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

Final downstream report on one-year pilot implementation of the Supplement on Tin, Tantalum, and Tungsten

January 2013
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SECTION I: OECD DOWNSTREAM DUE DILIGENCE PILOT IMPLEMENTATION – CYCLE 3

Overview of the OECD Guidance

The “OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas” provides due diligence recommendations for responsible global supply chains of minerals to help companies respect human rights and avoid contributing to conflict through their activities. The Guidance provides companies potentially sourcing minerals or metals from conflict-affected and high-risk areas with a five-step, risk-based due diligence framework. It is intended to serve as a tool to cultivate transparent mineral supply chains and sustainable corporate engagement in the minerals sector, while enabling countries to benefit from their natural mineral resources. The OECD 3Ts Supplement outlines the recommended steps companies should take to identify and respond to risks in the supply chain.

The Guidance was developed through a multi-stakeholder process with in-depth engagement with the OECD and representatives from African countries, industry, civil society, the United Nations Group of Experts on the DRC, and the World Bank. The Guidance builds on and is consistent with the relevant supply chain provisions contained in the OECD Guidelines for Multinational Enterprises and the U.N. Guiding Principles for Business and Human Rights. With specific regard to supply chain due diligence for responsible mineral sourcing, risk-based due diligence refers to the steps companies should take to identify, prevent, and address actual or potential adverse impacts and do not contribute to conflict or serious abuses associated with the extraction, transport or trade of minerals through their supply chain activities.

The Guidance is also intended to help companies put in place a due diligence process that can help them meet disclosure requirements under national laws, such as Section 1502 of the U.S. Dodd–Frank Wall Street Reform and Consumer Protection Act Act (“Dodd-Frank”), which requires U.S.-listed companies to disclose whether they use “conflict minerals” (tin, tungsten, tantalum, and gold), and whether these minerals originate in the Democratic Republic of the Congo (DRC) or in an adjoining country. Currently, the Guidance is the only internationally recognised due diligence framework which issuers, and other companies in the supply chain operating beyond U.S. borders, can use to develop due diligence processes for satisfying the reporting requirements under Dodd-Frank.

Overview of the OECD Downstream One-Year Pilot Implementation Phase

The one-year pilot implementation of the OECD Guidance focuses on how companies implement due diligence in the supply chains of tin, tantalum, and tungsten, especially as the due diligence relates to minerals potentially sourced from Africa’s Great Lakes Region. The purpose of the pilot was to assist with the implementation of the OECD 3Ts Supplement by allowing companies to learn from each other’s experiences; share best practices as well as tools, and methodologies for implementing the Guidance; and to identify any challenges in the implementation of the Guidance.
The downstream portion of the pilot began in August 2011 and culminated in November 2012. BSR, a global network, consulting and research organisation, assisted the OECD in collecting data over three reporting cycles for 30 downstream companies and four industry associations that volunteered to participate. In each of the three cycles, the participating companies and industry associations reported to the OECD through standardised questionnaires, group conference calls, industry-only meetings, and follow-up discussions on the progress achieved and challenges faced while carrying out the due diligence steps recommended in the OECD 3Ts Supplement.

Key features of the 3Ts downstream pilot implementation phase include:

- **Industry:** While the majority of participants are large multi-billion multinationals from the information and communications technology sector, a range of other industries including aerospace and defence, automotive, medical devices, consumer products, extractives, chemicals, and lighting also participated in the pilot. In addition, many pilot participants fall into multiple categories due to their diversified business structures or because their products are used across multiple industries. Industries that are not represented among pilot participants include jewellery, construction, pharmaceuticals, and packaging. There is limited to no participation from small and medium enterprises\(^1\). The majority of participants earned revenues of more than US$1 billion in 2010 (Figure 2). As such, the pilot during Cycle 1 and Cycle 2 did not include any SMEs (small to medium-sized enterprises). During Cycle 3, four industry associations distributed standardised surveys to their membership to capture a broader set of experiences from smaller companies, including SMEs, and those results can be found in Section III of this report.

- **Geography** (Figure 1): Effort was made to recruit companies from a wide range of countries. The majority of participating companies (85 percent) are based in OECD countries, with more than half headquartered in the United States. The remaining 15 percent are companies from non-OECD countries and headquartered in Singapore, Malaysia, India, or China. The pilot reports mainly cover U.S. and EU companies’ due diligence practices. The majority of participants are subject to U.S. disclosure requirements and are under pressure to adopt systems and processes that will comply with the U.S. law

\(^1\) Small and medium-sized enterprises (SMEs) are non-subsidiary, independent firms which employ fewer than 250 employees. Small firms are generally those with fewer than 50 employees, while micro-enterprises have at most 10, or in some cases 5, workers. Financial assets are also used to define SMEs. In the European Union, a new definition came into force on 1 January 2005: medium, small and micro enterprises should not exceed EUR 43 million, EUR 10 million and EUR 2 million, respectively.
Supply chain position (Figure 3): “Downstream” refers to the mineral supply chain from smelters/refiners to retailers, and includes metal traders and exchanges, component manufacturers, product manufacturers, original equipment manufacturers (OEMs), and retailers. The majority of companies (60 percent) are either original equipment manufacturers (OEMs) or component manufacturers, with zero representation from companies that act exclusively as metal traders and exchanges or retailers. Approximately 30 percent of the respondents categorise their companies as OEMs, and another 30 percent categorise their companies as component manufacturers. Nine companies fall into multiple categories along the downstream supply chain, from metal exchanges through OEMs. These companies employ highly integrated or vertical supply chains, meaning that they have business operations along various points of their supply chains and may even be involved in upstream operations.
Summary of Cycles 1 and 2

Cycle 1 (August to December 2011) culminated in a baseline report that demonstrated the actual levels of due diligence implementation by participating pilot companies, established the breadth of current practices, and described major challenges encountered at the beginning of the 12-month pilot. During the Cycle 1 meeting held in Paris in November 2011, participants expressed the need for more detail on emerging due diligence practices, more examples and explanations for practical methods to implement the Guidance, a better understanding of expectations throughout the supply chain, and opportunities to share experiences with their peers.

In response to this feedback, the Cycle 2 of the pilot (January to May 2012) provided an opportunity for the participating companies to provide deeper insights into their current practices and specific experiences in developing systems and processes for the implementation of the five-step framework. Three conference calls with downstream pilot participants enabled direct learning and sharing among the pilot group. The Cycle 2 report demonstrated that participants made progress implementing systems to conduct due diligence, particularly on Steps 1 and 2 of the Guidance. Steps 1 and 2 encourage companies to introduce a supply chain transparency system by structuring internal systems to support due diligence, identify to the best of their efforts smelters in their supply chains, and communicate with suppliers.

Throughout the first two cycles, participants encouraged greater involvement and input by industry associations to raise awareness, develop due diligence implementation tools, and collect information on their members’ practices. Therefore, the Cycle 2 report featured more information on industry association activities to support the due diligence activities of their members.
Introduction to Cycle 3

Cycle 3 of the OECD downstream implementation pilot was aimed at understanding how companies’ efforts to implement due diligence have evolved over the one-year pilot (August 2011 to November 2012). Specifically, this report focuses on current practices and opportunities for cross-fertilisation among different sectors and along the downstream supply chain. In order to understand the evolution of practices and implementation of the five-step framework of the OECD Guidance, Cycle 3 data was compared to the baseline data captured in Cycle 1.

It should be noted that there were a total of 30 respondents to the Cycle 1 questionnaire even though the information in the Cycle 1 report is based on the answers of 28. This is a result of two companies not submitting their responses in time. These two companies’ data is included in the Cycle 1 data for this report. In Cycle 3, only 24 companies responded to the questionnaire, therefore there is a discrepancy of six participants between the Cycle 1 and Cycle 3 data. Comparisons between Cycle 1 and 3 are based on a consistent sample of companies.

Cycle 3 Methodology

In July 2012, Cycle 3 questionnaires were distributed to downstream participants. One questionnaire was distributed to the companies and another questionnaire was distributed to the industry associations (both are available in the Annexes of this report). The responses to the industry association questionnaires have been integrated into the main findings of the report in Section II. Both questionnaires were modified versions of the Cycle 1 survey with many of the same questions. However, the Cycle 3 questionnaire was simplified to include the most relevant questions pertaining to the OECD Guidance and the OECD 3Ts Supplement. The objective was to enable the comparability of the quantitative data to show how implementation of the Guidance evolved over the one-year period.

Industry associations were also invited to distribute a separate simplified questionnaire to their membership to capture company practices beyond the 30 participating companies, particularly among SMEs and end-product manufacturers. These findings are presented in Section III of this report (p. 57).

During the May meeting held at the OECD, pilot participants shared ways to communicate common and realistic expectations to suppliers, establish consistent supply chain data, and reach out to SMEs, particularly those based in Asia. The participants also suggested that the OECD convene a small group of willing pilot participants to explore the development of common content for reaching out to suppliers and other companies in the downstream supply chain to make them aware of the due diligence efforts and reasonable expectations, and how they could avoid the harmful unintended consequences of regulatory pressure. As part of the pilot process, sixteen downstream companies and four industry associations participated in the group and two conference calls were held to develop the common supplier template. The common supplier template reproduced in Annex 1 (see p. 67) reflects the common approach developed by the sixteen downstream 3T pilot participants to promote consistency of supplier communications on sourcing minerals (3TG) from conflict-affected and high-risk areas. It is intended as a template that companies may customise and tailor. The main letter includes
optional texts which companies can choose to include or not. The main letter is followed by an Appendix with detail on specific items and a list of useful resources which companies may choose to incorporate as an Addendum to the main letter.

Two meetings were held via conference call with pilot participating companies and industry associations. The first call (August 2012) focused on reviewing the process for Cycle 3 and the final phase of the implementation project. During the second call (October 2012), the initial data findings of Cycle 3 were presented and companies were invited to provide more insights on the data collected to inform the final report and provide feedback on the one-year implementation phase.

**Downstream Participants and Cycle 3 Response Rate**

The following list includes the companies and industry associations that agreed to disclose their participation in the OECD pilot. Three companies chose not to disclose their participation. In total, thirty companies and four industry associations participated in the pilot.

<table>
<thead>
<tr>
<th>Companies</th>
<th>Industry Associations</th>
</tr>
</thead>
<tbody>
<tr>
<td>» Alcatel-Lucent</td>
<td>» AIAG (Automotive Industry Action Group)</td>
</tr>
<tr>
<td>» Alpha (Cookson)</td>
<td>» EICC (Electronics Industry Citizenship Coalition)</td>
</tr>
<tr>
<td>» AMD</td>
<td>» GeSI (Global e-Sustainability Initiative)</td>
</tr>
<tr>
<td>» ArcelorMittal</td>
<td>» IPC (Association Connecting Electronics Industries)</td>
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<tr>
<td>» The Boeing Company</td>
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<tr>
<td>» Circuit Connect</td>
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<tr>
<td>» EPIC Technologies</td>
<td></td>
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<tr>
<td>» Flextronics</td>
<td></td>
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<tr>
<td>» Ford Motor Company</td>
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<tr>
<td>» Foxconn</td>
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<tr>
<td>» Freescale</td>
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<tr>
<td>» General Electric Company</td>
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<tr>
<td>» Hewlett Packard</td>
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<tr>
<td>» KEMET</td>
<td></td>
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<tr>
<td>» Lockheed Martin Corporation</td>
<td></td>
</tr>
<tr>
<td>» Nokia</td>
<td></td>
</tr>
<tr>
<td>» Northrop Grumman Corporation</td>
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<tr>
<td>» Oracle</td>
<td></td>
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<tr>
<td>» Panasonic Corporation</td>
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<tr>
<td>» Royal Philips Electronics</td>
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<tr>
<td>» Plansee Group</td>
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<tr>
<td>» Research In Motion (RIM)</td>
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<tr>
<td>» Siemens AG</td>
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<td>» Texas Instruments</td>
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<td>» TriQuint</td>
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<tr>
<td>» Unisem Group</td>
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<td>» United Technologies</td>
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</table>
All four industry associations and 24 companies submitted responses to the Cycle 3 questionnaire. Five companies declined to participate in the third and final round, citing a lack of resources, poor timing, or changes and mergers in the company. One company did not submit its questionnaire due to delayed legal reviews. The rate of participation in the additional industry association questionnaire distributed to industry association members is described separately in Section III of this report (p. 50).

**Illustrative List of Products Containing Tin, Tantalum, and Tungsten (3Ts)**

The following list is an illustrative list of products containing the 3Ts. This is not an exhaustive list of products. The Cycle 2 downstream report includes a commodity analysis conducted by one of the downstream pilot participants to determine products that contain the 3Ts. This list is comprised of examples of product categories and products that contain 3Ts.

<table>
<thead>
<tr>
<th>Tin</th>
<th>Tantalum</th>
<th>Tungsten</th>
</tr>
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<tbody>
<tr>
<td>All electrical products (toys, phones,</td>
<td>Electronics (including electronic toys, phones, computers, watches,</td>
<td>Appliances</td>
</tr>
<tr>
<td>computers, audio, GPS, appliances, etc.)</td>
<td>cameras, appliances, GPS, etc.), appliances</td>
<td></td>
</tr>
<tr>
<td>Lighting, including seasonal light</td>
<td>Lighting</td>
<td></td>
</tr>
<tr>
<td>Jewellery, watches</td>
<td>Eyeglasses and camera lenses</td>
<td></td>
</tr>
<tr>
<td>Canned food (e.g. coating for steel cans)</td>
<td>Power tools</td>
<td></td>
</tr>
<tr>
<td>Decorative crafts</td>
<td>Automotive parts (e.g. self-dimming mirrors and fuel pumps, automotive</td>
<td></td>
</tr>
<tr>
<td>Eyeglasses, lenses</td>
<td>drilling and machining, airbags, skid control, engine controls, etc.)</td>
<td></td>
</tr>
<tr>
<td>Sports/fitness equipment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Power tools</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plastics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Automotive parts (e.g. brake pads)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>PVC</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Buckles, fasteners, zippers, buttons</td>
<td></td>
<td></td>
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<tr>
<td>Metallicized yarns</td>
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<td></td>
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- Electronics (including electronic toys, phones, computers, watches, cameras, appliances, GPS, etc.), appliances
- Lighting
- Eyeglasses and camera lenses
- Power tools
- Automotive parts (e.g. self-dimming mirrors and fuel pumps, automotive drilling and machining, airbags, skid control, engine controls, etc.)
- Alloys for aerospace and gas turbines, jet engines
- Corrosion resistant equipment for chemical processing
- Coatings and parts for medical devices and implants

- Appliances
- Lighting, including seasonal lighting
- Phones
- Computer
- Jewellery
- Decorative crafts
- Sports/fitness equipment
- Power tools, including lawn mowers and grass cutters
SECTION II: DEVELOPMENT OF DUE DILIGENCE PRACTICES OVER A ONE-YEAR PERIOD

Summary Findings

Since the beginning of the pilot phase in August 2011, participants have demonstrated a marked improvement in their understanding of the issue of minerals from conflict-affected areas, the OECD Guidance, and their supply chains. While it is difficult to generalise experiences across a group of companies with diverse processes and necessities, a number of common practices and trends emerged over the course of the one-year pilot period.

During the one-year pilot period, another critical development occurred. The U.S. Securities and Exchange Commission (SEC) issued its Final Rule on the U.S. Dodd-Frank Act, Section 1502 on “Conflict Minerals” applicable to U.S. stock exchange listed companies concerning the 3TG (so called “conflict minerals”). U.S. publicly traded companies are required to conduct a reasonable country of origin inquiry into the origin of 3TG used in their products and determine whether the 3TG originated in the Democratic Republic of the Congo (DRC) or one of its nine neighbouring countries. If so, those companies must exercise due diligence to determine if trade in those minerals supported conflict. The SEC Final Rule requires companies subject to Dodd-Frank requirements to exercise due diligence in conformance to a nationally or internationally recognised due diligence framework. The SEC Final Rule on Section 1502 of the Dodd Frank Act on Conflict Minerals recognises the OECD Guidance as an international framework available to companies to perform due diligence for responsible mineral sourcing and thereby help them meet their reporting obligations under the Act. The SEC says that the OECD 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.” Uncertainty remains around how auditing firms will audit due diligence practices and develop auditing protocols against the Guidance and whether there will be any consistency in their development and use.

The OECD Guidance aims to support responsible sourcing from the region through due diligence practices. However, the SEC Final Rule was regarded by pilot participants, as providing a disincentive to companies sourcing from the region because those companies that do source from the region will have to conduct due diligence, write a conflict minerals report, get an independent audit and prepare a public disclosure document to the SEC, while others who decide not to source from the Great Lakes Region altogether will not have to undertake such endeavours. During the pilot, companies aimed to demonstrate a common and practical approach to carry out due diligence in a manner consistent with the OECD Guidance to minimise the burden to the extent practical and encourage companies to continue sourcing from the region.

Progress is evident across a number of areas of the Guidance, most notably under Step 1. More companies have implemented policies, undertaken efforts to gain a better understanding of their supply chain, and engaged with their suppliers; prioritising those that have the highest risk of supplying
products with the 3Ts. Progress has also been demonstrated for Step 2 and Step 3. The data comparisons between Cycles 1 and 3 show increased levels of reliance on industry initiatives, namely the Conflict-Free Smelter (CFS) Program to undertake joint activities on obtaining smelter information (Step 2) and responding to identified risks (Step 3).

Participants indicated that there were challenges, however, with interpretations of the Guidance regarding the level of information they obtain about upstream and smelter due diligence and the level of information downstream companies should review under Step 2. This might explain why companies indicated a decrease in implementation of Step 2, II., B, despite increasing knowledge of the supply chain and smelters, and use of industry tools such as the CFS Program to identify risks and implement due diligence.

The downstream section of Step 2 includes the following general recommendation applicable throughout the section on risk assessment, including Step 2, II., B: “[d]ownstream, companies [...] may engage and directly cooperate with other industry members [...] to carry out the recommendation contained in this section in order to identify the smelters/refiners in their supply chain and assess their due diligence practices [...]. Although the CFS Program does not provide information on transit and transportation routes used between the mine and the smelter, it does review this type of information covered by the in-region sourcing scheme, including country of origin information, as part of the Step 4 third-party audit of smelters due diligence practices for in-region sourcing.
A. Key Trends

<table>
<thead>
<tr>
<th>Trends</th>
<th>Approaches and Findings</th>
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<tbody>
<tr>
<td>More companies have agreed to source responsibly from the Great Lakes Region</td>
<td>Seventy-five percent of participants in Cycle 3 (18 respondents) indicated that they intend to source minerals responsibly in accordance with available international standards contained in the OECD Guidance. The pilot participants that are intending to source minerals responsibly will do this through various means, including participating in industry programmes (e.g. CFS) and constructively engaging with suppliers. This is a dramatic change by downstream companies from the beginning of the pilot. Most participants in Cycle 1 were reluctant to indicate an approach to sourcing responsibly from the region due to a lack of understanding of the implications of such a policy. The CFS Program developed by GeSI and the EICC will accept the International Conference on the Great Lakes Region (ICGLR) certificates as a credible in-region sourcing mechanism, once validated by the CFS Program and so long as minerals originate from “green” (conflict-free) validated sites.</td>
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<td>Pilot participants’ approach to responsible sourcing in accordance with available international standards contained in the OECD Guidance differs significantly from the broader group of non-participating pilot companies surveyed through the industry associations. While 75 percent of pilot participants are encouraging responsible sourcing from conflict and high-risk areas, only 25 percent of the broader group of companies takes this approach. Participants note that there may be challenges to encouraging responsible sourcing of material from the Great Lakes Region in the supply chain due to the burden of Dodd-Frank requirement to file a Conflict Minerals Report and have it audited.</td>
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<td>Participants have demonstrated more interest in engaging smelters on the topic and creating opportunities to strengthen market opportunities in Africa.</td>
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<td>Increased development and implementation of formal and defined policies</td>
<td>More participants have defined and established clear policies on sourcing minerals from conflict-affected and high-risk areas. These policies describe the company’s commitment, due diligence activities, and supplier expectations, with overall greater alignment with Annex II of the OECD Guidance.</td>
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<td>More companies have a better understanding of how to use and reference appropriate elements of Annex II into their minerals policies. Participants have tailored the Model Policy of Annex II to their needs and position in the supply chain in order to fully implement an actionable policy that only includes elements that they can implement with their direct suppliers.</td>
</tr>
<tr>
<td>Increased engagement with direct suppliers on due diligence expectations, contractual obligations, and capacity building</td>
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| Participants made significant progress in engaging with their key suppliers on due diligence requirements by first identifying and prioritising a sub-set of suppliers for communications; using standardised tools such as the Conflict Minerals Reporting Template (developed by the EICC and GeSI) to collect information; reminding suppliers of their contractual obligations; and building suppliers’ capacity through regular communications, training, information sessions, and meetings as recommended in Steps 2A and 3B(ii) of the Guidance.

| Companies are enforcing policy compliance by requiring supplier declarations, incorporating expectations of data reporting on conflict minerals and encouraging use of smelters that have been certified “conflict-free”. The incorporation of clauses into supplier contracts has led to improved response rates from their suppliers. Once the CFS has a majority of smelters represented, some companies have indicated the intention to include contract clauses and terms and conditions for CFS compliance smelters only in their supply chain.

| Companies used consistent and regular communications, educational opportunities, and reminders of contractual obligations to address suppliers’ lack of cooperation.

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<tr>
<th>Progress made in identifying smelters in the supply chain to the best of their efforts</th>
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| Both companies with and without smelter relationships indicated that they are relying on the Conflict Minerals Reporting Template (developed by the EICC and GeSI) to obtain information from their suppliers. Companies noted that the provision of a standard reporting template across multiple industries and companies has enabled progress in obtaining supplier information (including smelters) over the one-year pilot phase. These tools also help companies deal with the issue of confidentiality, both individually and as an industry, by using data-collection and roll-up tools that do not require the list of all suppliers used within a company’s supply chain.

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2 See OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, Step 2, II. 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. 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.

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.

3 See OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, Step 3 B 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.
<table>
<thead>
<tr>
<th>Progress made in obtaining smelter due diligence information recommended in the Guidance</th>
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<tbody>
<tr>
<td>Companies have employed a combination of tactics to identify more smelters over the one-year pilot phase, including direct communications with their suppliers and the integration of disclosure requirements into supplier contracts as recommended in Step 2A of the Guidance.</td>
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| Companies without direct smelter relationships indicated that they have limitations to obtaining information independently. The primary industry scheme currently in place, the CFS Program, utilises a third party auditor to assess the due diligence information consistent with the OECD Guidance including transportation and transit routes and mine origin to make a determination of whether the smelter minerals are conflict-free. Although the CFS Program does not provide information on transit and transportation routes used between the mine and the smelter, it does review this type of information covered by the in-region sourcing scheme as part of the Step 4 third-party audit of smelters due diligence practices for in-region sourcing. Downstream companies rely on the CFS and third party audits to assess smelters’ due diligence practices in accordance with the Guidance. This is aligned with the recommendation contained in the Guidance, which allows for the review of the information on country of mineral origin, transit and transportation routes and smelters/refiners through collective efforts. |

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<th>Companies without direct smelter relationships cannot identify red flags and mitigate risks arising upstream in the supply chain with their direct suppliers</th>
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<tbody>
<tr>
<td>Participants noted that their participation in industry initiatives as outlined in the Guidance only provides them with one-way information on upstream activities. It does not provide opportunities for companies without smelter relationships to understand and mitigate risks in the upstream supply chain. They also indicated that the recommendations on red flags pertain to the upstream process and do not apply to downstream suppliers. This is in line with the Guidance, which depending on the position of downstream companies in the supply chain, only encourages them to build and/or exercise their leverage over upstream suppliers that can most effectively and most directly mitigate the risks of adverse impacts.</td>
</tr>
</tbody>
</table>

| Downstream companies without direct smelter relationships have tailored their due diligence practices to reflect their specific positions in the supply chain, and they have implemented relevant recommendations from the Guidance accordingly. Therefore, downstream participants are focusing their efforts, per the Guidance, on the “internal controls over their immediate suppliers,” which are their tier-1 suppliers. Companies have undertaken efforts to build these suppliers’ due diligence capacity. |

<table>
<thead>
<tr>
<th>Both the delay and final implementation of the SEC Dodd-Frank Final Rule (which was issued on 22 August 2012⁴) has hindered the pace of due diligence activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some participants waited to finalise specific aspects of their due diligence activities to ensure alignment with the final U.S. law which was issued on 22 August 2012.</td>
</tr>
</tbody>
</table>

| Participants have had difficulty convincing suppliers not to boycott the DRC or Great Lakes Region. A few companies have seen an increasing number of their customers requesting the exclusion of minerals coming from these regions. |

<table>
<thead>
<tr>
<th><strong>diligence progress</strong></th>
<th>from the Great Lakes Region due to the SEC Final Rule, which in their view creates increased cost and public disclosure when sourcing from the region. Companies noted that according to the SEC rule, they would not be required to file a conflict minerals report if they did not source from the Great Lakes Region. This is the primary incentive for companies to stop sourcing from the region.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industry associations are supporting their members and non-members through standardised tools and education about minerals sourced from conflict and high-risk areas.</td>
<td>Participating associations are supporting members by providing trainings and access to tools, webinars, and in-person meetings. They are providing general information and educational opportunities for their members to learn about responsible sourcing practices and data collection. Associations have developed standardised tools and processes to enable common approaches to due diligence. More specifically, the associations have developed common questionnaires and data collection tools that enable consistency throughout the supply chain and support collaborative processes, particularly the CFS, which provide assurance of the conflict-free status of smelters. Participating associations are supporting their members to understand better the OECD Guidance through publications, web communications, event presentations, press releases, direct mail, and conferences. Increased cross-sector collaboration has taken place over the course of the pilot period. The EICC and GeSi have proactively engaged with other industry associations on the use of the CFS Program, due diligence tools, and participation in the Extractives Working Group. The EICC and GeSi have held nine workshops (three in 2011) with members of the tantalum and tin supply chains, and they have collaborated with other industry groups, including the Automotive Industry Action Group, the Japan Electronics and Information Technology Industries Association, and the Retail Industry Leaders Association.</td>
</tr>
</tbody>
</table>
B. Common Practices Identified by Pilot Participants

During Cycle 3 pilot participants shared views on the implications of the reference contained in the SEC Final Rule to the OECD Guidance as an internationally recognised framework and the requirement that companies subject to Dodd-Frank, exercise due diligence in conformance to a nationally or internationally recognised due diligence framework, such as the OECD Guidance. Because the SEC Final Rule further requires an independent audit of the Conflict Minerals Report on the conformance of the due diligence to a nationally or internationally recognised due diligence framework, such as the OECD Guidance, pilot participants felt that a critical point of learning was how the Guidance applies to companies that do not have direct relationships with smelters. As a result of the peer-learning exercise and building on the flexibility incorporated into the Guidance, a majority of pilot participants collectively identified the following common approaches/practices to implementing the OECD Due Diligence Guidance for downstream companies that do not have direct relationships with smelters:
<table>
<thead>
<tr>
<th>Step 1 Management Systems</th>
<th>Step 2 Identify &amp; Assess Risks</th>
<th>Step 3 Responding to Risks</th>
<th>Step 4 Audit Smelters</th>
<th>Step 5 Publicly Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Adopt a conflict minerals company Policy.</td>
<td>• Identify relevant or highest priority first-tier suppliers that supply products which contain conflict minerals. Determine the engagement approach that is appropriate for the breadth of your company’s supply chain.</td>
<td>• Report findings of supply chain risk assessment, such as relevant suppliers’ failure to meet key expectations set by your company’s Policy or supplier contract/specification to designated senior management.</td>
<td>• Support the development and implementation of independent 3rd party audits of smelter/refiner’s sourcing (e.g. the EICC/GeSI Conflict Free Smelter Program).</td>
<td>• Document and communicate company’s practices and due diligence.</td>
</tr>
<tr>
<td>• Assemble an internal team to develop a program that implements the Policy and oversee due diligence, with senior management support.</td>
<td>• Request information from relevant suppliers to understand, to your best efforts, the smelters/refiners in the supply chain using (if appropriate) industry data collection tools (e.g. EICC/GeSI Conflict Minerals Reporting Template). Some companies with large supply chains may choose to use a combination of either gathering information from their suppliers and/or using a contract flow-down approach.</td>
<td>• Design and implement capability building (individually or as an industry) for relevant first-tier suppliers (e.g. how to fill in the Template) to enable your supply chain to conduct and improve performance to your company’s expectations.</td>
<td>• Report on risk assessment and mitigation.</td>
<td>• Report findings of supply chain risk assessment, such as relevant suppliers’ failure to meet key expectations set by your company’s Policy or supplier contract/specification to designated senior management.</td>
</tr>
<tr>
<td>• Establish systems of controls and transparency over mineral supply chain by creating a process to engage relevant first-tier suppliers and request information, including information gathered by first-tier suppliers about their own supply chains.</td>
<td>• Review smelter/refiner information or other relevant information provided from your supply chain against the expectations established by your company’s Policy. Compare smelters/refiners used by relevant suppliers against independently verified list or other reasonable means to assess whether companies are using only conflict-free minerals (e.g. the EICC/GeSI Conflict Free Smelter Program).</td>
<td>• Devise and adopt a risk management plan designed to mitigate the risk that your relevant first-tier suppliers fail to fully understand and cooperate with your expectations. For instance, communication strategies to encourage suppliers to cooperate, communication to understand suppliers’ progress and plans, or provide incentives and/or penalties.</td>
<td>• Although not part of the public report, respond to customers as requested, while honoring the confidentiality of business relationships throughout the supply-chain.</td>
<td>• Implement the risk management plan, monitor, track, and report progress of relevant suppliers to senior management.</td>
</tr>
<tr>
<td>• Strengthen engagement with relevant suppliers, such as incorporating expectations regarding disclosure into supplier contracts, specifications or other documents.</td>
<td>• Maintain related records for at least five years.</td>
<td>• Document and communicate company’s practices and due diligence.</td>
<td>• Report findings of supply chain risk assessment, such as relevant suppliers’ failure to meet key expectations set by your company’s Policy or supplier contract/specification to designated senior management.</td>
<td>• Maintain related records for at least five years.</td>
</tr>
<tr>
<td>• Establish and publish a company or industry-wide grievance mechanism.</td>
<td>• Identify relevant or highest priority first-tier suppliers that supply products which contain conflict minerals. Determine the engagement approach that is appropriate for the breadth of your company’s supply chain.</td>
<td>• Support the development and implementation of independent 3rd party audits of smelter/refiner’s sourcing (e.g. the EICC/GeSI Conflict Free Smelter Program).</td>
<td>• Report on risk assessment and mitigation.</td>
<td>• Devise and adopt a risk management plan designed to mitigate the risk that your relevant first-tier suppliers fail to fully understand and cooperate with your expectations. For instance, communication strategies to encourage suppliers to cooperate, communication to understand suppliers’ progress and plans, or provide incentives and/or penalties.</td>
</tr>
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</table>
Detailed Findings, Challenges, and Identified Solutions per Step

Step 1: Establish Strong Company Management Systems

I.A: Adopt and commit to a supply chain policy for minerals originating from conflict-affected and high-risk areas.

The number of participants who adopted a supply chain policy for minerals from conflict-affected areas almost doubled— from 11 to 21 companies—over the one-year pilot phase (see Figure 4). During Cycle 1, participants indicated that their policies were still under development or that they only had general statements in place that condemned conflict and associated human rights abuses, and the link to mineral supply chains.

![Figure 4: Number of participants with an adopted policy](image)

Since Cycle 1, companies’ policies have evolved from informational statements to more formal documents that describe the company’s commitment, due diligence activities, and supplier requirements. In most cases, the policies urge suppliers to have the same expectations of their own suppliers to ensure alignment throughout the supply chain. There is no common format for how companies integrate their minerals policies into other relevant corporate communication tools. Some companies issue standalone policies, while others incorporate policies into their broader supplier codes of conduct, which are available on the human rights and responsible purchasing sections of their websites. The number of companies that indicated that their policies are consistent with Annex II of the OECD Guidance doubled— from 6 to 12 companies—between Cycles 1 and 3 (see Figure 5). Incorporation of the individual elements of Annex II significantly improved as well, as shown by Figure 6. In most cases, the policies are partly consistent with the elements included in Annex II. Five companies indicated that they reference all of the elements included in Annex II (compared to one company in Cycle 1). The elements of Annex II may also be covered in other corporate policies.
Figure 5: Number of participants with policies consistent with Annex II

Figure 6: Elements of Annex II that are referenced in participants’ policies
The increase in alignment with Annex II may be attributed to the greater adoption of policies focused on minerals potentially sourced from conflict-affected and high-risk areas; the incorporation of various Annex II elements in other company policies such as human rights, ethics, sourcing, and supply chain codes of conduct; and also the inclusion of elements of Annex II by either explicitly paraphrasing the elements contained therein (see Box 1) or by simply requiring suppliers to establish policies, due diligence frameworks, and management systems that are consistent with the OECD Guidance (see Box 2).

Box 1 highlights the common practice whereby participants explicitly reference specific elements of Annex II in their policies. The example referenced is from a company that does not have direct smelter relationships. As recommended in the Guidance, these elements may be included in standalone mineral sourcing policies or included in broader company policies focused on human rights, supply chain, ethics, etc.

**Box 1: Sample Policy: Explicit Reference to Elements in Annex II**

**Our commitment**

[Company name] is committed to respect human rights and the environment in accordance with accepted international conventions and practices, such as those of the United Nations' Universal Declaration of Human Rights, ILO Core Conventions on Labor Standards, UN Global Compact, and OECD Guidelines for Multinational Enterprises. We want to ensure that all materials used in our products come from socially and environmentally responsible sources. We do not tolerate nor by any means profit from, contribute to, assist with, or facilitate any activity that fuels conflict, leads to serious environmental degradation, or violates human rights, as set forth by above mentioned international conventions and [company name] policies.

**Implementation of the Policy with Regards to Conflict Minerals**

We prohibit human rights abuses associated with the extraction, transport, or trade of minerals. We also prohibit any direct or indirect support to non-state armed groups or security forces that illegally control or tax mine sites, transport routes, trade points, or any upstream actors in the supply chain. Similarly, [company name] has a no tolerance policy with respect to corruption, money-laundering, and bribery. We require the parties in our supply chain to agree to follow the same principles.

In reference to the second common practice, Box 2 highlights how companies have covered the elements in Annex II by referring to the entire Guidance rather than listing each of the elements, and asking its suppliers to develop a policy, due diligence, and management systems consistent with the Guidance. The elements are not listed explicitly so that each supplier may consider what is appropriate and relevant for its particular situation.
Participants have tailored the Model Policy of Annex II to their needs and position in the supply chain in order to establish a fully actionable policy that only includes elements that they can implement with their direct suppliers of whom they have a measure of direct control.

The first three elements pertaining to serious abuses associated with the extraction, transport or trade of minerals; risk management of serious abuses; and direct or indirect support to non-state armed groups remain the most widely referenced elements in participants’ policies. On the other hand, risk management of public or private security forces is the least referenced element as it is regarded by some participating companies as more relevant for upstream actors.

In Cycle 3, companies were asked to describe their general approach to minerals in their supply chain that may originate from conflict-affected areas (see Figure 7). Most participants, 75 percent in Cycle 3 (18 respondents), indicated that they intend to source minerals responsibly in accordance with available international standards contained in the OECD Guidance, working through various means such as industry programmes (e.g. CFS) and constructive engagement with suppliers. The number of respondents that stated they have not yet defined an approach dropped from eight in Cycle 1 to zero in Cycle 3. These trends indicate increased knowledge and awareness of the issue and subsequent adoption of more clearly defined company policies and due diligence practices. During Cycle 1, policies were not sufficiently advanced to make these distinctions.

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Box 2: Sample Policy: Broad Reference to the OECD Guidance

Conflict Minerals: Suppliers are expected to ensure that parts and products supplied to [Company] are DRC conflict-free (do not contain metals derived from “conflict minerals”; columbite-tantalite (tantalum), cassiterite (tin), gold, wolframite (tungsten), or their derivatives such that they do not directly or indirectly finance or benefit armed groups through mining or mineral trading in the Democratic Republic of the Congo or an adjoining country). Suppliers are to establish policies, due diligence frameworks, and management systems, consistent with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, that are designed to accomplish this goal.
I.B: Structure internal management systems to support supply chain due diligence.

The number of companies that indicated that they have designated responsibility for supply chain due diligence remained relatively unchanged over the one-year pilot phase. This is due to the fact that 22 companies had already designated senior staff in Cycle 1 (see Figure 8).
The most commonly referenced role that is given accountability for supply chain due diligence is a senior manager in the procurement department. However, most respondents, with the exception of a few, have cross-functional teams responsible for due diligence efforts. The teams are made up of representatives from relevant business functions including engineering, legal, public relations, quality, supply chain management, and corporate responsibility.

The methods most commonly cited over the one-year period to hold leaders and their teams accountable for performance are to conduct monthly reporting of key performance indicators at the executive level and to perform internal auditing of reported due diligence results and procedures.

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

More participants have established systems for control and transparency of the mineral supply chain by creating a process to engage relevant first-tier suppliers and request information about those suppliers’ own supply chains. The actual number of companies that established a system of controls and transparency over their 3T mineral supply chains has increased slightly from Cycle 1 to Cycle 3. As indicated in Figure 9, the number of participants to establish a method for identifying smelters/refiners in their supply chains increased from 14 to 15 companies. With regards to Figure 9, the number of companies that had identified smelters who are sourcing from red flag suppliers increased from eight to 12 companies. These data indicate that while approximately half of the participants had already established a system to identify their smelters in the beginning of the pilot one year ago, more of these companies have made progress in obtaining information on country of origin.
The most common approach among participants to identify smelters and obtain their sourcing information is to rely on a collaborative industry process as advocated by the Guidance. The Conflict Minerals Reporting Template is the most common data collection tool used across industries by participants as well as the broader group of companies surveyed for this report. Both EICC and GeSI members and non-members, and companies with and without smelter relationships, rely on the Template to obtain smelter and refiner information. The process is open to all industries regardless of sector of affiliation because the tool is provided free of charge by EICC and GeSI. Companies noted that the provision of a standard reporting template across multiple industries and companies has enabled progress in obtaining information over the one-year pilot phase.

All of the participating industry associations developed or are developing data collection tools for their members to increase effectiveness and efficiency while advancing common approaches across their industries. They have built tools for common questionnaires and data collection in order to facilitate consistency throughout the industry supply chain. These tools also allow companies to overcome the issue of confidentiality, both individually and as an industry, by using data collection and roll-up tools that do not require the list of all suppliers used within a company’s supply chain.

The Conflict Minerals Reporting Template allows companies to collect sourcing information on 3TG (tin, tantalum, tungsten and gold) used in company products, including whether products contain 3TG, and if so, the metal’s country of origin and whether they are recycled. The template allows suppliers to indicate whether they have relevant policies or supplier due diligence requirements or have made any progress identifying smelter names and locations. EICC and GeSI have also developed the MRPRO™ Reporting Template Dashboard, which can be used to aggregate multiple completed Conflict Minerals Reporting Templates from suppliers. The Dashboard integrates with the Template, enables data analysis, and supports the preparation of consolidated information from multiple partners. The Dashboard is also a freely available tool provided by the EICC and GeSI.
With cooperation from a number of associations including EICC and GeSI, IPC is coordinating, through an open standards development process, the creation of a data exchange standard that will facilitate the transfer of information between different tools is underway. It is expected that these tools, including the EICC and GeSI Conflict Minerals Reporting Template will conform to this standard by supporting the common data elements with an XML-type data structure to collect and exchange supplier information, regardless of their data collection and storage tools. The intent is to be recognised as a cross-industry standard rather than solely an industry-specific standard for electronics (which IPC is most commonly recognised for). AIAG’s web-based smelter tracking tool enables companies to track smelters used. It will enable competitive confidentiality by enabling data roll-up throughout the automotive industry.

Several companies have also indicated that they are using a hybrid approach whereby the Conflict Minerals Reporting Template (or the same general questions) is combined with an internal system that also relies on Tier 1 to gather smelter information from Tier 2, and for Tier 2 to gather information from Tier 3 and so on down the line until the request reaches the smelter. Participants that do have direct relationships with smelters or with suppliers that source directly from smelters indicated that they work with their direct suppliers to obtain the information.

Twenty participants, up from 16 in Cycle 1, confirm that they have established a system to collect and store data (see Figure 10). While the majority of respondents again cite the Conflict Minerals Reporting Template as the primary data collection tool, approaches to store data vary depending on internal data storage systems and capabilities. The types of data that are generally being collected and stored by participants include the information requested in the Conflict Minerals Reporting Template which collectively includes:

- Smelter name and location
- Metal produced
- Mine name and country of origin, if known
- Supplier policy
- Level of supplier engagement
- Type of supplier engagement
I.D: Strengthen company engagement with suppliers

More participants have strengthened engagement with their relevant Tier 1 suppliers that supply products with 3T content using an approach that is appropriate for the breadth of their supply chain. Overall, the level of supplier engagement on the issue of minerals from conflict areas has increased, with 19 respondents in Cycle 3 communicating their policies in some form to at least all relevant Tier 1 suppliers. Nineteen participants responded that they are communicating their policy to suppliers in Cycle 3, up from 11 participants in Cycle 1 (see Figure 11).

There are several reasons for movement on this indicator. First, more companies have adopted company policies on minerals from conflict areas. Second, some companies were waiting for the final SEC rule before defining and communicating a policy to suppliers. It should be noted, however, that many companies in the Cycle 1 report indicated that they had started communicating with their suppliers about new expectations and requirements even before they finalised a formal policy. Over the course of the pilot, more companies began to adopt formal policies and issue specific communications to their suppliers.
In Cycle 3, 19 of the 24 companies have communicated with suppliers via standard letters drafted internally or borrowed from joint industry letters. These letters generally include: information on conflict in the DRC and the United States legislation, company position on minerals sourcing, company action on due diligence, and expectations and instructions to submit required due diligence information.

In addition, companies have published their policy and expectations on external supplier information websites, and explained the company’s position, expectations, and instructions for data collection at supplier meetings and webinars.

Two industry associations are disseminating joint industry communications to shared suppliers with expectations for responsible supply chain due diligence. During the pilot phase, the two associations provided tools and templates for their members to communicate their policies and expectations to suppliers. They have also distributed joint letters to suppliers, including companies based outside of the United States, to brief them on the legislation and expectations on supply chain due diligence. Industry associations have also developed smelter/refiner encouragement letters that are used at the industry and company levels to encourage smelters to become validated as conflict free.

Most respondents have started to identify or have identified Tier-1 suppliers and or products containing 3TG. Over the course of the pilot, companies made significant progress to identify and prioritise Tier-1 suppliers for due diligence and data requests. First, participants identified products and commodities at risk of containing 3TG to help target suppliers of those products. Second, they used tools to identify metals including material content data forms, company declaration systems, bills of
material, and/or product part codes. Third, they prioritise 3T suppliers based on this analysis for subsequent communication and due diligence.

With the exception of a few participants who reached out to all of their Tier-1 suppliers, the majority of companies developed supplier priority levels based on 3T content in products. The most common trend was for companies to begin by communicating with a sub-set of Tier 1 suppliers that provide parts with highest content of 3TG in the first phase of due diligence. Many of these companies plan to reach all suppliers of 3TG materials in subsequent phases.

The number of participants who have incorporated contractual clauses on minerals from conflict areas has more than doubled from six in Cycle 1 to 13 in Cycle 3 (see Figure 12). More companies have imposed contractual obligations due to the reluctance of a number of suppliers to provide the requested information. Generally, these clauses require suppliers to adopt a policy, implement due diligence activities, and/or provide required information on smelters. Feedback from participants over the one-year pilot indicates that a clause in supplier contracts improves response rates from suppliers.

Figure 12: Number of participants to incorporate contractual clauses

Box 3 highlights a contractual clause requires suppliers to abide by the rules in its Supplier Code of Conduct. A clause is inserted into the contracts of relevant suppliers during contract negotiation or renewal.

Box 3: Sample Contract Clause: Individual Supplier Contract

19.3 Code of Ethical Conduct. Supplier shall conduct its operations in accordance with the [Company] Supplier Code of Conduct, [Company] Responsible Minerals Policy and the laws, principles and standards that are referenced therein (www.company.com).

Box 4 highlights a contract clause that outlines requirements on each of the four minerals in the company’s standard supplier specification document.
I.E: Establish a company-level, or industry-wide, grievance mechanism as an early-warning risk-awareness system

More companies established grievance mechanisms in Cycle 3, a rise to 16 respondents from 13 in Cycle 1 (see Figure 13). In most cases, companies are using existing grievance mechanisms that are available for all issues pertaining to a company’s Code of Conduct requirements.

Figure 13: Number of participants to establish a grievance mechanism

Box 4: Sample Contract Clause: General Supplier Specifications

Suppliers must have a Conflict Minerals policy.

...Smelter information from Supplier and Supplier’s supply chain must be disclosed and updated [using the Conflict Minerals Reporting Template] for any tantalum used in, or used in the production of, parts, materials, components and products. When [Company] notifies Supplier that there are sufficient Conflict-Free Smelters (CFS) available, any tantalum used in, or used in the production of, parts, materials, components and products must be sourced from a CFS.

...When “Conflict-free tantalum” or “DRC conflict-free tantalum” is specified in [Company] product or component specifications, Supplier is responsible for gathering reports from its supply chain demonstrating that any tantalum used in, or used in the production of, parts, materials, components and products must be sourced from a Compliant Tantalum Conflict-Free Smelter, listed on the Conflict-Free Smelter (CFS) Program webpage.
Step 1: Challenges and Identified Solutions

While a number of approaches to overcome these challenges have been cited above, participants highlighted the following challenges in their Cycle 3 responses. The Table below includes possible corresponding solutions emerged as a result of the experience-sharing exercise:

<table>
<thead>
<tr>
<th>Type of Issue</th>
<th>Challenge</th>
<th>Solution</th>
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<tbody>
<tr>
<td>Adopting a minerals supply chain policy</td>
<td><strong>Alignment with Annex II:</strong> Some companies cited their limited sphere of control as a barrier. They believe they can only commit to a policy through direct activities and industry tools and schemes. They indicated that some potential risks were more relevant to the upstream supply chain, especially elements on public or private security forces.</td>
<td>Annex II is directly relevant for upstream companies because they are responsible for identifying and managing risks with on-the-ground information and risk mitigation (See Step 3(B) (2) (a) (i) of the Supplement on Tin, Tantalum and Tungsten). Some participants have incorporated Annex II appropriate elements in company policies on human rights, ethics, sourcing, and supply chain code of conduct or by requiring suppliers to establish policies, due diligence, and management systems consistent with OECD Guidance (see Box 1 and 2). Downstream companies could refer to Annex II to set out common expectations throughout the supply chain on how risks of contributing to conflict and serious human rights abuses should be identified, assessed and managed upstream in the supply chain. Downstream companies should identify to the best of their efforts the smelters/refiners in their supply chain and assess whether the smelter’s due diligence practices conform to the Guidance. This can be done through action taken at a company level for those who have direct relationships with smelters or by relying on collaborative industry scheme, such as the CFS to validate conformance of smelter’s due diligence practices with the Guidance.</td>
</tr>
<tr>
<td>Sourcing from the Great Lakes region</td>
<td><strong>Avoiding a de facto embargo:</strong> Choosing to source from the Great Lakes Region is a business decision. To minimise reputational risks and avoid the costs associated with responsible sourcing, some companies may choose not to</td>
<td>Communication efforts on the part of all stakeholders on what responsible sourcing of minerals from conflict-affected and high-risk areas is and what the OECD Due Diligence Guidance encourages.</td>
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<tr>
<td><strong>Source from suppliers that source responsibly from the region.</strong></td>
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### Data Storage:
There is a lack of established capable and compatible digital systems for managing supply chain information. Some companies are using the MRPRO™ Dashboard, which can be used to aggregate multiple completed Conflict Minerals Reporting Templates from suppliers. The Dashboard integrates with the Template, enables data analysis, and supports the preparation of consolidated information from multiple partners. Companies also combine the Dashboard with internal data collection systems or add to their existing data systems.

The conflict minerals data exchange - IPC 1755 – under development will facilitate capable and compatible data management system building.

### Confidentiality:
Disclosure of company confidential information may violate contractual obligations of suppliers/customers, making it problematic to disclose/obtain supply chain information. Industry associations have developed or are developing common questionnaires and data collection tools that also allow companies to overcome the issue of confidentiality, both individually and as an industry. However, contractual confidentiality agreements may exist and have to be negotiated between those parties that have those agreements. Further, by using data collection and roll-up tools that do not require the list of all suppliers used within a company’s supply chain, companies can protect competitive information.

### Strengthen Company Engagement with Suppliers
**Language:** There are difficulties in communicating due diligence requirements with suppliers in different countries, primarily due to language barriers and lack of knowledge of the OECD. Providing translations to items such as templates, trainings, and guidance should be done. In some situations companies have translated expectations and trainings into different languages. The OECD has translated the Easy-to-Use Guide to the OECD Due Diligence Guidance and the Implementation Questionnaire into Mandarin. The EICC and GeSI Conflict Minerals Template is available in eight languages.
Step 2: Identify and Assess Risk in the Supply Chain

II.A: Identify, to the best of their efforts, the smelters/refiners in their supply chain.

Overall, participants throughout the representing levels of the supply chain have made progress in identifying smelters used in their supply chains. However, because six companies did not complete the questionnaires during Cycle 3, the figures appear to be static (see Figure 14).

Two more companies indicated they had identified smelters by using the Conflict Minerals Reporting Template in Cycle 3 than in Cycle 1. Six companies that had not identified any smelters during Cycle 1 had still not identified any by Cycle 3. These companies had either indicated that they had not begun or have just started their due diligence process.

Companies report enhanced efforts to identify smelters through implementation of their due diligence processes. The work of the EICC and GeSI Extractives Work Group has been regarded by participants as a key tool to increase identification of smelters.

Figure 14: Number of participants to identify any smelters/refiners in the supply chain

In terms of the percentage of smelters that have been identified, there has been a slight increase from Cycle 1 to Cycle 3 as shown in Figure 15. More companies estimate that they have identified more than 75 percent of tin, tantalum, and/or tungsten smelters in their supply chains, with slight increases across all ranges.
As recommended in the Guidance, companies have employed a combination of tactics to identify more smelters over the one-year pilot phase by including direct communications with their suppliers, integrating disclosure requirements into supplier contracts, and using industry tools to obtain information from their Tier-1 suppliers. Over the course of the one-year pilot phase, an increased number of companies (from zero to 18 companies), have identified the Conflict Minerals Reporting Template as their primary methodology for identifying smelters, though six participating companies do not intend to use it.

Validating supplier responses to ensure reliable data about smelters is being passed through the supply chain remains a big challenge. The majority of participants conducting supplier surveys validate responses manually and have difficulty verifying information beyond template completeness. They have reported limitations to checking information accuracy. Participants are specifically using the Conflict Minerals Reporting Template and Dashboard to collect data from their suppliers and to verify the smelter names against the Conflict Free Smelter Program and/or the “known smelter list” that is now provided through the Template. They are also applying industry and technical knowledge and using common sense to validate responses.

Companies have also dealt with a lack of cooperation from some suppliers to identify smelters during the pilot. Participants cited supplier inability to gather information from their supply chains and refusal to cooperate on the grounds that information was proprietary. Companies noted that consistent and regular communications, combined with education of suppliers, helped to address these challenges. Companies encourage compliance to their policies by requiring supplier declarations. In addition, some companies have changed their contracts through clauses and/or terms and conditions regarding minerals from conflict affected areas.
Pilot participants are now taking various approaches to ease the burden of identifying smelters and lower the margin of error for supplier responses. For example, participants have indicated their intention to provide suppliers with a list of CFS-validated smelters once more comprehensive lists become available. Companies are also providing a list of smelters that have already been identified, even if they have not yet been certified as conflict-free, in order to help identify smelters and encourage them to enter the certification process.

Direct communications between some participating end-user companies and smelters, as part of industry collaboration, is aimed at encouraging smelter participation in the CFS Program. Participants working through their industry associations are sending out “encouragement” letters and request that they join the CFS Program. Two industry associations have developed a letter template for companies to use to engage with the smelters directly. Smelters are reluctant to talk to and give any due diligence information to companies that are not customers, so it takes several visits and several emails to convince smelters to consider the CFS Program.

II.B: Identify the scope of risk assessment in the mineral supply chain

The actual number of companies obtaining country of origin information has increased slightly through individual and collaborative methods for data collection. (Note one company that had already obtained this information in Cycle 1 did not respond in Cycle 3). Some companies have been able to obtain country of origin information, though none have confirmed their ability to obtain information on transit and transportation routes. Over the course of the pilot period, companies’ thoughts on approaches have converged to rely primarily on the CFS Program, particularly those without direct smelter relationships. The participants obtain the country of origin information on the CFS website, which hosts the list of compliant smelters that have been validated through the CFS audit. The website includes an aggregate list of the countries of origin for all of the smelters that have been verified.

According to the survey responses, downstream companies that have direct relationships with smelters can obtain country of origin directly from their smelters. The majority of companies that do not have these direct relationships have indicated their intention to use the CFS Program to obtain this information. More specifically, the data show that the number of participants that have obtained country of origin information from smelters decreased from 12 respondents in Cycle 1 to four in Cycle 3 (see Figure 16). However, eight respondents which indicated a no responded they relied on the CFS Program to obtain smelter due diligence information, rather than working independently (the impact is reflected in Figure 16). Obtaining country of origin information via collaborative means is aligned to the Guidance, which recognises that companies may actively cooperate with other industry members to identify smelters/refiners in their supply chain that meet the requirements of the OECD Guidance through industry validation schemes.5

5 OECD Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, STEP 2, II, Downstream Companies.
Figure 16: Number of participants to obtain country of origin information from smelters

Survey responses confirm that companies rely on the CFS Program for Country of Origin information. The pilot indicates that companies closer to the smelter in the supply chain have been communicating directly with smelters to perform due diligence and obtain Country of Origin information. The CFS Program does not provide information on transit and transportation routes used between the mine and the smelter in situations where the materials does not originate in conflict or high-risk areas, but do review this for in-region sourcing as part of the Step 4 third-party independent audit. Another respondent has indicated that Country of Origin information may be received directly from suppliers through the Conflict Minerals Reporting Template, but the CFS system is the only means of validating the information. Companies that are relying on the CFS Program are most commonly comparing smelter names received through supplier requests for information against the CFS compliant list. Countries of origin are presented in an aggregate list for all of the smelters that have been validated. These companies do not have a direct business relationship to interact with the smelters, with some end user companies as many as 9-10 tiers away from the smelter level. Participants are also reliant on the CFS Program to detect “red flag countries, suppliers or smelters” and to validate the information on mineral flows provided by the smelters.

Participants have been working collectively through industry processes to encourage smelters in their supply chain to be validated as conflict free via the CFS Program.

II.C: Access 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.

Most companies that do not have direct relationships with smelters are relying on industry processes, namely the CFS, for this assessing smelter due diligence. As stated above, companies reported a decrease in implementing this step independently. This is based on the information provided through the collaborative approach, the CFS Program. Five of the seven companies that responded they have assessed smelter due diligence do not have direct business relationships with smelters and indicated
they are relying on the CFS Program. These companies indicated that they compare smelter names from their suppliers against the CFS list as the smelters’ due diligence is reviewed during the CFS audit.

Companies that responded “No” have a different approach. Of those, seven companies commented that they are using the CFS Program (via participation in the Extractives Working Group), but not for due diligence information on smelters. Their responses suggest they are limited to Country of Origin information and audit results. Furthermore, downstream participants without direct smelter relationships do not have access to information about the smelters’ practices or operations, and therefore cannot identify risks or take direct action to enable mitigation.

The reason for the decrease over the pilot period can be explained by increased understanding of supply chain complexities and due diligence processes and companies reliance on the industry CFS Program. Companies that have direct or indirect smelter relationships indicated that they sometimes participate in smelter pre-audit visits, which is primarily to encourage the smelter to participate in the CFS Program and outline the steps involved. Participants have engaged in direct conversation with smelters to discuss due diligence efforts, which sometimes includes documentation, facility and inventory reviews.

As smelters build systems and demonstrate compliance with the provisions of the CFS Program, they may encounter transition or transaction costs associated with participation in the programme. The CFS Early Adopters Fund was established by three companies (Intel, HP and GE) members of the EICC and GeSI Extractives Working Group to provide incentive for early participation by partially offsetting the cost of each smelter’s first successful audit. There are also plans underway by several entities including the EICC and GeSI Extractives Working Group to conduct activities for smelters to increase understanding of the implications of Dodd-Frank, expectations of the OECD Guidance, implications of in-region sourcing decisions, and the CFS Program.

II.D: Where necessary, carry out, including through participation in industry-driven programmes, joint spot checks at the mineral smelter/refiner’s own facilities.

All of the six companies indicated that they are carrying out joint spot checks by solely relying on the work of independent auditors working on behalf of the CFS Program, regardless of whether or not they have direct relationships with smelters. However, the CFS Program conducts validation audits of conformance to OECD Guidance and provides reasonable country of origin information. CFS does not conduct spot checks. Therefore, we can conclude that no downstream companies or industry scheme (CFS Program) is carrying out spot checks. It is anticipated that more companies are addressing this element of the Guidance through their use of the CFS Program.
Step 2: Challenges and Identified Solutions

<table>
<thead>
<tr>
<th>Type of Issue</th>
<th>Challenge</th>
<th>Solution</th>
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<tbody>
<tr>
<td>Identify smelters in the supply chain</td>
<td>Confidentiality concerns: Suppliers cannot disclose information at times because their sub-tier suppliers refuse to disclose smelter names due to contractual confidentiality.</td>
<td>Contractual confidentiality is a real issue that has to be negotiated between the two business parties with direct business relationships. Further in the supply chain, solutions need to be further explored.</td>
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<tr>
<td>Non-disclosure from traders</td>
<td>Obtaining information from traders has been noted as particularly challenging as there are instances where suppliers cannot map their supply chains beyond the metal exchange. Traders claim they will not provide information on the source of metals due to confidentiality concerns.</td>
<td>The CFS Program have provided some materials, and will be providing all of their materials, in relevant languages and continue to reach out to Asian smelters to encourage them to participate in the CFS Program.</td>
</tr>
<tr>
<td>Language Barriers</td>
<td>Smelters with limited ability to communicate in English, particularly in Asia, find it difficult to continue engage with the CFS Program.</td>
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<td>Fluid supply chains</td>
<td>Sub-suppliers and smelters in the supply chain are constantly changing, so the information must be updated regularly.</td>
<td>Supply chains will always be dynamic and there will some level of uncertainty. Periodic updates to disclosures could be requested as new information becomes available. This request could be included in contract clauses.</td>
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<tr>
<td>Supplier non-response</td>
<td>Some suppliers refuse to cooperate due to the lack of Final Rule on Section 1502 of Dodd-</td>
<td>Finalisation of the SEC rule may address part of these concerns. Pilot participants noted that consistent and regular communications</td>
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Figure 17: Number of participants to carry out joint spot checks
Frank. Others may be located in regions around the world that do not regard this level of disclosure as needed or due to business concerns.

and education with suppliers and reminders of contractual obligations with Tier-1 suppliers to encourage cooperation helped to address these challenges. Companies are enforcing compliance with their policies by requiring supplier declarations with those suppliers they have a business relationship with. Pilot participants also plan to ease the burden on suppliers by providing a list of CFS-certified smelters once more comprehensive lists become available. Confidentiality will continue to be a challenge with so many tiers of suppliers involved.

Global supply chain: There is a lack of awareness among many suppliers, particularly with many Asian suppliers. Participants working through industry associations send consistent messages to suppliers through letters encouraging smelters to join the CFS Program. Two industry associations have developed a letter template for companies to use to engage with the smelters directly. The CFS Program ensures compliance without requiring smelters to share information with companies that are not customers. However, a critical mass of customers requesting the same thing in the same way is the best solution to this challenge.

Accuracy of smelter data provided: Thousands of smelter names received through the Conflict Minerals Reporting Template must be reviewed. Some smelters are known under multiple names or have subsidiaries with a different name.

If a declared smelter is not on the CFS list, or on the known smelter list, companies are at a loss for an easy way to verify information they are receiving from suppliers.

Anti-competition laws: Industry-wide pressure on suppliers to comply is a barrier given limitations to sharing supplier names from anti-competition laws.

Many pilot participants are using the Conflict Minerals Reporting Template to collect data from their suppliers and to review the smelter names against the CFS Program and/or the “known smelter list” that is now provided through the Template. However, many names received by companies cannot be verified and this still remains a significant challenge.

Consolidation and regular third-party maintenance of a refiner/smelter list could help address this challenge.

| Identify the scope of the risk assessment in | Obtaining information on transit routes | This information is available through iTSCi. CFS collects information on country of origin and reviews information on transit and |

| | | |
| **the supply chain**  
(Obtain country of mineral origin, transit and transportation routes used between mine and smelters) | are unclear as to whether they are conforming to the Guidance by not directly/independently obtaining all of the information stipulated in the OECD Guidance. | transportation routes contained in Step 4 third party independent audit.  
Downstream companies using industry schemes to assess the due diligence information of upstream actors is consistent with the OECD Guidance. |
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<td><strong>Smelter engagement in the CFS Program:</strong> Only a limited number of smelters have signed up to participate in the CFS audit programme. It will take time before all of the smelters are signed up and validated. End-user companies do not have direct influence over smelters to encourage them to participate.</td>
<td>As a next step, participants are working collectively through industry processes to encourage smelters to participate in the CFS Program in order to smelters in their supply chain to be verified as conflict free.</td>
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| **Lack of differentiation between downstream actors in the Guidance:**  
There is still a perception among companies that the Guidance treats all downstream companies as if they have a relationship with the smelters and have visibility into the upstream processes. | The Guidance does not contain tailored recommendations to all different actors in the downstream supply chain like it does on the upstream actors, but where appropriate it contains qualifiers (“depending on the position of the company in the supply chain”) which allows for a differentiation of treatment for all of the downstream guidance. The Guidance recognises that by virtue of practical difficulties “downstream companies should establish 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.”  
It follows that the modalities for supplier engagement may vary according to the position of the company in the supply chain as reflected in the menu of options provided in the Guidance. Downstream companies are free to choose which approach would suit best their specific situation. |
| Pilot peer-learning table (see p. 19) on the application of the 5 Step Framework to companies who do not have a business relationship with smelters has been developed to provide an example and to assist in conforming to the Guidance. |
Step 3: Design and Implement a Strategy to Respond to Identified Risks

STEP 3.A: Report findings to designated senior management.
Overall, more participants report findings of their supply chain risk assessment to senior management. Respondents who have developed a communication process to ensure that the findings of the actual and potential risks from supply chain assessments are reported to senior management is down from 14 in Cycle 3 from 13 in Cycle 1.

Companies with a direct relationship to smelters indicated that they report actual and potential risks that emerge from their due diligence practices through monthly or quarterly meetings with senior level executives that have responsibility for minerals from conflict areas. Findings such as failure of relevant suppliers to meet key expectations set by their policies and supplier contract specifications are reported to management. One company reported that every element of Annex II is an actual and potential risk that arises from the upstream supply chain.

STEP 3.B-D: Devising a risk management plan

3. B.2. a) ii): Devise and adopt a risk management plan.
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.
3. B 2. a) 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.
3.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.
3. D: Undertake additional fact and risk assessments for risks requiring mitigation, or after a change of circumstances. More companies have established and implemented risk management plans regarding minerals sourcing related to their immediate suppliers. Figure 18 shows an increase in the number of companies that use Annex II of the Guidance, including mitigating risks by continuing, suspending, or terminating the relationship with suppliers. The number of companies that have not yet defined an approach has declined by half, while the number of companies that use their own company-defined factors on risks has remained relatively flat. These companies cited that they use their own internal procurement risk framework.
Over the one-year pilot period, approaches by participants to risk management have converged on industry schemes to influence the upstream supply chain and ensure responsible sourcing as recommended in the Guidance. The Guidance provides that downstream companies should establish 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 due diligence recommendations contained in the Guidance.

**Figure 18: Participants’ approach to managing risk of sourcing minerals from conflict areas**

The Guidance recognises that upstream suppliers are those who can most effectively and most directly mitigate the risks of adverse impacts. Downstream companies are not expected to directly mitigate risks upstream in the supply chain. In this respect, participants noted that their participation in industry initiatives provides one-way information on upstream activities and add that there is limited opportunity for companies without smelter relationships to understand and mitigate risks in the upstream supply chain. The downstream companies which do not have business relationships with smelters are focusing their risk management on their direct and strategic suppliers and the application of “red flags” only applies to upstream suppliers of the smelters.

Risk management plans are designed to mitigate the risk that relevant Tier 1 suppliers fail to understand or cooperate with the company’s expectations. These plans may include communications strategies to encourage suppliers to cooperate, to understand supplier progress and plans, or provide incentives and/or penalties. For example, when companies do not receive a response or receive inadequate responses, they will send a follow-up letter to the supplier to request additional information. Based on subsequent follow-ups, participants have indicated that repeated and continuous resistance, inadequate, or incomplete response by suppliers may result in reduced or discontinued relationship with that supplier.

Companies have implemented measures when information provided is inadequate to adjust to the rising use of reporting templates and evaluation of responses. The number of participants who have developed corrective action or improvement plans with suppliers has more than doubled from five
companies during Cycle 1 to 13 companies during Cycle 3 (see Figure 19). With advances made in the development of due diligence systems and data collection processes over the course of the one-year pilot phase, more companies have formalized corrective action plans as part of supplier enforcement on the issue of minerals from conflict areas. During Cycle 1, a number of participants indicated that they planned to begin corrective action processes during 2012 once more due diligence and smelter information was captured from suppliers.

**Figure 19: Number of participants with corrective action plans in place**

Participating companies that have risk mitigation processes in place have indicated that suppliers that continuously fail to follow their information requests may be suspended until the supplier sufficiently responds. Refusal to commit to and implement a corrective action plan within a reasonable time may result in the termination of the relationship. Companies have indicated that once comprehensive lists of validated smelters become available, they will require their suppliers to source from CFS-validated smelters only, making the process of risk mitigation easier.

The majority of participants are building leverage over suppliers and/or smelters through capability training and continuous improvement programmes through due diligence in the supply chain. While most of these companies are collaborating with industry initiatives to provide supplier trainings, four companies indicated in Cycle 3 that they are independently providing capability trainings to their direct suppliers to enable them to meet due diligence expectations. They are organising meetings and webinars to disseminate general information and expectations around the issue of minerals from conflict areas.

During training sessions, companies typically introduce the topic, explain the Dodd-Frank Act, provide background on the data request, reinforce company expectations, and demonstrate how to complete the Conflict Minerals Reporting Template. Companies are also providing information in languages other than English more frequently to communicate with suppliers, provide information, and collect data.
Some participants have also increased their engagement with NGOs and the U.S. government to encourage the development of pilot mineral supply chains in the Great Lakes Region. An example is participation in the Public-Private Alliance for Responsible Minerals Trade spearheaded by the United States State Department that aims to assist with the development of pilot supply chain systems that will allow businesses to source minerals from mines that have been audited and certified to be conflict-free.

**Step 3: Challenges and Identified Solutions**

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<tr>
<th>Type</th>
<th>Challenge</th>
<th>Solution</th>
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<tbody>
<tr>
<td><strong>Devise and adopt a risk management plan</strong></td>
<td>Limited resources to conduct proper risk management: There will be an evolution of this activity as due diligence and the CFS Program becomes more mature</td>
<td>Risk mitigation activities/ responses outlined in Annex II are more actionable for upstream suppliers. As systems develop, downstream companies may adopt a policy to reinforce suppliers’ adherence through the business relationship such as sourcing from smelters that are validated by CFS.</td>
</tr>
<tr>
<td><strong>Implement the risk management</strong></td>
<td>Limited number of smelters participating in the CFS: At this time, the CFS Program and available verified conflict-free smelters are of an insufficient number to justify the suspension or termination of relationships with suppliers with the exception of tantalum</td>
<td>Enhance outreach efforts in collaboration with key partners, including the OECD, member and non-member countries to encourage participation in CFS.</td>
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<td>Limited information from industry collaboration: Participants noted that their participation in industry initiatives only provides them with one-way information on upstream activities and provides limited opportunity for companies without smelter relationships to understand and mitigate risks in the upstream supply chain.</td>
<td>Companies that do not have direct business relationships with smelters can use tools such as the Conflict Minerals Reporting Template and CFS list of validated smelters to assess and respond to risks based on their direct suppliers’ conformance with requests for information and/or to source from CFS-validated smelters.</td>
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</table>
Step 4: Carry Out Independent Third-Party Audit of Smelters’ / Refiners’ Due Diligence Practices

IV.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 majority of participants rely on the CFS Program to audit smelters where no direct relationship with smelters/refiners exists. As shown in Figure 20, the number of participants that use the CFS Program decreased from 15 in Cycle 1 to 11 in Cycle 3. However, two additional companies commented that they participate in the CFS Program and rely on CFS audits of smelters’ due diligence, therefore bringing the number of companies that are conducting audits through the CFS in Cycle 3 to 13. The decrease from Cycle 3 to Cycle 1 might also be explained by the fact that six fewer participants responded in Cycle 3. It should be noted that the number of participants who do not know if their smelters are audited decreased from 10 companies in Cycle 1 to three companies in Cycle 3.

Figure 20: Responsibility for conducting audits of smelters

![Responsibility for conducting audits of smelters](image)

Over the one-year pilot period, participants’ efforts to carry out audits and assess due diligence efforts by smelters has converged on the use of the CFS Program. CFS is the only industry initiative in place to validate third-party audits of smelters on conflict-free sourcing expectations by assessing smelter procurement activities. Industry smelter validation efforts are seen as the only option for companies...
that do not have a direct relationship with smelters to request, conduct, or perform audits. Even companies with direct smelter/refiner relationships use the CFS Program to avoid duplication of efforts. Respondents utilize industry initiatives to encourage more smelters to participate in the CFS Program.

While the majority of companies use the CFS Program for independent auditing of their smelters, the companies expressed concern that it only covers a portion of their smelters for two reasons: 1) not all 3T smelters are participating in the CFS (particularly tungsten smelters that are reluctant to participate yet); and 2) the universe of smelters in their supply chains is unknown and they cannot guarantee that all of their smelters participate.

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

The CFS auditing criteria are aligned with the OECD Guidance, and address data needs for both the OECD Guidance and the Dodd-Frank requirements. Overall, it meets the OECD’s recommendations in terms of the scope, criteria, and principles outlined in the Guidance.

However, the CFS Program audits only validate conformance to Step 4 and parts of Step 1 and 2 of the OECD Guidance as the CFS audits focus primarily on the smelter’s policy, programs, systems and chain of custody information. The CFS Program thus presupposes the existence of a third party audit on the conformity of the smelter’s due diligence with respect to the remaining aspects of the Guidance. CFS auditors do evaluate this complimentary audit information to ensure the Guidance is conformed to. CFS-compliant smelters verify their procurement of conflict-free material that has already been audited (at the supply and transportation level up to the smelter) for conformance to Step 4 of the Guidance by a credible process. Audits evaluate smelters using criteria that validate materials conflict-free or based upon the due diligence and traceability information associated with mineral purchases. The CFS Program expects smelters to manage risk mitigation beyond the smelter level of the supply chain and provide proof of such practices, as necessary to demonstrate compliance to the audit protocol.

The CFS Program consists of two reviews that occur at a smelter/refiner site during the assessment process:

1) Business Process Review
   - Evaluate company policies and/or codes of conduct relating to conflict minerals
   - Evaluate company standard operating procedures to ensure the policies are in effect

2) Material Analysis Review

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6 According to the EICC & GeSI Audit Standard and Instructions document dated June 2012, “With specific regard to the determination of the origin of minerals, smelters will have to collect the information required under the OECD Guidance. In order to generate the requested information, smelters may rely on a credible conflict-free mineral traceability scheme that has been independently verified to conform to the OECD Guidance.”
- Conduct a complete material analysis to demonstrate that all sources of materials procured by the smelting company are conflict-free (including any complementary OECD audit results)
- Evaluate whether source locations are consistent with plausible mining locations
- Establish whether material identified as “recycled” meets the definition of recycled material, and come from recycling or reasonable entities (e.g. customer take-back)

The CFS audits entail on-site verification based on documentation reviewed by external independent auditors. Audit firms conduct the actual assessment of the smelters and refiners. The current list of audits firms includes Liz Muller, Inc., STR Responsible Sourcing, and SGS. The firms and auditors have been trained in the CFS Program protocols and the OECD Guidance to be familiar with the issues related to conflict minerals, the in-region transportation/trade paths, and the goals of in-region schemes that account for the minerals' transportation.7

### Step 4: Challenges and Identified Solutions

<table>
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<th>Challenge</th>
<th>Solution</th>
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<tr>
<td>Plan an independent third-party audit of smelters due diligence</td>
<td>Audits only cover a portion of smelters represented in participant supply chains: Availability of verified smelters is limited. Currently 14 tantalum, 2 tin, and zero tungsten smelter companies have been validated by CFS. It will take time before more comprehensive lists of validated smelters are available.</td>
<td>At present, there are no other collective and/or industry-level alternatives to the CFS Program. Smelters are encouraged to voluntarily opt into the CFS Program. The success of tantalum smelter validation is largely due to the high use of tantalum in electronics and consequent ability to exercise leverage.</td>
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<tr>
<td>Low influence: The lack of influence and cohesion by industries more dependent on tin and tungsten has impinged the pace of CFS validation relative to tantalum in electronics.</td>
<td>Other industries that are predominant users of tin and tungsten need to apply pressure to the supplying smelters. There are plans underway by the EICC and GeSI to conduct awareness raising activities for the smelting industry to increase their understanding of the implications of Dodd-Frank, the OECD Guidance, the expectations of downstream companies, and their participation in the CFS Program. More effort needs to be made by all stakeholders to engage tin and tungsten consuming companies and economies, including NGOs highlighting the linkage to other industries besides electronics, and governments reiterating that the U.N. Security Council supported taking forward due diligence guidelines consistent with...</td>
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7 For more information on the CFS audit protocols, go to http://www.conflictfreesmelter.org/cfshome.htm.
In its resolution 1952/2010, the U.N. Security Council called upon all states to take appropriate steps to raise awareness of the due diligence guidelines, and to urge importers, processing industries and consumers of Congolese mineral products to exercise due diligence by applying the aforementioned guidelines or equivalent guidelines (OECD Guidance).

<table>
<thead>
<tr>
<th><strong>Lack of training</strong>: Suppliers need to train their supply chain on the requirements for conflict minerals reporting.</th>
<th>CFS pre-audit visits to smelters to educate them on the need and ways to move toward conflict-free materials. Outreach programmes by entities of all types to educate smelters, traders and other entities transacting minerals in the supply chain. OECD Guidance documents in multiple languages such that companies can convey this understanding to their suppliers (including smelters).</th>
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<tr>
<td><strong>Limited resources by smelters to participate in the CFS</strong>: Securing participation by smelters in the EICC and GeSI CFS Program by spending time and capital is difficult.</td>
<td>Three companies in the EICC and GeSI Extractives Working Group co-founded the CFS Early Adopters Fund to provide incentive for early participation by partially offsetting the cost of each smelter’s first successful audit. Engagement by other tin and tungsten consumers will drive increased awareness and expectations in those industry sectors.</td>
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Step 5: Report Annually on Supply Chain Due Diligence

5. 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.

The majority of participants proactively communicate with the public on the issue of minerals from conflict areas. The number of participants that are reporting publicly on their due diligence policies and practices increased over the implementation period, from 10 companies in Cycle 1 to 15 companies in Cycle 3 (see Figure 21), as companies made progress in their due diligence implementation activities.

![Figure 21: Number of participants that report publicly](image)

Companies largely communicate information via their Corporate Social Responsibility reports and company websites. The majority of companies report or update their websites and reports on an annual basis. These companies communicate their policies and approaches, supplier requirements, due diligence activities, and risk management and mitigation. While a majority of the participants waited for clarity on Section 1502 of Dodd-Frank, the purpose of communication was to keep stakeholders informed of company activities. Now that the SEC has issued the Final Rule on Section 1502, there will be some companies who fall within the scope of the legislation and be obligated to publish their conflict minerals disclosure or a Conflict Minerals Report of their due diligence processes. However the first reports are not due to the SEC until May of 2014.

Companies that describe their public communications plans anticipate reporting on the following:

- Percentage of suppliers with due diligence efforts in place
- Efforts to implement the OECD Guidance, including participation in the Pilot phase
- Quantitative results of due diligence efforts, including the number of suppliers supplying products with 3Ts, the number of smelters identified in the supply chain, the number of validated smelters
- Names of smelters in their supply chain

**Step 5: Challenges and Solutions**

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<td>Report annually on supply chain due diligence</td>
<td>Step 4 independent third-party audits of smelters expect auditors to assess the conformity of the smelter/refiner due diligence practices with the Guidance, thus covering both Step 4 and Step 5 activities. Clarification of the sequencing and expectations of Steps 4 and 5 relative to each other needs to be provided to avoid misalignment of expectations.</td>
<td>Step 4 exclusive focus is on independent third party audits of smelters. The scope of the audit is described as follows: “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”. The Guidance recommends that while assessing individual smelters’ due diligence practices (that currently are mainly carried out through complementary industry programmes like CFS and iTSCi), third-party audits cover all five steps, including whether smelters have publicly reported on their due diligence practices as recommended under Step 5. As part of their due diligence, smelters are expected to individually publicly report on their due diligence practices. This includes the publication of audit reports of smelters/refiners, where they exist, with due regard taken of business confidentiality and other competitive concerns.</td>
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<td>Step 5 A.1.1 (addressed to upstream companies) has been read to imply the publication of confidential information, such as those on mine sites. It does not take into account that a program like the CFS can do the review of that confidential information via a 3rd party independent audits and validate that due diligence has been done without releasing publicly information on mine sites.</td>
<td>Step 5 does not expect upstream companies to publish information on mine sites. Upstream companies are expected to publicly report on company management systems and describe associated processes. The Guidance DOES NOT expect companies in the supply chain (upstream and downstream) to publicly disclose information on mine sites.</td>
</tr>
<tr>
<td>Step 5, A.3.3 expects downstream companies to publish the audit reports of their due diligence practices. This is contributing to confusion about what types of audits are required, and at what points in the supply chain</td>
<td>Consider amending this provision to avoid confusion, since the Guidance only recommends third party-independent audit at the refiner/smelter level</td>
<td></td>
</tr>
</tbody>
</table>
SECTION III: BROADER SET OF EXPERIENCES BEYOND PARTICIPANTS

In response to feedback that the pilot phase only portrays the experiences of a small sub-set of the supply chain, and that the majority of participants representing large, multi-national OEMs in the ICT sector are usually demonstrating leadership on this issue, a simplified questionnaire was created to obtain a broader set of data about the experiences of non-pilot-participating companies, including SMEs, in Cycle 3. The questionnaire was distributed to members of four industry associations (see the questionnaire in the Appendix on page 73).

The objective of the questionnaire was to determine the level of due diligence awareness and implementation that was taking place among non-pilot-companies. The survey received 178 anonymous responses from a diverse group of companies in terms of industry (see Figure 22), size (see Figures 23), and revenues (see Figures 24).

In addition to representing a more diverse set of industries, the data also aimed to represent the practices of SMEs, which are defined as companies that have fewer than 250 employees and accounted for approximately 23 percent of the industry wide responses.

The below charts demonstrate the diversity of companies that responded to the simplified questionnaire.

Figure 22: Industry representation

![Industry representation chart](image-url)
Figure 23: Company size

Figure 24: Company revenues

Figure 25 shows the number of respondents that are subject to the Dodd-Frank Act. More than 47 percent indicated that they are subject to disclosures to the SEC on Section 1502. Of those that indicated that they are not subject to Section 1502, 65 percent indicated that their customers are subject.
Awareness

The industry associations that distributed the survey to its members have been communicating regularly with its membership on the issue of minerals coming from conflict-affected areas. The survey respondents demonstrated a high level of awareness of the issue of minerals from conflict areas. More than 95 percent of respondents are aware of growing concern by regulators in the U.S., EU, and international bodies about the link between the 3T (tungsten, tin, tantalum) trade and potential risk of conflict financing, with particular regard to the situation in the DRC. Also relatively high, 82 percent are aware of the potential risk of supporting conflict through the activities of their suppliers.

Yet, while 70 percent are aware of the OECD Guidance, only 59 percent are aware that they can use the OECD Guidance to identify and manage supply chain risks in accordance with international standards.

SME experiences: General awareness

Meanwhile, when considering SME data only, 84 percent of respondents to the simplified survey are aware of growing concern by regulators on the link between the minerals trade and conflict, and 60 percent are aware of the potential risk of supporting conflict. Fewer SMEs are aware of the OECD Guidance, at 40 percent, and only 30 percent are aware that the OECD Guidance can be used to identify and address risks in their supply chains. This data indicates that SMEs on average have a lower level of awareness than the broader set of companies surveyed.

Awareness of the Guidance may result from customer requests for information, yet companies may not understand how they can use the Guidance for their own supply chain due diligence.
Figure 26: Number of customer requests for information

<table>
<thead>
<tr>
<th>Percentage</th>
<th>0%</th>
<th>5%</th>
<th>10%</th>
<th>15%</th>
<th>20%</th>
<th>25%</th>
<th>30%</th>
<th>35%</th>
<th>40%</th>
<th>45%</th>
<th>50%</th>
<th>55%</th>
<th>60%</th>
</tr>
</thead>
<tbody>
<tr>
<td>We have NOT received requests for information.</td>
<td></td>
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<tr>
<td>We have received a limited number of requests for information (&lt;25%).</td>
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<tr>
<td>We are receiving a growing number of requests for information.</td>
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</tbody>
</table>

SME experiences: Customer requests for information

33 percent of SMEs indicated that they have NOT received request for information from their customers.

Policy

When asked whether they had any specific policies in place on minerals from conflict-affected areas or any other policies that explicitly address the issue, 54 percent answered affirmatively. Figure 27 shows what approach companies are taking in their policies. More than 26 percent of companies are encouraging responsible sourcing from conflict and high-risk areas, while 21 percent are eliminating sourcing minerals from conflict and high-risk areas. This is a significant statistic, demonstrating that a de facto embargo will be driven by these policies. These data differ significantly from the approach taken by the majority of downstream participants in the pilot phase, which is to source responsibly in accordance with available international standards contained in the OECD Guidance.

Figure 27: Approach to minerals sourcing policy

<table>
<thead>
<tr>
<th>Percentage</th>
<th>0%</th>
<th>5%</th>
<th>10%</th>
<th>15%</th>
<th>20%</th>
<th>25%</th>
<th>30%</th>
<th>35%</th>
<th>40%</th>
<th>45%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encouraging responsible sourcing from conflict and high-risk areas.</td>
<td></td>
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<tr>
<td>Eliminating sourcing minerals from conflict and high-risk areas.</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not applicable</td>
<td>Other (please specify):</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Obtaining Smelter Information

In terms of identifying smelters, exactly half of the respondents are conducting due diligence to identify smelters that produce 3TG in their supply chains. Forty-four percent of the respondents are participating in industry initiatives to identify smelters and pass the information through the supply chain. While the majority of respondents indicated that they are participating in EICC and GeSI, others indicated they are participating in ITIC (Information Technology Industry Council), RJC (Responsible Jewellery Council), AIAG (Automotive Industry Action Group), WGC (World Gold Council), LBMA (London Bullion Market Association), AEM (Association of Equipment Manufacturers), and IPC (Association Connecting Electronics Industries).

Forty-seven percent of respondents indicated that they have not identified any of their smelters (see Figure 28). Thirty percent indicated that between 1 and 30 percent of their suppliers had provided them with smelter information. This is significant difference from the data results from pilot participants, where 30 percent of participants have identified more than 75 percent of their smelters.

![Figure 28: Percentage of suppliers that have provided smelter information](image)
Auditing and Reporting

In response to a question about conducting audits on smelters, only 17 percent of the respondents answered that they are carrying out smelter audits on supply chain due diligence either on their own or through industry collaboration. This is drastically lower to the number of pilot participants carrying out audits either independently or collaboratively.

In terms of reporting, only 27 percent of the respondents indicated that they report on their supply chain due diligence on minerals from conflict-affected areas.

SME experiences: Auditing and reporting

Only two percent of the SMEs indicated that they are carrying out smelter audits either jointly or independently, compared to 17 percent of the broader group of companies.

Only five percent of the SMEs have started to report on their due diligence activities.
SECTION IV: LESSONS LEARNT

Pilot Learnings

- **Identification of Common Practical Steps**: A majority of participants found consensus on common practical steps that follow the Guidance. Particularly, these common steps were considered appropriate for those companies that do not have direct relationships with smelters. Reference Table p. 20.

- **Alignment of industry tools and national legislation with the OECD Guidance has created efficiencies as well as potential risks**: With the alignment of the CFS to OECD Guidance and the release of the long-awaited SEC rule implementing Dodd-Frank Section 1502, it is possible for participants to meet the legal requirements using both the Guidance and industry tools. However, participants have noted potential new risks. The SEC Rule creates a disincentive to source minerals from the DRC and its nine neighbouring countries, because those companies that do source from the region have to conduct due diligence, write a conflict minerals report and get an independent audit, while companies that do not source from the covered countries do not have to go through these steps.

- **Participants have increased their commitment to continuing responsible trade**: Over the course of the pilot phase, there has been a general shift in companies’ approach to risk as they become more familiar with in-region sourcing. More specifically, some participating companies now indicate that they aim to source responsibly from the region instead of taking a purely risk avoidance approach that would entail ending trade with the region. Several participants have actively sought out opportunities to support responsible trade from Central Africa and demonstrate a strong commitment to continuing responsible trade from the region. Participation by pilot members in projects such as the U.S.-led Public-Private Alliance, Solutions for Hope, or the Conflict-Free Tin Initiative rose from 20 percent of the pilot participants to 30 percent between Cycle 1 to Cycle 3. The CFS Early Adopters Fund demonstrates a commitment and willingness on the part of a number of the participants to continue sourcing from the region and improve local conditions in mining communities. However, participants note that only a few leadership companies actively participate in these programmes, and the spread of such practices is challenged by the final SEC rule and by customer requirements that do not have the same approach.

- **Utilisation of standardised industry tools has created greater efficiency**: The majority of participants highlighted the Conflict Minerals Reporting Template and the CFS Program as key processes and tools for downstream companies to obtain information from direct suppliers about names and conflict-free status of smelters. Over the course of the one-year pilot period, there has been a significant push amongst the majority of participants to use the EICC and GeSI Extractives Working Group tools and collaborate with the CFS Program to engage with more smelters. Shared industry tools have lessened the burden on suppliers providing information to multiple customers. They have also enabled a shared process that allows participants to collect information through the reporting template and compare it with reference smelter lists. This and other standard industry approaches have increased efficiency of due diligence implementation at the sub-tier level of the supply chain.

- **Greater supply chain complexities were revealed through the pilot process**: Participants’ attempts to obtain information from their suppliers have uncovered new insights into the depth and complexity of their supply chains. As they began to study and attempted to implement the various
steps of the OECD Guidance over the one-year pilot phase, the process revealed a lack of control and insight beyond their immediate suppliers. Therefore participants reported a decrease in accessing specific smelter due diligence information, and noted the having difficulty encouraging smelters to join the CFS.

- **Participants have chosen to exclude or include parts of the Guidance based on what is relevant for their position in the supply chain:** Participants have a greater understanding of how to use Annex II and apply elements of it that are relevant to their business and supply chain, which is in line with the intention of the OECD Guidance. Downstream companies have developed a common approach on practical due diligence steps for companies that do not have business relationships with smelters (see Table p. 20), because of the importance that the SEC rule puts on audits of companies’ conformance to the Guidance. Companies with no direct relationships with smelters are concentrating their efforts on aspects of the Guidance where they can effectively “establish internal controls over their immediate suppliers.”

- **Cross-industry cooperation has facilitated harmonisation and efficiencies:** Cross-sector collaboration has enabled more efficient and effective due diligence that advances responsible sourcing. The EICC and GeSI have proactively engaged with other industry associations about the use of the CFS Program, due diligence tools and participation in the Extractives Working Group. The participation of a broad spectrum of industries in the development of IPC 1755 conflict minerals data exchange is expected to lead to a broadly accepted and used standard. Collaboration across industries has brought more companies’ approaches in line with responsible sourcing, and has the potential to reach a broader group of companies that are not subject to Dodd-Frank disclosure requirements.

- **Progress toward responsible sourcing has been dependent upon both greater incentives for smelters to participate in the CFS Program and market incentives for smelters that offer conflict-free material sourced from the region:** For companies subject to Dodd-Frank requirements the cost of SEC compliance may act as a deterrent. For companies in the upstream part of the supply chain, a hindrance is the cost of implementing in-region due diligence programs that can provide assurance of the conflict-free nature of minerals. These costs have to be absorbed somewhere in the supply chain, otherwise other minerals sources will always be less expensive.
Feedback on the Downstream Pilot Phase

Overall, the participants indicated that their participation in the downstream pilot phase helped them to advance systems and processes to implement due diligence on minerals from conflict-affected areas. There are several key areas where they received value:

- Increased understanding and awareness of process complexity
- Enabled sharing of experiences, networking, and practices, approaches and challenges amongst participants
- Supported the dissemination of practices within and across industries, such as how the EICC and GeSI Extractives Working Group programmes and EICC and GeSI tools can enable companies to meet the OECD Guidance
- Increased general understanding among various stakeholders of the challenges faced by companies
- Provided a structure for which to implement due diligence activities, identify common and practical steps and think critically about the processes being put in place
- Facilitated a better understanding of company supply chains

Participants also highlighted the following suggestions to improve the implementation process:

- Longer timelines to allow for sufficient and valuable input by companies on report drafts
- Clarification of the process on how to formulate recommendations for possible adjustment of the Guidance for consideration by OECD bodies based on the experiences in the pilot phase
- More regular feedback on how participants’ efforts have been valuable to the OECD and the process
- More sharing and collaboration among the participants, which was done but only during Cycle 2 and Cycle 3.

Recommendations from Pilot Participants

Recommendations to address common implementation challenges

Participants raised the following recommendations and solutions to address some of the challenges commonly faced by participants during the downstream pilot phase. Many of the recommendations pertained to working on an industry level, directly with smelters, rather than relying solely on direct suppliers to push change in the supply chain. The ultimate goal is to enable legitimate sourcing from conflict-free mines in the DRC and the whole Great Lakes region. More specific recommendations and proposed solutions from the downstream participants included:

- **Identifying opportunities to create incentives** for suppliers to choose conflict-free, in-region sourcing, and for smelters to provide conflict-free, in-region sourcing. The EICC and GeSI have identified several ways to build incentives: 1) Smelters can designate a percentage of material as conflict-free from the DRC versus material that is not from the DRC, allowing smelters to have different pricing structures that provide incentives for in-region material purchases; 2) Governments can provide procurement incentives for products containing material from affected
countries; 3) Governments may consider mandating in-region local content requirements (assuming this is compatible with the World Trade Organization requirements).

- **Government to Government engagement** to increase the awareness of the alignment between the OECD Guidance and the UN GoE on the DRC due diligence Guidelines which the UN Security Council supported taking forward with its Resolution 1952/2010.

- **Creating leverage** on an industry level to encourage the metal industry to encourage their smelter members to participate in the CFS Program. These metal industry organisations (ITRI, TIC, ITIA, etc.) in turn should encourage their members to address risk in the upstream part of the supply chain. The downstream industry organisations (EICC, GeSI, AIAG, IPC, etc.) should focus on the downstream part of the supply chain where they have an impact, and try to encourage suppliers to have an impact on the upstream organisations.

- **Encouraging direct customers of the smelters to request CFS participation.** Often times these suppliers are non-U.S. based state-owned companies and are not subject to Dodd-Frank. Individual downstream companies at the bottom of the supply chain do not have influence over smelters as they do not have a direct relationship.

- **Engaging other industry sectors that are less active.** Several other consuming industry sectors and economies that are consumers of these metals are not as active in driving expectations that suppliers follow the OECD Guidance, support conflict-free sourcing, etc. as participants in this pilot are. More work is needed.

- **Purchasing minerals only from smelters and other suppliers that can verify CFS validation,** which the Guidance suggests as an option due to the impossibility and/or impracticability of validating information from all direct suppliers.

- **Creating greater coordination** amongst all of the various existing schemes designed to operationalise the OECD Guidance and the UN Due Diligence Guidelines to improve efficiency and reduce confusion.

- Working with the 3TG industry (such as the trade associations representing smelters) to **develop and maintain a complete and correct list of all the smelters** in the world to avoid duplicative and time-intensive efforts of individual companies.

- The OECD may contemplate updating the Guidance in light of the findings of the pilot regarding the practicality of specific provisions and reflecting the desire for a differentiation of roles between companies that have direct relationships with smelters and those who do not.

- **Providing capacity training** and expert advice about the OECD Guidance for both downstream and upstream actors.

- **Encouraging more participation** in future implementation efforts from more diverse points in the downstream and upstream supply chains to ensure that the OECD Guidance is followed and understood more broadly and becomes more common practice.

- **Developing a cost/benefit analysis** of the implementation of the OECD Guidance relative to improvement on the ground in the DRC and adjoining countries.
Recommendations for clarifications/rectifications to the OECD Due Diligence Guidance based on Implementation Learning

Participants suggested that clarifications/rectifications to the OECD Guidance could be considered as part of the next steps. The following recommendations have been made:

- Alignment on the language in Step 4 and Step 5 regarding the type of audits the Guidance references – those of smelters and refiners.
- Chronological clarification between Steps 4 and 5 in the 3T Supplement (see Table p. 54).
- Clarifications on the relationships between confidentiality and reporting under Step 5 (see Table p. 54).
- Step 5, A.3. 3. recommends that downstream companies publish the audit report of their due diligence practices, with due regard taken of business confidentiality and other competitive concerns, and responses to identified risks. The Guidance only recommends audits at the smelter/refiner level. Pilot participants considered that this provision should be amended since the Guidance does not recommend that downstream companies should undergo any audits.
- Step 1 references to iTSCi (footnote 8) may need to be updated.
- The Guidance 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 due diligence practices of smelters/refiners. The Guidance (footnote 23) further recommends that companies should consult ISO International Standard 19011:2002 for detailed requirements on audit programmes (including programme responsibilities, procedures, record-keeping, monitoring and reviewing) and step-by-step overview of audit activities. Pilot participants considered that the reference to ISO International Standard 19011:2002 should be replaced with ISO/IEC 17021:2011.
Annex 1 – Common Supplier Letter Template and Its Appendix

Disclaimer text: This letter is proposed by a sub-set of the downstream 3T pilot participants to promote consistency of supplier communications on sourcing minerals (3TG) from conflict-affected and high-risk areas. It is intended as a template, which companies can customise and tailor. The main letter includes optional texts which companies can choose to include or not. The main letter is followed by an Appendix with detail on specific items and a list of useful resources which companies may choose to incorporate as an Addendum to the main letter.

Dear SUPPLIER,

The purpose of this letter is to:

1) provide you with an understanding of our commitment to sourcing MINERALS from conflict-affected and high-risk areas in line with our corporate policy, legal obligations and existing international standards; and

2) ask you to collect important supply chain data to fulfil our legal obligations under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1502).

OR

2) ask you to collect important supply chain data to satisfy the expectations of our customers, stakeholders and regulators.

OPTIONAL: 3) provide you with instructions on how and when to submit supply chain information to us.

Please provide a response by DATE.

Our commitment to sourcing minerals responsibly

COMPANY is committed to ensure that MINERALS contained in our products are sourced with due respect for human rights, the need to avoid contributing to conflict, and the desire to support development through our supply chain practices.

At the same time, COMPANY does not ban the use of MINERALS that originate in conflict-affected and high-risk areas when they are sourced in accordance with existing international standards. Avoiding the sourcing of all MINERALS from these areas would cause a de facto embargo with serious adverse impact on the living conditions of local populations.

OPTIONAL: Please find here a link to COMPANY’s conflict minerals policy, which we expect our suppliers to follow.

We are using the OECD Due Diligence Guidance as an international framework for meeting the sourcing expectations of our customers, regulators and stakeholders.
**OPTIONAL:** The SEC has stated that OECD Guidance may be used as a framework for purposes of satisfying the reporting requirements under U.S. law, including the steps to be taken to determine the source and chain of custody of the conflict minerals.

**OPTIONAL:** COMPANY understands that you as a supplier may not be able to guarantee that the parts you deliver to us are conflict-free, but you can help to identify smelters in our common supply chain, which is a necessary step in determining the source and chain of custody of the MINERALS in our products. Smelters and other upstream suppliers are those who can most effectively and most directly mitigate the risks on the ground.

**We are asking:**
1) all our suppliers of products containing MINERALS to provide information to identify the smelters/refiners in their supply chains using [NAME OF COLLECTION TOOL such as the EICC/GeSI Conflict Minerals Reporting Template]. The [NAME OF COLLECTION TOOL] will protect confidential and business sensitive information through roll-up tools that do not require a list of all suppliers used within a company’s supply chain;

   **OR**

1) our most significant suppliers of products containing MINERALS to provide information to identify the smelters/refiners in their supply chains using [NAME OF COLLECTION TOOL]. The [NAME OF COLLECTION TOOL] will protect confidential and business sensitive information through roll-up tools that do not require a list of all suppliers used within a company’s supply chain.

2) **OPTIONAL:** We are also incorporating into [our standard purchase order/contract terms and conditions/supplier expectations/other binding document] provisions requiring you to adopt a policy on the responsible sourcing of MINERALS, to implement due diligence processes in support of that policy, and to provide to us periodically information we need to support our obligations [under Dodd-Frank] and our policy.

We will compare smelters/refiners used by relevant suppliers against an independently-verified list of smelters using responsibly sourced minerals [identified through industry programs such as the Conflict Free Smelter Program]. We will specify to our direct suppliers any smelters we become aware of that have been identified as performing due diligence on their minerals in line with industry or national standards and the OECD Guidance.

**Next steps and important dates:**
**OPTIONAL:** We ask that you complete the data gathering form (or link) attached to this letter and return it to COMPANY by DATE. Incomplete forms will be returned for completion.
We will file our first Conflict Mineral report as required by Dodd-Frank on 31 May 2014 for the calendar year reporting period of 2013.

OR

We will publish our findings and progress on due diligence for responsible mineral sourcing on an annual basis.

We recognise that achieving a responsible supply chain will take time and effort. We expect that you take reasonable, good-faith steps toward this goal. Thank you for your cooperation and support.

COMPANY

APPENDIX ITEMS: Note: These sections may be added into the main text if needed, or added as addendums to the main letter, based on each company’s discretion

1) The Dodd-Frank Act – Section 1502
We are working to comply with new disclosure obligations under U.S. law (Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010) applicable to U.S. stock exchange listed companies concerning the 3TG (so called “conflict minerals”) used in their products to inquire into the origin of 3TG in their supply chains and report whether trade in these minerals may support conflict in the Democratic Republic of the Congo (DRC) and its 9 neighbouring countries.

The first report must be filed on May 31, 2014 based on use of 3TG in calendar year 2013.

2) OECD Due Diligence Framework – a framework to help companies source responsibly from conflict-affected and high-risk areas
The SEC has stated that OECD Guidance may be used as a framework for purposes of satisfying the reporting requirements, including the steps to be taken to determine the source and chain of custody of the conflict minerals.

Step 1: Establish strong company management systems and strengthen company engagement with suppliers
Introduce a supply chain transparency system that allows, to the best of our efforts, for the identification of the smelters in our supply chain through which information on MINERAL origin can be obtained.

We will seek to do this through various means, including but not limited to:

- Through discussions with the our immediate suppliers,
- Through the incorporation of supplier disclosure requirements into supplier contracts,
- By specifying to our direct suppliers any smelters we become aware of that have been identified as meeting the requirements of the OECD Guidance,
- When available, by using confidential information-sharing systems on suppliers [such as the EICC-GeSI Common Reporting template],

APPENDIX ITEMS: Note: These sections may be added into the main text if needed, or added as addendums to the main letter, based on each company’s discretion
Through any available industry-wide schemes to identify smelters in the supply chain [such as the CFS Program developed by EICC-GeSI].

Step 2: Identify and assess risk in the supply chain
We assess risk in the supply chain as information on smelters is progressively built in order to assess their due diligence practices and verify whether smelters source minerals responsibly and do not support conflict.

Step 3: Design and implement a strategy to respond to identified risk
If we become aware of a supplier whose due diligence needs improvement and we intend to continue the trade relationship, we will work with that supplier to improve its performance, including through training modules that may become available through industry organisations. We expect our suppliers to take similar measures with their suppliers to ensure alignment throughout the supply chain.

Step 4: Ensure third-party audits of smelter’s due diligence
We support efforts and encourage our suppliers to also support industry organisations efforts to ensure that smelters’ due diligence sourcing practices are audited by independent third party auditors.

Step 5: Report annually on supply chain due diligence
We will publish our findings and progress on an annual basis beginning with the filing of our report on 31 May 2014 for the first calendar year reporting period of 2013 on our website at PROVIDE LINK.

3. Due Diligence Tools: Note: This is not an exhaustive list, and companies and their suppliers are encouraged to check on the websites of the key industry organisations for future updates and new tools

- Conflict-Free Smelter Program: http://www.conflictfreesmelter.org/cfshome.htm

4. Other resources:

Industry Association web pages: For data gathering tools, training programs, information about regulations

- Aerospace & Defense: www.aia-aerospace.org
- Automotive: http://www.aiag.org/scriptcontent/index.cfm

Other:
• **OECD**: The OECD webpage dedicated to helping businesses source responsibly. Key documents for companies and businesses (keyword “conflict minerals”)


• **COMPANY own webpage on Conflict Minerals/Responsible Sourcing (if available)**
Annex 2 – 3T Smelter List

This 3T smelter list is intended to serve as useful baseline to help better engage smelter companies on responsible sourcing of minerals from conflict and high risk areas. Various companies and experts have provided help in identifying 3T smelters. This list has been subject to several revisions based on calls to encourage stakeholders to share input and improve content. However, given the fast moving environment and lack of cooperation of some stakeholders, the table provides a non-exhaustive list of smelters which would require constant updating and may be subject to further improvement.

<table>
<thead>
<tr>
<th>Country</th>
<th>Metal</th>
<th>Smelter Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Tungsten (W)</td>
<td>Wolfram Bergbau-und Huetten-Gmbh Nfg KG</td>
</tr>
<tr>
<td>Belgium</td>
<td>Tin (Sn)</td>
<td>Metallo Chimique</td>
</tr>
<tr>
<td>Belgium</td>
<td>Tin (Sn)</td>
<td>Jean Goldschmidt International SA</td>
</tr>
<tr>
<td>Bolivia</td>
<td>Tin (Sn)</td>
<td>EM Vinto</td>
</tr>
<tr>
<td>Bolivia</td>
<td>Tin (Sn)</td>
<td>OMSA</td>
</tr>
<tr>
<td>Bolivia</td>
<td>Tin (Sn)</td>
<td>Complejo Metalurgico Vinto S.A.</td>
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<tr>
<td>Bolivia</td>
<td>Tin (Sn)</td>
<td>Senju Metal Industry Co., Ltd.</td>
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<td>Tin (Sn)</td>
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<td>Tin (Sn)</td>
<td>Taboca/Paranapanema</td>
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<td>Mineracao Toboca</td>
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<td>North American Tungsten</td>
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<td>Tin (Sn)</td>
<td>Chile</td>
</tr>
<tr>
<td>China</td>
<td>Tantalum (Ta)</td>
<td>Conghua Tantalum and Niobium</td>
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Annex 3 – Cycle 3 Downstream Company Questionnaire

1. What is your name?
2. What is the name of your company?

Step 1: Establish Strong Company Management Systems

3. Has your company adopted a policy on minerals from conflict areas?
   - Yes (please attach the policy or provide the link to your website)
   - No
   Provide any comments: _____________________

4. If yes (to question 3), is this policy consistent with Annex II of the Guidance that provides a model supply chain policy for responsible global supply chain minerals from conflict-affected and high-risk areas?
   - Yes (please attach or provide the link to your website)
   - No
   Provide any comments:

5. If yes (to question 3), which elements of Annex II are referenced in your policy? (check all that apply)
   - Serious abuses associated with the extraction, transport or trade of minerals
   - Risk management of serious abuses
   - Direct or indirect support to non-state armed groups
   - Risk management of direct or indirect support to non-state armed groups
   - Public or private security forces
   - Risk management of public or private security forces
   - Bribery and fraudulent misrepresentation of the origin of minerals
   - Money laundering
   - Payment of taxes, fees and royalties due to governments
   - Risk management of bribery and fraudulent misrepresentation of the origin of minerals, money-laundering and payment of taxes, fees and royalties to governments

6. If yes (to question 3), is your company’s policy on minerals from conflict areas publicly available? Where?
   - Yes, on the company website (provide link).
   - Yes, (other, please, specify).
   - No, it is not publicly available.

7. If no (to question 3), if your company has not adopted a specific policy on minerals from conflict areas, do you incorporate guidance on conflict-free mineral supply chains into existing corporate policies (i.e. sustainability policy, code of conduct, human rights policy, supplier code, etc.)?
   - No, none of our existing corporate policies address minerals from conflict areas.
   - Yes, we have other corporate policies that address minerals from conflict areas. (please attach the policy or provide a link to the policy on your website)

8. Please check which bullet best matches your approach on minerals from conflict areas:
   - Not applicable: no defined approach exists
   - To source minerals responsibly in accordance with available international standards contained in the OECD Guidance, working through various means including industry programmes (e.g. CFS) and constructive engagement with suppliers
   - Not to source minerals from conflict-affected areas in any region
   - Not to source minerals from Africa’s Great Lakes region
   - Not to source minerals from conflict-affected areas in the DRC
   - Not to source any minerals from anywhere in the DRC
   - Other:

9. Describe the level and role of senior management that is accountable for the performance of conflict-free mineral supply chains.
   - No one has been designated to the conflict-free minerals programme.
o Yes, someone has been designated to performance on conflict-free mineral supply chains. (describe the level and role)

10. What accountability procedures have you developed?

11. Are resources available to support this responsibility? To what degree? Please describe resources available in each field below.

12. What internal communication process on conflict-free mineral supply chains have you developed? (check all that apply)
   o No internal communications on conflict-free mineral supply chains has taken place.
   o Communications with staff. Specify type of communication process in place.
   o Communication with relevant supplier account managers (senior buyers).
   o Communication with management. Specify target population: senior management, all management, only certain departments, etc. and type of communication process in place.
   o Communication in purchasing organisation with CPOs at group and sector level.
   o Communications with board members.
   o Other: _______________________

13. Have you established a method for identifying smelters/refiners in your supply chains through which relevant information on minerals from “red flag locations of mineral origin and transit” should be obtained? (refer to the box above for a definition on “red flag” locations)
   o Yes
   o No

14. Have you established a method for identifying smelters/refiners sourcing minerals from “red flag suppliers”? (refer to the box above for a definition on “red flag” suppliers)
   o Yes (please describe the system you use for identifying smelters/refiners sourcing minerals from “red flag suppliers”)
   o No

15. On which basis do you decide which products and associated suppliers to identify? (check all that apply)
   o Bill of materials
   o Product category
   o Known suppliers of tin, tantalum and tungsten
   o Geographic location (please define or describe parameters)
   o Political situation
   o Other (please describe): _______________________

16. What level of visibility do you have in your supply chain?
   o Unknown
   o Tier 1
   o Tier 2 (suppliers to your direct Tier 1 suppliers)
   o Tier 3 and beyond (suppliers to your Tier 2 suppliers and beyond) (please specify):

17. Have you established a data collection system to collect and store data from your suppliers on supply chain due diligence?
   o Yes
   o No
   Provide any comments: _______________________

18. Are you relying on existing data collection tools for monitoring/reviewing downstream supply systems?
   o Yes
   o No

19. If yes (to question 18), how is it incorporated into your company’s existing monitoring/review systems?
20. Are you relying on an industry-wide scheme?

21. When did you start storing records/data? (year)

22. How long are records stored for? (i.e. minimum of five years, preferably on a computerised database)

23. What type of data is collected specific to the 3Ts? (please list the top five types of data)

24. Do you have a list of products containing 3Ts? If yes, please attach.

25. Please describe your company relationship with suppliers who are subject to due diligence.
   o Generally one-off contracts (under 3 months)
   o Seasonal and/or short term (under 1 year)
   o Long term relationships (more than 1 year, or multi-year relationships)

26. What methods have you used to communicate to your suppliers on the issue of minerals from conflict areas?
   o Letters sent directly to suppliers
   o Through industry associations
   o Other (please specify, e.g. supplier workshops):

27. What have you communicated?
   o Company’s policy expectations
   o Expectations on information collection and sharing
   o Expectations on communicating with their suppliers
   o Dodd Frank Section 1502 requirements
   o Other (please explain): _____________________

28. Have you communicated your policy on minerals from conflict areas to your suppliers?
   o Yes, we have communicated as part of our external communication process.
   o Not yet, but we plan to. (If so, please tell us when – year)
   o Not applicable (We do not have a policy on minerals from conflict areas policy.)

29. If yes (to question 28), with which suppliers do you communicate your policy?
   o Tier 1
   o Tier 2
   o Tier 3
   o Beyond Tier 3

30. Have you incorporated a policy or specific clauses on minerals from conflict areas into your contractual relationships?
   o Yes, please provide examples
   o No

31. Do you have improvement plans/corrective action plans in place regarding relationships with suppliers?
   o Yes
   o No
   o Not applicable (if N/A, why?):
   Provide any comments: _____________________

32. Do you have a grievance mechanism available to report any problems/non conformance regarding your policy on minerals from conflict areas?
   o Yes
   o No
   o Not applicable

33. If yes (to question 32), please describe the grievance mechanisms in place.
   o Toll free number
o Direct contact point
o Whistle blower access
o Ombudsman
o Other (please describe)

34. If yes (to question 32), is the availability of your grievance mechanism publicly communicated?
   o Yes
   o No
   o Not applicable

35. Please describe the challenges you encountered when following and implementing Step 1 of the OECD Guidance.

Step II: Identify and Assess Risk in the Supply Chain

36. What efforts have you used to identify the smelters/refiners in your supply chain? (check all that apply)
   o Direct communications with the companies’ immediate suppliers and sub-suppliers (please provide details)
   o Data collection from 1st tier suppliers, using the EICC-GeSI Due Diligence Reporting Template
   o Incorporated (confidential) supplier disclosure requirements into supplier contracts (please provide details)
   o Specify to direct suppliers the smelters/refiners that meet the requirements of the OECD Guidance, including through the CFS (please provide details)
   o Utilize electronic information-sharing systems on suppliers and/or industry wide schemes to disclose upstream actors within the supply chain (please provide details)
   o Other (please describe): _____________________

37. If necessary, please provide any comments to the question above.

38. Have you identified any smelters/refiners in your supply chain?
   o Yes
   o No (please describe why)

39. If yes (to question 38), what tools or methodologies were used to identify the smelters/refiners in your supply chain?

40. If yes (to question 38), how have you addressed the challenges you faced in identifying those smelters/refiners (e.g. any new processes, contracts, languages, etc).

41. If yes (to question 38), in what percentage of your total products containing tin, tantalum and/or tungsten have the smelters/refiners been identified? (please provide your best estimate)
   o < 5%
   o 6% - 15%
   o 16% - 30%
   o 31% - 50%
   o 51% – 75%
   o > 75%

42. Have you obtained initial information from the identified smelters/refiners in your supply chain on country of mineral origin, transit and transportation routes used between mine and smelters/refiners?
   o Yes
   o No

43. If yes (to question 42), please provide details on how you have done so and the challenges you faced in obtaining that information.

44. If no (to question 42), why not?

45. What process do you use to verify countries of mineral origin and transit in the supply chain of those smelter/refiners that have been identified?
46. Do you have a process to evaluate information from “red flag” countries, suppliers or smelters?
   - Yes
   - No
   Provide any comments: _____________________

47. Have you assessed whether identified smelters have carried out due diligence for conflict-free mineral supply chains?
   - Yes
   - No

48. If yes (to question 47), have you cross-checked evidence of due diligence practices of the smelter/refiner against the supply chain policy and due diligence processes contained in the OECD Guidance. (Please provide examples of how you have reviewed each due diligence step (1-5) of the smelter.)
   - Yes
   - No

49. What mechanisms do you use to verify smelter due diligence processes (e.g. self-assessment questionnaires; electronic tools and dashboards; external verifications and documentation reviews; interviews and/or other follow-up)

50. Have you participated in any capacity building (such as supplier training) efforts with/for identified smelters, including through industry collaborative initiatives? Please describe:

51. Please specify whether you have carried out joint spot checks, including through participation in industry-driven programmes. (If so please list which programmes.)

52. Please describe the challenges you encountered when following and implementing Step 2 of the OECD Guidance.

**Step III: Design and Implement a Strategy to Respond to Identified Risks**

53. Is there a communication process that has been put in place to ensure that findings of the actual and potential risk from supply chain risk assessments are reported to designated senior management?
   - No
   - Yes (please describe)

54. Please list the actual and potential risk categories arising in the upstream supply chain, if any, that have been raised at the board or senior executive level in the last three years (2009-2011). (check all that apply)
   - Serious abuses associated with the extraction, transport or trade of minerals
   - Risk management of serious abuses
   - Direct or indirect support to non-state armed group
   - Risk management of direct or indirect support to non-state armed groups
   - Public or private security forces
   - Risk management of public or private security forces
   - Bribery and fraudulent misrepresentation of the origin of minerals
   - Money laundering
   - Payment of taxes, fees and royalties due to governments
   - Risk management of bribery and fraudulent misrepresentation of the origin of minerals, money-laundering and payment of taxes, fees and royalties to governments
   - Other (please describe)

55. What is your company's approach to managing risk of sourcing from minerals from conflict areas? Please choose one.
   - Approach not yet defined
   - We use the model supply chain policy from Annex II of the OECD Guidance to determine whether the identified risks can be mitigated by continuing, suspending or terminating the relationship with suppliers.
   - We use our own company defined factors on risks. (please define)
56. How do you support (or build leverage over) your suppliers and/or smelters in managing risk identified in the supply chain as a result of their due diligence process? (check all that apply)
   o Provide capability-training to enable suppliers to conduct and improve due diligence performance within their supply chain
   o Participate in industry membership organisations’ supplier training/improvement programmes to develop and implement due diligence capability-training modules in cooperation with relevant international organisations, NGOs, stakeholders and other experts.
   o Provide financial assistance to suppliers to participate in external trainings or industry available support (please describe)
   o Other (please describe)

57. Do you track the performance of risk mitigation?
   o We do this through a process already in place. (please specify)
   o We do not track performance. (please explain why)

58. If yes (to question 57), do you conduct a risk assessment/follow-up once corrective plans/trainings have occurred?

59. Please describe the challenges you encountered when following and implementing Step 3 of the OECD Guidance.

**Step IV: Third-Party Audit of Smelters/Refiners’ Due Diligence Practices**

60. Within your supply chain of tin, tantalum and tungsten, who conducts the audits of smelters?
   o We conduct smelter audits internally.
   o Our suppliers conduct the audit.
   o Our 3T smelters are part of the EICC/GeSI Conflict-Free Smelter Programme
   o We rely on an industry initiative other than the Conflict-Free Smelter Programme that conducts the smelter audit for its members (please name)
   o We do not know if our smelters are audited or by whom
   o Other (please describe): _____________________

61. If you **conduct your own audits of smelters**, please describe your approach:
   o Based on OECD Guidance
   o Company-own guidance (please describe)
   o 3rd party/Industry guidance (please describe)
   o Other (please describe): _________________

62. If you **do not conduct your own audit of smelters**, how do you obtain information that the smelter within your supply chain conducts appropriate due diligence?
   o Our suppliers provide us with validated audits/reports on the smelters in question.
   o We participate in an industry scheme which provides proof that the smelter is conflict-free. (Please describe which scheme and means of data sharing report, validated audit, certification scheme, etc.).
   o We do not have this information.
   o Other means (please describe): _________________

63. If you **do not conduct your own audit of smelters but rely on 3rd parties**, do you know if these audits are based on:
   o OECD Guidance
   o Some other, independent/non OECD guidance (please describe or name)
   o We do not know what the 3rd party audit is based on.

64. Please describe the challenges you encountered when following and implementing Step 4 of the OECD Guidance.

**Step V: Report Annually on Supply Chain Due Diligence**

65. Do you report publically on your due diligence policies and practices?
   o Yes
   o No

66. How is information reported?
67. How frequently do you report?
   - Annually
   - Quarterly
   - Only when there is something to report
   - Information is not reported

68. Please describe the challenges you encountered when following and implementing Step 5 of the OECD Guidance.

**Closing questions**

69. What are your next steps to carry out due diligence?

70. How has your participation in this process helped you to advance systems and processes to implement due diligence on minerals from conflict-affected areas?

71. What do you consider to be emerging good practices that have enabled you and/or other downstream companies to progress on implementation of the Guidance?

72. Pursuant to the OECD Action Plan agreed upon at the May meeting, would you be interested in participating in a small group to explore the possibility of developing common content and model principles for supplier outreach in the downstream supply chain?
   - Yes
   - No

73. If yes (to question 72), which elements do you think should be included in a common supply chain letter? Please check as many that apply.
   - Information on Section 1502 of Dodd Frank and its relationship with the OECD Guidance
   - Common position on minerals sourcing (to commit to sourcing responsibly from conflict-free mines in the DRC)
   - Explain company’s actions to undertake due diligence
   - List specific due diligence expectations of the supplier
   - Instructions for submitting due diligence information
   - None of the above
   - Additional element: please describe
   - Comments:

74. If yes (to question 72), please indicate whether common content should be developed for:
   - Initial supplier outreach letter
   - Follow-up supplier letter (for suppliers that failed to submit a response to initial letter; or submitted incomplete information; or submitted incorrect information)

75. If yes (to question 72), what other types of materials should be developed as common content? Please describe.
Annex 4 – Cycle 3 Industry Association Questionnaire

Policy

1. Does your industry association currently advocate a common policy defining common expectations throughout the supply chain on risk of supporting conflict through the activities of suppliers in the supply chain of tin, tungsten, tantalum and gold?
   - No, we have no common policy
   - Yes, to source these minerals responsibly from any conflict-affected and high-risk areas, (including DRC and Great Lakes region covered under US Dodd-Frank Section 1502) in accordance with the due diligence process described in the OECD Due Diligence Guidance
   - Yes, not to source these minerals from any conflict-affected and high-risk areas.
   - Yes, not to source conflict minerals from specific country or specific region (please, indicate which countries/regions and why)
   - Not to source these minerals from the DRC and Great Lakes region given the associated reporting requirements under Dodd Frank Section 1502
   - Other (please describe)

2. If necessary, please provide any comments to the previous question.

3. Is this policy consistent with Annex II of the Guidance that provides a model supply chain policy for responsible global supply chain minerals from conflict-affected and high-risk areas?
   - Yes (please attach or provide the link to your website)
   - No
   - Comments: _____________________

4. If yes (to question 3), which risk and corresponding management strategy under Annex II are referenced in your policy? (check all that apply)
   - Serious abuses associated with the extraction, transport or trade of minerals as defined in the OECD Guidance
   - Risk management of serious abuses as defined in the OECD Guidance
   - Direct or indirect support to non-state armed groups as defined in the OECD Guidance
   - Risk management of direct or indirect support to non-state armed groups as defined in the OECD Guidance
   - Direct or indirect support to public or private security forces as defined in the OECD Guidance
   - Risk management of public or private security forces as defined in the OECD Guidance
   - Bribery and fraudulent misrepresentation of the origin of minerals as defined in the OECD Guidance
   - Money laundering
   - Payment of taxes, fees and royalties due to governments
   - Risk management of bribery and fraudulent misrepresentation of the origin of minerals, money-laundering and payment of taxes, fees and royalties to governments

Industry Tools

5. Has your industry association promoted/participated in the development of tools/schemes for responsible supply chain due diligence (i.e. traceability, conflict-free smelter programme, E-Tasc questionnaire etc.)?
   - Yes (please list which ones)
   - No

6. Is your industry association developing any industry-specific tools, methodologies, and/or best practices to help your members carry out responsible supply chain due diligence?
   - Yes (please describe how such tools/methodologies can help your members meet specific due diligence recommendations under the OECD Guidance, and provide links/attachments)
   - No
Supplier Communications

7. Have members of your industry association disseminated any joint communications to shared suppliers on expectations for responsible supply chain due diligence?
   - Yes (please describe)
   - No

8. Have members of your industry association collaborated to exchange supplier information and/or identify suppliers that are likely to be subject to/affected by the US Dodd Frank Section 1502 on “conflict minerals” and related SEC regulations?
   - Yes
   - No
   - Not sure

Member Support

9. How is your industry association currently supporting members to understand the 3Ts due diligence and encourage transparency in the supply chain? (check all that apply)
   - Refer them to the OECD Guidance
   - Provide other policy guidance (please describe the policy guidance in the comment field of the next question)
   - Provide training
   - Provide access to tools developed by the Association
   - Provide access to tools developed by other sources (please list the tools in the comment field of the next question)
   - Access to experts/latest developments via
   - In-person meetings
   - Webinars
   - Conference calls
   - Online and traditional communications (website, newsletters, mailings, e-mailings)
   - Other (please describe)

10. If necessary, please provide any comments to the previous question.

11. What type of support have members requested from your industry association to develop due diligence activities?
   - Policy guidance
   - Training
   - Industry tools
   - Funding
   - Stakeholder engagement
   - In-person meetings
   - Online communications
   - Webinars
   - Conference calls
   - Other (please describe)

OECD Pilot Implementation Phase (August 2011-August 2012)

12. Have you found the pilot implementation phase useful to get a better understanding of due diligence processes in the 3T supply chain?
13. Notwithstanding pending regulations, do you think this will help members subject or affected by Dodd-Frank Section 1502 to build their capacity to meet regulatory expectations?

14. Do you think that industry associations have a role to play in orienting members’ procurement practices so as to help companies contribute to sustainable development in conflict-prone areas through responsible mineral sourcing from conflict and high-risk areas? Or, has your association taken a different approach? If so, please describe:

15. What other tools would you find useful for your industry? (please describe)

16. Pursuant to the OECD Action Plan agreed upon at the May meeting, would you be interested in participating in a small group to explore the possibility of developing common content and model principles for supplier outreach in the downstream supply chain?
   - Yes
   - No

17. If yes (to question 16), which elements do you think should be included in a common supply chain letter? Please check as many that apply.
   - Information on Section 1502 of Dodd Frank and its relationship with the OECD Guidance
   - Common position on minerals sourcing (to commit to sourcing responsibly from conflict-free mines in the DRC)
   - Explain company’s actions to undertake due diligence
   - List specific due diligence expectations of the supplier
   - Instructions for submitting due diligence information
   - None of the above
   - Additional element (please describe):

18. If yes (to question 16), please indicate whether common content should be developed for:
   - Initial supplier outreach letter
   - Follow-up supplier letter (for suppliers that failed to submit a response to initial letter; or submitted incomplete information; or submitted incorrect information)

19. If yes (to question 16), what other types of materials should be developed as common content? Please describe.
Annex 5 – Cycle 3 Industry Association Member Questionnaire

1. Please indicate the industry (ies) in which you operate. (Check all that apply)
   - Aerospace
   - Automotive
   - Consumer products
   - Energy
   - Extractives
   - Information, communications & technology
   - Medical devices
   - Retail
   - Other (please describe):

2. Please indicate which of the following minerals you use in your products and/or manufacturing processes:
   - Gold (Au)
   - Tantalum (Ta)
   - Tin (Sn)
   - Tungsten (W)
   - I don't know

3. Please indicate the number of employees in your company globally:
   - More than 100,000 employees
   - 50,001-99,999 employees
   - 10,001-50,000 employees
   - 500-10,000 employees
   - 250-500 employees
   - 50-249 employees
   - 49 employees or less

4. Please indicate your company’s 2011 turnover (annual sales volume net of all discounts and sales taxes):
   - More than 1 billion euro (USD 1,248 billion)
   - 500 million - 1 billion euro (USD 624 million - 1,248 billion)
   - 100 million - 500 million euro (USD 125 million - 624 million)
   - 50 million - 100 million euro (USD 62.4 million - USD 125 million)
   - 10 million - 50 million euro (USD 12.48 million - 62.4 million)
   - 2 million - 10 million euro (USD 2.5 million - 12.48 million)

5. Are you aware of the growing concern by regulators in the US and EU and international bodies on metals around the link between trade in tin, tungsten, tantalum and gold (commonly referred to as “conflict minerals”) and potential risk of conflict financing, with particular regard to the situation in the Democratic Republic of Congo (DRC)?
   - Yes
   - No

6. Are you aware of the International Organisation for Economic Co-Operation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High Risk Areas?
   - Yes
   - No

7. Have you ever considered or are you aware of potential risk of supporting conflict through the activities of the suppliers in your supply chain?
   - Yes
   - No

8. Are you aware that you can use the OECD Guidance to become aware of risks in your supply chain and manage them in accordance with international standards?
9. Have your customers communicated about or requested information on “conflict minerals” in your products, or requested smelter level information about your products?
   o  We have NOT received requests for information.
   o  We have received a limited number of requests for information (less than 25% of your customers have requested information).
   o  We are receiving a growing number of requests for information.

10. Do you have any specific policy on conflict minerals or another policy that explicitly addresses conflict minerals (i.e. supply chain, human rights, procurement policy, etc.)?
   o  Yes
   o  No

11. The purpose of the OECD Due Diligence Guidance is to “help companies contribute to sustainable development and source responsibly from conflict affected and high-risk areas”. If you have a conflict minerals policy, would you describe your policy as:
   o  Encouraging responsible sourcing from conflict and high-risk areas (e.g. the DRC and surrounding region under US Dodd Frank Section 1502)
   o  Eliminating sourcing minerals from conflict and high-risk areas (e.g. the DRC and surrounding region under US Dodd Frank Section 1502)
   o  Not applicable
   o  Other (please specify)

12. Are you conducting due diligence to identify the smelters/refiners that produce tin, tantalum, tungsten, and gold in your supply chain?
   o  Yes
   o  No

13. Are you taking part in any industry collaboration schemes/initiatives/efforts to identify smelters and pass due diligence information through the supply chain?
   o  Yes
   o  No

14. If the answer to Question 13 is “yes”, please specify which, if any, collaborative industry process(es) you participate in.

15. Approximately what percentage of your 1st tier suppliers have provided you smelter/refiner information for the products they supply to you?
   o  1-30%
   o  31-60%
   o  61-90%
   o  91-100%
   o  We haven’t identified any.

16. Do you carry out any smelter audits on supply chain due diligence regarding minerals sourcing from conflict-affected areas either on your own or through industry collaboration?
   o  Yes
   o  No

17. Do you report on your supply chain due diligence regarding conflict minerals?
   o  Yes
   o  No

18. Are you a listed company on US stock exchanges subject to disclosing to the SEC on conflict minerals under Section 1502 of the Dodd-Frank Act?
19. If the answer to Question 18 is “no” or “don’t know”, are any of your customers subject to the SEC disclosure requirements for conflict minerals?
   - Yes
   - No