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

Baseline Report on the Supplement on Tin, Tantalum, and Tungsten

OECD

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OECD DUE DILIGENCE GUIDANCE

The *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* provides due diligence recommendations for global responsible supply chains of minerals to help companies respect human rights and avoid contributing to conflict through their activities. The Guidance is for use by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas. It should be used 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 Guidance presents a five-step, risk-based due diligence process for upstream and downstream companies.

The five-step framework is relevant for any extracted mineral, and a *Supplement on Tin, Tantalum, and Tungsten* provides detailed recommendations tailored to upstream and downstream companies (with specific recommendations for companies in the supply chain) on concrete measures they can implement. The five-step framework includes the following steps:

- Step 1: Establish Strong Company Management Systems
- Step 2: Identify and Assess Risk in the Supply Chain
- Step 3: Design and Implement a Strategy to Respond to Identified Risks
- Step 4: Third-Party Audit of Smelters/Refiners' Due Diligence Practices
- Step 5: Report Annually on Supply Chain Due Diligence

Distinguishing downstream from upstream

"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.

"Upstream" refers to the mineral supply chain from the mine to smelters/refiners and includes miners (artisanal and small-scale or large-scale producers), local traders or exporters from the country of mineral origin, international concentrated traders, mineral re-processors, and smelters/refiners.

The OECD Guidance was developed through a multi-stakeholder process over the past two years with in-depth engagement from OECD and African countries, industry, civil society, as well as the United Nations and the World Bank. The Guidance builds on and is consistent with the relevant supply chains provisions contained in the OECD Guidelines for Multinational Enterprises and the UN 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, as well as the efforts these

companies should make to ensure they respect human rights and do not contribute to conflict through their activities in the supply chain.

The OECD 3Ts Supplement outlines the necessary steps companies should take to identify and respond to risks in the supply chain. If a company identifies a risk of causing an adverse impact, it should take the necessary steps to cease or prevent that impact, and mitigate any remaining impacts to the greatest extent possible.

Companies in the supply chain should seek to prevent or mitigate any adverse impacts that are directly linked to their operations, products, or services by a business relationship—even if they have not contributed to that impact directly.

The OECD Guidance is also intended to help companies meet any supply chain due diligence obligations under national laws. For example, Section 1502 of the U.S. Dodd-Frank Act 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. In such a case, issuers must submit a "Conflict Minerals Report" describing:

- The measures taken to exercise due diligence on the source and chain of custody of the minerals.
- The description of products that are not "DRC conflict-free".
- The facilities used to process the conflict minerals.
- The country of origin of the conflict minerals.
- The efforts to determine the mine or location of origin with the greatest possible specificity.

The OECD Guidance clarifies how issuers and other companies in the supply chain operating beyond U.S. borders should put in place a due diligence process that enables them to generate the information issuers must disclose under section 1502 of U.S. Dodd-Frank Act.

The OECD Guidance allows issuers to communicate a set of clear inter-governmentally backed expectations throughout the entire supply chain, avoiding the risk of exposing suppliers operating in different jurisdictions to multiple—and potentially conflicting—requirements. This enables downstream companies to save costs and to engage constructively with minerals suppliers outside U.S. borders to meet disclosure obligations under Section 1502 of U.S. Dodd-Frank Act. Implementation of the OECD Guidance will therefore help information to flow from upstream suppliers in the mineral supply chain to end users subject to Dodd-Frank disclosure requirements.

OECD DOWNSTREAM IMPLEMENTATION PILOT PHASE

Objective and scope

The 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 pilot is intended to test and assist with the implementation of the Guidance's 3T Supplement, share information, and discern best practices, tools, and methodologies for implementing the Guidance.

The pilot is not a monitoring exercise for accountability or enforcement purposes. By participating in the pilot, companies will be in a position to "know and show" that they are performing due diligence. They will also "learn by doing" in a peer-learning process which will help them meet relevant reporting obligations and the expectations of customers, regulators, and the public.

The specific objectives of the pilot are to:

- Assess how companies use the OECD Guidance to conduct their due diligence for responsible sourcing of minerals.
- Identify gaps, challenges, and areas for improvement.
- Share any emerging best practices aligned with the recommendations contained in the OECD Guidance.
- Create the opportunity to develop tools as may be needed, drawing on the expertise of the members of the OECD-hosted multi-stakeholder forum on implementation of the OECD Guidance.

Project approach

The downstream portion of the pilot began in August 2011 and will run for 12 months. BSR is assisting the OECD to collect data for the three reporting cycles with downstream companies that have volunteered to participate. In each of these three cycles, the participating companies will report to the OECD through standardized questionnaires, and will engage in follow-up discussions with BSR on the progress achieved and challenges faced while carrying out the five due diligence steps of the 3Ts Supplement. The questionnaire -- reproduced in the Appendix -- includes approximately 100 questions and follows the five-step framework of the Guidance. The questionnaire also serves as a tool for participating companies to build due diligence capacities and learn how to report effectively on due diligence in the future.

BSR will compile the experiences of all the participating downstream companies into three *aggregate* reports on implementation (a baseline report, a progress report, and a final report). Confidentiality of individual company data has been guaranteed and all reports will only show aggregate results unless participating companies ask to be singled out. The three reports will be submitted for discussion to the OECD multi-stakeholder forum on implementation of the OECD Guidance. This forum is composed of OECD and partner countries, industry, international organisations, and civil society organisations that are participating in the implementation phase so they may provide input to overcome challenges and build capacity to conduct due diligence.

The information in the questionnaire informs this Baseline report and will serve as the basis for analysing the progress of pilot participants over the next six to eight months. This report includes analysis and recommendations that emerged from questionnaire responses and follow-up discussions. This baseline report will be presented and discussed at the meeting of the OECD-hosted multi-stakeholder forum on implementation of due diligence on 29-30 November 2011.

SECTION II: DOWNSTREAM PARTICIPANTS

LIST OF PARTICIPANTS

Thirty companies and three industry associations agreed to participate in the downstream pilot. Of this group, 28 companies submitted their responses in time for analysis, and 21 companies have agreed to disclose their participation. The list below includes only those participants that have agreed to disclose their participation:

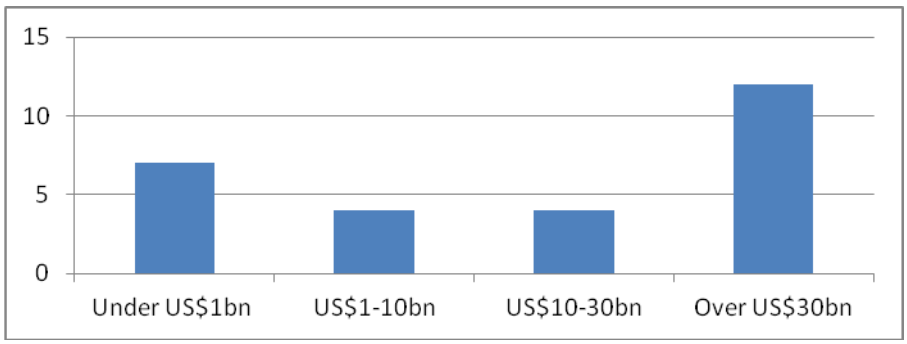
Companies	Industry Associations
Alcatel Lucent Alpha (Cookson) Boeing Company Circuit Connect Epic Technologies Flextronics Ford Motor Company Foxconn Freescale General Electric Company, Lighting Division Hewlett Packard KEMET Lockheed Martin Corporation Nokia Oracle Panasonic Corporation Plansee Royal Philips Electronics Siemens Texas Instruments TriQuint UNISEM	AIAG (Automotive Industry Action Group) EICC-GeSI (Electronics Industry Citizenship Coalition and Global e-Sustainability Initiative) IPC (Association Connecting Electronics Industries)

DESCRIPTION OF PARTICIPANTS

Companies spanned industries from aerospace and defense, automotive, medical devices, ICT (including semiconductors) and consumer products, to extractives, chemicals, and lighting. The majority of participants fall within the ICT sector, while many companies fall into multiple categories due to diversified business structures, or because their products are used across multiple industries. Some of the industries that are not represented among participants include jewelry, construction, pharmaceuticals, and packaging.

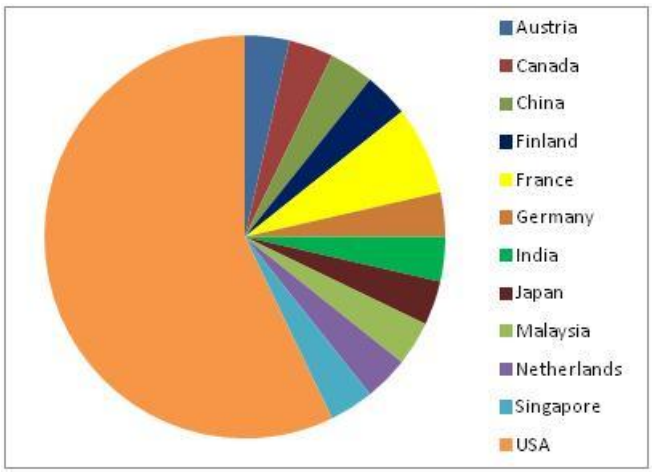
Companies also range in size based on annual revenues earned in 2010. The majority earned more than US$30 billion during the 2010 fiscal year.

Figure 1: Breakdown of pilot companies by revenue earned (2010).



Participating companies are headquartered throughout the United States, Canada, the European Union, China, Japan, Malaysia, and Singapore. While the majority of the companies are based in OECD countries, approximately 15 percent are headquartered in non-OECD countries. Pilot participation is intended to be diverse in order to understand the implementation challenges and applicability of the Guidance across regions and countries, and what comparable lessons may be derived regardless of location.

Figure 2: Spread of countries of pilot companies (headquarters location).



Companies represented along the downstream supply chain

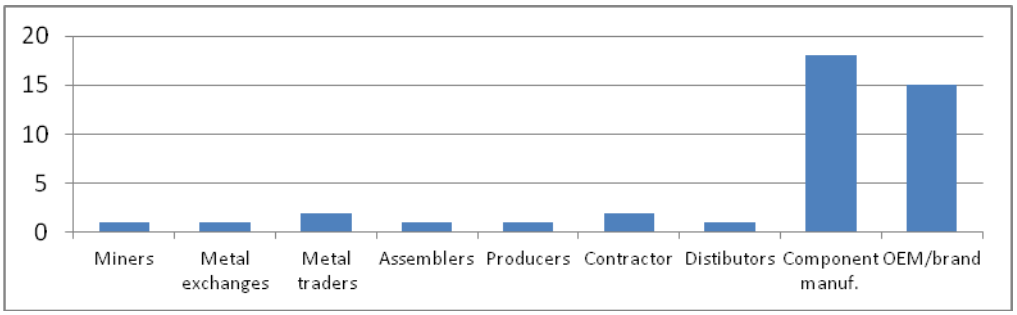
Downstream companies include metal traders and exchanges, component manufacturers, product manufacturers, original equipment manufacturers (OEMs), and retailers.

In this report, the term "OEM" refers to the company that acquires a product or component and reuses or incorporates it into a new product with its own brand name. "Component manufacturer" refers to the company that manufactures a product or component and sells it to the OEM (or integrator or value-

added reseller). A “Metal Exchange” is a market for trading metals futures, with agreements to buy or sell metals at a future date and options, which are rights to buy metals at a future date.

Approximately 30 percent of the respondents categorise their companies as OEMs, and another 30 percent categorize 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.

Figure 3: Participants in the downstream pilot fall within various categories along the supply chain.



SECTION III: OECD DOWNSTREAM IMPLEMENTATION PILOT PROJECT

This section provides detailed analysis of the responses provided by companies to the downstream questionnaire.

HIGH-LEVEL FINDINGS

- The step-by-step analysis of pilot participant responses indicates that a majority are using the OECD Guidance at some level to inform the development of their due diligence systems and policies with the mineral supply chain.

- Most companies have developed or are in the process of developing policies on minerals from conflict-affected areas. While policies are broadly consistent with the model supply chain policy featured in the Guidance as Annex II, most companies do not include all elements of Annex II. Companies cited the need for their policies to be actionable and accountable. Downstream companies are also requesting a better understanding of the roles they should play with regard to risk of direct or indirect support to non-state armed groups, and public or private security forces.

- While not all companies have finalised policies, almost all respondents are communicating with their suppliers on the issue of mineral sourcing. This happens at supplier meetings, and through supplier letters, supplier surveys, and direct communications with suppliers.

- The complexity of some downstream company mineral supply chains (in some instances up to nine layers deep from the company to the smelter) makes obtaining information a challenge. Most companies only have visibility into their immediate (Tier 1) supply base, with some having visibility into Tier 2.

- Five pilot participants have used the Electronic Industry Citizenship Coalition and Global e-Sustainability (EICC-GeSI) Common Reporting Template to identify risks and ascertain which smelters are parts of their supply chains. Most others are using their own supplier surveys, supplier site visits, and contractual obligations.

- About half of pilot participants (15 companies), especially OEM/brand companies within the ICT industry, are also relying on the EICC-GeSI Conflict-Free Smelter (CFS) program to validate and audit their smelters. This is in line with the OECD Guidance Step 2, which recommends that companies without a direct business relationship with smelters "*may engage and actively cooperate with other industry members 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.*"

- Since the Securities and Exchange Commission's (SEC) rules on Section 1502 of the U.S. Dodd-Frank are still pending, many downstream companies participating in the pilot who are subject to. Dodd-Frank requirements are taking risk-averse approaches that fall roughly into two categories:

    a. One set of companies are moving aggressively to verify their supply chain as "conflict-free" as soon as possible. "Conflict-free" verification efforts are still being developed. Until the systems are in place to verify "conflict-free" sourcing, the region faces a de facto ban. It is critical to note that there are several in-region sourcing initiatives that are underway and

some downstream companies are working both independently and collaboratively to support the development and scaling of these efforts.

b. The other approach is to wait before making any significant investments in due diligence until U.S. Dodd-Frank legal requirements are clarified in the SEC rules. Companies will then finalise policies, communicate to suppliers, and invest in systems that will serve to comply fully with the law. This approach is mainly to reduce the risk of investing in anything that will not fully meet the legal requirements under U.S. law.

DETAILED FINDINGS AND CHALLENGES PER STEP

STEP 1: ESTABLISH STRONG COMPANY MANAGEMENT SYSTEMS

The OECD Guidance encourages companies to incorporate the model policy under Annex II into their existing policies on corporate social responsibility, sustainability, or the equivalent. Currently, one-third of the companies participating in the pilot (nine out of 28 companies) have a policy in place which addresses minerals from conflict-affected areas, often referring directly to "conflict minerals" as the Dodd-Frank Act defines them.

At least 20 percent of participating companies have used the OECD Guidance and Annex II to help them develop policies and internal management systems. Other strategies that have been instrumental in helping companies in Step 1 have included interfacing with industry association working groups dedicated to responsible sourcing of minerals from conflict-affected areas (such as the EICC-GeSI joint work group), and the process of engaging with stakeholders and NGOs to inform the development of individual company policies.

Adopt and commit to a supply chain policy for minerals from conflict-affected and high-risk areas, and communicate it to suppliers

Box 1: OECD Guidance, Supplement on Tin, Tantalum, and Tungsten

Step 1: Establish Strong Company Management Systems

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

1. A policy commitment setting forth principles for common reference on mineral extraction, transport, handling, trading, processing, smelting, refining and alloying, and export, against which the company will assess itself and the activities and relationships of suppliers. This policy should be consistent with the standards set forth in the model supply chain policy in Annex II.

Section D: Strengthen company engagement with suppliers

2. Communicate to suppliers their expectations on responsible supply chains of minerals from conflict-affected and high-risk areas, and incorporate the supply chain policy and due diligence processes set out in this Guidance into commercial contracts and/or written agreements with suppliers which can be applied and monitored, including, if deemed necessary, the right to conduct unannounced spot-checks on suppliers and have access to their documentation.

QUESTIONS ON THE OECD DUE DILIGENCE GUIDANCE FROM DOWNSTREAM COMPANIES

How is Annex II (Model Policy) relevant for downstream companies?

As part of due diligence (Step 1(A)), companies should have a policy that sets out common expectations throughout the supply chain that covers a commitment to upholding certain standards in the extraction, transport, trade and export of minerals, *coupled with a commitment to a management process that outlines how the company plans to respect these standards*. Annex II lays out circumstances that upstream companies should *directly use* when identifying, assessing and managing risk in the supply chain. 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).

Downstream companies use Annex II to *indirectly* identify, assess and manage risk. Downstream companies should identify the smelters in their supply chain and assess whether the smelter's due diligence practices conform to the Guidance, *which includes ensuring that smelters have relied on Annex II to identify risk and responded in accordance with the recommended strategies*. Where there are gaps in the smelters due diligence, downstream companies then *indirectly operationalise* the recommended risk management strategies in Annex II by engaging in capability training and corrective action to boost the smelter's due diligence practices (See Step 3(B)(2)(a)(ii) of the Supplement on Tin, Tantalum and Tungsten). As noted in the Guidance, downstream companies without a direct relationship with smelters may be more effective in managing risk as described through collaborative efforts.

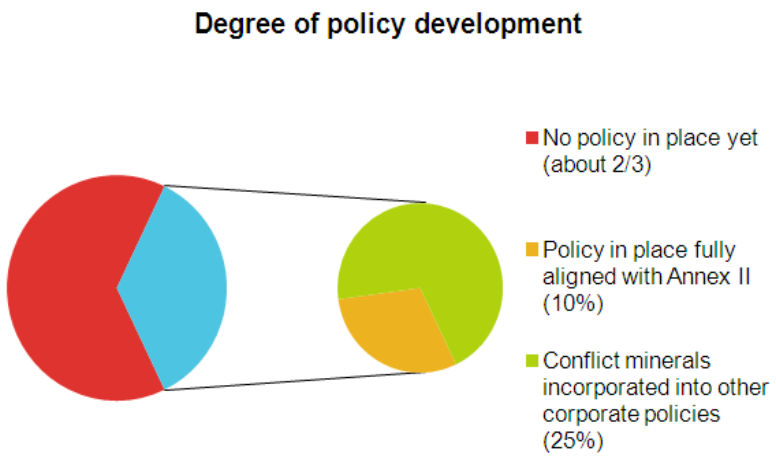
Among the companies that do not currently have a policy on minerals from conflict-affected areas (19 companies), it is positive to note that about half (nine companies) are at the advanced development stage of developing and reviewing a policy, and a further four companies have statements or position papers in place and are evaluating their abilities to move forward. Five companies still need a better understanding of the issue or are waiting for the SEC to clarify U.S. Dodd-Frank requirements.

Six out of the nine companies with policies in place described their policies as consistent with the OECD Guidance. However, only three of these companies responded that their policies contain all of the elements outlined in the model policy provided in Annex II of the Guidance.

"Company X's policy directly references the OECD guidance document and sets the expectation that our suppliers are to follow the guidance."

"Company Y's policy is under development. We expect that this policy will be broadly consistent with Annex II of the Guidance, with the understanding that the policy may vary in detail, as appropriate, to take into account our particular circumstances."

Figure 4: Companies that have adopted a conflict minerals policy.



Box 2: Illustrative Example – Stand-alone minerals policy

… Furthermore, [company] intends to adopt the EICC Due Diligence reporting process and obtain chain of custody declarations from all

[Company] sourced and managed suppliers ensuring transparency in our supply chain.

- *[Company] expects our suppliers to source materials from socially responsible suppliers.*
- *[Company] expects all its suppliers to comply with the Dodd-Frank regulation and provide all necessary declarations.*
- *Suppliers must pass this requirement up the supply chain and determine the source of specified minerals.*
- *Suppliers who are non-compliant to these requirements shall be reviewed by Global Commodity Management for future business.*

This Conflict Minerals policy is in line with the Global Business Initiatives on Human Rights, of which [company] is a member, and the framework of the United Nations Principles of Human Rights encouraging governments and businesses to respect, protect, and remedy human rights.

Box 3: Illustrative Example – Policy embedded in supply chain code of conduct

"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."

Eight companies responded that policies in the company's sourcing, supplier, and environmental codes of conduct incorporate language on minerals from conflict-affected areas ("conflict minerals"). Rather than disseminating multiple policies, companies prefer to aggregate supplier requirements into one policy, and integrate requirements for various legislation, such as the 2010 California Transparency Act, into one code of conduct that covers all relevant standards and requirements.

The level of detail on sourcing minerals from conflict-affected areas included in non-specific codes of conduct varies by company. On the simplest level, one company included a sentence requiring that its suppliers "refrain from purchasing or using" any "conflict minerals" in its supplier policy. Other companies outline their sourcing frameworks and explicitly refer to the OECD Guidance.

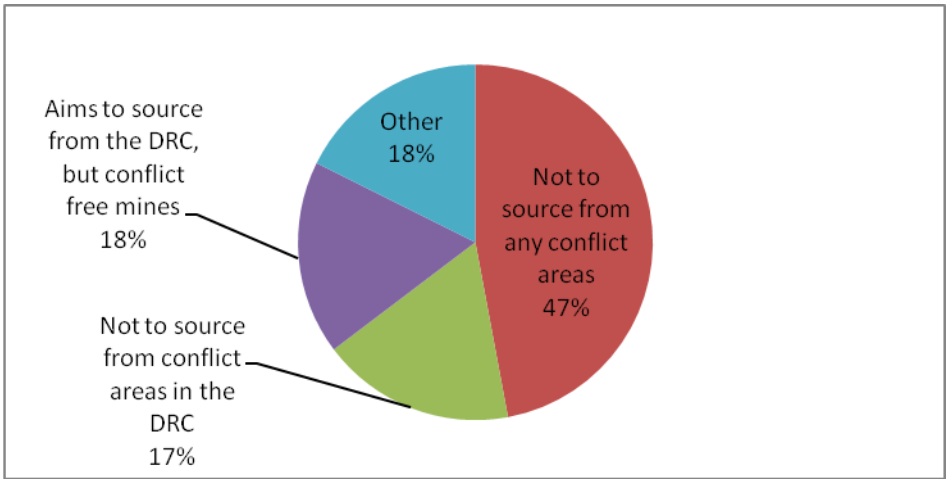
Companies that do not have a policy on minerals from conflict-affected areas cite three reasons for not having a policy today:

- Awaiting internal approval and/or legal review.
- Awaiting the final ruling on the U.S. Dodd-Frank Act and/or other legislation such as the California Transparency Act of 2010 before implementing a policy and communicating to suppliers.
- Waiting to have due diligence systems in place first.

"We find it problematic to make commitments outside our sphere of control. We want our policy to be actionable. If topics are not covered by our direct activities or industry tools and schemes, we don't have control over them. It has also been a challenge to give clear directions to suppliers because while we want to avoid conflict minerals, we do not want to place an embargo on Central Africa."

In Figure 5, we asked companies to describe their approach to mineral sourcing. Of the total responses received (seventeen companies), more than half (eight companies) have an approach to "not source minerals from conflict areas in any region." The remainder are divided equally between those that do not source minerals from conflict areas in the DRC, those who aim to source from the DRC (among other countries) but from conflict-free mines, and those who have given other reasons such as consulting with their legal team as an approach to sourcing minerals. No company has selected the option to "Not source any minerals from the DRC."

Figure 5: Companies' approach to minerals sourcing.



Of the nine companies with a policy in place, four have publicly-available stand-alone polices, four integrate conflict minerals as part of publicly-available broader compliance or supply chain policies such as the company's "Supplier Guide for Human Rights and Working Conditions" policy, and one company does not make its policy publicly available.

Sixteen of the respondents have engaged with their suppliers on some level of communications, whether by communicating their policy, company expectations, or general information on minerals from conflict-affected areas. Companies have also relied on joint communications, company position papers, or industry position papers on minerals from conflict-affected areas.

Box 4: Illustrative Example – The joint position of automakers through the Automotive Industry Association Group (AIAG)

"The Automotive industry will not support human rights abuses and conflict anywhere in the world. It is our intention to do what we can to ensure that the parts and assemblies in our vehicles and products, regardless of where they are assembled or sold, do not contain Conflict Minerals that have contributed to the armed conflict in the DRC."

Twenty-five of the companies reported they communicate with their Tier 1 suppliers, while six reported that they communicate with their Tier 2 suppliers. Aside from communicating company policies and expectations, companies (both those with and without finalised policies) have communicated Dodd-Frank requirements or provided general information on the topic to their suppliers.

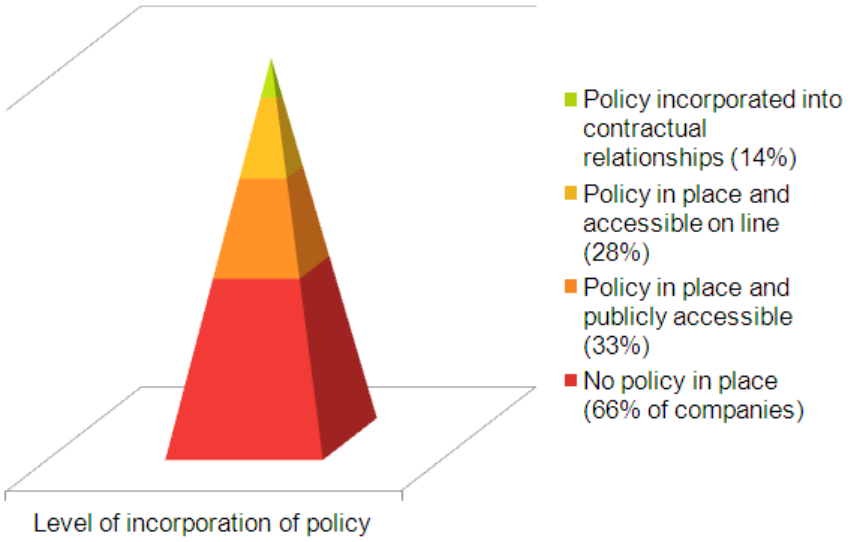
Box 5: Illustrative Example – Communicating requirements to suppliers

" [Company] Statement of Principles on Conflict Minerals will be supplemented with a set of 'Implementing Procedures' that will contain more detailed procedures consistent with the OECD Guidance, as supplemented by existing policies concerning security, bribery, money laundering, and tax compliance."

As recommended in the Guidance, four companies have incorporated a policy on minerals from conflict-affected areas into their contractual relationships. One company requires its suppliers to confirm that they accept and adhere to its policy on mineral sourcing.

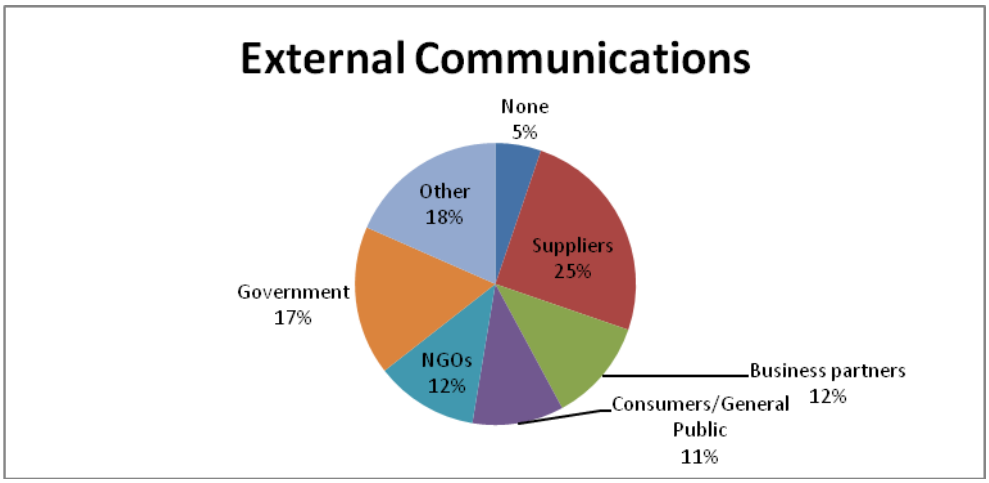
Twenty-one out of the 28 companies responded that they plan to track any corrections made by suppliers, although most are still evaluating how to do this. Several companies plan to follow-up with suppliers based on any red flags identified by using the EICC-GeSI Due Diligence Common Reporting Template & Dashboard. Others who have direct relationships to smelters are able to track red flags more directly. Other companies responded that they are focused on establishing an accurate list of relevant smelters before identifying the need for putting corrective action policies or procedures in place.

Figure 6: Level of incorporation of policy.



Respondents are further communicating expectations with suppliers at supplier meetings, through supplier letters, supplier surveys, and direct communication. One company has contracted a third party with content knowledge on conflict minerals to present an overview of the issue at supplier symposia. Forty-two percent of respondents have communicated to their management on the issue of minerals from conflict areas.

Figure 7: Communication to external audiences on minerals from conflict areas.



Internal management systems

Box 6: Illustrative Example – Communicating requirements to suppliers

"We have provided our suppliers with very explanatory documents to help them understand what we are trying to accomplish. We have also tried to create letters that could easily be modified by our suppliers for use with their suppliers. These letters were provided in MS Word form to make it very easy for the suppliers to adapt the letters for their own use. We have also provided copies of all information we have received from our customers."

Nineteen companies have dedicated internal resources to address the issue of minerals from conflict areas. All 19 companies have delegated responsibility to a senior-level manager, with at least five at the level of vice president.

Box 7: OECD Guidance, Supplement on Tin, Tantalum, and Tungsten

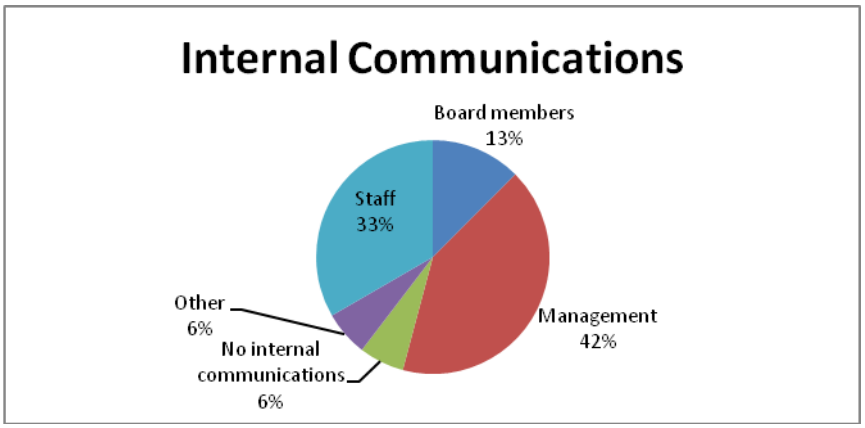
Step 1: Establish Strong Company Management Systems

B: Structure internal management systems to support supply chain due diligence.

Companies in the supply chain should:

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

Figure 8: Communication to internal audiences on minerals from conflict areas.

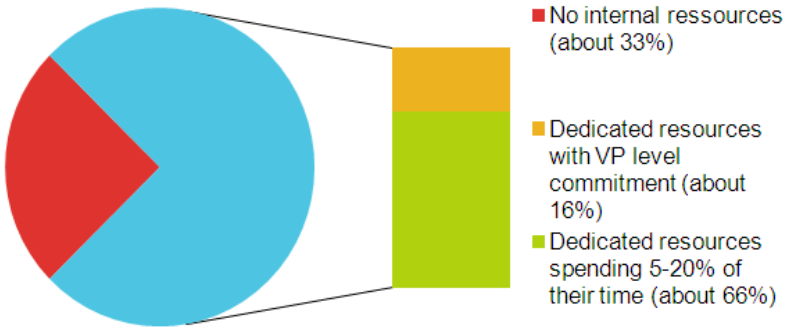


Box 8: Illustrative Example – Communicating Internally

An initial briefing was given to the executive management participating in the [company sustainability committee] in July 2010. Executive briefings (VP and Director-level) have occurred on an ongoing and as-needed basis since that point in time including inclusion to the weekly [business reviews] with [CEO].Within Purchasing, briefings have been focused with Commodity Directors."

Generally, employees with responsibilities associated with minerals from conflict areas, spend between 5 to 20 percent of their overall time on the issue, and represent various departments within a company. However, there are also companies who have devoted at least one Full-Time Equivalent (FTE) to the role. These employees typically come from the purchasing, finance, legal, engineering, sustainability, compliance, quality, and auditing departments. This cross-functional structure is a necessary and effective method of developing a roadmap for process development, documentation, and implementation of a due diligence system.

Figure 9: Dedicated internal resources.



Box 9: Illustrative Example – Ensuring Internal Accountability

"The program manager reports program performance and metrics on a quarterly basis to three Senior VPs in product manufacturing and VP of Compliance in the legal division."

"[Company name] maintains a rigorous employee commitment and accountability system, where key staff responsible for relevant supplier relationships will have their performance evaluation linked to the ability to advance a conflict free supply chain."

Establishing a system of controls and transparency over the mineral supply chain

Box 10: OECD Guidance, Supplement on Tin, Tantalum, and Tungsten

Step 1: Establish Strong Company Management Systems

C.5. Specific Recommendations – for all downstream companies

1. Introduce a supply chain transparency system that allows the identification of the smelters/refiners in the company's mineral supply chain through which the following information on the supply chain of minerals from "red flag locations of mineral origin and transit" should be obtained: the identification of all countries of origin, transport and transit for the minerals in the supply chains of each smelter/refiner. Companies which, due to their size or other factors, may find it difficult to identify actors upstream from their direct suppliers may engage and actively cooperate with industry members with whom they share suppliers or downstream companies with whom they have a business relationship to identify which smelters are in the supply chain.
[….]

3. Support extending digital information-sharing systems on suppliers to include smelters/refiners, and adapt systems to assess supplier due diligence in the supply chain of minerals from conflict-affected and high-risk areas, utilizing the criteria and process recommended in this Guidance, with due regard to business confidentiality and other competitive concerns.

About half of the respondents answered that they have established methods for identifying minerals from "red flag locations of mineral origin and transit" in their supply chains, with 29 percent of companies having established a method for identifying minerals from "red flag suppliers." The most commonly cited method to conduct this level of identification is in the EICC-GeSI CFS Common Reporting Template.

However, companies acknowledge that this method has its limitations as data is based on what suppliers say, and is difficult to verify. In some cases companies believe that the data cannot be fully trusted.

"Suppliers indicate to us that they estimate the quality of the data received from their (sub-tier) suppliers as limited, and that they have no means to validate that the provided information is correct and complete. We do receive reporting templates filled out by suppliers for which we have our doubts whether the data is correct. Sometimes there are obvious contradictions in their statements (e.g. declaring that they use a tin smelter from the CFS list), while there are currently no tin smelters on the CFS list. An unexpectedly large part of the suppliers are declaring that they are not using any of the 3Ts in their products/components. Suppliers might want to give (us) as the customer the 'right/correct' reply, and they might not always be willing to share all the information and feel the risk of losing business when their answers are not in line with what they think (we) want to hear."

Figure 10: Companies that have a method for identifying minerals from red flag locations

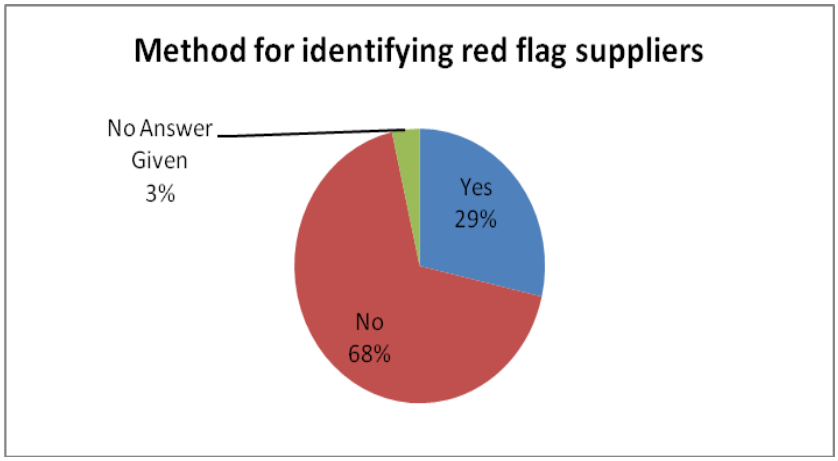
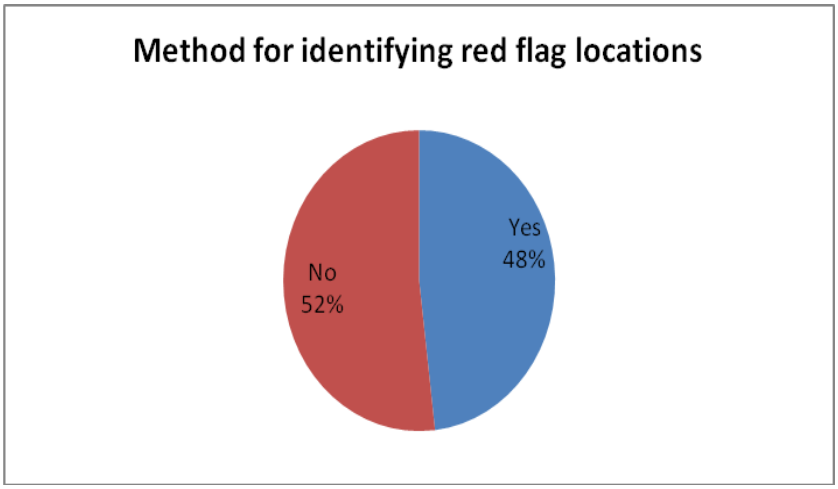


Figure 11: Companies that have a method for identifying minerals from red flag suppliers.



Box 11: Illustrative Example – Identifying Red Flags

"While taking into consideration the suggested 'flags' noted [by the OECD], we have created additional flags as appropriate for the level of information that we currently have. We performed a preliminary analysis that gives us directional guidance on commodities and parts that are likely to have [conflict minerals] content. Additionally, we have asked ALL suppliers to report content for [conflict minerals] starting in 2011. With this information obtained from these steps taken, we categorize or 'flag' suppliers as follows for YELLOW and RED status:

- *Supplier has reported [conflict mineral] content in parts provided – YELLOW, Follow-up required to ID smelter.*
- *Supplier has not reported [conflict mineral] content for parts provided but provide parts likely to contain [conflict minerals] – RED, Follow-up required to id material content and potentially smelter.*

It is likely that further categorizations will be created as smelter information is collected from suppliers."

QUESTIONS ON THE OECD DUE DILIGENCE GUIDANCE FROM DOWNSTREAM COMPANIES

What is the relationship between Step 1(C) and Step 2 for downstream companies? Why does the Supplement on Tin, Tantalum and Tungsten recommend downstream comp-anies "introduce a supply chain transparency system" in Step 1 (C) while upstream companies should "introduce a chain of custody and/or traceability system"?

Due diligence is an ongoing, proactive and reactive process. This means that the various steps of the Guidance interact with one another through regular efforts of the company. Step 1(C) is a recommendation about *data management and record keeping*, outlining the type of information that should be maintained as part of the company's strong internal system of controls over the supply chain. Step 2 is a recommendation about *collecting and assessing information* for purposes of a supply chain risk assessment. As a dynamic process, the information collected in Step 2 should naturally feed into the internal systems of control over the supply chain and data management, as recom-mended under Step 1(C) (see for example, footnote 4 and footnote 18 of the *Supplement on Tin, Tantalum and Tungsten*).

The recommendations differ whether the company is upstream or downstream in the supply chain. Step 1(C.4) recommends that **upstream** companies introduce a "*chain of custody and/or traceability*" system that regularly maintains detailed information on the upstream supply chain. Step 1(C.5) for **downstream** companies uses different language, recommending that downstream companies introduce a "*supply chain transparency system*" that allows for the identification of smelters/refiners in the supply chain, as well as "the identification of the all countries of origin, transport and transit for the minerals in the supply chain of each smelter/refiner".

The majority of pilot respondents have visibility into Tier 1 suppliers, with four companies having visibility into Tier 2. One OEM company reported visibility into its Tier 3 suppliers. All companies reported that gaining visibility into sub-tier suppliers is done through supplier surveys. However, companies cited that documentation and visibility into the sub-tier structure is very limited, with up to nine tiers between the end-user and the smelter. There is no process at this stage to verify supplier responses through the EICC-GeSI Common Reporting Template and Tool.

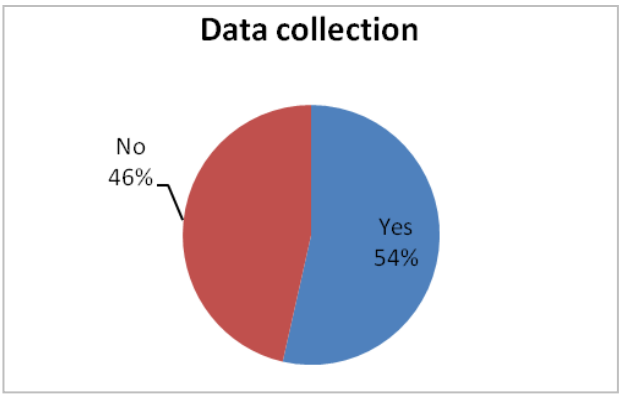
Box 12: Illustrative Example – Supplier visibility

"We depend on our Tier 1 suppliers to provide information on the origin of the metals they use and their suppliers use and on their due diligence process. We will have visibility into Tier 3 suppliers via the CFS program. We aim to create visibility in the sourcing practices of the smelters that we identified to be in our supply chains."

Fifty-four percent of respondents have started collecting supply chain data on minerals from conflict affected areas and are relying on existing tools for monitoring and reviewing downstream supply systems. Data points that are being collected include, but are not limited to: supplier's suppliers, smelter name and contact information, mine of origin, product supplied, all points of import and export along the supply chain, export license, signed supplier declaration, and supplier policy. Respondents cited the software tools that aggregate the data from suppliers such as the EICC-GeSI MRPRO dashboard, International Material Data System (IMDS), and SAP software to collect material content data.

The Automotive Industry Action Group (AIAG) is working to put in place a common data collection system for origin/smelter identification. Another respondent is developing its own system internally because the EICC-GeSI data collection format does not satisfy its needs for reporting on continuous improvement in the supply chain monitoring/transparency process.

Figure 12: Companies that have established a data collection system.



The recommendation for downstream companies *does not* specify that downstream companies establish a "chain of custody and/or traceability system" that would identify and track all companies in the supply chain between the smelters/refiner and themselves.

This distinction made in the Guidance reflects the complexity of downstream supply chains, and allows for due diligence flexibility that respects the diverse individual and collaborative methods that companies will use to identify and evaluate smelters in their supply chain.

Under Step 2, downstream companies should identify, to the best of their efforts, the smelter in the supply chain, and then assess risk by evaluating the due diligence practices of the smelter. The Guidance recognises "downstream companies who may find it difficult (due to size or other factors), may engage and actively cooperate with other upstream companies with whom they share suppliers or downstream companies with whom they have a business relationship to carry out the recommendations 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 smelters/refiners that meet the requirements of this Guidance in order to source the reform." Step 2(A) expands on this and recommends that companies identify smelters "through confidential discussions with the companies' immediate suppliers, through the incorporation of confidential supplier disclosure requirements into supplier contracts, by specifying 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". Therefore the challenges encountered while trying to identify and assess smelters may be met through both individual and collaborative means, and may include sharing information about, and then ensuring suppliers source from, smelters with due diligence practices collaboratively evaluated to be in line with this Guidance.

Box 13: Illustrative Example – Data collection

"We have been collecting RoHS (European Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment 2002/95/EC commonly referred to as the Restriction of Hazardous Substances Directive or RoHS) and Halogens lab data for a few years. This data is collected at the homogeneous material level, which is also the level at which we determine if the material contains any conflict minerals. This system has also worked to collect the information from our supply chain on the origins of the conflict minerals in our product [on a

Grievance mechanism

Eleven respondents have a grievance mechanism in place for managing alerts on minerals from conflict affected areas. Most companies are utilizing existing systems already in place for all components of code of conduct. Industries need to work together and collaborate on this effort to reach compliance most effectively. It is not clear yet how this will be achieved.

Box 14: Illustrative Example – Grievance mechanism

"[Company] has an ombuds process for all policies and procedures, which also is available for use by suppliers and other outside entities. Once the Statement of Principles on Conflict Minerals and Implementing Procedures are in place, the ombuds process will apply to them."

CHALLENGES

While some pilot participants have highlighted the above actions to implement Step 1 of the Guidance, other participants identified challenges to implementation of Step 1. These challenges include:

- More dialogue is required for downstream companies to discuss how Annex II can be relevant to them. Some pilot companies reported that Annex II is more applicable to upstream companies, and that they are not in the position to monitor or have a reliable knowledge of on-the-ground events such as armed group activity.

"We relied on the model policy in part. We need the model to be actionable. For us, it is problematic to commit to certain things far from our sphere of control (e.g. payments made to governments, and eliminating support to armed groups on the ground). It is unclear to us if this is covered via [the Industrial

Technology Research Institute (ITRI) Tin Supply Chain Initiative (iTSCi)] and CFS. Also, we believe our position on human rights and bribery is already covered by our company Code of Conduct and Human Rights approach. It would be helpful if the model policy would be clearer on how the sphere of influence or direct control matters." – Pilot participant.

- Visibility beyond Tier 2 is very challenging. Companies that do not purchase minerals directly must use an industry process, such as the EICC-GeSI processes/tools or others that may be formed, to gain leverage for visibility further into the supply chain.
- It is difficult for some downstream companies to obtain internal buy-in—particularly for smaller companies that have limited knowledge and experience of the supply chain.

STEP 2: IDENTIFY AND ASSESS RISK IN THE SUPPLY CHAIN

Box 15: OECD Guidance, Supplement on Tin, Tantalum, and Tungsten

Step 2: Identify and Assess Risk in the Supply Chain

Section II. Downstream Companies
Downstream companies should identify the risks in their supply chain by assessing the due diligence practices of their smelters/refiners against this Guidance. Downstream companies who may find it difficult to identify actors upstream from their direct suppliers (due to their size or other factors), may engage and actively cooperate with other industry members with whom they share suppliers or downstream companies with whom they have a business relationship to carry out 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 there from. 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.

B. Identify the scope of the risk assessment of the mineral supply chain
After identifying the smelters/refiners that produce the refined metal used in their supply chain, downstream companies should engage with those smelters/refiners in their supply chains and obtain from them initial information on country of mineral origin, transit and transportation routes used between mine and smelters/refiners. Downstream companies should review this information and any information generated in Step 1 in order to target risk assessments on those minerals and suppliers triggered by the "red flag locations of mineral origin and transit" and "supplier red flags", as listed in the introduction.

Most companies that are participating in this pilot cite the lack of direct business relationships with smelters as a major challenge to fully identifying and assessing risk in the supply chain, as accounted for in Step 2 of the Guidance (see Box 15). As an illustration, the number of Tier 1 suppliers to pilot participants who use some level of the 3Ts in their products typically ranges in the tens of thousands (i.e. 10,000 Tier 1 bill of materials suppliers for one OEM in the ITC industry; 30,000 Tier 1 tungsten suppliers for another OEM company).

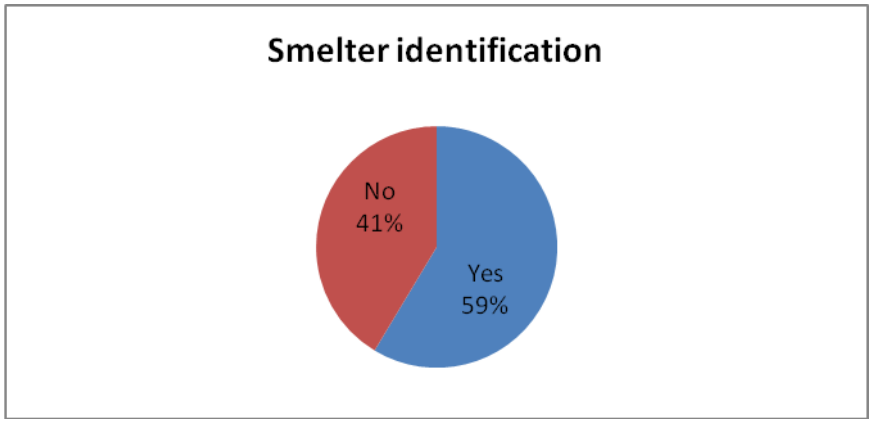
Despite these challenges, companies are taking seriously the requirement to assess risks in the supply chain and are making efforts to understand how to implement appropriate processes for assessing and managing risk, utilising collaborative opportunities, and finding out who their smelters are.

Efforts to identify smelters/refiners in the supply chain

Approximately two-thirds of respondents (17 companies) have started efforts to identify smelters and/or refiners in their supply chains. The majority of these respondents do not have a direct relationship with smelters, and the list of smelters is partial and focused on smelters of one of the minerals (for example, Tantalum).

To identify smelters, companies without a direct relationship are dependent on sub-suppliers to report on smelters in their respective supply chains. Companies found that with persistence and focus, information on smelters could be obtained even when confidentiality and concerns on disclosure were cited for withholding smelter names. However, most companies have just started this process of smelter identification.

Figure 13: Companies that have started to identify some smelters/refiners in their supply chains.



Box 16: Illustrative Example – Identifying smelters

"We have sent letters to all 3TG suppliers asking for them to conduct supply chain due diligence, establishing a conflict-free policy, reporting smelters you source from directly, and requesting your suppliers do the same, and report to us on the [CFS] Reporting Template."

More than half of the companies that are making efforts to identify smelters have done so through direct communications with their Tier 1 suppliers. Direct communications include face-to-face meetings, conference calls, letters, emails, surveys, and self-certification requests. Five companies cited the use of the EICC-GeSI reporting template.

Seven companies have used contractual obligations as a means to obtain smelter information from their suppliers. This has been done by incorporating confidential sub-supplier disclosure requirements into direct supplier contracts, which is consistent with the Guidance. Although this contractual route is labor intensive, it is noteworthy that seven companies have used this approach.

Box 17: Illustrative Example – OEM relationship to suppliers

"The relationship with tungsten suppliers has been longstanding, in most cases more than 5 years. They have been qualified. Any new source must go through a rigorous qualification process. We have toured three smelters with a team from the EICC-GeSI. We have facilitated many meetings with the smelters and actually engaged their participation and review and the supplier audit process."

"For targeted commodities we have mapped our supply chains to smelters and in some cases to mines. However, this information has not been validated and in the future we will rely on the CFS and in-region sourcing activities."

Identifying the scope of risk assessment of the mineral supply chain

Eleven companies (41 percent of respondents) answered that they had obtained initial information to target risk at the smelter level, identify country of mineral origin, and understand transit and transportation routes used between the mine and smelters/refiners. Companies have gleaned this information through supplier surveys, site visits, membership at commodity associations, and their own market knowledge. One company cited the use of mock audits which helped them obtain useful documentation. Many companies also are relying on collaborative/industry programs such as the EICC CFS program, the ITRI Supply Chain Initiative, and other programs like the Solutions for Hope program, to help assess the scope of risk in their supply chains.

Box 18: Illustrative Example – Obtaining information from smelters

"We have conducted mock audits that simulate actual audits with three tungsten smelters. They were forthcoming with transportation documents, mineral assay reports, governmental duty statements, and invoices. These documents identified loads-on-a-lot basis, mine origin certificates, and mineral quantity."

Assessing whether smelters have carried out all elements of due diligence

Box 19: OECD Guidance, Supplement on Tin, Tantalum and Tungsten

Step 2: Identify and Assess Risks in the Supply Chain

Section II. Downstream Companies

C. Assess whether the smelters/refiners have carried out all elements of due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.

1. Gain evidence on due diligence practices of the smelter/refiner.
2. Review the information generated by the assessment team.
3. Cross-check evidence of due diligence practices of the smelter/refiner against the supply chain policy and due diligence processes contained in this Guidance.
4. Work with the smelter/refiner and contribute to finding ways to build capacity, mitigate risk and improve due diligence performance, including through industry-wide initiatives.

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

Fifteen companies (56 percent of respondents) have found that identified smelters have carried out due diligence for their mineral supply chains. The majority of these companies (12 companies), have obtained information on assessments via the EICC-GeSI CFS program. They are thus dependent on the information to the extent that the smelter has "passed" a CFS audit. In three cases however, smelter assessment has been obtained directly from smelters where the company has a direct business relationship and knows from where smelters are procuring their minerals (such as from captive mines).

"*We have traced a few uses of conflict minerals to the mines of origin. In some cases, these are situations where the same company owns the mine, the transportation company that ships the ore to the smelter, and the smelter that processes the ore which is used to manufacture the components and materials we purchase). These are usually large, vertically integrated companies from (the region). In other cases, companies have just identified the location of the mines that they source from." – Component/intermediary manufacturer, pilot participant*

A number of companies that are not currently participating in the EICC-GeSI CFS program are evaluating participation in the program.

Box 21: Illustrative Example – Overcoming confidentiality

"Many suppliers regard their supply chain as confidential business information or intellectual property. There is a great deal of concern (well merited in some cases) that customers will try to reverse-engineer the product supply chain.

We have tried several tactics:

• Writing letters assuring suppliers that we are not interested in the identity of their suppliers, just the smelters and mines. They can label all levels of the supply chain between themselves and the smelter as Supplier A, Supplier B, etc.

• Signing Non-Disclosure Agreements (NDAs). This is difficult, as the purpose of learning the identity of the smelters and mines is to disclose it to our customers. We have only had success with this tactic in one case, but it took about 10 rounds of drafts of the NDA.

• Supplying the suppliers with the EICC list of smelters. If their smelters were not on the EICC list, we have asked them to identify the smelters."

Conducting spot-checks at smelters/refiners

Forty percent of respondents (11 companies) reported that they had determined spot-checks at the smelter/refiner level were necessary. However, most companies are relying on the EICC-GeSI CFS program and their third-party audits to carry out spot checks.

CHALLENGES

Despite the progress evidenced in implementing Step 2 among many pilot participants, some participants highlighted significant challenges to implementing Step 2 for downstream companies. These challenges include:

- Navigating the process for identifying smelters, which can be labor-intensive, and can be of limited reliability. The pace of progress to have smelters verified across all three mineral streams remains a concern.

- Identifying all of the vendors that supply products containing tin, tantalum, or tungsten. Especially among companies that use tens of thousands of parts in their manufacturing processes, it is challenging to obtain from them information on the chain of custody of minerals in their supply chains. Furthermore, many of the components are designed by suppliers who own the intellectual property of the configuration of materials; in some cases, pre-existing policies prevent materials disclosure of these components.

- Resolving confidentiality issues, trade secret concerns and non-disclosure assurances. These concerns require significant persistence in order to identify smelters and establish that smelters are carrying out full due diligence on their mineral supply chain.

- Overcoming a general lack of resources among suppliers to implement due diligence requirements. This situation often prevents suppliers from providing information, and particularly if they are not subject to Dodd-Frank requirements.

Box 20: Illustrative Example – Assessing smelters' due diligence

"Our approach is to establish long-term relationships with suppliers, seek sustainable solutions, and work with suppliers to drive improvements. If we identify a reasonable risk that a supplier is violating, we require them to commit to and implement a corrective action plan within a reasonable timeline. We then follow-up effectiveness of corrective actions and conduct on-site assessments as necessary. Continued non-conformance and refusal to address issues of concern will lead to termination of the business relationship."

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

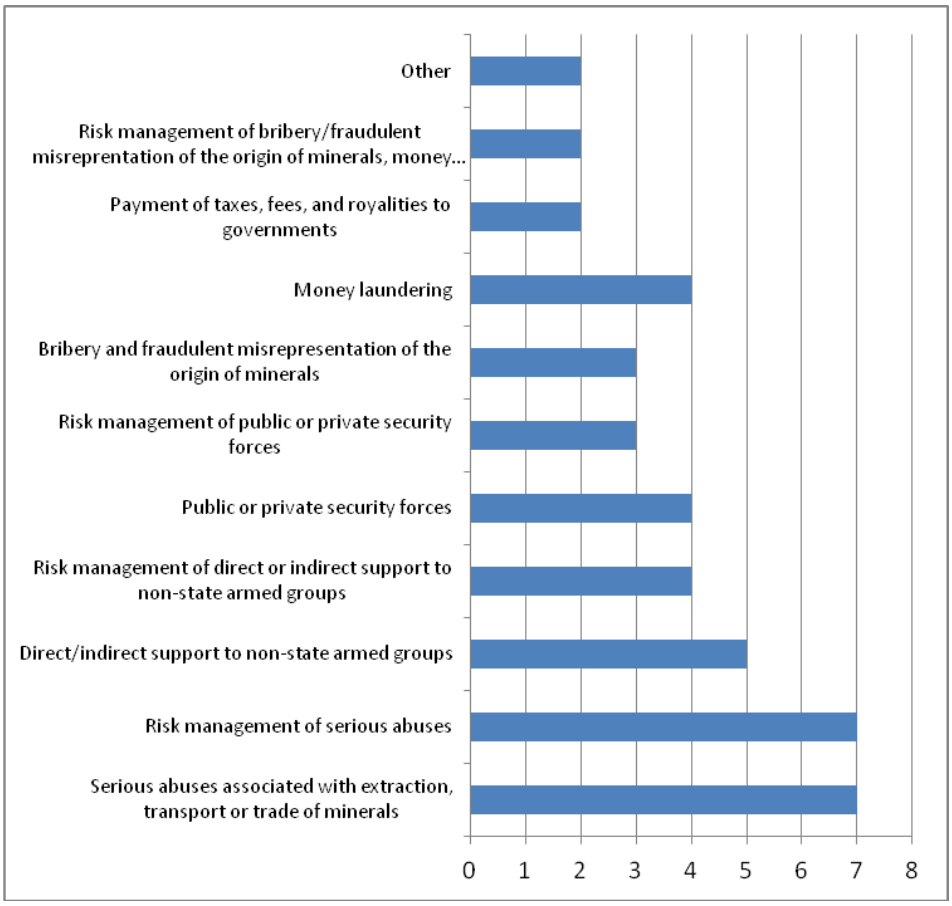
Communicating the Risks

Almost half of respondents (13 out of 27 companies) have communication processes to ensure that actual and potential risks are reported to senior management. These include:

- Report to senior responsible sourcing and supply chain management steering groups
- Report to corporate responsible leadership committees
- Regular meetings between Procurement, Legal and other specific business units
- Weekly briefings with the executive office, business process reviews, group vice president Operating Committee meetings
- Quarterly reports

We asked companies to list the actual and potential risk categories that have been raised at the Board of Directors or senior executive levels in the last three years (2009-2011); the most frequently cited abuses were associated with the "extraction, transport or trade of minerals, and risk management of serious abuses." The specific abuses identified are illustrated in Figure 14.

Figure 14: Risks that companies raised at the Board level.



Managing the Risks

Box 22: OECD Guidance, Supplement on Tin, Tantalum and Tungsten

Step 3: Design and Implement a Strategy to Respond to Identified Risks

Section B

Companies may manage risk by either (i) continuing trade throughout the course of measurable risk mitigation efforts; (ii) temporarily suspending trade while pursuing ongoing measurable risk mitigation; or (iii) disengaging with a supplier in cases where mitigation appears not feasible or unacceptable. To adopt the risk management plan and determine the correct risk management strategy, companies should:

1. Review the model supply chain policy on minerals from conflict-affected and high-risk areas in Annex II (or their own internal policies 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. Measureable risk mitigation should aim to promote progressive performance improvement within reasonable timescales.

In practice, only two companies responded that they use the model supply chain policy from Annex II of the OECD Guidance (see Box 22) to determine whether identified risks can be mitigated by

continuing, suspending or terminating the relationship with suppliers. Eighteen companies have yet to define an approach to managing risk of sourcing from minerals from conflict areas. Six companies use their own, company-developed approaches.

Another approach includes restricting minerals sourcing from suppliers that are on the EICC-GeSI Conflict-Free Smelter list (which incorporates compliance with the OECD Guidance as an eligibility requirement). Companies also are using stakeholder networks to help identify risks and appropriate responses to these risks. For example, some companies are communicating with the Responsible Sourcing Network, run by As You Sow, which encourages coordinated action from a diverse group of stakeholders for mineral value chains that are more transparent, traceable, and accountable.

Figure 15: Companies' approach to managing risk

QUESTIONS ON THE OECD DUE DILIGENCE GUIDANCE FROM DOWNSTREAM COMPANIES

What is the relationship between section 1502 of the Dodd-Frank Act and the OECD Guidance?

There is a close relationship between the implementation of the reporting requirements under Section 1502 and the implementation of the Guidance. The OECD Guidance sets out due diligence processes through which issuers can work with their suppliers to describe measures taken to exercise due diligence on the source and chain of custody of the minerals, the facilities used to process the conflict minerals, the country of origin of the conflict minerals, and the efforts to determine the mine or location of origin with the greatest possible specificity.

Under Section 1502, issuers will need to include in their report to the SEC a description of the products manufactured or contracted to be manufactured that are not "DRC conflict-free". This refers to products that do not contain minerals which directly or indirectly finance or benefit armed groups in the DRC or adjoining countries. Under the law, the term "armed group" refers to groups that are identified as perpetrators of serious human rights abuses in the annual Country Reports on Human Rights Practices.

The OECD Guidance does not recommend companies describe or label their products as "not DRC conflict free" or "DRC conflict free", but does provide a detailed understanding of the various ways the mineral trade "directly or indirectly" contributes to conflict, which affects how companies should respond when confronted with such risks. Downstream companies subject to U.S. Dodd-Frank requirements may label their products as "DRC conflict-free" when they and the mineral processors from which they source know and can show that they do not tolerate nor by any means profit from, contribute to, assist with, or facilitate the commission by any party of serious human rights abuses associated with the extraction, transport or trade of minerals. Companies also must show that they do not provide any direct or indirect support to non-state armed groups or public or private security forces.

Downstream companies can use the

Box 23: Illustrative Example – Managing Risks

"As part of our supplier performance management process, we use these KPIs: percentage of supplier sites that have identified their smelters, and the percentage of identified smelters on the CFS list."

CHALLENGES

While the communications aspects of Step 3 are on track, designing appropriate risk strategies remains a challenge; many downstream companies are still unclear on their roles and responsibilities with regard to Annex II.

Companies seek further clarification on:

- Aspects within the Guidance and Annex II that identify specific roles and responsibilities for downstream companies based on their place in the supply chain
- Which parts of the Guidance and Annex II will be covered via in-region schemes
- Which parts of the Guidance and Annex II could be covered by industry collaborations like the EICC-GeSI CFS program

STEP 4: THIRD-PARTY AUDIT OF SMELTERS/REFINERS' DUE DILIGENCE PRACTICES

Box 24: OECD Guidance, Supplement on Tin, Tantalum, and Tungsten

Step 4: Carry-Out Independent Third-Party Audit of Smelter/Refiner's Due Diligence Practices

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

1. **Implementation of the audit, section d (For all downstream companies)**
   It is recommended that all downstream companies participate and contribute through industry organisations or other suitable means to appoint auditors [to carry out third-party independent audits of smelters] and define the terms of the audit in line with the standards and processes set out in this Guidance. Small and medium enterprises are encouraged to join or build partnerships with such industry associations.

Guidance to make determination of whether their products are "not DRC conflict-free" or "DRC conflict-free" by assessing the due diligence of the smelters/refiners and verify whether smelters and their upstream suppliers are in line with the following recommended risk management strategies:

- If a company finds a risk in its supply chain that it may be supporting any armed groups (non-state, public, or private security forces) that commit serious human rights abuses, the recommended response is immediate suspension or disengagement (see paragraphs 1-2 of Annex II).
- If a company finds a risk in its supply chain that it may be supporting non-state armed groups (even if not involved in serious human rights abuses), the recommended response is immediate suspension or disengagement (see paragraphs 3-4 of Annex II of the Guidance).
- If a company finds a risk in its supply chain that it may be supporting public or private security forces (i.e. military) that are not involved in serious human rights abuses, the recommended response is the immediate adoption and implementation of a risk management plan by upstream suppliers. Also, the Guidance recommends that significant measurable improvement is demonstrated within six months from the adoption of the risk management plan (see paragraphs 5 and 10 of Annex II).

These issues were addressed in the multi-stakeholder letter to the SEC (transmitted (transmitted by the ICGLR, OECD and the UN GoE on 29 July 2011), which recommended alignment of approaches beyond directly or indirectly financing perpetrators of serious abuses, to include due diligence on sourcing minerals from any party providing direct or indirect support to non-state armed groups and public or private security forces that are not involved in serious abuses. The multi-stakeholder letter recommends specifically that issuers should be allowed to label their products as "DRC conflict free" only when they and the smelters from which they source know (by assessing the due diligence of smelters/refiners) and can show that they do not tolerate nor by any means profit from, contribute to, assist with or facilitate the commission by any

Smelter Audits

Responses to questions on Step 4 of the OECD Guidance demonstrate that companies that do not have direct relationships with smelters rely on an industry process to meet recommendations to conduct third-party audits. The majority of the companies responded that their suppliers conduct audits as part of the CFS program. Approximately 25 percent of the companies responded that they do not know whether their suppliers are being audited, and that they do not have visibility into which smelters are engaged in the CFS program.

In accordance with the Guidance (cited in Box 24), all respondents that are relying on third-party audits are using an industry scheme, specifically the CFS program. One company conducts smelter audits internally based on the OECD Guidance in addition to relying on the CFS program as part of its regular supplier auditing process.

Box 25: Illustrative Example – Managing Risks

"At this point in time, it is not clear if smelters in our supply chain are undergoing or have completed audits. To date, there has been very limited visibility as to which smelters are engaged with the EICC and GeSI CFS programs. We are working with these organisations to gain more visibility and subsequently support the CFS program. We have every intention of leveraging this work rather than creating a separate program, given the high degree of overlap in [different industries'] supply chains."

"Currently and because this process is evolving we are concerned about verification of supplier information regarding smelter information and mine-of-origin. We plan to remedy this by implementing contractual language with our suppliers over time, and by including requirements in our supplier specifications followed by periodic supplier quality audits."

CHALLENGES

As recommended by the Guidance, most downstream companies are using or planning on using an industry-wide scheme such as the EICC-GeSI CFS program to implement Step 4. Nevertheless, challenges remain. Specifically, some companies mentioned that:

party of serious human rights abuses associated with the extraction, transport or trade of minerals (paragraphs 1 and 2, Annex II) and (thus going beyond Dodd-Frank requirements) do not provide any direct or indirect support to non-state armed groups (paragraphs 3 and 4, Annex II) or public or private security forces (paragraphs 5 and 10, Annex II).

At the same time, the multi-stakeholder letter recommends that companies implementing a time-bound risk management plan for risks of direct or indirect support to public or private security forces that are not perpetrators of serious human rights abuses) should not describe their products as "not DRC conflict free" in their Conflict Minerals report during the time-bound period when risk mitigation efforts are underway.

For more information on how the OECD Guidance may be used in relation to section 1502, see: http://www.oecd.org/dataoecd/56/59/48889405.pdf

- Creating a tipping point for smelter participation in the CFS program will be essential, particularly for smelters outside of the U.S. and Europe that are not subject to legislation and are outside the scope of direct influence or commercial pressure. Some suppliers exhibit reluctance to provide proprietary information due to competitive concerns.

- Customers that only accept audits from certain auditing firms may create administrative and cost burdens.

- Buying practices at the bottom of the chain are driven by cost, down to pennies per pound of material. Buyers change suppliers frequently, sometimes daily, increasing the complexity of obtaining information with associated smelters.

- Auditors require training on content and structure of the minerals supply chain. Building the capacity of trained auditors will take time and resources.

- There is very limited visibility into which smelters are engaged with the EICC-GeSI CFS program.

STEP 5: REPORT ANNUALLY ON SUPPLY CHAIN DUE DILIGENCE

Less than one-third of pilot respondents (nine out of 28) said they report publicly on due diligence procedures of minerals from conflict-affected and high-risk areas. Of this group, the majority (seven out of nine companies) provide information through their Corporate Social Responsibility reports. Five out of nine companies similarly report on their activities through their company website. Companies that are not currently reporting are awaiting final SEC regulations.

Box 25: Illustrative Example – Reporting Practices

"We currently report our policy position on this issue in the Corporate Citizenship report located on our website. We will report our due diligence activities when the U.S. regulations are promulgated and clarity of the requirements is provided."

Of the companies that do report, more than two thirds (seven out of nine) report on an annual basis. The remaining two companies report only when "there is something to report." Among those that report annually, one company reports both on an annual basis and periodically on the company blog. Another company is considering moving to a quarterly format to "keep the information fresh."

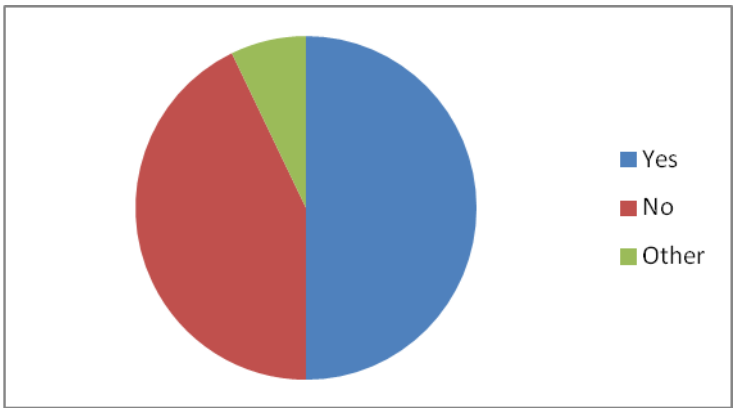
CHALLENGES

At this stage in the OECD pilot baseline report, most companies are not implementing Step 5 of the Guidance. Companies, especially U.S. companies, are waiting for the SEC to issue the rules on Section 1502 of Dodd-Frank before implementing this step. Companies have identified concerns over the technical skills for auditors to audit conflict minerals reports, as it is a specialized report that differs from usual financial reports. Capacity building by the auditing firms will be required.

SECTION IV: TOOLS AND CURRENT PRACTICES

Despite the (current) limited number of tools available to help companies implement due diligence in their mineral supply chain, both industry-level and company-designed tools are being used by pilot respondents to aid in due diligence processes.

Figure 16: Companies that are relying on an industry-level scheme to conduct due diligence



DUE DILIGENCE TOOLS

Tools that provide basic information on conflict minerals, regulation, and due diligence expectations are plentiful.

- Industry associations such as AIAG, the EICC, GeSI and Association Connecting Electronics Industries (IPC) are providing their members with updates via webinars, information sheets, websites, and training so that their members and others are aware of what is expected of them and what they can do.
- Companies are educating their supplier bases by conducting supplier compliance symposium and providing as much information as they can on regulation and public expectations regarding minerals from conflict-affected areas.
- The OECD Guidance, Annex II, and the Supplement on Tin, Tantalum, and Tungsten all have proved to be helpful to companies as safe harbors to show compliance to due diligence.

Tools that gather information on the source of minerals are varied, as well.

The EICC-GeSI Due Diligence Common Reporting Template & Dashboard is a tool that companies can use to ask suppliers and sub-suppliers to provide due diligence information in the supply chain including identifying smelters. The tool was developed in 2011 with the intention to provide a standard questionnaire for suppliers to ease reporting burdens to different customers. The tool is an Excel-based questionnaire with XML programming that enables the spreadsheet to work with the MRPRO system (which can be downloaded from the EICC-GeSI site) or with any other data management system (such as eTasc, Enablon, SAP, etc.). The tool helps users "roll up" data into an aggregate report that will identify risks from information provided by suppliers. In addition the tool allows companies to get started on mapping and understanding their mineral supply chains before the SEC rule is finalised. For more information about the tool (or to see a demo), visit **www.conflictfreesmelter.org/ConflictMineralsReportingTemplateDashboard.htm** .

- The IPC is at the early stages of developing a data exchange standard.

Companies are considering and using different formats provided by data management companies and software tools. Many companies have not yet identified a good data management system yet and note that the investment will likely come after the SEC's final rules so that infrastructure is built to ensure compliance.

Challenges of the EICC-GeSI Due Diligence Tool:

The EICC-GeSI reporting template has gone through a new generation as of September 2011. One company reported that the new template is overly complex, and that the previous template was easier for suppliers to use and to reproduce for their suppliers. Suppliers stress that simplicity is necessary and agree that the new template is not providing this.

Another challenge cited by companies using the tool: follow-up and verification now must be done by each company. Positively, the tool allows for standardized data collection; however suppliers still receive multiple requests from their customers.

In addition, for companies requesting information, the validation of data and follow-up is completely up to them, and this requires an enormous effort and time commitment.

Tools that assess and verify smelters:

The EICC-GeSI CFS program is a voluntary program in which an independent third-party evaluates a smelter's procurement activities and determines if the smelter demonstrated that all the materials they processed originated from conflict-free sources. The CFS is a global smelter verification program that evaluates a smelter's input streams and risk management systems. However for minerals sourced in the DRC or surrounding countries (as well as other countries considered "high risk"), the CFS utilizes the iTSCi scheme and the OECD Guidance for verification of due diligence. The program aims to enable companies to "source conflict-free minerals."

The CFS will cover all four conflict minerals (tin, tungsten, tantalum, and gold), but so far, the program only has conducted audits for tantalum. Verification is valid for one year and smelters may choose to be audited annually.

Three independent audit firms are approved to audit smelters: UL-STR, SGS, and Liz Mueller & Partners.

Challenges of CFS Program:

Companies that source directly from smelters cannot be involved in the EICC-GeSI auditing process to avoid the risks of unfair competitive advantage. However, one pilot participant calls this rule problematic in that these companies have knowledge of this part of the supply chain and understand how smelters operate, and therefore the companies can support corrective action and help smelters become compliant. A different participant recommended that the suppliers procuring from smelters/refiners be responsible for conducting audits or certifying that they are part of the Conflict-Free Smelter (CFS) program.

THE ROLE OF INDUSTRY ASSOCIATIONS

- The EICC (www.eicc.info) and the GeSI (www.GeSI.org) jointly have created an Extractives Work group and have been working on conflict minerals since 2008. Through this workgroup, the duo of EICC-GeSI has developed and launched tools to help companies ensure that the minerals in their supply chains are conflict-free.

- AIAG has formed a workgroup to focus specifically on conflict minerals. Through the Conflict Minerals Working Group, AIAG has a formal Memorandum of Understanding (MOU) in place with EICC-GeSI to identify areas for collaboration. One such area is the development of the instructions for use of the EICC-GeSI Conflict Minerals Reporting Template & Dashboard. AIAG is currently evaluating how to best support the EICC-GeSI Conflict-Free Smelter (CFS) program.

- IPC is working to develop a data exchange standard together with iTSCi**.** In 2010, ITRI announced it is moving forward to Phase II of iTSCi. Phase II involves developing and implementing a system to ensure mineral traceability from exporter back to the mine site and to develop chain of custody data. ITRI intends to trace the origin of minerals and ensure that those entering the supply chain are not sourced from militia-controlled mines. If they are successful, ITRI hopes to expand the project across the DRC and to initiate Phase III by 2013.

- Aerospace Industries Association (AIA), though not a part of this pilot, has recently launched a working group on conflict minerals.

EVALUATING CURRENT PRACTICES

Industry and Cross-Industry Collaboration

Collaboration—within and across industries, either through individual company participation or through industry associations—has increased the ability to develop and share tools, exchange ideas, and coordinate actions.

The most significant tool, according to the number of company references from the questionnaires, is the EICC-GeSI CFS program, developed by the ICT industry and increasingly utilized by other industries. Participants in the pilot noted that it will be critical to support this tool and to help the program "graduate" to becoming a credible and transparent scheme that all downstream companies utilize. However, several challenges will need to be addressed.

The biggest challenge of the program appears to be getting a critical mass of smelters to apply for verification. As of October 2011, six Tantalum smelters are verified "conflict-free." One way that some pilot participants suggest addressing this challenge is to allow companies with direct relationships with the smelters to connect with smelters to instigate corrective action plans and support smelters in preparing for the audits. This has not been allowed due to competitiveness concerns.

Second, companies currently do not have access to information describing how smelters are currently verified, and the CFS program does not provide enough information on what the verification process entails (i.e. rules for recycled or scrap metal), what the auditors are investigating, or the scope of the investigations themselves. The CFS program lists smelters but does not explain why they are considered compliant. It also neglects to list smelters that have failed to comply. Some pilot

participants believe the CFS is essentially a “red light” or “green light” system that only shows “green light” smelters with little visibility into the determination.

One solution is to invest in a fully independent, transparent standards program to certify smelters (akin to ISO 9000 certification). While the ICT industry has taken a leadership position to develop the CFS program and open it to any industry, companies have a preference that the program to be managed by an independent third-party organisation that is not industry-led. In addition, there are capacity constraints for the EICC-GeSI to roll out the program across all 3Ts and gold globally. This is an area which the OECD could potentially help fund and support.

Tracing and tracking in-country

In order for the downstream process to work, the upstream process must be reliable and in place. The ITRI and iTSCi in-region validation scheme was cited as a useful collaborative effort to get information on targeted risk assessments up to the smelter level. The iTSCi scheme is a chain of custody, traceability, and due diligence system that includes independent and third-party risk assessment and audits. It is designed to comply with the OECD Guidance. It will be a critical tool to verify the upstream process once it is fully scaled. It is currently challenged to be up and running fully in the region.

SECTION V: CONCLUSIONS, RECOMMENDATIONS AND NEXT STEPS

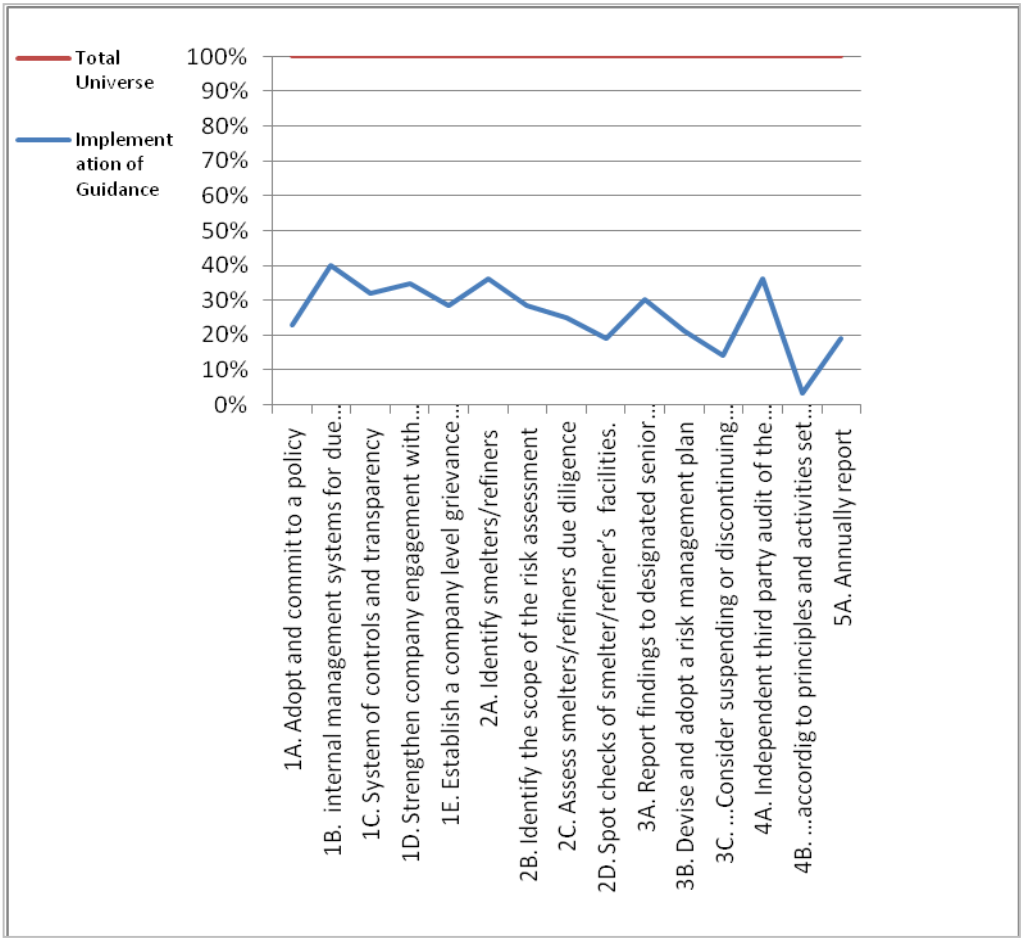
CONCLUSIONS

Along with the obvious concern of contributing to conflict and human rights abuses through their supply chains, companies participating in the pilot identified compliance, customer pressure (including company reputation), and corporate responsibility as primary drivers for implementing responsible due diligence.

Companies are interested in implementing due diligence processes and systems that will provide a "safe harbor" of legal requirements while finding a way to ensure their supply chains are "conflict-free."

The Guidance has been a useful resource for companies to begin planning implementation and ensure the ability to put processes in place quickly once SEC rules are adopted. Companies anticipate further implementing the Guidance with more exposure to the Pilot process. We anticipate seeing this progress in the next update report.

There is continued uncertainty surrounding the Dodd-Frank Act since the SEC rules have not been finalised. Many companies are waiting for the final SEC rules on the Dodd-Frank Act before developing internal policies and procedures, and imposing obligations on suppliers. This creates a tension for implementing best practices in advance of final legal requirements of companies, whereas the OECD Guidance aims at being used by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas – even companies which are not subject to the Dodd-Frank Act.



KEY RECOMMENDATIONS

Continue to raise awareness beyond the ICT industry companies

The predominant role of the ICT industry and ICT companies in the OECD pilot demonstrates that companies in the ICT industry have taken a leadership role on the sourcing issue and have developed tools and strategies in advance of many other industries.

The OECD Guidance intends to serve the development of more responsible sourcing practices beyond ICT and U.S. listed companies subject to Dodd-Frank. As the scope of the Guidance stretches beyond the U.S. law, broadening participation in the pilot will benefit companies subject to the law by increasing knowledge, awareness, and compliance to due diligence practices throughout subject industries. It also should raise overall standards of practice—particularly for non-OECD country companies. In particular, there is a need for more participation from companies outside the ICT industry, suppliers of OEM, component manufacturers, metal exchanges and metal traders.

Downstream participants to this OECD pilot project represent a relevant foundation for these further developments to happen. Companies and suppliers alike will benefit from increased participation further down the supply chain and among a broader industry base.

Responsible sourcing from conflict-affected areas requires the cooperation of multiple stakeholders

A sustainable and actionable solution requires the support, cooperation, and coordination of many parties including governments (in-region, regional and international), local stakeholders, international organisations, and all industries that use minerals in their products.

There is a need to move due diligence processes forward through industry-led coordination and cross-industry collaboration to meet international standards such as the OECD Guidance. This includes building upon current tools and developing new tools and processes that can improve upon current challenges. A few areas for improvement are data collection and validation, streamlined processes, and cost reduction throughout the supply chain. Appropriate levels of coordination and governance between companies, industry associations, other stakeholders, and OECD are welcome to ensure consistent and tailored application of the Guidance throughout different industries and down the value chain.

Downstream companies need to build on the OECD risk management strategies to make them more specific to individual processes.

Risk assessment is significantly different at all of the points along the downstream supply chain. Some companies therefore have to work at three levels of the Guidance—for themselves, their clients and their suppliers. Each company can deal with specific issues that the Guidance is too broad to address.

The OECD should provide a convening space to ensure harmonization of interrelated systems to make a fully transparent supply chain.

Companies throughout the supply chain are still learning about the Guidance, and efforts need to be taken by all to help raise the level of understanding and comprehension for implementing responsible and transparent practices. The OECD needs to provide additional clarity on which aspects of the

Guidance are expected to be an individual company's responsibility and which aspects can be implemented through shared industry or cross-industry schemes.

Areas where companies are looking for OECD support:

1. The OECD should continue to use its international leverage and influence with the UN to motivate and encourage non-OECD country alignment with a specific focus to outreach to non-OECD countries that are significant players in the supply chain.

2. The OECD should make the Guidance more accessible, using easy-to-understand language with diagrams and flow charts, to help educate suppliers and companies about the OECD Guidance, expectations, and information on available tools.

3. The OECD should explore ways to create an independent organisation/body that can take on the validation and certification of minerals that are "conflict-free." It would be beneficial to have a fully transparent and independent organisation with a multi-stakeholder governance structure managing cross-industry schemes such as the EICC-GeSI CFS Assessment Program.

4. The OECD could review individual companies' conflict mineral policies to ensure alignment with the model policy Annex II in the Guidance.

Expectations for the Pilot

The pilot should provide clarity for companies on practical aspects of implementation using the OECD Guidance. Some specific suggestions:

- Design a collaborative approach in collecting supply chain due diligence information, thereby leveraging impact and reducing duplication of efforts by individual companies. This could be done via cloud computing or some other shared data approach.

- Explore a risk-based strategy whereby certain industries focus due diligence efforts on certain metals, or certain parts of the supply chain.

- Create one data clearinghouse for country-of-origin status so that information can be accessed quickly and efficiently.

- Provide companies with a clear framework and show how requirements can be fulfilled in a way that is doable for companies without major effort.

- Align the effort with regulatory requirements (e.g. final Dodd-Frank rules) and with the approaches to supply-chain management that companies employ for other supply chain issues/challenges.

- Identify best practices that are consistent with the OECD Guidance including identifying what is not practical and not appropriate for companies to implement.

- Learn if there are alternative and compelling methods to accomplish the various steps in the process, or to improve efficiency of the overall approach.

- Accumulate and acquire benchmarking information as to the maturity of the compliance process to the OECD Guidance by various industries and companies.

NEXT STEPS

Focus of next report: Progress Report

Cycle 2 of the Implementation Pilot Project aims to provide an update on how companies have progressed since their responses on due diligence implementation provided in this Baseline report. The next report is due March 2012.

This next progress report aims to achieve the following:

- Demonstrate progress on due diligence performance since the start of the reporting cycle.
- Develop references, such as performance indicators or benchmarks for practical progress.
- Provide update on challenges and tools.
- Identify best practices and recommendations for companies to move forward.
- Describe how the OECD Guidance can be used for reporting under Dodd-Frank requirements.

APPENDIX - Questionnaire for Downstream Companies on the Implementation of the OECD Supplement on Tin, Tungsten and Tantalum

General Questions

1. In which industries do you operate? (please check all that apply)

   - Aerospace
   - Automotive
   - Consumer Products
   - Energy
   - Extractives
   - Information, Communications & Technology
   - Medical Devices
   - Other: _____

2. What is the name of your company?

3. Where is your company headquarters located? (city, country)

4. How much did your company earn in revenues in 2010?

5. Where is your company located on the downstream mineral supply chain? (select all that apply)

   - Metal exchangers
   - Metal traders
   - Component and intermediary manufacturers
   - OEM /brand
   - Other: _____

6. In which industries do your customers operate?

   - Aerospace
   - Automotive
   - Consumer Products
   - Energy
   - Extractives

- Information, Communications & Technology
- Medical Devices
- Other: _____

7. Where are your suppliers located in the mineral supply chain? (select all that apply)

- Metal exchangers
- Metal traders
- Component and intermediary manufacturers
- OEM brand
- Other: _____

8. Which minerals are used in your product line? (select all that apply)

- Tin
- Tungsten
- Tantalum

9. In which regions do your business units that process these minerals operate?

10. What types of product categories are manufactured using these minerals?

11. What is the estimated overall share of tin, tungsten, and tantalum in your procurement?

	Tin	Tungsten	Tantalum	Other	Total	%
Volume (approx.) metric kilos/tons						
Value in $US or other (approx.)						
Number of suppliers						

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

Supply Chain Policy on Minerals from Conflict Areas

1. 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: _____

   - 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: _____

a. If yes, 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

2. 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 corporate policies that address minerals from conflict areas. (please attach the policy or provide a link to the policy on your website)

Name of Policy	Conflict-free aspect covered by policy (Please refer to question 3 above)	Reference page (of policy)

Topics Covered by your Company Policy on Minerals

1. Please check which approach best matches your policy on minerals from conflict areas:

   - Not applicable: no policy exists
   - Not to source minerals from conflict areas in any region
   - Not to source minerals from conflict areas in the DRC
   - Not to source any minerals from the DRC
   - Aim to source from DRC (among other countries) but from conflict-free mines or sources
   - Other: _____

Communicating your Policy

1. Is your company's policy on minerals from conflict areas publicly available? Where?

   - Yes, as a standalone policy.
   - Yes, as part of a broader policy.
   - No, it is not publicly available.

2. If it is not made public, how/where/to whom have you communicated it?

Discussion Questions
What challenges did you experience in developing the policy? What other collaborative processes or examples have you used to help with developing your policy? (examples of industry or other initiative) What areas are still necessary to develop?

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

Responsibilities and Resources

1. Please describe your internal management systems to support supply chain due diligence of minerals.

2. What accountability procedures have you developed?

3. What accountability issues have you tried to address through these procedures?

4. Have these procedures been implemented?

5. 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 program.
   - Yes, someone has been designated to performance on conflict-free mineral supply chains. (describe the level and role)

6. Who has operational responsibility to implement the policy on minerals from conflict areas at your company? (describe the level and role)

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

   a. Human resources

      i. How many people and from which departments?

      ii. How much time/percentage of role is estimated for each person?

Department	Number of people	% time on conflict-free supply chains	Annual estimated costs invested (US$)
Purchasing			
Finance			
Legal			
Audit/Quality			
IT/Data management			
External consultants			

   b. Is your company a member of any industry or multi-stakeholder organization that focuses on responsible supply chain initiatives, and or conflict-free mineral supply chains? (please list)

   c. Does your company support conflict-free mineral supply chain initiatives through its philanthropic arm? If so, please describe.

Communications

1. What **internal communication** process on conflict-free mineral supply chains have you developed?

   - No internal communications on conflict-free mineral supply chains has taken place.
   - Communications with staff. Specify type of communication process in place.
   - Communications with management. Specify target population: senior management, all management, only certain departments, etc. and type of communication process in place.
   - Communications with board members.
   - Other: _____

2. What **external communication** process on conflict-free mineral supply chains have you developed and for whom?

- None
- Suppliers: Specify categories and communication process in place.
- Business partners: Specify categories and communication process in place.
- Consumers/General public: Specify categories and communication process in place.
- NGOs: Specify categories and communication process in place.
- Government: Specify categories and communication process in place.
- Other (industry associations, multi-stakeholder groups, etc.)

Discussion Questions
What are your biggest challenges in developing management systems to ensure that you have a "clean" source of tin, tantalum and tungsten? Have you found collaborative processes (with an industry association or other companies/stakeholders) to be helpful? Why/why not? Where do you see the greatest need for improvement in your company with regards to carrying out Step 1 of the Guidance?

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

Understanding How You Make Internal Decisions

RED FLAG LOCATIONS OF MINERAL ORIGIN AND TRANSIT:

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

SUPPLIER RED FLAGS:

- *The company's suppliers or other known upstream companies have shareholder or other interests in companies that supply minerals from or operate in one of the above-mentioned red flag locations of mineral origin and transit.*
- *The company's suppliers' or other known upstream companies are known to have sourced minerals from a red flag location of mineral origin and transit in the last 12 months.*

1. Have you established a method for identifying minerals from "red flag locations of mineral origin and transit" in your supply chain? (refer to the box above for a definition on "red flag" locations)

   - Yes
   - No

2. Have you established a method for identifying minerals from "red flag suppliers"? (refer to the box above for a definition on "red flag" suppliers)

   - Yes (please describe the system you use for identifying "red flag suppliers")
   - No

3. On which basis do you decide which products and associated suppliers to identify? (click all that are relevant)

   - Bill of materials
   - Product category
   - Known suppliers of tin, tantalum and tungsten
   - Geographic location (please define or describe parameters)
   - Political situation
   - Other (please describe): _____

4. What level of visibility do you have on “red flag locations of mineral origin and transit” in your supply chain?

   - Unknown
   - Tier 1
   - Tier 2
   - Tier 3 and beyond (please specify): _____

5. What drove the internal decision to identify suppliers using the 3Ts (tin, tantalum and tungsten)? (check all that apply)

   - Compliance (subject to the SEC or other regulatory ruling)
   - Customer pressure
   - Other (please specify): _____

Maintaining Records

1. Have you established a data collection system?

   - Yes, explain how you maintain records
   - No
   - Provide any comments: _____

2. Are you relying on existing data collection tools for monitoring/reviewing downstream supply systems?

   - Yes
   - No

   a. If yes, how is it incorporated into your company’s existing monitoring/review systems?

3. Are you relying on an industry-level scheme?

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

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

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

Discussion Questions
What challenges did you face in increasing transparency in your supply chain, and data management in particular? How did you address these challenges? What collaborative processes have you used to help with data management? What works well? What does not? What are the main areas for improvement in data management (may be covered above)?

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

Engaging with Suppliers

1. Please describe your company relationship with suppliers who are subject to due diligence.

   - Generally one-off contracts (under 3 months)
   - Seasonal and/or short term (under 1 year)
   - Long term relationships (more than 1 year, or multi-year relationships)

2. Have you communicated your policy on minerals from conflict areas to your suppliers?

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

3. With which suppliers do you communicate?

- Tier 1
- Tier 2
- Tier 3
- Beyond Tier 3

a. If yes, what have you communicated?

- Company's policy expectations
- Expectations on information collection and sharing
- Expectations on communicating with their suppliers
- SEC requirements
- Other (please explain): _____

4. What methods have you used to communicate to your suppliers on minerals from conflict areas?

- Letters sent directly to suppliers
- Through industry associations
- Other (please specify, e.g. supplier workshops): _____

Contracts

1. Have you incorporated a policy on minerals from conflict areas into your contractual relationships? Since when? (please describe and provide examples)

2. Do you plan to track corrections and close/complete improvement plans if/when remediated?

- Yes, please explain
- No
- Not applicable

3. Do you have improvement plans/corrective action plans in place regarding minerals from conflict areas?

- Yes
- No
- Not applicable (if N/A, why?)
- Provide any comments: _____

4. Which departments are involved in defining and tracking improvement/corrective action plans with suppliers? (please check all that apply)

5. Procurement

6. Internal audit

7. Quality

8. Finance

9. Other (please specify): _____

Discussion Questions
How do you choose which suppliers to communicate with regarding minerals from conflict areas? Bill of materials Product category Known suppliers of tin, tantalum and tungsten We talk to all of our 3T suppliers. We do not communicate with our 3T suppliers on minerals from conflict areas. Other (please describe): _____ Have you participated in capacity building efforts with your suppliers? If yes, was it to better understand your: (check all that apply) Policy? Company expectations? Information collection and sharing tools? Communicating efforts to their suppliers? SEC requirements? Other (please explain): _____ Please provide examples of how you help support and build capabilities of suppliers to improve performance and conform to supply chain policies. What collaborative processes have you used to help with these elements? (e.g. tools developed in collaboration with peer companies or business partners) What specific challenges in developing or implementing the collaborative method would you outline? What are areas for improvement?

I.E	**Establish a company-level, or industry-wide, grievance mechanism as an early-warning risk-awareness system.**
I.E.1	Develop a mechanism allowing any interested party (affected persons or whistle-blowers) to voice concerns regarding the circumstances of mineral extraction, trade, handling and export in a conflict-affected and high-risk area. This will allow a company to be alerted of risks in its supply chain as to the problems in addition to the company fact and risk assessments.
I.E.2	Provide such a mechanism directly, or through collaborative arrangements with other companies or organisations, or by facilitating recourse to an external expert or body (i.e. ombudsman).

Grievance Mechanism

1. Do you have a grievance mechanism available to report any problems/non-conformance regarding your policy on minerals from conflict areas?

   - Yes
   - No
   - Not applicable

   a. If yes, please describe the grievance mechanisms in place

      - Toll free number
      - Direct contact point
      - Whistle blower access
      - Ombudsman
      - Other (please describe): _____

Access

2. Is the availability of your grievance mechanism publicly communicated?

   - Yes
   - No
   - Not applicable

Discussion Questions
Have you used collaborative approaches to help develop a grievance mechanism? Were there any challenges in developing or implementing the collaborative method? What are areas for improvement?

Step II: Identify and Assess Risk in the Supply Chain.

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

Mapping the Supply Chain

1. What efforts have you used to identify the smelters/refiners in your supply chain?
   - Direct communications with the companies' immediate suppliers and sub-suppliers (please provide details)
   - Incorporated (confidential) supplier disclosure requirements into supplier contracts (please provide details)
   - Specify to direct suppliers the smelters/refiners that meet the requirements of the OECD Guidance (please provide details)
   - Utilize electronic information-sharing systems on suppliers and/or through industry wide schemes to disclose upstream actors in the supply chain (please provide details)
   - Other (please describe): _____

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

a. If yes, what tools or methodologies were used to identify the smelters/refiners in your supply chain?

   - If yes, please provide details on the challenges you faced in identifying those smelters/refiners and how the company dealt with those challenges (e.g. balancing confidential and proprietary information with the need to identify and evaluate the due diligence of smelters/refiners).
   - If yes, what percentage of your tin, tantalum or tungsten supply base do those identified smelters/refiners represent? (please provide your best estimate)

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

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

RED FLAG LOCATIONS OF MINERAL ORIGIN AND TRANSIT:

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

SUPPLIER RED FLAGS:

- *The company's suppliers or other known upstream companies have shareholder or other interests in companies that supply minerals from or operate in one of the above-mentioned red flag locations of mineral origin and transit.*
- *The company's suppliers' or other known upstream companies are known to have sourced minerals from a red flag location of mineral origin and transit in the last 12 months.*

Targeting Risk Assessment to Smelters Triggered by Red Flags

1. 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?
   - Yes
   - No

   a. If yes, please provide details on how you have done so and the challenges you faced in obtaining that information.

   b. If no, why not?

2. 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?

3. Do you have a process to evaluate whether those countries, suppliers or smelters are triggered by the "red flags"?

   - Yes
   - No
   - Provide any comments: _____

II.C	**Assess whether the smelters/refiners have carried out all elements of due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.**

Assessing the Due Diligence of Smelter/Refiner's Triggered by Red Flags

Have you identified if smelters have carried out due diligence for conflict-free mineral supply chains?

- Yes
- No (please describe why not)

If yes, 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.)

A. 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)

Have you participated in any capacity building (such as supplier training) efforts with/for identified smelters?

Did you use collaborative processes (ie. industry associations) to help with these elements?

- No
- Yes, which one?

II.D	**Where necessary, carry out, including through participation in industry-driven programs, joint spot checks at the mineral smelters/refiner's own facilities.**

Conducting Spot Checks Smelters/Refiners

1. Has your company determined whether spot checks at the mineral smelters/refiners are necessary?

   - Yes
   - No

2. Have you already carried out spot checks at the mineral smelter/refiners?

   - Yes
   - No

3. Is the assessment team industry-based?

   - Yes
   - No

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

Discussion Questions
What were the tools or methodologies used to identify the specific smelters/refiners in your supply chain? How did you identify potential risks associated with your smelters/refiners? What challenges did you encounter identifying these risks? Did you experience any challenges with collaborative efforts around assessing smelters/refiners' due diligence? Did you encounter any difficulties when conducting spot checks at the smelters? What specific areas for improvement would you call out?

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

III.A	**Report findings to designated senior management, outlining the information gathered and the actual and potential risks identified in the supply chain risk assessment**
III.B	**Devise and adopt a risk management plan.**
III.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.**
III.D	**Undertake additional fact and risk assessments for risks requiring mitigation, or after a change of circumstances.**

Communicating the Risks

1. Is there a communication process that has been put in place to ensure that findings outlining the actual and potential risk are reported to designated senior management?

   - No process in place
   - Yes (please describe)

2. Please list the actual and potential risk categories that have been raised at the board or senior executive level in the last three years (2009-2011). (please 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
   - Other (please describe)

Managing Risks

1. 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)

2. How do you support your upstream suppliers in managing risk identified in the supply chain as a result of their due diligence process?

   - Provide capability-training to enable suppliers to conduct and improve due diligence performance within their supply chain
   - Participate in industry membership organizations' supplier training/improvement programs to develop and implement due diligence capability-training modules in cooperation with relevant international organizations, NGOs, stakeholders and other experts.
   - Provide financial assistance to suppliers to participate in external trainings or industry available support (please describe)
   - Other (please describe)

3. Did you consult with local and central authorities, upstream companies, international or civil society organisations and affected third parties?

   - Yes (Provide examples of these consultations.)
   - No

4. Please provide the approximate timeline of your risk management plan.

5. Do you track the performance of risk mitigation?

   - We do this through a process already in place. (please specify)
   - We do not track performance. (please explain why)

6. Do you conduct a risk assessment/follow-up once corrective plans/trainings have occurred?

7. If you relied on the model policy to determine if and how identified risks with suppliers could be mitigated, please let us know what aspects were helpful, and what could be improved.

Discussion Questions
Do you encourage industry membership organizations to develop and implement due diligence capacity training modules? Is this done in cooperation with relevant international organizations, NGOs, stakeholders and other experts? What are the areas for improvement in collaborative organizations?

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

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

The OECD Guidance recommends that due diligence should take place at the smelter level only. The intention is that by focusing on audits at the smelter level, the number of audits across all tiers of the supply chain will be reduced over time, and ultimately save the industry time, money and energy. The Guidance does not suggest that downstream companies should necessarily conduct the audit themselves, but rather ensure that an audit of the smelter's due diligence has occurred, through collaboration with other supply chain partners.

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.**
IV.A.1	The scope of the audit: The audit scope will include all activities, processes and systems used by the smelter/refiner to conduct supply chain due diligence of minerals from conflict-affected and high-risk areas. This includes, but is not limited to, smelter/refiner controls over the mineral supply chain, the information disclosed to downstream companies on suppliers, chain of custody and other mineral information, smelter/refiner risk assessments including the on-the-ground research, and smelter/refiner strategies for risk management.
IV.A.2	The audit criteria: The audit should determine the conformity of the smelter/refiner due diligence process against the standards and processes of this due diligence Guidance.
IV.A.3	The audit principles: Independence, Competence, Accountability
IV.A.4	The audit activities: Audit preparation, Document review, In-site investigations, Audit conclusions

1. Within your supply chain of tin, tantalum and tungsten, who conducts the audits of smelters?

   - We conduct smelter audits internally.
   - Our suppliers conduct the audit.
   - Our 3T smelters are part of the EICC/GeSI Conflict-Free Smelter Program
   - We rely on an industry initiative other than the Conflict-Free Smelter Program that conducts the smelter audit for its members (please name)
   - We do not know if our smelters are audited or by whom
   - Other (please describe): _____

2. If you **conduct your own audits of smelters**, please describe your approach:

- Based on OECD Guidance
- Company-own guidance (please describe)
- 3rd party/Industry guidance (please describe)
- Other (please describe): _____

3. If you **do not conduct your own audit of smelters**, how do you obtain information that the smelter within your supply chain provides conflict-free minerals?

- Our suppliers provide us with validated audits/reports on the smelters in question.
- 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.).
- We do not have this information.
- Other means (please describe): _____

4. If you **do not conduct your own audit of smelters but rely on 3rd parties**, do you know if these audits are based on:

- OECD Guidance
- Some other, independent/non OECD guidance (please describe or name)
- We do not know what the 3rd party audit is based on.

5. What do you see as the biggest challenge for your company (companies like yours in general) in ensuring that smelters in the supply chain are conflict-free?

6. What would help you meet this recommendation of the Guidance?

IV.B	**Implement the audit in accordance with the audit scope, criteria, principles and activities set out above.** Under current circumstances, all actors in the supply chain should cooperate through their industry organizations to ensure that the auditing is carried out in accordance with audit scope, criteria, principles and activities listed above.

Step V: Report Annually on Supply Chain Due Diligence.

V.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.**

1. Do you report publically on your due diligence policies and practices?
   - Yes
   - No

2. How is information reported?
   - Annual Report
   - CSR/Sustainability report
   - Other report specific to conflict-free mineral sourcing
   - Published on company website
   - Internal documents only
   - Information is not reported

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

4. What are the main areas for improvement in reporting on conflict-free mineral supply chains?

Wrap-up Questions

1. Are there other documents that we should obtain to help us better understand your company's efforts to ensure a responsible supply chain with regards to the 3Ts?

2. Is there anyone else from your company we should speak to? (please list name and contact number)

Process Improvement Questions (Help us make this Pilot useful for you)

1. What would be a useful outcome of this Pilot process?

2. We are considering hosting a company-only meeting to share learnings – would this be of interest to you to attend?

3. How can we improve the questionnaire, interviews?

Closing

Thank you for taking the time to complete this questionnaire and allowing us to speak with you. Please submit the completed questionnaire to BSR by 5 September, 2011.

Next steps:

- Baseline report draft in late October/early November
- You are invited to the multi-stakeholder meeting on 3Ts in Paris (OECD) on 29-30 November 2011.

Do you have any questions for us?

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www.oecd.org/daf/investment/mining