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DUBAI: CONFLICT GOLD, MONEY LAUNDERING AND ILLICIT GLOBAL TRADE

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ABSTRACT

This article considers the role that the UAE and, in particular, Dubai has played in the trade in gold between Asia, Europe and Africa. In the 21st century, Dubai has emerged rapidly as one of the focal points in the illicit gold trade and money laundering. Many authors who have focused on African gold production have concentrated almost solely on Dubai as an export market for African gold. However, this approach is flawed because the country has no LBMA accredited refinery and so gold from Dubai must be reprocessed in other countries in order to enter the global value chain, irrespective of its provenance.

1 INTRODUCTION

Dubai has evolved not only as a gold trading centre but also as a money laundering centre of choice in the international financial system, where gold is and remains one of the most important commodities used to launder other illicit funds.[1] Money laundering is a very substantial business and gold — because of its high value to weight, its ready portability and the existence of global markets with known prices along with intractability — has become a key component of the global system of money laundering. Much of the analysis of the African trade in gold has focused on Dubai as it has evolved rapidly into the principal centre of trade in physical gold

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1 Teichmann FMJ (2017) "Twelve Methods of Money Laundering" 20(2) *Journal of Money Laundering Control* 130-137 at 132.

between Africa and the rest of the world.[2] However, Dubai is itself an entrepôt of significance, where gold is purchased from Africa as well as other regions, to be laundered to third jurisdictions. Thus, the Africa-Dubai trade cannot be viewed in isolation but has to be seen as part of a global network that crosses Asia, Europe and the Middle East.

This article begins by examining the nature of money laundering and how gold, by virtue of its inherent qualities, has come to play a vital role in the process. Thereafter, the growth of Dubai's dependence on conflict gold is considered and also specific cases of how the gold is traded from Dubai. The spotlight falls next on the Indian phenomenon of gold round-tripping, where the same parcel of gold will cross the Arabian sea from Mumbai to Dubai many times over in order to gain Indian government credits for the jewellery industry, the nation's largest export sector. Although a minor producer of gold, India was the largest supplier of gold to Dubai during the period 2009-2011, providing more than all of Africa combined, and up to 2016, India was still supplying an estimated 16% of total UAE gold imports. This has resulted in a curious situation, where Indian gold exports are many times larger than Indian gold production.

The final part of this article looks at the complex and evolving relationship between Dubai, Switzerland and other gold trading partners. Here a changing pattern of gold trade is emerging, in that Dubai has no London Bullion Market Association (LBMA) accredited gold refinery and needs to ship gold to another jurisdiction where such refineries exist and can launder conflict gold, thereby giving access to the world market of bullion in a way that cannot be done from Dubai.[3] What will become evident is that Dubai does not conform to international trade

2 Virtually every recent study of African Artisanal and Small-Scale Gold Mining (ASGM) has focused on trade with Dubai. These studies have been Africa focused and shown no interest in the destination and the end users of African gold. See Blore S (2015) "Contraband Gold in the Great Lakes Region. In-Region Cross-Border Gold Flows Versus Out-Region Smuggling", available at *https://www.africaportal.org/documents/13422/Contraband_Gold_in_the_Great_Lakes_Region_1_May-2015.pdf* (visited 21 August 2019); Partnership Africa Canada (2014) "All that Glitters is not Gold: Dubai, Congo and the Illicit Trade of Conflict Minerals", available at *https://www.africaportal.org/documents/11760/All_That_Glitters.pdf* (visited 21 August 2019); and STP (2019) "Switzerland — A Hub for Risky Gold?: Case Studies from the United Arab Emirates, Sudan, the Democratic Republic of Congo, Liberia and Peru", available at *https://www.alliancesud.ch/en/infodoc/bibliothek/switzerland-hub-risky-gold-case-studies-united-arab-emirates-sudan-democratic* (visited 9 September 2019).

3 See Pieth M (2019) *Gold Laundering – The Dirty Secrets of the Gold Trade – And How to Clean Up,* Zurich: Salis Verlag at 179; De Moerloose B (2016) "Challenging the Pillage Process: Argor-Heraeus and Gold from Ituri", Open Society Foundations, available at *https://www.justiceinitiative.org/uploads/55e114ad-42d3-425a-8127-4cd62967ad8a/legal-remedies-10-demoerloose%20-20161107.pdf* (visited 24 April 2020).

standards on conflict gold. Hence, major trading nations which support the OECD rules on the trade in conflict gold ought to pressure Dubai to comply, failing which they should exclude it from the global market if there ever is to be a genuinely responsible gold value chain that excludes gold from conflict areas.[4]

2 MONEY LAUNDERING AND THE GREY MARKET

2.1 What is it and How Large is it?

Usually, the issue of the definition of a term is merely a source of more academic publications and possibly even tenure, except, of course, where the activity involves considerable sums of money. This is certainly the case with the definition of money laundering, which invariably involves criminal profiteering. The Financial Action Task Force (FATF), which is the developed world's custodian of the issue, tells us that:

> Money laundering is the processing of criminal proceeds to disguise their illegal origin. This process is of critical importance, as it enables the criminal to enjoy these profits without jeopardising their source. Illegal arms sales, smuggling, and the activities of organised crime, including, for example, drug trafficking and prostitution rings, can generate huge amounts of proceeds. Embezzlement, insider trading, bribery and computer fraud schemes can also produce large profits and create the incentive to "legitimise" the ill-gotten gains through money laundering.[5]

The estimated magnitude of global money laundering is staggering. The earliest attempt at quantification of the problem was made by the FATF in 1996, when it calculated that the value of money laundering approximated 2% to 5% of global GDP.[6] Thereafter, most other agencies with an interest in money laundering, including the United Nations Office on Drugs and Crime (UNODC),[7] the IMF,[8] and

4 See OECD (2013) *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (2ed) at 13, available at *https://www.oecd-ilibrary.org/governance/oecd-due-diligence-guidance-for-responsible-supply-chains-of-minerals-from-conflict-affected-and-high-risk-areas_9789264185050-en* (visited 26 August 2019).

5 FATF "What is Money Laundering?", available at *https://www.fatf-gafi.org/faq/moneylaundering/* (visited 3 September 2019).

6 See Morris-Cotterill N (2001) "Money Laundering", available at *https://www.researchgate.net/publication/272593840_Money_Laundering* (visited 3 September 2019).

7 See UNODC "Money-Laundering and Globalization", available at *https://www.unodc.org/unodc/en/money-laundering/globalization.html* (visited 4 September 2019).

8 See Weeks-Brown R (2018) "Cleaning Up" 55(4) *Finance & Development* 44-45 at 44, available at *https://www.imf.org/external/pubs/ft/fandd/2018/12/imf-anti-money-laundering-and-economic-stability-straight.htm* (visited 3 September 2019).

Europol,[9] have provided the same estimate. The most recent estimate by the UN in 2018 puts the upper limit of the value of money laundering at US$4 trillion.[10] These estimates all fall in the same range as a percentage of GDP and seem to be predicated on the early FATF and UNODC estimates from the late 1990s. This raises the obvious policy question of whether the phenomenon of money laundering simply is unmeasurable and the international community continues to rely on the initial estimate or whether the efforts of the international community to deal with money laundering have had little appreciable success if, over two decades, the estimate of 2% to 5% of GDP is taken as valid still.

Billions of dollars have been spent trying to deal with money laundering and scores of anti-money laundering (AML) agencies — global, regional and national — have been established.[11] Those in the AML field no doubt would reply that, absent their efforts, the value and rate of money laundering would be considerably higher, even though the effectiveness of the FATF and the entire range of AML programmes have been questioned in policy discussions.[12] The issue that needs to be addressed is why money laundering continues at proportionately the same level, despite the proliferation of AML agencies and laws? Part of the answer lies in the ready existence of scores of secrecy jurisdictions where there is no transparency as regards beneficial ownership of off-shore banks and shell corporations, or where secrecy provisions regarding individual transactions remain. Moreover, even though the FATF and other agencies have moved to establish limits to bank secrecy and assure tax compliance measures, the government of the requesting country has to know precisely what it is looking for in any voluntary and automatic exchange of information, as few jurisdictions allow "fishing expeditions". It is the secrecy and asymmetry of information between the requesting authorities that limit the effectiveness of anti-money laundering activities.

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9 See Europol "Money Laundering", available at *https://www.europol.europa.eu/crime-areas-and-trends/crime-areas/economic-crime/money-laundering* (visited 4 September 2019).

10 Weeks-Brown (2018) at 44.

11 The Anti-Money Laundering Global Task Force (GTF-AML) works with anti-money laundering experts and organisations such as the FATF, the World Bank, the IMF, the UNODC, Interpol, the Egmont Group, and Transparency International. Virtually every country, as well as sub-national jurisdictions, now has a body dealing with money laundering and terrorism financing.

12 See generally Pol RF (2018) "Anti-Money Laundering Effectiveness: Assessing Outcomes or Ticking Boxes?" 21(2) *Journal of Money Laundering Control* 215-230; Chaikin D (2009) "How Effective are Suspicious Transaction Reporting Systems?" 12(3) *Journal of Money Laundering Control* 238-253; Harvey J (2008) "Just how Effective is Money Laundering Legislation?" 21(3) *Security Journal* 189-211; Levi M & Reuter P (2006) "Money Laundering" 34(1) *Crime and Justice* 289-375; Levi M & Reuter P (2009) "Money Laundering" in Tonry M (ed) *Oxford Handbook of Crime and Public Policy* Oxford: Oxford University Press.

This raises the question of why so many developing countries have developed secrecy jurisdictions. Often the smallest developing countries, unable to transcend monocultures because of their size, remoteness and physical isolation, seek to emulate the economic success of the oldest European secrecy jurisdictions. For example, Switzerland[13] and Luxembourg[14] which, not co-incidentally, are two of the richest countries in Europe, have practised various forms of bank and corporate secrecy for many decades. In Switzerland this practise was modified only recently under severe pressure to reform from the US and the OECD.[15] However, both Switzerland and Luxembourg continue to display many of the traits of tax havens even though the OECD, for obvious political reasons, is reluctant to brand its own members as such. Other jurisdictions, such as the City of London and the UK's former colonies and off-shore island jurisdictions, provide ready access to secrecy and concealment as pre-conditions for money laundering. It has been estimated that, in 2015, Switzerland had off-shore bank deposits amounting to some 3% of global GDP.[16] These funds are, not uncommonly, of questionable provenance and, once in Switzerland, cannot be transferred readily to a third jurisdiction without making EU and other tax officials aware of revenues subject to the tax rules in their jurisdictions.[17]

The list of criminal activities in the FATF definition of money laundering does not include the most common illegal activities of large scale enterprise in this area, namely, the laundering of proceeds of illegal transfer price manipulation,

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13 Article 47(b) of the Swiss Federal Act on Banks and Savings Banks of 1934 (the Banking Law) provided for bank secrecy. There were stiff criminal penalties for violations, which prevented banks from disclosing information about accounts and their owners to any third party, including foreign governments and their tax enforcers. The Banking Law of 1934 did not recognise tax evasion as a criminal act.

14 See European Parliament (2019) "Tax Crimes: Special Committee Calls for a European Financial Police Force", available at *http://www.europarl.europa.eu/news/en/press-room/20190225IPR28727/tax-crimes-special-committee-calls-for-a-european-financial-police-force* (visited 10 September 2019).

15 Reuters (5 October 2018) 'Era of Bank Secrecy Ends as Swiss Start Sharing Account Data", available at *https://www.reuters.com/article/us-swiss-secrecy/era-of-bank-secrecy-ends-as-swiss-start-sharing-account-data-idUSKCN1MF13O* (visited 9 September 2019). See also Song JG (2015) "The End of Secret Swiss Accounts?: The Impact of the U.S. Foreign Account Tax Compliance Act (FATCA) on Switzerland's Status as a Haven for Offshore Accounts" 35 *Northwestern Journal of International Law & Business* 686-718, at 687; Emmenegger P (2015) "Swiss Banking Secrecy and the Problem of International Co-operation in Tax Matters: A Nut too Hard to Crack?" 11(1) *Regulation & Governance* 24-40 at 25.

16 Alstadsæter A *et al* (2018) "Who Owns the Wealth in Tax Havens? Macro Evidence and Implications for Global Inequality" 162 *Journal of Public Economics* 89–100 at 93.

17 Mission of Switzerland to the EU "Tax policy – In Line with International Standards", available at *https://www.eda.admin.ch/missions/mission-eu-brussels/en/home/key-issues/tax-policy.html* (visited 9 September 2019).

although this is deemed a criminal activity in many jurisdictions.[18] Still, the OECD has succeeded, through the base erosion and profit shifting (BEPS) initiative, in showing that its AML activities may be extended readily to matters of direct concern to many developing countries, where the technical capacity to counteract BEPS by large transnational enterprises is limited.[19] However, whereas there is an increasing interest in base erosion and profit shifting, especially in the African mining sector,[20] there has been no attempt to extend the mandate of AML institutions to investigate and pursue mining companies that may be involved in such activities. All the estimates of money laundering increase several fold when they encompass estimates of tax evasion in the USA and in other jurisdictions.[21] A criminal activity of growing significance in gold mining has been the use of Dubai as a secrecy jurisdiction and tax haven for gold exports. It has been estimated that 80% of ASGM production is illegal[22] and in 2016, some 443.5[23] tonnes of gold entered the UAE from Africa. While production is largely illegal, exports continue from most African jurisdictions. For the most part, this type of financial crime is

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18 See OECD (2017) *Fighting Tax Crime: The Ten Global Principles* Paris: OECD Publishing at 16, available at *http://www.oecd.org/tax/crime/fighting-tax-crime-the-ten-global-principles.htm* (visited 27 September 2019).

19 Matsuoka A (2018) "What Made Base Erosion and Profit Shifting Project Possible? Identifying Factors for Building Momentum for Reform of International Taxation" 25(3) *Journal of Financial Crime* 795-810 at 796 & 799.

20 See IGF-OECD (2018) "Addressing Tax Base Erosion and Profit Shifting in the Mining Industry in Developing Countries: Mitigating Financial Risks, Growing Economies", available at *http://www.tiwb.org/resources/reports-case-studies/brochure-addressing-tax-base-erosion-and-profit-shifting-in-the-mining-industry-in-developing-countries.pdf* (visited 30 September 2019); Guj P *et al* (2017) "Transfer Pricing in Mining with a Focus on Africa: A Reference Guide for Practitioners", available at *http://documents.worldbank.org/curated/en/801771485941579048/pdf/112346-REVISED-Dated-Transfer-pricing-in-mining-with-a-focus-on-Africa-a-reference-guide-for-practitioners-Web.pdf* (visited 25 September 2019); UN (2017) "United Nations Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries" at 4, 46, 58 and 62, available at *https://www.un.org/esa/ffd/wp-content/uploads/2018/05/Extractives-Handbook_2017.pdf* (visited 9 September 2019).

21 Slemrod J (2007) "The Economics of Tax Evasion" 21(1) *Journal of Economic Perspectives* 25-48 at 25-9.

22 IGF (2017) *Global Trends in Artisanal and Small-Scale Mining: A Review of Key Numbers and Issues* Winnipeg: IISD at 49.

23 This is representative of HS Code 710812 (Metals; gold, non-monetary, unwrought (but not powder)). However, for the more generic HS code 7108 (Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form), 446.3 tonnes are imported by the UAE from Africa. See UN Comtrade Database, available at *https://comtrade.un.org/data/* (visited 7 August 2019).

not discussed under the rubric of money laundering and still is viewed as relatively benign “grey money” transfers.[24]

2.2 Money Laundering with Gold

The FATF definition of money laundering activities is predicated upon two obvious conditions. The first is that there is a local bank which is willing to accept illicit funds and the second is that there is an off-shore bank which is able to act as an intermediary. However, historically the FATF has dealt with the laundering of currency and only recently has become interested in laundering using bullion or diamonds. Significantly, the conditions of finding compliant local and off-shore banks are unnecessary if gold is used as the medium of exchange and if the gold vendor is willing to accept currency in exchange for physical gold in a secrecy jurisdiction. It is in this way that untraceable African gold in Dubai avoids bank detection of money laundering. Given the difficulty of detection within the context of money laundering through secrecy jurisdictions, gold becomes Gresham’s “good money” which chases out currency. Conversely, currency which is difficult to deposit and readily traceable becomes Gresham’s “bad money”. Moreover, this may help explain the absorption of large quantities of gold over the last two decades for so-called investment purposes, which may be used actually for money laundering and sanctions evasion.[25]

The placement of dirty money in a domestic bank is becoming increasingly difficult and there are fewer banks which now are willing to accept large cash deposits without the appropriate due diligence being undertaken. Furthermore, AML administrations require that a suspicious transaction report (STR) be completed for such deposits.[26] This limits the potential for conventional money laundering and what criminals require now is a procedure that takes the receipts of their activities and converts them into a legitimate undertaking before a bank deposit is made. This often requires that the proceeds of crime first be shipped abroad as cash and laundered through a business transaction in a jurisdiction

24 Schneider F & Windischbauer U (2008) “Money Laundering: Some Facts” 26(4) *European Journal of Law and Economics* 387-404 at 389.

25 See Mundell R (August, 1998) “Uses and Abuses of Gresham's Law in the History of Money” chapter 3, available at *http://www.columbia.edu/~ram15/grash.html* (visited 27 September 2019).

26 OECD (2015) “Improving Co-Operation between Tax and Anti-Money Laundering Authorities: Access by Tax Administrations to Information Held by Financial Intelligence Units for Criminal and Civil Purposes” at 8, available at *https://www.oecd.org/ctp/crime/report-improving-cooperation-between-tax-anti-money-laundering-authorities.pdf* (visited 30 September 2019).

where large cash purchases are common. Purchases and sales in the gold *souk* in Dubai commonly are conducted in cash.[27]

Gold long has been recognised as an almost perfect instrument for the first stages of modern money laundering.[28] It is a product with a high value to weight ratio,[29] with a known and transparent price, as well as international markets that do not necessarily confront market participants with constraints upon cash purchases. In a recent survey, AML officials in the UK identified gold as the most significant commodity used for money laundering activities (25% of respondents), followed by diamonds (20%) and jewellery (17%).[30] Gold, unlike jewellery, watches and other commodities, cannot be traced readily. With the increased obligation upon banks and other financial institutions to report through STRs, financial flows based on gold for the purposes of money laundering have become very common. Pieth cites an interesting example of the Colombian drug lords using artisanal gold as the preferred instrument of money laundering:

> Drug barons acquired gold abroad with drug money and imported it into Colombia. In Medellin, they encharged gold traders to declare it as collected artisanal gold by making up false documentation of provenance. They then re-exported the gold for refining to the USA, to be sold on the US retail market as Colombian artisanal gold.[31]

It is worth briefly deconstructing this example within the context of the metallurgy of gold refining. For the purposes of this particular exercise in money laundering, the gold that would be imported into Colombia almost certainly would have been doré or some gold amalgam. If it had been refined to 99.5% gold, that is, if it had gone through a refining process already, then the refinery in the US would not have accepted the gold coming from Colombia as originating from ASGM production, and it would have had to disclose this to the US AML authorities. Thus,

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27 See Blore (2015) at 28. Furthermore, there are numerous websites which advertise gold for cash in Dubai. See, for example, *http://sellgolddubai.ae/*; https://www.kyra.ae/cash-for-gold; and *https://sellgold.ae/*.

28 Pieth M (2018) "Transnational Economic Crime: The Example of Gold Laundering" 2(2) *Journal of Anti-Corruption Law* 132-140 at 138-9.

29 See Bowers CB (2009) "Hawala, Money Laundering, and Terrorism Finance: Micro-Lending as an End to Illicit Remittance" 37(3) *Denver Journal of International Law and Policy* 379-419 at 396-7. See also Gibbs T (2017) "An Analysis of the Effectiveness of Anti-Money Laundering and Counter-Terrorist Funding Legislation and its Administration in the UAE" (PhD Thesis, University of London-Institute of Advanced Legal Studies), available at *https://sas-space.sas.ac.uk/6698/1/Gibbs%2C%20T%20-%20IALS%20-%202017.pdf* (visited 17 September 2019).

30 Gilmour N (2017) "Blindingly Obvious and Frequently Exploitable: Money Laundering through the Purchasing of High-Value Portable Commodities' 29(2) *Journal of Money Laundering Control* 105-115 at 109.

31 Pieth (2018) at 139.

the gold brought into Colombia must have been bought from a trader before final refining. The single largest destination for such ASM gold is Dubai. The large-scale mines sell gold into markets that have LBMA accredited refineries, which would be of no use in such a money laundering scheme. However, given the rapid growth of ASM gold exported from Africa to Dubai, this would certainly act as a useful vehicle for laundering such funds.

Even in circumstances where a more common multiple stage process of laundering money is employed, for the purposes of layering gold acts as an excellent and simple vehicle. An example provided by the FATF links drugs, gold, Dubai and round-tripping to India. In this case, a Moroccan drug dealer based in France used an Indian money launderer to buy gold and jewellery for cash in Brussels:

> The Indian national used relatives to transport the gold to India and the UAE, with one of the relatives traveling more than 200 times to India and the UAE from 2008 to 2014 (two to three times a month). The head of the India syndicate controlled a travel agency in India which provided flight tickets to the mules and sometimes fake invoices for the purchase of gold. According to information, the gold was not smuggled to Dubai but officially exported and declared to customs using false invoices as a cover.[32]

This round-tripping is used by Indian gold (and diamond) merchants and manufacturers to earn Indian government bank credits for jewellery production which remains that country's largest export. In this case, the round-tripping is linked to the laundering of the proceeds of drug sales in Europe. Dubai has emerged rapidly as one of the global epi-centres of gold smuggling[33] and often is referred to as the "smuggler's supermarket".[34] However, as we shall see below, Dubai is a gold entrepôt between other trading centres and a complex web of illicit trading relationships with Switzerland, Turkey and India.

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32 FATF & APG (2015) *Money Laundering/Terrorist Financing Risks and Vulnerabilities Associated with Gold*, available at *www.fatf-gafi.org/topics/methodsandtrends/documents/ml-tf-risks-and-vulnerabilities-gold.html* (visited 11 September 2019).

33 See Deol T (28 November 2019) **"**India is One of the Largest Gold Smuggling Hubs, and UAE Plays Big Intermediary: Report" *The Print*, available at *https://theprint.in/india/india-is-one-of-the-largest-gold-smuggling-hubs-and-uae-plays-big-intermediary-report/327611/* (visited 14 July 2020); Ray SG (14 March 2014) Why Gold Smuggling is on the Rise in India" *BBC News*, available at *https://www.bbc.com/news/world-asia-india-26511425* (visited 14 July 2020); Óscar Castilla C, Amancio NL & López FT (June 9 2015) "Dirty Gold: Chasing the Trace of the London Bullion Market", available at *https://ojo-publico.com/especiales/dirty-gold-chasing-the-trace-of-the-london-bullion-market/* (visited 14 July 2020).

34 Weinstein L (2008) "Mumbai's Development Mafias: Globalisation, Organised Crime and Land Development" 32(1) *International Journal of Urban and Regional Research* 22-39 at 27.

There are numerous examples of the way in which gold is used for money laundering.[35] Africa plays a vital role in being the main supplier of unrefined gold that can then be moved easily and its origin cannot be traced readily. Africa is particularly important when launderers wish to use artisanal gold rather than refined gold as the basis of their laundering activities. Thus, the trade in illegally procured ASM gold from Africa becomes an important instrument by which money launderers are able to launder drug revenues and the proceeds of other criminal activities through Dubai. However, it is worth noting that not all trade in gold (particularly) in Dubai constitutes laundering. Rather, as discussed below, the various discrepancies regarding the gold trade from conflict zones through Dubai and other jurisdictions taint the world market of non-conflict bullion.

3 DUBAI'S DUE DILIGENCE AND DEPENDENCE ON CONFLICT GOLD

3.1 DMCC Due Diligence

The UAE, through the Dubai Multi Commodities Centre (DMCC), conducts what is considered a policy of responsible sourcing of gold, which is supposed to minimise the trade in gold from conflict zones.[36] However, this policy has not halted the importation of gold from Libya, Sudan and, as we shall see, from Syria, Iraq and Yemen. There has been also a very significant increase in the volume of gold coming from the Great Lakes Region, and Uganda in particular;[37] exports to the UAE from countries neighbouring the Eastern DRC reach such volumes that they cannot possibly be from local mines, whether ASM or LSM.

Gold that arrives in Dubai from Africa frequently enters the Emirates in small volumes and comes in personal luggage. There are, at least on paper, fairly stringent UAE customs regulations which govern this trade. Importers are required to declare their gold to customs officials and, in the absence of a foreign assay test, importers are required to complete such a test before being allowed to bring the gold into the country.[38] However, personal imports from Africa are not the principle route for Sudanese gold. In this regard, it has been estimated that:

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35 See FATF & APG (2015) at 12-13.

36 See OECD (2014) "Gold Industry and Sector Initiatives for the Responsible Sourcing of Minerals" at 14-16, available at *https://www.oecd.org/daf/inv/mne/Gold-Industry-and-Sector-Initiatives-Guide.pdf* (visited 2 October 2019); DMCC "Responsible Sourcing", available at *https://www.dmcc.ae/gateway-to-trade/commodities/gold/responsible-sourcing* (visited 2 October 2019).

37 See De Moerloose (2016).

38 See Gulf Gold Refinery Services "Shipping Instructions", available at *https://gulfgoldrefinery.com/* (visited 4 October 2019).

> In 2012, about 77% of the 57 tonnes of gold originating from Sudan was exported to Dubai by an arm of the Sudanese government known as the Sudan Financial Services Company (SFS). The remaining 23% was sold by private companies incorporated in the United Arab Emirates or Sudan, which subsequently exported it to Dubai. Most of this gold from Sudan was sold to one refiner in Dubai: Kaloti.[39]

The gold doré or dust can enter the Dubai market either directly through one of the refiners or be sold to individual traders in the Dubai gold *souk*. These buyers act as intermediaries who will on-sell gold imported from Africa and elsewhere to one of the refineries, which will then be able to trade it on the Dubai gold exchange as "Dubai Good Delivery".[40] Buyers in the *souk* wishing to sell their gold on to a Dubai refiner are required to keep a record of the nature and origin of their purchases in order to satisfy the due diligence requirements of the refiners. However, the practice of classifying the gold as scrap by gold buyers and the "don't ask, don't tell" custom weaken the due diligence system. Even more worrying is the lax compliance with the due diligence process by major parties in the supply chain (the refiners). Blore notes that while some refiners were open to discussions on their purchase verification procedures, others were not.[41]

However, even with the DMCC due diligence initiative in force, several shortcomings have led to a lack of confidence in it. These shortcomings include the:

- mystery around the declaration procedure of gold upon arrival;
- purported disguise of significant quantities of ASM gold;
- knowing acceptance of disguised gold by suppliers who have falsified documents;
- lack of questions about the provenance of hand-carried gold by gold buyers in *souks*;
- failure of a major refiner to report suspicious cash transactions;
- lack of adequate supply chain information on several tonnes of high risk gold from countries such as Sudan and those in the Great Lakes Region.[42]

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39 Sharife K (11 May 2016) "Illegal 'Blood Gold'—From War-Torn Sudan to your Phone" *Mail & Guardian*, available at *https://mg.co.za/article/2016-05-11-the-missing-paper-trails-of-sudans-gold* (visited 2 October 2019).

40 See DMCC "Accreditation Initiatives", available at *https://www.dmcc.ae/gateway-to-trade/commodities/gold/accreditation-initiatives* (visited 4 October 2019).

41 Blore (2015) at 28-29.

42 See Blore (2015) at 27-29; Global witness. (2014) "City of Gold: Why Dubai's First Conflict Gold Audit Never Saw the Light of Day" at 6-7, available at *https://www.globalwitness.org/sites/default/files/library/dubai_gold_layout_lr.pdf* (visited 22 August 2019).

These drawbacks persist even with formal regulation in place. The lack of clarity surrounding the declaration process is, as asserted by Blore,

> due to minimal, to a lack of co-operation from custom officers upon request from researchers (from the UN Group of Experts, the OECD, and PAC - the PAC researcher received mixed responses).[43]

The UAE does not impose taxes on the imported gold. However, significant quantities of gold still are disguised (either churned from jewellery or coated with silver). This practice normally is driven by the export regulations of the source countries.[44]

3.2 Dubai's Increasing Dependence on Conflict Gold

We consider here the two main sources of conflict gold, namely, Africa and the Middle East. The table below shows the increasing dependence of the UAE on gold from African countries in conflict and countries which are "gold trade anomalies", whence exports to the UAE are far greater than any estimates of domestic gold production. The UAE has estimated that 944 tonnes of gold were imported into Dubai in 2016, with some 143 tonnes coming from Libya and Sudan. If we add to this the reported exports from Uganda, Rwanda, Burundi and Kenya to the UAE of 19 tonnes, the figure grows to approximately 17% of total UAE gold supply.[45] The amount of gold smuggled from eastern DRC to the UAE via these four countries does not include potential smuggling from the DRC to neighbouring Tanzania.[46] The UAE's dependence upon gold from African conflict and trade anomaly countries rose from 17.7% in 2012 to 31% in 2016. Many of the countries involved in trade with the UAE — such as Nigeria, Benin, Uganda and Rwanda — are reported to export quantities that are well in excess of any national or international estimate of production. This gold trade requires detailed forensic investigation by the DMCC and international AML authorities, as well as African revenue and mining authorities.

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43 Blore (2015) at 27.

44 Global witness (2014) at 7.

45 The volume of gold imports from India is regarded as being exaggerated by the phenomenon of round-tripping discussed below.

46 Tanzania was excluded as it is a significant gold producer and the amount of gold that may be smuggled from the DRC would not be easy to assess.

UAE Imports of Gold from Africa (in metric tonnes)

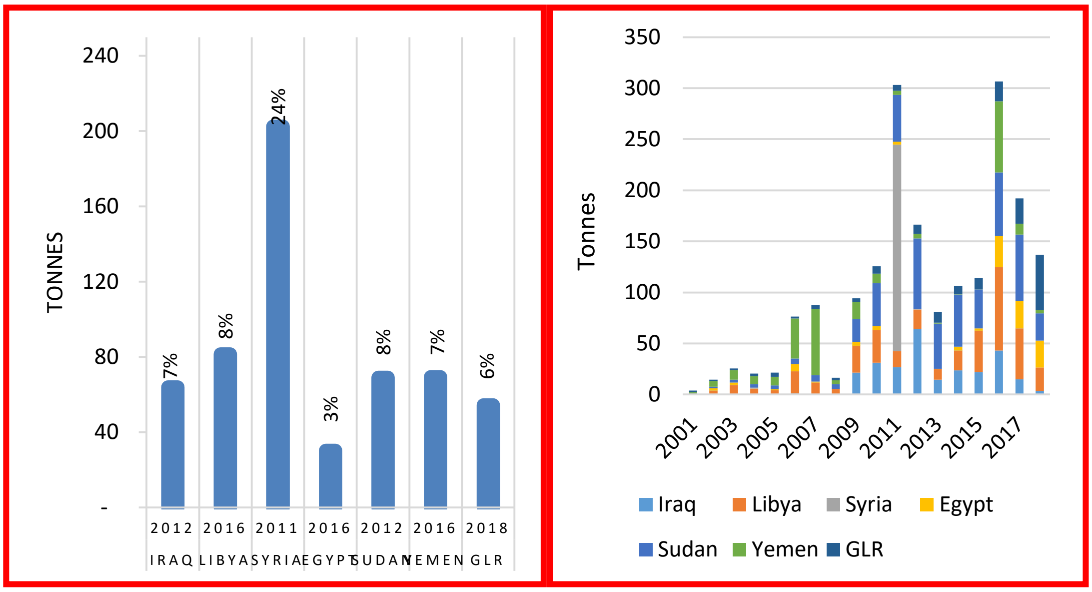
Total Imports of Gold					
	2012	**2013**	**2014**	**2015**	**2016**
UAE	937	1103	959	794	941
Imports of Gold from Conflict Countries in Africa					
	2012	**2013**	**2014**	**2015**	**2016**
Libya	19.3	10.3	19.6	40.4	81.5
Sudan	69.1	44.3	51.1	38.4	62.6
DRC	0.4	0.6	0.8	1.2	0.6
Imports of Gold from Trade Anomaly Countries in Africa					
Burundi	3.0	5.1	5.2	4.6	2.8
Benin	5.5	4.8	8.7	6.8	10.0
Cameroon	5.0	9.6	8.7	10.4	9.9
Chad	0.7	1.9	4.2	2.0	4.7
Egypt	0.5	0.3	3.7	2.0	30.2
Liberia	3.6	3.3	3.1	3.2	3.3
Madagascar	4.0	3.6	3.8	4.0	4.1
Mali	29.1	49.6	59.9	66.9	41.1
Niger	0	1.2	2.4	4.9	4.3
Nigeria	7.9	6.3	9.9	15.3	21.2
Rwanda	0	0	0.2	2.0	4.9
Togo	12	10	5.8	0.064	0.076
Uganda	1.2	1.1	1.0	2.9	10.0
Kenya	4.6	4.0	0.9	0.4	1.0
TOTAL	**165.9**	**156**	**189**	**205.5**	**292.3**

Source: DMCC, available at *https://www.dmcc.ae/gateway-to-trade/commodities/gold* and UN Comtrade Database, available at *https://comtrade.un.org/data/* HS Code 710812.

Dubai has become central to the export of gold from conflict economies in both the Middle East and Africa. The two figures below show the peak of UAE gold imports from various conflict economies and regions. The UN Comtrade figures for imports of gold by the UAE from Syria are questionable. It is estimated that some 202 tonnes of gold were imported from Syria by the UAE in 2011 and virtually nothing before or after. There is considerable anecdotal evidence that the Syrians liquidated a large portion of their gold reserves in 2011, at the beginning of the UN sanctions regime against the Assad government.[47] The list of war and conflict economies includes countries that produce no gold, like Yemen, Syria and Iraq,[48] yet they have exported large volumes of gold to the UAE. The figures for imports from the African Great Lakes Region includes the DRC, Kenya, Uganda, Rwanda and Burundi, with only the DRC being a significant producer and the others acting as regional entrepôts. The most significant is Uganda which, according to UN Comtrade data, exported some 29.8 tonnes of gold in 2018 to the UAE despite it having no substantial gold mines. Egypt also has become a major exporter of gold to the UAE over the years, with volumes well beyond its total mined production.

Figure 1(a) & (b)
Peak & Trend of UAE Imports of Gold from Conflict & War Economies
(% of Total UAE Supply in that Year in (a))

(a) **(b)**



Source: UN Comtrade Database, available at *https://comtrade.un.org/data/* HS Code 7108.

47 See Irish J & Bakr A (18 April 2012) "Syria Selling Gold Reserves as Sanctions Bite: Sources" *Reuters*, available at *https://www.reuters.com/article/us-syria-gold/syria-selling-gold-reserves-as-sanctions-bite-sources-idUSBRE83H0RZ20120418* (visited 26 September 2019); Reuters (23 March 2012) "Factbox: Sanctions Imposed on Syria", available at *https://www.reuters.com/article/uk-syria-eu-sanctions-factbox-idUKBRE82M0I420120323* (visited 26 September 2019).

48 See British Geological Survey (2019) "World Mineral Production 2013-2017", available at *https://www.bgs.ac.uk/downloads/directDownload.cfm?id=3512&noexcl=true&t=World%20Mineral%20Production%202013%20to%202017* (visited 27 September 2019); US Geological Survey (2016) "Gold Statistics and Information: Minerals Year Books", available at *https://prd-wret.s3-us-west-2.amazonaws.com/assets/palladium/production/atoms/files/myb1-2016-gold.xlsx* (visited 27 September 2019).

3.3 The Kaloti Scandal

The single most intriguing and revealing case of the Africa-UAE gold trade over the last decade has been that of Kaloti Precious Metals (Dubai). Kaloti is the largest refiner in the UAE, and was responsible for $12 billion of trade and gold refining in 2016.[49] It allegedly has been involved in several high profile incidents of commercial impropriety in the gold trade.[50] A management report, produced by Ernst & Young in 2013, indicated that there were numerous lapses in the governance of the gold value chain by Kaloti.[51] One such lapse allegedly involved the importation of some four tonnes of Moroccan gold which had been coated in silver to evade Moroccan export regulations.[52] However, the issue of greatest relevance is the assertion that Kaloti accepted 57 tonnes of Sudanese gold for refining purposes, even though it was considered high risk by its own standards.[53] Similarly, Kaloti had a practice of accepting gold from "call customers" without carrying out any enhanced due diligence. The value of the call customer trade amounted to $5.2 billion in 2012. Amjad Rihan, the consultant who had undertaken the original due diligence report, was removed,[54] whereafter Ernst & Young released a study stating Kaloti was in compliance with the requirements of the DMCC's Practical Guidance for Market Participants in the Gold and Precious Metals Industry.[55] In the following year, Grant Thornton undertook a new study

49 See "Dubai refinery Kaloti, DMCC Caught up in $5bn Global Gold Scandal (26 February, 2014) *Arabian Business/Global*, available at *https://www.arabianbusiness.com/dubai-refinery-kaloti-dmcc-caught-up-in-5bn-global-gold-scandal-540342.html* (visited 2 September 2019).

50 See *Rihan v Ernst & Young Global Ltd and Others*, Case No QB-2017-005208, available at *https://www.judiciary.uk/wp-content/uploads/2020/04/Rihan-v.-EY-Global-Ltd-and-others-Approved-Judgment-17-April-2020.pdf* (visited 24 April 2020).

51 See Global Witness (2014); *Rihan v Ernst & Young Global Ltd and Others*, Case No QB-2017-005208.

52 Global Witness (2014) at 7. See also Leigh Day (April, 2020) "Former EY Partner Awarded $10.8m in Damages in Legal Case against the Global Accountancy Firm", available at *https://www.leighday.co.uk/News/Press-releases-2020/April-2020/%E2%80%8BFormer-EY-partner-awarded-108m-in-damages-in-lega* (visited 8 May, 2020).

53 Global Witness (2014) at 6. See also Doward J (2018) "Whistleblower Suing Ernst & Young over Gold Dealings with Dubai Firm" *The Guardian*, available at *https://www.theguardian.com/business/2018/jan/21/ernst-young-whistleblower-suing-gold-audit-dubai* (visited 28 August 2019); Gulf Times (2017) "Gold Firm Whistle-Blower who Fled Dubai Sues Ernst & Young", available at *https://www.gulf-times.com/story/575762/Gold-firm-whistle-blower-who-fled-Dubai-sues-Ernst* (visited 28 August 2019).

54 Doward (2018). Some sources state that he resigned. See Verity A (2014) "Gold Market Breaches 'Covered Up'" *BBC Business News*, available at *https://www.bbc.com/news/business-26341072* (visited 28 August 2019).

55 See Ernst & Young (2013) "Independent Reasonable Assurance Report on Kaloti Jewellers Factory Ltd's Refiner's Compliance Report", available at *http://www.w-t-w.org/en/wp-content/uploads/2013/12/EY_Kaloti_Evaluation_27.11.13.pdf* (visited 27 August 2019).

and also gave Kaloti a clean bill of health.[56] In 2015, Kaloti was removed by the DMCC from the Dubai Good Delivery List.[57] And in 2018, Amjad Rihan sued Ernst & Young over the matter; his suit succeeded in 2020.[58] The Kaloti affair brings into question the role that is played by the major consulting and accounting firms in assuring the proper maintenance of the gold value chain. In this connection, it bears noting that the role of Kaloti in the African gold trade with Dubai has been the subject of a significant recent study.[59]

4 UNITED ARAB EMIRATES GOLD IMPORTS AND EXPORTS

The UAE is consistently a net importer of gold.[60] Given its increased reliance on conflict gold, this would suggest that much of the gold is being held in the UAE as a store of value or as a safe haven for countries experiencing war and social upheaval or where the gold is the product of illegally earned income. The country had net imports of 2799 tonnes of gold between 2012 and 2018.[61]

This section now considers the source of imports and the direction of exports of gold for reasons that appear to stem from factors other than the existence of conflict in another jurisdiction. As we shall see, gold is traded for the purposes of providing an untraceable medium of exchange as well as a store of

56 See Grant Thornton (2014) “Independent Reasonable Assurance Report (ISAE 3000) to Kaloti Jewellery International DMCC”, available at *http://www.kalotipm.com/userfiles/file/GTASSURANCE-REPORT.pdf* (visited 27 August 2019).

57 See McAuley A (2015) “DMCC Removes Kaloti from Dubai Good Delivery List over Gold Sourcing” *The National*, available at *https://www.thenational.ae/business/dmcc-removes-kaloti-from-dubai-good-delivery-list-over-gold-sourcing-1.34979* (visited 27 August 2019); “Dubai Good Delivery List”, available at *https://www.dmcc.ae/application/files/2114/9138/7908/DGD_List-_Gold_Alphabetical_-_October_2016-_Final.pdf* (visited 27 August 2019).

58 Doward J (2018); Hodgson C (2018) “Whistleblower Claims Accountants Turned a Blind Eye to Dubai Firm he says Painted 5 Tons of Gold to Look Like Silver” *Business Insider*, available at *http://uk.businessinsider.com/whistleblower-sues-ey-alleged-corruption-2018-1* (visited 28 August 2019); Gulf Times (2017); Leigh Day (April, 2020).

59 STP (2019) “Switzerland – A Hub for Risky Gold? Case Studies from the United Arab Emirates, Sudan, the Democratic Republic of Congo, Liberia and Peru”, available at *https://www.alliancesud.ch/en/infodoc/bibliothek/switzerland-hub-risky-gold-case-studies-united-arab-emirates-sudan-democratic* (visited 23 September 2019).

60 DMCC–Gold, available at *https://www.dmcc.ae/gateway-to-trade/commodities/gold* (visited 3 September 2019).

61 DMCC–Gold, (visited 3 September 2019).

value that is risk resistant.[62] Dubai's status as a secrecy jurisdiction allows gold to be used for purposes other than money laundering, including the breaking of sanctions provisions and illegal trade for the purposes of securing benefits from the home jurisdiction.

The UAE has carved out for itself a significant role in global illicit trade. While mined gold, principally from the ASGM sector, is from Africa, the continent is not the only supplier, as other products are needed to satisfy the wide spectrum of demand for various types of gold products from various markets.

4.1 UAE–Turkey Gold Trade

As may be seen from the gold trade figures in Figure 2 below, the UAE has developed a gold trading relationship with Turkey which, in 2016, was one of its most significant suppliers and has also been a destination of gold exports. Based on total trade statistics, in 2019 the UAE was the second largest trading partner of Turkey and the trade has been based on gold, despite the fact that neither country is a gold producer.[63] What Turkey does have is several refiners that are accredited with the LBMA as Good Delivery refiners and this makes them physically the closest supplier of LBMA gold for Dubai.

Turkey reportedly was caught breaking trade sanctions in 2015–2016 and likely still is to receive considerable fines from the USA.[64] The trade in oil and other commodities between Turkey and Iran allegedly involved payments in gold to avoid the use of US dollars. Much of the gold that was used to pay for imports was

62 See FATF & APG (2015) at 11-13. See also generally Sepanek E (2014) "How These 10 Factors Regularly Influence Gold Prices" *Scottsdale Bullion & Coin*, available at *https://www.sbcgold.com/blog/10-factors-regularly-influence-gold-prices/* (visited 14 August 2019); Reboredo JC (2013) "Is Gold a Safe Haven or a Hedge for the US Dollar? Implications for Risk Management" 37 *Journal of Banking and Finance* 2665-2676; Dierinck B (2012) "Determinants of the Gold Price", available at *https://lib.ugent.be/fulltxt/RUG01/001/893/290/RUG01-001893290_2012_0001_AC.pdf* (visited 14 August 2019); Erdoğdu A (2017) "The Most Significant Factors Influencing the Price of Gold: An Empirical Analysis of the US Market" 5(5) *Economics World* 399-406.

63 Al Monitor (2017) "What's behind Curious Gold Traffic between Turkey and UAE?", available at *https://www.al-monitor.com/pulse/fa/originals/2017/05/turkey-uae-curious-gold-traffic.html#ixzz5z1sTkYcl* (visited 23 September 2019).

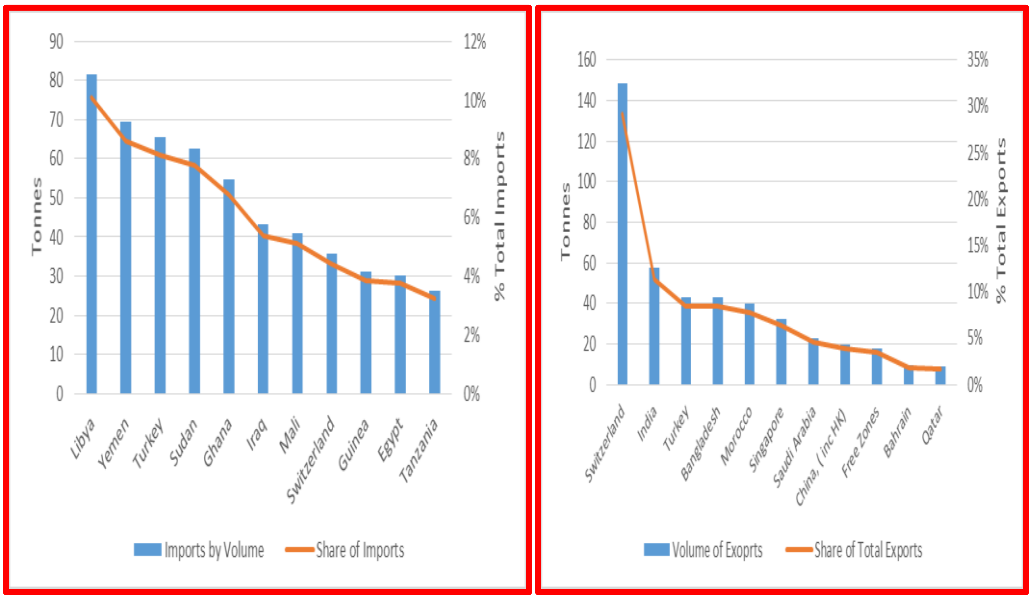
64 Wald ER (2018) "Turkey & Iran: Energy, Economy and Politics in the Face of Sanctions" 17(3) *Turkish Policy Quarterly* 137-146 at 142-144; See also Reuters (6 February 2019) "Venezuela Sold 73 Tonnes of Gold to Turkey, UAE Last Year: Legislator", available at *https://www.reuters.com/article/us-venezuela-politics-gold/venezuela-sold-73-tonnes-of-gold-to-turkey-uae-last-year-legislator-idUSKCN1PV1XE* (visited 11 September 2019).

traded through Dubai.[65] Similarly in 2019 Turkey began a significant trade in gold with Venezuela, which also is under US sanctions,[66] while trade between Iran and Turkey has been increasing dramatically as well, despite US sanctions.[67]

Figure 2(a) & (b)

UAE Gold Imports and Exports (2016)

(a) **(b)**



Source: UN Comtrade Database, available at *https://comtrade.un.org/data/* HS Code 710812.

Note that UN Comtrade data is consistently weak when it comes to the trade in minerals. In 2016, the DMCC estimated total gold imports at 941 tonnes, which is considerably larger than the UN Comtrade figure of 806 tonnes.

What the UAE global gold import figures suggest is that the dependence of the UAE on imports from conflict countries extends beyond Africa. In 2016, for example, Yemen, which was in the midst of civil war, became the second largest source of gold supply to the UAE. Five countries stand out as supply sources for UAE gold, namely, Libya, Yemen, Sudan, Iraq and Egypt. These are, to a greater or lesser degree, conflict sources which contributed some 36% of total UAE imports of

65 Reuters (23 October 2012) "Exclusive: Turkish Gold Trade Booms to Iran, via Dubai", available at *https://www.reuters.com/article/us-emirates-iran-gold/exclusive-turkish-gold-trade-booms-to-iran-via-dubai-idUSBRE89M0SW20121023* (visited 11 September 2019).

66 Ahval (27 January 2019) "Turkey Repeating Iran Sanction-Busting Scheme with Venezuela – Ex-Diplomat", available at *http://tinyurl.com/yaaxzhes* (visited 11 September 2019).

67 Financial Tribune (23 June 2019) "77% Rise in Iran's Non-Oil Trade with Turkey", available at *https://financialtribune.com/articles/domestic-economy/98593/77-rise-in-irans-non-oil-trade-with-turkey* (visited 11 September 2019).

gold by volume in 2016. Under such circumstances, it is difficult to understand how the DMCC can argue that it is in compliance with its own ethical sourcing rules and how other jurisdictions, which are supposed to be more serious about such standards, are able to maintain trading relations with Dubai.

4.2 UAE–Switzerland Gold Trade

As ought to be the case in every country which claims to adhere to due diligence practices, Swiss law requires companies to identify the origins of any raw materials of questionable provenance. If a company is not able to do so, it is required to hold on to the materials until the "proper" authorities establish their provenance.[68] The act of preventing the establishment of a link between a crime and its proceeds is a criminal offence and, under Article 305bis of the Swiss Criminal Code (SCC), falls under the definition of money laundering.[69]

Switzerland surprisingly is consistently the largest destination for exports of UAE gold. To be sure, there are serious issues pertaining to the credibility of statistics when it comes to trade from the UAE which is a notorious tax haven. However, the difficulties of data accuracy and consistency increase exponentially when two notorious tax havens are involved in trade in a commodity such as gold, which is one of the most important bases of money laundering. For example, from Figure 2 above, it appears that gold exports from the UAE to Switzerland in 2016 amounted to some 148 tonnes. Swiss mirror data for the same year suggests that imports from the UAE were 376.9 tonnes, and that the UAE was by far the biggest source of gold for Switzerland in that year. Volumes of trade between Switzerland and the UAE fluctuate considerably from year to year,[70] which no doubt in part reflects the demand for LBMA accredited gold in the UAE, as well as the vagaries of illicit international trade and commerce.

Of particular interest is the relationship between Valcambi, a major Swiss refinery, and Kaloti, the Dubai based refinery. Valcambi openly reports that it works with Kaloti.[71] Of the imports between the two countries, it may be assumed that a large portion was exchanged between the two refineries. As Pieth asserts,

68 De Moerloose (2016)
69 De Moerloose (2016).
70 See Metals Focus (2019) "Gold Focus", available at *https://www.europeangoldforum.org/wp-content/uploads/sites/8/2019/04/Gold-Focus-2019-compressed.pdf* (visited 22 September 2019); UN Comtrade Database, HS Codes 7108 and 710812, available at *https://comtrade.un.org/data/* (visited 23 September 2019).
71 Pieth (2019) at 179.

this raises the question of the world market of "respectable" bullion being opened to Dubai (Kaloti).[72]

4.3 UAE–India Round-Tripping

India produces virtually no gold. Production estimates for 2016 vary between one and two tonnes, according to the US and British geological surveys.[73] Yet, India is the world's biggest producer of jewellery, with total exports of approximately US$32.8 billion in 2017–2018 (while gold jewellery exports in 2017–2018 were approximately US$9.6 billion),[74] contributing around seven per cent to the country's GDP and 15 per cent its total merchandise exports.[75] It is by far India's largest export sector and is supported strongly by the Indian government. The sector employs in excess of 4.64 million workers.[76]

In order to promote the industry, the government of India has developed a series of supportive interventions. These include:

- concessional finance to lower the cost of working capital needed in the jewellery sector;
- duty-free replenishment of precious metals;
- a merchandise export incentive scheme (MEIS);[77]
- special economic zones (SEZ) since 2005, where manufacturers can import gold duty- and excise-free for the purposes of export;

72 Pieth (2019) at 179.

73 US Geological Survey (2016); British Geological Survey (2019).

74 Gem Jewellery Export Promotion Council of India, available at *https://gjepc.org/admin/StatisticsExport/698945475_Total%20Exports%20of%20Gem%20&%20Jewellery%20(2008-09%20to%202017-18).pdf* (visited 17 September 2019).

75 India Brand Equity Foundation (2019) "Gems and Jewellery Industry in India", available at *https://www.ibef.org/industry/gems-jewellery-india.aspx* (visited 17 September 2019).

76 India Brand Equity Foundation (2019).

77 These are to be replaced by the Remission of Duties or Taxes on Export Promotion (RoDTEP) scheme because of disputes over the breach of WTO rules. See Hindu Business Line (2019a) "Uncertainty Ends for Exporters with New Incentive Scheme, but Details Sought", available at *https://www.thehindubusinessline.com/economy/uncertainty-ends-for-exporters-with-new-incentive-scheme-but-details-sought/article29418366.ece* (visited 17 September 2019).

- 15-year tax holidays for those manufacturing in the SEZ;
- on-going training for those in the sector.[78]

It is the first three of the interventions which have had the greatest impact on the international trade in gold (as well as diamonds).[79] Amongst the greatest barriers to business cited by jewellery manufacturers are the high cost of financing gold purchases, and the long period between purchase and sale of jewellery and final receipt of sales. In most countries gold is purchased primarily from working capital and, given a 30-90 day turn around, producers find themselves financially squeezed between gold vendors and jewellery buyers. This puts considerable strain on the finances of smaller producers. In response, the government of India provides concessional finance to support the country's biggest export sector. Certainly, one of the important sources of potential government assistance to jewellery manufacturing is the provision of adequate low-cost financing for the sector. As a result of the concessional finance, the permission granted to exporters to replenish precious metals duty-free after selling it at international exhibitions, and the obligation upon banks to provide a percentage of their loans to the export sector, the government has created a situation in which large volumes of gold (and diamonds) have been traded artificially between India and the UAE. It is common for gold to be used in combination with laundering, as well as for round-tripping of both gold and diamonds. Round-tripping is not a minor act of malfeasance. It involves billions of dollars in international trade in gold and diamonds, and is one of the biggest commercial activities of the Dubai gold market.

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78 World Gold Council (2017) "India's Gold Market: Evolution and Innovation", available at *https://www.gold.org/download/file/8241/india_gold_market_innovation_and_evolution.pdf* (visited 17 September 2019); WTO (2015) "Trade Policy Review: India" at 75, available at *https://www.wto.org/english/tratop_e/tpr_e/s313_e.pdf* (visited 18 September 2019); Press Information Bureau, Ministry of Commerce & Industry (2016) "Merchandise Export from India Scheme", available at *https://pib.gov.in/newsite/PrintRelease.aspx?relid=148539* (visited 18 September 2019); Hindu Business Line (2019a); Hindu Business Line (2019b) "Govt Restores Duty-Free Replenishment Facility for Jewellery Exporters", available at *https://www.thehindubusinessline.com/economy/govt-restores-duty-free-replenishment-facility-for-jewellery-exporters/article29320923.ece* (visited 18 September 2019).

79 Considerable work has been done on the magnitude of round tripping in gold and diamonds. See Krishnaswamy R & Shaw A (18 January 2014) "The Puzzle that is India-UAE Trade" xliX(3) *Economic & Political Weekly* 74 -78; Edahn G (2012) "The Real Cost of Round-Tripping", available at *http://www.idexonline.com/FullArticle?Id=36336* (visited 18 September 2019).

The World Gold Council defines round-tripping as:

> the act of exporting gold, be it jewellery bars or coins, with the sole purpose of melting it down before re-importing it back to the original exporting country. The process results in a circular flow of gold between different countries, serving to inflate trade statistics. The levels involved can be significant and this is one reason why trade statistics should not be taken at face value.[80]

The way in which round-tripping functions is that gold imports are supported with financial credits provided through the commercial banks and so are exports of gold jewellery. Indian exporters will export crudely manufactured jewellery to Dubai and then smelt this down and re-export the gold bullion back to India. At the point of import and export the trader receives financial credits. The same gold often will cross the Arabian Sea many times, and this process is rampant and continually expanding.[81] The principal point of export of Indian jewellery is Dubai. In 2015–2016, India exported US$8.6 billion of gold jewellery. Half of this jewellery went to Dubai and much of it as round-tripping by Indian jewellery manufacturers.[82] In India, the principal motivation for round-tripping is the increased access which the government provides to concessional finance for the development of the jewellery sector, along with the replenishment of precious metals duty-free after sales at international exhibitions, which it is argued, has helped fuel high housing prices in Mumbai as financial credits are fungible and have been used to fund the city's construction boom.[83]

In August 2017, in an attempt to clamp down on round-tripping and to help narrow the Indian trade deficit, the Ministry of Foreign Trade prohibited the export of jewellery above 22 carats (91.67% gold).[84] A more appropriate response perhaps would have been to offer concessional finance only through the purchase of gold at licensed bullion banks and not to offer such finance for private imports. The Reserve Bank of India has licensed 18 bullion banks to import and sell gold and

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80 World Gold Council (2017) at 41.

81 Sangeetha G (17 June 2019) "Round-Tripping Still Rampant in Gold Exports" *The Asian Age*, available at *https://www.asianage.com/business/in-other-news/170619/round-tripping-still-rampant-in-gold-exports.html* (visited 24 September 2019).

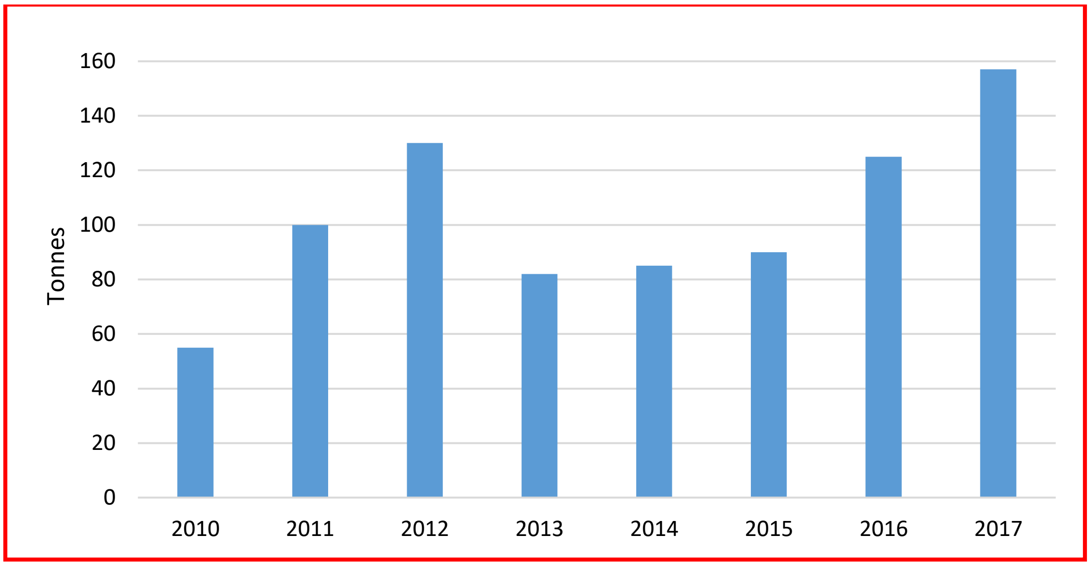
82 World Gold Council (2017) at 37.

83 Equity Master (2014) "How to Get Rid of Corruption in Real Estate?", available at *https://www.equitymaster.com/5MinWrapUp/detail.asp?date=07/23/2014&story=3&title=How-to-get-rid-of-corruption-in-real-estate* (visited 24 September 2019).

84 Reuters (2017) "India Bans Exports of Gold Products above 22 Carats", available at *https://www.reuters.com/article/india-gold-policy/india-bans-exports-of-gold-products-above-22-carats-idUSL4N1L23WN* (visited 24 September 2019).

silver bullion.[85] If the government of India were serious about curbing the abuse caused by round-tripping, then this could be achieved easily through a prohibition on imports except by local bullion banks and traders. However, a significant economy has grown up around round-tripping, where the credits available to gold jewellery exporters have been used for alternative investments that are often quite profitable, such as the urban property market.[86] The consequence of a termination of credit to the urban property market would have serious consequences for the economy as a whole and so government appears reluctant, even timid, in the face of this activity which has been misused widely in India in both the gold and diamond trade for well over a decade.[87]

Figure 3
Estimates of the Volume of Round Tripping in the Indian Gold Trade (tonnes)



Source: Figures for 2010-2015 based on World Gold Council estimates, available at *https://www.gold.org/download/file/8241/india_gold_market_innovation_and_evolution.pdf*; figures for 2016-2017 based on GFMS Thompson Reuters estimates, available at *https://motamem.org/wp-content/uploads/2017/12/Gold-Survey-2017.pdf* and *https://www.asianage.com/business/in-other-news/170619/round-tripping-still-rampant-in-gold-exports.html*.

The Indian government, by providing concessional finance for the purchase of gold and the export of jewellery, and by supporting the replenishment scheme, has created an incentive for traders to over-report imports of gold and exports of

85 Reserve Bank of India, available at *https://m.rbi.org.in/commonman/english/scripts/Content.aspx?Id=336* (visited 24 September 2019)

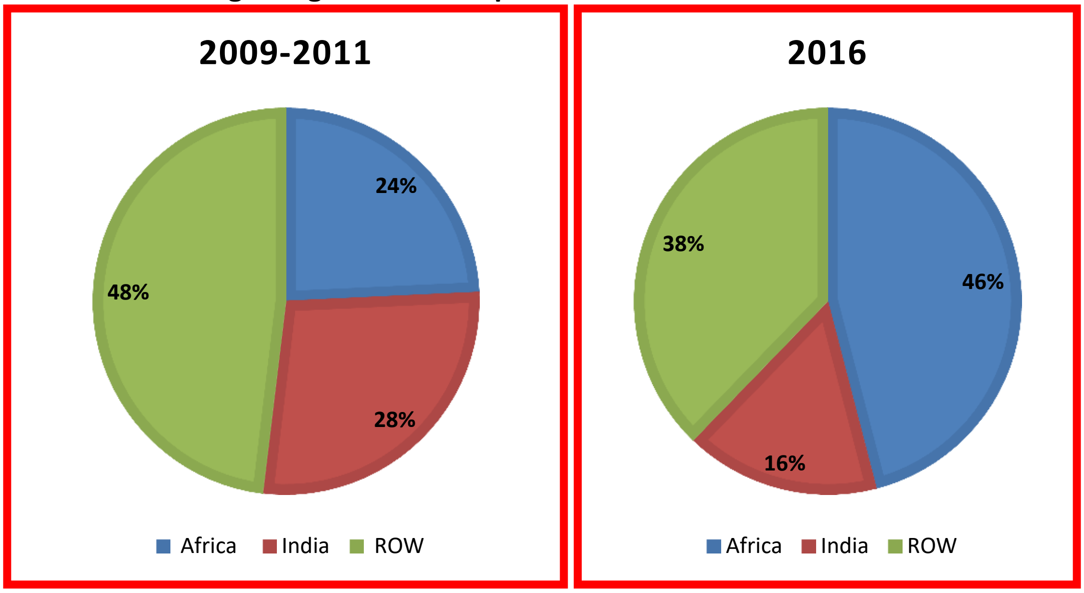
86 Equity Master (2014).

87 See Equity Master (2014).

jewellery. As appears from Figure 3 above, there is a persistent round-tripping occurring from India, which is increasing in volume. Some Indian gold and gem users will export the same gold jewellery to Dubai and other tax-free centres several times in order to secure more concessional finance. In 2016, 75% of the trade in gold in India was estimated to take the form of round-tripping.[88] The value of this round-tripping trade in 2017 was approximately US$6.4 billion.[89] As a result, all computations of the value of Indian trade in gold are unreliable.

The two pie charts below show the changing origin of UAE imports of gold. At the beginning of the decade the biggest single source of gold was India, but this was almost totally round tripping, since India produces almost no gold. By 2016, Africa had become central to the UAE's source of gold supply with 46% of gold coming from the continent as Indian gold was diminishing in significance.

Figure 4(a) & (b)
Percentage Origin of Gold Imports to UAE for 2009-2011 and 2016



Source: UN Comtrade Database, available at *https://comtrade.un.org/data/* HS Code 7108. HS Code 7108 encompasses gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form. This code (as opposed to HS Code 710812 relied upon throughout the paper) has been used because it is more reflective of the type of trade occurring between India and the UAE.

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88 See GFMS Thomson Reuters (2017) *GFMS Gold Survey 2017* London: Thomson Reuters at 69. In 2018 it was estimated that 78% of the gold trade consisted of round-tripping. See Sangeetha (17 June 2019).

89 Authors' calculations based on the estimated volume of round tripping in the Indian gold trade for the year 2017 and the corresponding annual average gold price from the World Gold Council. See Sangeetha (17 June 2019); World Gold Council (2018) "Gold Prices", available at *https://www.gold.org/download/file/8369/Prices.xlsx* (visited 14 July 2020).

4.4 UAE–Bangladesh Gold Trade

That approximately 43 tonnes of gold (worth approximately US$1.7 billion) was exported by the UAE to Bangladesh in 2016 is perplexing. Bangladesh does have jewellery industry, but such magnitudes are not reflected in the size of the jewellery sector or market in the country, especially when compared to India which received approximately 58 tonnes of gold. However, the magnitudes have to be understood in the context of alleged smuggling[90] and the establishment of Bangladesh as an entrepôt to India.[91] Aside from illegal trade, the gold is purported to be used to accommodate surges in demand before certain festivals and is claimed to finance trade in cows from Hindu India for consumption at festivals for Bangladesh's Muslims, with such transactions being largely informal.[92]

Furthermore, while India has sought to curb round-tripping between itself and the UAE through the imposition of import duties, Bangladesh's status as a gold entrepôt has been on the rise.[93] India's imposition of import duties on gold did little to curb these practices. Still, after pressure was exerted on Bangladesh by India to do the same, official records of gold exports from Bangladesh to India were noted to have dropped.[94] However, this reported decline ought to be taken with some skepticism.

5 CONCLUSION

The role of the UAE and the DMCC in facilitating various sorts of malfeasance is growing rapidly. Whether it is the trade in illegally mined gold from the ASGM sector in Africa or whether it is conflict gold from countries — such as Libya, Yemen, and Iraq in 2016 or Syria in 2012 — gold flows from those countries have greased the wheels of international commerce. Gold acts increasingly as a medium of exchange while maintaining its role as a store of value, especially in a secrecy jurisdiction such as Dubai. Gold acts as an alternative currency when the US dollar

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90 See *The Daily Star* (18 May 2017) "Jewellery Industry and Smuggled Gold", available at *https://www.thedailystar.net/editorial/jewellery-industry-and-smuggled-gold-1406764* (visited 29 September 2019); Mahmud F (11 June 2017) "Rules of the Gold Game" *The Independent*, available at *http://www.theindependentbd.com/post/98869* (visited 29 September 2019); Jani R (7 November 2017) "Gold Smuggling: The strings are Pulled from the Middle East" *Dhaka Tribune*, available at *https://www.dhakatribune.com/bangladesh/crime/2017/11/06/gold-smuggling-strings-pulled-middle-east* (visited 30 September 2019).

91 See Allchin J (27 October 2014) "Bangladesh Smugglers Trade Gold for Cows" *Asian Review*, available at *https://asia.nikkei.com/Economy/Bangladesh-smugglers-trade-gold-for-cows* (visited 30 September 2019).

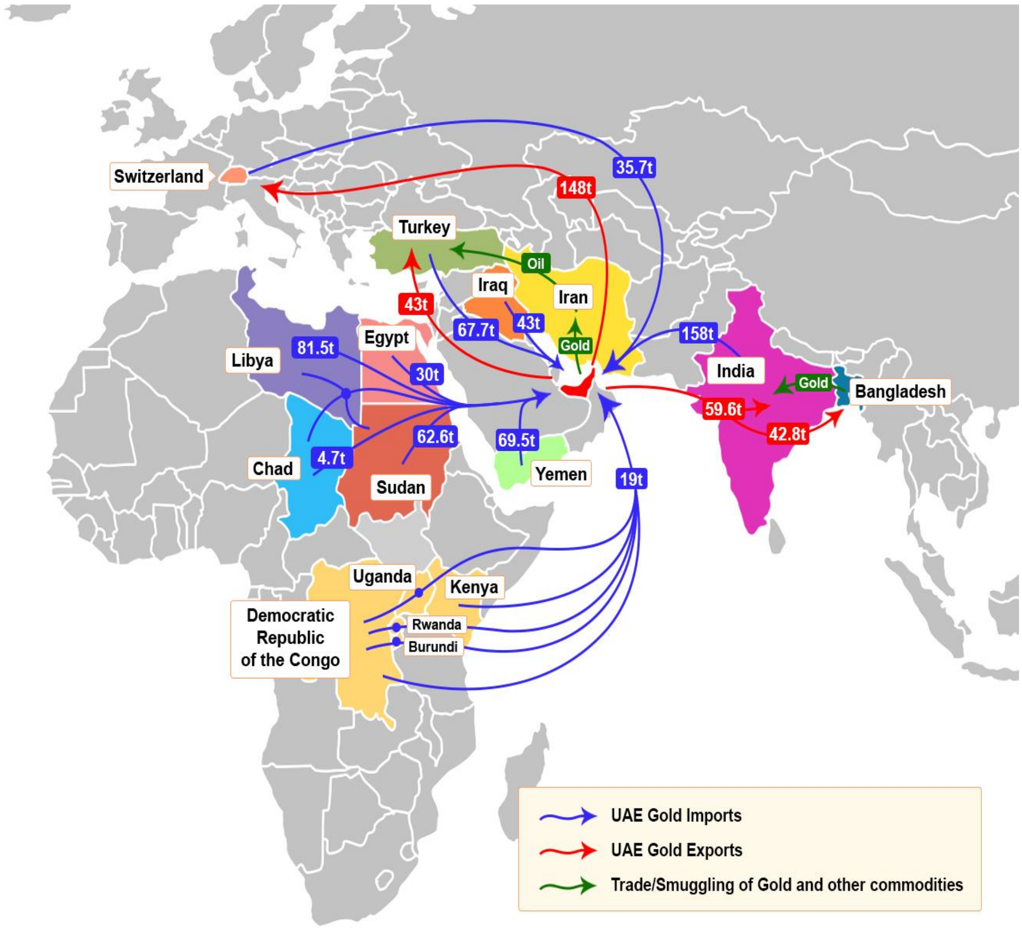
92 Allchin J (2014).

93 Allchin J (2014).

94 Allchin J (2014).

becomes blocked as a medium of exchange between countries, as is the case with Venezuela and Iran. The most important role of gold in Dubai is that, when combined with its status as a secrecy jurisdiction, it becomes vital to the laundering of money. Indeed, the existence of unrefined gold from Africa facilitates this process. The map below summarises the trade of gold between the UAE (Dubai) and its trading partners.

Web of the UAE Gold trade in 2016



Source: Compiled by the authors

Dubai has become one of the global epicentres of illicit commerce and malfeasance. Switzerland plays an important role in giving it a patina of commercial respectability by allowing LBMA Good Delivery gold to be traded with Dubai. In Dubai there are no refineries that are accredited with the LBMA and so, without the connections that exist between Dubai traders and Swiss refiners, the illicit gold that comes from conflict countries could not enter the global gold market easily. The connections that Dubai increasingly is creating with other significant gold entrepôts, such as Turkey, are key to its role as the principal gold jurisdiction for the funding of the Iranian and Venezuelan trade.

None of the conflict economies that are the source of supply for so much of Dubai's gold continues in this position for very long. Supplies from Syria, Iraq, Yemen or Libya to the UAE market are short-lived and dry up quickly. The exceptions are those suppliers which are themselves producers of gold, such as the Central African Great Lakes region or Sudan.