question 3.1 make sense?

Yes

No

Don't know

Please explain: [Click here to enter text.](#)



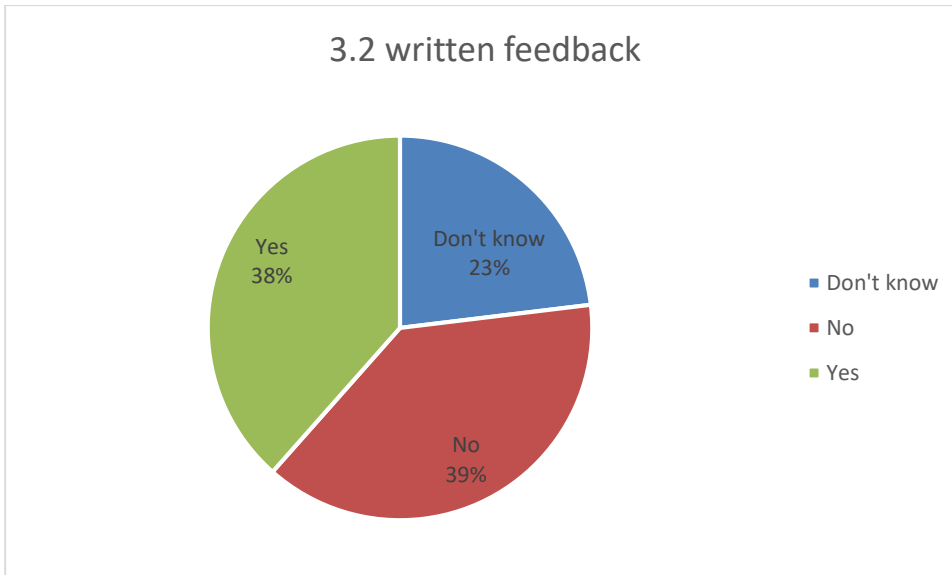
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### Feedback from workshops in Peru and by the CECLAC:

The respondents of the two workshops in Peru collectively replied “don’t know” without any explanation.

The CECLAC replied no, and explained that because the labour legislation in Peru does not differentiate labour responsibilities because the risk is equal for all workers and should be respected, regardless of the number of workers hired.

### Written feedback:



39% of the respondents said “no”, the breakdown of number (1-10; 11-100; <101) of workers presented in question 3.1 does not make sense. 38% said “yes”, it does make sense and 23% said don’t know if it makes sense. Those who said no made some alternative suggestions, please see below:

- 1-10; 10-30; 30-50; 50 to 100
- 0-20, 21-100; <101
- 1 > 50, 50 > 150, <150

They also presented some reasoning, including that the ranks should be in small segments as violations of labour law occurred frequently; and that the jump from 11-100 was too big. It was also said that in the standard it should be stated whether these rules applied for permanent workers or others and to define these roles. One of the respondents who voted “yes” explained that this could be difficult for many organizations who would like to be certified initially but that this requirement could be met step by step. Another respondent said that this breakdown should be implemented in the standard due to human demand. One of the respondents who chose “don’t know” explained that these numbers would not mean anything as long as there was no understanding of exactly how big the organisations can be or how they are structured.

*On the concession of an organization or an artisanal or small-scale operator, there may be operating autonomous miners, community-based organizations, groups such as women mineral selectors that can all be identified as vulnerable groups.*

**Question 3.3** Could you recommend how the Fairtrade standard could better integrate, protect and support these vulnerable groups and their relation to the certified organization or operator so that they as well can benefit from Fairtrade and improve their quality of work and life?

[Click here to enter text.](#)





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### **Feedback from workshops in Peru and by the CECLAC:**

The participants of the two workshops in Peru explained that in some organizations, this vulnerable population can be identified as the *pallaqueras* that are not legally recognized, however, by social support, the organization allows them to work by supporting them with training and creating some other type of benefits with other alternative activities which would be less risky.

The CECLAC replied that the introduction of this question is complex for a single answer because it mixes several actors. The way to support them and benefit from Fairtrade is that they are legal partners of the ASMO when possible (examples: autonomous miners, women selectors if the law allows it) or if they are community groups that the ASMO decides how it can support according to nature of work in the community. If the women selectors (*pallaqueras*) are workers, the ASMO must meet the labour criteria.

### **Written feedback:**

The replies given included e.g. that certified organizations should be asked to include empowerment and support programs for such vulnerable groups in their Fairtrade development plans and that if one of these groups has been identified within the ASMO exploitation area, their participation in the Fairtrade benefits should be guaranteed, not only if they are registered within the ASMO production system. Or there could be a transition plan to integrate a vulnerable group into an ASMO. They should also be considered for jobs offered and the best way would be to include them into the organization. If they worked under the umbrella of the organization, they could receive a fixed salary and would be protected from exposure to mercury and cyanide. Gender aspects were also highlighted by several stakeholders: women should be protected and supported and empowered in many more aspects. Also, rights of children were mentioned beyond child labour, e.g. health and safety risks or impacts on their parents. Other aspects were also highlighted: If these activities are allowed under the applicable national jurisdiction, Fairtrade should support the development of collaboration schemes and allow the commercialization of these minerals through the Fairtrade channel. It was also said that the standard should be as simple and clear as possible to make miners understand that they are protected by it and that this should serve to improve their lives. Furthermore, it was said that the use of the Fairtrade Premium should be monitored. Another respondent suggested to include impact indicators on satisfaction of workers e.g. and measure these through surveys. Several stakeholders mentioned that representation of these groups was crucial to enable them to be consulted or participate in decision-making. One stakeholder called for affirmative action on behalf of vulnerable groups. It was also suggested that representatives from Fairtrade should visit the miners. It was also suggested to found a labour union within a mine which could be consulted on certain issues. One stakeholder suggested to analyse that there were no negative externalities which could damage autonomous miners, protection of environment, health and safety. One stakeholder suggested to include in the standard requirements asking for activities and investments towards those vulnerable groups, financed by the Fairtrade Minimum Price.

## **Topic 4: Medium- and Large-scale Mining**

**Question 4.1:** Should Fairtrade explicitly exclude medium- and large-scale mining businesses (which are not considered artisanal or small-scale mining businesses) as producers from the scope of this standard?

- Yes
- No
- Don't know



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Please explain why: [Click here to enter text.](#)

**Feedback from workshops in Peru and by the CECLAC:**

The participants of both workshops in Peru replied “yes”, Fairtrade should explicitly exclude medium- and large-scale mining businesses (which are not considered artisanal or small-scale mining businesses) as producers from the scope of this standard. The nature of the trade certification is to support the small mining producer, however, there are some organizations that could eventually do medium-sized mining for the land movement permits required by the Ministry of Energy and Mines and therefore, for this type of organizations could consider the scope of certification; that is, only to organizations that at some point were born as community-based in small-scale mining.

The CECLAC also replied that Fairtrade should explicitly exclude medium- and large-scale mining businesses (which are not considered artisanal or small-scale mining businesses) as producers from the scope of this standard. They explained those organizations of medium and large scale do not need Fairtrade to enter the market. In addition, they have all the support of the government to further develop their businesses. The nature of fair trade certification is to support the small mining producer.

**Written feedback:**



52% of respondents said no, Fairtrade should not explicitly exclude medium- and large-scale mining businesses (which are not considered artisanal or small-scale mining businesses) as producers from the scope of this standard. 40% said “yes”, Fairtrade should explicitly exclude medium- and large-scale mining businesses (which are not considered artisanal or small-scale mining businesses) as producers from the scope of this standard. 8% replied don’t know. As can be understood from the explanations, some respondents who selected “no” actually intended to say that Fairtrade should explicitly exclude medium- and large-scale mining businesses (which are not considered artisanal or small-scale mining businesses) as producers from the scope of this standard. Therefore, the actual percentages are not clear.

However, those who replied “no”, reasoned that e.g. there might be medium-scale mines that are compatible with the values and criteria of the Fairtrade standard. It seems more difficult to conceive with large-scale mining. Another respondent wrote that large and medium scale mines with a genuine commitment to make ASM work could scale the impact of the Fairtrade standard. For example, one respondent asked if nationally owned medium or large mines could be included in the scope of the standard as they provided a stable production which made export economically viable. Yet another respondent wrote that medium and large scale mining should not be excluded, because a Fairtrade



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certification could be a good way to appeal to their Corporate Social Responsibility conscience. One respondent suggested some precise measures of including these organizations into the scope of the standard; especially the benefit of better and equal distribution of revenues. It was mentioned that better representation would also be key in SMEs and LSM. However, the standard should be slightly adopted as some items were not applicable to LSM. Including community benefits and investments would be important. One stakeholder suggested to include these organizations so that they could become examples of responsible mining which could be replicated.

Those respondents who selected “yes”, offered the following reasons: including these organizations would deny the essence of why Fairtrade was created. It was brought up several times that the nature, issues and risks related to medium and large scale mining are very different from the ASM sector. The ASM gold standard was not suited to address these and it would require development of a completely new standard. Another argument which was mentioned is that medium and large scale mining organizations were already empowered, having economic advantages and access to markets, therefore including them may disempower the artisans and small scale miners. Also, they already have working structures in place. One respondent mentioned that the biggest number of miners are working as artisanal and small-scale miners, so they should benefit first. One stakeholder listed technical issues why the medium and large-scale organizations should not be included: techniques for mineral extraction; percentage of recovery and sales volume; operational reliability and volume of capital and labour intensive may differ with artisanal or small-scale mining businesses.

Those who replied “don’t know” said that this decision should be congruent with how Fairtrade operates in other commodities – are medium and large scale producers included or excluded in other cases? Another stakeholder said that they could not understand the questions since the scope of this standard was for artisanal and small-scale mining.

**Question 4.2:** Should Fairtrade consider certifying Artisanal Miners recognised by Large Scale Mining Companies and allowed to operate within their mining operations?

- Yes
- No
- Don't know

Please explain why: [Click here to enter text.](#)

#### **Feedback from workshops in Peru and by the CECLAC:**

The participants of the 2 workshops in Peru replied “yes”, Fairtrade should consider certifying Artisanal Miners recognised by Large Scale Mining Companies and allowed to operate within their mining operations. They explained that at present there were groups of small miners that work in concessions of large-scale mining companies; maintaining a good relationship with these mining companies can allow economic development support in processing and marketing. Because many times it is difficult for the small miner to install a processing plant because it requires strong capital and for that reason that mineral cannot be processed to finally be commercialized.

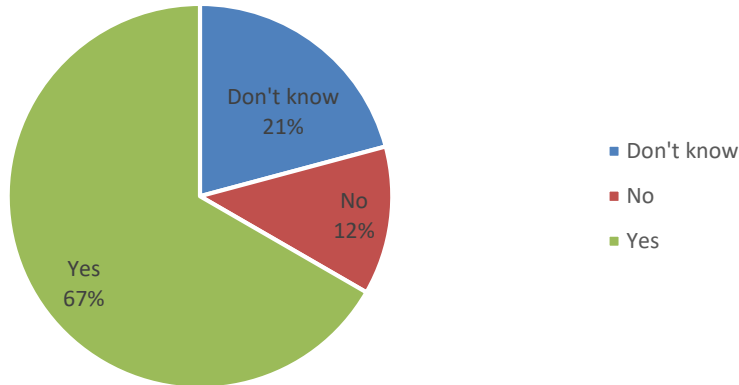
The CECLAC replied “no”, Fairtrade should not consider certifying Artisanal Miners recognised by Large Scale Mining Companies and allowed to operate within their mining operations. They explained that only the state should recognize artisanal miners. The standard should aim to reduce intermediaries. It would open the door to unfair competition. It is to allow large-scale ones to have prominence within Fair Trade. An option to provide working capital, may be the tripartite contract with the participation of the importer and by that means access the artisanal miners can obtain pre-financing.

#### **Written feedback:**



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#### 4.2 written feedback



67% of respondents selected “yes”, Fairtrade should consider certifying Artisanal Miners recognised by Large Scale Mining Companies and allowed to operate within their mining operations. 21% of respondents selected “don’t know” and 12% voted “no”.

Those who selected “yes” detailed that ASM working in their tailings and selling the recovered gold to them for good prices, which will enable community developments and improvement of small miners, families and communities. This will contribute to the local change by promoting the GDP of a country through buying different commodities within the areas of operations. And generate decent employment and income for miners and invest profits locally. Another stakeholder encourages constructive engagement between ASM and LSM that leads to benefits for both. The Fairtrade standard can contribute to this engagement by certifying ASM miners that are recognized by LSM. Vulnerable groups within these ASM miners, including female miners and young workers, should be recognized, well integrated, protected and supported by the Fairtrade standard. One respondent says that large scale companies held large chunks of land which they did not use. Another stakeholder detailed that some ASMs may lack the capacity to get mineral rights but are able to mine and sell through a large scale mine. One argument mentioned was that ASM operating on the concession of a medium or large scale mining company may also operate unfairly, hence the need to certify them. One stakeholder wrote that ASM should be certified regardless of any relation to medium or large scale mining businesses. It was further explained that many miners already work in this set up and therefore this should be strengthened.

One respondent who selected “don’t know” said that this should be decided on a case by case basis. Another stakeholder explained while from a development perspective, it could be interesting to allow these miners to commercialize their product under Fairtrade conditions. The question was who would be aggregating the production, assuring proper separation from the product mined by the large company, and how the requirement of a FT certified value chain can be upheld without certifying the large scale company.

Of those who responded “no”, one participant of the survey suggested that it should in fact be the other way around: It should not be allowed because the interests of mining companies come into play, on the contrary it should be encouraged that artisanal miners within the concession are part of the certification of the mining company that hosts them. Another respondent said that ASM should be autonomous, the large-scale company do not foster the success of ASM and this can also be seen in the legal framework.



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**Stakeholders' Comments/ General stakeholder feedback on the review of the Fairtrade Standard for Gold and Associated Precious Metals for Artisanal and Small-scale Mining:**

<b>Topic</b>	<b>Comments/ feedback/ suggested improvements</b>
<b>Workshop participants, Peru:</b>	
Ecert platform	It is not such a user friendly platform for the producer and it should be more manageable
Consultation meeting	For the next review it would be interesting to meet all the producers in one place
Details of the Fairtrade Development Plan/ minutes of the General Assembly	It is not possible to include details of the Fairtrade Development Plan into the minutes of the General Assembly; as these will be published and have to be written in a general way.
<b>CECLAC</b>	
Audits, FLOCERT, environment, pollution, sampling	The audits carried out by Flocert, must take into account complaints of environmental pollution, must be more technical and carried out by auditors specialized in mining. Samples should be taken, for example, of water, to examine it and with these results know with certainty if there is contamination or not. Fairtrade must be very vigilant with pollution
Details of the Fairtrade Development Plan/ minutes of the General Assembly	It is not possible to include details of the Fairtrade Development Plan into the minutes of the General Assembly; as these will be published and have to be written in a general way.
Ecert platform	It is not such a user friendly platform for the producer and it should be more manageable
Consultation meeting	For the next review it would be interesting to meet all the producers in one place
<b>Survey</b>	



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Manager	Key is to also empower and enable the managing group to implement investments to improve production and incomes
Logistics and supply chain/ market linkages, aggregating volumes	
Pre-certification / entry level market access	
Review the Amount of premium	
Act against the monopolisation of supply	
Commercial	The identification of marketing chains is a pending issue; one could not have the same evaluation and assignment of responsibilities scheme in relation to the “traditional” existing schemes in non-gold FT products. The existing risks of “money laundering” is not the same as “gold” as in the other products; therefore they should not be evaluated under the same scheme; “ad hoc” responsibilities for FT traders in gold should be identified.
Fairtrade certification	It must be supported if we want to go further, there should be a program to support the informal and support them to organize.
Mining legal framework	as we have seen instead of the government supporting small organizations attacking them and destroying their machinery with the workhorse, environmental pollution; but the worst is poverty and against that we all must fight at any cost.
Tax haven	Fairtrade must fight the hedge funds, that by the way are these tax havens in Switzerland.