

The information in the table below is drawn from the feedback of downstream participants in 3T pilot which was captured in the Final Downstream Report January 2013 on p. 63 and the Table on p. 51/52. The original text from the report is also provided at the end of this document.

Suggestions
<ul style="list-style-type: none"> <p>Replace the reference to <u>ISO International Standard 19011:2002</u> with the more up to date <u>ISO/IEC 17021:2011</u></p> <p>The Guidance outlines some basic principles, scope, criteria and other basic information for consideration for companies to commission a supply chain-specific independent third-party audit of due diligence practices of smelters/refiners. The Guidance (footnote 23) further recommends that companies should consult ISO International Standard 19011:2002 for detailed requirements on audit programmes (including programme responsibilities, procedures, record-keeping, monitoring and reviewing) and step-by-step overview of audit activities. Pilot participants considered that the reference to ISO International Standard 19011:2002 should be replaced with ISO/IEC 17021:2011.</p>
<ul style="list-style-type: none"> <p>Step 1 references to iTSCi (footnote 8) may need to be updated</p> <p>Footnote 8 (p. 39 of Supplement on Tin, Tungsten and Tantalum): See ITRI Supply Chain Initiative, in particular, the templates (Appendix 8,9,10) and Appendix 3, list of Relevant Documentation</p>
<ul style="list-style-type: none"> <p>Alignment on the language in Step 4 and Step 5 regarding the type of audits the Guidance references – those of smelters and refiners</p>
<ul style="list-style-type: none"> <p>Chronological clarification between Steps 4 and 5 in the 3T Supplement</p> <p>Step 4 independent third-party audits of smelters expect auditors to assess the conformity of the smelter/refiner due diligence practices with the Guidance, thus covering both Step 4 and Step 5 activities. Clarification of the sequencing and expectations of Steps 4 and 5 relative to each other needs to be provided to avoid misalignment of expectations.</p>
<ul style="list-style-type: none"> <p>Clarifications to Step 5 A.1.1. on the relationships between confidentiality and reporting</p> <p>Step 5 A.1.1 (addressed to upstream companies) has been read to imply the publication of confidential information, such as those on mine sites. It does not take into account that a program like the CFS can do the review of that confidential information via a 3rd party independent audits and validate that due diligence has been done without releasing publicly information on mine sites.</p>
<ul style="list-style-type: none"> <p>Consider amending Step 5 A.3.3</p> <p>Step 5 A.3.3 recommends that downstream companies publish the audit report of their due diligence practices, with due regard taken of business confidentiality and other competitive concerns, and responses to identified risks. The Guidance only recommends audits at the smelter/refiner level. Pilot participants considered that this provision should be amended since the Guidance does not recommend that downstream companies should undergo any audits.</p> <p>Step 5 .3.3 expects downstream companies to publish the audit reports of their due diligence practices. This is contributing to confusion about what types of audits are required, and at what points in the supply chain.</p>

SOURCES:

From the final Downstream Implementation Report p. 63:

“Recommendations for clarifications/rectifications to the OECD Due Diligence Guidance based on Implementation Learning

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

- Alignment on the language in Step 4 and Step 5 regarding the type of audits the Guidance references – those of smelters and refiners.
- Chronological clarification between Steps 4 and 5 in the 3T Supplement (see Table p. 51/52).
- Clarifications on the relationships between confidentiality and reporting under Step 5 (see Table p. 51/52).
- Step 5, A.3. 3. recommends that downstream companies publish the audit report of their due diligence practices, with due regard taken of business confidentiality and other competitive concerns, and responses to identified risks. The Guidance only recommends audits at the smelter/refiner level. Pilot participants considered that this provision should be amended since the Guidance does not recommend that downstream companies should undergo any audits.
- Step 1 references to iTSCi (footnote 8) may need to be updated.
- The Guidance outlines some basic principles, scope, criteria and other basic information for consideration for companies to commission a supply chain-specific independent third-party audit of due diligence practices of smelters/refiners. The Guidance (footnote 23) further recommends that companies should consult ISO International Standard 19011:2002 for detailed requirements on audit programmes (including programme responsibilities, procedures, record-keeping, monitoring and reviewing) and step-by-step overview of audit activities. Pilot participants considered that the reference to ISO International Standard 19011:2002 should be replaced with ISO/IEC 17021:2011.”

From the final Downstream Implementation Report, p. 51/52:

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