

Supplement on Tin, Tantalum and Tungsten

Scope and definitions

This Supplement provides specific guidance on supply chain due diligence of tin, tantalum and tungsten (hereinafter minerals) from conflict-affected or high-risk areas according to the different positions in the mineral 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.

For the purposes of this Supplement, “upstream” means the mineral supply chain from the mine to smelters/refiners. “Upstream companies” include miners (artisanal and small-scale or large-scale producers),¹ local traders or exporters from the country of mineral origin, international concentrate traders, mineral re-processors and smelters/refiners. The *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* and this *Supplement on Tin, Tantalum and Tungsten* (hereafter “Guidance”), recommends, among other things, that these companies establish a system of internal control over the minerals in their possession (chain of custody or traceability) and establish on-the-ground assessment teams, which may be set up jointly through cooperation among upstream companies while retaining individual responsibility, for generating and sharing verifiable, reliable, up-to-date information on the qualitative circumstances of mineral extraction, trade, handling and export from conflict-affected and high-risk areas. This Guidance calls on these upstream companies to provide the results of risk assessments to their downstream purchasers and have the smelters/refiners’ due diligence practices audited by independent third parties, including through an institutionalised mechanism.

1. “Upstream companies” includes artisanal or small-scale producing enterprises, rather than individuals or informal working groups of artisanal miners.




“Downstream” means the minerals supply chain from smelters/refiners to retailers. “Downstream companies” include metal traders and exchanges, component manufacturers, product manufacturers, original equipment manufacturers (OEMs) and retailers. The Guidance recommends, among other things, that downstream companies identify, to the best of their efforts, and review the due diligence process of the smelters/refiners in their supply chain and assess whether they adhere to due diligence measures put forward in this Guidance. Downstream companies may participate in industry-wide schemes that assess smelters/refiners’ compliance with this Guidance and may draw on the information these schemes provide to help them fulfil the recommendations in this Guidance.

This distinction reflects the fact that internal control mechanisms based on tracing minerals in a company’s possession are generally unfeasible after smelting, with refined metals entering the consumer market as small parts of various components in end products. By virtue of these practical difficulties, downstream companies should establish internal controls over their immediate suppliers and may coordinate efforts through industry-wide initiatives to build leverage over sub-suppliers, overcome practical challenges and effectively discharge the due diligence recommendations contained in this Guidance.

Red flags triggering the application of this supplement

This Guidance applies to actors operating in a conflict-affected and high-risk area, or potentially supplying or using tin (cassiterite), tantalum (tantalite) or tungsten (wolframite), or their smelted derivatives, from a conflict-affected and high-risk area. Companies should preliminarily review their mineral or metal sourcing practices to determine if the Guidance applies to them. The following red flags should trigger the due diligence standards and processes contained in this Guidance:

Red flag locations of mineral origin and transit:

-  *The minerals originate from or have been transported via a conflict-affected or high-risk area.²*
-  *The minerals are claimed to originate from a country that has limited known reserves, likely resources or expected production levels of the mineral in question (i.e. the declared volumes of mineral from that country are out of keeping with its known reserves or expected production levels).*
-  *The minerals are claimed to originate from a country in which minerals from conflict-affected and high-risk areas are known to transit.*

2. See Guidance for definition and indicators of conflict-affected and high-risk areas.

Supplier red flags:



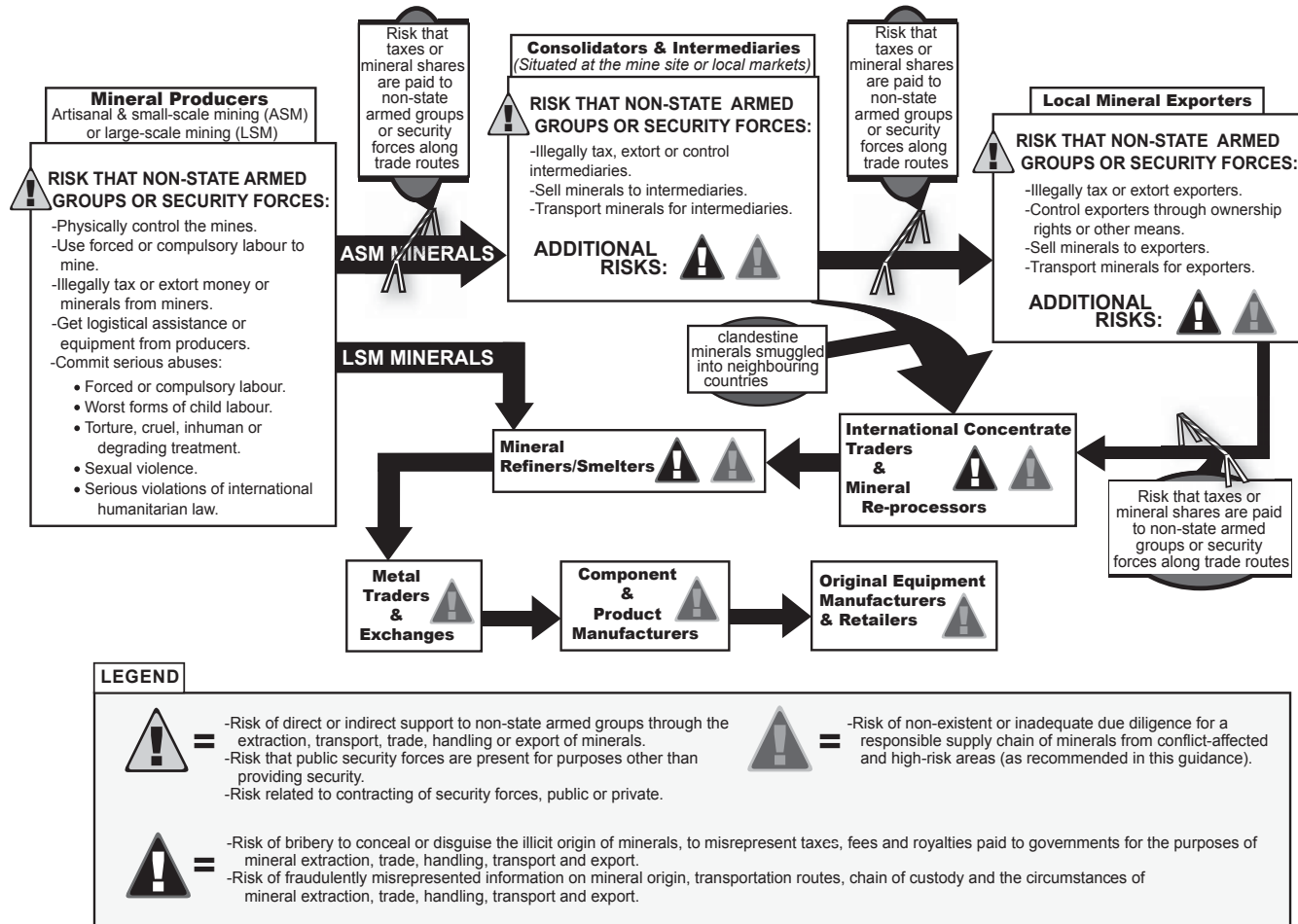
The company's suppliers or other known upstream companies have shareholder or other interests in companies that supply minerals from or operate in one of the above-mentioned red flag locations of mineral origin and transit.



The company's suppliers' or other known upstream companies are known to have sourced minerals from a red flag location of mineral origin and transit in the last 12 months.

If a company in the supply chain is unable to determine whether the minerals in the company's possession come from a "red flag location of mineral origin or transit", it should proceed to Step 1 of the Guidance.

Figure 1. Risks in the supply chain of tin, tantalum and tungsten from conflict-affected and high-risk areas



STEP 1: ESTABLISH STRONG COMPANY MANAGEMENT SYSTEMS

OBJECTIVE: To ensure that existing due diligence and management systems within companies address risks associated with minerals from conflict affected or high-risk areas.

A. Adopt and commit to a supply chain policy for minerals originating from conflict-affected and high-risk areas. This policy, for all companies in the supply chain, should include:

1. A policy commitment setting forth principles for common reference on mineral extraction, transport, handling, trading, processing, smelting, refining and alloying, and export, against which the company will assess itself and the activities and relationships of suppliers. This policy should be consistent with the standards set forth in the model supply chain policy in Annex II.
2. A clear and coherent management process to ensure risks are adequately managed. The company should commit to the due diligence steps and recommendations outlined for the various levels identified in this Guidance.

B. Structure internal management systems to support supply chain due diligence. Companies in the supply chain should:

1. Assign authority and responsibility to senior staff with the necessary competence, knowledge and experience to oversee the supply chain due diligence process.
2. Ensure availability of resources necessary to support the operation and monitoring of these processes.³
3. Put in place an organisational structure and communication processes that will ensure critical information, including the company policy, reaches relevant employees and suppliers.
4. Ensure internal accountability with respect to the implementation of the supply chain due diligence process.

3. Art. 4.1 (d), ISO 9001:2008.

C. Establish a system of controls and transparency over the mineral supply chain.

C.1. SPECIFIC RECOMMENDATIONS – For local mineral exporters

1. Collect⁴ and disclose the following information to immediate downstream purchasers, who will then pass them down the supply chain, and to any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals from conflict-affected and high-risk areas:
 - a) all taxes, fees or royalties paid to government for the purposes of extraction, trade, transport and export of minerals;
 - b) any other payments made to governmental officials for the purposes of extraction, trade, transport and export of minerals;
 - c) all taxes and any other payments made to public or private security forces or other armed groups at all points in the supply chain from extraction onwards;
 - d) the ownership (including beneficial ownership) and corporate structure of the exporter, including the names of corporate officers and directors; the business, government, political or military affiliations of the company and officers;
 - e) the mine of mineral origin;
 - f) quantity, dates and method of extraction (artisanal and small-scale or large-scale mining);
 - g) locations where minerals are consolidated, traded, processed or upgraded;
 - h) the identification of all upstream intermediaries, consolidators or other actors in the upstream supply chain;
 - i) transportation routes.

4. Due diligence is an on-going, proactive and reactive process, and therefore information may be collected and progressively built with the quality progressively improved through various steps in the Guidance, including through supplier communication [such as through contractual provisions or other processes described in Step 1(C) and Step 1(D)], through established chain of custody or transparency systems [see Step 1(C.4)], and through risk assessments [see Step 2(I) and Appendix: Guiding Note for Upstream Company Risk Assessment].

C.2. SPECIFIC RECOMMENDATIONS – For international concentrate traders and mineral re-processors:

1. Incorporate the above disclosure requirements into commercial contracts with local exporters.⁵
2. Collect and disclose the following information to immediate downstream purchasers and to any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals from conflict-affected and high-risk areas:
 - a) all export, import and re-export documentation, including records of all payments given for the purposes of export, import and re-export and all taxes and any other payments made to public or private security forces or other armed groups;
 - b) the identification of all immediate suppliers (local exporters);
 - c) all information provided by local exporter.

C.3. SPECIFIC RECOMMENDATIONS – For smelters/refiners:

1. Incorporate the above disclosure requirements into commercial contracts with international concentrate traders, mineral re-processors and local exporters.⁶
2. Maintain the information generated by the chain of custody and/or traceability system outlined below for a minimum of five years,⁷ preferably on a computerised database and make it available to downstream purchasers and to any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals from conflict-affected and high-risk areas.

C.4. SPECIFIC RECOMMENDATIONS – For all upstream companies:

1. Introduce a chain of custody and/or traceability system that generates the following information on a disaggregated basis for the minerals from a “red flag location of mineral origin and transit”, preferably supported by documentation: mine of mineral origin; quantity and dates of extraction; locations where minerals are consolidated, traded or processed; all taxes, fees, royalties or other payments made to governmental officials for the purposes of extraction, trade, transport and export of minerals; all taxes
5. It is the responsibility of the international concentrate trader to gain and maintain the information requested from local exporters regardless of whether exporters comply with the recommendations above.
6. It is the responsibility of the smelter/refiner to gain and maintain the information requested from international concentrate traders and local exporters regardless of whether they comply with the recommendations above.
7. See FATF Recommendation 10. Also see Annex II, Kimberley Process Certification Scheme and Kimberley Process Moscow Declaration.

and other payments made to public or private security forces or other armed groups; identification of all actors in the upstream supply chain; transportation routes.⁸

2. Make all information gained and maintained pursuant to the due diligence standards and processes contained in this Guidance available to downstream purchasers and auditors and to any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals from conflict-affected and high-risk areas.
3. Avoid, where practicable, cash purchases and ensure that all unavoidable cash purchases of minerals are supported by verifiable documentation and preferably routed through official banking channels.⁹
4. Support the implementation of the principles and criteria set forth under the Extractive Industry Transparency Initiative (EITI).¹⁰

C.5. SPECIFIC RECOMMENDATIONS – For all downstream companies:

1. Introduce a supply chain transparency system that allows the identification of the smelters/refiners in the company's mineral supply chain through which the following information on the supply chain of minerals from "red flag locations of mineral origin and transit" should be obtained: the identification of all countries of origin, transport and transit for the minerals in the supply chains of each smelter/refiner. Companies which, due to their size or other factors, may find it difficult to identify actors upstream from their direct suppliers may engage and actively cooperate with industry members with whom they share suppliers or downstream companies with whom they have a business relationship to identify which smelters are in the supply chain.
2. Maintain related records for a minimum of five years, preferably on a computerised database.
3. Support extending digital information-sharing systems on suppliers¹¹ to include smelters/refiners, and adapt systems to assess supplier due diligence in the supply chain of minerals from conflict-affected and high-risk areas,

8. See ITRI Supply Chain Initiative (iTSCi).

9. Financial institutions are encouraged to refer to this Guidance and supplement when undertaking customer due diligence for the purposes of providing their services and factor their compliance with this Guidance into their decision-making.

10. For information on the EITI, see <http://eiti.org/>. For a guide on how business can support EITI, see <http://eiti.org/document/businessguide>.

11. For example, see digital supplier information systems such as E.TASC.

utilizing the criteria and process recommended in this Guidance, with due regard to business confidentiality and other competitive concerns.¹²

D. Strengthen company engagement with suppliers. Companies in the supply chain should ensure that suppliers commit to a supply chain policy consistent with Annex II and the due diligence processes in this Guidance. In order to do this, the company should:

1. Establish, where practicable, long-term relationships with suppliers as opposed to short-term or one-off contracts in order to build leverage over suppliers.
2. Communicate to suppliers their expectations on responsible supply chains of minerals from conflict-affected and high-risk areas, and incorporate the supply chain policy and due diligence processes set out in this Guidance into commercial contracts and/or written agreements with suppliers which can be applied and monitored,¹³ including, if deemed necessary, the right to conduct unannounced spot-checks on suppliers and have access to their documentation.
3. Consider ways to support and build capabilities of suppliers to improve performance and conform to company supply chain policy.¹⁴
4. Commit to designing measurable improvement plans with suppliers with the involvement, if relevant and where appropriate, of local and central governments, international organisations and civil society when pursuing risk mitigation.¹⁵

E. Establish a company level grievance mechanism. Depending on their position in the supply chain companies may:

1. Develop a mechanism allowing any interested party (affected persons or whistle-blowers) to voice concerns regarding the circumstances of mineral extraction, trade, handling and export in a conflict-affected and high-risk area. This will allow a company to be alerted of risks in its supply chain as to the problems in addition to the company fact and risk assessments.
 2. Provide such a mechanism directly, or through collaborative arrangements with other companies or organisations, or by facilitating recourse to an external expert or body (i.e. ombudsman).
12. Business confidentiality and other competitive concerns means price information and supplier relationships without prejudice to subsequent evolving interpretation. All information will be disclosed to any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals from conflict-affected and high-risk areas.
13. See Steps 2-5 for information on monitoring suppliers and managing non-compliance.
14. See Step 3, "Risk Mitigation".
15. See Step 3, "Risk Mitigation".

STEP 2: IDENTIFY AND ASSESS RISKS IN THE SUPPLY CHAIN

OBJECTIVE: To identify and assess risks on the circumstances of extraction, trading, handling and export of minerals from conflict-affected and high-risk areas.

I. UPSTREAM COMPANIES

Upstream companies are expected to clarify chain of custody and the circumstances of mineral extraction, trade, handling and export and identify and assess risk by evaluating those circumstances against the model supply chain policy on minerals from conflict-affected and high-risk areas in Annex II. *Upstream companies may cooperate to carry out the recommendations in this section through joint initiatives. However, companies retain individual responsibility for their due diligence, and should ensure that all joint work duly takes into consideration circumstances specific to the individual company.*

A. Identify the scope of the risk assessment of the mineral supply chain.

Smelters/refiners, international concentrate traders and mineral re-processors should review information generated in Step 1 in order to target risk assessments on those minerals and suppliers triggered by the “red flag locations of mineral origin and transit” and “supplier red flags”, as listed in the introduction.

B. Map the factual circumstances of the company's supply chain(s), under way and planned.

Upstream companies should assess the context of conflict-affected and high-risk areas; clarify the chain of custody, the activities and relationships of all upstream suppliers; and identify the locations and qualitative conditions of the extraction, trade, handling and export of the mineral. Upstream companies should rely on information collected and maintained through Step 1, and should gain and maintain up-to-date on-the-ground information in order to map the supply chain and assess risk effectively. See **Appendix: Guiding Note for Upstream Company Risk Assessments**, which contains guidance on establishing on-the-ground assessment teams (hereafter “assessment teams”) and includes a recommended list of questions for consideration. Assessment teams may be established jointly by upstream companies operating or supplying from conflict affected or high-risk areas. Upstream companies will remain individually responsible for following any of the recommendations put forward by assessment teams and acting on them.

C. Assess risks in the supply chain. The company should assess the factual circumstances of the supply chain against the model supply chain policy on a qualitative basis to determine risks in the supply chain:

1. Review applicable standards, including:
 - a) The principles and standards of the company supply chain policy, consistent with Annex II.¹⁶
 - b) National laws of the countries where the company is domiciled or publicly-traded (if applicable); of the countries from which the minerals are likely to originate; and of transit or re-export countries.
 - c) Legal instruments governing company operations and business relations, such as financing agreements, contractor agreements, and supplier agreements.
 - d) Other relevant international instruments, such as the OECD Guidelines for Multinational Enterprises, international human rights and humanitarian law.
2. Determine whether the circumstances in the supply chain (in particular, the answers to the recommended guiding questions outlined in the Appendix) meet the relevant standards. Any reasonable inconsistency between a factual circumstance and a standard should be considered a risk with potential adverse impacts.

II. DOWNSTREAM COMPANIES

Downstream companies should identify the risks in their supply chain by assessing the due diligence practices of their smelters/refiners against this Guidance. Downstream companies who may find it difficult to identify actors upstream from their direct suppliers (due to their size or other factors), may engage and actively cooperate with other industry members with whom they share suppliers or downstream companies with whom they have a business relationship to carry out the recommendation in this section in order to identify the smelters/refiners in their supply chain and assess their due diligence practices or identify through industry validation schemes the refiners/ smelters that meet the requirements of this Guidance in order to source therefrom.¹⁷ Downstream companies retain individual responsibility for their due diligence, and should ensure that all joint work duly takes into consideration circumstances specific to the individual company.

16. See Step 1 (A) above and Annex II.

17. See the Conflict-free Smelter Programme developed by EICC and GeSI.

- A. Identify, to the best of their efforts, the smelters/refiners in their supply chain.** Downstream companies should aim to identify the mineral smelters/refiners that produce the refined metals used in their supply chain. This may be carried out through confidential discussions with the companies' immediate suppliers, through the incorporation of confidential supplier disclosure requirements into supplier contracts, by specifying to direct suppliers the smelters/refiners that meet the requirements of this Guidance, by using confidential information-sharing systems on suppliers and/or through industry wide schemes to disclose upstream actors in the supply chain.¹⁸
- B. Identify the scope of the risk assessment of the mineral supply chain.** After identifying the smelters/refiners that produce the refined metal used in their supply chain, downstream companies should engage with those smelters/refiners in their supply chains and obtain from them initial information on country of mineral origin, transit and transportation routes used between mine and smelters/refiners. Downstream companies should review this information and any information generated in Step 1 in order to target risk assessments on those minerals and suppliers triggered by the “red flag locations of mineral origin and transit” and “supplier red flags”, as listed in the introduction.
- C. Assess whether the smelters/refiners have carried out all elements of due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.**
1. Gain evidence on due diligence practices of the smelter/refiner.
 2. Review the information generated by the assessment team.¹⁹
 3. Cross-check evidence of due diligence practices of the smelter/refiner against the supply chain policy and due diligence processes contained in this Guidance.
 4. Work with the smelter/refiner and contribute to finding ways to build capacity, mitigate risk and improve due diligence performance, including through industry-wide initiatives.
- D. Where necessary, carry out, including through participation in industry-driven programs, joint spot checks at the mineral smelter/refiner's own facilities.**

18. See Step 1(C) (“Establish internal controls over the mineral supply chain”) and Step 1 (D) above.

19. See Appendix: Guiding Note for Upstream Company Risk Assessment.

STEP 3: DESIGN AND IMPLEMENT A STRATEGY TO RESPOND TO IDENTIFIED RISKS

OBJECTIVE: To evaluate and respond to identified risks in order to prevent or mitigate adverse impacts. Companies may cooperate to carry out the recommendations in this section through joint initiatives. However, companies retain individual responsibility for their due diligence, and should ensure that all joint work duly takes into consideration circumstances specific to the individual company.

A. Report findings to designated senior management, outlining the information gathered and the actual and potential risks identified in the supply chain risk assessment.

B. Devise and adopt a risk management plan. Companies should adopt a supply chain risk management plan that outlines the company responses to risks identified in Step 2. Companies may manage risk by either i) continuing trade throughout the course of measurable risk mitigation efforts; ii) temporarily suspending trade while pursuing ongoing measurable risk mitigation; or iii) disengaging with a supplier in cases where mitigation appears not feasible or unacceptable. To adopt the risk management plan and determine the correct risk management strategy, companies should:

1. *Review the model supply chain policy on minerals from conflict-affected and high-risk areas in Annex II or their own internal policy if consistent with Annex II to determine whether the identified risks can be mitigated by continuing, suspending or terminating the relationship with suppliers.*
2. *Manage risks that do not require termination of the relationship with a supplier through measurable risk mitigation.* Measurable risk mitigation should aim to promote progressive performance improvement within reasonable timescales. In devising a strategy for risk mitigation, companies should:
 - a) Consider, and where necessary take steps to build leverage over upstream suppliers who can most effectively prevent or mitigate the identified risk:
 - i) **UPSTREAM COMPANIES** – Depending on their position in the supply chain, upstream companies have significant actual or potential leverage over the actors in the supply chain who can most effectively and most directly mitigate the substantive risks of adverse impacts. If upstream companies decide to pursue risk mitigation while continuing trade or temporarily suspending trade, mitigation efforts should focus on finding ways to

constructively engage, as appropriate, with relevant stakeholders with a view to progressively eliminating the adverse impacts within reasonable timescales.²⁰

- ii) **DOWNSTREAM COMPANIES** – Depending on their position in the supply chain, downstream companies are encouraged to build and/or exercise their leverage over upstream suppliers who can most effectively and most directly mitigate the risks of adverse impacts. Should downstream companies decide to pursue risk mitigation while continuing trade or temporarily suspending trade, their mitigation efforts should focus on suppliers’ value orientation and capability-training to enable them to conduct and improve due diligence performance. Companies should encourage their industry membership organisations to develop and implement due diligence capability-training modules in cooperation with relevant international organisations, NGOs, stakeholders and other experts.
- b) Consult with suppliers and affected stakeholders and agree on the strategy for measurable risk mitigation in the risk management plan. Measurable risk mitigation should be adjusted to the company’s specific suppliers and the contexts of their operations, state clear performance objectives within a reasonable timeframe and include qualitative and/or quantitative indicators to measure improvement.
 - i) **UPSTREAM COMPANIES** – Publish the supply chain risk assessment and the supply chain management plan, with due regard to business confidentiality and other competitive concerns,²¹ and make them available to local and central authorities, upstream companies, local civil society and affected third parties. Companies should ensure sufficient time for affected stakeholders to review the risk assessment and management plan and respond to and take due account of questions, concerns and alternative suggestions for risk management.

20. Companies should refer to Annex II for the recommended risk management strategy. Annex III includes suggested measures for risk mitigation and some recommended indicators to measure improvement. More detailed guidance on risk mitigation is expected to come from the implementation phase of the Guidance.

21. See footnote 12.

C. Implement the risk management plan, monitor and track performance of risk mitigation, report back to designated senior management and consider suspending or discontinuing engagement with a supplier after failed attempts at mitigation.

1. **UPSTREAM COMPANIES** – Upstream companies should implement, monitor and track performance of risk mitigation in cooperation and/or consultation with local and central authorities, upstream companies, international or civil society organisations and affected third parties. Upstream companies may wish to establish or support the creation of community-monitoring networks to monitor or track performance of risk mitigation.

D. Undertake additional fact and risk assessments for risks requiring mitigation, or after a change of circumstances.²² Supply chain due diligence is a dynamic process and requires on-going risk monitoring. After implementing a risk mitigation strategy, companies should repeat Step 2 to ensure effective management of risk. Additionally, any change in the company's supply chain may require some steps to be repeated in order to prevent or mitigate adverse impacts.

22. A change of circumstances should be determined on a risk-sensitive basis through on-going monitoring of the companies' chain of custody documentation and the contexts of the conflict-affected areas of mineral origin and transport. Such change of circumstances may include a change of supplier or actor in the chain of custody, place of origin, transportation routes or point of export. It may also include factors specific to the context, such as an increase in conflict in specific areas, changes in military personnel overseeing an area and ownership or control changes in the mine of origin.

STEP 4: CARRY OUT INDEPENDENT THIRD-PARTY AUDIT OF SMELTER/REFINER'S DUE DILIGENCE PRACTICES

OBJECTIVE: To carry out an independent third-party audit of the smelter/refiner's due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas and contribute to the improvement of smelter/refiner and upstream due diligence practices, including through any institutionalised mechanism to be established at the industry's initiative, supported by governments and in cooperation with relevant stakeholders.

A. Plan an independent third party audit of the smelter/refiner's due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas. The audit should include the following audit scope, criteria, principles and activities:²³

1. **The scope of the audit:** The audit scope will include all activities, processes and systems used by the smelter/refiner to conduct supply chain due diligence of minerals from conflict-affected and high-risk areas. This includes, but is not limited to, smelter/refiner controls over the mineral supply chain, the information disclosed to downstream companies on suppliers, chain of custody and other mineral information, smelter/refiner risk assessments including the on-the-ground research, and smelter/refiner strategies for risk management.
 2. **The audit criteria:** The audit should determine the conformity of the smelter/refiner due diligence process against the standards and processes of this due diligence Guidance.
 3. **The audit principles:**
 - a) **Independence:** To preserve neutrality and impartiality of audits, the audit organisation and all audit team members ("auditors") must be independent from the smelter/refiner as well as from smelter/refiner's subsidiaries, licensees, contractors, suppliers and companies cooperating in the joint audit. This means, in particular, that auditors must not have conflicts of interests with the auditee including business or financial relationship with the auditee (in the form of equity holdings, debt, securities), nor have provided any other services for the auditee company, particularly
23. This recommendation outlines some basic principles, scope, criteria and other basic information for consideration for companies to commission a supply chain-specific independent third-party audit of the due diligence practices of smelters/refiners. Companies should consult ISO International Standard 19011: 2002 ("ISO 19011") for detailed requirements on audit programmes (including programme responsibilities, procedures, record-keeping, monitoring and reviewing) and a step-by-step overview of audit activities.

any services relating to the due diligence practice or the supply chain operations assessed therein, within a 24 month period prior to the audit.²⁴

- b) **Competence:** Auditors should conform to the requirements set out in Chapter 7 of ISO 19011 on Competence and Evaluation of Auditors. Specifically, auditors must have knowledge and skills in the following areas:²⁵
- i) Auditing principles, procedures and techniques (ISO 19011).
 - ii) The supply chain due diligence principles, procedures and techniques of the company.
 - iii) The organisational structure of the company's operations, particularly the company's mineral procurement and mineral supply chain.
 - iv) The social, cultural and historical contexts of the conflict-affected areas of mineral origin or transport, including relevant linguistic abilities and culturally appropriate sensitivities for conducting audits.
 - v) All applicable standards, including the model supply chain policy on minerals from conflict-affected and high-risk areas (Annex II).
- c) **Accountability:** Performance indicators may be used to monitor the ability of the auditors to carry out the audit in conformity with the audit programme, based on the objectives, scope and criteria of the audit, judged against audit programme records.²⁶

4. The audit activities:

- a) **Audit preparation:** The objectives, scope, language and criteria for the audit should be clearly communicated to the auditors with any ambiguities clarified between the auditee and auditors before the initiation of the audit.²⁷ The auditors should determine the feasibility of the audit based on the availability of time, resources, information and cooperation of relevant parties.²⁸
- b) **Document review:** Samples of all documentation produced as part of the smelter/refiner's supply chain due diligence for minerals from conflict affected areas should be reviewed "to determine the conformity of the system, as documented, with audit criteria."²⁹ This includes, but is not

24. See Chapter VIII (A) of FLA Charter.

25. The requisite knowledge and skill can be determined by the auditor's education and work experience, as laid out in Chapter 7.4 of ISO 19011:2002. Auditors must also exhibit personal attributes of professionalism, impartiality, and honesty.

26. See Chapter 5.6 of ISO 19011.

27. See Chapter 6.2 of ISO 19011.

28. *Ibid.*

29. See 6.3 of ISO 19011.

limited to, documentation on supply chain internal controls (a sample of chain of custody documentation, payment records), relevant communications and contractual provisions with suppliers, documentation generated by company risk assessments (including all records on business partners and suppliers, interviews and on-the-ground assessments), and any documents on risk management strategies (e.g. agreements with suppliers on improvement indicators).

- c) **In-site investigations:** Before beginning the in-site investigations, auditors should prepare an audit plan,³⁰ and all working documents.³¹ The evidence from smelter/refiner supply chain risk assessments and smelter/refiner supply chain risk management should be verified. Auditors should gather further evidence and verify information by conducting relevant interviews, making observations and reviewing documents.³² In-site investigations should include:
- i) **The smelter/refiner facilities** and sites where the smelter/refiner carry out due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.
 - ii) **A sample of the smelter/refiner's suppliers** (both international concentrate traders, re-processors and local exporters), which includes supplier facilities.
 - iii) **A meeting with the assessment team** (see Appendix) to review the standards and methods for generating verifiable, reliable and up-to-date information, and audit a sample of evidence relied upon by the smelter/refiner while carrying out due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas. In preparation for the meeting, auditors should request information and submit questions to the on-the-ground assessment team.
 - iv) **Consultations with local and central governmental authorities, UN expert groups, UN peacekeeping missions and local civil society.**
- d) **Audit Conclusions:** Auditors should generate findings that determine, based on the evidence gathered, the conformity of the smelter/refiner due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas with this Guidance. Auditors should make recommendations in the audit report for the smelter/refiner to improve their due diligence practices.

30. See 6.4.1 of ISO 19011.

31. See 6.4.3 of ISO 19011.

32. Art. 6.5.4 of ISO 19011.

B. Implement the audit in accordance with the audit scope, criteria, principles and activities set out above.

1. **IMPLEMENTATION OF THE AUDIT.** Under current circumstances, all actors in the supply chain should cooperate through their industry organisations to ensure that the auditing is carried out in accordance with audit scope, criteria, principles and activities listed above.
 - a) **SPECIFIC RECOMMENDATIONS – For local mineral exporters**
 - i) Allow access to company sites and all documentation and records of supply chain due diligence.
 - ii) Facilitate safe access to on-the-ground assessment team. Coordinate logistics to provide a safe meeting point for audit teams and the on-the-ground assessment team.
 - b) **SPECIFIC RECOMMENDATIONS – For international concentrate traders and mineral re-processors**
 - i) Allow access to company sites and all documentation and records of supply chain due diligence.
 - c) **SPECIFIC RECOMMENDATIONS – For smelters/refiners**
 - i) Allow access to company sites and all documentation and records of supply chain due diligence.
 - ii) Facilitate contact with the sample of suppliers selected by the audit team.
 - d) **SPECIFIC RECOMMENDATIONS – For all downstream companies**
 - i) It is recommended that all downstream companies participate and contribute through industry organisations or other suitable means to appoint auditors and define the terms of the audit in line with the standards and processes set out in this Guidance. Small and medium enterprises are encouraged to join or build partnerships with such industry organisations.
2. **INSTITUTIONALISED MECHANISM FOR RESPONSIBLE SUPPLY CHAINS OF MINERALS FROM CONFLICT AFFECTED AND HIGH-RISK AREAS.** All actors in the supply chain, in cooperation and with the support of governments and civil society, may consider incorporating the audit scope, criteria, principles and activities set out above into an institutionalised mechanism that would oversee and support the implementation of due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas. The institution should carry out the following activities:
 - a) With regard to audits:
 - i) Accrediting auditors;
 - ii) Overseeing and verifying audits;

- iii) Publishing audit reports with due regard to business confidentiality and competitive concerns.³³
- b) Develop and implement modules to build capabilities of suppliers to conduct due diligence and for suppliers to mitigate risk.
- c) Receive and follow-up on grievances of interested parties with the relevant company.

33. See footnote 12.

STEP 5: REPORT ANNUALLY ON SUPPLY CHAIN DUE DILIGENCE

OBJECTIVE: To publicly report on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas in order to generate public confidence in the measures companies are taking.

A. Annually report or integrate, where practicable, into annual sustainability or corporate responsibility reports, additional information on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.

A.1. SPECIFIC RECOMMENDATIONS – For all upstream companies

1. *Company Management Systems:* Set out the company's supply chain due diligence policy; explain the management structure responsible for the company's due diligence and who in the company is directly responsible; describe the control systems over the mineral supply chain put in place by the company, explaining how this operates and what data it has yielded that has strengthened the company's due diligence efforts in the reporting period covered; describe the company's database and record-keeping system and explain the methods for disclosing all suppliers, down to the mine of origin, to downstream actors; disclose information on payments made to governments in line with EITI criteria and principles.
2. *Company risk assessment in the supply chain:* Publish the risk assessment with due regard taken of business confidentiality and other competitive concerns.³⁴ Outline the methodology, practices and information yielded by the on-the-ground assessment; explain the methodology of company supply chain risk assessments.
3. *Risk management:* Describe the steps taken to manage risks, including a summary report on the strategy for risk mitigation in the risk management plan, and capability-training, if any, and the involvement of affected stakeholders. Disclose the efforts made by the company to monitor and track performance.

34. Business confidentiality and other competitive concerns means price information and supplier relationships without prejudice to subsequent evolving interpretation. All information will be disclosed to any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals from conflict-affected and high-risk areas.

A.2. SPECIFIC RECOMMENDATIONS – For smelters/refiners

1. *Audits*: Publish the audit reports of smelters/refiners with due regard taken of business confidentiality and other competitive concerns.³⁵

A.3. SPECIFIC RECOMMENDATIONS – For all downstream companies

1. *Company Management Systems*: Set out the company's supply chain due diligence policy; explain the management structure responsible for the company's due diligence and who in the company is directly responsible.
2. *Risk assessment and management*: Describe the steps taken to identify smelters/refiners in the supply chain and assess their due diligence practices, including the published list of qualified smelters/refiners through industry validation schemes conforming to the due diligence processes recommended in this Guidance. Describe the steps taken to manage risks.
3. *Audits*: Publish the audit reports of their due diligence practices, with due regard taken of business confidentiality and other competitive concerns³⁶ and responses to identified risks.

35. See footnote 34.

36. See footnote 34.

APPENDIX

Guiding Note for Upstream Company Risk Assessment

A. Create enabling conditions for an effective risk assessment.

When planning and structuring the supply chain risk assessment, upstream companies in the supply chain should take into account the following recommended actions:

1. **Use an evidence-based approach.** Conclusions of the company risk assessment should be corroborated by verifiable, reliable, up-to-date evidence, which should be gained through on-the-ground research carried out by an on-the ground assessment team.
2. **Preserve the reliability and quality of company fact and risk assessment of a supply chain**, by ensuring that company assessors are independent from the activity being assessed and free from conflict of interests.³⁷ Company assessors must commit to reporting truthfully and accurately and upholding the highest professional ethical standards and exercise “due professional care”.³⁸
3. **Ensure the appropriate level of competence**, by employing experts with knowledge and skill in as many of the following areas: the operational contexts assessed (e.g. linguistic abilities, cultural sensitivities), the substance of conflict-related risks (e.g. the standards in Annex II, human rights, international humanitarian law, corruption, financial crime, conflict and financing parties to a conflict, transparency), the nature and form of the mineral supply chain (e.g. mineral procurement), and the standards and process contained in this due diligence Guidance.

B. Establish an on-the-ground assessment team (hereafter “assessment team”) in the conflict-affected and high-risk

37. Art. 4, ISO 19011:2002

38. Art. 4, ISO 19011:2002

areas of mineral origin and transit to generate and maintain information on suppliers and the circumstances of mineral extraction, trade, handling and export. Upstream companies may establish such a team jointly in cooperation with other upstream companies supplying from, or operating in these areas (“cooperating companies”).

1. Upstream companies establishing the assessment team should:
 - a) Ensure the assessment team consults with local and central governments to gain information, with a view to strengthening cooperation and opening avenues of communication between government institutions, civil society and local suppliers.
 - b) Ensure the assessment team regularly consults with local civil society organisations with local knowledge and expertise.
 - c) Establish or support the creation, where appropriate, of community-monitoring networks to feed information into the assessment team.
 - d) Share information gained and maintained by the assessment team throughout the entire supply chain, preferably through a computerized system with web accessibility for companies in the supply chain and any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals from conflict-affected and high-risk areas.
2. Upstream companies establishing the assessment team should define the scope and capacities of the on-the-ground assessment team to undertake the following activities:
 - a) Obtain first-hand evidence of the factual circumstances of mineral extraction, trade, handling and export. This includes:
 - i) **The militarisation of mine sites, transportation routes and points where minerals are traded.** The assessment team should track the militarisation of mine sites, transportation routes and points where minerals are traded. Interactive maps which indicate the location of mines, armed groups, trade routes, roadblocks and airfields can constitute an additional source of information for companies.³⁹ Tracking the militarisation of mines, transportation routes and points where minerals are traded means identifying factual circumstances resulting in direct or indirect support to non-state armed groups and public or private security forces (as defined in the model supply chain policy in Annex II).
 - ii) **Serious abuses associated with the extraction, transport or trade of minerals (as defined in the model supply chain policy in Annex II)**

39. Such as DRC Map, US Department of State Map, IPIS map.

committed by public or private security forces, non-state armed groups or other third parties operating in mining areas, along transportation routes or points where minerals are traded.

- b) Respond to specific questions or requests for clarifications made by cooperating companies and put forward recommendations for the company risk assessment and risk management. All cooperating companies may put forward questions to, or request clarifications from, the on-the-ground assessment team on the following:⁴⁰
 - i) Evidence generated by the traceability and chain of custody system [Step 1 (C)] and the risk assessment [Step 2].
 - ii) Information on suppliers (intermediaries and exporters) in line with “Know your customer/supplier” protocols, such as those implemented through anti-money laundering compliance systems.⁴¹
- c) Receive and assess grievances voiced by interested parties on the ground and communicate to cooperating companies.

B.1. SPECIFIC RECOMMENDATIONS – For local exporters

1. Facilitate local logistics for the assessment team, responding to any requests for assistance.
2. Facilitate assessment team’s access to all upstream intermediaries, consolidators and transporters.
3. Allow the assessment team access to all company sites, including in neighbouring countries or other countries where trans-shipment or relabeling is likely, as well as all books, records or other evidence of procurement practices, tax, fee and royalty payments, and export documentation.
4. Allow the assessment team access to all information gained and maintained as part of the company’s due diligence practices, including payments made to non-state armed groups and public or private security forces.
5. Identify relevant personnel to act as contact points for the assessment team.

40. Questions and clarifications should be recorded and feed into information systems for future use, monitoring and updating, jointly accessible by cooperating companies.

41. See, Financial Action Task Force, Guidance on the risk-based approach to combating money laundering and terrorist financing, June 2007, Section 3.10.

B.2. SPECIFIC RECOMMENDATIONS – For international concentrate traders and mineral re-processors

1. Facilitate assessment team's access to all cross-border transporters, allowing them to join cross-border transportation of minerals on an unannounced basis.
2. Allow assessment teams access to all sites owned by the international concentrate traders and mineral re-processors in neighbouring countries or other countries where trans-shipment or relabeling is likely for minerals from conflict-affected and high-risk areas or where leakages in the supply chain are known or likely to exist.
3. Allow assessment team access to all books, records or other evidence of procurement practices, tax, fee and royalty payments, and export documentation.
4. Allow the assessment team access to all information gained and maintained as part of the company's due diligence practices, including payments made to non-state armed groups and public or private security forces.
5. Proactively provide assessment team with records of minerals from other red flag locations of mineral origin and transit.
6. Identify relevant personnel to act as contact points for the assessment team.

B.3. SPECIFIC RECOMMENDATIONS – For smelters/refiners

1. Identify relevant personnel to act as contact points for the assessment team.
2. Allow assessment team access to all books, records or other evidence of procurement practices, tax, fee and royalty payments, and export documentation.
3. Allow the assessment team access to all information gained and maintained as part of the company's due diligence practices.

C. RECOMMENDED QUESTIONS THAT COMPANY ASSESSMENTS SHOULD ANSWER:

These questions relate to common circumstances found in the supply chain of tin, tantalum, tungsten, their ores and metal derivatives which give rise to risks.

1. **Know the context of the conflict-affected and high-risk area of mineral origin, transit and/or export**
 - a) Study profiles on the conflict-affected and high-risk areas of origin, neighbouring and transit countries (including potential transportation routes and the locations of extraction, trade, handling, and export). Relevant information will include public reports (from governments,

international organisations, NGOs, and media), maps, UN reports and UN Security Council sanctions, industry literature relating to mineral extraction, and its impact on conflict, human rights or environmental harm in the country of potential origin, or other public statements (e.g. from ethical pension funds).

- b) Are there international entities capable of intervention and investigation, such as UN peacekeeping units, based in or near the area? Can these systems be used to identify actors in the supply chain? Are there local means for recourse to address concerns related to the presence of armed groups or other elements of conflict? Are relevant national, provincial, and/or local regulatory agencies with jurisdiction over mining issues capable of addressing such concerns?

2. **Know your suppliers and business partners**⁴²

- a) Who are the suppliers or other parties involved in financing, extracting, trading and transporting the minerals between point of extraction and the point at which the company undertaking the due diligence takes custody of the minerals? Identify all significant actors in the supply chain, collecting information on ownership (including beneficial ownership), corporate structure, the names of corporate officers and directors, the ownership interests of the company or officers in other organisations, the business, government, political or military affiliations of the company and officers (in particular, focusing on potential relationships with non-state armed groups or public or private security forces).⁴³
- b) What procurement and due diligence systems do these suppliers have in place? What supply chain policies have suppliers adopted and how have they integrated them into their management processes? How do they establish internal controls over minerals? How do they enforce policies and conditions on their suppliers?

3. **Know the conditions of mineral extraction in conflict affected and high-risk areas**

- a) What is the exact origin of the minerals (what are the specific mines)?
- b) What was the method of extraction? Identify if minerals were extracted through artisanal and small-scale mining (“ASM”) or large-scale mining,

42. See Financial Action Task Force, *Guidance on the risk-based approach to combating money laundering and terrorist financing*, June 2007, Section 3.10. See Step 2.

43. See Chapter VI of *Guidelines on reputational due diligence*, International Association of Oil and Gas Producers (Report No. 356, 2004). See also Chapter 5 “Knowing Clients and Business Partners” of the *OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones*, 2006.

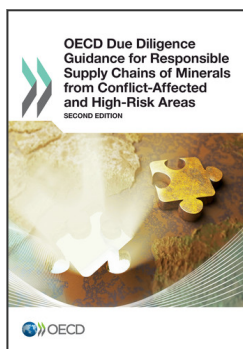
and if through ASM, identify, where possible, whether extracted by individual artisanal miners, artisanal mining cooperatives, associations, or small enterprises. Identify the taxes, royalties and fees paid to government institutions, and the disclosures made on those payments.

- c) Do conditions of extraction involve the presence and involvement of non-state armed groups or public or private security forces, including in one or more of the following: direct control of the mine or transportation routes around mine; levying of taxes on miners or extortion of minerals; beneficial or other ownership interests in the mine site or mineral rights by non-state armed groups or public or private security forces and/or their families and/or associates; engagement in mining as a second income when “off duty”; or provision of security paid by miners or through taxes arising from production. Do any of these armed groups or military units have an involvement or interest in the conflict? Do any of them have a history of involvement in widespread human rights abuses or other crimes?
 - d) What are the conditions of extraction? In particular, identify if there are
 - i) any forms of torture, cruel, inhuman and degrading treatment exacted for the purposes of mineral extraction;
 - ii) any forms of forced or compulsory labour which means work or service which is exacted from any person under the menace of penalty and for which said person has not offered himself voluntarily;
 - iii) the worst forms of child labour for the purposes of mineral extraction;
 - iv) other gross human rights violations and abuses such as widespread sexual violence on mine sites or in the course of mineral extraction; or
 - v) war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide.
- 4. Know the conditions of mineral transport, handling and trade in conflict affected and high-risk areas**
- a) Were downstream purchasers situated at the mine site or elsewhere? Were the minerals from different miners handled and processed separately and kept separate when sold downstream? If not, at what point were the minerals processed, consolidated and mixed when sold downstream?
 - b) Who were the intermediaries that handled the minerals? Identify whether any of those intermediaries have been reported or suspected to be extracting or trading minerals associated with non-state armed groups.
 - c) To what extent, if any, are public or private security forces or non-state armed groups directly or indirectly involved in the trading, transportation or taxing of the minerals? Are the public or private security forces or non-state armed groups benefiting in any way from the trading, transporting or taxing of minerals being carried out by other parties, including through affiliations with intermediaries or exporters?

- d) To what extent, if any, are the public or private security forces or non-state armed groups present along trade and transportation routes? Are there any human rights abuses occurring in trading, transportation or taxing of the minerals? For example, is there evidence of forced labour, extortion or coercion being used? Is child labour being used? In particular, identify if there are i) any forms of torture, cruel, inhuman and degrading treatment exacted for the purposes of mineral transport or trade; ii) any forms of forced or compulsory labour to mine, transport, trade or sell minerals; iii) the worst forms of child labour for the purposes of mineral transport or trade; iv) other gross human rights violations and abuses such as widespread sexual violence on mine sites or in the course of mineral transport or trade; or v) war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide for the purposes of mineral transport or trade.
- e) What information is available to verify the downstream trade, such as authentic documents, transportation routes, licensing, cross-border transportation, and the presence of armed groups and/or public or private security forces?

5. Know the conditions of export from conflict affected and high-risk areas

- a) What was the point of export and have there been reports or are there suspicions of facilitation payments or other bribes paid at points of export to conceal or fraudulently misrepresent the mineral origin? What documents accompanied mineral export and have there been reports or are there suspicions of fraudulent documentation or inaccurately described declarations (on type of mineral, mineral quality, origin, weight, etc.)? What taxes, duties or other fees were paid on export and have there been reports or are there suspicions of under-declaration?
- b) How was export transportation coordinated and how was it carried out? Who are the transporters and have there been reports or are there suspicions of their engagement in corruption (facilitation payment, bribes, under-declarations, etc.)? How was export financing and insurance obtained?



From:

OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas

Second Edition

Access the complete publication at:

<https://doi.org/10.1787/9789264185050-en>

Please cite this chapter as:

OECD (2013), "Supplement on Tin, Tantalum and Tungsten", in *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Second Edition*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264185050-4-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at info@copyright.com or the Centre français d'exploitation du droit de copie (CFC) at contact@cfcopies.com.