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OF CABLES AND OTHER ELEMENTS OF OUTSIDE
PLANT

**Implementation guidance for small- and
medium-sized enterprises on information and
communication technology supply chain due
diligence concerning conflict minerals**

ITU-T L-series Recommendations – Supplement 21

ITU-T



ITU-T L-SERIES RECOMMENDATIONS

**ENVIRONMENT AND ICTS, CLIMATE CHANGE, E-WASTE, ENERGY EFFICIENCY; CONSTRUCTION,
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Supplement 21 to ITU-T L-series Recommendations

Implementation guidance for small- and medium-sized enterprises on information and communication technology supply chain due diligence concerning conflict minerals

Summary

Supplement 21 to ITU-T L-series Recommendations provides a set of guidelines to assist information and communication technology (ICT) downstream small- and medium-sized enterprises (SMEs) in developing and implementing a comprehensive conflict minerals management system, based on the *Due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas* of the Organisation for Economic Co-operation and Development [b-OECD, 2013a].

To this end, this Supplement also collects, collates and makes reference to other relevant information from different organizations to avoid conflicting guidance and to provide a more detailed standardized methodology where applicable.

This Supplement can be used by any ICT downstream company and can be adjusted to meet the company's specific needs, nature, organizational structure and characteristics.

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Introduction

Like other manufacturing industries, ICT companies are at risk of using critical minerals, namely tin, tantalum, tungsten and gold (3TG), that are necessary for the manufacture of their products, extracted and traded from the conflict-affected or high-risk areas of the Democratic Republic of Congo (DRC) and the countries of Africa's Great Lakes region, thereby fuelling armed conflicts and human rights abuses.

The worsening of the political, socio-economic and environmental emergency situation in the DRC and its adjoining countries has driven governments and private companies from different manufacturing industries to adopt and implement necessary measures to address this issue. In response, heterogeneous due diligence regulatory frameworks and certification schemes have been developed and put in place to improve transparency of the mineral supply chain. Among those, some are voluntary, others legally binding; some national, others multilateral initiatives; some regional, others industry based. They also differ from each other in terms of the reach and scope of their underlying due diligence approach.

The *Due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas* of the Organisation for Economic Co-operation and Development [b-OECD, 2013a] is the most widely adopted policy which helps all companies carry out due diligence practices.

Since the requirements of [b-OECD, 2013a] are intended for all actors in the mineral supply chain rather than being industry-specific, ICT companies, and specifically downstream ICT small- and medium-sized enterprises (SMEs), have expressed the need for a clear industry-specific implementation methodology for performing due diligence concerning conflict minerals. ICT downstream SMEs are looking for a clearer understanding of [b-OECD, 2013a] and how to apply it in a way that is more specific to the downstream ICT industry.

This Supplement aims to assist downstream ICT SMEs to undertake responsible supply chain due diligence practices by providing an implementation methodology (based on [b-OECD, 2013a]) that can help improve supply chain resilience, display business integrity and sustainability and pursue a credible policy of corporate social responsibility (CSR).

Supplement 21 to ITU-T L-series Recommendations

Implementation guidance for small- and medium-sized enterprises on information and communication technology supply chain due diligence concerning conflict minerals

1 Scope

This Supplement aims at assisting information and communication technology (ICT) downstream small- and medium-sized enterprises (SMEs) in developing and implementing a comprehensive conflict minerals management system.

To this end, it provides specific implementation guidance for ICT supply chain due diligence concerning conflict minerals (focused on downstream ICT SMEs), based on *Due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas* [b-OECD, 2013a] in terms of:

- establishment of conflict minerals management systems for SMEs;
- risk identification and evaluation of the supply chain;
- establishment of strategies and implementation measures for reducing identified risks and public reporting;
- grievance and audit mechanisms under an institutionalized mechanism;
- disclosure and reporting on documentation and findings of companies' supply chain due diligence concerning conflict minerals.

2 References

None.

3 Definitions

3.1 Terms defined elsewhere

This Supplement uses the following terms defined elsewhere:

3.1.1 adjoining countries (covered countries) (footnote 7 of [b-SEC, 2012]): A country that shares an internationally recognized border with DRC, which presently includes Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda and Zambia.

3.1.2 chain of custody (p. 65 of [b-OECD, 2013a]): A record of the sequence of entities which have custody of minerals as they move through a supply chain.

3.1.3 conflict-affected and high-risk areas (p. 66 of [b-OECD, 2013a]): Areas identified by the presence of armed conflict, widespread violence, including violence generated by criminal networks, or other risks of harm to people.

3.1.4 Democratic Republic of Congo (DRC) (p. 8 of [b-AI-GW, 2015]): Located in Central Africa, [the Democratic Republic of] Congo is one of the world's least developed countries despite its huge wealth of natural resources.

3.1.5 downstream companies (p. 33 of [b-OECD 2013a]): "Downstream" means the minerals supply chain from smelters/refiners to retailers. Downstream companies include metal traders and exchanges, component manufacturers, product manufacturers, original equipment manufacturers (OEMs) and retailers.

3.1.6 due diligence (p. 13 of [b-OECD 2013a]): Due diligence is an on-going, proactive and reactive process through which companies can ensure that they respect human rights and do not contribute to conflict. Due diligence can also help companies ensure they observe international law and comply with domestic laws, including those governing the illicit trade in minerals and United Nations sanctions.

3.1.7 mineral supply chain (p. 14 [b-OECD 2013a]): The process of bringing a raw mineral to the consumer market involves multiple actors and generally includes the extraction, transport, handling, trading, processing, smelting, refining and alloying, manufacturing and sale of the end product. The term 'supply chain' refers to the system of all the activities, organisations, actors, technology, information, resources and services involved in moving the mineral from the extraction site downstream to its incorporation in the final product for end consumers.

3.1.8 risks (p. 13 of [b-OECD 2013a]): Risks are defined in relation to the potentially adverse impacts of a company's operations, which result from a company's own activities or its relationships with third parties, including suppliers and other entities in the supply chain. Adverse impacts may include harm to people (i.e., external impacts) or reputational damage or legal liability for the company (i.e., internal impacts) or both. Such internal and external impacts are often interdependent, with external harm coupled with reputational damage or exposure to legal liability.

3.1.9 smelters or refiners (p. 8 of [b-AI-GW, 2015]): Also known as metal processors. They "smelt" or "refine" mineral ores, like coltan or wolframite, into more pure metals, like tantalum or tungsten respectively, to be used in manufacturing products.

3.1.10 traceability (p. 6 of [b-UN GC-BSR, 2014]): The ability to identify and trace the history, distribution, location and application of products, parts and materials, to ensure the reliability of sustainability claims, in the areas of human rights, labour (including health and safety), the environment and anti-corruption.

3.1.11 upstream companies (p. 32 of [b-OECD 2013a]): "Upstream" means the minerals supply chain from the mine to smelters/refiners. Upstream companies include miners (artisanal and small-scale or large-scale producers), local traders or exporters from the country of mineral origin, international concentrate traders, mineral re-processors and smelters/refiners.

3.2 Terms defined in this Supplement

This Supplement defines the following terms:

3.2.1 3TG: Tin, tantalum, tungsten and gold.

3.2.2 company: Downstream small- and medium-sized enterprise (SME) in the information and communication technology (ICT) industry.

3.2.3 conflict-free: Minerals that have neither any relation with nor any contribution to any armed groups in conflict areas such as the Democratic Republic of Congo and its adjoining countries.

3.2.4 conflict mineral: mineral mined in conditions of armed conflict and human rights abuses and financing rebellions, notably in the Democratic Republic of the Congo (DRC) and its adjoining countries. Examples include tin (cassiterite), tantalum (coltan), tungsten (wolframite) and gold.

3.2.5 corporate social responsibility (CSR): Consideration of ethical concerns, environmental issues and human rights in a company's policies and operations. It takes into account corporate actions, such as a company's contribution to society and warrants for product defects. Corporate social responsibility to society is other than economic and legal obligations.

3.2.6 ICT Due Diligence Database: A global platform and repository of due diligence mineral information and communication technology (ICT) supply chain data accessible from the Internet by any company or individual involved in the ICT mineral supply chain. It is proposed that this *ICT Due Diligence Database* serve as an umbrella for all existing due diligence initiatives related to the ICT

sector, including: traceability schemes, smelters or refiners certifications (by existing certification mechanisms, such as the Conflict-Free Sourcing Initiative (CFSI) Conflict Minerals Reporting Template (CMRT), due diligence reporting mechanisms, grievance and audit reports, accredited auditors and mediators.

3.2.7 ICT due diligence guidance: Implementation guidance for information and communication technology (ICT) supply chain due diligence, focused on downstream ICT small and medium-sized enterprises (SMEs) and based on *Due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas* [b-OECD, 2013a].

3.2.8 ICT Due Diligence Task Force: Administering body of the *ICT Due Diligence Database*, under the secretariat support of the ITU's Telecommunication Standardization Sector (ITU-T). It is proposed that the *ICT Due Diligence Task Force* serve as an independent entity for the coordination of grievance and audit procedures and concerned players.

3.2.9 on-site verification: The act of verifying the origins of 3TG on a supplier's site.

4 Abbreviations and acronyms

This Supplement uses the following abbreviations and acronyms:

3TG	Tin, Tantalum, Tungsten and Gold
AFP	Analytical Fingerprint
CEO	Chief Executive Officer
CFSI	Conflict-Free Sourcing Initiative
CFSP	Conflict-Free Smelter Program
CMRT	Conflict Minerals Reporting Template
CSR	Corporate Social Responsibility
DRC	Democratic Republic of the Congo
GPS	Global Positioning System
ICT	Information and Communication Technology
IT	Information Technology
NDA	Non-Disclosure Agreement
NGO	Non-Governmental Organization
SOR	Smelter or Refiner
PDF417	Portable Data File 417
QR	Quick Response
RCOI	Reasonable Country of Origin Inquiry
RFID	Radio-Frequency Identification
SME	Small- and Medium-sized Enterprises

5 Conventions

None.

6 General information on due diligence

6.1 Available guidance document and supply chain example

Recognizing the importance of available guidance on adopted policy by industry and governments worldwide, this Supplement proposes industry-specific standardized requirements for due diligence concerning conflict minerals intended for the downstream ICT SMEs and in line with [b-OECD, 2013a].

This Supplement makes reference to other relevant information from different organizations, including the United Nations Security Council (UNSC), the International Conference on the Great Lakes Region (ICGRL), the Conflict-Free Sourcing Initiative (CSFI) and the Association Connecting Electronics Industries (IPC), to avoid conflicting guidance and to provide a more comprehensive methodology. This Supplement also takes into consideration certain requirements of the Securities and Exchange Commission (SEC) of the United States (US), as compliance to the US SEC rule impacts a large number of US and non-US companies.

This Supplement can be adjusted to apply to every downstream ICT SME. The scope of its application to companies' supply chains depends on each company's circumstances, such as its products and its relationships with its suppliers.

6.2 Defining a small and medium sized enterprise

Definitions of SMEs [b-ILO, 2015] often vary by country and are usually based on the number of employees, the annual turnover or the value of assets of enterprises. Typically, microenterprises are defined as enterprises with up to 10 employees, small enterprises as those that have 10 to 100 employees, and medium-sized enterprises as those with 100 to 250 employees. Unless otherwise specified, the definition of an SME that is used in this Supplement is any enterprise with fewer than 250 employees. This includes all types of enterprises, irrespective of their legal form (such as family businesses, sole proprietorships or cooperatives) or whether they are formal or informal enterprises. For the sake of readability, this Supplement uses the term SME throughout, unless a differentiation of sub-segments is needed.

[b-Brookings, 2008]: An SME is a formal enterprise with an annual turnover, in US dollar terms, of between 10 and 1 000 times the mean per capita gross national income, at purchasing power parity, of the country in which it operates.

[b-OECD, 2005]: Small and medium-sized enterprises (SMEs) are non-subsidary, independent firms that employ fewer than a given number of employees. This number varies across countries. The most frequent upper limit designating an SME is 250 employees, as in the European Union. However, some countries set the limit at 200 employees, while the US considers SMEs to include firms with fewer than 500 employees.

Small firms are generally those with fewer than 50 employees, while micro-enterprises have at most 10 or, in some cases, 5 workers.

Financial assets are also used to define SMEs. In the European Union, a new definition came into force on 1 January 2005 applying to all Community acts and funding programmes as well as in the field of state aid, where SMEs can be granted higher intensity of national and regional aid than large companies. The new definition provides for an increase in the financial ceilings: the turnover of medium-sized enterprises (50-249 employees) should not exceed EUR 50 million; that of small enterprises (10-49 employees) should not exceed EUR 10 million, while that of micro-firms (less than 10 employees) should not exceed EUR 2 million. Alternatively, balance sheets for medium, small and micro-enterprises should not exceed EUR 43 million, EUR 10 million and EUR 2 million, respectively.

7 Guidelines for due diligence concerning conflict minerals in mineral supply chains

Companies sourcing, trading and processing rare minerals, such as tin, tantalum, tungsten and gold (3TG), coming from the Democratic Republic of Congo (DRC) or its adjoining countries should be aware of the risk that the circumstances of their business activities might directly or indirectly affect the socio-economic and political stability of those countries, where criminal networks, rebels or non-state armed groups compete with governments to take control over those resources, while practising human rights abuses and illegal trade.

Companies should commit to putting in place any necessary measure to avoid sourcing, trading and processing minerals in circumstances that might support illegal traffic of natural resources and other environmental crimes, human rights abuses or war crimes, or finance criminal networks or non-state armed groups.

An explanation of a mineral supply chain is shown in Figure 1.

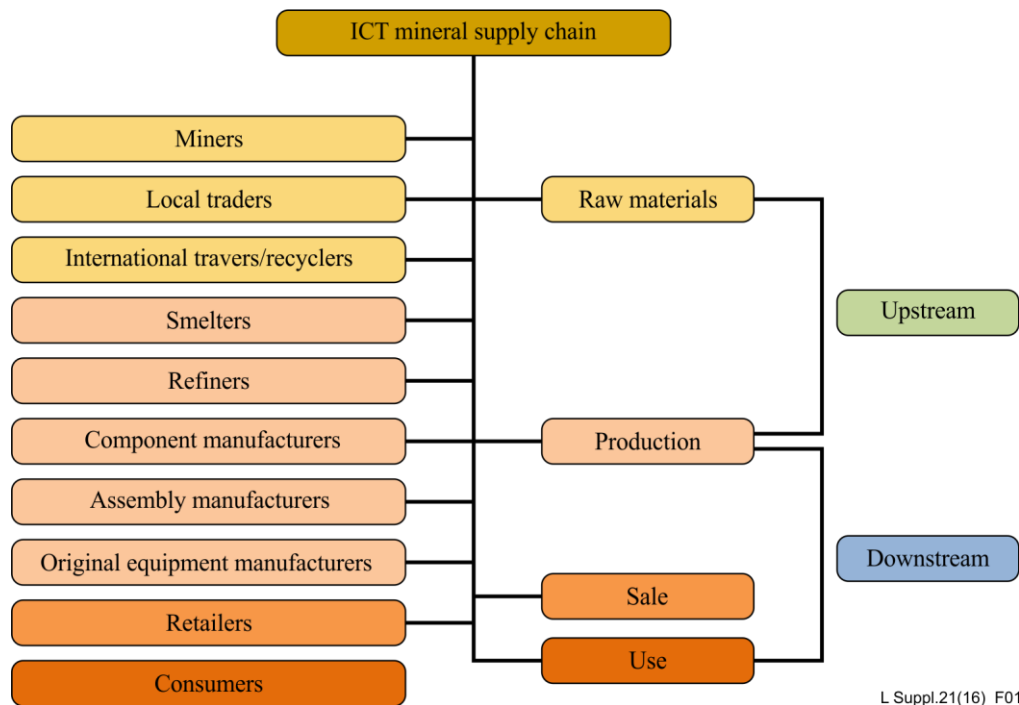


Figure 1 – Explaining the ICT mineral supply chain

7.1 Establishment of companies' conflict minerals management systems

[b-OECD, 2013a] was written for all companies within the supply chain (miners, smelters, manufacturers and retailers) to provide recommendations concerning steps those companies could take to respect human rights and avoid contributing to conflict through their metal sourcing or procurement practices.

[b-OECD, 2013a] includes detailed recommendations for companies in the entire (both upstream and downstream) segments of the supply chain. When describing practical implementation steps for downstream companies, it is important to distinguish their role from the role of upstream companies. Downstream companies are typically several tiers removed from smelters or refiners (SORs) and, when acting individually, downstream companies have no visibility beyond their direct supplier to companies in the upstream supply chain, in part because suppliers consider their sub-suppliers' information confidential. Furthermore, downstream companies likely have no direct visibility to SORs and the mine of origin. Therefore, it is necessary to highlight where there may be specific approaches relevant to downstream companies before providing an interpretation of the steps set out. Specifically, downstream companies need to take into consideration the facts and circumstances of their position several tiers removed from SORs when considering risk assessment and risk management. Given their place in the supply chain, downstream companies *with no direct relationships with an SOR* possess no independent means of determining the source and origin of conflict mineral ores processed by SORs.

[b-OECD, 2013a] was written with the intent of defining a process and continued improvement. This Supplement was written to interpret this process in a form that is relevant to downstream companies several tiers removed from the SOR.

The first step for downstream companies is to establish management systems to support the execution of a company-wide conflict minerals programme that operates efficiently and is sustainable into the future. Companies' conflict mineral management systems should address the risk that the tantalum, tin, tungsten and gold contained in their final products originated within a conflict-affected area.

In accordance with [b-OECD 2013a], companies should then proceed as follows:

- Adopt, and clearly communicate to suppliers and the public, a company policy covering the supply chain of minerals originating from conflict-affected and high-risk areas. The policy should incorporate the standards against which due diligence is to be conducted.
- Structure internal management to support supply chain due diligence.
- Establish systems of control and transparency throughout the mineral supply chain. This includes a chain of custody or a traceability system or the identification of upstream actors in the supply chain.
- Strengthen their engagements with suppliers. A supply chain policy should be incorporated into contracts or agreements with suppliers. Companies should, where necessary, assist suppliers to build capacities with a view to improving due diligence performance.
- Establish a company-level or industry-wide grievance mechanism that would function as an early-warning risk-awareness system.

The following elements of a management system may be appropriate for downstream companies.

7.1.1 Development of a company's conflict minerals policy

A policy in this regard is management or procedure based primarily on material interest. A company's policy may establish and communicate conflict minerals goals that are reasonable and achievable. This policy thus forms the expectations to which the company holds itself and its supply chain accountable. A company need not specifically use the terms "policy" or "conflict minerals policy" to designate its principles, provided that the company makes clear its guiding principles for dealing with the issue. A company may also consider the model policy where there are examples of abusive practices and exploitation that are considered as supporting conflict. The model policy also covers topics beyond the scope of the SEC rule and direct action to mitigate the referenced issues.

The policy may include one or more of the following:

- principles regarding the use of tantalum, tin, tungsten and gold (3TG) from conflict-affected areas;

- intent to support conflict-free sourcing;
- communication of the company's conflict minerals programme goal(s) (e.g., DRC conflict-free, responsible in-region sourcing, preference for SORs compliant with the Conflict-Free Smelter Program (CFSP));
- actions that the company will take to support its policy and goals;
- broad expectations of its relevant suppliers to support the company's goals.

A reasonable country of origin inquiry (RCOI) and possibly the due diligence practices that the company will employ to implement its policy may be contained in the policy itself. These elements may also be found in a separate document, such as implementing guidelines or standard operating procedures, as may be consistent with the company's normal practice.

The policy may be shared publicly, such as by posting to a company website. The policy may also be communicated to its relevant suppliers by appropriate measures, such as contracts, as a means to communicate its goals and high-level supplier expectations.

Table I.1 is an example of a conflict minerals policy declaration: "*We commit and we act*".

Table I.2 is an example of a conflict minerals clause to be included in contracts with suppliers.

7.1.2 Establishment of an internal conflict minerals management team

The company should assemble an internal team of relevant subject matter experts from functional areas that may include engineering, design, finance, information technology (IT), procurement, communications, legal or environmental, health and safety (EHS) to develop a conflict minerals programme that implements the policy and oversees company objectives. This team should also have senior management support. It may be effective to incorporate concepts from other corporate management system processes to provide the necessary structure to support the creation, implementation and monitoring of an effective conflict minerals programme. The internal team should be assigned the necessary authority and resources to establish an appropriate organizational structure and communication process to ensure execution of the company policy.

The internal team may be entrusted with the following tasks.

- The establishment of an organizational framework to meet the expectations set forth in the policy. The framework and policy should be complementary and aligned to enable execution.
- The creation of a company-specific conflict minerals implementation plan. The plan should integrate the company's chosen nationally or internationally recognized due diligence guidance.
- Judgement of the progress, effectiveness and execution of the policy and implementation plan.

Figure 2 shows the proposed structure of the internal management team on conflict minerals.



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Figure 2 – Proposed structure of the internal management team on conflict minerals

Table I.3 shows the recommended list of all departments that may be relevant to implementing the company's conflict minerals policy and outlines their potential role.

7.1.3 Establishment of a system of controls and transparency over the conflict mineral supply chain

Downstream companies should establish systems of controls and transparency over conflict mineral supply chains. This can be achieved by creating a process to engage relevant first-tier suppliers and request information, including information gathered by those suppliers about the SORs identified in their own supply chains. It is suggested that companies, "introduce a supply chain transparency system that allows the identification of SORs in the company's mineral supply chain," although there may be other ways to establish a system of controls and transparency over such a chain.

NOTE – See p. 39, step 2 of [b-OECD, 2013a] for further information

The goal of the control and transparency system is to collect and retain the necessary information supportive of the company's implementation framework, as well as to provide information necessary to meet legal reporting requirements.

Companies should:

- Establish a chain of custody or traceability system to give an accurate account of the manner in which minerals were extracted, traded, exported and manufactured, by whom, when, where, and for what purpose. The nature of this system will vary according to the mineral being traded, and according to the position of the company in the supply chain [b-OECD 2013a].
- Ask relevant suppliers to provide information related to conflict-free smelters or refiners within their own supply chain.
- Continuously collect and assess accuracy of information required to enhance transparency and arrange for such information to be used properly according to the company's relevant processes and legal procedures [b-CFSI, 2013].
- Assess the accuracy of evidence provided by suppliers on their mineral supply chain due diligence, which should possibly include the following information:
 - the exact origin of the mineral;
 - the method, quantity, purity and date of extraction;
 - the taxes, fees, royalties or other payments due to governments, governmental officials, public or private security forces or other armed groups at all points in the supply chain;
 - the transportation routes;
 - the exact locations where minerals were traded and processed;
 - all intermediate companies involved in the supply chain.

Records should be maintained according to the company's relevant process and legal procedure for at least 5 years. Records and inventory lists should be computerized, all along the mineral supply chain. Use of a database or software tool to store and manage data is recommended. The development of mineral supply chain certification schemes and tracking systems represents an important step towards achieving traceability.

It is proposed that the data collected through the different certification schemes and tracking systems, in compliance with the requirements of the *ICT Due Diligence Guidelines*, be uploaded on to the *ICT Due Diligence Database*, as a global repository of due diligence mineral supply chains. The data should be accessible on the Internet by any company or individual involved in the ICT mineral supply chains.

Table I.4 proposes a list of minimum requirements for tracking systems and certification schemes with the aim of facilitating the harmonization of existing and future schemes.

7.1.4 Strengthening engagement with relevant suppliers

Downstream companies should enlist the support of their relevant first-tier suppliers in executing conflict minerals programmes. This can take place through such means as incorporating expectations regarding suppliers' conflict minerals policies, processes and disclosure of relevant information into supplier contracts or other relevant documents. However, companies should avoid contract language requiring a guarantee or certification that their suppliers do not use 3TG that benefited armed groups, and seeking liability and product recall indemnity in conjunction with the guarantee should be avoided. In some cases, a supplier may use processes similar to those employed by its customer with respect to the creation of a conflict minerals policy and implementation plan.

Capacity building through means such as seminars and distribution of reference material is recommended in order to help relevant suppliers and SORs improve performance and enable them to follow what is reported in this Supplement related to upstream companies. This assists suppliers in meeting their own legal reporting requirements while supporting their customers' expectations. Relevant supplier engagement is necessary to enable the execution of Step 2.

Companies should:

- Incorporate their conflict minerals policy into purchase contracts or agreements and inform suppliers of the company's policy and requirements and then verify whether the requirements are met. Companies should explain to the suppliers the consequences of not abiding by their requirements (see [b-OECD 2013a]).
- Be aware of their suppliers' level of knowledge about due diligence laws and regulations for responsible mineral supply chains and knowledge about anti-money laundering, their sourcing, processing, trading and manufacturing practices, and their due diligence practices regarding traceability and chain of custody of the minerals sourced, processed, traded or manufactured and support them to improve their performance (see [b-IPC, 2013]);
- Support their suppliers' efforts for implementing due diligence:
 - should a supplier experience any difficulty in carrying out the company's conflict minerals policy, companies should assist in identifying and providing the appropriate solution(s);
 - companies should raise awareness of conflict minerals by providing training to suppliers, including general training on anti-money laundering and conflict minerals laws and regulations;
 - companies should suggest diverse methods, such as collecting the compliance declarations, in order to invite their suppliers to participate in due diligence practices;
 - it is highly recommended that any language barrier in communications with suppliers be reduced by providing translations of contracts, websites, training materials and any other guidance as much as possible.
- Maintain communications with upstream companies in the mineral supply chain. Long-term relations with suppliers are preferred to short-term or occasional ones.

Table I.5 describes some possible tools that can be used to improve communications with suppliers, strengthen cooperation, and establish a more rigorous and impactful engagement. Table I.6 gives an example of a supplier's engagement and follow-up letter.

7.1.5 Respect of environmental requirements

Environmental requirements related to minerals extraction and handling can contribute to improving miners' working conditions, preserving the ecosystem, as well as increasing inspections from national or local government authorities to ensure that the mine site meets environmental requirements, thereby interfering with and preventing criminal networks or the activities of non-state armed groups.

Mining companies should consider responsible measures for water usage or management, land reclamation, damage or compensation, and pollution and biodiversity preservation in order to comply with the national and local legislation and address the priority environmental concerns related to mining [b-ICMM, 2014].

Companies should identify and comply with all applicable legal environmental requirements and strive to implement industry best practices related to the environment. Relevant companies, as a minimum, should conduct an environmental impact study for the development of an environmental impact reduction strategy and for site rehabilitation after mine closure, as well as develop an appropriate plan for dangerous waste and tailings management [b-ICGRL, 2011].

7.1.6 Establishment of a grievance mechanism

According to the 3T Supplement of [b-OECD 2013a], companies may, depending on their position in the supply chain, institute an individual or a collaborative industry grievance mechanism. This is more appropriate for upstream companies between and including the mine of origin and SORs, because they are more likely to have knowledge of conflict financing or risk of conflict. Downstream companies of SORs would not have visibility to SORs or to mineral supply chains. In addition, concerned parties would not typically have information that would trace minerals from SORs to downstream companies.

Nevertheless, in the course of executing its implementation plan, a downstream company may wish to provide a mechanism to allow concerned parties to provide information that may contradict information that was received through its supply chain. In such cases, it may be useful to provide any concerned party with the opportunity to communicate its concerns regarding the accuracy of such information or additional relevant information that may not have been uncovered in the implementation process. The open reporting mechanism may be specific to the conflict minerals topic, or companies may extend the scope of their current open reporting systems to include conflict minerals. Examples may include company's ombudsman contact, supplier relationships department contacts or a company's ethics hotline.

Due to a downstream company's relative location within the supply chain in relation to the actual extraction and transport of ore, its ability to verify the accuracy of information may be limited – potentially rendering its response to the risk also limited.

7.2 Risk identification and evaluation of the supply chain

Each step must be considered in the specific context of a downstream company, distinguishing those elements that are appropriate only for downstream companies.

Companies should check if conflict minerals are used in their products and should verify whether there is a risk of providing support to criminal networks, non-state armed groups or perpetrators of human rights abuses in their mineral supply chain.

Companies should identify suppliers with materials or components containing 3TG. Through the supplier identification process, companies should assess their product groups and suppliers in detail.

Companies should identify the factual circumstances of the supply chain to determine which suppliers have the highest risks. Factual circumstances include smelting or refining, trading, extracting, and processing and exporting of minerals from conflict-affected or high-risk areas.

Companies should assess the identified risks according to their standard conflict minerals policy.

Companies should also verify and ensure that the following mineral supply chain functions are in compliance with [b-OECD 2013a].

- The company's conflict minerals policies and procedures.
- Legal obligations as part of the contracts or other agreements with suppliers.

- The principles and standards established in [b-OECD, 2013a] and in the *ICT Due Diligence Guidelines*.
- The national law of the countries where the company sources, processes, trades or exports the minerals.
- The national law of the country where the company is based (if applicable).
- International or regional legal instruments, such as standards, conventions and guidelines.

7.2.1 Procedure for risk identification and evaluation

Step 2 outlines elements that are intended to be covered by companies in the upstream and downstream, to the extent practicable. While there is provision for specific and separate suggestion for upstream and downstream companies, some of these steps specified for downstream companies are more relevant to downstream companies that have direct relationships with SORs as compared with companies further removed from SORs in the supply chain. In summarized form, downstream companies should:

- identify "to the best of their efforts" SORs in their supply chain;
- engage with SORs to obtain mine of origin and transit routes;
- assess whether SORs have carried out all elements of due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas;
- where necessary, carry out, including through participation in industry-driven programmes, joint spot checks at the SORs' own facilities.

Downstream companies are not in a position to obtain mine of origin or transit routes, or to carry out spot checks with respect to SORs with which they do not have business relationships. The Gold Supplement of [b-OECD, 2013a] suggests for instance that for those companies that purchase gold bars, the refiner should be identified by the stamp on the gold bar. In order to clarify practical steps that are relevant to downstream companies more than one tier removed from SORs, this Supplement considered as a starting point the 'practical common steps' provided by the downstream 3T pilot participants, which were incorporated into the report of the pilot programme [b-OECD, 2013b].

Another important distinction between responsibilities of upstream and downstream companies is in how risk is defined and the appropriate elements of risk management that are implied by [b-OECD, 2013a]. The focus of risk management is the identification of "red flag" triggers that are exclusively upstream of the SOR. Therefore, risk identification and risk management for a downstream actor is relevant when an SOR has been identified by a credible third party to source minerals that directly or indirectly supported armed groups. The risk management action by the downstream actor involves influencing the multi-tiered supply chain to cause the SOR to become validated as conflict-free (such as by the CFSP of the CFSI [b-CFSI, 2013]) or, failing that, to switch to a different smelter. Depending upon the number of supplier tiers by which a company is removed from the smelter, it may be expected that it could take months or years to affect change. In many cases, the nature of the company's commercial relationships may not allow it individually to influence the SOR's conduct. Instead, a single downstream company may choose to leverage the accumulated responses of many downstream companies in order to assert sufficient pressure on the SOR to adjust its practices.

There is also a description of a process for sharing and assessing information. The focus is on implementing a process rather than accomplishing a specific result. This strategy is also very relevant to downstream companies that are several tiers of suppliers removed from SORs. As such, downstream companies need to cause first-tier suppliers with which they have a business relationship to obtain information from sub-suppliers and sub-sub-suppliers to which the downstream actor has no direct access.

What this means in practice is that a downstream actor applies a process and expectations at the top of the supply chain and it is likely that it could take years of engagement and propagation of expectations through many tiers of the supply chain before the information returned to that downstream actor may be considered accurate and complete. However, what is most important is not that the information is complete straight away, but that the completeness of information improves over subsequent years.

Finally, the facts and circumstances of different suppliers in a downstream actor's supply chain should be considered based on materiality when prioritizing efforts. In essence, implementing the steps is a journey that will provide incremental improvements over time, rather than a direct path to a definitive endpoint. Furthermore, because of the number of factors between downstream companies and SORs, it is possible that there may never be certainty of completeness or accuracy.

7.2.2 Identification, to the best of their ability, of minerals' country of origin

7.2.2.1 Identify relevant or highest priority first-tier suppliers

Downstream companies may identify relevant or highest priority first-tier suppliers who supply products that contain 3TG. A downstream company's supply chain may be quite diverse; therefore, a company may employ the engagement approach and enquiry frequency that is appropriate for the breadth and depth of its supply chain. Enquiries may be conducted annually or may include additional reviews based on such factors as significant changes in product line or supply base.

Companies may use any of the following methods to identify the relevant suppliers that contribute 3TG to their final products:

- identify products that contain 3TG by reference to bills of materials or product composition data, or by qualitative or other reasonable means;
- identify relevant purchased materials for those products;
- identify suppliers of the relevant purchased materials;
- prioritize relevant suppliers using relevant factors (e.g., geographic location, annual volume of 3TG contained, annual spend, proximity of first-tier supplier to SOR, type of mineral);
- consider representation and coverage across product lines and supplier categories.

7.2.2.2 Request information from relevant first-tier suppliers

Downstream companies should request information from relevant suppliers to identify SORs in the supply chain. This may be achieved by using industry data collection tools such as the CFSI Conflict Minerals Reporting Template (CMRT), or IPC-compatible standard protocol for data format. Some companies with large supply chains may choose to gather information from their suppliers using a contract flow-down approach following suppliers' consent or to adopt a combination of the two methods. Companies may request suppliers to propagate similar expectations to their sub-suppliers. [b-CFSI, 2015a]

Figure 3 shows an example of five practical steps to support SEC conflict minerals disclosure [b-CFSI, 2015b].

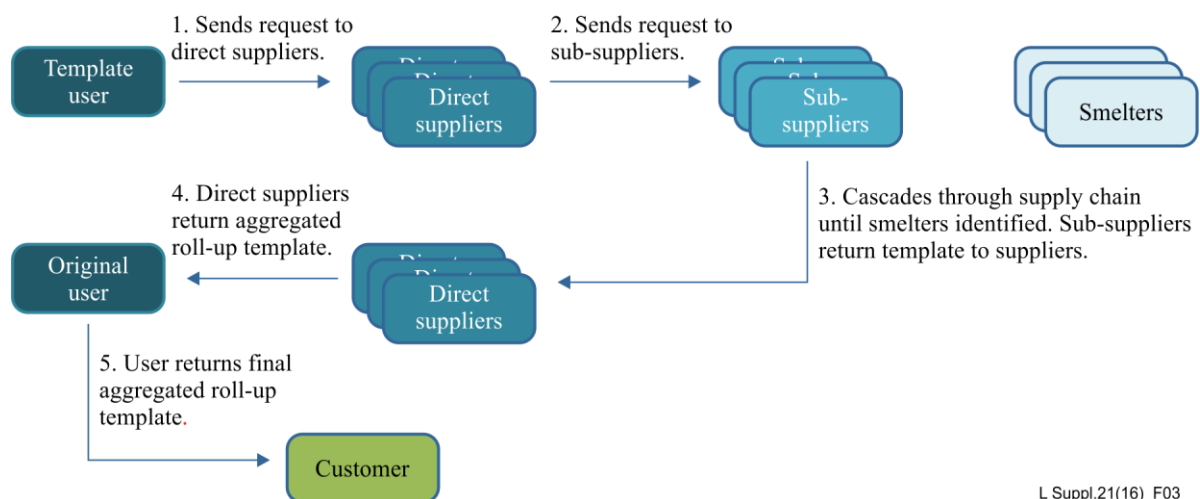


Figure 3 – Example of five practical steps to support SEC conflict minerals disclosure

Source: [b-CFSI, 2015b]

7.2.2.3 Review information provided by relevant first-tier suppliers

Downstream companies may review information to assess the reasonableness of the representations its suppliers have made. Downstream companies can assess a supplier's responses to understand what steps the supplier is taking in conducting activities regarding 3TG and to understand which SOR facilities that process 3TG are present in the supplier's own supply chain.

Companies may use any of the following methods when reviewing supplier representations:

- review information relative to the expectations established by the company (e.g., did the supplier adopt its own conflict minerals policy?);
- review the responses for completeness;
- review the response for reasonableness – that is, whether the response is consistent with the downstream company's knowledge of the supplier.

Downstream companies may follow up with suppliers to provide feedback on what is acceptable and not acceptable with their representations.

Downstream companies may choose to focus on priority or strategic suppliers first, recognizing that obtaining adequate information from all suppliers could take years. The facts and circumstances of each downstream company's supply chain should be considered when prioritizing efforts. Again, when implementing the steps, companies should consider their progress incremental in nature, rather than immediate. Because of the number of tiers between downstream companies and SORs in their supply chains, it is possible that there may never be certainty of completeness or accuracy.

In addition, as there are only a few hundred SORs of the 3Ts in the world and of the order of 100 large-volume gold refiners, companies with large supply chains are likely to see that all or a very substantial proportion of the total SOR population is present in their supply chains. At this point, there is limited value added by identifying which smelters are used by particular suppliers. The most effective strategy for such downstream companies therefore may be to concentrate efforts on those segments of their supply chains in which they have the greatest ability to encourage SORs to engage in a verification programme.

Downstream companies may provide capacity building with relevant first-tier suppliers to improve responses. Individual companies, or groups of companies working through an industry association, may use any of the following methods for capacity building:

- training the company or industry on expectations regarding conflict minerals;
- providing industry tools (such as those provided by the CFSI) and reference materials;

- using a common database, such as the CFSI's Smelter Information Exchange and Smelter Engagement Team [b-CFSI, 2013];
- communicating company policies regarding conflict minerals;
- including conflict-minerals information review for completeness and accuracy may be included in supplier audits.

7.2.2.4 Compare SORs identified by the supply chain to assess possible risk

Downstream companies should compare the names of the 3TG processing facilities identified in supplier representations to independently verified lists [e.g., the CFSI CFSP list, the London Bullion Market Association (LBMA) Good Delivery programme or the Responsible Jewellery Council (RJC) Chain-of-Custody Certification]. Companies may also use other sources of information to assess potential risk, such as:

- a self-declaration from a direct communication with a SOR or its website;
- news articles, investment reports or industry association information that may indicate where a SOR sources;
- for SORs not independently verified, the likelihood that they are sourcing minerals from a conflict-affected area based on their geographic location or other information;
- whether the SOR is known to be sourcing from a conflict-affected area or is located in a high-risk country suspected of processing conflict minerals from a conflict-affected area [e.g., based on available public reports, UN Group of Experts on the Democratic Republic of the Congo (DRC)].

A company is expected to conduct an RCOI to determine whether there is reason to believe that conflict minerals necessary to the functionality or production of a product manufactured or contracted to be manufactured by an issuer may have originated in a covered country (CC), including whether they may have come from recycled or scrap sources. A 100% certainty level is not required.

The RCOI involves determining whether the company has reason to believe that SORs in its supply chain are sourcing minerals from a CC. All of the steps described above could support a downstream company's RCOI.

- Representations from relevant suppliers could indicate the names of SORs in that supplier's supply chain.
- Representations from relevant suppliers could indicate the mine of origin associated with an SOR, which could indicate whether the facility sources from a CC.
- Representations from relevant suppliers could indicate whether the SOR solely processes recycled or scrap materials.

Specific RCOI information can be derived by comparing SORs identified in the supply chain with lists of verified facilities, or by assessing other available information to determine possible origin.

After the development of a list of SOR names provided by relevant suppliers, a downstream company can evaluate those facilities based on the information available, in order to determine whether it is reasonable to believe that they are sourcing from a CC. Examples of information a downstream company could use include:

- the SOR is on a verified list (such as the CFSP list);
- the SOR is not likely sourcing minerals from a CC based on its geographic location;
- the SOR is known to be sourcing from a CC (e.g., based on available public reports);
- a company has direct information about an SOR regarding its sourcing practices.

It is worth noting that [b-OECD, 2013a] does not require certainty, but rather a reasonable process designed to yield reasonable results.

Specifically, RCOI information could be derived from review information provided by a company's relevant first-tier suppliers:

7.2.3 Selection of risk management-subject companies

Companies should identify whether their products contain conflict minerals and whether they were included knowingly [b-SEC, 2012]. Companies should identify the types of raw materials in their products and select suppliers that use or are suspected to be using conflict minerals related to tin, tantalum, tungsten and gold as management-subject companies.

7.2.4 Identification of the scope of the risk assessment and red flags in the mineral supply chain

Companies should identify red flags and prepare criteria to assess the scope of the risks and implement a response strategy accordingly.

Companies should target risk assessments on the minerals and suppliers triggered by the "*red flag locations of mineral origin and transit*" and "*supplier red flags*", as indicated in [b-OECD, 2013a].

Red flag locations of mineral origin and transit:

- 1) the minerals originate from or have been transported via conflict-affected or high-risk areas;
- 2) the minerals are claimed to originate from a country that has limited known reserves of the minerals in question;
- 3) the minerals are claimed to originate from a country in which minerals from conflict-affected and high-risk areas are known to transit.

Supplier red flags:

- 4) suppliers are known to operate or to have shareholders or other interests in companies that supply minerals from or operate in situations 1), 2) or 3);
- 5) suppliers are known to have sourced minerals in situations 1), 2) or 3) in the last 12 months.

7.3 Establishment of strategies and implementation measures for reducing identified risks

To provide context, there follows a condensed review of the definition of risk management and red-flag triggers along with excerpts of the letter signed by the participants in the ICGLR-OECD-UN GoE multi-stakeholder forum for conflict-free mineral supply chains.

It is based upon identifying and managing risks associated with the mineral supply chain. There is a definition for "red-flag triggers" that, when actuated, oblige companies in the supply chain to conduct due diligence in a consistent manner. Red-flag triggers are defined on p. 33 of [b-OECD, 2013a]: Red flags triggering the application of this Supplement will apply where companies are operating in conflict-affected areas or those where there is considered to be a high-risk.. It will also apply if companies are potentially supplying or using tin (cassiterite), tantalum (tantalite) or tungsten (wolframite) or their smelted derivatives from within the conflict-affected and high-risk area.

Where a company in the supply chain cannot establish whether the minerals in the company's possession come from a "red-flag location of mineral origin or transit," then it should proceed to Step 1 of [b-OECD, 2013a].

All of the red-flag triggers are contained in the upstream portion of the supply chain (e.g., SORs and mine of origin). These triggers relate to known locations of mineral transit, known mineral trade by a supplier, or lack of knowledge by a processor or trader whether the minerals it is purchasing came from a red flag location. This idea that risk management is associated with red flags in the upstream supply chain is further supported by the preamble of the 3T Supplement of [b-OECD, 2013a].

It specifically seeks upstream companies to provide the results of risk assessments to their downstream purchasers. In addition, the due diligence practices of smelters or refiners should be audited by independent third parties.

For downstream companies, it is recommended that the due diligence process of the smelters or refiners in their supply chain be reviewed using best efforts action. They should also assess whether they conform to due diligence measures. Downstream companies should also seek to participate in industry-wide schemes that assess compliance of smelters or refiners using this information from these schemes to assist in fulfilling recommendations.

Downstream companies mitigate risk through working with their direct suppliers individually or collectively to identify SORs and encourage those SORs to become independently audited.

The letter from the ICGLR-OECD-UN GoE multi-stakeholder forum for conflict-free mineral supply chains describes what constitutes "DRC conflict-free" from an OECD Due Diligence implementation perspective. The examples below contemplate a direct supplier relationship with an SOR. Of course, companies in different sections of the supply chain will have different timelines based on their unique circumstances.

Any description of the products that contain minerals that directly or indirectly finance or benefit armed groups in the DRC or an adjoining country ("not DRC conflict-free" as defined under section 1502 of the Dodd-Frank Act¹), should be regarded as "non-compliant with OECD and UN GoE recommendations", meaning products for which due diligence has not been carried out in accordance with these internationally agreed standards.

Additionally, as a time-bound measure, issuers should describe a product as "DRC conflict-free" when the issuer and the mineral processor have (i) taken reasonable steps and made good faith efforts in accordance with the OECD and UN GoE due diligence recommendations to conduct due diligence on the minerals in that product; and (ii) know and can show that they have identified, assessed and responded to risks in accordance with the risk management strategies recommended by the OECD and UN GoE due diligence recommendations. Where risks of direct or indirect support to public or private security forces are identified, and issuers and mineral processors decide to continue trade while pursuing risk mitigation, they should demonstrate significant measurable improvement within 6 months from the adoption of the risk management plan and have their due diligence practices audited by an independent third party. If, within 6 months from the adoption of the risk management plan, there is no significant measurable improvement, issuers and mineral processors should discontinue engagement or suspend the relationship with the supplier for a minimum of 3 months. Suspension may be accompanied by a revised risk management plan, stating the performance objectives for progressive improvement that should be met before resuming the trade relationship. Under the OECD and UN GoE due diligence recommendations, mitigation is not allowed in case of risks of serious human rights abuses associated with the extraction, transport or trade of minerals, or where risks of direct or indirect support to non-state armed groups are identified in the supply chain.

Furthermore, Section 1502 of the Dodd-Frank Act provides that a product may be labelled as DRC conflict-free if the product does not contain conflict minerals that directly or indirectly finance or benefit armed groups in the DRC or an adjoining country. Issuers may label products as "DRC conflict-free" when the issuer and the mineral processor have (i) taken reasonable steps and made good faith efforts in accordance with the OECD and UN GoE due diligence recommendations to conduct due diligence on the minerals in that product; and (ii) know and can show that they neither tolerate nor by any means profit from, contribute to, assist with or facilitate the commission by any party of serious human rights abuses associated with the extraction, transport or trade of minerals and

¹ The United-States Dodd-Frank Wall Street Reform and Consumer Protection Act, section 1502 on Conflict Minerals (formerly known as the Congo Conflict Minerals Act).

do not provide direct or indirect support to non-state armed groups or public or private security forces, consistent with OECD and UN GoE due diligence recommendations.

Note that regardless of the findings, due diligence should include mechanisms to mitigate the risk identified, if any, in the process.

7.3.1 Risk management versus RCOI versus due diligence

First, there is recognition that the SOR and other upstream companies have the primary role in managing risk that minerals may have supported conflict, and that the SOR or upstream actor must act when there is a red-flag trigger. The OECD risk assessment and management is primarily owned by the smelter, and the downstream companies' role is to assess smelters' due diligence and outcome based on an independent audit.

Downstream companies have a role in driving effective supplier engagement to obtain a list of smelters that are used in their supply chain. However, the completeness of that list of smelters is advanced through the RCOI process and is not considered a part of risk management. Furthermore, because there are only a limited number of 3T SORs and of the order of 100 large-volume gold refiners in the world, it is likely that obtaining reasonable representations from an appropriate subset of suppliers could identify substantially all SORs in a company's supply chain.

7.3.2 Practical interpretation of OECD Step 3 for downstream companies

Based on the context discussed above, the following practical steps are suggested for downstream companies that are at least one tier removed from SORs. After establishing a strong management system and assessing supply chain risks in Steps 1 and 2, companies should design and implement a response strategy to those risks according to Step 3. That response strategy is discussed here.

7.3.2.1 Report findings to designated senior management

After a downstream company has undertaken Step 2C (to identify the SORs in its supply chain) and Step 2D (to understand from which countries those SORs are sourcing, if that information is available and has been provided), the downstream company will have a table of SORs and may have associated origin of conflict minerals ores. Based on this information, a downstream company would have a list of SORs that could include either unknown country sourcing, known sourcing from conflict-free sources or known sourcing from conflict-affected areas. This table and actions that the company can take to investigate the SORs' due diligence and sourcing practices may be reviewed with senior management.

7.3.2.2 Devise and adopt a risk management plan

The active risk management addressed is the responsibility of the SOR. The downstream company responsibility is to work through its supply chain to understand what facilities are in its supply chain, and to determine if more investigation is required. There follow examples of situations where a downstream company may conduct additional investigations to understand the relevant facts and circumstances.

"Closed pipe" situation: If a downstream company is knowingly sourcing from a "closed pipe" programme where the SOR is not in an independently verified system such as the CFSP, then the company may want to document or refer to a central repository of information that contains the following:

- description of the source;
- information on the chain of custody;
- list any certification by regional bodies;
- description of any other aspects of due diligence on the source and chain of custody;

NOTE 1 – Examples include the ITRI Tin Supply Chain Initiative (iTSCi) [b-ITRI, undated], the International Conference on the Great Lakes Region and the Bundesanstalt für Geowissenschaften und Rohstoffe [German Federal Institute for Geosciences and Natural Resources] [b-BGR, undated].

- if a downstream company knows or has reason to believe that an SOR in its supply chain is sourcing from a conflict-affected area, other than a closed pipe programme, the downstream company may conduct an investigation into the SOR's due diligence – this may be via an institutional mechanism or through an independent validation scheme, as described in Step 3C.

NOTE 2 – See [b-OECD, 2013a] for further information.

When a downstream company has identified SORs that meet one of the two conditions listed above, the downstream company may consider adopting a management plan to encourage or require relevant first-tier suppliers to:

- encourage or require the SORs from which they source directly to participate in an independent validation scheme or institutional mechanism;
- encourage or require the SORs further upstream in their supply chains to participate in an independent validation scheme or institutional mechanism.

7.3.2.3 Implement the risk management plan, monitor and track performance of risk mitigation

- Report back to designated senior management and consider suspending or discontinuing engagement with a supplier after failed attempts at mitigation.

There is only one provision for specific expectations to upstream companies in this step and it is silent on specific expectations for downstream companies. The role for downstream companies in this step is to consider building due diligence capacity, awareness and engagement with SORs and to take measures to investigate an SOR's due diligence, directly or collectively. These activities may be conducted through industry programmes, independent validation programmes or an institutional mechanism. Because downstream companies typically do not have business relationships with SORs, it may be difficult to obtain reliable information. A downstream company may consider taking the following steps when it knows or has reason to believe that SORs in its supply chain are sourcing from a conflict-affected area.

Engage in industry and stakeholder efforts to encourage the SOR to improve due diligence, by means of:

- industry or stakeholder initiatives that provide independent assessments of the conflict minerals status of SORs, such as the CFSI CFSP;
- industry, stakeholder and individual efforts to request SORs to provide information about their due diligence practices and risk management.

If an SOR that is in the downstream company's supply chain has been identified by a credible organization to be sourcing minerals that directly or indirectly support armed groups, then the company may establish escalation steps for mitigation. As is consistent with competition principles, the company may work through industry groups or other means to identify where the SOR is used and work through its immediate suppliers to encourage that facility to mitigate the risk. Depending upon the number of suppliers that use this facility and by how many tiers the supplier is removed from the company, mitigating the risk could take months or years.

7.3.2.4 Undertake additional fact and risk assessments for risks requiring mitigation, or after a change of circumstances

Step 3D is intended to ensure that identified risks are adequately mitigated and that the information gathered in Steps 2C and 2D is supplemented as the company's supply chain evolves over time. If the sourcing of an SOR is unknown or from a conflict-affected area, then the downstream company must conduct Step 3C to assess the SOR's sourcing location or its due diligence if it sources from a conflict-affected area.

7.3.2.5 Potential challenges to implementation of Step 3

This due diligence of SORs as described above is used to support a company's determination whether there is evidence that the SOR is sourcing minerals that are considered conflict-free, may not be conflict-free or are conflict undeterminable. By associating the SORs in a company's supply chain with products or product categories, a company may determine the conflict status of the product or product category.

A company may encourage its direct suppliers to transition sourcing away from invalidated SORs and to encourage SORs to become validated.

If an SOR is removed from the CFS list based on the results of a CFS audit, the issuer should evaluate the product status utilizing the "DCR conflict-free" definitions provided in the OECD letter to the SEC. If a company has taken reasonable steps and made good faith efforts in accordance with the OECD and UN GoE due diligence recommendations to (i) conduct due diligence on the minerals in that product; and (ii) know and can show that they have identified, assessed and responded to risks in accordance with the risk management strategies recommended by the OECD and UN GoE due diligence recommendations, then the material that has been incorporated into a product would be deemed conflict-free, provided the company has implemented the appropriate risk mitigation, according to the OECD's definition.

7.3.3 Audit smelters or refiners

The objective of this clause is to interpret the downstream company responsibilities contemplated in Step 4, explain how the outcome of the CFSP relates to Step 4 and summarize how downstream companies can use the outcomes from the CFSP to support SEC reporting obligations. These efforts follow once a company has a strong management system, assessed supply chain risks, and implemented a strategy to respond to those risks, as described in Steps 1, 2 and 3.

This step defines the audit scope, principles, activities and criteria to assess an SOR's due diligence practices. It does not require or define audits for downstream companies.

7.3.3.1 Outcome of OECD step 4

The third-party audit of a SOR assesses the activities, processes and systems used by the facility to conduct upstream supply chain due diligence of minerals for conflict-affected and high-risk areas. This includes, but is not limited to, SOR controls over the mineral supply chain, chain of custody and other mineral information, and SOR risk assessments, including on-the-ground research and SOR strategies for risk management. Conclusions include a determination based on evidence whether the SOR due diligence is in conformance.

7.3.3.2 Outcome of the Conflict-Free Smelter Program

The CFSP and recognized LBMA Responsible Gold guidance or RJC's Chain-of-Custody programmes facilitates independent third-party audits of SORs and validates the SOR as having met the necessary requirements and provides additional useful information. The CFSP (1) provides a determination whether the SOR has sourced minerals that are DRC conflict-free; and (2) publishes a list of SORs determined to be compliant with the audit (by the terms of the audit, "conflict-free"), and a list of the locations of those SORs.

7.3.3.3 Defined role for downstream companies

Downstream companies fulfil their responsibilities by collaborating through industry organizations or other suitable means. Downstream companies are to appoint auditors and define the terms of the audit in line with the standards and processes. Small and medium enterprises are encouraged to join or build partnerships with such industry organizations.

As part of this collaboration, downstream companies are expected to participate in and contribute to an assessment scheme that facilitates third-party audits of SORs. Referenced are the following schemes as industry examples of how Step 4 is being operationalized: the LBMA, the RJC and the CFSP of the CFSI.

NOTE – While the language characterizes these schemes as certification schemes, the CFSP of the CFSI is not a certification scheme, because it is not an official certifying body. Rather, it is a joint effort of companies to devise a best practices standard and hold SORs accountable to that standard by means of an audit to verify whether they conform.

RJC is a certification scheme.

Some possible examples of how a downstream company might fulfil its obligation of supporting an assessment scheme include:

- financial contribution to an organization that audits 3TG SORs or to a fund that is used to support audits of 3TG SORs;
- membership in the organization implementing the assessment scheme (such as CFSI, LBMA, or RJC);
- membership in a participating industry association that contributes and engages in such activities as SOR outreach.

The use of industry associations to carry out independent assessment schemes helps to address challenges downstream companies lacking business relationships with SORs would face to independently assess SOR due diligence practices.

7.3.3.4 Implementing Step 4

These independent audits may be facilitated by initiatives including those of the LBMA, the RJC and the CFSI's CFSP).

Through those audits, companies may determine the following types of information that may be useful for SEC reporting requirements:

- country of origin information may be available for SORs that have completed successful audits of the types listed above;
- DRC conflict-free status information may be available for SORs that have successfully completed audits.

For example, if an issuer can associate all of the SORs used in a supply chain of one of its product categories as being CFSP, then it could conclude that this product category is DRC conflict-free. These audits satisfy the SEC requirement for the "source and chain of custody" of minerals sourced from the DRC or adjoining countries.

7.3.4 Report findings

Step 5 recommends that companies publicly report on their due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas in order to generate public confidence in measures taken.

7.3.4.1 Implementing Step 5

Step 5 recommends that companies report annually on their supply chain due diligence for minerals from conflict-affected and high-risk areas, not necessarily restricted to the DRC or its adjoining

countries. At this time, this is not a requirement of the SEC Final Rule. It is also stated that reports by downstream companies should specifically include information on each company:

- management systems, such as the company's supply chain due diligence policy and an explanation of the management structure responsible for the company's due diligence.
- risk assessment and management of the process to identify SORs in the supply chain and assess their due diligence processes through industry validation schemes; and
- participation in or facilitation of audits of SORs' due diligence practices, taking into account business confidentiality and other competitiveness concerns.

Appendix I

Example of a useful document

**Table I.1 – Sample of conflict minerals policy declaration: "We commit and we act"
Companies should ensure that the use of this example in its entirety or as the basis for their policy is appropriate for their particular circumstance**

"We commit and we act"

Recognizing the engagement of the international community in combating regional criminal networks and armed groups involved in the illegal exploitation of natural resources in the Democratic Republic of Congo (DRC) and in the Great Lakes region;¹

Recalling the efforts to avoid business activities that could directly or indirectly undermine the socio-political and economic stability of these conflict-affected countries;

[Company name] is committed to conducting a socially and environmentally sustainable business in terms of human rights, labour standards, respect for the environment and the fight against corruption in line with the Universal Declaration of Human Rights, the International Labour Organization (ILO) Conventions on Labour Standards, United Nations Global Compact and United Nations Convention Against Corruption.

[Company name] refuses to work or conduct business with partners that work under conditions that allow the following illegal practices:

- physical control of mine sites and transportation routes by criminal networks or non-state armed groups under threats and violence;
- violation of labour rights;
- perpetration of human rights abuses, sexual abuses or other war crimes;
- illegal taxation, fraudulent money extortion, bribery or money laundering at points where minerals are sourced, traded or processed;
- non-compliance with environmental criteria set by the national legislation of the country.

[Company name] will not source/trade/process/supply/manufacture any tin (Sn), tantalum (Ta), tungsten (W) and gold (Au) in circumstances that might support illegal traffic of natural resources and other environmental crimes, human rights abuses or other war crimes, or finance criminal networks or non-state armed groups.

[Company name] is committed to cooperating with other companies, industry alliances, non-governmental organizations (NGOs), governments, regional and international organizations in the pursuance of responsible conflict mineral supply chain due diligence practices, improved supply chain resilience, business integrity and accountability towards consumers.

Day Month Year

[Company name]

[Address]

[CEO] _____

Signature

¹ [UN Security Council Resolution 1533](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1533%20%282004%29): http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1533%20%282004%29

Table I.2 – Sample of conflict minerals clause to be included in contracts with suppliers²

Companies should ensure that the use of this sample in its entirety or as the basis for their procurement clause(s) is appropriate for their particular circumstances

The supplier is required to comply with [company name]'s conflict minerals policy.

The supplier is expected to establish policies, due diligence frameworks and risk-based management systems in accordance with the *ICT Due Diligence Guidelines* and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

The supplier is required to ensure that the parts and products (containing tin, tantalum, tungsten or gold from the DRC and its adjoining countries) supplied to [company name] be sourced/traded/processed/manufactured in circumstances that do not support any illegal traffic of natural resources and other environmental crimes, human rights abuses or other war crimes, or finance criminal networks or non-state armed groups.

The supplier is encouraged to support industry efforts to enhance traceability and responsible practices in the mineral supply chain. To this end, the supplier shall work in cooperation with sub-suppliers to monitor risks along the supply chain and ensure traceability of minerals.

The supplier shall disclose any risk of providing support to criminal networks, non-state armed groups or perpetrators of human rights abuses in the circumstances of the extraction/production/trade of any part or product subject to this agreement. In case of identified risk, the supplier shall work with [company name] and other interested stakeholders (if needed) to design and put in place a correction action plan to mitigate the situation. The supplier is encouraged to upload its details related to its conflict mineral supply chain due diligence practices on the *ICT Due Diligence Database*.

Data related to minerals extraction/trade/manufacturing are to be maintained and recorded for 5 years minimum and can be provided to [company name] upon request. In the context of this agreement, these data exchanged between [company name] and the supplier shall be considered as “confidential information” and shall be disclosed to third parties only when mutually agreed to in writing by [company name] and the supplier.

Notwithstanding, [company name] and the supplier agree to consider non-confidential any information that is required to be disclosed under the *ICT Due Diligence Guidelines* or is applicable to any supplier's facilities, plans, procedures, and processes, unless it is specifically agreed upon by [company name] and the supplier to execute a non-disclosure agreement (NDA) for such information.

² Adapted from [b-OECD 2013b] and [b-IPC, 2013].

Table I.3 – Departments that may be relevant to the implementation of the conflict minerals due diligence policy

Department	Potential role
Chief officer for conflict minerals due diligence practices	Oversee programmes dealing with conflict minerals regulation and management. Report all issues and progress to the chief executive officer (CEO).
Legal affairs	Design the company's conflict minerals policy. Draft and review contracts with suppliers, including the requirements of the conflict minerals clause presented above. Address any other legal issues as necessary (including compliance with international and national legislation and standards on conflict mineral supply chain due diligence, business confidentiality, and grievances).
Procurement	Evaluation and selection of suppliers, in accordance with the business requirements of traceability and supply chain due diligence concerning conflict minerals. Develop strong relationships with suppliers, maintain regular communication with them and identify new potential suppliers. Encourage suppliers to upload their details related to their conflict minerals due diligence practices on the <i>ICT Due Diligence Database</i> . Keep a record of purchase documents.
Production	Monitor manufacturing standards and implement product quality control programmes against conflict minerals due diligence and traceability requirements.
Sales/marketing	Communicate the company's conflict minerals policy externally, to current and potential buyers and customers. Promote the company's efforts to implement it, as part of its corporate social responsibility (CSR) strategy. Develop and publish reports or news articles to present the company's conflict minerals policy and report on its implementation.
Accounting/finance	Document financial transactions and maintain a record of suppliers' payments. Establish transparent internal accountability systems. Provide the necessary support and information for internal and external auditing procedures.
Human resources	Organize the necessary training for employees and for business partners, in collaboration with relevant departments.
Information technology (IT)	Computerize all due diligence information, by developing and maintaining appropriate infrastructure (e.g., database management software, company website) to collect, record and manage data on the mineral supply chain.
Research and development	Analyse information regarding the quality of product materials. Generate basic data to be used in dealing with conflict minerals regulations.
Adapted from [b-IPC, 2013].	

Table I.4 – Requirements for tracking systems and certification schemes

Data to be collected are:

- description of item (metal, characteristics, weight, method of extraction);
- unique reference number;
- date of extraction;
- location of extraction (mine name and country of origin);
- extraction company (name and details including due diligence policy);
- transportation route (specifying trading or processing locations);
- transportation methods;
- ownership and intermediaries (specifying time and place, as well as name and details including due diligence policy of processors, exporters, transporters, buyers);
- taxes, fees, royalties or other due payments;
- price.

Types of **computerized data gathering** tools [b-IPC, 2013]:

- formatted Excel files;
- data management software;
- manual storage of information on a local server;
- mixed type.

Traceability technologies that can be used include:

- barcoding;
- radio-frequency identification (RFID);
- analytical fingerprint (AFP) systems;
- mass spectrometers;
- global positioning system (GPS) tracking.

Labelling methods that can be used include:

- quick response (QR) code;
- Portable Data File format 417 (PDF417);
- DataMatrix;
- MaxiCode.

These labelling requirements refer to the rare metals labelling methods described in [b-ITU-T L.1102].

Table I.5 – Strengthening suppliers' engagement

Tool	Objective	Comments
Contracts	Detail the company's conflict minerals policy.	Review and update contracts with the suppliers (if needed) to ensure that the requirements of the company's conflict minerals policy are fully understood, agreed and taken into consideration.
Letters/emails	Provide clarification about the company's conflict minerals policy requirements.	Promptly provide additional guidance upon request.
Calls		
Meetings		
Trainings/webinars	Offer capacity building and learning opportunities for the implementation of the company's conflict minerals policy requirements as stated in contracts.	Organize on-site training or long-distance learning opportunities.
Website/publications	Offer additional baseline information about the company's conflict minerals policy. Improve suppliers' level of knowledge and compliance with conflict minerals international and national law, regulations, standards and policies.	Periodically report on the implementation of the company's conflict minerals policy. Share information about conflict minerals international and national law, regulations, standards and policies (including tracking systems, certification schemes, database and data management software). Provide updates and latest news.
Surveys	Obtain feedback from suppliers.	Collect feedback and address suppliers' concerns regarding the implementation of the company's conflict minerals requirements.
Cooperation networks	Encourage suppliers' participation in industry associations and other cooperation mechanisms.	Recommend collaborative approaches. Encourage suppliers to register with the <i>ICT Due Diligence Database</i> .
Adapted from [b-IPC, 2013].		

Table I.6 – Example of a supplier's engagement and follow-up letter

Companies should ensure that the use of this example in its entirety or as the basis for their follow-up letter is appropriate for their particular circumstance

Dear Supplier,

The purpose of this letter is to inform you that responsible supply chains of tin (Sn)/tantalum (Ta)/tungsten (W)/gold (Au) from the Democratic Republic of Congo (DRC) and its adjoining countries are an important part of [company name]'s sustainability commitment, and to kindly request your full cooperation in addressing this important matter.

It is our intention to do our utmost to ensure that the products and components in our supply chain do not contain any mineral sourced/traded/processed/supplied/manufactured in circumstances that might support illegal traffic of natural resources and other environmental crimes, human rights abuses or other war crimes or finance criminal networks or non-state armed groups. [Company name] expects a similar policy from its suppliers.

Through this letter, we formally request you to take the appropriate actions to comply with conflict minerals due diligence regulations and share the results of your supply chain investigations with us, by undertaking the following actions:

- provide contact details of the person responsible for due diligence of the mineral supply chain in your company;
- determine whether your products contain tin, tungsten, tantalum or gold (3TG metals) from the DRC and other countries in Africa's Great Lakes region;
- adopt a policy, due diligence framework and risk-based management system to reasonably ensure that the 3TG metals in your products do not directly or indirectly finance or benefit armed groups in the DRC and the other countries in Africa's Great Lakes region, in accordance with the *ICT due diligence guidelines* and the *OECD Due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas*;
- forward this request to your suppliers or smelters in your 3TG metals supply chain and follow up with them;
- cooperate with other companies, relevant trade and industry associations and civil society (as necessary);
- share relevant information on the *ICT Due Diligence Database*.

For questions and support, please do not hesitate to contact us. We will be happy to support you and provide additional guidance about [company name]'s due diligence requirements.

We count on your full cooperation in this important matter.

Day Month Year

[Company name]

[Address]

[CEO] _____

Signature

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