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4 May 2022

COUNCIL

Council

**REPORT ON THE IMPLEMENTATION OF THE OECD RECOMMENDATION ON
DUE DILIGENCE GUIDANCE FOR RESPONSIBLE SUPPLY CHAINS OF
MINERALS FROM CONFLICT-AFFECTED AND HIGH-RISK AREAS**

(Note by the Secretary-General)

JT03494793

1. This note presents, in its Annex, a Report by the Investment Committee (IC) and the Development Assistance Committee (DAC) on the implementation, dissemination, and continued relevance of the OECD Recommendation on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (2011) [[OECD/LEGAL/0386](#)] (hereafter, the “Recommendation”). The Report also includes conclusions on whether the Recommendation requires revision or whether further actions to support its dissemination and implementation are necessary.
2. The Report was developed by the Working Party on Responsible Business Conduct (WPRBC) which approved it by written procedure on 21 March 2022 [[DAF/INV/RBC\(2021\)25/REV](#)]. The IC and the DAC approved, by written procedure on 14 April 2022, the Report and its transmission to Council to be noted and declassified [[DAF/INV/RBC\(2021\)25/REV2](#)].

Background

3. The Recommendation was adopted by the Ministerial Council Meeting on the occasion of the OECD’s 50th Anniversary on 25 May 2011 [[C/MIN\(2011\)12/FINAL](#); [C/M\(2011\)11/PROV](#), Item 106] on the proposal of the IC and the DAC, and was amended on 17 July 2012 to integrate a reference in its preamble to the then newly developed Supplement on Gold [[C\(2012\)93](#); [C/M\(2012\)9](#), Item 136]. The main purpose of the Recommendation is that Members and non-Members having adhered to it (hereafter, the “Adherents”) disseminate and promote the observance of the Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (hereafter, the “Guidance”).
4. The Recommendation is open for adherence by non-Members. To date, in addition to the 38 OECD Members, 9 non-Members, namely Argentina, Brazil, Croatia, Kazakhstan, Morocco, Peru, Romania, Ukraine and Uruguay – all Adherents to the Declaration on International Investment and Multinational Enterprises [[OECD/LEGAL/0144](#)] (hereafter, the “Investment Declaration”) – have also adhered to the Recommendation.
5. The Recommendation focuses on the efforts that Adherents should make to actively promote the observance of the Guidance by companies operating in or from their territories, as well as to ensure the widest possible dissemination of the Guidance. Annexes I and II of the Recommendation¹ outline the 5-Step framework for risk-based due diligence in the mineral supply chain that companies should integrate into their corporate management systems and decision-making processes, as well as a Model Supply Chain Policy for a Responsible Global Supply Chain of Minerals from Conflict-Affected and High-Risk Areas, both of which form integral parts of the Recommendation. In particular, the Recommendation provides that Adherents should take measures to actively support the integration into corporate management systems of both Annexes to support companies’ wider implementation of the Guidance as a whole, which contains detailed provisions tailored to the different roles and positions of companies in the mineral supply chain.
6. In the Recommendation, the Council instructs the IC and DAC “to monitor the implementation of the Recommendation and to report to Council no later than three years following its adoption and as appropriate thereafter”. The first Report to Council on the implementation of the Recommendation (the “2015 Report”) was approved by the IC and DAC on 16 October 2015 and declassified by the Council at its 11 January 2016 meeting [[C\(2015\)182](#)]². The present follow-up Report, prepared in line with the process set out in document [DAF/INV/RBC\(2021\)5](#), covers the following five-year period, from 2016 to 2020.

¹ Annex I and II of the Guidance are also annexed as Annex I and II to the Recommendation.

² The public version can be found on the ‘Resources’ tab of the webpage for the Responsible Minerals Implementation Programme, <https://mneguidelines.oecd.org/responsible-mineral-supply-chain-resources.htm>.

Methodology

7. A questionnaire was prepared with input from the WPRBC and DAC to gather information relevant to activities within Adherents relating to the Recommendation, as well as the four other OECD Recommendations³ also covering supply chain due diligence [[DAF/INV/RBC\(2020\)6/REV1/FINAL](#)] (the “Questionnaire”). The Questionnaire was circulated to delegations from Adherents in relevant bodies in October 2020, with WPRBC delegates selected to act as focal points for their governments. In November 2020, the Secretariat hosted a webinar with delegations to further brief them on the Questionnaire and share best practice on how to prepare an answer. Answers to the Questionnaire were submitted by WPRBC delegates between February and June 2021.

8. In addition, information on activities within Adherents was also gathered through Adherent participation in the OECD Responsible Minerals Implementation Programme (“the Implementation Programme”),⁴ including the Multi-Stakeholder Steering Group, the Annual Forum on Responsible Mineral Supply Chains, as well as Adherents advising on programme deliverables and participating in numerous meetings, roundtable discussions, trainings, and awareness raising events.

Process

9. Adherents were informed of the timeline for the development of this Report during the March 2021 WPRBC meeting [[DAF/INV/RBC\(2021\)5](#)] and the same information was shared with the IC and DAC thereafter during the IC Bureau retreat on 7 June 2021 and via email to the DAC in June 2021.

10. The **first draft of the Report** was submitted to the WPRBC and the DAC on 4 November 2021, for comments by 3 December 2021, and was discussed at the WPRBC meeting on 23 November 2021 [[DAF/INV/RBC/A\(2021\)5](#)]. The draft was also submitted in parallel to the IC for information.

11. Following this first round of comments, feedback was integrated in a **second draft of the Report** which was submitted to the WPRBC for approval by written procedure by 21 March 2022 [[DAF/INV/RBC\(2021\)25/REV](#)]. No comments were received. Then, the DAC and the IC approved, by written procedure on 14 April 2022, the Report and its transmission to Council, via the Executive Committee, to be noted and declassified [[DAF/INV/RBC\(2021\)25/REV2](#)].

12. The Council is now invited to note and declassify the Report. Thereafter, a link to the approved Report will be included in the public webpage of the Minerals Recommendation on the [Compendium of OECD legal instruments](#) as well as on the Secretariat’s webpage for the [Responsible Minerals Implementation Programme](#).

³ The five OECD Recommendations on Supply Chain Due Diligence are the: Recommendation on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk_Areas (2011) [[OECD/LEGAL/0386](#)]; Recommendation on the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive_Sector (2016) [[OECD/LEGAL/0427](#)]; Recommendation on the OECD-FAO Guidance for Responsible Agricultural Supply Chains (2016) [[OECD/LEGAL/0428](#)]; Recommendation on the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector [[OECD/LEGAL/0437](#)]; and Recommendation on the OECD Due Diligence Guidance for Responsible Business Conduct [[OECD/LEGAL/0443](#)].

⁴ The OECD Responsible Minerals Implementation Programme (“the Implementation Programme”) is approved by Adherents and developed in consultation with a Multi-stakeholder Steering Group (MSG), made up of 50 governments, companies, industry associations, and civil society organisations. The objectives are to promote responsible sourcing and trading of minerals through dissemination and use of the Guidance. The Implementation Programme consists of awareness raising, outreach, technical advice, research, and tools development. Implementation activities are conducted jointly with and/or supported by Adherents.

Summary and conclusions

Dissemination

13. With respect to dissemination of the Recommendation, 23 Adherents responded that more than one government agency is aware of it and plays a role in its implementation, with some Adherents listing as many as twelve relevant agencies. 20 Adherents reported some sort of formal or informal intra-government mechanism to ensure policy coherence among the relevant authorities.

14. Beyond dissemination within and across Adherents' own governments, much work has been done to disseminate the Minerals Recommendation in non-Adherents, as many non-Adherents are key mineral producing, trading, and processing countries. This includes awareness raising events, trainings, technical advice and capacity building. The Implementation Programme plays a critical role in dissemination activities. Through the support of Adherents, the Secretariat is able to organise events, trainings, and capacity building in mineral producing and trading hubs, including with policy makers, regulators, law enforcement agencies, minerals exchanges, civil society organisations, and business associations.

15. As a result of such efforts, many non-Adherents, including in the People's Republic of China ("China"), India, the United Arab Emirates, the Democratic Republic of the Congo, Rwanda, and Burundi, have referred to the Guidance in governmental and quasi-governmental policies and frameworks, and have also adopted measures to support integration of the 5-step framework into company management systems, as called for in the Recommendation. The Secretariat remains in contact with key stakeholders in these jurisdictions to support dissemination and implementation of the Recommendation and observance of the Guidance by companies.

16. While dissemination among non-Adherents has thus resulted in clear and important impacts in those non-Adherent countries, none of these governments have yet adhered to the Recommendation. This can partly be explained by adherence to the Recommendation generally taking place in the context of adherence to the Investment Declaration [[OECD/LEGAL/0144](#)], the Guidelines for Multinational Enterprises (hereafter, the "MNE Guidelines") which themselves form an integral part of that Declaration, and the wider package of legal instruments related to it, a package that embodies broader commitments to providing an open and transparent environment for international investment, encouraging the positive contribution multinational enterprises can make to economic and social progress, and minimising and resolve difficulties that may arise from their operations.

Implementation

17. The picture regarding implementation of the Recommendation – i.e. implementation of Adherent governments' commitments to disseminate and promote the observance of the Guidance – is generally mixed. Some Adherents have demonstrated strong implementation, while others have remained largely inactive. The 15 Adherents that are most actively involved in the Implementation Programme are making significant efforts to promote observance of the Guidance, to take measures to actively support the integration of the due diligence framework in company management systems, and to ensure the widest possible dissemination of the Guidance. This has been achieved through, among other measures, the passage of critical legislation that fully incorporates or references the Minerals Guidance (e.g. United States Dodd Frank Act and European Union Conflict Minerals Regulation⁵), support for public-private

⁵ Under Section 1502 of the 2010 United States Dodd-Frank Wall Street Reform & Consumer Protection Act ("the US Dodd Frank Act"), publicly listed companies are required to disclose due diligence efforts on 3TG in their products, and refers to the Minerals Guidance as the international standard on due diligence. The US Department of State endorses the Minerals Guidance and encourages companies to draw upon it as they establish their due diligence practices; in May 2017, the European Union adopted Regulation (EU) 2017/821 (commonly known as "the EU Conflict Minerals Regulation"), requiring Union importers to conduct due diligence on 3TG originating from conflict-affected and high-risk areas in accordance with the 5 steps of the Minerals

partnerships, support for the OECD to develop tools and conduct outreach, and support for development programmes and capacity building in mining communities.

18. For the remainder of Adherents, implementation of the Recommendation has been significantly lower. 36 percent of Adherents did not submit an answer to the Questionnaire or did not discuss the Recommendation in their answer. Many European Union (EU) Member State Adherents do not seem to be aware of or did not report on activities linked to implementation of the EU Conflict Minerals Regulation, and in many Adherents very little promotional effort is being done beyond posting a link to the Minerals Guidance on government websites.

19. Observance of the Guidance also appears to go significantly beyond observance resulting from Adherents' direct actions to implement the Recommendation. Industry organisations representing approximately 90% of gold refining, 95% of tantalum production and 85% of tin production have set due diligence requirements for their members and have been assessed by the Secretariat for their level of alignment with the Guidance (OECD, 2018^[11]). Beyond the tin, tantalum, tungsten, and gold supply chains (commonly referred to as “3TG”) the OECD has also supported the advancement of due diligence initiatives by various industry associations in other mineral supply chains. The London Metal Exchange (LME), the world's largest exchange for base metals, introduced requirements based on the Guidance to all LME listed brands. This includes aluminium, cobalt, copper, lead, lithium, molybdenum, nickel, steel, tin and zinc. Responsible sourcing initiatives are also developing in mica, coal, and precious stones. These developments, likely fuelled in part by Adherent adoption of mandatory due diligence legislation, are clearly part of a positive trend in terms of observance of the Guidance and achievement of the Recommendation's aims.

20. The success of efforts to implement the Recommendation, i.e. to disseminate and promote observance of the Guidance, can also be shown indirectly by evidence on the uptake of due diligence among companies. OECD research on corporate disclosure notes significant gains in percentages of companies demonstrating at least some level of increased due diligence efforts; up from 31% in 2014 to 53% in 2018 (OECD, 2021 forthcoming^[21]) (hereafter the “Monitoring Corporate Disclosure paper”). Of the different segments of the supply chain analysed in the Monitoring Corporate Disclosure paper, smelters or refiners from gold, tin, tantalum, and tungsten supply chains demonstrated the most significant level of uptake, up from 9% in 2014 to 31% in 2018.

21. In view of the Recommendation and the Guidance's high continued relevance, as stressed in many responses to the Questionnaire, Adherents should maintain - and in many cases increase - their efforts to reach out to companies producing, trading and processing mineral resources of all sorts in order to both better disseminate the Guidance as well as promote its observance, as provided for in the Recommendation. Adherents who are not thus far engaged should actively participate in the Implementation Programme and make efforts to better understand the landscape of companies operating in or from their territories that are expected to be conducting supply chain due diligence.

22. Considering the development component of the Implementation Programme, improving implementation of the Recommendation – i.e. government dissemination of the Guidance and promotion of its observance – could be further explored in the DAC by considering how development projects could better support the dissemination of the Guidance among companies, promote its observance, and foster associated development benefits, such as formalisation of artisanal and small-scale miners, rural employment opportunities, and local economic development in many mineral producing countries.

Guidance. The EU Conflict Minerals Regulation entered into force on January 2021. Both pieces of legislation are discussed in more detail in the Implementation section of this Report.

Continued relevance

23. The Recommendation can only be as relevant as the document it calls on governments to disseminate and promote observance of. The finding that implementation of the Guidance by companies, and their understanding of due diligence more generally, have matured should be carefully considered. Indeed, stakeholders have requested an update of the Guidance to improve its coherence and ensure consistency across the document, in particular between the 3T and Gold Supplements. Furthermore, consultations with stakeholders through the annual Forum on Responsible Mineral Supply Chains and participation in the Multi-stakeholder Steering Group (MSG) have consistently raised the need to ensure the Implementation Programme progressively takes into account environmental and labour rights issues.

24. Accordingly, the IC, through the WPRBC, and the DAC may wish to review how fit-for-purpose the Guidance is in its current form, with a view to proposing options to address gaps and improve its coherence and consistency in light of ongoing developments on-the-ground and demands in metal markets, as well as on-going stocktaking of the MNE Guidelines currently taking place. Follow up options may include considering updating the Guidance or the development of complementary tools and guides to support its observance. In particular, it will be important to evaluate the scope of the risks covered within the Guidance with a view to supporting progressive efforts to address a wider range of environmental and human/labour rights issues covered under the MNE Guidelines, taking due consideration of the various impacts and consequences this may have on the Implementation Programme and existing initiatives to operationalise the Guidance globally.

Proposed Action

25. In the light of the preceding, the Secretary-General invites the Council to adopt the following draft conclusions:

THE COUNCIL

- a) noted document [C\(2022\)98](#), in particular the Report set out in its Annex, and agreed to its declassification;
- b) encouraged Adherents to the Recommendation to address the main findings, challenges, and next steps identified in the Report, as set out in the summary and conclusions section of the Report and summarised above, with a view to strengthening the dissemination and implementation of the Recommendation and related Guidance;
- c) invited the Investment Committee, in particular through the Working Party on Responsible Business Conduct, and the Development Assistance Committee to:
 - i) support Adherents in addressing the main challenges identified in the summary and conclusions section of the Report;
 - ii) review the Guidance to determine whether it remains fit-for-purpose in its current form, with a view to proposing options to address possible gaps and improve its coherence and consistency;
 - iii) report to Council on the implementation, dissemination, and continued relevance of the Recommendation in five years.

Annex. Report on the implementation of the OECD Recommendation on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High- Risk Areas

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1 Background

History and context

1. Production and trade of minerals have the potential to generate income, economic growth, sustain livelihoods and foster local development. However, the minerals sector is also at risk of contributing to human rights abuse, conflict-finance, and financial crime, particularly in mining areas affected by armed conflict, political instability, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. While governments bear the primary responsibility for protecting human rights and enforcing regulations, companies are expected to respect human rights and remedy impacts.

2. In 2006, in response to the United Nations Security Council's call to promote responsible business conduct in countries with weak governance (United Nations Security Council, 2003^[3]), the OECD Council adopted the Report on OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones [[C\(2006\)69/REV1](#)] (the “OECD Risk Awareness Tool”), developed by the Investment Committee. In 2009, the IC and the DAC decided to jointly develop a practical, focused tool, targeted at companies sourcing minerals from conflict-affected and high-risk areas (CAHRAs) with the aim of ensuring that they respect human rights, avoid contributing to conflict and successfully contribute to sustainable development. This joint initiative resulted in the development of the Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High Risk Areas (the “Guidance”) that was based and built on the OECD Risk Awareness Tool and on the OECD Guidelines for Multinational Enterprises (the “MNE Guidelines”), which are part of the Declaration on International Investment and Multinational Enterprises [[OECD/LEGAL/0144](#)]. The concept of due diligence in the Guidance is consistent with that proposed in the 2011 update of the MNE Guidelines, as well as the UN Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in its resolution 17/4 on 16 June 2011 (United Nations Human Rights Council, 2011^[4]).

3. The Guidance was developed through a multi-stakeholder process with engagement from the OECD and the International Conference for the Great Lakes Region (ICGLR) member states⁶, as well as non-OECD Members, private sector representatives from different segments of the minerals supply chain, civil society, and the United Nations Group of Experts on the Democratic Republic of the Congo (DRC). These extensive consultations characterised the collaborative and constructive approach to the development of the Guidance and led to strong buy-in from all stakeholder groups.

Purpose and scope of the Minerals Recommendation

4. Shortly after the approval of the Guidance, the Recommendation on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas

⁶ The G8 Leaders L'Aquila Declaration further encouraged the OECD to co-operate with the International Conference for Great Lakes Region (ICGLR) and to “engage with key stakeholders to further develop practical guidance for business operating in countries with weak governance” (G8, 2009^[48]).

[[OECD/LEGAL/0386](#)] (the “Minerals Recommendation”) was adopted by Council at the OECD’s 50th Anniversary Ministerial Council Meeting, on 25 May 2011 [[C/MIN\(2011\)12/FINAL](#); [C/M\(2011\)11/PROV](#), Item 106]. The Minerals Recommendation was amended by Council on 17 July 2012 to include a reference to the Supplement on Gold [[C\(2012\)93](#); [C/M\(2012\)9](#), Item 136] which provides specific guidance on supply chain due diligence for gold. The purpose of the Minerals Recommendation is to support implementation of the Guidance in recognition of the need for governments to take appropriate measures to ensure that companies are aware of this Guidance and observe it, and in order to promote the visibility and global reach of OECD work in the area of responsible business conduct.

5. The Minerals Recommendation calls upon Members and non-Members having adhered to it (the “Adherents”) to:

- “actively promote the observance of the Guidance by companies operating in or from their territories and sourcing minerals from conflict-affected or high-risk areas with the aim of ensuring that they respect human rights, avoid contributing to conflict and successfully contribute to sustainable, equitable and effective development”;
- “take measures to actively support the integration into corporate management systems of the 5-Step Framework for Risk-Based Due Diligence in the Mineral Supply Chain having due regard to the Model Supply Chain Policy set out respectively in Annexes I and II to the Recommendation of which they form an integral part”;
- “ensure the widest possible dissemination of the Guidance and its active use by other stakeholders including professional associations, financial institutions, and civil society organisations”.

6. The Minerals Recommendation also invites “other non-Members to take due account of and adhere to the present Recommendation”. To date, the 38 OECD Members and 9 non-Members – namely Argentina, Brazil, Croatia, Kazakhstan, Morocco, Peru, Romania, Ukraine, and Uruguay – have adhered to the Minerals Recommendation. All 47 Adherents to the Minerals Recommendation are also Adherents to the Declaration on International Investment and Multinational Enterprises and the package of legal instruments related to it,⁷ thereby the MNE Guidelines.

⁷ In addition to the Declaration itself, Adherents are also invited to adhere to the following related OECD legal instruments, namely the: Decision on International Investment Incentives and Disincentives [[OECD/LEGAL/0213](#)]; Recommendation on Member Country Measures Concerning National Treatment of Foreign Controlled Enterprises in OECD Member Countries and Based on Considerations of Public Order and Essential Security Interest [[OECD/LEGAL/0226](#)]; Recommendation concerning Member Country Exceptions to National Treatment and National Treatment related Measures concerning Investment by Established Foreign-Controlled Enterprises [[OECD/LEGAL/0233](#)]; Recommendation on Member Country Exceptions to National Treatment and National Treatment related Measures concerning the Services Sector [[OECD/LEGAL/0247](#)]; Recommendation on Member Country Exceptions to National Treatment and National Treatment related Measures in the Category of Official Aids and Subsidies [[OECD/LEGAL/0250](#)]; Recommendation on Member Country Exceptions to National Treatment and Related Measures concerning Access to Local Bank Credit and the Capital Market [[OECD/LEGAL/0255](#)]; Decision on Conflicting Requirements being imposed on Multinational Enterprises [[OECD/LEGAL/0261](#)]; Decision on the Third Revised Decision concerning National Treatment [[OECD/LEGAL/0263](#)], subject to the notification of exceptions to the National Treatment instrument; Decision on the OECD Guidelines for Multinational Enterprises [[OECD/LEGAL/0307](#)]; Recommendation on Guidelines for Recipient Country Investment Policies relating to National Security [[OECD/LEGAL/0372](#)]; Recommendation on the Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas [[OECD/LEGAL/0386](#)]; Recommendation on the OECD-FAO Guidance For Responsible Agricultural Supply Chains [[OECD/LEGAL/0428](#)]; Recommendation on the Due Diligence Guidance For Meaningful Stakeholder Engagement in the Extractive Sector [[OECD/LEGAL/0427](#)]; Recommendation of the Council on the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector [[OECD/LEGAL/0437](#)]; Recommendation on the OECD Due Diligence Guidance for Responsible Business Conduct [[OECD/LEGAL/0443](#)].

7. While the Guidance applies to all mineral supply chains, there was an initial confusion as to its scope due to references to only four mineral supply chains in its introduction section, namely tin, tantalum, tungsten, and gold (commonly referred to as “3TG”). To help clarify any misunderstanding, the [2014 Informal Ministerial Communiqué](#) on responsible business conduct published on 26 June 2014 underscored “the relevance of the OECD Due Diligence Guidance to all mineral supply chains” and called on “all stakeholders to broaden its application beyond the tin, tantalum, tungsten and gold supply chains”, putting a specific emphasis on the coal supply chain. The IC and the DAC then approved on 16 October 2015 two minor edits to the introduction of the Guidance to clearly apply to all CAHRAs and all mineral supply chains [[COM/DAF/INV/DCD/DAC\(2015\)3/REV1](#)].

Key developments since the adoption of the Minerals Recommendation

8. Since its adoption in 2011, the Guidance has become the de facto international standard on due diligence in mineral supply chains through references in legislation, industry initiatives, development programmes, official development assistance, national action plans and policy initiatives within Adherents and beyond. This is examined in more detail in the Implementation section below. It should be noted this has taken place with a primary – though not exclusive – focus on 3TG from Central Africa.

9. In recent years, however, there has been an explosion of demand for minerals used to manufacture clean energy products such as batteries and electric vehicles. Countries accounting for more than 70% of global GDP and emissions have committed to net zero emissions, implying a significant acceleration in clean energy deployment (IEA, 2021^[5]). These so-called ‘critical minerals’ include, amongst others, lithium, nickel, cobalt, manganese and graphite for batteries; rare earth elements for wind turbines and electric vehicles motors; copper, silicon and silver for solar; and copper and aluminium for electricity networks.

10. An OECD analysis of publically available reporting on human rights abuse and financial crime linked to 40 different mineral supply chains found that these impacts are reported in nearly every mineral supply chain considered for that study, including all the ‘critical minerals’ (OECD, 2021^[6]). Likewise, as understanding of supply chain risk matures and due diligence requirements on all high-risk areas come into place, stakeholders are also giving increasing attention to mineral producing and trading hubs in West Africa, Latin America, Central and South Asia, and Eastern Europe. While that same report found a majority of reporting was still focused on 3TG from DRC, 25% of the reports covered other countries and other minerals.

11. For example, recent OECD research on Niger, Mali, and Burkina Faso highlighted risks of money laundering and support to non-state armed groups linked with gold production and trade in the region (OECD, 2018^[7]). Similar OECD studies were conducted on gold from Venezuela (OECD, 2021^[8]), precious metals and stones from Colombia (OECD, 2017^[9]), and cobalt and copper from DRC (OECD, 2019^[10]).

12. Industry associations and mineral exchanges representing key parts of supply chains are adopting due diligence requirements for their members and seeking alignment with the Guidance, including in supply chains of 3TG, aluminium, cobalt, copper, lead, lithium, molybdenum, nickel, steel, tin and zinc. OECD efforts to assess alignment of industry self-regulatory initiatives are also described in more detail in the Implementation section below.

Purpose of the Report

13. In the Minerals Recommendation, the Council instructs the IC and DAC “to monitor the implementation of the Recommendation and to report to Council no later than three years following its

adoption and as appropriate thereafter”. The first Report to Council on implementation of the Minerals Recommendation was prepared in 2015 and published in 2016 [[COM/DAF/INV/DCD/DAC\(2015\)3/FINAL](#)] (the “2015 Report”)⁸. Pursuant to the Minerals Recommendation and following relevant developments in the field, this follow-up Report covers the following five year period from 2016 to 2020.

14. Reports to Council on implementation, dissemination and continued relevance of OECD Recommendations generally seek to assess the state-of-play regarding the implementation of the policy recommendations contained in the Minerals Recommendation, as well as analyse the continued relevance of the Minerals Recommendation and whether further work to improve its implementation or dissemination is required, or whether the Minerals Recommendation - and in this case, the Guidance - may require revision. The Secretariat has also conducted research on the implementation of the Guidance by companies themselves, looking at the uptake of due diligence based on corporate self-reporting. The results of this research will be published in an OECD report (OECD, 2021 forthcoming^[2]) (the “Monitoring Corporate Disclosure paper”).

⁸ The public version can be found on the ‘Resources’ tab of the webpage for the Responsible Minerals Implementation Programme, <https://mneguidelines.oecd.org/responsible-mineral-supply-chain-resources.htm>.

2 Methodology

15. Information on activities within Adherents to disseminate and implement the Minerals Recommendation has been collected through multiple channels. This includes through the participation by Adherents in the OECD Responsible Minerals Implementation Programme⁹, in particular through the Forum on Responsible Mineral Supply Chains, participation in periodic conference calls of the Multi-Stakeholder Steering Group, advisory groups for specific projects, and discussions at the WPRBC. These meetings and calls have provided an opportunity for Adherents to engage in the process and update stakeholders and the Secretariat on their actions to implement the Minerals Recommendation by promoting the dissemination and observance of the Guidance. It is important to note, however, that participation in these activities is generally limited to a small group of Adherents who are the most actively engaged, with little to no information coming from the remaining Adherents. The Secretariat's own independent research has been used to fill knowledge gaps.

16. The 2015 Report identified clear gaps in information of implementation activities within Adherents. As such, the Council instructed the Secretariat to consider “drawing up a simple and short questionnaire to facilitate reporting by Adherents and gather more information on Guidance-related activities.” In order to facilitate reporting and meet the instructions from the Council, the Secretariat prepared the first questionnaire in January 2018 (the “Minerals Questionnaire”) [[COM/DAF/INV/DCD/DAC\(2017\)2/FINAL](#)]. The Minerals Questionnaire was circulated twice, covering activities from 2017 to 2019.

17. The Minerals Questionnaire was developed in consultation with delegates from the DAC and WPRBC, as well as civil society representatives sitting on the Multi-Stakeholder Steering Group of the Responsible Minerals Implementation Programme. It consists of 19 questions, divided into three broad categories based off parameters set forth in the 2015 Report to Council: (1) Engagement, promotion, dissemination and monitoring; (2) Regulatory and policy coherence; and (3) Approaches to support, enable or incentivise implementation of due diligence by enterprises.

18. In 2019, the WPRBC accepted a proposal to expand the Minerals Questionnaire [[DAF/INV/RBC\(2019\)15](#)] (the “Questionnaire”). This new Questionnaire was prepared with input from and approved by the WPRBC and DAC to gather information relevant to activities within Adherents relating to the Minerals Recommendation, as well as the four other OECD Recommendations covering supply chain due diligence [[DAF/INV/RBC\(2020\)6/REV1/FINAL](#)].¹⁰ This Questionnaire reduced the

⁹ The OECD Responsible Minerals Implementation Programme (“the Implementation Programme”) is approved by Adherents and developed in consultation with a Multi-stakeholder Steering Group (MSG), made up of 50 governments, companies, industry associations, and civil society organisations. The objectives are to promote responsible sourcing and trading of minerals through dissemination and use of the Guidance. The Implementation Programme consists of awareness raising, outreach, technical advice, research, and tools development. Implementation activities are conducted jointly with and/or supported by Adherents.

¹⁰ The five OECD Recommendations on Supply Chain Due Diligence are the: Recommendation on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk_Areas (2011) [[OECD/LEGAL/0386](#)]; Recommendation on the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive_Sector (2016) [[OECD/LEGAL/0427](#)]; Recommendation on the OECD-FAO Guidance for Responsible

number of questions to 14, but kept the same three broad categories, and gave the option for Adherents to provide information on implementation activities related to all of the five relevant OECD Recommendations through the same Questionnaire.

19. The Questionnaire was circulated to delegations from Adherents in relevant bodies in October 2020, with the WPRBC delegate selected to act as a focal point for their government. In November 2020, the Secretariat hosted a webinar to walk Adherents through the questionnaire and share best practice on how to prepare an answer.

20. Answers to the Questionnaire were submitted by 39 out of 47 Adherents (the “Respondents”), between February and June 2021.¹¹ Of the 39 answers received, 29 included information on implementation activities regarding the Minerals Recommendation. Additionally, answers to the Mineral Questionnaire were provided by 26 Adherents in 2017 and 25 Adherents in 2018.

21. This Report is based on answers provided by Adherents to the Questionnaire and the Minerals Questionnaire, as well as independent research carried out by the Secretariat. In addition to and subsequent to these responses, additional information, in particular related to developments in the EU context, was added to complete the Report.

Agricultural Supply_Chains (2016) [[OECD/LEGAL/0428](#)]; Recommendation on the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector [[OECD/LEGAL/0437](#)]; and Recommendation on the OECD Due Diligence Guidance for Responsible Business Conduct [[OECD/LEGAL/0443](#)].

¹¹ Adherents who submitted a relevant answer to the Questionnaire are as follows: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Lithuania, Luxembourg, Mexico, Morocco, Netherlands, Poland, Romania, Spain, Sweden, Switzerland, Turkey, United Kingdom, and United States.

3 Dissemination

22. The Minerals Recommendation is addressed to Adherents, i.e. governments, and sets out recommendations as to what they should do to disseminate and promote the use and implementation of the Guidance, which is addressed to companies. With this in mind, this Report will look at two forms of dissemination: (i) dissemination of the Minerals Recommendation itself, i.e. what Adherents have done to raise awareness in non-Adherent governments as well as across their own governments of the government commitments under the Minerals Recommendation, such that all relevant parts and levels of their governments (e.g. law enforcement, taxation, customs enforcement, environmental protection, foreign aid, public procurement, etc.) are aware of their role in promoting and disseminating the Guidance among companies; and (ii) dissemination of the Guidance among companies. In other words, the report will address both (i) raising governments' awareness of their role vis-à-vis the Guidance, and (ii) raising business's awareness of the Guidance itself. Generally, (i) will be addressed in this section, while (ii) will be addressed in the section on Implementation, though some activities may straddle the two.

23. With respect to dissemination of the Minerals Recommendation, 23 Adherents responded that more than one government agency is aware of it and plays a role in its implementation, with some Adherents listing as many as twelve relevant agencies. 20 Adherents reported some form of formal or informal intra-government mechanism to ensure policy coherence among the relevant authorities. This type of internal dissemination of the Minerals Recommendation through awareness raising and coordination is also covered in the "Implementation" section below.

24. Beyond dissemination within and across Adherents' own governments, much work has been done to disseminate the Minerals Recommendation in non-Adherents, as many non-Adherents are key mineral producing, trading, and processing countries. This includes awareness raising events, trainings, and capacity building, discussed in more detail in the "Implementation" section, specifically paragraphs 52-53 and 110-121. Although dissemination of the Guidance is largely focused on private sector uptake, the multi-stakeholder nature of due diligence means that local government stakeholders play a significant role in the process. As a result of these efforts, many non-Adherent governments, namely in the People's Republic of China (China), India, the United Arab Emirates, the Democratic Republic of the Congo, Rwanda, and Burundi, have referenced the Guidance in governmental and quasi-governmental policies and frameworks, and have also adopted measures to support integration of the 5-step framework into company management systems, as called for in the Minerals Recommendation.

25. While dissemination among non-Adherents has thus resulted in clear and important impacts, none of these governments have yet adhered to the Minerals Recommendation. This can partly be explained by adherence to the Minerals Recommendation generally taking place in the context of adherence to the Declaration on International Investment and Multinational Enterprises [[OECD/LEGAL/0144](#)] (the "Investment Declaration"), the MNE Guidelines which form an integral part of that Declaration, and the wider package of legal instruments related to it, a package that embodies broader commitments to providing an open and transparent environment for international investment, encouraging the positive contribution multinational enterprises can make to economic and social progress, and minimising and resolve difficulties that may arise from their operations.

4 Implementation

26. This section focuses on implementation of the Minerals Recommendation by assessing Adherents' progress in actively promoting the widest possible dissemination of the Guidance and its observance by companies, taking measures to actively support the integration into corporate management systems of the 5 Step Framework. To that end, this Report starts by outlining a range of key developments in implementation of the Minerals Recommendation drawn from information gathered through independent research by the Secretariat and stakeholder participation in the Responsible Minerals Implementation Programme.

27. Thereafter, it addresses information on implementation of the Minerals Recommendation provision by provision obtained primarily through the Questionnaire, providing analytical summaries and aggregate results of the answers provided, highlighting best practices, and sharing important contextual information. For consistency, this section of the Report will follow the same structure as the Questionnaire with three broad sub-sections on: (1) Engagement, promotion, dissemination and monitoring; (2) Regulatory and policy coherence; and (3) Approaches to support, enable or incentivise implementation of due diligence by enterprises.

Key developments in implementation of the Minerals Recommendation and the Guidance

28. Since its adoption in 2011, the Guidance has become the de facto international standard on due diligence in mineral supply chains. The broad promotion and dissemination of the Guidance by governments and its consequent impact across industry (through company uptake but also multi-stakeholder and industry initiatives that act as multipliers) has led to the development of other OECD Due Diligence Guidance in the [agriculture](#), [garment & footwear](#) and [finance](#) sectors, a guidance focused on stakeholder engagement in the [extractives](#) sector, and also a cross-sectoral [Due Diligence Guidance for Responsible Business Conduct](#). Most of these Guidance have also been the subject of OECD Recommendations, notably: the Recommendation on the OECD-FAO Guidance for Responsible Agricultural Supply Chains [[OECD/LEGAL/0428](#)]; the Recommendation on the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector [[OECD/LEGAL/0437](#)]; the Recommendation on Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector [[OECD/LEGAL/0427](#)]; the Recommendation on the OECD Due Diligence Guidance for Responsible Business Conduct [[OECD/LEGAL/0443](#)]. With this in mind, since 2011 the Recommendation and Guidance have been being implemented in a landscape where due diligence generally has been receiving ever increasing importance.

29. A key way in which Adherents have implemented the Minerals Recommendation and promoted the observance of the Guidance has been enshrining the Guidance in domestic law. This has been done in most Adherents, most notably Member States of the European Union (through domestic implementing legislation of the relevant EU acts), the United States (US), and the United Kingdom (UK). The Guidance has also come to be increasingly considered by regulators as the preferred approach for facilitating private sector implementation of supply chain due diligence and management of risks to people and society linked to companies' mineral production or sourcing, with regulators thus further promoting observance of the

Guidance. These important legislative efforts across Adherents are targeted at companies in primarily mineral and metal consuming countries, though the cascading nature of supply chain due diligence means that their effects extend around the globe. The section below on implementation activities by Adherents discusses these legislative developments in more detail. Research in the Monitoring Corporate Disclosure paper on the uptake of due diligence measures shows that due diligence regulations are associated with improved uptake by companies, with responsible practices increasing the longer a regulation is in force (OECD, 2021 forthcoming^[2]). Companies referencing US due diligence legislation that was passed in 2010, for example, scored two and half times better than the average company globally. This shows the effectiveness of such measures as means of implementing Adherents' commitments under the Minerals Recommendation to disseminate and promote the use of the Guidance.

30. Likewise, the Guidance has been used in key international and regional bodies, as well as non-Adherent governments, developments that have done much to further dissemination and promotion of the observance of the Guidance, thereby contributing significantly to realising the goals of the Minerals Recommendation.

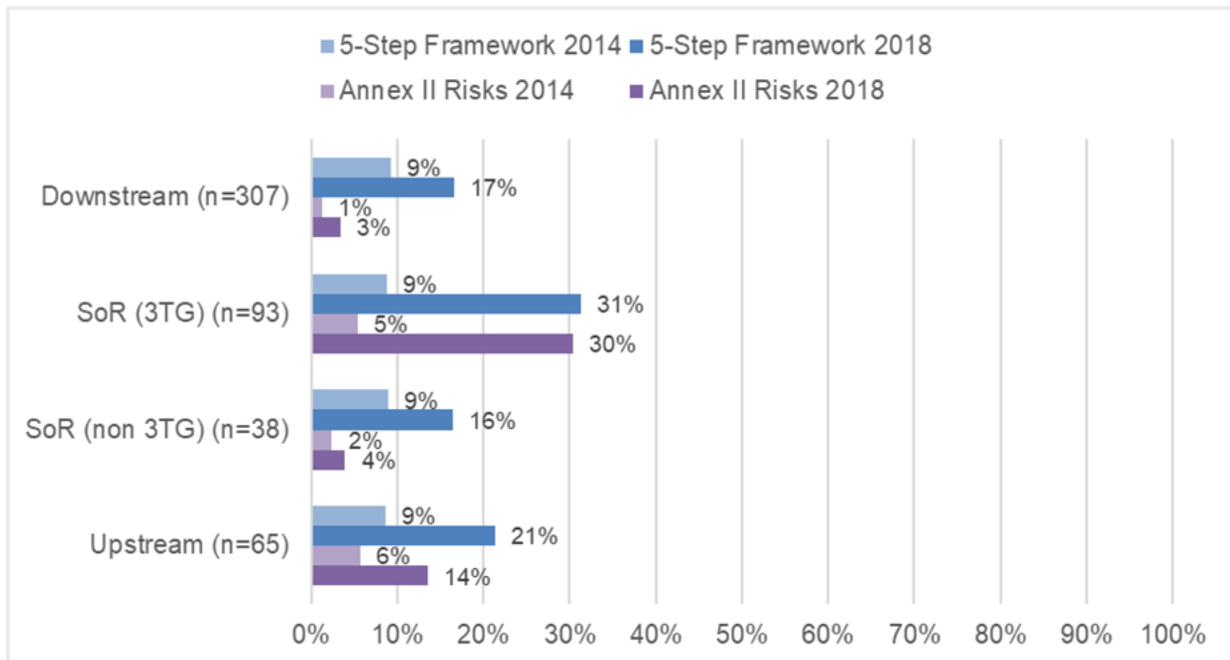
- The United Nations Security Council, through its adoption in UN Group of Experts reports, has supported implementation of the Guidance. Numerous United Nations Security Council (UNSC) Resolutions on the DRC [2389\(2017\)](#), [2360\(2017\)](#), [2339\(2017\)](#), [2293\(2016\)](#), [2262\(2016\)](#), [2198\(2015\)](#), [2136\(2014\)](#), [2078\(2012\)](#), [2021\(2011\)](#), [1952 \(2010\)](#) and on Cote d'Ivoire [2219 \(2015\)](#), [2153 \(2014\)](#), [2101 \(2013\)](#) cite the Guidance and encourage all UN Member States to continue to raise awareness of the due diligence expectations and to stakeholders in the supply chain to implement due diligence. These are the only OECD legal instruments that have been referred to in Chapter VII United Nations Security Council Resolutions, which are considered legally binding in accordance with Article 25 of the Charter of the United Nations.
- The Lusaka Declaration, signed by 11 Heads of State of the International Conference on the Great Lakes Region (ICGLR) in December 2010, endorsed the Guidance and called for it to be integrated into the six tools of the Regional Initiative against the Illegal Exploitation of Natural Resources (International Conference on the Great Lakes Region (ICGLR), 2010^[11]). Burundi, the Democratic Republic of Congo, and Rwanda have since referenced the Guidance into their legal and security frameworks.
- In the People's Republic of China ("China"), the Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCCME) adopted the Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains, based on the Guidance. The Chinese Due Diligence Guidelines are designed to align Chinese company due diligence with international standards and allow for mutual recognition with existing international initiatives. In India, one of the world's largest markets for gold, the National Stock Exchange (NSE) adopted a rule in August 2020 requiring gold refiners trading on the NSE to be certified by an OECD-aligned audit programme.

31. Beyond the activities of governments aimed at disseminating and promoting observance of the guidance, industry associations have also played a significant role. Industry organisations representing approximately 90% of gold refining, 95% of tantalum production and 85% of tin production have set due diligence requirements for their members and have been assessed by the Secretariat for their level of alignment with the Guidance (OECD, 2018^[1]). In 2016, the OECD launched a project to develop and pilot test an assessment methodology for evaluating the extent to which industry programmes align with the detailed recommendations of the Guidance. In the year following the initial assessment, the participating industry associations were given time to make changes to their standards to better align their requirements with the recommendations of the OECD Guidance. Programmes' standards were re-assessed in early 2018. Following these changes, most of the programmes' standards now are in, or close to, full alignment with the recommendations of the OECD Guidance. For some of the programmes this has required fundamental reform and represents a significant achievement in a short space of time.

32. Beyond 3TG, the OECD has also supported the advancement of due diligence initiatives by various industry associations in other mineral supply chains. The London Metal Exchange (LME), the world’s largest exchange for base metals, introduced requirements based on the Guidance to all LME listed brands. This includes aluminium, cobalt, copper, lead, lithium, molybdenum, nickel, steel, tin and zinc. Responsible sourcing initiatives are also developing in mica, coal, and precious stones.

33. The success of efforts to implement the Minerals Recommendation, i.e. to disseminate and promote observance of the Guidance, can be shown indirectly by evidence on the uptake of due diligence among companies. The Monitoring Corporate Disclosure paper notes significant gains in percentages of companies demonstrating at least some level of increased due diligence efforts; up from 31% in 2014 to 53% in 2018 (OECD, 2021 forthcoming^[2]). Of the different segments of the supply chain analysed in the report, smelters or refiners from gold, tin, tantalum, and tungsten supply chains demonstrated the most significant level of uptake, up from 9% in 2014 to 31% in 2018.

Figure 4.1. Disclosure on the 5-step framework and implementation II risks by supply chain segment



Note: Annex II risks refer to serious abuses of human rights and financial crime described in Annex II of the Minerals Guidance.
 Source: OECD (2021 forthcoming), *Monitoring Corporate Disclosure: OECD Due Diligence Guidance for Responsible Mineral Supply Chains*

34. The United Nations Group of Experts on the Democratic Republic of the Congo (DRC) was instrumental in raising awareness of the linkages between expectations on businesses outlined in the MNE Guidelines and negative impacts in mining communities in DRC, which helped provide strong political support for the development of the Minerals Recommendation and the Guidance set therein. In its periodic reports to the United Nations Security Council, the Group of Experts highlights continuing impacts and signs of positive change linked to the Guidance. In general, the Group of Experts finds that due diligence programmes based on the Guidance have improved transparency and security in the tin, tungsten and tantalum (3T) sector in the Great Lakes region of Africa (United Nations Security Council, 2020^[12]). It is also noted, however, that progress in the gold sector is slow, with smuggling in particular remaining quite high and the lack of a large-scale industry-led responsible mining programme for artisanally mined gold.

35. Independent research by the University of California in Los Angeles and the International Peace Information Services in 2020 reinforced these findings about the 3T sector in DRC, noting that areas covered by a responsible sourcing programme see 27% less military interference and 58% more service provision by government regulators relative to households in other mining areas (International Peace Information Service, 2020^[13]). Likewise, the research found, though statistically inconclusive, evidence of greater economic well-being in covered areas.¹²

36. The OECD Secretariat and partner organisations in mining communities have also played a key role in disseminating and promoting the Guidance, thus contributing to achieving the aims of the Minerals Recommendation. Such efforts have been undertaken in mineral producing and trading hubs outside of Central Africa, such as in West Africa, through cooperation with the Liptako Gourma Authority, in gold mining regions in Latin America, and in gold trading and mica mining in India. In certain regions, promotion and dissemination of the Guidance is more advanced.

37. To provide a clear overview at the outset, the below table provides an overview of the certain answers provided to the Questionnaire:

Table 4.1. Overview of Key Questionnaire Answers by Adherents

Legend:

Green	Yes
Red	No
Orange	Answered the Questionnaire but did not provide information relevant to the Minerals Recommendation
Grey	Did not submit an answer to the Questionnaire

¹² The OECD Secretariat has developed a Monitoring and Evaluation Framework that provides a hypotheses, a theory of change, and a monitoring and evaluation methodology comprising eight studies to verify nodes along the theory of change (OECD, 2021^[46]). The theory of change articulates a detailed process by which due diligence plausibly influences responsible trade and ultimate outcomes, in terms of the prevalence of negative impacts in mineral producing and trading countries as well as livelihoods in mining communities. It is designed to leverage existing studies in the field, and thus can be used both as a basis for country- and supply chain-specific meta-studies, or to structure new research on specific due diligence issues to strengthen the confidence level in findings on particular elements of due diligence, their effectiveness, and gaps in their implementation.

	1.1 Promotional activity, awareness raising, trainings, outreach events or dissemination of publications	2.1 References to the Guidance in current or future laws, regulations, rules, procedures or other government issued guidance	3.1 Supporting, enabling, or incentivising use of the Guidance or integration of the due diligence framework into company management systems	3.3 Conditioning public procurement, export credit or guarantees, trade support, or any other types of financing for the private sector	3.4 Official Development Assistance	3.5 Monitoring the results or impacts of efforts to promote incentivise or enable
Argentina	Y	Y	Y	N	N	N
Australia	Y	N	N	N	N	N
Austria	Y	Y	Y	Y	N	Y
Belgium	Y	Y	Y	Y	Y	N
Brazil	N	N	N	N	N	Y
Canada	Y	Y	Y	Y	N	Y
Chile	Y	N	N	N	N	N
Colombia	Y	Y	Y	N	Y	Y
Costa Rica						
Croatia	Y	Y	Y	N	N	N
Czech Republic	N	Y	Y	N	N	N
Denmark						
Estonia	N	Y	N	N	N	N
Finland	Y	Y	Y	Y	N	Y
France	Y	Y	Y	N	Y	Y
Germany	Y	Y	Y	Y	Y	Y
Greece	N	Y	N	N	N	N
Hungary						
Iceland						
Ireland	Y	Y	N	Y	Y	N
Israel						
Italy	Y	Y	Y	Y	N	N
Japan						
Kazakhstan						
Korea						
Latvia	Y	Y	N	N	N	N
Lithuania	Y	Y	Y	N	N	Y
Luxembourg	Y	Y	Y	N	N	Y
Mexico	Y	N	N	N	N	N
Morocco	Y	N	N	N	N	N
Netherlands	Y	Y	Y	Y	Y	Y
New Zealand						
Norway						
Peru						
Poland	Y	Y	N	Y	Y	N
Portugal						
Romania	N	Y	N	N	N	N
Slovak Republic						
Slovenia						

Spain	N	Y	N	N	N	N
Sweden	Y	Y	Y	Y	N	N
Switzerland	Y	Y	Y	Y	Y	Y
Turkey	Y	Y	Y	N	N	Y
Ukraine						
United Kingdom	N	Y	Y	N	Y	N
United States	Y	Y	Y	Y	Y	Y
Uruguay	N/A	N/A	N/A	N/A	N/A	N/A

Note: Uruguay did not receive the Questionnaire because it had not yet adhered to the Minerals Recommendation at the time of the reporting period.

38. The following sections address each provision of the Minerals Recommendation in turn, providing analytical summaries and aggregate results of the answers provided, highlighting best practices, and sharing important contextual information.

Engagement, promotion, dissemination and monitoring

39. The Minerals Recommendation states that Adherents should “actively promote the observance of the Guidance by companies operating in or from their territories and sourcing minerals from conflict-affected or high-risk areas” and “ensure the widest possible dissemination of the Guidance and its active use by other stakeholders.” In relation to this, Section 1 of the Questionnaire focused on activity by Adherents to disseminate the Guidance among companies, engage with stakeholders, raise awareness, and monitor dissemination efforts.

Question 1.1: Promotional activity, awareness raising, trainings, outreach events or dissemination of publications

40. 23 Respondents report to have engaged in promotional activity, awareness raising, trainings, outreach events or dissemination of publications related to or referencing the Guidance in order to raise business’s awareness of the Guidance itself. These activities range from posting the Guidance and other OECD papers on government websites (most often the NCP website), translating the Guidance into local languages, and distributing informational brochures or supplementary guidance to specific stakeholders inside the country and in mineral producing regions. Respondents also organised, funded or participated in training/awareness raising events focused on different segments of the supply chain (e.g. miners, refiners, or manufacturers) or on different mineral producing regions (e.g. mostly in DRC and Colombia).

Question 1.2: Studies/assessments of company implementation of due diligence

41. 14 Respondents report to have undertaken studies or assessments on whether companies operating in/from its territory are taking steps to implement supply chain due diligence. These assessments took on a variety of forms and varied dramatically in terms of method, focus, and purpose. The most thorough assessments took place as a means to understand compliance with legal requirements or in pursuit of broader policy objectives around responsible business conduct and critical raw materials. In the US, for example, under the Dodd Frank Act, certain publically-listed companies must file compliance reports on their due diligence efforts to identify whether so-called ‘conflict minerals’ are used in their supply chain (United States Securities and Exchange Commission, 2012_[14]). These reports are filed with the Securities and Exchange Commission and regularly analysed by the Government Accountability Office (United States Government Accountability Office, 2020_[15]).

42. In Ireland and Luxembourg, efforts were made to map out relevant companies that would fall under the scope of the EU Conflict Minerals Regulation¹³, in preparation for that Regulation to come into force in January 2021. A similar mapping was carried out in Switzerland, where a study was commissioned by the Federal Department of Foreign Affairs (FDFA) and the State Secretariat for Economic Affairs (SECO) to summarise current efforts by Swiss minerals trading firms to implement human rights due diligence (Institute for Human Rights and Business, 2017_[16]).

43. In France, a report prepared by the Ministry of Economy and Finance took a survey of French companies involved in the extraction, processing, and recycling of minerals, in order to determine their level of risk management and security of supply for supply chains of critical raw materials (France Ministry of Economy and Finance, 2019_[17]). The survey assessed familiarity with the Guidance, the US Dodd Frank Act and EU Conflict Minerals Regulation.

44. In Germany, the Federal Ministry of Labour and Social Affairs published a study examining which human rights risks exist along the supply and value chains of different sectors of the German economy (German Federal Ministry of Labour and Social Affairs, 2020_[18]). Using desk research and stakeholder interviews, the report identifies and analyses which human rights due diligence activities these industries are already implementing.

45. In the Netherlands, companies participating in the RBC Agreement on Responsible Gold are annually assessed for their due diligence efforts (Netherlands Economic and Social Council, 2021_[19]). This Agreement is a voluntary initiative of companies and organisations in the Dutch gold sector to implement due diligence in gold supply chains.

46. Some Respondents also reported less formal monitoring methods such as sending surveys to exporters, collecting information through customs agencies, and through regular engagement with stakeholders as part of business's awareness of the Guidance raising efforts.

47. It is difficult to determine any broad trends from these monitoring efforts since the exact parameters of how companies are being monitored in their observance of the Guidance and information gathered varied significantly from Respondent to Respondent (e.g. some looked at company disclosures, some evaluated the number of companies in scope of the relevant regulation, some were issue specific around modern slavery, some were cross-sectoral, etc.). However, one broad trend that can be identified is that many companies seem to have human rights or due diligence policies in place, while actual meaningful implementation, and the detailed disclosure thereof, seems to lag far behind. This is consistent with the findings of the Monitoring Corporate Disclosure paper (OECD, 2021 forthcoming_[2]).

Question 1.3: Participation in the OECD Responsible Minerals Implementation Programme

48. The OECD Responsible Minerals Implementation Programme (“the Implementation Programme”) is approved by Adherents and developed in consultation with a Multi-stakeholder Steering Group (MSG), made up of 50 governments, companies, industry associations, and civil society organisations. The objectives are to promote responsible sourcing and trading of minerals through dissemination and use of the Guidance. The Implementation Programme reflects a constructive, demand-driven and responsive cooperation with minerals producing and consuming countries to foster country-owned and industry-owned programmes to promote implementation of the Guidance.

¹³ In May 2017, the European Union adopted Regulation (EU) 2017/821 (commonly known as “the EU Conflict Minerals Regulation”), requiring Union importers to conduct due diligence on 3TG originating from conflict-affected and high-risk areas in accordance with the 5 steps of the Minerals Guidance. The EU Conflict Minerals Regulation entered into force on January 2021. It is discussed further in Section below on “Regulatory and Policy Coherence”.

49. Through the support of Adherents, the OECD Secretariat conducts a wide range of activities under the Implementation Programme, including outreach and training to countries, research and analysis, peer-learning and knowledge sharing and market-oriented research and technical advice. Key projects receiving attention and support from Adherents include the development of a framework methodology to measure impacts of due diligence, research on risks and vulnerabilities of supply chains in different regions, FAQs on how to address specific issues when practically implementing the Guidance and a report gathering supply chain risk information on 40 different mineral supply chains. Importantly, the Implementation Programme is key to support the coordination and continuous improved alignment of country and industry-led responsible sourcing initiatives, leading to scalable and cost-effective solutions for miners and companies across the supply chain.

50. 11 Respondents reported participating in the Implementation Programme. Activities included participating as panellists in OECD-organised events (e.g. the Annual Forum on Responsible Mineral Supply Chains or technical webinars), reviewing and commenting on OECD research papers and tools, sitting on advisory groups for specific projects, and participating in the MSG. The MSG has regularly conference calls with the OECD Secretariat (every 5-8 weeks) to discuss important industry developments and project proposals, as well as bilateral engagement with members on specific projects.

51. The MSG is open to all Adherents and non-Adherents, as well as to a limited number of companies, industry associations, and civil society groups representing different geographies, mineral supply chains, and segments of the supply chain (e.g. miners, traders, exchanges, refiners, and manufacturers). Currently, representatives from the following Adherents regularly participate in MSG calls and other Implementation Programme activities: Belgium, Canada, Colombia, France, Germany, the Netherlands, Sweden, Switzerland, the US, and the UK. Representatives from non-Adherents participating in the MSG are: the DRC, Rwanda, the European External Action Service, the European Commission, and the International Conference for the Great Lakes Region.

Question 1.4: Contributions to the OECD Responsible Minerals Implementation Programme

52. Eight Respondents reported contributing to the Implementation Programme. Contributions include not just financial contributions to the OECD, but also through hosting Implementation Programme events, co-organising/hosting meetings, and providing translations of the Guidance into languages other than French or English that are made available on the Implementation Programme webpage¹⁴.

Regulatory and policy coherence

53. The Minerals Recommendation states that Adherents should “actively support the integration into corporate management systems of the 5-Step Framework for Risk-Based Due Diligence in the Mineral Supply Chain having due regard to the Model Supply Chain Policy set out respectively in Annexes I and II to this Recommendation.” Section 2 of the Questionnaire focuses on policy making, specifically Adherents’ efforts to integrate the Guidance into legislation, regulations, or rules, plans to do so in the future, and any internal measures/mechanisms to enable intra-governmental policy coherence on the topic.

¹⁴ <https://mneguidelines.oecd.org/mining.htm>

Question 2.1/2.2: References to the Guidance in current or future domestic laws, regulations, rules, procedures, guidance to comply with regulations, or other government issued guidance

54. At least 28 Respondents reported referencing or integrating the Guidance into domestic laws, regulations, or government-backed guidance. Though the exact count is difficult to ascertain because many Respondents approached this question differently. For example, Questionnaire responses were not consistent on how they referenced an EU acts (discussed in more detail below) versus the domestic implementation legislation of those acts in EU Member States. Second, some Respondents noted that they were not authorised to disclose future legislative plans in the Questionnaire responses.

55. One of the most significant policy developments since the 2015 Report is the adoption of the [Regulation \(EU\) 2017/821](#) of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas (the “EU Conflict Minerals Regulation”) (sometimes referred to as the Regulation on Responsible Mineral Supply Chains). The EU Conflict Minerals Regulation requires importers in the EU of tin, tantalum, tungsten, and gold (3TG) originating from CAHRAs to conduct supply chain due diligence in line with the 5-step OECD framework that forms the foundation of the Guidance. The EU Conflict Minerals Regulation entered into force on 1 January 2021. It is furthermore accompanied by secondary legislation, the [Commission Delegated Regulation \(EU\) 2019/429](#) of 11 January 2019 supplementing Regulation (EU) 2017/821 Delegated Act on the recognition of industry schemes, which foresees a recognition assessment of multi-stakeholder or industry initiatives based on an assessment methodology developed by the OECD (OECD, 2018_[1]).

56. Under the EU Conflict Minerals Regulation, EU Member States are required to set up Competent National Authorities (CNAs) to examine documents and audit reports of importers of 3TG (European Commission, 2020_[20]). If needed, authorities can carry out on-the-spot inspections of an importer's premises. Regulations being acts that apply automatically in all EU Member States without needing to be transposed into national law, the EU Conflict Minerals Regulation covers 24 of the Adherents which are also Member States of the EU, plus Northern Ireland (United Kingdom) where the “Conflict Minerals (Compliance) (Northern Ireland) (EU Exit) Regulations 2020” were introduced under the terms of the [Agreement on the withdrawal](#) of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 I/01 (United Kingdom Parliament, 2020_[21]). Based on responses to the Questionnaire by Respondents, the approach to enforcement of the EU Regulation varies. Some Respondents report that CNAs will be based in customs agencies, in Ministries of Economics and Industry, Ministries of Foreign Affairs or in geological agencies.

57. Additionally, the European Commission adopted a proposal in December 2020 to develop a new Regulation on battery manufacturing (European Commission, 2021_[22]). The proposed Regulation would cover not only sustainability with regards to green production of batteries and battery waste, but also extend due diligence requirements to companies placing electric vehicles and rechargeable industrial batteries on the EU market. Mineral supply chains potentially in scope of this new legislation include antimony in lead-acid, batteries; rare earth elements in nickel-metal hydride batteries; and cobalt and natural graphite in lithium-ion batteries. The proposed Regulation is currently being considered by Member States in EU Parliament through debate and discussion in various relevant committees.

58. In Switzerland, Parliament adopted reporting obligations on due diligence (e.g. regarding human rights, labour issues, environment and the prevention of corruption) for large companies in all sectors as well as due diligence and reporting obligations for companies importing 3TG and companies potentially sourcing from child labour. Criminal sanctions are foreseen for intentional failure to report or for filing false information (Le Conseil fédéral, 2021_[23]). Switzerland reported that the due diligence obligations of companies should be based on the Guidance. An independent expert will have to verify whether companies have fulfilled their due diligence obligation. Due diligence reports will have to be made publicly available.

The new obligation for companies entered into force on 1 January 2022 and will be applied for the first time in the 2023 financial year.

59. In Turkey, as of February 2021, an annual due diligence report is required by “precious metals intermediary institutions” operating as members of Borsa Istanbul, the Turkish stock and gold exchange (Turkey Ministry of the Treasury, 2021^[24]). The annual reports must state that precious metals transactions are made in accordance “with the procedures and principles regarding the responsible precious metal supply chain determined by the Exchange, with the approval of the Ministry [of Treasury]”, who have set out the Guidance as the basis for this regulation. Reports are expected to be audited by an authorised independent auditor. Implementation of the regulation is overseen by Borsa Istanbul and the Turkish Ministry of Treasury.

60. In the US, a number of federal and state-level rules reference the Guidance. In 2010, the US Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which included a provision requiring publically-listed companies using 3TG to make efforts to determine if those materials came from the DRC or an adjoining country and, if so, to carry out supply chain due diligence to make sure that they are not linked to conflict finance and human rights abuse. This provision, commonly known as Section 1502 of the Dodd-Frank Act, requires companies to report on their efforts every year to the US Securities and Exchange Commission (SEC). In 2012, the SEC recognised the OECD Guidance as the framework for due diligence measures to be undertaken by companies in order to comply with the law (United States Security and Exchange Commission, 2017^[25]).

61. Additionally, the US Federal Acquisition Regulations requires government procurement of Electronic Products Environmental Assessment Tool (EPEAT) registered products (United States Government Publishing Office, 2021^[26]). EPEAT is a set of electronic products that meet selected sustainability standards. The US worked with other stakeholders, such as standard development organizations, representatives from industry, and civil society, to develop and update the EPEAT standards. The EPEAT standards include criteria that require electronics companies and their original equipment manufacturers that source 3TG to implement the Guidance and the [ILO Declaration on Fundamental Principles and Rights at Work](#).

62. At the state-level in the US, in May 2019, the State of Oregon passed a “conflict mineral procurement policy” (Oregon State Legislature, 2019^[27]). The law requires prospective contractors to state in bid or proposals for public contracts whether and to what extent they will use so-called ‘conflict minerals’, commonly understood as 3TG, in performing public contracts and whether prospective contractor's disclosures, policies, practices, and procedures with respect to procuring conflict minerals comply with the Guidance. Similarly, the Maryland, the State Procurement and Congo Conflict Minerals Law of 2021 requires that the State of Maryland does not conduct business with companies that fail to comply with Section 1502 of the Dodd-Frank Act.

63. In terms of potential future legislation, in Colombia, in July 2020, Ministries of Mines and Energy, Defence, Justice and Environment presented a bill before the Colombian legislature that seeks to strengthen measures for the “eradication of illegal mineral exploitation” in the country.¹⁵ Article 24 of the draft law includes language requiring traders of 3TG, platinum, and silver to implement supply chain due diligence according to guidance set out by the Ministry of Mines, as well as to submit an annual report detailing due diligence measures. At the time of writing this Report, the draft law is still in the discussion phase of parliamentary procedure. Related to this, Colombia currently has in place a national registry for mineral traders, which has helped formalise mineral production and trade.

64. The Argentina Ministry of Production and Labour referenced to the Guidance and other OECD RBC documents in its Good Practice Resource Guide for Mine Closure (Argentina Ministerio de

¹⁵ Colombia Answer to Minerals Questionnaire 2019.

Producción y Trabajo, 2019^[28]). The Brazilian Ministry of Mines and Energy also reported developing a guidance for RBC in the mining sector that it plans to issue by 2022. As it is still in development, it remains unclear to what extent this will align or build off the current Guidance though Brazil has noted that it will be in line with international practices.

65. In Chile, the Ministry of Energy is updating its National Energy Policy 2050, proposing short, medium and long term goals for the sustainable development of the energy sector, including social and environmental objectives. The expert group currently drafting the policy update are considering including the Guidance as a reference for measuring progress and implementation of the policy goals. The National Energy Policy is in its final stage of drafting and is expected to be completed in 2021.

66. Other potential future legislation reported in the Questionnaire answers related to level implementation of the EU Conflict Minerals Regulation by EU Member States.

Question 2.3: Other policies, regulations or rules that may contribute to, enable or affect company implementation of the Guidance

67. 16 Respondents reported on other policies, regulations, or rules that contribute to, enable, or affect implementation of the Guidance by companies. Given the wide range of issues covered by the Guidance, including human rights abuses, anti-corruption, and taxation, a number of other related policy developments can support company implementation of the Guidance. These include mining sector related policies (e.g. the Extractive Industry Transparency Initiative and Kimberley Process, see detailed discussion below) and sector agnostic policies related to RBC more generally, but that could have significant implications for implementation of the Guidance by companies. For example, all OECD Members are required to criminalise foreign bribery in line with the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions [[OECD/LEGAL/0293](#)]. The OECD estimates that roughly 20% of foreign bribery cases from OECD Members relate to mining, quarrying, oil and gas extraction and mining support services activities.

68. Respondents reported on policies relating to payment disclosure in the extractives sector, including implementation of the Extractive Industry Transparency Initiative (EITI) (Extractive Industry Transparency Initiative, n.d.^[29]). The objective of the EITI is to promote open and accountable management of oil, gas and mineral resources. The EITI Standard requires the disclosure of information along the extractive industry value chain from the point of extraction, to how revenues make their way through the government, and how they benefit the public. The EITI Standard and the Guidance are mutually reinforcing, and the Guidance recommends companies “to commit to disclosing payments made to governments and other actors according to the EITI Standard.” In each of the 54 implementing countries, the EITI is supported by a coalition of government, companies and civil society. Argentina, Colombia, Mexico, Netherlands, Norway, Peru, Germany, and the UK Adherents to the Minerals Recommendation and implement the EITI. Related to payment disclosure, in Switzerland, an obligation on companies involved in raw material production to disclose any payments made to foreign governments above 100 000 CHF entered into force on 1 January 2021 (Switzerland Federal Department of Justice and Police, 2020^[30]).

69. Related to the issue of disclosure, Respondents which are EU Member States also noted the [Directive 2014/95/EU](#) of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups (also known as EU Non-Financial Reporting Directive) (NFRD) as a key policy to support implementation of the Guidance (European Commission, 2020^[31]). The NFRD requires certain large companies to disclose information on the way they operate and manage social and environmental challenges in their operations and their supply chains. The NFRD applies to public-interest companies with more than 500 employees in the EU, which constitutes approximately 6,000 companies and groups (listed companies, banks, insurance companies, and other public-interest entities). It recommends the use of

international standards such as UN Global Compact, OECD Guidelines, ISO 2600, or Global Reporting Initiative (GRI).

70. Some Respondents reported on implementation and support for the Kimberley Process Certification Scheme (KPCS). The KPCS aims to combat the trade in rough diamonds linked to financing non-state armed groups. For a country to be a participant, it must ensure that any diamond originating from the country does not finance a non-state armed group seeking to overthrow a United Nations-recognized government, that every diamond export be accompanied by a Kimberley Process certificate and that no diamond is imported from, or exported to, a non-participant of the scheme. Although more focused in scope than the Guidance and targeted at governments rather than companies, the objectives of the KPCS are mutually reinforcing with the Guidance. Implementation of due diligence according to the Guidance should help companies in the diamond supply chain to better understand and address risks of conflict finance in their rough diamond supply chains. Currently, 85 countries participate in the KPCS (with the EU counting as a single jurisdiction). The Adherents participating in the KPCS are Australia, Brazil, Canada, OECD Members being EU Member States, Israel, Japan, Mexico, New Zealand, Norway, Switzerland, South Korea, Turkey, Ukraine, the UK and the US. Since 2003, the World Trade Organisation has granted a waiver on prohibitions or restrictions related trade in rough diamonds from non-members of the KPCS, further linking international trade and RBC (World Trade Organisation, 2018^[32]).

71. Many Respondents reported on legislation and policies relating to child and forced labour as supporting implementation of the Guidance by companies. Australia and the UK both have Modern Slavery legislation that require certain large companies to publically report on measures to identify and assess child and forced labour risks in their supply chains. In the UK, the due diligence reporting provision applies to all companies with an annual turnover of at least £36 million, and in Australia it covers all companies with an annual consolidated revenue of at least AUD\$100 million. In both countries, these reports are made publically available on a government hosted registry (United Kingdom Modern Slavery Registry Service, n.d.^[33]) (Australian Border Force, n.d.^[34]).

72. In the US, it is illegal to import goods that are made wholly or in part by forced or child labour. With sufficient evidence, the US customs authority may detain goods believed to have been produced with child and forced labour by issuing a Withhold Release Order. Importers have the opportunity to either re-export the detained shipments at any time or to submit information to customs authorities demonstrating that the goods are not in violation of the law. Related to this, the US Department of Labor provides a “List of Goods Produced by Child Labor or Forced Labor” as a resource to companies conducting due diligence.

73. In Canada, Public Services and Procurement Canada (PSPC), Canada’s central purchasing entity, is currently consulting stakeholders on updates to its Code of Conduct for Procurement (the Code). Through proposed changes to the Code, Canada will clarify its expectations for suppliers regarding human and labour rights. As part of the National Strategy to Combat Human Trafficking, PSPC plans to develop tools, training, and materials to raise suppliers’ awareness of forced labour and human trafficking risks in their supply chains. PSPC will also conduct a risk assessment of human trafficking, forced labour, and child labour in government procurement supply chains. The findings of this assessment will inform an evidence-based approach to protect procurement supply chains from exposure to forced labour.

74. Colombia and Brazil are two Adherents with a large domestic mining sector, including artisanal and small scale mining (ASM). Colombia reported several related policies directed at translating the Guidance into domestic law thus promoting implementation of the Guidance domestically, including strengthening the Single Registry for Mineral Traders (Registro Unico de Comercilazadores Mineros – RUCOM), developing a transaction registry for minerals trades, and supporting law enforcement efforts against illegal mining. Under the new RUCOM rules, mineral traders must be certified by tax and customs authorities, are restricted in who they can purchase from, and must have official invoices for all purchases as well as a Certificate of Origin for the minerals, among other requirements. In Brazil, the government has committed to a number of international standards in the mining sector that could support supply chain

due diligence, such as the Global Tailings Review, the International Council on Mining and Metals (ICMM) Mining Principles, and ISO/TC 82 Standards. Likewise, the Brazilian government has engaged in law enforcement operations to prevent the smuggling of illegal Venezuelan gold into Brazil.

75. Trade or investment agreements and National Action Plans on Business and Human Rights (NAPs) were also identified as a policy to support Guidance implementation by companies. The Czech Republic reported the Multilateral Instrument for Investment Facilitation, negotiated at the World Trade Organisation; this instrument contains a chapter RBC with reference to internationally recognised principles, standards and guidelines, with explicit reference to OECD Guidance. The investment chapter of the US-Mexico-Canada Agreement (USMCA) contains a policy commitment to encourage companies to use “those internationally recognized standards, guidelines, and principles of corporate social responsibility that have been endorsed or are supported by that Party, which may include the OECD Guidelines for Multinational Enterprises” (United States - Mexico - Canada Agreement (USMCA), 2020^[35]).

Question 2.4/2.5: Intra-government mechanism among the various national authorities to ensure policy coherence

76. 23 Respondents responded that more than one government agency plays a role in implementation of the Minerals Recommendation, with some Respondents listing as many as twelve relevant agencies. Relevant agencies range from Ministries of Foreign Affairs, Economy, Development Commerce, Energy, and Mines. 11 Respondents listed law enforcement, customs, or tax authorities among the relevant agencies, recognising the important role the government plays in supporting responsible sourcing of minerals through combating minerals-related crime.

77. 20 Respondents reported some form of formal or informal intra-government mechanism to ensure policy coherence among the relevant authorities. For most Respondents, this involves inter-ministerial meetings often coordinated through the National Contact Point (NCP) or the delegate representing the Respondent in the WPRBC or MSG. Some Respondents reported having a more formal advisory board, topic-specific task forces, or expert groups where different agencies are represented and one specific agency takes a lead coordinating role. These more formal groups are created through legislation or executive decree. Some Respondents reported inviting business and civil society organisations to participate in these internal policy coordinating mechanisms.

Approaches to support, enable or incentivise implementation of due diligence by enterprises

78. In relation to the Minerals Recommendation clause that Adherents should “actively support the integration into corporate management systems of the 5-Step Framework,” Section 3 of the Questionnaire focuses on activities by Adherents to support or incentivise uptake of the Guidance through other non-regulatory measures.

Question 3.1: Supporting, enabling, or incentivising use of the Guidance or integration of the due diligence framework into company management systems

79. 18 Respondents reported activities to support, enable, or incentivise the use of the Guidance. Most of these activities can be broadly categorised as participation and support for public private partnerships, implementation of NAPs, due diligence rules for State-Owned Enterprises (SOEs), and targeted awareness raising by NCPs on how companies can comply with due diligence expectations.

80. NAPs are policy documents in which a government articulates priorities and actions that it will adopt to support the implementation of international, regional, or national obligations and commitments with regard to a given policy area or topic. They are considered a key tool for governments seeking to implement commitments relating to the UN Guiding Principles on Business and Human Rights (UNGPs) and other related policy tools, including the MNE Guidelines and the Guidance. Combined with other actions (e.g. legislation, NCP decisions, law enforcement), NAPs send a strong message to companies that governments are taking this issue seriously. Several Respondents reported including references to the Guidance in their NAPs.

81. The European Partnership for Responsible Minerals (EPRM) and the Public Private Alliance for Responsible Minerals Trade (PPA) are two multi-stakeholder, government-backed initiatives to directly support implementation of the Guidance and development in mining communities. The two initiatives, one based in Europe and the other in the US, function as hubs for funding, collaboration and sharing information on sourcing responsible minerals. The initiatives also play a substantial role in supporting company-level compliance with responsible minerals legislation in their respective jurisdictions through capacity building workshops, awareness raising, and tools development. EPRM membership includes Germany, the Netherlands, and the UK. The US Department of State, Department of Labour, and US Agency for International Development (USAID) are members of the PPA.

82. In the Netherlands and Belgium several government-backed multi-stakeholder initiatives exist for different mineral supply chains, including for gold, other industrial minerals and metals, and natural stones. These so-called ‘Sector Agreements’ are voluntary initiatives to support companies that publically commit to the standards outlined in the agreements, including the Guidance. The Sector Agreements facilitate multi-stakeholder consultations, information sharing, supply chain mapping, and research.

83. In Switzerland, the Swiss Better Gold Initiative is a public-private partnership between the Swiss Better Gold Association and the Swiss State Secretariat for Economic Affairs. It was launched in 2013 with the aim of facilitating market access for gold from small Peruvian mines that are certified by private sector initiatives seeking to implement the Guidance and other international sustainability standards. The price of the gold also includes an additional premium, the funds of which are used to support development in mining communities. Switzerland reported expanding the initiative to Colombia and Bolivia in 2017. Additionally, in 2018, the Swiss Federal Department of Foreign Affairs and the State Secretariat for Economic Affairs have published “The Commodity Trading Sector Guidance on Implementing the UNGPs on Business and Human Rights” to help companies implement the Guidance. It was developed together with the commodity trading sector, NGOs and cantonal authorities.

84. Respondents reported that, as part of targeted NCP¹⁶ awareness raising in the mining sector, companies are informed that implementation of the Guidance can be taken into favourable account when considering complaints.

85. Finland and Estonia reported updating due diligence requirements of SOEs to include reference to adhering to international sustainability principles. In the Finland policy, reference is made to addressing impacts in supply chains and to the MNE Guidelines, however there is no specific reference to minerals supply chains or the Guidance (Finland Prime Minister's Office, 2020^[36]). In Estonia as well, 27 SOEs committed to implementing responsible business principles, but no explicit reference is made to the Guidance (Estonia Ministry of Enterprise and Information Technology, 2019^[37]).

¹⁶ The NCPs are offices set up by governments that have adhered to the MNE Guidelines. As part of their mandate, they act as a non-judicial grievance mechanism and provide a platform for mediation, conciliation and resolution of issues that may arise regarding alleged failures to observe internationally agreed human rights standards, including the Guidance. Any interested party, including affected individuals or communities, NGOs and trade unions can file a complaint – also called a specific instance - before an NCP. Complaints can be filed against companies from or operating in OECD Members.

Question 3.2: Policies or other supporting actions encouraging a gender-responsive approach to supply chain due diligence

86. While every supply chain is different, a constant is that women and girls are often the most severely impacted by business operations and the costs of doing business on a community falls most heavily on them, so taking into account gender issues is key to any due diligence program. 8 Respondents reported taking steps to actively support a gendered approach to due diligence through policies or supporting actions.

87. In the US, USAID has a publically available suite of gender equality policies and strategies that apply to all the Agency’s international development programs (United States Agency for International Development, 2020^[38]). In the minerals sector specifically, USAID published an Issue Brief on Gender Issues in ASM. The Issue Brief outlines the current literature on the subject, data gaps, and best practices for reducing gender inequality in ASM. In Colombia, USAID is supporting a project to integrate gender-based violence prevention and response into existing development projects in mining regions that aim to increase socio-economic opportunities for women miners, while also mitigating environmental impacts. USAID is also supporting a similar project in DRC to address human rights, gender-based violence, women’s protection, and measures for mitigating environmental impact of ASM. Additionally, USAID conducted training sessions in ASM communities to raise awareness about miners’ rights, particularly those of women and children. USAID established 22 whistleblowing units for mining communities that have already received over 150 anonymous calls reporting incidents of abuses, including gender-based violence.

88. The Women’s Rights in Mining Group (WRM) is multi-stakeholder effort of NGOs, researchers and governments to secure commitments from key stakeholders in the mining sector to address key gender concerns. Since 2017 the working group developed guidance materials for different minerals sector audiences. The WRM also organised policy-influencing events, including at the OECD Forum on Responsible Mineral Supply Chains in 2017, 2018, 2019 and the OECD March on Gender in 2021. WRM also advocates for gender equality integration into various international standards and codes of conduct. Canada, the Netherlands, and Germany are all members of WRM and actively support its implementation programme.

89. Though not minerals-specific, Switzerland reported financial support for a research project on the “Gender lens to the UNGPs” of the UN Working Group on Business and Human Rights which has resulted in a guidance document “Gender Dimensions of the Guiding Principles on Business and Human Rights” which highlights gender-specific recommendations of the OECD Guidance for Responsible Business Conduct (United Nations Development Programme, 2019^[39]). The US also developed a similar, non-sector specific guidance document on “Managing Risks to Women in Supply Chains” (United States Department of State, 2021^[40]).

90. France, Germany, and Switzerland also reported on capacity building and development programmes in ASM communities in West Africa and Latin America that also incorporate women’s empowerment and a gendered approach to supply chain due diligence.

Question 3.3: Conditioning public procurement, export credit or guarantees, trade support, or any other types of financing for the private sector on demonstrated implementation of the Guidance

91. 12 Respondents reported conditioning public procurement, export credit or guarantees, trade support, or other types of private sector financing on implementation of the Guidance. It should be noted, that most responses referred to the MNE Guidelines in their public procurement / export credit/ or trade support policies, but not the Guidance. That said, it appears that in some examples policy makers have the

discretion to restrict provision of funds on failure to implement supply chain due diligence. Some other examples, however, include explicit mention of the Guidance.

92. In Sweden, the National Agency for Public Procurement launched a tender for mobile phones with award criteria referring to conducting supply chain due diligence to avoid contributing to ‘conflict minerals.’ Suppliers who could report due diligence procedures in accordance with the Guidance received additional points in the evaluation of bids.

93. In 2019, Member States of the European Free Trade Association (Iceland, Liechtenstein, Norway and Switzerland) and of Mercosur (Argentina, Brazil, Paraguay and Uruguay) concluded in substance the negotiations on a comprehensive Free Trade Agreement (FTA). This is the first FTA containing a dedicated article on the promotion of RBC and in addition a reference to the Guidance and all other sector-specific guidance.

94. In Germany, foreign trade/investment promotion instruments, export credit guarantees and investment guarantees promote the MNE Guidelines and the sector-specific due diligence guidance by drawing attention to them in their application forms for guarantees. Furthermore, a company’s constructive participation in complaints procedures run by the NCP is taken into account when the instruments to promote foreign trade and investment are deployed. The Federal Government reserves the right to exclude specific companies which do not address complaints from the instruments to promote foreign trade and investment. A company’s constructive participation in the NCP complaints procedure can also be taken into account in the selection of companies that are given the opportunity to take part in official visits undertaken by the Minister or the State Secretaries of the Federal Ministry of Economics and Energy.

95. Similarly, on the side of the German government, when an application is made for an export credit guarantee, due diligence is carried out to make sure that RBC and other sustainability standards will be met. Applicable standards are among others the OECD Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (the “Common Approaches”) [[OECD/LEGAL/0393](#)], Operational Safeguard Policies of the World Bank, and the Performance Standards of the International Finance Corporation (IFC). The applicable standards refer inter alia to the UN Guiding Principles on Business and Human Rights and the key labour standards of the International Labour Organization (ILO). The supply chain is also part of the due diligence process. The inclusion of human rights considerations, which are directly linked to the project, is an important part of the environmental and social due diligence. Austria, Belgium, Finland, Ireland, Italy, the Netherlands, and Poland all reported similar provisions in export credit or public procurement rules.

Question 3.4: Supporting dissemination/implementation of the Guidance through Official Development Assistance

96. 9 Respondents reported disseminating and promoting implementation of the Guidance through Official Development Assistance (ODA). Implementation activities cover a variety of mineral supply chains (3TG, diamonds, cobalt, coal, and mica), impacts (child labour, forced labour, conflict finance, governance, illegal mercury trade, and financial crime), and geographies (West Africa, Central Africa, Latin America, and India, and Southeast Asia).

97. The US reported the largest, most expansive ODA related to supporting dissemination and implementation of the Guidance, specifically through capacity building and development projects across the minerals, impacts, and geographies listed above.

- In Peru, in 2019 USAID launched a 5-year, \$23.9 million program to combat environmental crimes in the Peruvian Amazon, which includes support to the Government of Peru to implement its ASM gold mining formalisation process incorporating social and environmental safeguards and proper due diligence.

- In Colombia, USAID has a \$22 million program that has, among other outcomes, helped formalise 53 small-scale gold mining operations with appropriate safeguards and due diligence.
- In the DRC, USAID has a \$15.6 million portfolio of programs supporting responsible supply chains for 3TG. In addition, complementary USAID programming also supported local governments to manage industrial mining royalties from the gold and tin sectors in a transparent and accountable manner; engaged artisanal miners working illegally in protected areas; addressed human rights, gender-based violence, women's protection, and measures for mitigating the environmental impact of artisanal mining; and provided conflict mitigation efforts around mining-related conflicts.
- In the Central African Republic, USAID has a \$10 million program promoting legal, responsible diamond supply chains and strengthening social cohesion.
- The US Department of Labor (DOL) also supported responsible mineral supply chains through their efforts to combat child labour through a 4-year, \$4 million project to increase the downstream tracing of goods made by child labour and forced labour, which will include pilot tracing in the cobalt supply chain in the DRC.
- Since 2018, DOL has funded the COTECCO project in the DRC, a four-year, \$3.5 million project to address child labour in the cobalt supply chain, with a focus on ASM.
- Since 2017, DOL has funded the Pilares project in Colombia, a four-year, \$2.5 million project that strengthens the capacity of more than 55 civil society organizations to address child labour and unacceptable working conditions in ASM gold mining.
- Between 2015 and March 2020, DOL funded the Caring Gold Mining project, a four-year, \$5 million global project that supported efforts to address child labour and improved working conditions in ASGM. In Ghana and the Philippines, the two pilot countries, the project strengthened laws and policies to reduce child labour and improved working conditions in ASM; helped vulnerable communities access social programs; and developed tools to increase transparency and monitoring in gold mining supply chains. At the global level, the project promoted the formation of global networks and the sharing of good practices on ASGM.
- In addition to these projects, DOL funds the FLIP project in Côte d'Ivoire and Ghana, a 4-year, \$3.9 million project to reduce forced labour and labour trafficking in multiple supply chains, including gold mining.

98. The US Environmental Protection Agency (EPA) also reported supporting a number of projects related to formalisation of ASM in an effort to combat the use of illegal mercury in gold mining. Likewise, since 2010, the State Department's Mercury Program has awarded grants to reduce mercury use and release in ASGM in the key regions of Southeast Asia, Africa, and Latin America. In facilitating these projects, the Program coordinates organisations and stakeholders such as the UN Environment Programme (UNEP), the UN Industrial Development Organization (UNIDO), the Global Environment Facility, the Pan American Health Organization, the Inter-American Development Bank, the UN Development Programme (UNDP), non-governmental organizations, foreign governments, and US embassies. These projects include components to understand and map out both gold and mercury supply chains, in part, because of their importance in identifying leverage points to encourage miners to switch to mercury-free technologies. Recently, projects concluded in Indonesia, the Philippines, Guinea, Senegal, and Nicaragua.

99. Germany also reported significant ODA, particularly through the German Corporation for International Cooperation (GIZ), the Federal Ministry for Economic Cooperation and Development (BMZ), and the German Federal Institute for Geosciences and Natural Resources (BGR).

- Long-term technical support provided in the DRC with regards to mineral certification and due diligence in mineral supply chains in the 3TG sector (focused on ASM), as well in the copper-cobalt sector; a pilot project for electronic traceability of gold; workshops on due diligence and traceability

in the context of the Multi-stakeholder Dialogue Platform “Investissement Durable au Katanga”, IDAK.

- Long-term technical support for the ICGLR, specifically the revision of Regional Certification Mechanism based on the Guidance.
- Financial and technical support to the Economic Commission for Latin America and the Caribbean and the Andean countries through the BGR/GIZ-programme “Regional cooperation for the sustainable management of mineral resources in the Andean countries” (MINSUS).
- In West Africa, Germany supports ASM formalisation and capacity building to representatives from government, industry and civil society in the Mano River Union through GIZ, partly in collaboration with GemFair, and its ASM standard seeking to implement the Guidance.
- Through cooperation between GIZ and CSR Europe, the European Business Network for Corporate Sustainability and Responsibility, a training template was developed to address responsible sourcing in large-scale mines, smelters and refiners, and their suppliers.

100. The French Ministry of Foreign Affairs (MFA) provides similar technical assistance and capacity building linked to responsible sourcing of minerals in West Africa and Central Africa. Since 2019, the MFA has been leading a project on ASM governance in Burkina Faso, through support to the Agence nationale d’encadrement des exploitations minières artisanales et semi-mécanisées (ANEEMAS) and the Association des femmes du secteur minier du Burkina (AFEMIB). The project includes training and awareness-raising activities on the Guidance. In the DRC, the MFA supports the work of the NGO Save Act Mine, which is working to develop responsible mineral supply chains in line with the guidelines of the Guidance and the Regional Certification Mechanism of the ICGLR.

101. Switzerland also reported ODA towards responsible supply chains and related development projects in West Africa, Latin America, and Mongolia. Belgium reported ODA towards responsible gold and diamonds in the Central African Republic. Ireland reported that the Department of Foreign Affairs engaged with the coal mining sector in Colombia to promote stakeholder engagement and human rights due diligence. Germany, the Netherlands, and the UK also reported their contributions to the EPRM in this section.

Question 3.5: Monitoring the results or impacts of Adherent efforts to promote, incentivise or enable responsible supply chains or the implementation of the Guidance

102. 12 Respondents reported various ways they have attempted to monitor the results or impacts of their efforts to promote, incentivise or enable responsible supply chains or use of the Guidance. Many Respondents reported monitoring in relation to evaluating successes of ODA funded projects or in preparation for the EU Conflict Minerals Regulation. For the latter, monitoring was mostly done in the forms of questionnaires targeted at certain supply chain actors (e.g. exporters, manufacturers, mining companies, etc.).

103. In Germany, the government published its Monitoring of the National Action Plan for Business and Human Rights (NAP) 2020 (Germany Federal Foreign Office, 2020^[41]). Within the scope of a monitoring process being carried out between 2018 and 2020, the government has been reviewing to what extent all companies based in Germany are meeting their due diligence obligations enshrined in the NAP. The final quantitative monitoring survey was conducted from 2 March to 29 May 2020. The main finding is that at the time the 2020 survey was conducted, significantly less than 50 percent of enterprises based in Germany with over 500 employees had incorporated the core elements of human rights due diligence described in the NAP into their business processes. More precisely, 13 to 17 percent of the enterprises are considered to be “compliers”. Within the group of “non-compliers”, 10 to 12 percent of the pool of enterprises are “on the right track” towards fulfilling the NAP requirements. The results of this survey were used to inform the government’s decision to pursue mandatory due diligence legislation and led to the

Act on Corporate Due Diligence in Supply Chains, which was adopted in 2021. Non-sector specific studies were also carried out at the EU-level, in the Netherlands, and in Norway.

104. In Switzerland, impacts of previously discussed ODA and due diligence incentivisation activities are measured. Switzerland reported that between 2013 and 2020, more than 10 tons of responsibly produced ASM gold have been exported to Switzerland thanks to the Swiss Better Gold Initiative. The Initiative is reported to benefit 6200 miners, both men and women, by complying with the SBGA criteria or its certification systems. Considering family members, suppliers, and other mining support services, Switzerland estimates that there are about 31 000 additional people that indirectly benefit from improvements in the incomes.

105. In the US, the Government Accountability Office (GAO) annually monitors and evaluates implementation of legislation, in this case, Dodd-Frank Act, Section 1502. The Dodd Frank Act broadly requires that certain companies submit a filing that describes their efforts to conduct a reasonable country-of-origin inquiry (RCOI), and depending on the preliminary determination, perform due diligence to determine the source and chain of custody of their minerals. After conducting RCOI, an estimated 50 percent of companies filing in 2019 reported preliminary determinations as to whether the conflict minerals came from the DRC or adjoining countries or from scrap or recycled sources. The percentage of companies able to make such preliminary determinations increased significantly between 2014 and 2015, and has since levelled off. In 2020, an estimated 58 percent of the companies that conducted an RCOI reported preliminary determinations regarding whether the conflict minerals in their products may have come from the DRC or adjoining countries. Of those companies, an estimated 42 percent reported that they had preliminarily determined that at least some of their minerals may have originated in covered countries, and an estimated 16 percent determined that their minerals were not from a covered country. Since 2014, companies have noted various challenges they face in making such determinations.

106. The UN Group of Experts on the DRC found that due diligence programmes have improved transparency in the 3T sector in the region and observed that in areas where such programmes exist, military interference in mining has decreased, and public services and revenue have increased (27% less armed forces presence and 58% more tax collection and service provision).

5 Summary and conclusions

Implementation varies from strong to largely inactive

107. Overall, implementation of the Minerals Recommendation varies greatly. Implementation by some Adherents is strong while others are largely inactive. The approximately 15 Adherents that are most actively involved in the Implementation Programme are making significant efforts to promote the observance of the Guidance, take measures to actively support the integration of the due diligence framework in company management systems, and ensure the widest possible dissemination of the Guidance. This has been achieved through, among other measures, the passage of critical legislation (e.g. US Dodd Frank Act and EU Conflict Minerals Regulation), support for public-private partnerships, support for the OECD to develop tools and conduct outreach, and support for development programmes and capacity building in mining communities.

108. While these regulations and supporting measures have led to significant uptake of due diligence practices, the overwhelming focus of implementation is still on 3TG from DRC and neighbouring countries, rather than all mineral supply chains, globally. New legislation planned in some Adherents could help extend the reach of efforts to disseminate and promote observance of the Guidance by requiring all companies to implement due diligence. However, for the moment, existing legislation is only focused on 3TG and specific segments of the supply chain.

109. For the remainder of Adherents, implementation of the Minerals Recommendation has been significantly lower, and in some cases non-existent. 36 percent of Adherents did not submit an answer to the Questionnaire or did not cover the Minerals Recommendation in their answer. Many Adherents which are also EU Members States do not seem to be aware of or did not report on activities linked to implementation of the EU Conflict Minerals Regulation, which fully incorporates the Guidance and is critical for supporting implementation of the Guidance in the EU, and very little promotional effort is generally being done beyond posting a link to the Guidance on NCP websites. Of particular concern is that some Adherents – including some that are producers of minerals, have companies that contribute to large shares of foreign direct investment in mining, or host large manufacturing sectors – failed to demonstrate any significant implementation of the Minerals Recommendation.

Continued relevance of the Minerals Recommendation

110. The Minerals Recommendation has demonstrated its continued relevance in multiple ways, primarily through the clear continued relevance of the Guidance, the dissemination and observance of which it is intended to support.

111. The relevance of the Minerals Recommendation can be shown both directly, i.e. by a lack of action among Adherent governments to carry out the dissemination and promotion activities it recommends, as well as indirectly, i.e. where awareness and observance of the Guidance among companies is limited, thus illustrating the continued importance of Adherent governments carrying out the dissemination and promotion activities provided for in the Minerals Recommendation. In addition, given their inherent

interconnection, the Minerals Recommendation can only be as relevant as the Guidance it calls on governments to disseminate and promote observance of. If the Guidance is ill-suited to contemporary risks in the field, then its dissemination and promotion is less relevant.

112. Significant progress has been achieved in 3TG supply chains globally with regard to the uptake of the Guidance by companies. However, OECD-led projects (such as the research assessing the alignment of industry initiatives with the Guidance (OECD, 2018^[11]) and the Monitoring Corporate Disclosure paper (OECD, 2021 forthcoming^[21])) as well as broader stakeholder investigations and research regularly point to the incomplete implementation of the Guidance by companies in 3TG supply chains. Continued efforts by Adherents to disseminate and promote observance of the Guidance are thus still required to ensure the Guidance is implemented fully in these supply chains.

113. As highlighted in this Report, progressive uptake of the Guidance is ongoing in numerous supply chains of metals and minerals beyond 3TG. The uptake of the Guidance by an increasing number of companies in those supply chains attests to the fact that it is both relevant and actionable and that Adherents efforts in promoting its observance are having some impact. However, even in those supply chains, a large number of actors are still unaware of the Guidance or reticent to apply its recommendations; this is often the case because there is no legislation covering those minerals and less pressure from companies further downstream to implement responsible mineral production and sourcing measures. Continued efforts on the part of Adherents in disseminating and promoting observance of the Guidance are therefore required to reach out to those actors to enable and pressure them to carry out due diligence in their mineral supply chains.

114. The on Trends in Stakeholder Reporting highlighted that risks of contributing to conflict financing, human rights abuses, and financial crime are regularly reported across 40 mineral supply chains by civil society, media, government, and other stakeholders (OECD, 2021^[6]). However, the paper also found that there were clear biases in how these issues were reported, with an overwhelming emphasis on 3TG and cobalt supply chains in DRC despite these issues existing globally and in many other supply chains. A large majority of these supply chains are not yet covered by industry or government initiatives to support due diligence, and awareness of the Guidance here is still very low, at best. Significant efforts by Adherents to disseminate and promote observance of the Guidance are still required to reach out to companies in these supply chains to ensure the Guidance is truly applied.

115. Looking beyond companies directly involved in the production, trade, and processing of mineral resources, there are still a large number of companies involved more broadly in mineral supply chains which have yet to demonstrate meaningful implementation of the Guidance. This is for instance the case for companies in the banking and financial sector, insurers, and logistics companies. The Guidance also applies to those sub-sectors of the mining and metal economy, and their leverage can be instrumental to the broader success of the OECD Implementation Programme and the sector at large. Again, this is an area in which Adherent governments could do more in terms of dissemination and promotion.

116. Finally, the Guidance also applies to companies in hydrocarbon supply chains. Continued reports of conflict and terrorist financing, serious abuses of human rights, and serious economic crimes abound in these supply chains, underlining the relevance of observance of the Guidance in these sectors, and the correlated importance of Adherents carrying out appropriate dissemination and promotion activities to support this. The issues seen in hydrocarbon supply chains suggest that not only are the Minerals Recommendation and Guidance more relevant than ever, but also that Adherent governments are facing challenges with how to prioritise commodities and geographies in the context of growing awareness of risks associated with a wide range mineral resources.

117. Collaboration with non-Adherents remains crucial in the implementation of the Minerals Recommendation, as the cooperation between the OECD and the government of the DRC has demonstrated over the past decade. Likewise, an increasing number of non-Adherents with a significant position in international gold supply chains are seeking to promote the use of the Guidance and align national

initiatives with it, for example taking measures to ensure that internal controls of companies involved in precious metals supply chains are based on its recommendations. Several non-Adherents in West Africa are exploring ways through which they can promote the use of the Guidance by companies operating in their territories, further demonstrating the continued relevance of both the Minerals Recommendation and Guidance beyond Adherents and the importance of engagement with these governments.

118. The increasing number of references to the Guidance and the results and impacts in terms of due diligence uptake in various reports released by other international and regional organisations such as the Financial Action Task Force (FATF, 2021^[42]) or the International Energy Agency (IEA, 2021^[5]) and civil society and monitoring reports further demonstrate its continued relevance and consequently the relevance of the Minerals Recommendation.

119. In addition, there is growing awareness among international law enforcement agencies of the various types of criminal activities related to mineral supply chains. The OECD Secretariat, with the support of Adherents, set up an informal network of customs departments, police, and financial intelligence units to promote the Guidance and underline its usefulness for law enforcement purposes. The relevance of the Guidance in this regard and this initiative to disseminate and promote its observance have been praised on multiple occasions given the impact of the observance of the Guidance in supporting enhanced transparency and fostering integrity in mineral supply chains.

120. Looking forward, emerging discussions and policy considerations on the responsible sourcing of strategic metals in the context of the energy transition (i.e. copper, nickel, lithium, cobalt, etc.) will only increase the relevance of the Guidance in supporting a just transition and thus the importance of Adherent governments continuing to disseminate and promote its observance. Clean energy technologies are becoming the fastest-growing segment of demand in the metals industry. The US and EU critical mineral policies clearly recognise and reference linkages to responsible sourcing and OECD standards, including the Guidance, as important for security of supply (United States Geological Survey, 2018^[43]) (European Commission, n.d.^[44]). In a scenario that meets the Paris Agreement goals, their share of total demand rises to over 40% for copper and rare earth elements, 60-70% for nickel and cobalt, and almost 90% for lithium (IEA, 2021^[5]). Companies and governments are progressively realising that this will have consequences on local mining communities, consequences that need to be identified and mitigated by supply chains actors. As previously noted in this Report, major metal market regulators such as the London Metal Exchange have already acknowledged this by introducing requirements for the delivery of metals on their exchange based on the Guidance. Again, the increasing relevance of the Guidance in addressing these issues only serves to highlight the continued relevance of the Minerals Recommendation and the commitments made by Adherents in it; the more relevant the Guidance, the more important it is for Adherents to disseminate and promote its use as called for by the Minerals Recommendation.

121. As mentioned at the beginning of this section, the continued relevance of the Minerals Recommendation is also tied to how relevant the Guidance itself is in terms of its scope and content. In this regard, it should be acknowledged that some supply chain actors and market players are evaluating risks beyond those explicitly covered in Annex II of the Guidance, to include broader decent work and environmental impacts¹⁷. A large number of companies are reportedly using the framework of the Guidance to do so. With a view to supporting these developments, the German Ministry for the Environment (supported by the German Environment Agency and the Federal Institute for Geosciences and Natural Resources) has asked the OECD to develop a Practical Tool on Environmental Due Diligence in Mineral Supply Chains. This further demonstrates that two sets of

¹⁷ See e.g., the [EU Regulatory Framework for Batteries](#); the International Council for Mining and Metals (ICMM) [Mining Principles](#); the Responsible Minerals Initiative [Environmental, Social & Governance \(ESG\) Standard for Mineral Supply Chains](#) and [Global Workplace Responsible Sourcing, Environmental, Health & Safety Due Diligence Standard for Mica Processors](#).

imperatives are exerting pressure on the Guidance: (1) the need for sustained and deeper implementation of the Guidance in its current scope to ensure its recommendations are implemented by companies to the fullest extent to prevent harms or mitigate and remediate them; and (2) a very strong interest from a large number of stakeholders to expand the area of implementation of the Guidance to cover a broader range of risks, including related to climate change, chemical use, impacts on biodiversity, health and safety of workers, and relationships with impacted communities.

Next Steps

122. Considering the continued relevance of disseminating and promoting observance of the Guidance as provided for in the Minerals Recommendation, Adherents should maintain and, in many cases, increase their efforts to reach out to companies producing, trading and processing mineral resources of all sorts.

123. Adherents who are not at all engaged are called upon to actively participate in the Implementation Programme and make efforts to better understand the landscape of companies operating in or from their territories that are expected to be conducting supply chain due diligence. At the minimum, it is important that Adherents report on efforts to disseminate promote the Guidance through existing channels of communications such as investment promotion agencies, development agencies, National Contact Points, engagement with national or sectoral business associations, and local embassies in mineral producing and trading hubs.

124. For those Adherents that are already engaged, more can be done to expand the scope of their implementation activities to support dissemination and use of the Guidance by companies. Examples of direct actions Adherents can take include:

- Allocating budgets and/or building a coordinated donor approach to support responsible sourcing initiatives and build capacity in mineral producing countries to support formalisation of artisanal and small-scale mining and better enforce customs, environmental, labour, tax, money-laundering, and anti-corruption laws in the mineral sector;
- Stronger enforcement of existing due diligence legislation as well as laws as related laws on minerals related crimes, including conflict finance, money laundering, bribery, tax evasion, fraudulently misrepresenting the origin of minerals, and smuggling.
- Designating agencies to monitor and promote observance of the Guidance and requiring those agencies to compile public registries of company due diligence reports;
- Promoting observance of the Guidance and raising awareness amongst business engaged in mineral supply chains, in particular through embassies and diplomatic missions located in high-risk producing countries, to ensure the effective promotion and uptake of the Guidance;
- Leveraging the government's role as a market actor by setting rules for public procurement and government-backed funding that require implementation of RBC standards, including the Guidance;
- Developing fiscal or tax incentives for companies implementing due diligence, in line with the Guidance.
- Engaging in inter-Adherent collaboration, with the support of the Secretariat, to support Adherents that are less active in implementation.

125. As mentioned in this Report, occurrence of negative human rights and governance impacts have been widely reported in supply chains beyond 3TG and base metals. With growing attention on critical minerals in global supply chains, it will be particularly important for Adherents to develop a harmonised and coherent approach in regulations and policy interventions calling for due diligence in all mineral supply chains.

126. Considering the development component of the Implementation Programme, implementation of the Minerals Recommendation – i.e. government dissemination of the Guidance and promotion of its observance – could be further explored in the DAC by considering how development projects could better support the dissemination and use of the Guidance and foster associated development benefits, such as formalisation of artisanal and small-scale miners, rural employment opportunities and local economic development in many mineral producing countries.

127. Noting, again, that the Minerals Recommendation can only be as relevant as the Guidance it calls on Adherent governments to disseminate and promote, the finding that implementation of the Guidance by companies and their understanding of due diligence more generally have matured should be carefully considered. Indeed, stakeholders have requested that the Guidance be updated to improve its coherence and ensure consistency, in particular between the 3T and Gold Supplements. Furthermore, consultations with stakeholders through the annual Forum on Responsible Mineral Supply Chains and participation in the MSG have raised the need to ensure the implementation programme for the Guidance takes into account environmental and labour rights issues. These concerns should be taken into careful account in assessing the continued relevance of the Minerals Recommendation and the Guidance and how to maintain their relevance moving forward.

128. Specifically, the IC and DAC may wish to review how fit-for-purpose the Guidance is in its current form, with a view to proposing options to address gaps and improve the coherence, consistency, and lack of a level playing field in light of ongoing developments on-the-ground and demands in metal markets. Follow up options may include proposals for updating the Guidance, or the development of complementary tools and guides. In particular, it will be important to evaluate the scope of the risks covered within the Guidance with a view to supporting progressive efforts to address wider range of environmental and human rights issues covered under the MNE Guidelines, taking due consideration of the various impacts and consequences this may have on the Implementation Programme and existing initiatives to operationalise the Guidance globally.

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