

Development Co-operation Directorate  
Directorate for Financial and Enterprise Affairs  
Development Assistance Committee  
Investment Committee

**REPORT ON THE IMPLEMENTATION OF THE RECOMMENDATION ON DUE DILIGENCE  
GUIDANCE FOR RESPONSIBLE SUPPLY CHAINS OF MINERALS FROM CONFLICT-AFFECTED  
AND HIGH-RISK AREAS [C/MIN(2011)12/FINAL]**

(Note by the Secretary-General)

*This document reproduces the final version of the Report submitted to the OECD Council on the implementation of the Recommendation on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.*

*The report was approved by the Investment Committee and Development Assistance Committee on 16 October 2015. OECD Council agreed to declassify this report in January 2016, and at that time, encouraged Adherents countries to continue their efforts to actively implement the Recommendation on Due Diligence Guidance and invited them to report on their activities to the Secretariat on an annual basis.*

*This version entails some minor edits, either requested by members or introduced to amend factual information.*

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## NOTE BY THE SECRETARY-GENERAL

### Background

1. The report set out in the Annex looks back at the implementation of the Recommendation of the Council on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas [C/MIN(2011)12/FINAL] (hereafter the “Recommendation”) since its adoption by the Council on 25 May 2011 [C/M(2011)11/PROV] and amended on 17 July 2012 [C(2012)93 and C/M(2012)9] to include the supplement on gold. The report has been prepared pursuant to the Recommendation, which invites “*the Investment Committee and Development Assistance Committee to monitor the implementation of the Recommendation and to report to Council no later than three years following its adoption and as appropriate thereafter*”.
2. To date, in addition to the 34 OECD Members, 9 non-Members, namely Argentina, Brazil, Colombia, Costa Rica, Latvia, Lithuania, Morocco, Peru and Romania, which have all adhered to the Declaration on International Investment and Multinational Enterprises (hereafter the “Investment Declaration”), have also adhered to the Recommendation.
3. The report was approved by the Investment Committee and Development Assistance Committee on 16 October 2015 [COM/DAF/INV/DCD/DAC(2015)3/REV1]. It provides a detailed description of the implementation of the Recommendation by Members and non-Members having adhered to it (hereafter the “Adherents”) and has an Appendix on the practical steps and initiatives taken to implement the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (hereafter “the Guidance”).
4. The OECD Guidelines for Multinational Enterprises (hereafter the “MNE Guidelines”), which form an integral part of the Investment Declaration, recommend that all companies in all sectors carry out due diligence to identify, prevent and mitigate actual or potential impacts of their operations or sourcing decisions.<sup>1</sup> In this respect, the Guidance “builds on and is consistent with the principles and standards contained in the OECD Guidelines for Multinational Enterprises” and is intended to help companies implement responsible business conduct standards in their mineral supply chain and prioritise severe risks associated with mineral production and trade.
5. The implementation of the Recommendation is being monitored primarily by a multi-stakeholder programme that was set up by the Investment Committee and the Development Assistance Committee in 2013 [COM/DAF/INV/DCD/DAC(2012)4/FINAL]. The implementation programme is open to participation from the private sector, civil society and governments and a biannual multi-stakeholder Forum meeting has provided an opportunity for Adherents to engage in the process and update participants and the OECD on their approach and actions to promote the implementation of the Guidance. Another source of information on the implementation of the Recommendation is the annual questionnaire that

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<sup>1</sup> The UN Guiding Principles on Business and Human Rights also recommend this approach; refer to “Implementing the United Nations “Protect, Respect and Remedy” Framework”, 2011 for more details.

National Contact Points (hereafter “NCP”)<sup>2</sup> are required to communicate to the OECD Secretariat to report on the nature and results of their activities to further the effectiveness of the MNE Guidelines, which includes a section on the promotion of the Guidance.

### Key findings

6. A key activity of Adherents is to support awareness-raising and promotion of the Guidance. The first years of implementation of the Recommendation have demonstrated commitment and political leadership from many Adherents to support implementation of the Guidance specifically by private sector operators. Since the adoption of the Recommendation, there has been growing support for the promotion and dissemination of the Guidance by Adherents, through for example engaging with domestic networks and industry, hosting awareness-raising and training events, publicising and distributing resources, translating the Guidance and engaging in outreach with non-Adherent countries that play important roles in global mineral supply chains, such as the United Arab Emirates (UAE) and China.

7. The Guidance is now referenced in domestic regulations on mineral supply chain due diligence in the United States (US) and in several countries in central Africa.<sup>3</sup> The European Union (EU) is currently drafting a Regulation that is based on and aligned with the Guidance. This means that, potentially, as of 2016, the US and EU consuming markets could both be covered by legal provisions to promote supply chain due diligence for certain products containing tin, tantalum, tungsten or gold.

8. Regulatory measures have had the largest impact in terms of promoting responsible sourcing of minerals among businesses. While voluntary standards have a role to play in promoting uptake, especially among the more progressive businesses, well-designed regulatory approaches have provided the strongest impetus for business to change how they operate. At the same time, it is important that regulatory measures continue to be carefully balanced in order to incentivise responsible engagement, in particular in conflict-affected and high-risk areas, while avoiding adverse impacts; embargoes and disengagement by business from these areas can cause adverse impacts for mining communities and mineral producing countries.

9. Measures taken by Adherents, in particular regulatory interventions, have market implications for minerals traded and goods produced outside Adherents’ borders and hence created the need to ensure wider knowledge of the Guidance. It has therefore been indispensable to engage with non-Adherent governments and companies to ensure that implementation efforts truly have a global impact. For example, in China, the Ministry of Commerce (MOFCOM) nominated in 2014 the China Chamber of Commerce of Metals, Minerals and Chemicals Importers & Exporters (CCCME), representing 6000 Chinese companies, to work with the OECD to develop guidelines aligned with the Guidance. These guidelines (including audit protocols) are currently being finalised, and should begin to be operationalised by Chinese companies in 2016. The UAE has also taken steps to support the implementation of the Guidance within their borders. The Guidance is thus becoming the international standard to tackle conflict financing and human rights abuses in mineral supply chains.

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<sup>2</sup> In accordance with the Decision of the Council on the MNE Guidelines, Adherents to the Investment Declaration have to set up National Contact Points whose main role is to further the effectiveness of the Guidelines by undertaking promotional activities, handling enquiries, and contributing to the resolution of issues that arise from the alleged non-observance of the guidelines in specific instances. More information can be found here: <https://mneguidelines.oecd.org/ncps/>

<sup>3</sup> The US has integrated mineral supply chain due diligence requirements into Section 1502 of the US Dodd–Frank Wall Street Reform and Consumer Protection Act. Other Adherents, such as Canada, have contemplated similar regulatory approaches.

10. As a result of the support of several countries, seven Resolutions of the United Nations (UN) Security Council adopted under Chapter VII of the Charter of the UN, concerning the Democratic Republic of the Congo (DRC) and Côte d'Ivoire refer to the Guidance, calling for its implementation to foster greater transparency and oversight of supply chains of minerals produced in these two countries.<sup>4</sup> These are the first UN Chapter VII Resolutions to reference instruments developed by the OECD.<sup>5</sup>

11. While it is premature to draw firm conclusions, there are indications that due diligence programmes may be contributing to, in certain areas and minerals, breaking the link between mineral extraction and trade and conflict in central Africa. Already, in less than four years of implementation, on-the-ground due diligence programmes run by the tin, tantalum and tungsten industry have provided market access to an estimated 80,000 artisanal and small-scale miners in Africa's Great Lakes Region<sup>6</sup>, who support an estimated 400,000 dependents. The UN Group of Experts on the DRC in 2012 stated that, as a result of the implementation of due diligence, “the security situation at tin, tantalum and tungsten mine sites has improved and trade in tin, tantalum and tungsten has become a much less important source of financing for armed groups.” Since then, while progress can be noted particularly for the tin, tungsten and tantalum supply chains, significant challenges remain for responsible gold supply chains as criminal and illegal elements continue to dominate the trade in the region.

### **Confirmation of the broad applicability of the Guidance**

12. Furthermore, monitoring of the implementation has confirmed the broad applicability of the Guidance. The Informal Ministerial Communiqué on Responsible Business Conduct, dated 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.<sup>7</sup> As a consequence of this support and efforts made by the OECD, industry, and civil society, as well as broader industry and consumer awareness, a number of industries are now in the initial stages of implementing the recommendations of the Guidance in the precious stones and in other metal supply chain and assurance programmes.

13. While the Guidance itself refers to minerals generally, the Introduction to the Guidance originally contained specific references tin, tantalum, tungsten (3T) and gold. The initial focus on 3T and gold was a consequence of the specific characteristics of illegal exploitation of these resources that supported and still supports non-state armed groups in the African Great Lakes region. However, the Investment Committee and the Development Assistance Committee approved on 16 October 2015 two minor edits to the Introduction in order to make clearer that the Guidance does apply to all “minerals”.

### **Development of Additional Due Diligence Guidance**

14. Beyond minerals, the approach promoted by the Recommendation and the Guidance has inspired the development by the OECD of similar guidances to be used by companies operating in other sectors.

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<sup>4</sup> To date, just over half of Adherents have engaged with their national private sector to disseminate the Guidance in one form or another to foster greater uptake.

<sup>5</sup> [S/RES/2219 \(2015\)](#), [S/RES/2198 \(2015\)](#), [S/RES/2153 \(2014\)](#), [S/RES/2136 \(2014\)](#), [S/RES/2101 \(2013\)](#), [S/RES/2078 \(2012\)](#), [S/RES/2021 \(2011\)](#).

<sup>6</sup> iTSCi Project Overview, available at: [https://www.itri.co.uk/index.php?option=com\\_zoo&task=item&item\\_id=2192&Itemid=189](https://www.itri.co.uk/index.php?option=com_zoo&task=item&item_id=2192&Itemid=189)

<sup>7</sup> Informal Ministerial Communiqué on Responsible Business Conduct 2014, available at: <http://www.oecd.org/corporate/Ministerial-Communique-RBC-June-2014.pdf>

Guidances for the agriculture, extractive, textile and garment, and financial sectors are at different stages of development through multi-stakeholder (government, private sector and civil society) processes.

15. In June 2015, G7 Leaders encouraged “enterprises active or headquartered in [G7] countries to implement due diligence procedures regarding their supply chains”. In the 2014 G20 Labour and Employment Ministerial Declaration, Ministers committed to “promote responsible business practices and effective supply chain engagement to improve occupational safety and health, with reference to UN, ILO, and OECD guidelines and standards”. The implementation of the principles set out in the Guidance contributes to the OECD and G20’s inclusive growth targets, as it seeks to enable market access for informal workers in the mining sector, thus creating opportunities for vulnerable segments of the population and distributing the dividends of increased prosperity fairly across society.

### **Future steps**

16. The Committees consider that the Recommendation and the Guidance have demonstrated their continuing relevance and do not require amendments at this stage. Implementation is the priority. To build on and consolidate achievements of the early years of implementation, companies need to integrate the Guidance into their usual business practices and standards. This will require sustained and increased commitment by Adherents to foster the dissemination and uptake of the Guidance by all companies operating within and from their territories, and to support outreach efforts to key markets that are currently not engaged in the global push for responsible supply chains of minerals.

17. Demonstrated leadership by Adherents is the best way to encourage action on the part of other countries. The Investment Committee and Development Assistance Committee encouraged Adherents to continue their efforts to actively implement the Recommendation and invited them to report on their activities to the Secretariat on an annual basis [COM/DAF/INV/DCD/DAC(2015)3/REV1]. This reporting would increase Adherents’ levels of transparency and help to promote uptake of the Guidance, including where possible the cost and impact of action, in order to encourage other countries to engage in this movement. Future activities should also ensure that the implementation of the Recommendation is expanded to other geographic areas, as well as to other mineral resources in line with the clarification of the scope of the Guidance, as outlined in the 2014 Informal Ministerial Communiqué.

### **Proposed action**

18. In the light of the preceding, the Secretary-General invited the Council to adopt the following conclusions:

#### THE COUNCIL

- a) noted document C(2015)182, in particular the report set out in its Annex and agreed to its declassification;
- b) encouraged Adherents to continue their efforts to actively implement the Recommendation and invited them to report on their activities to the Secretariat on an annual basis.

ANNEX

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

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## ACRONYMS

AfDB	African Development Bank
ASM	Artisanal and Small-Scale Mining
BGR	Federal Institute for Geosciences and Natural Resources, Germany
CCCMC	China Chamber of Commerce of Metals, Minerals and Chemical Importers and Exporters
DMCC	Dubai Multi-Commodities Center
DRC	Democratic Republic of the Congo
EICC	Electronic Industry Citizenship Coalition
GeSI	Global e-Sustainability Initiative
GIZ	Gesellschaft für Internationale Zusammenarbeit, Germany
GJEPC	Gem and Jewellery Export Promotion Council, India
ICGLR	International Conference on the Great Lakes Region
IMF	International Monetary Fund
iTSCi	ITRI Tin Supply Chain Initiative
LBMA	London Bullion Market Association
MONUSCO	UN Stabilization mission in the DRC
MSG	Multi-stakeholder Steering Group
OECD	Organisation for Economic Cooperation and Development
RJC	Responsible Jewellery Council
SASAC	State-owned Assets Supervision and Administration Commission of the State Council (China)
UN	United Nations
UNDP	United Nations Development Programme
UNECA	UN Commission for Africa
WGC	World Gold Council

## IMPLEMENTATION OF THE RECOMMENDATION BY ADHERENTS

### I. INTRODUCTION

19. This document reports on implementation of the 2011 Recommendation of the Council on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas [C/MIN(2011)12/FINAL] (hereafter the Recommendation). It has been prepared pursuant to Council's instructions for "*the Investment Committee and Development Assistance Committee to monitor the implementation of the Recommendation and to report to Council no later than three years following its adoption and as appropriate thereafter*".

20. The main purpose of the Recommendation is that Members and non-Members having adhered to it (hereafter the Adherents) promote the observance of the Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (hereafter the Guidance) [C(2012)93]. The Recommendation is open for adherence to non-Members. To date, in addition to the 34 OECD Members, 9 non-Members, namely Argentina, Brazil, Colombia, Costa Rica, Latvia, Lithuania, Morocco, Peru and Romania, who are all Adherents to the Declaration on International Investment and Multinational Enterprises (hereafter the Investment Declaration), have also adhered to the Recommendation. The OECD Secretariat is pursuing discussions about adherence to the Recommendation with those countries that are Adherents to the Investment Declaration but that do not adhere to this Recommendation.

21. The Recommendation focuses on the efforts that Adherents should make to actively promote the use and implementation 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 Guidance<sup>8</sup> outline the due diligence processes and principles which companies are encouraged to integrate into their corporate management systems and decision-making processes. However, companies should implement the entire Guidance, which contains detailed provisions tailored to the different roles and positions of companies in the mineral supply chain.

22. This report focuses on measures taken by Adherents to implement the Recommendation. The implementation of the Recommendation has been monitored primarily through the implementation programme administered by the Secretariat, in particular through dedicated research on specific relevant topics, information shared and discussed in the biannual Forums, as well as information collected by the Secretariat through bilateral engagement with Adherents (see Appendix I for more information on the implementation programme). A second source of information on the implementation of the Recommendation is the annual questionnaire that National Contact Points (NCP)<sup>9</sup> are required to

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<sup>8</sup> Annex I and II of the Guidance are also annexed as Annex I and II to the Recommendation.

<sup>9</sup> In accordance with the Decision of the Council on the MNE Guidelines, Adherents to the Investment Declaration have to set up National Contact Points whose main role is to further the effectiveness of the Guidelines by undertaking promotional activities, handling enquiries, and contributing to the resolution of issues that arise from the alleged non-observance of the guidelines in specific instances. More information can be found here: <https://mneguidelines.oecd.org/ncps/>.

communicate to the OECD Secretariat to report on the nature and results of their activities to further the effectiveness of the MNE Guidelines, which includes a section on the promotion of the Guidance.

23. Appendices I, II and III to this report features a detailed analysis of wider Guidance implementation efforts by stakeholders in producing, processing, trading and consuming countries globally, including implementation in countries that are not Adherents. The rationale for this is that the measures taken by Adherents, in particular regulatory interventions, have market implications for minerals traded and goods produced outside Adherents' borders. It has hence been indispensable to engage with non-Adherent governments and companies for example in Central Africa, the Peoples Republic of China (hereafter China) and the Middle East, to ensure that implementation efforts by Adherents truly have a global impact.

24. The report is structured as follows: **Section one** introduces the background, mandate and content of the Guidance and the Recommendation. **Section two** outlines efforts by Adherents to implement the Recommendation through voluntary and mandatory measures. Finally, **Appendix I** describes the practical steps and initiatives taken by companies, governments from non-Adherents and other stakeholders to implement the Guidance and presents the main achievements to date. **Appendices II and III** provide the 2015/2016 work plan of the Secretariat and an overview of the resources developed as part of the implementation programme.

## II. BACKGROUND AND CONTENT OF THE RECOMMENDATION AND THE GUIDANCE

25. Trade and investment in natural mineral resources hold great potential for generating income, growth and prosperity, sustaining livelihoods and fostering local development. However, a large share of these resources is located in conflict-affected and high-risk areas. In these areas, illegal exploitation of natural mineral resources is significant and contributes to conflict, crime and corruption, finances international terrorism and hinders economic and social development.

26. While governments have the primary responsibility to prevent conflicts and protect their people, companies are expected to respect human rights and avoid risks of contributing to, or being associated with, significant adverse impacts, including serious abuses of human rights and conflict. Recognising that conflict-affected and high-risk areas are some of the world's most difficult environments in terms of establishing security, enabling development and doing business, the Guidance aims to clarify the responsibilities of the private sector and provide practical recommendations on how enterprises can meet these responsibilities.

27. The Guidance is the first example of a collaborative government-backed multi-stakeholder initiative on responsible supply chain management of minerals from conflict-affected and high-risk areas. Its objective is to cultivate transparent mineral supply chains and sustainable corporate engagement in the mineral sector with a view to enabling countries and their populations to benefit from their natural mineral resources and preventing the extraction and trade of minerals from being a source of conflict and insecurity.

### **Mandate and process for the development of the Guidance and the Recommendation**

28. In response to the United Nations Security Council's call to OECD Members to promote responsible international business conduct in countries with weak governance<sup>10</sup>, the OECD Council adopted in 2006 the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones (hereafter OECD Risk Awareness Tool), which was developed by the Investment Committee. The 2009 G8 Leaders L'Aquila Declaration<sup>11</sup> further encouraged the OECD to co-operate with the ICGLR and to "engage with key stakeholders to further develop practical guidance for business operating in countries with weak governance".

29. The Investment Committee and the Development Assistance Committee decided in 2009 to join forces to translate the OECD Risk Awareness Tool into operational terms for companies 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 equitable and effective development. This joint initiative has resulted in the development of the Guidance, which is based on and builds on the OECD Risk Awareness Tool and on the OECD Guidelines for Multinational Enterprises (hereafter the MNE Guidelines), which are part of the Investment Declaration. The concept of due diligence in the Guidance and Recommendation is consistent with that proposed in the 2011 update of the MNE Guidelines.

30. The Guidance was developed through a multi-stakeholder process with engagement from OECD and the ICGLR member countries, industry, civil society, as well as the United Nations Group of Experts on the Democratic Republic of the Congo (DRC). Between December 2009 and November 2011 five

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<sup>10</sup> [S/RES/1457 \(2003\)](#)

<sup>11</sup> L'Aquila G8 Summit Leaders Declaration: Responsible Leadership for a Sustainable Future, 10 July 2009

multi-stakeholder consultations involving governments, companies and civil society organisations were held to develop the Guidance and its two Supplements. A joint ICGLR-OECD consultation was furthermore held in Nairobi (Kenya) in September 2010. As a result of those extensive consultations, the Guidance is aimed at practitioners, with an emphasis on collaborative and constructive approaches to complex challenges.

31. Shortly after the approval of the Guidance, the Investment Committee and Development Assistance Committee proposed to Council the adoption of a draft Recommendation based on the Guidance in recognition of the need for governments to take appropriate measures to ensure that companies are aware of these due diligence recommendations and observe them and in order to promote the visibility and global reach of OECD work in the area of responsible business conduct. The Recommendation was adopted by Council at the OECD's 50th Anniversary Ministerial Council Meeting on 25 May 2011 [C/MIN(2011)12/FINAL]. The Recommendation was amended by Council on 17 July 2012 to include a reference to the Supplement on Gold [C(2012)93] which provides specific guidance on supply chain due diligence for gold from conflict-affected and high-risk areas.

### **The Recommendation**

32. The Recommendation<sup>12</sup> calls upon 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”

33. The Recommendation also invites “other non-Members to take due account of and adhere to the present Recommendation”.

### **The Guidance**

34. The Guidance provides a framework for detailed due diligence as a basis for responsible global supply chain management of all minerals. It is global in scope, meaning that it does not focus on any particular area, region or country and that companies can use its recommendations to exercise due diligence in any jurisdiction around the world. The purpose of the Guidance is to help companies respect human rights and avoid contributing to conflict through their sourcing decisions, including the choice of their suppliers. The Guidance is intended to serve as a common reference for all suppliers and stakeholders in the mineral supply chain and any industry-driven schemes which may be developed, in order to clarify

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<sup>12</sup> OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High-Risk Areas, OECD 2012, Recommendation of the council on Due Diligence guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, p. 9

expectations concerning the nature of responsible supply chain management of minerals from conflict-affected and high-risk areas.

35. The Guidance is structured as follows: a five-step risk-based due diligence framework forms the basis for responsible supply chains of minerals (annex I of the Guidance); a model mineral supply chain policy providing a common set of principles for all actors in the mineral supply chain (Annex II of the Guidance); suggested measures for risk mitigation and indicators for measuring improvement (Annex III of the Guidance); and currently two supplements with specific due diligence recommendations tailored to the challenges associated with the tin, tungsten and tantalum (3T) and gold supply chains.

### **Implementation programme of the Guidance and biannual Forum**

36. The implementation of the Guidance is supported by a multi-stakeholder programme that was set up by the Investment Committee and the Development Assistance Committee in 2013 [COM/DAF/INV/DCD/DAC(2012)4/FINAL]. This programme is open to participation from the private sector, civil society and governments. While industry takes a leading role in implementing the Guidance in day to day business activities, governments and international organisations play an important role in creating the enabling conditions in terms of the regulatory environment, rule of law and security. Local and international civil society actors also play a crucial role in monitoring the conditions of resource extraction and trade, monitoring company activities and disseminating information on risks, building local capacity and raising awareness.

37. The Guidance implementation programme covers a wide range of activities. Its objectives are to:

- *Enhanced positive impact of due diligence in conflict-affected and high-risk areas*, in particular to (i) reduce the opportunities for armed groups and public security forces to benefit from mineral production and trade; (ii) improve livelihoods of artisanal miners; and (iii) strengthen local government capacity to regulate and supervise its mineral sector, improve data collection, increase revenues and stem illicit financial flows and licit trade linked to the production and trade of minerals. This will be achieved through proactive engagement and training with industry, government and stakeholders in conflict-affected areas, increasing the market opportunities for artisanal miners, connecting willing buyers with producers of responsible minerals in conflict areas, strengthening coordination among the development cooperation community and targeted research on the impact of due diligence on miners' livelihoods.
- *Increased transparency and accountability globally in mineral supply chains*, in particular in new producing, processing and consuming countries, such as West Africa, Latin America and Asia. This will be achieved through targeted outreach to governments, industry and affected stakeholder with a view of getting more and better implementation of the Guidance, and through critical assessments of current implementation efforts, including dedicated work to harmonize and better align current industry programmes designed to operationalize the Guidance.
- *Improved understanding and awareness of natural resource-related conflicts, the informal economy and the role of the private sector, beyond tin, tantalum, tungsten and gold supply chains*, leading to better and more informed policy-making and actions. This will be achieved through dedicated research on the link of other natural resources to serious human rights abuses and conflict, sharing of lessons from the implementation of the Guidance with other relevant

initiatives and programmes, and regular outreach and networking to build inclusive global value chains.<sup>13</sup>

38. As part of the implementation programme, a biannual multi-stakeholder Forum meeting has been held in May and November of each year, and is co-hosted by the OECD, the ICGLR, and the UN Group of Experts on the DRC. It brings together the stakeholders that play an active role in the implementation programme. The Forum usually runs over three days and provides opportunities for participants to update each other on implementation progress and evolving regulatory developments and address implementation challenges. Plenary sessions, break-out working groups and side-meetings provide different platforms for discussion while learning-sessions provide the space for participants to explore specific issues, such as how to identify conflict-affected and high-risk areas, in detail. To date, nine Forum meetings have been held; seven were hosted in Paris and two meetings were held in mineral producing countries, namely Rwanda (November 2013) and the DRC (November 2014). Participant numbers have consistently been high, peaking at the last Forum meeting in Paris in May 2015 with more than 400 participants.

39. The implementation programme is supported by a Multi-stakeholder Steering Group (MSG)<sup>14</sup> which serves as the advisory and management committee for the Forum. MSG functions include: preparation of all issues for consideration by the Forum; updating Forum participants on significant developments between meetings of the Forum; liaison with other international or regional bodies with respect to the programme; coordination of outreach activities with respect to the Guidance and the programme; providing guidance and support to the OECD Secretariat with respect to operational aspects of the programme. The Forum and its Multi-stakeholder Steering Group (MSG)<sup>15</sup> are not OECD bodies but informal expert groups with a clearly delineated mandates.

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<sup>13</sup> For details, please refer to the work plan: [COM/DAF/INV/DCD/DAC\(2015\)1](#)

<sup>14</sup> More information on the current members of the MSG can be found here: <http://www.oecd.org/daf/inv/mne/3TG-Multi-stakeholder-Steering-Group-composition.pdf>

<sup>15</sup> More information on the current members of the MSG can be found here: <http://www.oecd.org/daf/inv/mne/3TG-Multi-stakeholder-Steering-Group-composition.pdf>

### III. IMPLEMENTATION OF THE RECOMMENDATION BY ADHERENTS

40. There are multiple ways that Adherents can fulfil the three recommendations as outlined in the Recommendation:

- Through country-led activities, such as issuing explanatory brochures of the Guidance, organising meetings, seminars and training workshops with industry and other stakeholders involved in due diligence efforts for responsible and conflict-sensitive supply chains. Thereby “actively promoting the observance of the Guidance by companies...” as well as taking action to “actively support the integration into corporate management systems...”.
- By supporting the implementation programme of the Guidance<sup>16</sup>, through funding the activities carried out by this programme, and providing direction and advice through the biannual Forum and engaging in the implementation programme’s MSG. Thereby “actively promoting the observance of the Guidance by companies...”, taking actions to “actively support the integration into corporate management systems ...” and “ensure the widest possible dissemination of the Guidance and it’s active use by other stakeholders...”.
- By integrating mineral supply chain due diligence requirements into national legal frameworks, such as through Section 1502 of the US Dodd–Frank Wall Street Reform and Consumer Protection Act<sup>17</sup> or the draft European regulation on responsible supply chains of minerals from conflict-affected and high-risk areas<sup>18</sup>. Thereby “actively promoting the observance of the Guidance by companies...” as well as to “actively support the integration into corporate management systems...”.
- More broadly, through direct, targeted funding to partner country and / or regional institutions (such as local ministries of mines or intergovernmental bodies such as the ICGLR), as well as through indirect measures aimed at creating an enabling framework for responsible mining to “ensure the widest possible dissemination of the Guidance and it’s active use by other stakeholders...”.

41. The implementation of the recommendations has been monitored primarily through the implementation programme, in particular through the biannual Forums. These meetings, which are open to all stakeholders involved in the minerals supply chain, have provided an opportunity for Adherents to engage in the process and update Forum participants and the OECD on their approach and actions to promote the implementation of the Guidance. A second source of information on the implementation of the Recommendation is the annual questionnaire that National Contact Points (NCP)<sup>19</sup> are required to

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<sup>16</sup> For further explanation, see Appendix I, section III: “Implementation of the Guidance”.

<sup>17</sup> <https://www.sec.gov/about/laws/wallstreetreform-cpa.pdf>

<sup>18</sup> [http://europa.eu/rapid/press-release\\_IP-14-218\\_en.htm](http://europa.eu/rapid/press-release_IP-14-218_en.htm)

<sup>19</sup> In accordance with the Decision of the Council on the MNE Guidelines, Adherents to the Investment Declaration have to set up National Contact Points whose main role is to further the effectiveness of the Guidelines by undertaking promotional activities, handling enquiries, and contributing to the resolution of issues that arise from the alleged non-observance of the guidelines in specific instances. More information can be found here: <https://mneguidelines.oecd.org/ncps/>

communicate to the OECD Secretariat to report on the nature and results of their activities to further the effectiveness of the MNE Guidelines, which includes a section on the promotion of the Guidance.

### **Active promotion and dissemination of the Guidance by and in Adherents<sup>20</sup>**

42. A key activity of Adherents is to support awareness-raising and promotion of the Guidance, including concepts such as due diligence, risk assessment, mitigation, transparency and reporting. This is particularly important for small and medium-size enterprises (SMEs) that sometimes are less aware of international standards and have less capacity to implement the recommended 5-step due diligence framework. Since the adoption of the Recommendation, there has been growing support for the promotion and dissemination of the Guidance by Adherents, through multiple channels.

#### *OECD National Contact Points*

43. Since 2011, NCPs<sup>21</sup> from Adherents have engaged with domestic networks and industry, actively promoting the Guidance. To date, NCPs from Belgium, Canada, France, Japan, and the United Kingdom have hosted or supported awareness-raising and training workshops on the Guidance. The Italian NCP has facilitated SME participation in research undertaken by Germany to support the implementation of the Guidance.

44. Through annual surveys conducted by the OECD Secretariat, NCPs have reported measures to promote the Guidance:

- Over the period June 2011 – June 2012, Australia, Canada, Finland, Germany, Israel, Japan, Korea, Latvia, New Zealand, Norway and Switzerland made publications available on governmental websites, released brochures and organised special events. The US Under-Secretaries of State Robert Hormats and Maria Otero issued a statement promoting the Guidance<sup>22</sup> as a means of performing due diligence, including for fulfilment of related statutory obligations in the United States (US). The Norwegian NCP referenced the Guidance in its Final Statement for the specific instance regarding Intex when it recommended that Intex integrate the potential for engagement in conflict-affected areas into its due diligence process.<sup>23</sup>
- In 2012-2013, NCPs played an even larger role in promoting the Guidance and conflict-sensitive responsible business practices. Two thirds of NCP reports stated that NCPs or other government agencies “promoted the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones”. About half of NCPs also promoted the Guidance and did so by including a

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<sup>20</sup> See also Figure 6 in Appendix I – “Country implementation of the Guidance”.

<sup>21</sup> In accordance with the Decision of the Council on the MNE Guidelines, Adherents to the Investment Declaration have to set up National Contact Points whose main role is to further the effectiveness of the Guidelines by undertaking promotional activities, handling enquiries, and contributing to the resolution of issues that arise from the alleged non-observance of the guidelines in specific instances. More information can be found here: <https://mneguidelines.oecd.org/ncps/>

<sup>22</sup> “Statement Concerning Implementation of Section 1502 of the Dodd-Frank Legislation Concerning Conflict Minerals Due Diligence”, US Department of State, Bureau of Economic, Energy and Business Affairs, July 15, 2011

<sup>23</sup> See Final Statement, Complaint from the Future In Our Hands (Fioh) against Intex Resources ASA and the Mindoro Nickel Project, the Norwegian National Contact Point for the OECD Guidelines for Multinational Enterprises, 28 November 2011, p. 47, available at: [http://www.regjeringen.no/upload/UD/Vedlegg/ncp/intex\\_final.pdf](http://www.regjeringen.no/upload/UD/Vedlegg/ncp/intex_final.pdf).

link to the Guidance and implementation programme website or providing information on their own national websites. Other NCPs have engaged with domestic networks and industry, actively promoting the Guidance. Italy, for example, has created due diligence guides targeted to its jewellery sector, with substantial reference to the Guidance.

- Of the 38 NCP reports received in 2014, 18 respondents (47%) affirmed that they or another government agency promoted the OECD Risk Awareness Tool, while 22 of the 38 respondents (58%) affirmed that either they or another government agency promoted the Guidance. Promotion of the Guidance ranged from making the document available on the NCP or government website, to actively promoting the Guidance through workshops, and information exchanges with embassies and key industry associations in country.

45. Several Adherents have also translated the Guidance into local national languages. In addition to the official OECD French and English versions, the Guidance is now available on official websites in Spanish (full Guidance, except for the 3T supplement), Japanese, Korean, Turkish and Slovenian.

46. Several Adherents have consistently been engaging and reaching out to governments of trading, processing and consuming countries (*i.e.* the United Arab Emirates, China, India, etc.), alongside the OECD Secretariat, to convince them to join this international effort to set up transparent supply chains of minerals from conflict-affected and high-risk areas. Adherents' outreach to other countries has proven to be extremely valuable given the global nature of the mineral supply and value chain. Success rests on the engagement of all actors along the mineral supply chain promoting due diligence and encouraging their industry to implement the practical recommendations of the Guidance.

47. Other Adherents that have adopted legal approaches – such as the US or Member States of the European Union - will be discussed in the section on “Implementation of the recommendation through regulatory approaches”.

### **Implementation through participation in the implementation programme**

48. Adherents also participate in the activities carried out under the implementation programme. The engagement of Adherents is particularly strong in the biannual multi-stakeholder Forum meetings. The mix of stakeholder perspectives and an atmosphere of open and candid exchange, including with government officials, notably from adherent governments, provides a unique platform for complex issues and potential solutions to be discussed. For example, the May 2014 Forum meeting included government delegations from the following Adherents: Belgium, Canada, Colombia, France, Germany, Hungary, Japan, Korea, the Netherlands, Norway, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

49. The dissemination of the Recommendation is furthermore aided by financial support to the implementation programme, which is funded almost entirely from voluntary contributions by Adherents. Since 2011, the programme has benefited from financial support from Belgium, Canada, Germany, Norway, Sweden, Switzerland, and the United Kingdom, as well as the European Union.

50. In addition, eight of the eleven government representatives on the MSG are Adherents to the Guidance<sup>24</sup>: Canada, Colombia, Germany, Israel, Japan, the Netherlands, Switzerland, and the United States. Furthermore, the MSG is chaired by a government representative from an Adherent country; the current chair of the MSG is a representative from the government of Canada.

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<sup>24</sup> here are 29 multi-stakeholder members on the MSG, with an additional 12 alternate members.

## **Implementation through regulatory and non-binding approaches**

51. The Guidance provides recommendations addressed by governments to companies operating in or sourcing minerals from conflict-affected and high-risk areas and provides guidance on principles and due diligence processes for responsible supply chains, consistent with applicable laws and relevant international standards. While observance of the Guidance is voluntary and not legally enforceable, several Adherents integrated the Guidance into their domestic regulations.

### *United States*

52. In July 2010, the US Congress included a provision (Section 1502) in the Dodd–Frank Wall Street Reform and Consumer Protection Act (“Dodd Frank Act”) pertaining to trade involving so-called ‘conflict minerals’— tantalum, tin, tungsten and gold (3TG) – produced in the DRC and adjoining countries. More specifically, Section 1502 requests the US Securities and Exchange Commission (SEC) to develop rules that oblige the covered companies - also known as “issuers”, originally estimated by the SEC to be about 6,000 US publicly-listed companies - to undertake efforts to ascertain the origin of tin, tantalum, tungsten and gold in their mineral supply chains. If the minerals are considered to come from the DRC or adjoining countries, or if the mineral provenance is unknown, then the issuers are required to undertake due diligence and file additional disclosures about the minerals. Section 1502 of the Act also directs the SEC to promulgate a rule to clarify the practicalities of the implementation of this Section.

53. The SEC’s Final Rule on Section 1502 published in August 2012 recognises the Guidance as an international framework available to companies to perform due diligence for responsible mineral sourcing and help them meet their reporting obligations under the Act. The SEC indicates that the Guidance “satisfies our criteria and may be used as a framework for purposes of satisfying the final rule’s requirement that an issuer exercise due diligence in determining the source and chain of custody of its conflict minerals.” The Rules note that the Guidance is currently the only internationally-available due diligence framework, and thus the Guidance has become de facto mandatory for all issuers under the SEC’s Rules.

54. The Dodd Frank Act also instructs the Department of Commerce to produce and update annually a list of all known 3TG smelters and refiners, in order to enable more effective implementation of the Act by companies. The Department of Commerce published its first list in 2014, drawing from various sources, documents and information.<sup>25</sup> In publishing the list, the Department of Commerce recognized the limitations and challenges in identifying and verifying the known smelters and refiners of 3TG. The Dodd Frank Act also directed the State Department and the US Agency for International Development (USAID) to develop a strategy to address the links between human rights abuses, armed groups, the mining of conflict minerals, and commercial products.

55. A recent report<sup>26</sup> by the US Government Accountability Office indicates that the US State Department and USAID officials reported taking actions to implement the US conflict minerals strategy, but that a difficult operating environment complicated this implementation. The State Department and

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<sup>25</sup> (i) the U.S. Geological Survey; (ii) the U.S. Government Accountability Office; (iii) the OECD (in particular, the smelter and refiner list first compiled by the OECD in 2013); (iv) the London Bullion Market Association; (v) the Electronic Industry Citizenship Coalition (EICC) and the related Global e-Sustainability Initiative (GeSI); (vi) the Dubai Multi Commodities Centre (DMCC); and (vii) the World Gold Council (WGC).

<sup>26</sup> SEC conflict minerals rule - Initial Disclosures Indicate Most Companies Were Unable to Determine the Source of Their Conflict Minerals, UN GAO, August 2015.

USAID reported supporting a range of initiatives, including validation of conflict-free mine sites and strengthening traceability mechanisms in Central Africa that minimize the risk of minerals that have been exploited by illegal armed groups entering the supply chain.

56. There has been some criticism of the so-called unintended consequences and impacts of Section 1502 of the Dodd-Frank Act since it became law. Some journalists, academics and local civil society organisations in the Great Lakes region have claimed that the singling out of this region in the text of the law damaged trade of 3T and gold produced there. There has been a reported reluctance by some international traders and buyers of those minerals to purchase from the region because of reports of conflict and human rights abuses in eastern DRC –preferring to go “Africa-free” rather than responsible or “conflict-free”. At the same time, there has been a significant increase in government and industry-led programmes and initiatives on mineral sector governance, transparency and due diligence in the region. Regardless, some commentators claim that Section 1502 of the Dodd-Frank Act has had negative impacts on livelihoods of artisanal miners and mining communities, further fuelling their vulnerability to exploitation and abuses.<sup>27</sup> Section IV of Appendix I of this report provides further information and analysis of these alleged impacts.

**Box 1. Central role of the Guidance for companies filing their first Conflict Minerals Reports with the US Security and Exchange Commission**

Companies filing their first Conflict Minerals Reports on 2 June 2014 with the SEC highlighted the central role of the Guidance in meeting their due diligence and reporting requirements under the Dodd-Frank Act:

- After participating in the OECD 3T pilot programme in 2012, 75% of the participating US companies reported they would rely on the Guidance to meet their obligations under the Dodd-Frank Act.
- Over 1 300 companies filed a Specialized Disclosure Report with the SEC and 77% of them filed associated Conflict Minerals Reports, among them major multinationals that are part of the OECD Forum on Responsible Mineral Supply Chains.
- In 2014, 99% of companies sampled by Ernst & Young (184 S&P 500 companies) that filed with the SEC cite the Guidance. However, a 2015 report released by Global Witness and Amnesty International highlighted that while a large number of companies filed Conflict Minerals Reports, the content of the reports was largely disappointing in terms of meeting minimum requirements of the US legislation

*Canada*

57. In 2013, a Conflict Minerals Act (Bill C-486) was proposed in Canadian Parliament. The Bill would have required “*Canadian companies to exercise due diligence in respect of the exploitation and trading of designated minerals originating in the Great Lakes Region of Africa in seeking to ensure that no armed rebel organization or criminal entity or public or private security force that is engaged in illegal activities or serious human rights abuses has benefited from any transaction involving such minerals.*” The Bill explicitly used the Guidance as the proposed benchmark for compliance. However, the Bill was not passed, as in September 2014 the Canadian House of Commons opposed its approval.

<sup>27</sup> See for example: Social Science Research Council: “Analyzing the Impact of the Dodd-Frank Act on Congolese Livelihoods”, 6 November 2014 and Wolfe, Lauren: How Dodd-Frank Is Failing Congo, Foreign Policy, 2 February 2015.

*European Union (EU)*

58. European Union Member States are in a position to play a major role in the global implementation of the Recommendation. On 5 March 2014, the Directorate General for Trade of the European Commission (DG TRADE) and the European External Action Service (EEAS) proposed an integrated approach to curb illicit financial flows deriving from the illegal exploitation of tin, tantalum, tungsten and gold to armed groups. The Commission proposed a draft regulation setting up an EU system of self-certification for importers of 3T and gold to import responsibly into the EU market. Self-certification would require EU importers of these metals and their ores to exercise due diligence by monitoring and administering their purchases and sales in line with the five step due diligence framework of the Guidance. In addition, to increase public accountability of smelters and refiners, enhance supply chain transparency and facilitate responsible mineral sourcing, the EU announced it would aim to publish an annual list of EU and global 'responsible smelters and refiners', in cooperation with the OECD.

59. The proposed regulation is accompanied by a joint communication that presents the overall comprehensive foreign policy approach on how to tackle the link between conflict and the trade of minerals extracted in affected areas. The EU initiative also proposed a number of incentives supporting the regulation to encourage supply chain due diligence by EU companies, including:

- Public procurement incentives by the European Commission for companies selling products containing 3T and gold;
- Financial support for small and medium sized enterprises (SMEs) to carry out due diligence and to the OECD for capacity building and outreach activities;
- Visible recognition for the efforts of EU companies who source responsibly from conflict-affected countries or areas;
- Policy dialogues and diplomatic outreach with governments in extraction, processing and consuming countries to encourage a broader use of due diligence;
- Development cooperation with the countries concerned.

60. On 20 May 2015 through a plenary vote the European Parliament adopted a number of amendments to the draft Regulation. Members of Parliament (MEPs) went beyond the Commission's initial proposal and called for smelters and refiners to undergo a compulsory, independent third-party audit to check their due diligence practices. MEPs also requested mandatory compliance with the regulation for all Union importers, potentially affecting 880 000 EU firms that import or use tin, tungsten, tantalum and gold in the manufacturing of consumer products. In December 2015 the Council of EU Member States adopted a mandate for trilogue negotiations along the lines of the Commission's original voluntary proposals. Trilogue negotiations are expected to start in early 2016; the final text of an EU Regulation needs to be agreed between the European Parliament, Council and Commission.

61. The EU regulation would apply to 3T and gold only but with a global geographic scope, unlike Section 1502 of the US Dodd-Frank Act, which refers only to minerals sourced from the DRC and adjoining countries. This global scope is a significant difference to the US law and can - together with the incentives listed above - help mitigate against potential stigmatization and disengagement by buyers from specific producing regions of 3T and gold that are conflict-affected or present high risks. In addition, using the OECD Guidance as the basis for the EU draft regulation will ensure convergence of international expectations on mineral supply chain due diligence, a level playing field, and places appropriate emphasis on practical, process and risk-based due diligence responsibilities that should enable constructive and

progressive engagement with suppliers to support better and inclusive trade in minerals from conflict-affected and high-risk areas.

### *UN Security Council*

62. Since 2010, several UN Security Council (UNSC) Resolutions in the context of DRC<sup>28</sup> and Côte d'Ivoire<sup>29</sup> called for due diligence in mineral supply chains to avoid financing sanctioned entities and illegal armed groups. These Resolutions are the only Chapter VII Resolutions of the UNSC in history to reference and support work of the OECD, underscoring the value of the Guidance as a tool that can support peace and security. These legally-binding Resolutions have been passed with the support of Adherents that are or were either permanent or non-permanent members of the UNSC. For instance, resolution 1952(2010)<sup>30</sup> was adopted with the support of France, the United Kingdom, the United States as well as Austria, Brazil, Japan, Mexico and Turkey. Resolution 2219 (2015) was likewise unanimously adopted, *i.e.* with the support of France, the United Kingdom, the United States as well as Jordan, Chile, Spain, New Zealand and Lithuania.

### *Non-binding approaches*

#### *Turkey*

63. Turkey is the 4<sup>th</sup> global consumer of gold and 3<sup>rd</sup> largest gold jewellery producer in 2014, according to the World Gold Council<sup>31</sup>. Over the past 3 years, Turkey has strengthened its actions to actively promote and disseminate the Guidance. Support from the Turkish government and from Borsa Istanbul was instrumental to signal to local Turkish companies the importance and relevance of the Guidance, and in particular of the Supplement on Gold for Turkish refiners and users of gold.

64. The Turkish government's representative to the OECD and Borsa Istanbul have engaged repeatedly with the OECD Secretariat to conduct joint activities targeting Turkish industry. Borsa Istanbul has oversight of gold trading activities in the country through its Precious Metals and Precious Stone Markets division (comprising 208 members, covering the entire supply chain). In April and November 2014, the OECD Secretariat together with Borsa Istanbul hosted workshops in Istanbul to introduce the concept of responsible and conflict-free sourcing to Borsa Istanbul's members. The November workshop provided in-depth training ('Train the Trainer' approach) to key government agents for them to conduct future training sessions with local stakeholders and become a source of information on the Guidance; the November workshop was also used to launch the Turkish translation of the Guidance.

#### *Colombia*

65. In Colombia, the production and trade of gold has frequently been reported to be associated with the financing of criminal organisations and non-state armed groups, implicated in serious abuses of human

<sup>28</sup> United Nations Security Council (UNSC) resolution 1952 (2010), 29 November 2010

<sup>29</sup> UNSC resolution 2219 (2015), 28 April 2015.

<sup>30</sup> In its paragraph 7, this resolution supported "taking forward the Group of Experts' recommendations on guidelines for due diligence for importers, processing industries and consumers of Congolese mineral products, as set out in paragraphs 356 to 369 in part IX of the final report (S/2010/596)". This final report made explicit reference to the "approach developed by the Group and other stakeholders through a working group hosted by the Organization for Economic Cooperation and Development to develop due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas"

<sup>31</sup> <http://www.gold.org/supply-and-demand/turkey-gold-in-action>

rights. In November 2014, the head of the Colombian rural police declared that gold “*is the biggest source of funding at the moment for illegal armed groups, bigger than cocaine*”<sup>32</sup>.

66. Colombia adhered to the Recommendation in May 2012 and has since shown significant political will to become involved in the implementation programme and support implementation the Guidance in Colombia.<sup>33</sup> The Colombian authorities co-hosted a series of training workshops on the Guidance for its gold industry and mining authorities in February 2014, together with the Secretariat. The Colombian authorities have also agreed to cooperate with the OECD in the preparation of a series of gold baseline assessments intended to identify risk and opportunities for effective implementation of the Guidance in specific gold producing areas in Colombia and regional gold trading hubs.

67. The government of Colombia has rolled out some initiatives to improve formalisation of the artisanal and small-scale mining sector and transparency among mineral sector operators in the country. These initiatives haven’t yet been directly linked or referenced in connection to the implementation of the Recommendation, but nonetheless support the aims and objects contained therein. For example, in gold, the government has prioritised the implementation of strategies to promote the formalisation and legalization of what is still a highly informal mineral supply chain where information on who is mining the gold and how much gold is mined is scant. The primary mechanism to track the provenance of gold is the Single Registry for Mineral Traders (*Registro Unico de Comercializadores Mineros* – RUCOM) that introduces a number of new requirements aimed at improving traceability of minerals produced in Colombia. This mechanism (RUCOM) could however further benefit from explicit alignment of the screening criteria for registration with the standards contained in the Guidance, to avoid registering actors with links to armed groups, criminal organisations or serious human rights abuses.

68. Colombia has also significantly ramped up enforcement activities, with 739 kilos of illegal gold having been seized in 2014 (compared to just 11 kilos in the previous year and zero in 2010). Greater coordination between mining authorities, enforcement agencies and the private sector could enable improved exchange of information on risk and hence better implementation of due diligence.

#### *Switzerland*

69. Switzerland has also taken steps to promote the OECD Guidance. On 27 March 2013, the Swiss government released a report on Switzerland commodities industry, providing an overview of the government’s commitments and the legal regime currently in force in Switzerland. The report states that “*The Federal Council expects of all companies operating in or out of Switzerland to conduct themselves responsibly, and with integrity, in complying with human rights, environmental, and social responsibility standards, both in Switzerland and abroad*”. The Swiss government at the time acknowledged that there were areas where the country’s efforts should be strengthened. Recommendation 9 of the report most specifically emphasized that Switzerland would continue to “*actively promote international initiatives for increasing transparency of product flows, such as the OECD Due Diligence Guidance*”.

70. In its second status report on the implementation of the recommendations of the background report, released in August 2015, the Federal Council noted that Switzerland continues to support and

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<sup>32</sup> “Foreigners flock to mine gold illegally in Colombia”, Andrew Willis (Bloomberg), Wednesday , 19 Nov 2014

<sup>33</sup> Including by attending the Forum on Responsible Supply Chains of Minerals in Paris, with strong delegations including representatives from the Ministry of Mines (Vice-Minister level), National Mining Authority (Vice President level) and the Ministry of Trade, as well as industry and other stakeholders active in the Colombian mineral supply chain.

finance the implementation programme and has a presence in the multi-stakeholder group steering the OECD process. The status report also emphasizes that “*the Federal Administration is constantly raising awareness of the OECD Guidance among Swiss companies by focussing on companies operating in conflict zones or fragile situations*”. And in 2014, the Swiss State Secretariat for Economic Affairs (SECO) provided guidance for a number of companies on the steps required for the implementation of the OECD Guidance.

71. In addition, the Better Gold Initiative, launched in 2013, helped facilitate market access for gold from small Peruvian mines, produced in compliance with recognised criteria of social and environmental responsibility. Overall, more than half a ton of gold was imported into Switzerland and sold at a fair price, which includes an additional premium for promoting good corporate governance in mines.

### **Implementation through international development assistance**

72. Adherents also support the dissemination of the Guidance through international development assistance. Donors support the Guidance through direct, targeted funding to partner country institutions, as well as through indirect measures aimed at creating an enabling framework for responsible mining. While the Guidance initially focused on the African Great Lakes region, donors now also support responsible sourcing of minerals in other African regions, South East Asia and Latin America. Although instability, corruption, capacity constraints and costs to companies are seen as the key challenges in implementing the Guidance, donors are recognising early signs of change, particularly in that the broader public in donor countries is more aware of the topic of ‘conflict minerals’.

73. Direct measures include funding in-region capacity development, tool development and technical co-operation in the implementation of the ICGLR’s Regional Initiative on Natural Resources (RINR) and its Regional Certification Mechanism. The German Federal Institute for Geosciences and Natural Resources (BGR) and the Gesellschaft für Internationale Zusammenarbeit (GIZ) were jointly commissioned by the German Development Cooperation Ministry to implement a support programme to the ICGLR. The BGR module includes two components, namely introduction of the Analytical Fingerprint (AFP) method in the Great Lakes Region (Component I) and supporting the implementation of the Regional Certification Mechanism and the formalisation of artisanal and small-scale mining in Rwanda and Burundi (Component II) within the Regional Initiative against the Illegal Exploitation of Natural Resources. BGR also set up the Certified Trading Chains (CTC) scheme, a voluntary minerals traceability system. The European Union is also providing core funding to the ICGLR Technical Unit on Natural Resources, responsible for the regional implementation of the Certification Mechanism.

74. In addition, several other Adherents have implemented or are currently implementing on-the-ground projects in the African Great Lakes region. For instance, as requested by the Section 1502 of the Dodd-Frank Act, USAID is currently funding the Capacity-Building for Responsible Minerals Trade (CBRMT) project. The project aims to strengthen the ability of the DRC and regional institutions to regulate a critical mass of trade in strategic minerals in eastern DRC in order to transform the region’s mineral wealth into economic growth and development. Likewise, the Ministry of Foreign Affairs of the Netherlands recently announced it would fund the ITRI Tin Supply Chain Initiative (iTSCI<sup>34</sup>) over a three-year period to scale up mineral trade in the African Great Lakes region. Regional-level engagement on responsible mineral supply chains has proven to be successful; despite continued political tensions within the Great Lakes region, neighbouring governments have started exchanging information and are collaborating in the implementation of a regional certification mechanism of the ICGLR.

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<sup>34</sup> For additional information, please refer to Appendix I – section III “Implementation of the Guidance”.



#### IV. CONCLUSION

75. The three first years of implementation of the Recommendation have demonstrated a considerable level of commitment by Adherents, some of which have even gone beyond the expectations put forward in the Recommendation. However, Adherents can and should do even more to disseminate the Guidance and foster uptake by companies in their jurisdictions.

76. The US and EU regulatory initiatives have, and will continue to have significant impact on reaching out and getting private sector companies engaged in mineral supply chain due diligence efforts. Other Adherents, such as Canada, have contemplated similar regulatory approaches.

77. To date, just over half of Adherents engaged with their national private sector to disseminate the Guidance in one form or another to foster greater uptake. The translation of the Guidance into several languages (now available in full in English and French; non-official translations are available in Japanese, Korean, Mandarin, Spanish (guidance and gold supplement), Turkish and soon German)<sup>35</sup> is a critical step in this regard.

78. Colombia, confronted with the illegal exploitation of mineral resources and illegal armed and criminal groups, has taken significant steps to disseminate and implement the Guidance in the country and adopt internal regulatory instruments that can support the aims of the Guidance. The political will and initial momentum in fostering uptake of the Guidance in Colombia is commendable, however the Colombian government could be even more active in fostering responsible mineral supply chains and aligning its implementation efforts with the Guidance, given the sizeable problem that the illegal exploitation of minerals resources plays in the country. The OECD Secretariat also intends to reach out to Peru and Brazil, two other Adherents in the region, to build on the positive momentum around mineral supply chain transparency in the region. One of the lessons of the implementation of the Recommendation in the Great Lakes region is that a regional approach is essential to tackle issues related to international illicit trade of minerals.

79. Many Adherents have taken steps to not only actively promote the implementation of the Guidance by companies operating in or from their territories and sourcing minerals from conflict-affected and high-risk areas, but to also ensure the widest possible dissemination of the Guidance and its use globally. This is the case particularly in the African Great Lakes region, the focus of the initial attention of the international community. Uptake of the Guidance is not limited to producing areas, as Adherents developed consistent and coherent outreach efforts to progressively secure the buy-in of governments of trading and processing countries. While several countries in the Great Lakes region integrated due diligence requirements into their legal frameworks, more could be done to promote adherence to the Recommendation in the region.

80. Through support to UNSC resolutions covering high-risk and conflict-affected countries, Adherents have played an instrumental role in ensuring that the Guidance is used and referenced as widely as possible. Because of these activities, the Guidance is now rapidly expanding to West and East Africa, Latin America and China.

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<sup>35</sup> The Simplified Guide to the Due Diligence Guidance is available in five languages: English, French, Lingala, Mandarin and Swahili.

### **Continued relevance of the Recommendation**

81. The Recommendation and the Guidance itself continue to be critically relevant, as the increasing demand for policy guidance from governments and for technical assistance in the implementation from companies and industry associations attests. Interest in the implementation of the Guidance has steadily risen since 2011; this is not only measured in terms of participant numbers at the biannual forum meetings but is highlighted by a number of factors, including uptake by more and more companies with global supply chains and relevant industry associations, engagement with Adherents and strategic partnerships with countries that have not yet adhered to the Recommendation and the demand for the expertise of the Secretariat to input in the development of new standards and initiatives, both within the OECD and beyond (see Appendix I for detailed information on the rising use of the Guidance by industry and other actors).

82. The significant interest in and success of the work on responsible mineral supply chains has influenced the development of new sector projects. When the MNE Guidelines were updated in 2011, the multi-stakeholder approach of the Guidance implementation programme inspired the inclusion of a specific mandate for the Investment Committee to pursue a ‘proactive agenda’ to support implementation of responsible business conduct in specific sectors and geographies. To date, Adherents to the Guidelines have initiated sector-specific projects on due diligence in the agriculture, extractives, textiles and financial sectors. All of those projects are based on a common due diligence approach, driven by demand from stakeholders and supported by multi-stakeholder advisory groups for industry, workers, civil society, and governments from OECD Members and non-Members.

83. The draft EU regulation based on the Guidance and our close cooperation with the Commission furthermore shows the continued relevance of the Guidance and Council Recommendation. This relevance is not limited to OECD and Adherent countries; close cooperation with OECD’s Key Partners, such as the China Chamber of Commerce of Metals, Minerals and Chemicals Importers & Exporters (CCCIMC) on developing a Chinese version of the Due Diligence Guidance, furthermore shows the strategic importance of the Guidance as a global standard.

### **Updating the Guidance – beyond tin, tantalum, tungsten and gold**

84. The Recommendation continues to be highly relevant and does not require revision. However, while the Recommendation is global in its application and applies to all mineral resources, confusion persists as the Introduction to the Guidance itself specifically references tin, tantalum, tungsten (3T) and gold. A wording change was proposed to the Investment Committee and the Development Assistance Committee.

85. The initial focus on 3T and gold was a consequence of the specific characteristics of illegal exploitation of these resources that supported and still supports non-state armed groups in the African Great Lakes region. Broader, non-sector-specific international legal instruments and standards on responsible business conduct, such as the MNE Guidelines and the UN Guiding Principles on Business and Human Rights, clearly recommend that all companies in all sectors should carry out due diligence to identify, prevent and mitigate actual or potential impacts of their operations or sourcing decisions. Despite this, the OECD Secretariat has witnessed regular misunderstanding about the wider applicability of the Guidance, and its relationship to the MNE Guidelines, namely as an instrument to help companies implement responsible business conduct standards in their mineral supply chain and prioritize severe risks associated with mineral production and trade.

## Way forward

86. To build on and consolidate achievements of the early years of implementation, companies should integrate the Guidance into their usual business practices and standards. This will entail sustained and increased commitment by Adherents to foster the dissemination and uptake of the Guidance by all companies operating within and from their territories, and to support outreach efforts to key markets that are currently not engaged in the global push for responsible supply chains of minerals.

87. Demonstrated leadership by Adherents is the strongest call to action to other countries. Non-Adherents, such as China and countries of the Africa's Great Lakes Region, have already taken considerable steps (including through regulatory interventions or other government-mandated measures) to promote - and ensure implementation of - the Guidance, often going beyond many measures taken by Adherents themselves. Adherents should thus increase their levels of transparency by reporting publicly on their activities to promote uptake of the Guidance, including where possible the cost and impact of action, in order to encourage other countries to engage in this movement. Future activities should ensure that the implementation of the Recommendation is expanded to other geographic areas, as well as to other mineral resources, as outlined in the Informal Ministerial Communiqué on Responsible Business Conduct released after the Informal Ministerial Meeting on Responsible Business Conduct on 26 June 2014.

88. To meet these goals, it is crucial that governments, industry and civil society maintain the energy and momentum so that mineral supply chains worldwide contribute to peace and stability instead of conflict and insecurity. In particular, Adherents could continue to implement the Recommendation through a number of measures:

- *Strengthen regulatory and policy coherence and interventions on responsible mineral supply chains, consistent with the Guidance*, considering the potential positive and negative impacts in mineral producing countries, and building off of existing government, industry or multi-stakeholder efforts. Regulatory interventions should ensure full alignment with the Guidance, which includes among others, support for creating economic and development opportunities for artisanal and small-scale miners, recognising the crucial expectation for companies to make progressive improvement in supply chain due diligence using reasonable and good faith efforts, and supporting auditing practices at identified choke points only, to avoid duplication and unnecessary costs.
- *Strengthen incentives for industry implementation of the Guidance and engagement in conflict-affected and high-risk areas*, including through conditioning public procurement, export credit and finance, and any other government-backed financing lending on demonstrated implementation of the Guidance.
- *Support the broader use and uptake of the Guidance in all high-risk mineral supply chains globally*, beyond 3TG, in particular in the precious stones and coal supply chains, and beyond Africa's Great Lakes Region.
- *Increase donor support and engagement in conflict-affected and high-risk areas to create an enabling environment for the effective implementation of the Guidance*. This could include support to responsible supply chain initiatives directly and mineral sector governance in producing countries, as well as broader interrelated support for security sector reform, customs enforcement and improved financial and real infrastructure in conflict-affected and high-risk areas.

- *Increase engagement with relevant national industry associations to promote the broadest possible use and implementation of the Guidance*, for example, in the extractives, metals and precious metals, electronics, jewellery, banking, aerospace, automotive, medical devices and heavy manufacturing sectors, among others.
- *Strengthen reporting by Adherents of their activities relating to the Guidance, both in terms of content and frequency.* The Secretariat considers drawing up a simple and short questionnaire to facilitate reporting by Adherents and gather more information on Guidance-related activities.

## APPENDIX I: 3 YEARS OF GLOBAL MINERAL SUPPLY CHAIN DUE DILIGENCE

### EXECUTIVE SUMMARY

89. Since the 1990s, natural resources have often been associated with the financing of non-state armed groups or public security forces and the perpetration of serious abuses of human rights in conflict-affected and high-risk areas.

90. Companies involved in mining and trade in minerals have the potential to generate income and foster local development. However, they may also be at risk of contributing to or being associated with significant adverse impacts, including serious human rights abuses and conflict, through their mineral producing, trading or procurement practices. The purpose of the 2011 Recommendation of the Council on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas<sup>36</sup> (hereafter the “Recommendation”) is that Members and non-Members having adhered to it (hereafter the “Adherents”) promote the observance of the Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (hereafter “the Guidance”).

91. The Guidance aims at helping companies respect human rights and avoid contributing to conflict through their sourcing decisions, including the choice of their suppliers. It thereby helps companies contribute to sustainable development and source responsibly from conflict-affected and high-risk areas. The Guidance provides practical, five-step, risk based due diligence recommendations that can be used for any mineral supply chain, with additional targeted and tailored recommendations to entities at different points in the supply chains of tin, tantalum and tungsten and gold (3TG).

***The Guidance is the international standard to tackle conflict financing and human rights abuses in mineral supply chains***

92. The Guidance is widely considered by governments and the global private sector as the international standard and benchmark for companies to use in order to carry out due diligence and set up risk identification, assessment and management processes for supply chains from conflict-affected and high-risk areas.

93. Multiple Adherents have in particular referenced and / or integrated the Guidance in national regulation. In 2010, the US Congress included a provision (section 1502) in the Dodd–Frank Wall Street Reform and Consumer Protection Act pertaining to trade involving so-called ‘conflict minerals’ - (3TG) - produced in the Democratic Republic of the Congo (DRC) and adjoining countries. The US Securities and Exchange Commission (SEC) at that time recognised the Guidance as an international framework available to companies to help them meet their reporting obligations. On 5 March 2014, the European Union (EU)

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<sup>36</sup>

[\[C/MIN\(2011\)12/FINAL\]](#)

proposed an integrated approach to prevent illicit financial flows deriving from the illegal exploitation of 3TG from benefitting armed groups. The European Commission proposed a draft regulation setting up an EU system of self-certification for importers of tin, tantalum, tungsten and gold who choose to import responsibly into the EU. Self-certification would require EU importers of these metals and their ores to exercise due diligence in line with the OECD Guidance.

94. Governments of non-Members producing minerals are also using the Guidance. The governments of Burundi, the DRC, and Rwanda have integrated it into their legal frameworks. The International Conference on the Great Lakes Region (hereafter “ICGLR”) developed a comprehensive approach to put an end to the predatory use of natural resources, setting up a Regional Certification Mechanism<sup>37</sup> (RCM) for mining and trading of minerals from the region, designed to be consistent with the Guidance. In parallel, national authorities from the People’s Republic of China (China), Turkey and the United Arab Emirates, have also taken steps to support the implementation of the Guidance within their borders, focusing more specifically on smelters and refiners of minerals.

95. The global private sector has developed multiple initiatives, designed to implement the recommendations of the Guidance in producing areas, with a specific focus on the 3T sector, and so far with an exclusive focus on the Great Lakes region (GLR). These initiatives have demonstrated that responsible supply chain management can help companies contribute towards inclusive growth and constructive engagement in the informal sector. With regards to gold, although many initiatives are now being implemented, to date they have yet to legally export artisanally-mined gold from Africa’s GLR in line with the provisions of the Guidance. Gold presents specific challenges due to the nature of the commodity and its high value-to-volume ratio in particular.

96. Furthermore, in order to implement step 4<sup>38</sup> of the 5-step framework, industry actors have developed a series of programmes specifically focusing on the smelting / refining stage, which has been identified by relevant stakeholders as the ‘choke point’ of 3TG supply chains. Industry initiatives estimate that approximately 90% of all refined gold, 95% of smelted tantalum and 75-85% of smelted tin produced every year is covered by industry audit programmes designed to implement the Guidance<sup>39</sup>, although some of these programs have limited geographic scope.

97. Finally, a range of initiatives has been created to facilitate the implementation of the Guidance by downstream<sup>40</sup> companies and build their capacities, in particular in the United States where industry programmes were developed to support local companies (a significant number of which are small and medium-sized enterprises) comply with Section 1502 of the Dodd-Frank Act.

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<sup>37</sup> The ICGLR Heads of States adopted the RCM in the [Lusaka Declaration](#) on 15 December 2010, endorsing the Due Diligence Guidance. The Due Diligence Guidance has thus been incorporated into national legal frameworks in the DRC, Burundi and Rwanda, as well as through the ICGLR Regional Certification Mechanism, which is a regional policy applicable to the 12 Member States.

<sup>38</sup> Which recommends that “companies at identified points in the supply chain should have their due diligence practices audited by independent third parties”

<sup>39</sup> These programmes are led by the CFSI, iTSCi, the LBMA, the RJC and the DMCC.

<sup>40</sup> *i.e.* from refiner/smelter to end product

*Diverse drivers of implementation efforts*

98. A combination of political, consumer, regulatory pressures and stakeholder engagement processes has enabled an impressive amount of action on responsible mineral sourcing and support for the implementation of the Guidance in a relatively short amount of time.

99. The leadership from the highest political levels was instrumental in driving industry action and regulatory interventions. This included: the OECD Council in adopting the Recommendation in 2011; mandates and support from the G8 for responsible sourcing and OECD-ICGLR collaboration; 7 distinct UN Security Council Resolutions<sup>41</sup>; endorsement by Heads of State of ICGLR countries; leadership from US Congressmen to include section 1502 in the Dodd-Frank Act; the Ministerial Communiqué from the 2014 Global Forum on Responsible Business Conduct; and endorsement through the introduction of the EU's integrated approach on responsible sourcing of minerals originating in conflict-affected and high-risk areas.

100. The good cooperation and buy-in from mineral producing, processing and trading countries - in the Great Lakes region, the Middle East and in Asia – has also helped build-up local buy-in from private sector operators, and ensure progressive implementation of the Guidance in these geographies. The market access implications of the US and EU draft regulations has also proved valuable in this regard to convince local businesses to join international efforts. The involvement of local and international civil society<sup>42</sup> to create pressures on governments and industry, as well as the active participation of industry and other stakeholders in setting standards and ensuring their implementation were other crucial drivers of success. Industry initiatives have had a ripple effect across the various sectors implicated, driving awareness and engagement from their members.

101. Finally, support by donors has also been key in creating the momentum for all stakeholders to get and stay engaged. Belgium, Canada, the European Union, Germany, Norway, Sweden, Switzerland, and the United Kingdom have also significantly supported the work of the OECD Secretariat through voluntary contributions.

*Impacts of due diligence implementation and remaining challenges*

102. While it is still too early to draw firm conclusions, there are indications that due diligence contributes to breaking the link between mineral extraction and trade and conflict in the GLR, at least with regards to 3T mines. The UN Group of Experts on the DRC (“UN Group”) reports since 2012 that as a result of the implementation of due diligence “the security situation at tin, tantalum and tungsten mine sites has improved and trade in tin, tantalum and tungsten has become a much less important source of financing for armed groups”<sup>43</sup>. It also reported that the implementation of private sector due diligence efforts in the DRC and Rwanda had resulted in increases in government revenues and improved government capacity to monitor the mineral sector. In addition, the implementation of due diligence in global mineral supply

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<sup>41</sup> The only Chapter VII Resolutions of the UNSC in which it referred to the work of the OECD were the ones adopted in the context of the DRC and Côte d’Ivoire emphasizing the need for greater transparency and oversight of supply chains of minerals in these two countries. See in particular resolution 1952 (2010) and resolution 2219 (2015)

<sup>42</sup> Particularly Global Witness, Enough Project, Partnership Africa Canada and Amnesty International

<sup>43</sup> Letter dated 12 November 2012 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council, paragraph 221, S/2012/843.

chains has resulted in major improvements in supply chain transparency, including in the emergence of multiple lists of all known 3TG smelters and refiners and the publication of associated audit reports.

103. However, challenges persist. The UN Group of Experts 2014 report<sup>44</sup> states that armed groups continue to control many mine sites and profit from mining and the minerals trade. The UN Group estimates that in 2013 98% of gold produced in the DRC was smuggled out of the country and that nearly all of the gold traded in neighbouring Uganda – the main transit country for Congolese gold – is illegally exported from the DRC. The Group also reports of continued smuggling of 3T minerals and its potential to undermine the credibility and progress of international certification and traceability mechanisms. There is also a common agreement that the advancement of reforms needed to boost the implementation of the ICGLR RCM in the countries concerned has been slow.

104. Other significant hurdles need to be overcome, linked to the practical implementation of the Guidance. In particular, there is still a long way to go for companies to fully implement the reporting component of the Framework (step 5). Further harmonisation between industry programmes is also needed.

105. Finally, it remains difficult to demonstrate the actual effects of the Guidance on the economic development of local communities and on the overall improvement of human rights' protection. To date, most supply chain due diligence efforts have focused on implementing traceability, and have yet to consider ways to prevent risks and address the root causes of human rights abuses. This is particularly the case for issues such as child labour and impacts on gender in mining areas.

106. In order to address the challenges identified above, it is crucial that Adherents and other governments, private sector operators and civil society representatives continue to implement the Guidance through a number of measures: (i) *Strengthen regulatory and policy coherence and interventions on responsible mineral supply chains, consistent with the Guidance*; (ii) *Strengthen incentives for industry implementation of the Guidance and engagement in conflict-affected and high-risk areas*; (iii) *Support the broader use and uptake of the Guidance in all high-risk mineral supply chains globally*; (iv) *Increase donor support and engagement in conflict-affected and high-risk areas to create an enabling environment for the effective implementation of the Guidance*; And (v) *increase engagement with relevant national industry associations to promote the broadest possible use and implementation of the Guidance*.

107. To contribute to these long term objectives, the Investment Committee and Development Assistance Committee approved a 2015-16 work plan<sup>45</sup> aimed at achieving a number of important interrelated results: (i) *Enhanced positive impact of due diligence in conflict-affected and high-risk areas*; (ii) *Increased transparency and accountability globally in mineral supply chains*; And (iii) *improved understanding and awareness of natural resource-related conflicts, the informal economy and the role of the private sector, and increased implementation of the Guidance beyond tin, tantalum, tungsten and gold supply chains*

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<sup>44</sup> Final report of the UN Group of Experts on the Democratic Republic of Congo pursuant to Security Council resolution 2078 (2012), and in accordance with paragraph 5 of that same resolution, 23 January 2014, S/2014/42

<sup>45</sup> [COM/DAF/INV/DCD/DAC\(2015\)1](#).

## I. INTRODUCTION

108. Over the course of the last decade, consumers, policy makers, regulators and the general public have become increasingly concerned about the negative impacts associated with the extraction of raw materials and the production of consumer goods in global supply chains. Such concerns are being addressed through a range of international efforts and standards, among them the UN Guiding Principles for Business and Human Rights and the 2011 update of the OECD Guidelines for Multinational Enterprises (hereafter the “MNE Guidelines”), which forms an integral part of the Declaration on International Investment and Multinational Enterprises<sup>46</sup> and includes a new and comprehensive approach to due diligence and responsible supply chain management.

109. This rising global awareness means that there is an increasing attention on the negative impacts and the role of all stakeholders in supply chains of minerals. Conversely, effective supply chain due diligence and proactive management of risks and impacts can provide an important opportunity to enable market access, job creation and skills development in producing areas, enabling inclusive growth and effective private sector engagement in the informal economy.

110. While governments and businesses have been identified as the key players in ensuring responsible production and sourcing practices, civil society campaigns have highlighted the role of consumers, asking them to demand responsible business conduct from global brands. This bottom-up movement has been further empowered by top-down legislative changes; national governments such as the United States and regional intergovernmental bodies such as the International Conference in the Great Lakes Region (ICGLR) and currently the European Union are increasingly regulating the conditions of international trade of mineral supplies to eliminate links to armed conflict and foster socio-economic development, while political pressure – for example through UN Security Council resolutions, regional bodies and the G7/8 – led to broader awareness of responsible mineral production and sourcing.

111. The OECD’s work on responsible mineral supply chains began in 2009, after calls from the G8 and requests from the ICGLR to help develop a framework to enable responsible sourcing of minerals from conflict-affected and high risk areas<sup>47</sup>. Recognising both the development potential of natural resource extraction and the associated risks of conflict financing and human rights abuses, the ICGLR launched in Nairobi on 15 December 2006, a Regional Initiative against the Illegal Exploitation of Natural Resources (RINR), which contains six tools to curb illegal exploitation of natural resources and aims to contribute to regional peace-building efforts. As part of this initiative, the ICGLR’s collaboration with the OECD, the UN Group of Experts (GoE) on the Democratic Republic of Congo (DRC), consuming countries, business and civil society led to the development of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (hereafter “Guidance”).

112. The Guidance was developed between 2009 and 2011 through a multi-stakeholder process, involving OECD Members and non-Members (notably Africa’s Great Lakes region, and representatives from Brazil, South Africa and Malaysia); representatives from the private sector; and representatives from civil society. It seeks to ensure conflict-sensitive and responsible global sourcing practices by setting due diligence principles and processes for companies that emerging industry-led supply chain initiatives should also follow. The Guidance was approved by the Investment Committee (meeting in enlarged session for

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<sup>46</sup> First adopted by the Governments of OECD Member countries on 21 June 1976, it has been reviewed on several occasions since then (1979, 1984, 1991, 2000 and 2011).

<sup>47</sup> L’Aquila G8 Summit Leaders Declaration: Responsible Leadership for a Sustainable Future, 10 July 2009

work related to the Declaration on International Investment and Multinational Enterprises and related instruments) and the Development Assistance Committee (DAC) respectively on 3 and 25 November 2010. It was also endorsed by eleven Heads of State and Government of the International Conference on the Great Lakes Region (ICGLR) in the Lusaka Declaration, adopted on 15 December 2010<sup>48</sup>. The full text is reproduced in document C/MIN(2011)12/ADD1.

113. Shortly after the approval of the Guidance, the Investment Committee and Development Assistance Committee proposed to Council the adoption of a draft Recommendation based on the Guidance in recognition of the need for governments to take appropriate measures to ensure that companies are aware of these due diligence recommendations and observe them – and in order to promote the visibility and global reach of OECD work in the area of responsible business conduct. The Recommendation of the Council on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (hereafter the “Recommendation”) was adopted at the OECD’s 50<sup>th</sup> Anniversary Ministerial Council Meeting on 25 May 2011 [C/MIN(2011)12/FINAL]<sup>49</sup>.

114. The Recommendation is addressed to OECD Members and non-Member Adherents to the Declaration on International Investment and Multinational Enterprises (hereafter the “Investment Declaration”). It is also open to adherence to other non-Members. To date, in addition to the 34 OECD Members, nine non-Members, namely Argentina, Brazil, Colombia, Costa Rica, Latvia, Lithuania, Morocco, Peru and Romania, which are all Adherents to the Investment Declaration, have also adhered to the Recommendation.

115. The Recommendation was amended by Council on 17 July 2012 to include a reference to the Supplement on Gold [C(2012)93] which provides specific guidance on supply chain due diligence of gold from conflict-affected and high-risk areas according to the different positions of companies in the gold supply chain. It distinguishes between the roles of and the corresponding due diligence recommendations addressed to upstream companies and downstream companies in the supply chain and includes, where necessary, specific recommendations to the specific actors within those two broad categories.

116. This report is structured in three main sections. **Section one** explains key concepts such as mineral production and supply chains, conflict financing and due diligence and introduces the main aspects and requirements of the Guidance. **Section two** outlines efforts that have been carried out to implement the Guidance by a multitude of actors in the upstream, refiner and smelter level and downstream segments of mineral supply chains and by governments and civil society. Finally, **section three** analyses key trends and challenges relating to the work on responsible mineral supply chains, including the important aspect of assessing impacts, and looks at ways to strengthen continued uptake and implementation of the Guidance.

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<sup>48</sup> Lusaka Declaration of the ICGLR Special Summit to Fight Illegal Exploitation of Natural Resources in the Great Lakes Region, 15 December 2010

<sup>49</sup> It was subsequently amended on 17 July 2012 to include a reference to the Supplement on Gold [[C\(2012\)93](#)].

## II. ORIGIN AND CONTENT OF THE GUIDANCE

### Mineral Supply Chains and conflict financing

117. Companies involved in mining and trade in minerals have the potential to generate income, growth and prosperity, sustain livelihoods and foster local development. However, companies may also be at risk of contributing to or being associated with significant adverse impacts, including serious human rights abuses and conflict through their mineral producing, trading or procurement practices. The purpose of the Guidance is to help companies respect human rights and avoid contributing to conflict through their sourcing decisions, including the choice of their suppliers. By doing so, it will help companies contribute to sustainable development and source responsibly from conflict-affected and high-risk areas, while creating the enabling conditions for constructive engagement with suppliers.

### *Mineral production and trade contributing to conflict*

118. Conflict financing through mineral extraction and trade is a major impediment to peace, development and growth in mineral producing and transit countries. Since the end of the 1990s, natural resources have consistently been associated with the financing of armed conflicts and the perpetration of serious abuses of human rights. In the early 2000s, the increase in the international price of gold and other minerals led to increased interference by illegal armed groups, particularly with mining operations. The international community and industry stakeholders have responded with different measures, ranging from UN Resolutions to the creation of initiatives such as the Kimberley Process Certification Scheme<sup>50</sup>, established in 2003 to prevent so-called "conflict diamonds" from entering the international rough diamond market.

119. Non-state armed groups or public security forces in many regions around the globe are associated with serious abuses of human rights, and fund their activities through a multitude of activities, including:

- illegally controlling mine sites, transportation routes, or mineral traders;
- illegally taxing or extorting money or minerals from artisanal miners (see below), mineral traders and exporters;
- illegally taxing or extorting money or minerals at mine sites, transportation routes, or points where minerals are traded.

120. For instance, a recent report underlined that gold, minerals, but also timber, charcoal and wildlife products such as ivory, valued between US\$ 0.7 to 1.3 billion annually, are exploited and smuggled illegally out of the conflict zone and surrounding areas in eastern DRC<sup>51</sup>. The experts from the UN estimate that 10 to 30 per cent of this illegal trade (around US\$ 72 to 426 million per annum) goes to transnational organised criminal networks based outside eastern DRC. Around 98 percent of the net profit from illegal natural resource exploitation - particularly gold, charcoal and timber - goes to transnational organised criminal networks operating in and outside DRC.

<sup>50</sup> <http://www.kimberleyprocess.com/>

<sup>51</sup> UNEP-MONUSCO-OSESG. 2015. Experts' background report on illegal exploitation and trade in natural resources benefitting organized criminal groups and recommendations on MONUSCO's role in fostering stability and peace in eastern DR Congo. Final report. April 15th 2015.

121. However, illegal exploitation of natural resources occurs around the globe and does not only concern high-profile commodities such as diamonds and wildlife, but affects other types of mineral resources such as oil and gas<sup>52</sup>, gold<sup>53</sup>, precious stones<sup>54</sup>, coal<sup>55</sup> and copper<sup>56</sup>. While not all illegal exploitation of natural resources contributes to conflict, any economic activity in conflict areas can be subject to illegal taxation and hence indirectly contribute to conflict financing. Conflict-affected and high-risk areas can be overly dependent on natural resources and lack conducive conditions, such as infrastructure, for the sustainable economic development of other sectors. Given the context of instability and their value and often fungible nature, minerals are an easy target for direct profiteering by illegal and non-state armed groups.

122. Conflict financing can also involve highly sophisticated money laundering schemes, in particular when gold and precious stones are involved.<sup>57</sup> In addition, illegal exploitation of mineral resources can also be linked to other kinds of illegal traffic such as drug trafficking. Illegal revenues can be used to finance armed groups or criminal organisations but also to purchase bulldozers, dredgers, and other machinery, allowing these groups to set-up their own mining operations, with a legitimate economic activity to launder their proceeds of crime.

***Serious abuses of human rights associated with the production and trade of minerals***

123. The positive and negative impacts of business activities and global supply chains on human rights have received increasing attention globally over the past decade. A number of international legal instruments, standards and principles have been developed to clarify the international responsibilities of business in this regard. The 2011 update of the OECD Guidelines for Multinational Enterprises included a new, state of the art human rights chapter, aligned with the UN Guiding Principles on Business and Human Rights, laying out a common framework around the ‘state duty to protect human rights, corporate responsibility to respect human rights, and access to remedy’.<sup>58</sup>

124. The Guidance focuses on the most severe human rights impacts associated with mineral exploitation and trade. Companies are not only faced with the risk of directly or indirectly contributing to conflict; they can also be linked to serious abuses of human rights through their own operations or their sourcing practices. Specifically, the Guidance includes recommendations covering:

<sup>52</sup> “How Does ISIS Fund Its Reign of Terror?”, Newsweek, Janine Di Giovanni, Leah McGrath Goodman, Damien Sharkov, November 6, 2014 ; Remarks of Under Secretary for Terrorism and Financial Intelligence David S. Cohen at The Carnegie Endowment For International Peace, “Attacking ISIL’s Financial Foundation”, October 23, 2014 (<http://www.treasury.gov/press-center/press-releases/Pages/jl2672.aspx>).

<sup>53</sup> Letter dated 12 January 2015 from the Chair of the Security Council Committee concerning the Democratic Republic of the Congo, paragraph 190, S/2015/19; Letter dated 13 April 2015 from the Chair of the Security Council Committee concerning Côte d’Ivoire, paragraph 177, S/2015/252.

<sup>54</sup> Letter dated 2 February 2015 from the Chair of the Security Council Committee established pursuant to resolution 1988 (2011), paragraph 27, S/2015/79.

<sup>55</sup> “The Dark side of coal”, Pax Christi, June 2014.

<sup>56</sup> “There is more than 3TG”, Centre for Research on Multinational Corporations, January 2015

<sup>57</sup> See “Money laundering / terrorist financing risks and vulnerabilities associated with gold”, Financial Action Risk Force, July 2015 (available at : <http://www.fatf-gafi.org/topics/methodsandtrends/documents/ml-tf-risks-and-vulnerabilities-gold.html>).

<sup>58</sup> UN Guiding Principles on Business and Human Rights, UN 2011.

- any forms of torture, cruel, inhuman and degrading treatment;
- any forms of forced or compulsory labour;
- the worst forms of child labour;
- other gross human rights violations and abuses such as widespread sexual violence;
- war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide.

125. These types of abuses are even more likely to occur in conflict-affected and high-risk areas, characterized by political instability, institutional weakness, insecurity, absence of trustworthy public security forces, etc. It is however important to note that serious abuses of human rights can occur anywhere, including in countries and regions that appear to be more stable.

126. In the context of international legal instruments and standards, such as the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles, companies now have the responsibility to examine the entire range of human rights impacts. While it is important that companies carry out broader human rights impact assessments, the Guidance helps them prioritise, focusing on conflict and severe human rights abuses.

### *The mineral supply chain*

127. Minerals form the basis of most industrial processes, integrated into components that are often manufactured, assembled or produced in facilities spread around the globe. Most supply chains start with or integrate at some stage entities that extract, trade, refine / smelt and use minerals. Over the past twenty years, the globalisation of manufacturing processes has been associated with an ever growing number of challenges linked to the increasing complexity of international supply chains and the adverse impacts caused by industrial activities that produce globally traded goods.

128. The process of bringing a raw mineral to the consumer market involves multiple actors and generally includes the extraction, transport, handling, trading, processing, smelting, refining and alloying, manufacturing of components and sale of the end product. The term supply chain refers to the system of all the activities, organisations, actors, technology, information, resources and services involved in moving the mineral from the extraction site downstream to its incorporation in the final product for end consumers.<sup>59</sup>

**Figure 1. Simplified mineral supply chain**



<sup>59</sup> OECD Due Diligence Guidance, Second Edition, page 14.

129. The global mineral supply chains are highly complex, fluid and dynamic. For example, one of tin's primary application is for solder, which is used in almost any item that contains a plug, switch or circuit board. A typical consumer device containing tin can include anywhere between two and eight "tiers" of suppliers and sub-suppliers between the mine site of tin ore production and the point in the supply chain where the ore is smelted and refined into a usable metal form (i.e. the smelter / refiner). Refined tin then enters the market after smelting and refining as small parts of various components that are integrated into end products. A brand-name company that manufactures products containing tin may be anywhere from three to eight additional tiers away from the smelter and refiner stage in the supply chain. Although there are relatively few mineral smelters for tin (about 20 smelters produce 90% of refined tin globally), this vast, complex number of tin suppliers and sub-suppliers make it extremely challenging for so-called "downstream companies" that do not have a direct commercial relationship with a smelter, to identify the source of minerals and the conditions under which these minerals were mined or traded.

130. In terms of supply chain due diligence (explained in more detail below), many of the most severe impacts occur at the mining or transport stage, *i.e.* on the upstream component of the global supply chain. Minerals are produced in very different conditions around the world. Impacts from industrial, large-scale mining operations have been well documented and elicited multiple policy and industry responses for a number of years. However, a significant number of supply chains of minerals integrate some form of artisanal and small-scale mining (ASM) activity; this is particularly the case for tin, tungsten, tantalum and gold. In conflict-affected and high-risk areas, ASM activities are particularly vulnerable to extortion and the control of armed groups. In some instances, these illegal activities also target medium to large-scale mining operations, either through direct extortion or in more subtle ways, such as through contracting professional services (*e.g.* security, recruitment agencies etc.) to mining operators.

131. Artisanal and small-scale mining refers to informal mining activities that are carried out using low technology or minimal machinery, involving very limited financial investments, a large labour force and yielding relatively low levels of productivity. Artisanal mining can be practised by individuals, groups or entire communities. ASM is largely informal and mostly illegal, operating without official mining titles. In many cases, ASM activities supplement other professional activities, such as agriculture (it is then practiced seasonally and occasionally), or vice versa. However, commodity price increases since the early 2000s have seen many farmers quit their previous and turn to mining, despite its many safety and security challenges.

### **Box 2. Artisanal and small-scale mining**

Artisanal and small-scale mining are formal or informal mining operations with predominantly simplified forms of exploration, extraction, processing and transportation. ASM is normally low capital intensive and uses high labour intensive technology. ASM can include men and women working on an individual basis as well as those working in family groups, in partnership, or as members of cooperatives or other types of legal associations and enterprises involving hundreds or even thousands of miners. For example, it is common for work groups of 4 to 10 individuals, sometimes in family units, to share tasks at one single point of mineral extraction (*e.g.* Excavating one tunnel). At the organizational level, groups of 30 to 300 miners are common, extracting jointly one mineral deposit (*e.g.* working in different tunnels), and sometimes sharing processing facilities.

ASM can negatively affect and impact water, agricultural lands, forests and other resources. It is also often associated with sudden and large movements of workers and communities providing services to the miners (such as ambulant shops, small restaurants and even sex workers) when new sites are discovered or movements in commodity prices make sites more or less attractive. Such movements between mining sites can lead to conflict between miners, communities and indigenous populations. Substance abuse, alcoholism, communicable diseases as well as serious abuses of human rights (see section 'Serious abuses of human rights' below) are also reported.

Women are widely involved in artisanal mining activities. It is estimated that between 20 and 30% of the world's artisanal miners are women, who occupy a number of roles ranging from labour-intensive mining methods to processing and transport. Children, boys and girls, are also present on artisanal mining sites, where their role greatly

varies. While they often only accompany their parents, they often start working, including in mineral extraction, digging, crushing, grinding and washing ore or supporting the adults through a variety of services, such as bringing water. This can involve the worst forms of child labour<sup>60</sup>.

It is difficult to estimate the number of artisanal miners globally. Recent studies indicate that there are between 23 and 25 million artisanal miners worldwide, with 110 to 150 million people indirectly reliant on ASM<sup>61</sup>. However, figures are difficult to establish; estimates for artisanal and small-scale gold mining for example vary widely. ASM in gold is believed to be employing between 2 and 15 million people while ASM work in sand, gravel and coal exploitation is estimated to employ as many as 15 million people. ASM activities are taking place mainly in developing countries in Africa, Asia and Latin America and for some commodities, ASM can represent as much as 25 percent of world production.

Despite the challenges presented above, artisanal mining can play a major role in rural development and security through job creation, skills development, local economic growth stimulation, thus reducing rural unemployment and urban migration. It is often the only highly profitable activity available for vast proportions of the local population that are often both young and unemployed. Recent research carried out in eastern DRC in 2014<sup>62</sup> revealed that “*cassiterite (tin) miners would earn on average between US\$ 67 and 100 per month. For gold, the average lies somewhere between US\$70 and 105 per month*”. In 2014, in the DRC, the gross national income per capita, which is a commonly used to reflect the average annual income of a country’s citizens was 430\$<sup>63</sup>. In Rwanda, the situation is comparable; the median income of ASM 3T miners is 90 USD/month and miners receive roughly 40% of the 3T mineral export value.<sup>64</sup> A significant proportion of artisanal miners in post-conflict areas used to be active members of non-state armed groups. The ASM sector thus provides an opportunity for former soldiers to reintegrate into the ‘regular’, yet informal, economy.

<sup>60</sup> “Minerals and Africa’s Development The International Study Group Report on Africa’s Mineral Regimes”, United Nations Economic Commission for Africa, 2011.

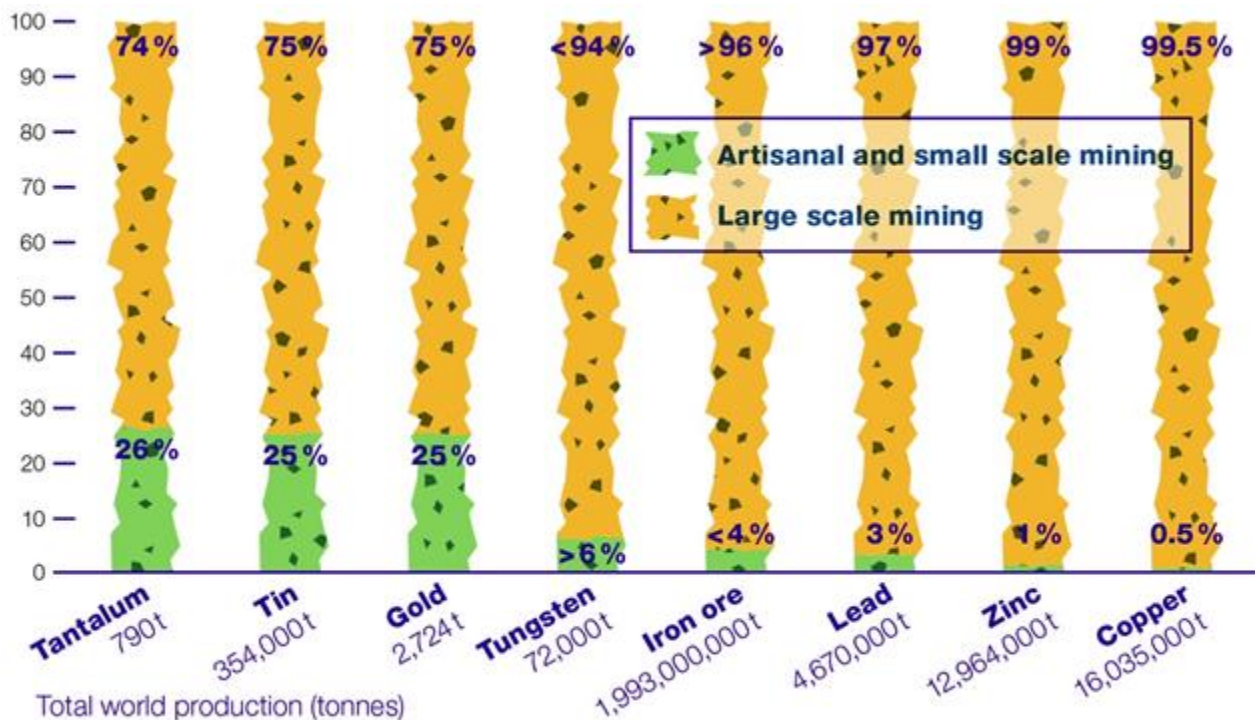
<sup>61</sup> <http://www.miningfacts.org/communities/what-is-artisanal-and-small-scale-mining/#sthash.W4bDTFoA.dpuf>

<sup>62</sup> “Analysis of the interactive map of artisanal mining areas in Eastern DR Congo: May 2014 update”, IPIS

<sup>63</sup> According to the World Bank: <http://data.worldbank.org/country/congo-dem-rep>

<sup>64</sup> Cook, Rupert and Mitchell, Paul: Evaluation of Mining Revenue Streams and Due Diligence Implementation Costs along Mineral Supply Chains in Rwanda, Analysis Report for BGR, November 2014: <http://www.estellelevin.com/wp-content/uploads/2015/01/Mining-Revenues-and-Due-Diligence-Rwanda-Analysis-Report.pdf>

Figure 2. Share of global mineral production: Large-scale mining vs. artisanal and small-scale mining (2009)



**What is due diligence?**

132. Traditionally, due diligence relates to the identification and management of risks to a company in the perspective, for instance, of a potential investment. In this context, due diligence covers the process of investigating all facts, conditions, rules, laws, regulations, financial considerations, or any other such matters as would affect one's decision<sup>65</sup>.


133. In the context of responsible mineral supply chains, due diligence is understood as the process through which enterprises can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management systems.

134. For the purposes of the Guidance, ‘risks’ are defined in relation to the potentially adverse impacts of a company’s operations, which result from a company’s own activities or its relationships with third parties, including suppliers and other entities in the

**Box 3. OECD Due Diligence Guidance - available in multiple languages**

The Due Diligence Guidance is available in full in English and French. Non-official translations are available in Japanese, Korean, Mandarin, Spanish (gold supplement only) and Turkish. It is also currently being translated into German.

The Simplified Guide to the Due Diligence Guidance is available in five languages: English, French, Lingala, Mandarin and Swahili.



<sup>65</sup> The Complete Real Estate Encyclopedia by Denise L. Evans, JD & O. William Evans, JD. Copyright © 2007 by The McGraw-Hill Companies, Inc

supply chain. Adverse impacts may include harm to people (*i.e.* external impacts), or reputational damage or legal liability for the company (*i.e.* internal impacts), or both. Such internal and external impacts are often interdependent, with external harm coupled with reputational damage or exposure to legal liability

135. Due diligence hence refers to the full range of processes and activities that a company uses to identify, prevent, mitigate and account for how it addresses actual and potential adverse impacts in their own activities but also in their supply chain. The concept of due diligence, as set out in the Guidance, is a dynamic, on-going process with supply chain information and associated risk identification, assessment and mitigation progressively improving as actors in the supply chain get more experienced with due diligence principles and implementation.

## About the Guidance

### *Objective*

136. The purpose of the Guidance is to help companies respect human rights and avoid contributing to conflict through their mineral production and sourcing decisions, including the choice of their suppliers. It was designed to harness responsible investment and trade, to drive change and create a peace dividend<sup>66</sup>. The Guidance is global in scope and is applicable to all minerals (see section ‘Going beyond 3T and Gold’ below).

137. The Guidance is global in scope, meaning that companies can use its recommendations to exercise due diligence in any jurisdiction around the world, and that it does not focus on any particular area, region or country. Together with relevant legal instruments such as the OECD Guidelines for Multinational Enterprises, the Guidance can and should be used for any mineral supply chain. All companies using mineral resources should conduct risk-based due diligence aimed at ensuring that they do not contribute to serious human rights abuses or conflict financing.

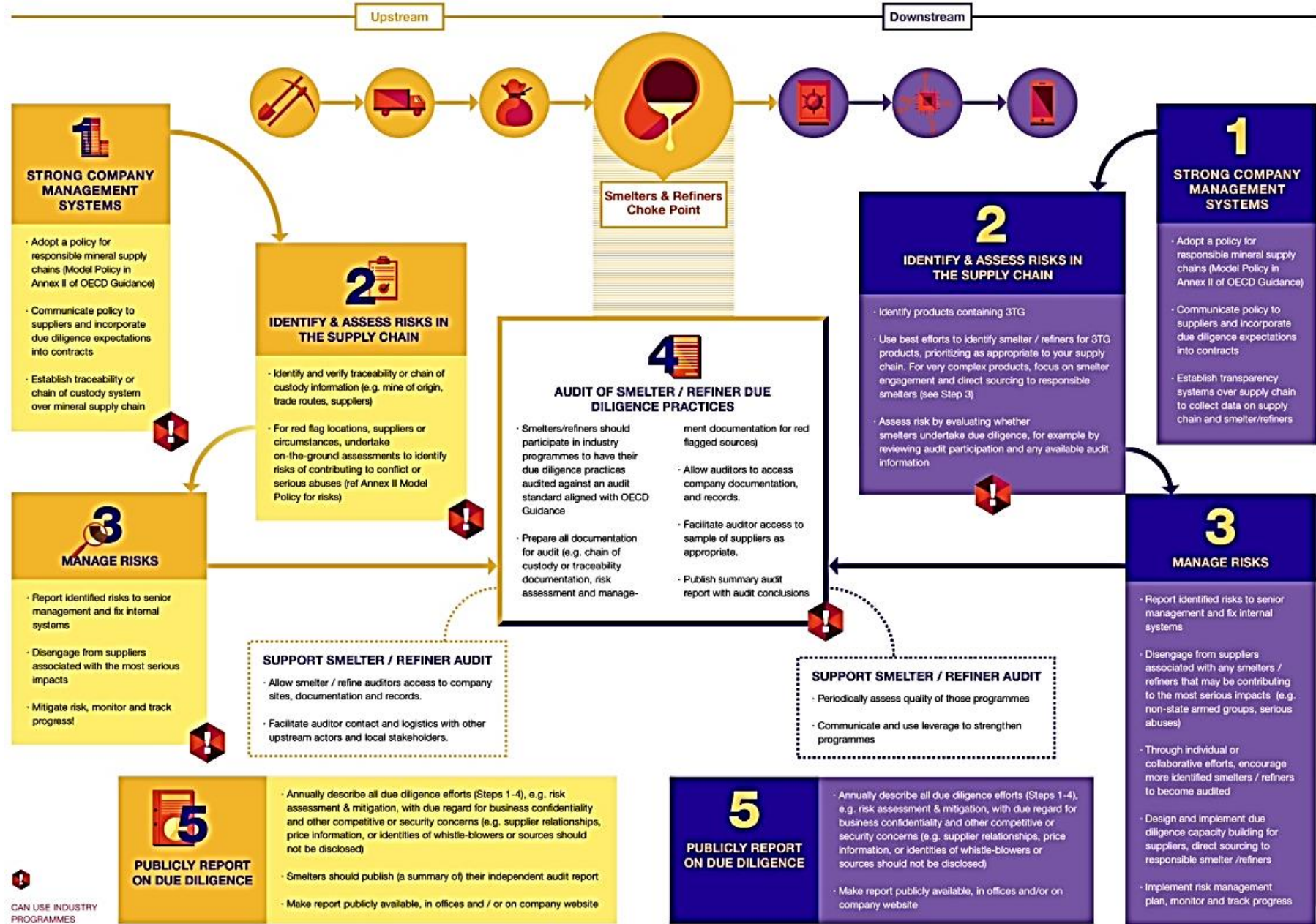
138. The Guidance recognises that due diligence in conflict-affected and high-risk areas presents practical challenges and as such recommends that these challenges be met in a variety of ways, including through industry-wide cooperation, costs sharing schemes within industry, coordination between industry members and cooperation along the supply chain. This might also be applicable to risk identification, assessment and mitigation.

139. As a common point of reference for companies operating from the extraction stage to the consuming / retailing stage, the Guidance promotes one set of expectations throughout the entire mineral supply chain. It puts forward a 5-step risk-based due diligence process, applicable to all companies throughout the mineral supply chain that potentially use minerals from conflict-affected or high-risk areas. As shown in the graphic, the five steps entail the setting up of company management systems, risk identification and assessment, risk mitigation and monitoring, audits of due diligence practices by the refiner / smelter and last but not least annual reporting on company due diligence and risk assessment findings.

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<sup>66</sup> “Peace dividends have been historically attributed to increased expenditures on social spending (as less is spent on military spending), resting on the assumption that this promotes peace. The United Nations and other international actors now use the concept to describe timely and tangible deliverables, which in particular contexts can facilitate social cohesion and stability, build trust in the peace process and support the state to earn legitimacy under challenging conditions”, Peace dividends and beyond: contributions of administrative and social services to peacebuilding, page 16, United Nations Peacebuilding Support Office, 2012.

Figure 3. Simplified 5-step due diligence process



Source: Adapted from the OECD Due Diligence Guidance for Responsible Mineral Supply Chains and Final Implementation Reports from the 3T Pilot (available at: <http://www.oecd.org/daf/inv/mne/implementingtheguidance.htm>). Refer to the official text of the Due Diligence Guidance for all steps and further details.

#### Box 4. Identifying conflict-affected and high-risk areas

The Guidance describes conflict-affected and high-risk areas broadly and does not provide a list of affected countries or regions. The underlying rationale for this approach is that the expectation of a company to act responsibly is tied to the potential impacts of its operations or sourcing decisions, not to the geographic location of that company's operations or sourcing activities, which can only provide context for the types of risk which may arise in their supply chains. This is consistent with the underlying normative principles established in the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.

The Guidance stipulates that all companies, wherever they might be producing or sourcing from, should carry out initial steps of due diligence (e.g. step 1 and 2) to be able to determine if it needs to perform enhanced due diligence, for example if companies have reasons to believe that they may directly or indirectly be connected to serious abuses of human rights or conflict financing.

#### *Core principles*

140. The Guidance is based on a number of core principles that can be summarised as follows:

- **Due diligence should be risk-based**, meaning that it should be tailored to the level of risk identified in the mineral supply chain. For example, if a company sources minerals from Australia and from eastern DRC, the level of due diligence that it needs to carry out on Australia is minimal while it should spend more resources on its suppliers from eastern DRC and those intermediaries that source from the DRC;
- The Guidance promotes a **progressive approach, focusing on good faith and reasonable efforts**, with a view to supporting constructive engagement with suppliers;
- Companies are encouraged to **integrate due diligence standards and principles** into existing due diligence practices and risk management systems such as those implemented to comply with anti-money laundering requirements;
- Industry initiatives can help companies implement the Guidance within their sector and market but **responsibility for carrying out due diligence rests with individual companies**; this means that while companies can use, for example, industry programmes to trace minerals or assess risks in mineral production areas, companies are responsible for making this information relevant to their own situation and ensuring that the level of due diligence that is carried out is adequate.

#### *Supplements for tin, tungsten, tantalum and gold*

141. Two supplements were developed, focusing on the specificities and characteristics of the tin, tungsten, tantalum and gold supply chains<sup>67</sup>. The reason for this focus is that these mineral resources are most widely associated with conflict financing and serious abuses of human rights in the Great Lakes region of Africa, the initial focus of the implementation programme (see 'Implementation of the Guidance' below). These minerals also have a high share of ASM production, and risk of severe impacts relating to conflict and human rights abuses exist in many jurisdictions where these minerals are produced.

<sup>67</sup> The Supplement on Tin, Tantalum and Tungsten was part of the 2011 Recommendation [[C/MIN\(2011\)12/ADD1](#)] and the Supplement on Gold was added in 2012 [[C\(2012\)93](#)].

Figure 4. Overview of tin, tantalum, tungsten and gold



**Uses:** About half of tin production is used in solder and tin plating of steel. It is also widely used in the chemicals industry.

**Producing:** Most tin comes from cassiterite. In 2014, the top five countries for tin mining were China, Indonesia, Myanmar, Peru, Bolivia.



**Uses:** Notable uses include cemented carbides (also called hardmetals), mill products (lighting filaments, electrodes, electrical and electronic contacts, wires, sheets, rods and tungsten alloys) and steel and alloys.

**Producing:** In 2014, the top 5 countries for tungsten production are China, Russia, Canada, Vietnam and Bolivia.



**Uses:** Extracted from coltan, tantalum is mainly used in electronics capacitors for consumer electronics (e.g. mobile phones, DVD players, etc.). Tantalum is also a critical component in the manufacture of semiconductors, chemical processing equipment, etc.

**Producing:** The top 5 countries for tantalum mining are Rwanda, DRC, Brazil, Mozambique and China.<sup>1</sup>



**Uses:** Due to its intrinsic high-value, gold acts as both a commodity and a currency which is traded for value through a range of formal and informal networks. Gold is used in jewellery and high-technologies. 39% of all refined gold production in 2010 came from the recycling of existing stocks of gold, usually in the form of jewellery, gold bars, coins, etc.

**Sources:** In 2014 China was the largest producer of gold worldwide, accounting for around 15 per cent of total production. Asia as a whole produced 22 per cent of the total annual gold production, while Central and South America produced around 17 per cent, and North America 15 per cent. Roughly 20 per cent of production comes from Africa and 14 per cent from the CIS region.<sup>2</sup>

<sup>1</sup> <http://tantaluminvestingnews.com/4857-2013-top-tantalum-producers-rwanda-brazil-drc-canada.html>

<sup>2</sup> World Gold Council

*A dynamic coalition of willing stakeholders*

142. In order to ensure the effective implementation of the Recommendation that calls for the progressive dissemination of the Guidance, a multi-stakeholder implementation programme was set up by the Investment Committee and the Development Assistance Committee in 2013.

143. The internal governance of the multi-stakeholder implementation programme of the Guidance is defined by the long-term governance arrangement, approved by the Investment Committee and the Development Assistance Committee by written procedure on 28 February 2013.<sup>68</sup>

144. As instructed by Council, the Investment Committee (IC) and the DAC monitor the implementation of the Recommendation. The Working Party on Responsible Business Conduct (WPRBC), a subsidiary body of the IC, and the Advisory Group on Investment and Development, a joint body of the IC and DAC, oversees activities related to the implementation of the MNE Guidelines and other OECD activities related to responsible business conduct more broadly, including this implementation programme.

145. To support the implementation programme and advise the OECD, a multi-stakeholder 3T and gold joint forum (Forum) has been established (see below “A multi-stakeholder approach”). The Forum and its Multi-stakeholder Steering Group (MSG)<sup>69</sup> are not OECD bodies but informal expert groups with a clearly delineated mandate. The MSG serves as the advisory and management committee for the multi-stakeholder Forum. Its functions include: preparation of all issues for consideration by the Forum; updating Forum participants on significant developments between meetings of the Forum; liaison with other international or regional bodies with respect to the programme; coordination of outreach activities with respect to the Guidance and the programme; providing guidance and support to the secretariat with respect to operational aspects of the programme.

*A multi-stakeholder approach*

146. Over 500 stakeholders from governments (producing, processing and consuming countries), international organisations, the private sector (a variety of companies connected to the tin, tantalum, tungsten (3T) and gold mineral supply chains, as well as industry associations), local and international civil society, and experts (including audit, due diligence and consultancy firms, academics and think tanks) regularly take part in the implementation programme, be it through attendance of the bi-annual Forum meetings (see ‘ICGLR – OECD – UN GoE Forum meetings’ below), outreach events or hands-on implementation activities on the ground and in companies and supply chains. All stakeholders participate on a voluntary basis.

**Box 5. Multi-stakeholder initiatives: The Proactive Agenda**

When the OECD Guidelines for Multinational Enterprises were updated in 2011, the multi-stakeholder approach of the Due Diligence Guidance implementation programme inspired the inclusion of a specific mandate for the Investment Committee to pursue a ‘proactive agenda’ to support implementation of responsible business conduct in specific sectors and geographies. To date, Adherents to the Guidelines have initiated sector-specific projects on due diligence in the agriculture, extractives, textiles and financial sectors. All of those projects are based on the same due diligence approach, driven by demand from stakeholders and supported by multi-stakeholder advisory groups for industry, workers, civil society, and governments from OECD and non-OECD Members.

<sup>68</sup> <http://www.oecd.org/daf/inv/mne/LongTermGovernanceArrangement.pdf>

<sup>69</sup> More information on the current members of the MSG can be found here: <http://www.oecd.org/daf/inv/mne/3TG-Multi-stakeholder-Steering-Group-composition.pdf>

147. The rationale for such an approach lies in the complexity of the issues the Guidance seeks to address. While industry takes a leading role in implementing the Guidance, the role of governments and international organisations in creating the enabling conditions of law, enforcement, and security, as well as funding this initiative, is as essential. Local and international civil society actors play an important role in monitoring the conditions of resource extraction and trade as well as company activities and are key top disseminating information on risks, as well as building local capacity and raising awareness.

148. The implementation programme covers a wide range of activities. Its objectives are to:

- Improve global capacity to mitigate the illicit financing of armed conflict through the extraction and trade of minerals through market-based solutions, building due diligence capacity, awareness, trust and mutual confidence among stakeholders;
- Maximise the private sector's contribution to peace, security and sustainable development in conflict and high-risk areas by sharing experiences and lessons learnt on due diligence implementation by companies, industry associations and artisanal and small-scale mining enterprises, as well as by promoting and disseminating the Due Diligence Guidance on outreach activities;
- Improve the capacity of host countries' authorities in conflict-affected and high-risk areas to regulate, control and tax the production and trade of natural resources, thereby contributing to peace-building, stabilisation and sustainable development of mineral-rich areas.

149. The implementation programme of the Guidance is funded almost entirely from voluntary contributions of Adherents. Since 2011, the programme has benefited from financial support from Belgium, Canada, the European Union, Germany, Norway, Sweden, Switzerland, and the United Kingdom.

#### **Box 6. The role of Adherents**

The Recommendation recommends that its Adherents “*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*”.

This can be achieved in multiple ways:

- By integrating mineral supply chain due diligence requirements into national legal frameworks, such as through Section 1502 of the US Dodd–Frank Wall Street Reform and Consumer Protection Act or the draft European regulation on responsible supply chains of minerals from conflict-affected and high-risk areas;
- Support of the implementation programme, both through funding the work, and providing direction and advice by attending the bi-annual Forum and engaging in the implementation programme's MSG.
- Promotion and dissemination of the Due Diligence Guidance through multiple activities including making the Guidance available on key government websites, translating the Guidance or summaries of it (Spanish, Japanese, Korean, Turkish), issuing explanatory brochures of the Due Diligence Guidance. Adherents also actively promote the Due Diligence Guidance throughout relevant meetings, seminars and workshops with industry and other stakeholders involved in due diligence efforts for responsible and conflict-sensitive supply

chains.

- National Contact Points<sup>70</sup> (NCP) from Adherents to the Investment Declaration have also engaged with in-country networks and industry, actively promoting the Due Diligence Guidance including through sector-specific due diligence guides. To date, NCPs and Adherents from Belgium, Canada, France, Japan, and the United Kingdom have hosted awareness-raising and training workshops on the Guidance. The Italian NCP has facilitated SME participation in research undertaken by Germany to support the implementation of the Due Diligence Guidance.
- More broadly, donors support the Due Diligence Guidance through direct, targeted funding to partner country and / or regional institutions (such as local ministries of mines or intergovernmental bodies such as the ICGLR), as well as through indirect measures aimed at creating an enabling framework for responsible mining.

150. The OECD Secretariat acts as a convener, facilitator and enabler, among other activities drafting tools and working papers, conducting outreach, trainings and capacity-building workshops, providing technical assistance to partners, fundraising and organising the bi-annual Forum meetings of all stakeholders.

#### ***ICGLR – OECD – UN Group of Experts Forum meetings***

151. As part of the implementation programme a multi-stakeholder Forum meeting has been held twice a year, in May and November, and is co-hosted by the OECD, the ICGLR, and the UN Group of Experts on the DRC. The Forum brings together the stakeholders that play an active role in the implementation programme. The Forum usually runs over three days and provides opportunities for participants to update each other on implementation progress and evolving regulatory developments, discuss common obstacles and address implementation challenges. Plenary sessions, break-out working groups and side-meetings provide different platforms for discussion while learning-sessions.

152. To date, nine Forum meetings have been held; seven were hosted in Paris and two meetings were held in mineral producing countries, namely Rwanda (November 2013) and the DRC (November 2014). Participant numbers have consistently been high, peaking at the last Forum meeting in May 2015 with more than 400 participants. A Forum website<sup>71</sup> provides all relevant documentation for the meetings, including agendas of all past meetings, and hosts links to participants' presentations after the meeting.

<sup>70</sup> In accordance with the Decision of the Council on the OECD Guidelines for Multinational Enterprises [C(2000)96/FINAL as amended], Adherents to the Investment Declaration have to set up National Contact Points whose main role is to further the effectiveness of the Guidelines by undertaking promotional activities, handling enquiries, and contributing to the resolution of issues that arise from the alleged non-observance of the guidelines in specific instances. More information can be found here: <https://mneguidelines.oecd.org/ncps/>

<sup>71</sup> <http://mneguidelines.oecd.org/icglr-oecd-un-forum-paris-2015.htm>

### III. IMPLEMENTATION OF THE GUIDANCE

153. Implementation of the Guidance takes different shapes and forms. Industry is the main implementer of the Guidance as the five-step framework for risk-based due diligence in the minerals supply chain (hereafter the “Framework”), reproduced in Annex I of the Recommendation, is designed for companies; many companies have joined forces and created industry initiatives to jointly work on responsible supply chain initiatives in various sectors. However, governments and civil society also play important roles, the former through the creation of an enabling environment for responsible mineral production and trade; the latter through the monitoring of security and human rights contexts in which mineral production and trade takes place and the activities of companies.

154. Most implementation activities by companies, governments, civil society and the OECD Secretariat to date have focused mainly on the African Great Lakes region, more specifically the DRC, Rwanda and to a lesser extent on neighbouring countries, such as Burundi and Uganda. This is the case for actors in both upstream (mine to smelter / refiner) and downstream (smelter / refiner to end product). However, actors in new commodities and new regions are increasingly interested in implementing the Guidance; for example, there is interest in expansion to new resources, for example, precious stones and new geographies, such as Colombia or Cote d’Ivoire.

#### **Upstream: Mineral producing and trading regions and initiatives**

##### *Industry initiatives*

155. A significant number of initiatives have been developed by companies and industry associations since the adoption of the Recommendation in 2011 to assist upstream companies (from mineral extraction to smelting and refining) in undertaking due diligence, particularly to help them establish traceability or chain of custody systems, and to identify, assess and manage risk.

##### *Tin, tantalum, tungsten*

156. On-the ground implementation of the Guidance in mineral producing and trading areas is by far most advanced in the 3T sector. The industry-led **ITRI<sup>72</sup> Tin Supply Chain Initiative (iTSCi)** supports responsible sourcing of 3T minerals from the Great Lakes region through the development of a traceability and on-the-ground due diligence system that tracks and monitors minerals from mine to smelter. It uses tags and logbooks to ensure traceability of minerals and a due diligence system that includes independent audits of its members and mine site and transportation route assessments. The programme is implemented on the ground by iTSCi’s partner organisation, the NGO Pact, and built in partnerships with national governments whose agencies carry out the tagging and complete the logbooks. The programme is financed through company membership fees and a levy on mineral exports. By May 2015 the programme reported to cover the mineral output of 80,649 miners at 1,326 mining sites in the DRC, Rwanda and Burundi, and to have 272 participating companies in 35 countries<sup>73</sup>. These numbers show that iTSCi has made remarkable progress and is the only on-the-ground traceability and due diligence programme that has to date been able to demonstrate a clear impact on mineral production and exports.

<sup>72</sup> International Tin Research Institute (<https://www.itri.co.uk/>).

<sup>73</sup> iTSCi overview – March 2015

157. A number of ‘**closed pipeline projects**’ bring downstream companies closer to mineral production by providing full traceability of minerals in a closed system of pre-vetted participants. These programmes largely rely on iTSCi and their partners Pact Congo for their traceability and on-the-ground due diligence:

- The Conflict-Free Tin Initiative, implemented in South Kivu (DRC) since October 2012 by industry partners. According to USAID the initiative generated a total export value of more than \$3 million between October 2012 and December 2013.<sup>74</sup>
- The Solutions for Hope project, founded by Motorola Solutions and AVX Corporation in 2011, traces the flow of tantalum from the mine to the end-use company.
- US-based Kemet Corporation, one of the world’s largest users of tantalum, launched the Partnership for Social and Economic Sustainability, a vertically integrated supply chain for the manufacture of tantalum capacitors, sourcing its minerals from Katanga province in the DRC.

### *Gold*

158. In 2012, the World Gold Council (WGC) developed the **Conflict-Free Gold Standard** through a consultative process to operationalize the Due Diligence Guidance for the large-scale industrial gold mining industry. This is significant, considering that the members of the World Gold Council alone accounted for approximately 55% of total global gold mining company market capitalisation and approximately 40% of global gold production in 2014. The Conflict-Free Gold Standard establishes a common approach for large industrial mining companies to responsibly mine gold and intended to demonstrate that their mining operations do not fuel conflict or abuse human rights. To date, all of WGC gold mining members, as well as several non-WGC gold mining companies, have used the Conflict-Free Gold Standard, and most have included the relevant assurance information in public reports.

159. The Standard for Gold and Associated Precious Metals for Artisanal and Small-scale Mining by **Fairtrade**<sup>75</sup> and **FairMined** by the Alliance for Responsible Mining are two initiatives that work on responsible and conflict-free artisanal gold mining and are global in their application. The Alliance for Responsible Mining and its FairMined label provide third party assurance that the gold comes from formalized artisanal mines with responsible social, environmental and labour practices. Presently, four gold mining organisations are certified “FairMined” or “FairTrade”, employing more than 1,200 miners (in Peru, Colombia, Mongolia, Bolivia). Twenty-five additional mining originations are in the process of “FairMined” or “FairTrade” certification.

160. However, with the exception of the efforts described above, on-the-ground implementation of the Guidance in gold producing areas has been far slower and more challenging. Presently, no initiative has for now achieved to legally export artisanally-mined gold from Africa’s Great Lakes Region in line with the provisions of the Guidance. Gold indeed presents specific challenges due to the nature of the commodity and its high value-to-volume ratio, which means that gold is easy to melt down, consolidate, disguise its origin and smuggle for considerable profit.<sup>76</sup> In other parts of the world, and in particular in Latin America,

<sup>74</sup> United States Government Accountability Office, “Stakeholder Options for Responsible Sourcing Are Expanding, but More Information on Smelters Is Needed”, June 2014

<sup>75</sup> <http://www.fairtrade.net/small-producer-standards.html#c8027>

<sup>76</sup> For example, at current prices, 405 grams of gold is worth approximately the same as one metric ton (1,000 kilograms) of tin: US\$15,445.

NGO-led initiatives managed to support the formalisation of artisanal gold mining communities, exporting some small volumes of FairTrade and FairMined gold.

161. Given the specific challenges in the ASM gold sector, the OECD Secretariat commissioned a series of gold baseline assessments<sup>77</sup> (see Appendix III for a list of tools) to understand the specific challenges, assess the level of awareness relating to responsible production and sourcing of local actors and come up with solutions for how to create systems and initiatives focussing on the gold supply chain. A number of stakeholders are working on setting up gold supply chain systems. The Eastern Congo Project by Partnership Africa-Canada (PAC) and the Diamond Development Initiative and the ‘Just Gold / Or Juste’ project are recent examples of work to formalise and register artisanal gold producers in Orientale province of the DRC, where the bulk of the country’s gold is produced. By linking artisanal gold producers with customers in a closed pipe chain, the project aims to create a fully transparent supply chain, with due taxes and royalties paid to the DRC government. Similar initiatives are currently being assessed in particular in the frame of the USAID-sponsored ‘capacity-building for responsible mineral trade’ project.

#### **Box 7. OECD 3T Pilot implementation programmes and gold programme**

The OECD launched a 3T pilot in November 2011 to assist companies implementing the Guidance to learn from each other’s experiences and share best practices. Over 110 upstream and downstream companies participated in the 3T pilot survey and three reports<sup>78</sup> were produced. Participants reported on the steps taken to implement due diligence, challenges, tools they use and lessons learnt during three reporting cycles over a 12 month period. As a result of the pilot and the implementation efforts of those involved, awareness of the Guidance improved considerably amongst participants. 80% of the total number of upstream participants in the pilot had by the final report adopted a policy commitment setting forth due diligence principles, up from 15% in the first reporting cycle.

A gold implementation programme was launched in May 2013 to put in action the newly adopted Supplement on Gold to the Due Diligence Guidance. Like the 3T pilot implementation exercise, the Gold implementation programme saw participation from the gold industry, producer governments, donor countries, international organisations and civil society. Implementation activities include outreach and training, the creation of easy to use guides, peer learning activities and gold baseline assessments and the launch of an ASM Hub<sup>79</sup>.

#### ***Individual company due diligence efforts***

162. Individual companies bear the responsibility for implementing due diligence, although they may use industry programmes and initiatives to assist them in specific due diligence tasks. Individual companies can demonstrate that they implement the Guidance by adopting a public policy and by regular public reporting on their due diligence activities in line with Step 5 of the framework. To date, the OECD has not undertaken an in-depth evaluation of individual company efforts in mineral producing countries to implement the OECD Guidance, instead prioritizing initial implementation efforts on capacity building and technical support. However, despite sometimes extremely low levels of capacity and resources, evidence from OECD pilot and other credible reports suggest that many upstream companies in the Great Lakes region (often small and medium size enterprises (SMEs), micro enterprises or even cooperatives) have taken some steps to implement the Guidance. For example, during the pilot implementation programme

<sup>77</sup> Gold baseline assessments, available at: <http://www.oecd.org/daf/inv/mne/implementingtheguidance.htm>

<sup>78</sup> See Appendix III for more detail.

<sup>79</sup> The ASM Hub includes over 70 organisations including retailers, traders, refiners, local exporters and producers, large-scale miners, interested donors, civil society, academics, think tanks, OECD and partner countries to share experiences on innovative models to build secure and transparent conflict-free supply chains of gold from artisanal and small-scale gold mining sites

with 110 companies in 2012 (see Box 6), 80% of the total number of upstream participants, which included most 3T mineral exporters in the DRC, had by the final report adopted a policy commitment setting forth due diligence principles, up from 15% in the first reporting cycle. Evidence of other aspects of implementation by companies on-the-ground in mineral producing countries, in particular effective risk assessments and management by individual companies, is less forthcoming.

163. While public reporting on due diligence remains a challenge for upstream companies across the board, larger companies with more financial resources are not necessarily better at publishing information about their activities. Although the responsibility for due diligence, and reporting in particular, firmly rests with individual companies, industry programmes increasingly pressure their members to improve on public reporting. iTSCi for example published annual reports of 74 of its 272 members in 2015.<sup>80</sup>

164. Despite improvements in the number of annual reports published by upstream companies, civil society organisations monitoring those activities and analysing the reports highlight that the quality of the information put forward in the reports remains very limited. Reporting on risks that companies have identified as part of their due diligence activities in their own mineral supply chains is largely absent in the reports. More research and monitoring should be carried out to understand and assess individual company performance and implementation of the Guidance.

### ***Governments and inter-governmental support***

#### *International Conference on the Great Lakes region<sup>81</sup> (ICGLR)*

165. The ICGLR developed a comprehensive approach to put an end to the predatory use of natural resources. In 2006, the eleven Heads of States of the Great Lakes region adopted the Protocol on the Fight against the Illegal Exploitation of Natural Resources which outlines actions for implementation. Regional Initiative against the Illegal Exploitation of Natural Resources (RINR), which particularly aims at breaking the link between mineral revenues and rebel financing, is a result of this protocol. It consists of six specific tools, one of which sets up a Regional Certification Mechanism<sup>82</sup> (RCM), establishing a certification mechanism for mining and trading of minerals from the region. The RCM was adopted by ICGLR Heads of State in the Lusaka Declaration on 15 December 2010, which also endorsed the Guidance for international buyers sourcing from the Great Lakes Region. As such, the standards in the RCM, for example on mine site assessments and chain of custody or traceability of mineral products, were designed to be consistent with the Guidance.

166. The RCM sets out to be a mandatory certification scheme to facilitate due diligence in supply chains of 3T and gold from ICGLR member states with the aim to eliminate support to armed groups that sustain or prolong conflict and engage in serious human rights abuses. Each affected member state is required to set up a mine inspection regime, mineral chain of custody tracking and export certification. Member states' national authorities issue the ICGLR certificates for each mineral export, certifying both

<sup>80</sup> iTSCi member annual reports:  
[https://www.itri.co.uk/index.php?option=com\\_mtree&task=listcats&cat\\_id=196&Itemid=11](https://www.itri.co.uk/index.php?option=com_mtree&task=listcats&cat_id=196&Itemid=11)

<sup>81</sup> The International Conference on the Great Lakes Region (ICGLR) is an inter-governmental organisation of the countries in the African Great Lakes Region.

<sup>82</sup> The ICGLR Heads of States adopted the RCM in the [Lusaka Declaration](#) on 15 December 2010, endorsing the Due Diligence Guidance. The Due Diligence Guidance has thus been incorporated into national legal frameworks in the DRC, Burundi and Rwanda, as well as through the ICGLR Regional Certification Mechanism, which is a regional policy applicable to the 12 member states.

the product and process of extraction and trade. Industry programmes (such as those listed above and below) may be used for traceability and chain of custody assurance.

167. Compliance with the RCM is set out to be monitored through third party supply chain audits and risk assessments by independent bodies to be coordinated at a regional level. The ICGLR has taken first steps in setting up the necessary framework and support for a regional ICGLR Audit Committee. Operationalizing the regional third party audit system as well as the office of the Independent Mineral Chain Auditor and the regional Technical Unit at the ICGLR Secretariat are critical steps to verify the accuracy and credibility of national-level RCM implementation as well as for the RCM system as a whole.

168. While progress has furthermore been made in regional implementation and harmonisation of legal instruments in the African Great Lakes region, national-level implementation of the RCM varies considerably across ICGLR member states; while some member states have moved ahead significantly, others have yet to undertake initial efforts. Several ICGLR governments are still working on implementing national legislation in line with the RCM, including setting up chain-of-custody systems, and putting in place a framework for mine site assessments (see below for details on the efforts of DRC, Rwanda and Burundi). ICGLR governments have called for more funding and technical assistance from donors to advance implementation efforts on the ground.

169. In addition a regional Analytical Fingerprint (AFP) database, set up with the technical assistance of the German Federal Institute for Geosciences and Natural Resources, contains data from 741 individual production sites in Rwanda (564), the DRC (151) and Burundi (26), covering a total of 169 concessions. The most significant producers in Rwanda have been covered and additional sampling activities are now focused on the DRC. As of June 2015, the database is not yet used in the RCM. The German Federal Institute for Geosciences and Natural Resources is also actively involved in providing technical assistance to ICGLR Member States, specifically Burundi, the DRC and Rwanda, to implement the RCM at the national level.

#### *The Democratic Republic of Congo (DRC)*

170. The Government of the DRC has made significant advances to implement and support due diligence. On 6 September 2011, the DRC government issued a *note circulaire*, requiring all mining and mineral trading entities in the 3T and gold sector to implement due diligence in accordance with the Guidance and UN GoE on the DRC due diligence guidelines, and submit annual reports on their due diligence to the Ministry of Mines. Subsequently, the DRC government adopted the ICGLR RCM<sup>83</sup> into its legal framework, as well as tripartite validations of 3T and gold mine sites based on ICGLR and OECD principles<sup>84</sup>.

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<sup>83</sup> Arrêté Ministériel n°0057/CAB.MIN/Mines/01/2012 du 29 février 2012 portant mise en œuvre du Mécanisme Régional de Certification de la Conférence Internationale sur la Région des Grands Lacs "CIRGL" en RDC

<sup>84</sup> Arrêté Ministériel n° 0058/CAB.MIN/MINES/01/2012 du 29 février 2012 fixant les procédures de qualification et de validation de sites miniers des filières aurifère et stannifère dans les Provinces du Katanga, du Maniema, du Nord Kivu, du Sud Kivu et de la Province Orientale

### Box 8. Importance of the mining sector in the DRC

The Democratic Republic of the Congo plays a globally significant role in the world's production of cobalt, copper, diamond, tantalum and tin. In 2012, the country's share of the world's cobalt production amounted to 55%; industrial diamonds 21%; tantalum 12%; gem-quality diamond 5%; copper 3%; and tin 2%. The country accounted for about 45% of the world's cobalt reserves<sup>85</sup>.

The mining and mineral processing sector accounted for an estimated 11.5% of the country's gross domestic product in 2011. In 2015, according to the International Monetary Fund, mining production, notably copper and gold, continued to be the main driver of growth in the country<sup>86</sup>.

According to the 2012 Extractives Industry Transparency Initiative (EITI) report, the extractive sector accounted for 99% of total Congolese exports, 64% of the government budget, 24% of formal employment, and 13% of GDP in 2012.

171. The government of the DRC also enabled the implementation of chain of custody and certification systems (specifically through the iTSCi and the Certified Trading Chains systems) in several hundred 3T mines in Katanga, Maniema, North and South Kivu provinces. As of May 2015, 166 mining sites have also been inspected in the country (129 of which were validated as green, meaning that they are allowed to produce and minerals can receive certification), 365 sites are covered by the iTSCi programme and 141 sites by the Certified Trading Chains project. In addition, 2 638 ICGLR export certificates (for artisanal and industrial 3T production and for industrial gold production) had been issued.

172. The mine site assessments and risk monitoring are supported locally through multi-stakeholder *comités de suivi* and *comités provincial*, based on the 'information units' recommended by the OECD Secretariat in a technical workshop held in Goma, DRC in March 2011. These multi-stakeholder committees are a breakthrough in terms of facilitating systematic community organisation and civil society involvement with local and central authorities. These structures enable groups to engage with authorities to share information on risks, express concerns, and provide advice on reform. Their functioning has however been plagued by heavy procedures and bureaucracy, lack of funding and at times lack of political will to regularly hold meetings, all of which risk undermining their efficacy.

173. The DRC government has also made some efforts to enforce its regulation on the Guidance. In May 2012, the Ministry of Mines ordered the suspension of two Chinese-owned local traders, CMM (previously known as TTT Mining) and Huaying. Both were headquartered in Goma (North Kivu) and had allegedly been sourcing their cassiterite from Bisie, the largest mine of tin ore in Eastern DRC, and at that time under the control of Congolese army (FARDC) units. However, no further enforcement actions have been taken.

174. Nevertheless, the challenges in due diligence implementation in the DRC are still significant, especially in terms of security, human rights and the number of mines to support, as well as the need for harmonisation and alignment of the institutional framework between the provincial and national level (see 'Impacts, challenges and way ahead' below).

<sup>85</sup> United States Geological Survey, 2012 Mineral Yearbook.

<sup>86</sup> "IMF Staff completes the 2015 Article IV Mission to Democratic Republic of the Congo", IMF, June 3, 2015

*Rwanda***Box 9. Importance of the mining sector in Rwanda**

The Rwandan economy is largely based on subsistence agriculture but the government sees the mining sector as a priority area for national economic development and poverty reduction. The country does not have a large-scale industrial mining industry and the government hence focuses on artisanal and small-scale mining (3T minerals) which employs 35 000 miners and is the second-most important source of foreign exchange earnings (after tourism). Mineral exports recorded USD 136m in 2012, USD 228m in 2013 and USD 203m in 2014<sup>87</sup> and in 2013 reflected about 28% of world tantalum output, 1% of tin and 1% of global tungsten output<sup>88</sup>. Rwandan tantalum made up 24% of US imports of tantalum in 2012.<sup>89</sup> Rwanda has also historically been a major hub for trading, re-exporting and processing of Congolese 3T minerals.

175. The government of Rwanda has made substantial investments to ensure that all 3T minerals leaving the country are tagged. It has also made significant efforts to integrate the RCM, which has been part of Rwanda's legal framework since March 2012. Government agencies are often well staffed and have in many cases a demonstrated technical and logistical capacity to oversee mineral supply chains and the implementation of due diligence. In mid-2012, the Rwanda Natural Resources Authority published its Mine Inspection Manual, which makes specific reference to the Guidance and includes checks relating to the risks set out in Annex II to the Guidance (the presence of armed groups, public or private security forces, worst forms of child labour etc.). However to date, unlike the DRC and Burundi, Rwanda has yet to explicitly integrate the Guidance into its legal framework.

176. In November 2013 the first regional ICGLR Mineral Export Certificate, based on national verification of mine site inspections and chain of custody tracking associated with the shipment, was issued to a shipment from Rutongo Mines in Rwanda. It was also acknowledged that good cooperation between the government agencies and the iTSCi system (see above for details) enabled this considerable progress in Rwanda to date. Rwanda has approximately 440 active mine sites (and 370 inactive sites) and the government employs more than 100 agents who oversee the implementation of traceability from mine to export. As of January 2015 the Geology and Mines Department had inspected 155 concessions according to RCM standards.

177. Nonetheless, alleged smuggling of minerals from DRC has been a key concern for the UN Group of Experts on the DRC and civil society monitoring the Rwandan mineral supply chain; observers argue that 3T minerals produced in eastern DRC are smuggled across the border and introduced into the legal supply chains in Rwanda. This is believed to have been a particular concern during the official ban of artisanal mining in eastern DRC in 2010; during this time the international commodity price was favourable, further increasing the economic incentive to smuggle. Beyond the risk of cross-border smuggling, mineral theft and smuggling between sites in Rwanda has been increasingly recorded since

<sup>87</sup> Cook, Rupert and Mitchell, Paul: Evaluation of Mining Revenue Streams and Due Diligence Implementation Costs along Mineral Supply Chains in Rwanda, Analysis Report for BGR, November 2014: <http://www.estellelevin.com/wp-content/uploads/2015/01/Mining-Revenues-and-Due-Diligence-Rwanda-Analysis-Report.pdf>

<sup>88</sup> Ibid, page 36

<sup>89</sup> USGS Minerals Yearbook Rwanda 2012: <http://minerals.usgs.gov/minerals/pubs/country/2012/myb3-2012-rw.pdf> and Rwanda Development Board: <http://www.rdb.rw/rdb/mining.html>

2013; the practice seems to be mainly economically motivated (price differences) and highlights that some traceability loopholes still exist.<sup>90</sup>

### *Burundi*

#### **Box 10. Importance of the mining sector in Burundi**

Burundi's mineral resources are varied and include Africa's largest undeveloped Nickel deposits. The mining sector in the country is dominated by informal small-scale mining activities targeting gold, tungsten and tin with no significant economic output for the national economy. However, the country exported ASM gold worth more than USD 100m in 2012 and 2013, suspected to be mainly laundered from neighbouring countries; gold hence significantly exceeded all other national export products.<sup>91</sup>

The mining sector is a priority sector for the Burundi government. Industrial exploration licenses have been granted to foreign investors since 2007 and several companies are currently actively engaged in exploration campaigns.

178. Burundi is the third country in the region thriving to establish responsible mineral supply chains and due diligence schemes for its mining sector. In April 2013, the Government adopted a Ministerial Order on certification of mineral substances in accordance with the Guidance. The document is currently under revision after widespread criticism on its failure to integrate the Guidance, apart from mentioning it in the preamble. In response, Burundi adopted on 16 June 2015 a Ministerial Regulation to complement the Ministerial Order.

179. In May 2014, Burundi launched the iTSCi traceability scheme, which is very similar to the one in DRC and Rwanda. In October 2014 stakeholders in the Burundi mining sector validated a mine site inspection manual, similar to the Rwandan manual referenced above. A Ministerial Order on the manual has been drafted and is awaiting signature. The government of Burundi furthermore plans a number of activities related to the sensitization of local stakeholders on these newly adopted laws and tools before engaging into their enforcement measures.

### *Civil society initiatives*

180. A number of civil society initiatives work on the implementation of due diligence and on monitoring conditions in mineral supply chains in producing regions. Save Act Mine in the DRC for example developed a number of tools to help artisanal miners, cooperatives and local traders understand the Guidance and the risks those actors need to assess and monitor. This is significant since it is a locally-driven initiative showing the ownership Congolese stakeholders have over the Guidance, providing a major culturally adapted multiplier for effective local dissemination and outreach. Another Congolese organisation is the *Observatoire Gouvernance et Paix* (OGP) which facilitated training workshops on appropriate conduct in mining areas for the army in South Kivu that led to the military pulling out of some key mining sites (only the *police des mines* is supposed to secure mine sites in the DRC). The OGP has furthermore facilitated multi-stakeholder dialogues to address the causes of violent disputes at specific mining sites. Global Witness, Amnesty International, Human Rights Watch, Partnership Africa Canada, Pact's Mine to Market programme, Enough Project and the Alliance for Responsible Mining are only a few

<sup>90</sup> Schütte et al., Certification and Due Diligence in Mineral Supply Chains - Benefit or Burden? Conference Proceedings, Sustainable Development in the Mineral Industry, Vancouver, July 2015.

<sup>91</sup> Matthyssen, Ken: Review of the Burundian Artisanal Gold Mining Sector, Analysis Report by the International Peace Information Service (IPIS) and Partnership Africa Canada for BGR, April 2015

of the international civil society organisations working on responsible mineral production and sourcing, including on initiatives to tackle the worst forms of child labour in mining and prominent gender issues.

#### Box 11. OECD Train the Trainer Workshops

The OECD Secretariat in 2014 developed a training concept to enhance understanding of due diligence expectations enshrined in the Guidance and since then delivers on an ongoing basis in-region capacity building workshops for company staff, civil society and government agents. Those workshops follow a ‘train the trainer’ concept that sees a group of due diligence ‘champions’ being trained; these new trainers are then tasked to further raise awareness about due diligence and disseminate the OECD Due Diligence Guidance in their work.

Such workshops have to date been held in the DRC, including in the capital Kinshasa and in mineral producing regions in Bukavu (South Kivu), Goma (North Kivu) and Kisangani (Orientale), and in the Rwandan capital Kigali. The training material is transferable to other contexts and could hence be used in conflict-affected and high-risk areas in West Africa and Latin America.

### Refiner and Smelter Level

181. As outlined in the first part of this report, in some mineral supply chains, the smelting / refining stage has been identified as a ‘choke point’ or a critical stage, at which the smallest number of entities treat the largest amount of minerals. This is in particular the case for the 3T and gold supply chains. Pursuant to step 4 of the Framework, which recommends that “*companies at identified points (as indicated in the Supplements) in the supply chain should have their due diligence practices audited by independent third parties*”, industry sectors and market associations have developed a series of sector programmes to operationalise and help their members implement this specific requirement. In parallel, national authorities, for example from the People’s Republic of China, Turkey and the United Arab Emirates, have also taken steps to support the implementation of the Guidance recommendations at the smelter / refiner level.

182. This multitude of initiatives focuses on different segments of the supply chain or at companies active in different sectors (automotive or IT consumer goods, for example) but has one aspect in common: all of the initiatives are designed to implement the Guidance and explicitly use it as their benchmark. Some initiatives that target companies that file with the US Securities and Exchange Commission use the Guidance to ensure their compliance with section 1502 of the US Dodd-Frank Wall Street Reform and Consumer Protection Act.

#### *Industry initiatives*

183. The **Conflict-Free Sourcing Initiative (CFSI)** and its **Conflict-Free Smelter Program** were launched by the Global e-Sustainability Initiative (GESI) and the Electronic Industry Citizenship Coalition (EICC) in 2008. CFSI provides information on conflict-free smelters and refiners, common tools to gather sourcing information, and forums for exchanging best practices on addressing conflict minerals. It encompasses a multi-sector and multi-stakeholder network that reaches out to downstream companies to encourage engagement for all those who support conflict-free supply chains. The Conflict Free Smelter (CFS) Program performs independent third party audits of smelters and refiners to assess if the minerals they processed originated from conflict-free sources and publishes a list of smelters and refiners who are compliant. While global in scope, currently CFS only expects smelters to demonstrate compliance with the Guidance if they are sourcing from DRC and adjoining countries, as requested by section 1502 of the US Dodd-Frank Wall Street Reform and Consumer Protection Act.

184. The **Chain-of-Custody Certification Program** by the Responsible Jewellery Council (RJC) focuses on both upstream and downstream gold companies and is global in its application. The programme

supports the identification and tracking of conflict-free gold throughout gold supply chains with the transfer of chain-of-custody documentation.

185. The **London Bullion Market Association (LBMA)**, an industry association that oversees and maintains standards for the London gold market, with global relevance and clients, introduced the **Responsible Gold Guidance** in 2012. In 2012, the LBMA made it mandatory for its ‘London Good Delivery’ refiners to undergo annual audits against its Responsible Gold Guidance. The London Good Delivery refiners together represent approximately 85-90% of global refined gold production. The LBMA Responsible Gold Guidance and associated audit standards are designed to implement the OECD Due Diligence Guidance as well as international anti-money laundering standards at the refiner level. They essentially ensure that all gold feed stock and all gold produced by refiners are responsible, thereby enabling banks, gold traders or others entities trading in London or global markets where London Good Delivery gold is required to identify and source from responsible refiners. Most central banks recognize the London Good Delivery, including the Bank of England, Banque de France, IMF and the German Bundesbank, India and China recognize it via their import rules and the Chicago Mercantile Exchange (CME), Intercontinental Exchange (ICE), Turkish Borsa Istanbul, Tokyo Commodity Exchange and the Shanghai Gold Exchange also recognize the standard. All 69 refiners referenced on the London Good Deliver list have already successfully gone through two rounds of audits.

186. The **Responsible Sourcing Guidance**<sup>92</sup> by the Dubai Multi-Commodities Centre (DMCC) was also adopted in 2012, and made mandatory for their ‘Dubai Good Delivery’ refiners (see more details below under “United Arab Emirates”).

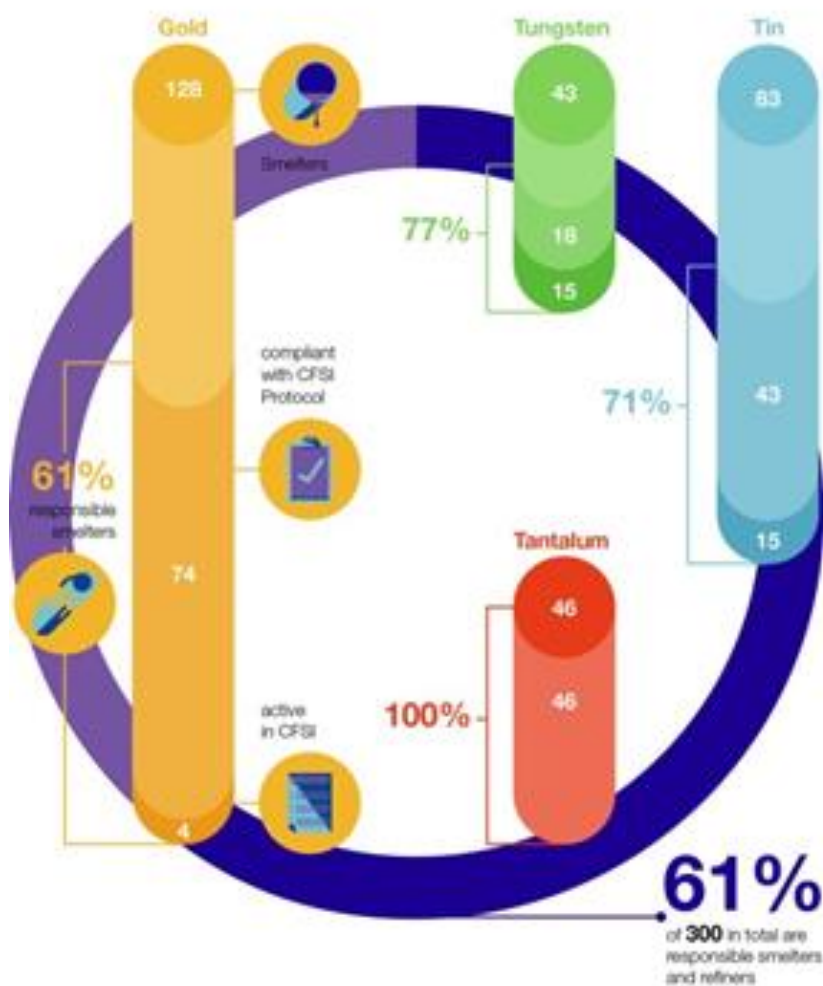
187. It is important to highlight that there is increasing recognition between different industry initiatives and programmes. The graphic below shows how some of the most important sector initiatives and standards align. As of March 2015 close to 100% globally identified tantalum smelters, 54% of gold refiners - representing close to 90% of all refined gold production- and 65% of tin smelters - representing 75-85% of all smelted tin production - are covered by industry audit programmes designed to implement the Guidance, albeit in different shapes and forms, including with sometimes more limited geographic or material scope. In order to strengthen industry efforts, in 2015 the OECD in cooperation with industry programmes began a process to evaluate the alignment of industry smelter and refiner audit programmes with the Guidance.<sup>93</sup>

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<sup>92</sup> It was updated twice, the last time in August 2014.

<sup>93</sup> Figures provided by the CFSI and the LBMA

Figure 5. Percentage of smelters & refiners globally participating in industry audit programmes



**Government-backed initiatives at smelter and refiner level**

*People’s Republic of China*

188. The People’s Republic of China (China) is the world’s largest importer of mineral ores and concentrates (accounting for 78% of nickel, 65% of iron and aluminium, 50% of tantalum, 43% of tin, and 37% of tungsten demand globally<sup>94</sup>), and thus plays a pivotal role in global mineral supply chains. The active participation of China in global initiatives to promote transparency and governance in the 3TG sector is therefore crucial to guarantee sustainable success.

<sup>94</sup> Perspectives on Global Development 2014, Boosting Productivity to Meet the Middle-Income Challenge, OECD 2014

189. In October 2014 the China Chamber of Commerce for Metals, Minerals and Chemicals Importers & Exporters (CCCME), whose 6,000 plus members represent over 30% of outward bound Chinese investment in the sector, released ‘Guidelines for Social Responsibility in Outbound Mining Investments’, that entail a section on ‘conflict minerals’. Subsequently, China’s Ministry of Commerce nominated CCCME as the interlocutor for the OECD to work with on issues pertaining to responsible business conduct in mining. As a result, the OECD and the CCCME signed a Memorandum of Understanding to formalise their cooperation, envisaging, among others, collaboration to develop CCCME Guidelines for Responsible Mineral Supply Chains based on the Guidance and build capacity of Chinese industry on responsible business conduct. The project also aims to develop a smelter / refiner audit system to establish the conformity of smelters’ / refiners’ due diligence practices with the CCCME Guidelines.

190. Collaboration to date has resulted in the preparation of a first draft of the CCCME guidelines, currently under consultation with Chinese industry. The CCCME guidelines are expected to be finalized in the fall of 2015.

#### *United Arab Emirates<sup>95</sup>*

191. The Emirate of Dubai, part of the United Arab Emirates (UAE), is a global gold trading hub. Since the 1960s, a market has developed in Dubai that features traders who can buy and sell any amount of gold, from a few kilos to many tonnes. Historically, the UAE has offered a light regulatory environment and low tax rates, enabling gold buyers to offer sellers very competitive prices. Dubai has also been a convenient place from which African traders have been able to transfer funds globally, but specifically to China in order to import goods into their home countries, but avoid the often much more costly banking and foreign exchange services in Africa. These factors have historically made the UAE very attractive for African gold traders.

192. The UAE authorities have historically played an enabling role for its gold industry, providing good infrastructure, security, a solid and well-regulated banking network and a high tolerance for cash payments..

193. Since 2005-2006, the UN Group of Experts on the DRC and civil society organisations have repeatedly reported that some of the gold mined artisanally in the DRC, exported from the country and subsequently reaching the UAE, has funded conflict. As a result, the UAE authorities and gold traders and refiners have faced international criticism for not trying hard enough to mitigate this risk. In particular, UAE customs authorities have been the focus of some reports by international civil society organisations for the continued import of ‘conflict-gold’ due to alleged deficiencies in their procedures for gold imports. The UAE authorities have stated that its customs procedures for gold imports are rigorous and aligned with standards and best practices of the World Customs Organisation.

194. The UAE’s first significant policy response came from the Dubai Multi-Commodities Centre (DMCC). The DMCC was established in 2002 by the Government of Dubai, with a mandate to regulate, promote and facilitate trade across a range of commodities, including gold, diamonds, pearls, precious metals and tea in a free zone located in the Emirate of Dubai. By 2015, the DMCC had grown to become the UAE’s largest free zone, with over 10 000 registered companies. With regards to gold, the DMCC says it is dedicated to “the growth and promotion of Dubai as a global bullion hub for trade”.<sup>96</sup>

<sup>95</sup> This section is adapted from the Gold Baseline Report of United Arab Emirates, OECD, forthcoming.

<sup>96</sup> See <http://www.dmcc.ae/gold-overview>.

195. In April 2012, the DMCC published a Practical Guidance for Market Participants in the Gold and Precious Metals Industry, which was closely modelled on, and intended to operationalize the Guidance. The DMCC later made it mandatory for all Dubai Good Delivery (DGD) member refineries to comply with the provisions of its Practical Guidance. The DMCC subsequently extended this initiative to jewellers and traders through the establishment of the Market Deliverable Brand (MDB) and Responsible Market Participant (RMP), which also require members to comply with the provisions of the Practical Guidance. The DMCC co-organized an awareness raising workshop with the OECD on responsible gold in 2011, and has regularly featured the issue in all of its major events since. These efforts have made a significant contribution towards raising awareness of responsible minerals sourcing and international standards, such as the Guidance, in the UAE, although their initiative and governance has faced criticism (see section IV for more details).

196. More broadly, representatives from the Government of the UAE participated in several OECD Forums and have communicated a desire to further improve its gold industry's conformance with the Guidance and its own regulation. The UAE authorities have said they are considering ways in which this might be brought about, including training and awareness-raising programmes for UAE customs and other regulatory bodies, for jewellers in the Dubai Gold Souk, and for refineries that are not members of the DMCC.

#### *Turkey*

197. Turkey plays a key role in the global gold supply chain, being the fourth global consumer of gold and third largest gold jewellery producer. Support from the Turkish government was instrumental to signal to local Turkish companies the importance and relevance of the Due Diligence Guidance for Turkey. To this end, a close collaboration has been developed between the OECD Secretariat and the Borsa Istanbul which has oversight of gold trading activities in the country through its Precious Metals and Precious Stone Markets division (comprising 208 members, covering the entire supply chain). Borsa Istanbul translated the Due Diligence Guidance into Turkish in 2014 and co-hosted with the OECD two due diligence training workshops for gold refiners, traders and jewellers in April and November 2014.

#### **Downstream: Mineral consumer regions and initiatives**

198. A range of initiatives has equally been created to facilitate the implementation of responsible sourcing and the principles set forth in the Guidance by downstream (from refiner / smelter to end product) companies. This is in particular the case in the United States where industry programmes were developed to support local companies (a significant number of which are small and medium-sized enterprises) comply with Section 1502 of the Dodd-Frank Act. All of these programmes are also actively engaged in the organisation of workshops intended to build capacity of the private sector, both in the US and abroad (in Europe and Asia most notably).

199. The **Conflict-Free Sourcing Initiative** (CFSI) developed a range of guidance documents and publications about mineral supply chain due diligence, reporting, supplier engagement and training materials. The initiative notably developed in 2013 guidance on 'Reasonable Practices to Identify Sources of Conflict Minerals' and in 2015, guidance on 'Practical steps to support Security Exchange Commission Disclosure'.<sup>97</sup> CFSI also developed a white paper on how to implement the Due Diligence Guidance for Dodd Frank compliance<sup>98</sup> and issued a 'conflict minerals reporting template' that facilitates the transfer of

<sup>97</sup> <http://www.conflictreesourcing.org/resources-and-training/guidance-documents/>

<sup>98</sup> <http://www.conflictreesourcing.org/media/docs/CFSI%20White%20Paper-Conflict%20Minerals%20Disclosure-Feb%202015.pdf>

information through the supply chain regarding mineral country of origin and smelters and refiners. The template also facilitates the identification of new smelters and refiners to potentially undergo an audit via the CFSI's Conflict-Free Smelter Program.

200. Likewise, the **Responsible Jewellery Council (RJC)** has developed a series of documents that can be used by interested companies to either support their certification efforts or for general guidance about supply chain due diligence<sup>99</sup>. The RJC has also, like most sectoral initiatives developed a 'Frequently Asked Questions (FAQ)' section to provide clarifications on what supply chain due diligence means. The **Jewellers Vigilance Committee** developed a guide for conflict minerals compliance, mostly focused on helping implement the OECD Due Diligence Guidance among jewellers in the USA.<sup>100</sup>

201. The **Automotive Industry Action Group (AIAG)**<sup>101</sup> developed materials to support its member companies, for instance a conflict minerals FAQ as early as July 2011. In June 2012, the AIAG endorsed tools developed with other organisations<sup>102</sup> to help source responsibly and meet reporting requirements. The **Association Connecting Electronics Industries (IPC)** provides Dodd-Frank Act compliance assistance to the industry and has also developed a variety of resources to support companies exercise their due diligence<sup>103</sup>. IPC has for instance provided form letters for companies to send to direct suppliers and response letters which can be sent by suppliers to their customers.

202. In India, the Gem & Jewellery Export Promotion Council (GJEPC), that represents around 6 000 exporters in the country, has cooperated with Signet to implement the **Signet Responsible Sourcing Protocol** in India. Signet's protocol is based on the OECD Due Diligence Guidance, and this has helped the alignment of due diligence expectations for export oriented jewellery industries in India. The RJC has also been actively developing its training and outreach on responsible sourcing in India.

203. In the rest of Asia, industry associations in Japan – the Japan Electronics and Information Technology Industries Association – and in South Korea – such as the Korea Electronic Association – have likewise taken steps to support the progressive dissemination of the Due Diligence Guidance, in cooperation with the OECD Secretariat and industry programmes such as the CFSI.

### *Individual company efforts*

204. To date, the OECD has not undertaken an in-depth evaluation of downstream companies' individual efforts to implement the OECD Guidance, instead prioritizing implementation efforts on awareness-raising, capacity building and technical support. However, evidence from various sources, including the OECD pilot report, and reports analysing compliance with legal measures in the US, suggest a significant growth in awareness and, to varying degrees, supply chain due diligence efforts among downstream companies, ranging from large multinationals to SMEs. :

<sup>99</sup> <http://www.responsiblejewellery.com/chain-of-custody-certification/>

<sup>100</sup> [http://www.jvclegal.org/JVC\\_Conflict\\_Materials.pdf](http://www.jvclegal.org/JVC_Conflict_Materials.pdf)

<sup>101</sup> Established in 1982, AIAG is a not-for-profit association grouping retailers, suppliers of all sizes, automakers, manufacturers, service providers, academia, and government to streamline industry processes via global standards development & harmonized business practices.

<sup>102</sup> Namely the EICC/GeSI (Electronic Industry Citizenship Coalition/Global eSustainability Initiative) and iPoint

<sup>103</sup> <http://www.ipc.org/ContentPage.aspx?pageid=Conflict-Minerals-Resources>

### **Existing and emerging regulations**

205. Several jurisdictions have integrated the Guidance into their own national regulations, and others are in the process of doing so.

#### *Adherents*

206. For sections related to Adherents, refer to the body of the report.

#### *Non-Adherents*

207. Beyond the above-outlined regulations in processing and consuming markets, producer governments also integrated due diligence expectations in local laws and regional initiatives; the Guidance has been adopted into the national laws of the DRC, Rwanda and Burundi (see sections above).

### **Expanding the geographic scope of implementation**

208. The Guidance is global in its application, as links between illegal exploitation of mineral resources and conflict financing and serious abuses of human rights occur all across the world. Building on the momentum around the expanding implementation by industry associations and governments of the recommendations of the Guidance in Central Africa, other producing regions have started to show interest in using the tools developed by the stakeholders of the implementation programme to address these issues in their own geographies. This has in particular recently been the case with Colombia and Cote d'Ivoire.



The Colombian authorities have also agreed to cooperate with the OECD in the preparation of a series of gold baseline assessments intended to identify risk and opportunities for effective implementation of the Guidance in specific gold producing areas in Colombia and regional gold trading hubs.

211. The government of Colombia has rolled out some initiatives to improve traceability of the country's gold supply chain, which have not yet been directly linked or referenced in connection to the implementation of the Recommendation, but nonetheless support the aims and objects contained therein. For example, in gold, the government has prioritized the implementation of strategies to promote the formalization and legalization of what is still a highly informal mineral supply chain where information on who is mining the gold and how much gold is mined is scant. The primary mechanism to track the provenance of gold is the Single Registry for Mineral Traders (*Registro Unico de Comercializadores Mineros* – RUCOM) that introduces a number of new requirements aimed at improving traceability of minerals produced in Colombia. This mechanism (RUCOM) could further benefit from explicit alignment of the screening standards for registration with the standards contained in the Guidance. Colombia however has significantly ramped up enforcement activities, with 739 kilos of illegal gold having been seized in 2014 (compared to just 11 kilos in the previous year and zero in 2010). Greater coordination between mining authorities, enforcement agencies and the private sector could enable better improved implementation of due diligence through access to more reliable, up-to-date data.

#### **Box 12. Importance of the mining sector in Colombia**

While not a major international producer, Colombia's gold mining sector has grown in the last decade. Today Colombia is the 6th largest producer in Latin America and the 20th in the world. In the last ten years, gold production tripled. According to official figures, Colombian gold production achieved approximately 65 tonnes in 2012 but decreased to 55 tonnes in 2013, likely the combined result in the drop of gold prices and more control on contraband gold coming into the country. Exports reached USD 474 million dollars in 2014.

By 2012, gold exports had topped coffee exports, becoming the third largest traded commodity from Colombia after oil and coal, the latter generating from 75 to 85% of the royalties emanating from the mining sector in the country. Within the mining sector, coal production represents approximately 75% of the sector's activity, nickel, 5%, gold, 5%, and other minerals (silver, platinum, tin, non-metallic minerals), 15%.

85 to 90% of gold production in Colombia is informal. In addition, most of the gold production is done by small and mid-scale miners. The 2010-2011 mining census estimated that 69% of gold miners surveyed could be classified as small-scale, 30% as mid-scale and 1% as large-scale miners<sup>106</sup>.

#### *Côte d'Ivoire*

212. Cote d'Ivoire's rough diamond production and trade has been associated with conflict financing and abuses of human rights for over a decade. It was only in April 2014 that the United Nations Security Council lifted the international ban on diamond trade produced in that country initially imposed in 2005. Similar allegations have appeared in the Ivorian gold sector in the past couple of years. The report of the UN Group of Expert released in April 2015<sup>107</sup> in particular pointed out that artisan ally-mined gold in the country benefited former warlords and was associated with abuses of human rights.

<sup>106</sup> See Colombia overview report and "Managing the minerals sector: implication for trade from Peru and Colombia" OECD.

<sup>107</sup> Final report of the Group of Experts on Côte d'Ivoire pursuant to paragraph 27 of Security Council resolution 2153 (2014), 13 April 2015.

213. The United Nations Security Council in 2013 (Resolution 2101(2013)) and 2014 (Resolution 2153(2014)) called on the government of Cote d'Ivoire to engage with the OECD Forum on Responsible Mineral Supply Chains in an effort to curb the link between conflict financing and specifically gold extraction in the country. Subsequently, the government of Côte d'Ivoire participated for the first time to the 8<sup>th</sup> Forum on Responsible Supply Chains of Minerals, held in Kinshasa, DRC, in November 2014. The government did not, however, respond to the invitation to equally participate to the late 9<sup>th</sup> Forum, organised in Paris in May 2015.

214. The Resolution adopted on 28 April 2015(Resolution 2219 (2015)) significantly reinforced the language dedicated to the need for enhanced transparency in the gold supply chain as it urged *“the Government of Cote d'Ivoire to reach out to international organizations with a view to taking advantage of lessons learned from other initiatives and countries that have and are confronting similar issues, and calls upon all States to take appropriate steps to raise awareness of the guidelines referred to above, and to urge importers, processing industries and consumers of Ivorian mineral products to exercise due diligence by applying the aforementioned guidelines, with a special attention to gold.”*

215. The OECD, with the support of a significant number of stakeholders, is currently devising a roadmap in the country to progressively disseminate the recommendations of the Guidance.

#### **Box 13. Importance of the mining sector in Cote d'Ivoire**

The mining sector in Côte d'Ivoire is not as developed as in some neighbouring countries, but international investments have been constantly increasing in the past few years, in the gold sector in particular, but not only (iron ore is another commodity that has been attracting significant interest recently). There are currently four large-scale mining operations active in the country that could produce around 25 tonnes of gold in 2015.

In addition, as in the rest of West Africa, artisanal and small-scale gold mining in Côte d'Ivoire has attracted an ever increasing number of people in the past decade, for a variety of reasons, the first being obviously the rise in the international gold price. However, there is currently no evaluation of the estimated ASGM yearly output for the country.

#### **Going beyond 3T and Gold**

216. The Guidance was designed to be relevant and applicable to all mineral resources. The initial focus on 3T and gold was a consequence of the specific characteristics of the illegal exploitation of these resources that supported and still supports non-state armed groups in the African Great Lakes region. But numerous reports from international organisations and civil society have shown how illegal exploitation of natural resources occurs around the globe and does not only concern 3TG, but also other types of mineral resources, such as oil and gas<sup>108</sup>, gold<sup>109</sup>, precious stones<sup>110</sup>, coal<sup>111</sup> and copper<sup>112</sup>.

<sup>108</sup> How Does ISIS Fund Its Reign of Terror?, Newsweek, Janine Di Giovanni, Leah McGrath Goodman, Damien Sharkov, November 6, 2014 ; Remarks of Under Secretary for Terrorism and Financial Intelligence David S. Cohen at The Carnegie Endowment For International Peace, Attacking ISIL's Financial Foundation, October 23, 2014 (<http://www.treasury.gov/press-center/press-releases/Pages/jl2672.aspx>)

<sup>109</sup> Letter dated 12 January 2015 from the Chair of the Security Council Committee concerning the Democratic Republic of the Congo, paragraph 190, S/2015/19; Letter dated 13 April 2015 from the Chair of the Security Council Committee concerning Côte d'Ivoire, paragraph 177, S/2015/252

<sup>110</sup> Letter dated 2 February 2015 from the Chair of the Security Council Committee established pursuant to resolution 1988 (2011), paragraph 27, S/2015/79

217. Broader, non-sector-specific international legal instruments and standards on responsible business conduct, such as the MNE Guidelines and the UN Guiding Principles on Business and Human Rights, also clearly recommend that all companies in all sectors should carry out due diligence to identify prevent and mitigate actual or potential impacts of their operations or sourcing decisions. Despite this, the OECD Secretariat has witnessed regular misunderstanding about the wider applicability of the Guidance, and its relationship with the MNE Guidelines, namely as an instrument to help companies implement responsible business conduct standards in their mineral supply chain and prioritize severe risks associated with mineral production and trade.

218. 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.<sup>113</sup>

219. As a consequence of this support and efforts made by the OECD Secretariat, industry and civil society, as well as broader industry and consumer awareness, a number of industries are now in the initial stages of implementing the recommendations of the Guidance in the precious stones<sup>114</sup> and in other metal supply chain and assurance programmes.<sup>115</sup>

### **The role of donors<sup>116</sup>**

220. Donors support the Guidance through direct, targeted funding to partner country institutions, as well as through indirect measures aimed at creating an enabling framework for responsible mining. While the Guidance has focused primarily on the African Great Lakes region to date, donors also support responsible sourcing of minerals in other African regions, South East Asia, and Latin America. Although instability, corruption, capacity constraints and costs to companies are seen as the key challenges in implementing the Guidance, donors are recognising early signs of change, particularly in that the broader public in donor countries is more aware of the topic of ‘conflict minerals’.

221. Direct measures include funding in-region capacity development, tool development and technical co-operation in the implementation of the ICGLR’s Regional Initiative on Natural Resources (RINR) and its Regional Certification Mechanism. Donors also channel their support to the Regional Certification

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<sup>111</sup> The Dark side of coal, Pax Christi, June 2014

<sup>112</sup> There is more than 3TG, Centre for Research on Multinational Corporations, January 2015

<sup>113</sup> Paragraph 22 of the 2014 Informal Ministerial Communiqué on Responsible Business Conduct, available at: <http://www.oecd.org/corporate/Ministerial-Communiqué-RBC-June-2014.pdf>

<sup>114</sup> A Precious Stones Multi-Stakeholder Working Group was formed in 2013 to assess and understand the opportunities for implementation of due diligence in the precious stones supply chain. The largest US and UK jewellery retailer Signet has already begun implementing the Due Diligence Guidance in their precious stones supply chains.

<sup>115</sup> The draft standard for the Initiative for Responsible Mining Assurance calls on companies to comply with the OECD Due Diligence Guidance when operating in or sourcing from conflict-affected and high-risk areas, for any metal. With regards to coal, the Better Coal Initiative currently does not make any reference to the Due Diligence Guidance, although initial efforts have been made to ensure their alignment.

<sup>116</sup> This section draws, among other things, on a survey conducted among DAC members in summer 2013, and summarized in: ‘How are donors supporting the implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas? Background paper informing the 2014 Report to Council’, [COM/DAF/INV/DCD/DAC\(2013\)6](http://www.oecd.org/COM/DAF/INV/DCD/DAC(2013)6), 17 December 2013

Mechanism through bilateral cooperation, multilateral programmes such as PROMINES (a World Bank / DFID funded governance programme in the mineral sector in the DRC) and the Congolese Government's Stabilization and Reconstruction Plan for Eastern DRC (STAREC). The German Federal Institute for Geosciences and Natural Resources (BGR) and the GIZ were jointly commissioned by the German Development Cooperation Ministry to implement a support program to the ICGLR. The BGR module includes two components, namely introduction of the Analytical Fingerprint (AFP)<sup>117</sup> method in the Great Lakes Region (Component I) and supporting the implementation of the Regional Certification Mechanism and the formalisation of artisanal and small-scale mining in Rwanda and Burundi (Component II) within the Regional Initiative against the Illegal Exploitation of Natural Resources. The German BGR also set up the Certified Trading Chains (CTC), a system to certify responsible mining practice. In the DRC, a long-term German-Congolese bilateral cooperation program aims at improving transparency and good governance, including institutionalized due diligence, in the mining sector; it is implemented by the BGR and GIZ.

222. Many donors have supported programmes linked to the formalisation of artisanal mining – such as the Better Gold Initiative. This engagement and current policy debates show that donors recognise the importance of artisanal miners as an integral part of the local economy and community, and that formalisation of the artisanal mining sector is a key element to establishing secure, verifiable and sustainable supply chains for purposes of due diligence.

223. Indirect donor support in the Great Lakes region primarily aims at creating an enabling environment for responsible mining and implementation of due diligence practices. This includes support to the Extractive Industry Transparency Initiative (EITI), an international standard that ensures transparency around countries' natural resource revenues, and its Multi-Donor Trust Fund (MDTF), an initiative by the World Bank to provide technical assistance to countries implementing (or considering implementing) the EITI standard. Donors also provide funding to national and international NGOs that are active in the area of natural resources and human rights, and support the dialogue between governments, NGOs and the private sector. This dialogue aims at understanding each other and sharing best practices on plans to ensure that operations around extraction, trade and sale of natural resources are more sustainable, both environmentally and socially, and do not feed conflicts. Donors have also noted that while support to national governments in implementing the Guidance was most important, this needed to be accompanied by reform of crucial sectors such as security, taxation, and mining which are critical elements to enable the widespread and sustainable implementation of due diligence. Donors emphasized the importance of a multi-stakeholder approach, as reflected in their support towards civil society as well as the private sector.

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<sup>117</sup> The regional Analytical Fingerprint (AFP) database contains data from 741 individual production sites in Rwanda (564), the DRC (151) and Burundi (26), covering a total of 169 concessions. The most significant producers in Rwanda have been covered and additional sampling activities are now focused on the DRC. As of June 2015, the database is not yet used in the RCM.

#### IV. TRENDS, CHALLENGES AND WAY FORWARD

224. As shown in the previous section, there has been significant uptake of the Guidance, by industry in the first instance as the primary users, but also by governments, civil society and other experts. The Guidance has now become *the* international standard and reference for responsible mineral supply chains. A combination of political, consumer, regulatory pressures and stakeholder engaged processes has enabled this impressive amount of action in relatively short amount of time:

- **Political leadership:** Leadership from the highest political levels has helped drive industry action and regulatory interventions, including: the Council in adopting the Recommendation in 2011; mandates and support for responsible sourcing and OECD-ICGLR collaboration from the G8 dating back to 2007; UN Security Council Resolutions in the context of DRC and Cote d'Ivoire calling for due diligence in mineral supply chains to avoid financing sanctioned entities and illegal armed groups (the DRC and Cote d'Ivoire Resolutions are the first time OECD instruments were cited and supported in UN Security Council Resolutions); endorsement by Heads of State of ICGLR countries in the Lusaka Declaration of 2010; the Informal Ministerial Communiqué on Responsible Business Conduct released after the Informal Ministerial Meeting on Responsible Business Conduct on 26 June 2014; and endorsement and support for responsible mineral sourcing and Guidance by EU Commissioners in the EU's CSR and raw materials strategies, as well as in the introduction of the EU initiative on responsible mineral supply chains.
- **Consumer pressure and civil society monitoring:** Consumer campaigns (*e.g.* 'Blood in the Mobile'<sup>118</sup>), which were led or bolstered by significant efforts of civil society, particularly Global Witness, Enough Project, Partnership Africa Canada and Amnesty International, created pressures on governments and industry to take action, and participate in international efforts on responsible mineral sourcing.
- **Regulatory interventions:** While some industry organisations and companies were engaged in developing initiatives for responsible mineral supply chains (including in the development of the Guidance), regulatory interventions, in particular section 1502 of the Dodd Frank and the draft EU regulation on responsible supply chains of minerals from conflict-affected and high-risk areas, have had a major impact in terms of raising awareness of, and promoting engagement in, due diligence efforts for responsible mineral supply chains. Given the market access implications of the US and draft EU regulations, this has also proved valuable in engaging non-adherent countries and industries based therein.
- **Good cooperation and buy-in from mineral producing countries in the Great Lakes region:** African Great Lakes countries have not only shown leadership in a political context (*e.g.* through the Lusaka Declaration, noted above), but have also been deeply involved in the development and implementation of the Guidance, the ICGLR RINR, and industry programmes on the ground. This is particularly the case for the Governments of the DRC and Rwanda and the regional body ICGLR.
- **Industry and other stakeholder involvement in standard setting and implementation:** The OECD fora on responsible mineral supply chains provided and continue to provide an outlet for

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<http://bloodinthemobile.org/>

industry, civil society and other experts to become directly involved in the development and implementation of international legal instruments and standards, such as the Guidance. This has helped to ensure that the Guidance and related implementation efforts are practical, and have broad-based buy-in. Industry initiatives, such as EICC, GeSI, WGC, LBMA, RJC, CCCMC and DMCC, had a ripple effect across the various sectors implicated, driving awareness and significant engagement from their members.

- **Donor support:** Support by donors has not only seen bilateral and multilateral funding of initiatives relating to responsible mineral supply chains but has also been key in creating the momentum for all stakeholders to get and stay engaged. Individual countries, technical agencies and multilateral organisations have all played critical parts in boosting initiatives relating to supply chain due diligence and have significantly supported the work of the OECD Secretariat through voluntary contributions.

225. It is too early, however, to draw firm conclusions on the impact of Guidance implementation in terms of cutting the link between mineral extraction and the financing of armed conflict. While broad trends are encouraging, significant hurdles still need to be overcome:

1. Numerous challenges are linked to the **practical implementation** of the Guidance, among them calls for increased reporting by companies (in line with Step 5 of the framework) and harmonization between industry programmes, both vertically and horizontally.
2. Questions also remain about the **impact** of those initiatives on the ground. Even though the implementation programme has only been in place for three years, tangible and measurable positive impacts of due diligence in conflict-affected and high-risk areas - in particular positive impacts on the security and livelihoods of artisanal miners and their communities - remain to be demonstrated. While anecdotal evidence suggests the strengthening of local government capacity to regulate, supervise and tax its mineral sector, impacts on livelihoods and the security situation are more difficult to establish.

### *Challenges with on-the-ground implementation*

226. Rising awareness about ‘conflict minerals’ and regulatory pressure to report on sourcing practices have led to reluctance by some international buyers and users of minerals to source from conflict-affected and high-risk areas, given the risks involved. This, for example, has led in some cases to companies effectively sourcing ‘Africa-free’, or expecting “100% conflict-free” product guarantees, instead of putting in place due diligence systems to ensure responsible sourcing from conflict-affected and high-risk areas, as is the aim of the Guidance. These types of expectations and the risk-averse behaviour are counterproductive, and based on a misperception of international standards.

227. The Guidance encourages companies to engage responsibly in sourcing minerals from conflict-affected and high-risk areas. Responsible sourcing of minerals is about good faith efforts to work and improve conditions in the supply chain. Unless a buyer finds evidence of armed group involvement or serious human rights abuses in the mine or trader, on-going engagement through sourcing relationships, in particular with artisanal miners, is the recommended course of action. Otherwise, there’s a risk that the trade will become even more hidden, leaving the miners in a worse-off position.

228. While significant progress has been made, some on-the-ground implementation programmes have received criticism. For example, local companies in Africa’s Great Lakes Region and involved in the iTSCi programme have raised concerns over the perceived high cost of the programme (levy). Civil society has also claimed that iTSCi’s public reporting on risks is so severely delayed that it renders the information

unusable, for example for civil society monitoring conditions on the ground. The large volume of data on mineral production generated by the programme is only shared with governments but not shared with civil society, as key monitoring bodies. iTSCi states that it limits the publication of data to protect commercially sensitive information. Yet, despite this, iTSCi is the only on-the-ground due diligence programme that has effectively brought Great Lakes minerals to the international market using and implementing the Guidance. And as the most advanced on-the-ground programme, there are more tangible aspects to criticise in iTSCi than in other programmes that are just starting up or that launched projects, which had to be closed down again.

229. Significant challenges furthermore persist in the implementation of due diligence in Great Lakes region gold production and trade, undermining international market acceptance of gold produced in this region. To date no functioning on-the-ground gold supply chain programme exists. Partnership Africa Canada attempted to set up a programme in Orientale province (DRC) but had to abandon the project; new sites are currently being explored so that the project can start up again.

230. The ICGLR's Regional Certification Mechanism (RCM) is also still facing significant challenges, both in the practical on the ground implementation and in terms of broader governance issues. On the latter, the key concern is the varying levels of progress in implementing the RCM in the member states. Particularly the DRC is still facing significant implementation challenges relating to the still limited volume of validated mine sites. The lack of broad geographical and timely coverage by validation missions means that the large majority of artisanal sites remain outside the legal trade. This is particularly a concern regarding gold mining sites in provinces such as Province Orientale. Nevertheless, by November 2014, 152 sites had been validated (116 green; 16 yellow; 16 red), though only 25 had been visited twice and one three times.<sup>119</sup>

231. Another key concern is that the important audit programme that should accompany and independently verify RCM mineral certification is not yet operational at the time of writing. This raises significant concerns about the credibility of on-going certification of mineral exports by state services as no independent verification mechanism is in place. Given the varying levels of professionalism of state mining agencies and that lack of independent audits, concerns are rising that the RCM certificates currently have little to no added value in international markets.<sup>120</sup> At the same time, significant potential for overlap and synergy exists between the theoretically envisaged ICGLR audit mechanisms and the already operational third party auditing schemes established by industry-led initiatives.

### ***Challenges with integrity and alignment of industry programmes***

232. Challenges do not only persist for on-the-ground programmes but also for industry programmes that cover the whole supply chain or focus on the smelter and refiner level and downstream. For such programmes, alignment with the Due Diligence Guidance and harmonization between the programmes is of concern, particularly relating to alignment and harmonization of audit programmes. As the EU draft regulation potentially envisages a crucial role for industry programmes based on the Guidance, there is a clear need to take stock of progress and focus on measures that can enhance coherence, effectiveness and credibility of the existing (and forthcoming) initiatives developed to operationalise the Guidance, as well as addressing the persisting challenges that stakeholders are facing when implementing due diligence on the ground:

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<sup>119</sup> Mineral supply chains and conflict links in Eastern Democratic Republic of Congo: 5 years on, OECD/IPIS, 2015

<sup>120</sup> Schütte et al: Certification and Due Diligence in Mineral Supply Chains - Benefit or Burden? Conference Proceedings, Sustainable Development in the Minerals Industry, Vancouver, July 2015.

- The UN Group of Experts on the DRC, civil society and the media have continuously highlighted areas of risk where schemes may be strengthened and better aligned with international standards.
- Discussions with refiners and smelters about auditors not applying standards consistently have demonstrated the need for further training, capacity building and outreach in this area.
- The emergence of additional audit programs and systems, such as the DMCC programme or the developing CCCMC project, show the need for global coherence of auditing schemes to avoid creating confusion, duplicating efforts for companies that are subject to the audits, and ensure these new systems are credible and meet international standards.

233. With this objective in mind, the OECD Secretariat, with the agreement and support of the concerned industry programmes (CFSI, DMCC, iTSCi, LBMA and RJC), will soon be commissioning a project whose objective will be to assess the alignment of industry programmes' standards and systems with the Guidance and the alignment of the same programmes' implementation efforts.

234. One programme that has seen some controversy is the DMCC and its Practical Guidance for Market Participants in the Gold and Precious Metals. Controversy began when an auditor and partner with Ernst & Young Dubai ("EY Dubai"), who had been part of the E&Y team that had recently audited a large gold refiner in UAE, leaked documents to UK-based lobby group Global Witness and The Guardian, a British newspaper, which the auditor alleged demonstrated an attempt by the DMCC and EY Dubai to conceal significant adverse findings in EY's 2012 audit of the implicated refiner.

235. The truth of these allegations has been strongly disputed by the gold refiner, the DMCC and EY Dubai. Nonetheless, the impact of the allegations and the publicity they generated has damaged the international credibility of the DMCC's initiatives to keep 'conflict-gold' out of its members' supply chains. The DMCC has since taken steps to strengthen the transparency and governance of their system, including through the establishment of an independent oversight board and an online document control system that automatically tracks any changes to their practical guidance and associated audit protocols. The DMCC is also cooperating in an independent assessment to be carried out by the OECD that would evaluate the industry smelter and refiner initiatives' alignment with the Guidance. Furthermore, in 2015, DMCC de-listed the implicated gold refiner from their Dubai Good Delivery List for not complying with DMCC's practical guidance on responsible sourcing.<sup>121</sup>

### **Impacts of due diligence implementation on affected populations and communities in producing countries**

236. Recent articles and debates have shown that there is a need to both improve the impacts of international implementing initiatives on the ground for affected populations and communities, as well as improve the visibility of those impacts. Indeed, despite the fact that there are increasing indications that due diligence is working towards breaking the link between mineral extraction and trade and conflict in the Great Lakes region, it remains difficult to demonstrate the actual effects on the economic development of local communities and the overall improvement of their living conditions.

237. Some evidence and reports to date, primarily from academics and journalists, have reported on the consequences of the risk averse approach that some industry has taken, in terms of the impacts for local

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<sup>121</sup> <http://www.dmcc.ae/dgd-gold-members.pdf?v=1>

communities who depend on the minerals trade for their livelihood, and the de facto barriers for responsible businesses to source from the region given the much lower mineral prices.<sup>122</sup>

238. Certainly, ‘conflict-free’ expectations from industry have created new challenges in particular for minerals from the Great Lakes region to access formal markets. To a certain extent this is normal. Formalising a previously informal economy will always create new compliance hurdles and distortions. At least this is an improvement over the challenges previously faced, namely minerals and local communities escaping violence, extortion by armed groups and forced labour. Still there is a need for greater awareness among consumers and the industry that responsible mineral supply chains means sourcing responsibly from conflict areas and supporting artisanal miners and local communities in their efforts to meet the new demands of the market.

239. However, many reports have also shown a more balanced picture of how responsible sourcing has led to some challenges, as well as some improvements on the ground. A report released by the International Peace Information Service (IPIS) in May 2015 clearly demonstrated, in just over three years, stakeholders involved in the implementation programme of the Guidance have managed to develop projects that have contributed to significantly raise the volume of artisan ally-mined 3T production legally exported from eastern DRC.<sup>123</sup>

#### ***Militarisation of mining sites and trading networks in the Great Lakes region remains a challenge***

240. The UN Group of Experts on the DRC reports since 2012 that as a result of the implementation of due diligence “*the security situation at tin, tantalum and tungsten mine sites has improved and trade in tin, tantalum and tungsten has become a much less important source of financing for armed groups*”<sup>124</sup>. The Group in 2011 and 2012 also reported that the implementation of private sector due diligence efforts in the DRC and Rwanda had resulted in increases in government revenues and improved government capacity to monitor the mineral sector and produce reliable data on mineral extraction and trade.

241. In the DRC, an apparent shift of miners from 3T to gold production, occasioned in large part by developments on the world market, also seems to have taken place in the context of:

- Increased local and international pressure on 3T sourcing practices;
- Deployment of responsible supply chain initiatives;
- Increased participation of local civil society in monitoring; and
- Efforts towards improved governance of the mining sector by the central and provincial governments.

242. However, many challenges persist. The UN Group of Expert 2014 report states that armed groups continue to control many mine sites and profit from mining and the minerals trade. The Group estimates that in 2013 98% of gold produced in the DRC was smuggled out of the country and that nearly all of the gold traded in neighbouring Uganda – the main transit country for Congolese gold – is illegally exported from the DRC. The Group states in its latest report from January 2015 that “in 2014 there was virtually no

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<sup>122</sup> How Dodd Frank is Failing Congo, Foreign Policy, 2 February 2015 and Open letter by 72 signatories: <https://ethuin.files.wordpress.com/2014/10/09092014-open-letter-final-and-list-doc.pdf>

<sup>123</sup> Insert footnote once published

<sup>124</sup> Letter dated 12 November 2012 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council, paragraph 221, S/2012/843

progress on addressing gold smuggling in 2014 in the DRC and Uganda”<sup>125</sup>. The Group also reports continued smuggling of 3T minerals and its potential to undermine the credibility and progress of international certification and traceability mechanisms.

243. IPIS furthermore reports that at sites visited by their teams in 2009/10 the percentage of 3T workers engaged at mines affected by interference from non-state armed groups and public security forces was 57%, compared to 26% of workers at sites visited in 2013/14. This sizable drop in proportions reflects both a cleaning up and contraction of the 3T sector in eastern DRC, increasing the volume and proportion of responsible 3T minerals being extracted. In 2009, the Bisie cassiterite mine was widely considered the most productive 3T site in eastern DRC and had long been subject to interference from both non-state armed groups and public security forces. By the summer of 2013, Bisie remained subject to interference but had lost its status as the DRC’s largest 3T producer to conflict-free Nyabibwe – then producing over twice the weekly output of Bisie. This achievement has led an industrial junior mining company, Alphamin, to consider and assess the feasibility of the future development of a large-scale mining project in this area, which may represent a considerable breakthrough for the North Kivu Province.

244. Whilst non-state armed group and public security force interference in a number of areas persists, the above development is significant from a responsible sourcing perspective. The Guidance and the ICGLR RCM standards expect companies not to source from sites where there is a risk of direct or indirect support to non-state armed groups, whilst continuing to source with strong, measurable improvement plans and mitigation measures at sites that indicate direct or indirect support to public security forces.

245. 2013/14 research by IPIS shows the strong significance of gold to conflict financing in eastern DRC, with a non-state armed group or public security force presence at 524 of around 850 gold mines (61%), compared to 59 of over 200 3T sites (27%). The apparent shift of artisanal miners from 3T to gold and the current scale of artisanal gold mining have important consequences for the financing of armed groups and criminal networks.

246. Levels of militarisation and interference differ between provinces. While IPIS’ comparisons of the situation between 2009 and 2014 indicate a steep improvement in some regions (particularly noticeable at 3T mines in northern Katanga, whilst Maniema province has remained largely free from militarization), others have, at best, witnessed stagnation, and at worst, possible increasing levels of interference. In this context, the North and South Kivu provinces remain the most severely impacted regions, with 79% of sites in the former showing at least the presence of either a non-state armed group or public security forces (out of 330 mines visited by IPIS in 2013/14).

247. As already recorded by IPIS in 2009, criminal networks within the FARDC continue to be the predominant source of armed interference at mine sites in 2014. FARDC presence at 1 of 3 mines highlights the Congolese army’s role in the militarisation of mining; a snapshot of FARDC involvement at mine sites in 2013/2014 shows interference with mining in over three quarters of the mines at which FARDC had a presence. Illegal taxation forms the overwhelming majority of interference, followed by involvement in trade and direct participation in digging for minerals.

### ***Impacts on human rights, gender and child labour***

248. The impact of supply chain due diligence on human rights also remains challenging to assess. To date, most supply chain due diligence efforts have focused on implementing traceability and risk assessment measures and have yet to consider creative ways to prevent and mitigate serious human rights

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<sup>125</sup> UN GoE Report on the DRC, S/2015/19, 12 January 2015

impacts, through, for example, undertaking concerted efforts with other stakeholders to address root causes and the underlying socio-economic conditions that drive or perpetuate those impacts in affected mining communities. This is particularly the case for issues such as child labour and impacts on women in mining areas..

249. The monitoring and supporting role of local civil society organisation is in this regard particularly crucial, and should receive significant support by donors. However, the progressive rolling out and expansion of initiatives such as iTSCi, the ICGLR RCM and associated mine sites validation programmes in the DRC and Rwanda give some assurance that on the production sites covered by these programmes, the most serious abuses of human rights and worst forms of child labour have decreased. They would otherwise not be validated or authorised to sell their output.

250. Of course, the most significant challenge lies with what happens on sites that are still not covered by these initiatives; various reports stress that the situation is still far from satisfactory. More systematic data collection and monitoring on the ground are required to ensure that these crucial aspects are appropriately covered. An interesting evolution in the regional public debate is the increased attention given to gender issues in relation with mineral resources production. More specifically, the importance of supporting women empowerment to help prevent serious and systematic abuses of women's rights, foster responsible practices and support peace building and human rights in mining areas is now an integral part of the discussion. Stakeholders now also tend to agree that too much attention might have been dedicated to women's protection, and not enough to their roles as economic actors and as champions for responsible practices, peace building, and upholding human rights. It is noteworthy that the ICGLR Secretariat has drafted Guidelines to mainstream gender in the mineral sector.

### *Impacts on overall mining sectorial governance*

251. The implementation of the Guidance and of the ICGLR RCM is part of a wider, global dynamic to push for enhanced transparency and governance in the extractive sector. In particular, the Extractive Industry Transparency Initiative (EITI) has made some good progress in the region – the latest EITI board meeting was even held in Kinshasa and Brazzaville – and several ICGLR Member States are now recognised as 'compliant' countries<sup>126</sup> (the DRC, the Republic of Congo, Tanzania, and Zambia – the Central African Republic currently being suspended). A peer learning mechanism to promote the adhesion by other ICGLR Member States to the EITI has even been identified as meaningful tool by the ICGLR to support the successful implementation of the RIRN. Other international and multilateral organisations, such as the International Monetary Fund, are increasingly paying attention to these issues of transparency and governance in the extractive sector in the region.

252. In this context, as a result of the progressive rolling-out of the RCM and international industry initiatives to exercise due diligence in the region and improve traceability of mineral resources, relevant stakeholders point out that there is increased focus on improving governance in the sector on the part of central and, where applicable, local government authorities. This is even more noticeable as the issue of regulating the artisanal and small-scale mining sector is one that had barely attracted any significant attention from regional authorities prior to 2011.

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<sup>126</sup> A country is designated as Compliant when the EITI Board considers that it has met all of the EITI Requirements. Compliant countries must undergo Validation every three years or upon the request from the EITI Board. Compliance with the EITI Requirements does not necessarily mean that a country's extractive sector is fully transparent, but that there are satisfactory levels of disclosure and openness in the management of the natural resources, as well as a functioning process to oversee and improve disclosure. (<https://eiti.org/glossary>)

253. However, there is also agreement that the advancement of mining reforms has been slow, as revealed by the still on-going negotiation process of the revision of the mining code in the DRC. Even where mine site validation missions have been undertaken pursuant to the national implementation of the RCM, the consequent “*arrêtés*” have often not been passed by the Mines Minister until several months later, rendering any verified status obsolete and undermining the credibility of the system.

### **Increased international visibility of ASM with international buyers, donors and governments**

254. The vulnerability of artisanal miners to armed groups that finance themselves through controlling mining operations or transport routes and the potential to lift artisanal miners and entire communities out of poverty explains why the Guidance provides a specific roadmap to create economic and development opportunities for artisanal miners.<sup>127</sup> The Guidance underlines that formalisation of artisanal and small-scale mining is crucial for the long-term sustainability of any responsible mineral supply chain effort.

255. The Guidance was the first international instrument adopted to give special attention to artisanal mining, in particular with a market-oriented perspective. The overall objective is to ensure that legitimate artisanal mining communities can benefit from on-going trade in conflict-affected and high-risk areas, to support their development and thus contribute to the general improvement of the situation on the ground. This approach has received constant support by numerous international leaders, most notably in the context of the G7/G8, as illustrated by the leader’s communiqué of the G8 Lough Erne Summit held in June 2013, which explicitly stated that G8 countries “*will promote positive economic development and responsible sourcing in the artisanal mining sector, particularly from conflict and high-risk areas*”. This support has played an instrumental role in raising the visibility of ASM related-issues globally, as it also coincided with the signature of the Minamata Convention on Mercury in January 2014.<sup>128</sup> Over the past three years, the OECD has successfully reinforced its cooperation with other relevant international organisations and bodies to identify potential synergies to support the implementation of the Guidance Appendix on artisanal and small-scale mining.<sup>129</sup>

256. A key element to allow enhanced market-access for responsible artisanal mining production is to secure the buy-in of international trading, processing and consuming companies. To achieve this, the implementation programme of the Guidance has been working to develop innovative programmes designed to foster international market acceptance of responsible ASM material with a focus on minerals produced in conflict-affected and high-risk areas. Here too, the trend is particularly encouraging as an increasing number of global buyers of gold are taking part in pilot projects to support the development of responsible artisanal gold mining supply chains.

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<sup>127</sup> “Appendix on suggested measures to create economic and development opportunities for artisanal and small-scale miners” in the Gold supplement

<sup>128</sup> The Minamata Convention on Mercury is a global treaty to protect human health and the environment from the adverse effects of mercury, widely used in artisanal gold mining to extract gold from ores. According to the World Health Organisation, artisanal mining is responsible for approximately 37% of mercury emissions and is the largest source of air and water mercury pollution. <http://www.mercuryconvention.org/>

<sup>129</sup> This is in particular the case with the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development, several United Nations bodies (such as the United Nations Environment Program or the United Nations Industrial Development Organisation, in the frame of the Minamata Convention on Mercury), and the World Bank-led project on Communities, Artisanal and Small-Scale Mining (CASM). The OECD has furthermore initiated discussions with the ICGLR to develop specific policy work on ASM formalisation with a regional perspective, as well as with the Africa Mining Development Centre (an organisation developed to implement the African Mining Vision, adopted by the African Union Assembly of Heads of State and Government in 2009).

257. An illustration of the combined efforts of stakeholders involved in the implementation programme to increase international market access for responsible artisanal gold production is the announcement made in October 2014 by Metalor, one of the major global refiners, that it has been authorised as a FairMined Refiner by the Alliance for Responsible Mining (ARM). Both entities have been involved in the implementation efforts of the Guidance for several years. This allows Metalor to offer refining services in FairMined Gold upon request and to provide fully traceable FairMined Gold, throughout the entire supply chain from the mines to the retail jewellers, via the FairMined Labelled sourcing model.

258. With a view to sustaining support to innovative initiatives, several stakeholders of the implementation programmes intend to look into the possibility of supporting the development of so-called ‘entry standards’ to enable artisanal mining communities to enter international supply chains as soon as they can demonstrate a strong commitment to formalisation and legalisation and can show compliance with a minimum set of standards focusing on conflict financing and serious abuses of human rights.

### **Impacts and trends of due diligence implementation in international business**

259. The implementation of due diligence in global mineral supply chains has resulted in major improvements in supply chain transparency. A number of initiatives and measures have improved how companies report on due diligence, supply chain risk assessment and mitigation, and audits. The publication of for example lists of known smelter and refiners of 3T and gold (e.g. OECD smelter list, US Department of Commerce list and the Conflict-Free Smelter list) has furthermore provided clarity and information on the large number of stakeholders involved in global mineral supply chains. Despite those improvements, there is still a long way to go for companies to fully implement the Guidance, and particularly the reporting component of the Guidance (step 5 of the framework), as highlighted by civil society organisations monitoring implementation efforts.<sup>130</sup>

260. An interesting trend can be noted in the gold sector and could be reproduced in other minerals: gold exchanges and market makers across the globe (such as the LBMA and the Chicago Mercantile Exchange<sup>131</sup>) have endorsed the Guidance, requiring refiners that “deliver” gold on their market / exchange to be audited by industry programmes, such as the LBMA Responsible Gold Guidance, the Conflict Free Smelter Program or the Responsible Jewellery Council. This approach greatly enhances efficiencies and reduces the market burden, since any trader, bank, or gold buyer will automatically know that the gold they are dealing with on that market / exchange comes from an audited refiner. This avoids traders, banks or buyers having to carry out individual checks before each trade.

261. In another encouraging development, companies are increasingly discussing the business case for implementing the Guidance. Companies report that while they incur upfront costs (setting up management and reporting structures, policies and procedures, identifying suppliers and carrying out risk assessment and third party audits), they also report that supply chain due diligence ultimately helps them better understand sources of raw materials and suppliers in their supply chain, has improved their internal controls, record-keeping and reporting, which in turn has led to increased opportunities to access finance, markets, and inform better commercial decision making.<sup>132</sup>

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<sup>130</sup> Digging for Transparency: How US companies are only scratching the surface of conflict minerals reporting, April 2015, Amnesty International and Global Witness

<sup>131</sup> See [http://www.cmegroup.com/market-regulation/files/15-119\\_1.pdf](http://www.cmegroup.com/market-regulation/files/15-119_1.pdf)

<sup>132</sup> See final Upstream and Downstream report from 3T Pilot

262. While not scalable across entire supply chains and going beyond the expectations in the Guidance, there has also been interesting engagement by downstream companies in upstream efforts. Examples include the involvement of downstream companies in ‘closed pipeline’ projects sourcing from conflict-affected and high-risk areas as well as individual efforts to get involved in schemes and programmes focussing on improving working conditions of miners, community development and tackling persistent human rights abuses. Several downstream companies, for example, are working with local authorities and community leaders on the ground to address child labour in mining, including the worst forms of child labour. In some cases, this allows companies to make claims about their products being conflict-free or contributing to specific causes, such as for example the FairPhone.<sup>133</sup>

263. In light of dropping commodity prices in 2015, the sharing of due diligence implementation costs among actors along the full supply chain has furthermore been discussed among implementing industry initiatives and companies. Particularly upstream companies and initiatives have struggled with the significant cost of on-the-ground traceability programmes and voiced their concerns about downstream companies not sharing the burden sufficiently, while benefiting from those programmes. On the other hand, multiple reports have debated the cost of implementing section 1502 of the Dodd Frank Act in the United States, which primarily affects downstream companies, with varying estimates, ranging from \$71.2 million USD total costs for all affected companies estimated by the SEC, to upwards of \$9 billion USD costs estimated by the National Association of Manufacturers in the United States.

264. In addition, while all operators in the supply chain face challenges when it comes to new and emerging due diligence expectations and / or legal requirements, small and medium-sized enterprises (SMEs) often struggle with much more limited capacity, both in terms of human and financial resources. Although findings from the Upstream 3T pilot Report clearly show that SMEs and microenterprises can and do implement due diligence, trainings for SMEs, particularly in the upstream segment, can help overcome cultural challenges, such as a largely verbal business culture and a lack of documentation in some producer regions.

265. While some SMEs have simple and small operations and supply chains and hence due diligence can be straight forward, SMEs that particularly struggle are often those with somewhat more complex operations and with customers that are pushing due diligence expectations and supplier information requests onto them. A number of industry associations are working on tackling the specific challenges for SMEs, among them for example the IPC Association Connecting Electronics Industries. As a contribution to the OECD implementation programme, the German BGR published on behalf of the Federal Ministry for Economic Cooperation and Development (BMZ) an in-depth study on the role, challenges and opportunities of downstream SMEs in responsible mineral supply chains.<sup>134</sup>

## Way Forward

266. Taking stock of the challenges and progress to date, the Investment Committee and Development Assistance Committee approved a 2015-16 work plan,<sup>135</sup> which was designed and proposed by the Multi-

<sup>133</sup> FairPhone integrates materials in their supply chain that support local economies, not armed militias. <https://www.fairphone.com/>

<sup>134</sup> The study “Assessing and Enhancing the Contribution of Small and Medium-scale Enterprises to Due Diligence for Responsible Mineral Supply chains” assesses existing practices and gives recommendations for the support of downstream SMEs in their efforts to implement existing due diligence obligations. [http://www.bgr.bund.de/DE/Themen/Zusammenarbeit/TechnZusammenarbeit/Politikberatung\\_SV\\_MER/Publikationen/studien\\_berichte.html](http://www.bgr.bund.de/DE/Themen/Zusammenarbeit/TechnZusammenarbeit/Politikberatung_SV_MER/Publikationen/studien_berichte.html), ISBN: 978-943566-28-4

<sup>135</sup> [COM/DAF/INV/DCD/DAC\(2015\)1](#)

stakeholder Steering Group and is divided into four pillars: (i) Peer learning and knowledge sharing activities; (ii) Outreach and training activities; (iii) Research and analysis activities; and (iv) Market-oriented initiatives activities (see Appendix A for the full work plan).

267. In addition, the work plan entails the organisation of Forums each year, in cooperation with the International Conference on the Great Lakes Region and the UN Group of Expert on the Democratic Republic of the Congo and Côte d'Ivoire, to take stock and updated participants on progresses made in the implementation of due diligence related initiatives. These work streams are aimed at achieving a number of important interrelated results:

268. *Enhanced positive impact of due diligence in conflict-affected and high-risk areas globally*, in particular to (i) reduce the opportunities for armed groups and public security forces to benefit from mineral production and trade; (ii) improve livelihoods of artisanal miners; and (iii) strengthen local government capacity to regulate and supervise its mineral sector, improve data collection, increase revenues and stem illicit financial flows and licit trade linked to the production and trade of minerals. This will be achieved through proactive engagement and training with industry, government and stakeholders in conflict-affected areas (in Africa's Great Lakes Region, but also in West Africa and Latin America), increasing the market opportunities for artisanal miners, connecting willing buyers with producers of responsible minerals in conflict areas, strengthening coordination among the development cooperation community and targeted research on the impact of due diligence on miners' livelihoods.

269. *Increased transparency and accountability globally in mineral supply chains*, in particular in new producing, processing and consuming countries, such as West Africa, Latin America and Asia. This will be achieved through targeted outreach to governments, industry and affected stakeholder with a view of getting more and better implementation of the Guidance, and through critical assessments and monitoring of current implementation efforts, including dedicated work to harmonize and better align current industry programmes designed to operationalize the Guidance.

270. *Improved understanding and awareness of natural resource-related conflicts, the informal economy and the role of the private sector, and increased implementation of the Guidance beyond tin, tantalum, tungsten and gold supply chains*, leading to better and more informed policy-making and actions. This will be achieved through dedicated research on the link of other natural resources to serious human rights abuses and conflict, sharing of lessons from the implementation of the Guidance with other relevant initiatives and programmes, and regular outreach and networking to build inclusive global value chains.

271. Conflict financing through mineral extraction and trade is a major impediment to peace, development and growth in mineral producing and transit countries. The Guidance has become the leading standard for supply chain due diligence in the mineral supply chain. Over the past three years, a wide range of measures by governments, industry and other stakeholders have led to increasing implementation of the Guidance. While efforts to date have been impressive, clear challenges remain to enhance the positive impacts of due diligence efforts on the ground, while avoiding unnecessary market disruption and inefficiencies.

## APPENDIX II: WORK PLAN 2015/2016

Peer learning and knowledge sharing activities	Outreach / training activities	Research / analysis activities	Market-oriented initiatives activities
<p><b>Artisanal and small-scale mining (ASM) Hub</b></p> <p>The ASM Hub convenes 70+ organisations to learn about ASM issues and connect producers, buyers, experts and donors. As part of the implementation programme, the OECD and the ASM Hub organise webinars based on specific ASM themes</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Organisation of webinars / meetings dedicated to ASM</li> </ul>	<p><b>China</b></p> <p>In October 2014 the OECD and the CCCMC<sup>136</sup> signed a Memorandum of Understanding signed to develop guidelines on responsible minerals sourcing practices by Chinese companies.</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Technical assistance to draft, edit and help manage consultation for CCCMC Guidelines on responsible mineral supply chains, to be based on OECD Guidance</li> <li>• Capacity-building of Chinese companies on due diligence with an emphasis on SMEs</li> <li>• Development of smelter / refiner audit system for CCCMC Guidelines on responsible mineral supply chains</li> <li>• Support to develop a white list of smelters / refiners in China</li> </ul>	<p><b>DRC gold baseline assessments</b></p> <p>In 2014, five studies have been commissioned by the OECD Secretariat to identify and assess potential traceable “conflict-free” supply chains of artisanally-mined Congolese gold and to identify the challenges to implementation of supply chain due diligence.</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Completion of the series of reports on regional gold trading networks (Province Orientale, Uganda &amp; Dubai + final overview report)</li> </ul>	<p><b>Artisanal gold mining sourcing toolkit</b></p> <p>A subset of the ASM Hub members comprised of the Artisanal Gold Council, University of Victoria, Partnership Africa Canada (PAC) and PAMP, is drafting a concept note for a tool to help companies source artisanal gold from high-risk areas</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Facilitation of the development of toolkit to help refiners purchase responsibly mined artisanal gold from conflict affected and high risk areas</li> </ul>

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China Chamber of Commerce of Metals, Minerals &amp; Chemicals Importers &amp; Exporters

<p><b>Implementation of Due Diligence by Small and Medium-size Enterprises (SME)</b></p> <p>SMEs face particular hurdles in light of their resource and capacity constraints to meet due diligence expectations. The German Federal Institute for Geosciences and Natural Resources (BGR) in 2015 launched a study on the specific needs of SMEs seeking to implement the Due Diligence Guidance.</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Support report commissioned by BGR</li> <li>• Dissemination of results</li> <li>• Training of SMEs tbd (based on findings of report) including potentially development of easy-to-use guidance tailored to SMEs' needs and capacities and translation of easy-to-use guidance in French, German, Italian and Spanish</li> </ul>	<p><b>ICGLR Technical Unit (TU) on natural resources</b></p> <p>The TU was set up in early 2014 to support the implementation of the ICGLR regional certification mechanism in the Great Lakes region.</p> <p><b>Activities :</b></p> <ul style="list-style-type: none"> <li>• Enhanced cross-participation to ICGLR and OECD hosted events;</li> <li>• Organisation of an ICGLR secondment to the OECD for training and exposure to international market expectations;</li> <li>• <i>OECD-ICGLR regional multi-dimensional policy review of the artisanal and small-scale sector</i><sup>137</sup> with a view to outlining practical recommendations together with local governments to strengthen the regulatory and policy environment (<i>e.g.</i> on licensing, taxation, incentives, oversight, etc.) and promote responsible and legitimate artisanal mining sector.</li> </ul>	<p><b>Colombia gold baseline assessments</b></p> <p>Gold baseline assessments have also been launched in Colombia and the main regional trading hub Panama. To date, no report has been shared with Forum participants.</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Completion of baseline assessments (1 overview report + 5 regional case studies)</li> </ul>	<p><b>Implementation of due diligence programmes for ASM gold</b></p> <p>Despite major progress in tin, tantalum and tungsten, major challenges persist in the implementation of due diligence in Great Lakes' gold production and trade. Setting up traceability and certification schemes in the gold sector are key in that regard</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Support launch of one or multiple traceable and certifiable artisanal gold programmes or efforts</li> </ul>
<p><b>Strengthening &amp; harmonizing refiner audit systems</b></p> <p>The objective is to assess the opportunities and challenges of enhanced harmonisation of existing industry smelter / refiner audit programs. Ultimately, the objective is to</p>	<p><b>The Democratic Republic of Congo and wider Great Lakes region</b></p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Train the trainer workshops in the DRC and Rwanda, aimed at companies and government agency personnel</li> </ul>	<p><b>Research on links of other mineral resources to human rights abuses &amp; conflict (<i>i.e.</i> Annex II risks)</b></p> <p>There have been multiple calls by a variety of stakeholders (governments, companies, NGOs) on the OECD to develop DD</p>	

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A 2-page description of this OECD-ICGLR regional multi-dimensional policy review of the artisanal and small-scale sector is available on request.

<p>avoid duplication and audit-fatigue for companies.</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Development of a plan to support strengthening and harmonization of smelter-refiner audit programmes.</li> <li>• Proposed <b>independent assessment of industry programmes</b> (<i>see below under research</i>)</li> </ul>	<p>implementing the Due Diligence Guidance and ICGLR certification.</p>	<p>guidance for additional mineral resources.</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Desk-based research and interviews consolidating factual evidences and reports of natural resources production and trade links to human rights abuses and conflict financing (<i>i.e.</i> Annex II risks).</li> <li>• Study could be used to host consultations with relevant stakeholders in late 2015 on desirability of additional OECD work on other natural resources.</li> </ul>	
<p><b>Informal Working Group on 3T Commercial Risk and risk mitigation</b></p> <p>The group allows willing companies to share their experience and challenges in managing commercial risk in their supply chains in an attempt to gather lessons-learnt and examples of good due diligence practice over time.</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Organise scenario-based working discussions.</li> <li>• Group could meet to discuss scenarios every 2-3 months.</li> <li>• Notes to be circulated to participants /MSG post discussion.</li> </ul>	<p><b>Turkey</b></p> <p>Turkey is the 4<sup>th</sup> consumer of gold in the world and is a global and major trading hub. In 2014, the OECD secretariat initiated a fruitful cooperation with local stakeholders. The DDG was translated into Turkish.</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Support the dissemination and implementation of the Guidance in the country through organisation of training workshops, participation to communication events, etc.;</li> <li>• Technical assistance to support the development of a responsible sourcing initiative by the Istanbul Chamber of Jewellery.</li> </ul>	<p><b>Independent assessment of implementation efforts &amp; programs with OECD Guidance</b></p> <p>3 years into the implementation programme, OECD Council likely to mandate Secretariat to qualitatively assess implementation efforts and alignment with OECD Guidance.</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Phase 1 (2015/2016): Independent assessment of industry refiner / smelter audit programmes (and related upstream schemes where relevant); alignment with OECD Guidance &amp; opportunities to strengthen implementation</li> <li>• Phase 1 assessment to look at CFSI, LBMA, DMCC, RJC, iTSCi</li> <li>• Potential phase 2 (2016): other industry programmes (tbd)</li> </ul>	

<p><b>Informal Working Group on Worst Forms of Child Labour</b></p> <p>The objective of the group as it is to put forward suggestions for what the Forum can do to help advance and address the issue of the Worst Forms of Child Labour in Mining</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Clarify the purpose and objective of the group, <i>e.g.</i>:</li> <li>• Streamline child labour into all activities (<i>i.e.</i> baseline assessments, ASM gold activities)</li> <li>• Develop risk assessment guidance</li> </ul>	<p><b>India</b></p> <p>India is the second largest importer of gold in the world. To date, outreach efforts with local authorities and private sector has not yielded any significant success</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Sensitisation efforts with local authorities &amp; national consultation;</li> <li>• Translation of DDG into Hindi</li> <li>• Attendance of industry events</li> </ul>		
	<p><b>West Africa</b></p> <p>In November 2014, the government of Côte d'Ivoire participated for the first time to an ICGLR-OECD-GoE Forum. They indicated their willingness to implement the Guidance. A roadmap for cooperation has been sent to the government.</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Meeting with the Government to present the Guidance</li> <li>• National consultation with all stakeholders (in particular companies)</li> <li>• Regional workshop with participation of neighbouring countries, ECOWAS<sup>138</sup></li> </ul>		

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	<p>and ICGLR</p> <ul style="list-style-type: none"> <li>• Capacity building training of Ivorian companies / stakeholders on due diligence</li> </ul>		
	<p><b>Colombia</b></p> <p>In 2014, the government of Colombia joined the implementation programme of the OECD DDG. A series of gold baselines assessments has been commissioned in the country.</p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Follow up actions on recommendations put forward in the gold baselines (<i>see below – research and analysis</i>)</li> <li>• Technical support to the National Mining Agency to produce recommendations for RUCOM<sup>139</sup></li> <li>• Capacity building of companies on due diligence in Colombia</li> <li>• Editing of simplified Guidance in Spanish</li> </ul>		

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<sup>139</sup>

Registro Único de Comercializadores de Minerales (single registry system), which is a mandatory registering system for traders of gold in Colombia put in place in 2014

### APPENDIX III - RESOURCES DEVELOPED BY THE IMPLEMENTATION PROGRAMME

To help different actors understand and implement the Due Diligence Guidance, the OECD Secretariat developed a range of tools and documents which are available on a resource platform online<sup>140</sup>:

- **OECD Simplified Guide**<sup>141</sup> to explain the basics of upstream due diligence in 3T and gold supply chains from conflict-affected and high-risk areas in Africa's Great Lakes region. The Simplified Guide exists in English, French, Lingala, Mandarin and Swahili.
- The **OECD Guidance & Dodd-Frank Act**<sup>142</sup> is a document developed for 3T and Gold upstream and downstream stakeholders to understand alignment and differences between the approaches of the Due Diligence Guidance and the US Dodd Frank Act approach to responsible mineral supply chains.
- The **OECD Smelter List**<sup>143</sup> was developed as part of the 3T downstream pilot and lists known smelters; it was intended to serve as useful baseline to help better engage smelter companies on responsible sourcing of minerals from conflict and high risk areas.
- The **OECD Illustrative List of Products Containing 3T minerals**<sup>144</sup>
- The **OECD Common Supplier Letter Template**<sup>145</sup> was developed as part of the 3T downstream pilot.
- **List of due diligence resources** from stakeholders of the OECD-ICGLR-UN GoE Multi-stakeholder Forum for responsible mineral supply chains.<sup>146</sup>
- Since 2013, the Secretariat also uses **online peer learning webinars** which provide an introduction to the Due Diligence Guidance, information on industry initiatives and a platform to exchange on technical implementation challenges. Recordings of the webinars and materials are posted on the OECD website for public dissemination.<sup>147</sup> One popular webinar series is a hub on

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<sup>140</sup> <http://mneguidelines.oecd.org/responsible-mineral-supply-chain-resources.htm>

<sup>141</sup> <http://www.oecd.org/daf/inv/mne/mining.htm>

<sup>142</sup> [www.oecd.org/daf/inv/mne/48889405.pdf](http://www.oecd.org/daf/inv/mne/48889405.pdf)

<sup>143</sup> [www.oecd.org/daf/inv/mne/3TsmelterList.pdf](http://www.oecd.org/daf/inv/mne/3TsmelterList.pdf)

<sup>144</sup> [www.oecd.org/daf/inv/mne/ListProductsContaining3Ts.pdf](http://www.oecd.org/daf/inv/mne/ListProductsContaining3Ts.pdf)

<sup>145</sup> <http://www.oecd.org/daf/inv/mne/LetterTemplate3TGDownstreamSupplier.pdf>

<sup>146</sup> <http://www.oecd.org/daf/inv/mne/DueDiligenceResoucesList.pdf>

<sup>147</sup> For recordings of the webinars, please refer to: <http://mneguidelines.oecd.org/artisanal-small-scale-miner-hub.htm>

Artisanal and Small-Scale Mining (ASM); each **ASM Hub** meeting covers a specific theme, with invited presenters and speakers.

- **Training webinars for companies looking to responsibly source gold** from conflict-affected and high-risk areas. Presentations and audio recordings are available online.<sup>148</sup> The OECD and industry peers organised a series of webinars targeting different actors in the gold sourcing supply chain to demystify how to implement the responsible sourcing of gold.
- The Secretariat has also worked with the many gold industry associations to create a **Gold Industry Initiatives Guide**<sup>149</sup> to demonstrate how the different industry-led codes and standards complement each other and operationalise the Due Diligence Guidance.
- A series of **gold baseline assessments** of the Great Lakes region (DRC and the gold trading hubs of Uganda and the UAE)<sup>150</sup> as well as of Colombia and the regional trading hub Panama (some of this work is still being carried out in 2015).
- **OECD 3Ts pilot implementation reports** (upstream and downstream)<sup>151</sup>. These reports identify best practices and helpful tools to assist companies in their initial implementation efforts.
- **Overview of Audit Initiatives** for Responsible Mineral Sourcing.<sup>152</sup>

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<sup>148</sup> <http://www.oecd.org/daf/inv/mne/gold-webinars-2013.htm>

<sup>149</sup> <http://www.oecd.org/daf/inv/mne/Gold-Industry-and-Sector-Initiatives-Guide.pdf>

<sup>150</sup> <http://www.oecd.org/daf/inv/mne/implementingtheguidance.htm>

<sup>151</sup> <http://www.oecd.org/daf/inv/mne/implementingtheguidance.htm>

<sup>152</sup> <http://www.oecd.org/daf/inv/mne/Draft-Audit-Initiatives-Overview-2014.pdf>