

EU Conflict Minerals Regulation – OECD Guidance Step 2: Identify and Assess Risks in Supply Chains

February 11, 2021



EU Conflict Minerals Regulation

- ***Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas***
- Took full effect January 1, 2021
- Requires supply chain due diligence and disclosure about sourcing of 3TG
- “Union importers”
 - Any natural or legal person importing minimum levels of certain minerals or metals listed on Annex I into the EU
- Focus of regulation is source of metals and minerals

Due Diligence Requirements

- Design and implement supply chain due diligence processes
- Supply chain due diligence must be developed in accordance with the “***OECD Due Diligence Guidance on Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas***”
- OECD Guidance – 5 step framework
 - Strong company management systems
 - **Identify and assess risks**
 - Address and mitigate risks
 - Independent third-party audits
 - Annual disclosure

Conflict-Affected and High-Risk Areas

- In the Americas: Mexico, Colombia and Venezuela.
- In Europe: Ukraine.
- In the Middle East: Yemen.
- In Africa: Burkina Faso, Burundi*, Cameroon, Central African Republic*, Chad, Democratic Republic of Congo*, Egypt, Eritrea, Libya, Mali, Mozambique, Niger, Nigeria, Somalia, South Sudan*, Sudan, and Zimbabwe.
- In Asia: Afghanistan, India, Myanmar, Pakistan and The Philippines.

Due Diligence Requirements

- Description of mineral/metal they import, including trade name and type
- Name and address of supplier to Union importer
- **For minerals – country of origin**
- For metals – name and address of SOR in the supply chain of Union importer
- For metals (if available) third party audit reports of SORs or evidence of conformity with a due diligence scheme that is recognized by the Commission and if not available, the countries of origin
- **For minerals – quantities and dates of extraction, expressed in volume or weight**
- **For minerals from CA-HRAs or when other risks have been ascertained, other upstream info per OECD Guidance (mine or origin; locations where consolidated, trade, processed; taxes, fees and royalties paid)**
- **For metals from CA-HRAs or when other risks have been ascertained, other downstream info per OECD Guidance**
- **For by-products, information and documentation re where by-produce was first separated from its primary metal/mineral**

Step 2 – Identify and Assess Risks in the Supply Chain

- Identify risks in their supply chain as recommended in the Supplements.
- Assess risks of adverse impacts in light of the standards of their supply chain policy consistent with Annex II and the due diligence recommendations in this Guidance

Step 2 – Identify and Assess Risks in the Supply Chain

- Identify risks in their supply chain as recommended **in the Supplements**
 - Gather information
 - from direct suppliers
 - from indirect suppliers
 - about Smelters/Refiners
 - about conflict-affected and high-risk areas

Identification of Risks

- Once you know the list of CA-HRAs, ask:
 - Do the 3TG minerals/metals that you import originate in or are they transported through a CA-HR area?
 - Do the 3TG minerals/metals that you import originate from a country with limited known reserves?
 - Do the 3TG minerals/metals that you import originate from a country in which minerals/metals from CA-HRAs are known to transit?
 - Do affiliates of your suppliers supply minerals from or operate in a CA-HRA?
- Use Step 1 actions to gather this information.

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- Assess risks of adverse impacts in light of the standards of their supply chain policy consistent with Annex II and the due diligence recommendations in this Guidance

Step 2 – Identify and Assess Risks in the Supply Chain

- Assess risks of adverse impacts in light of the standards of their supply chain policy consistent with Annex II and the due diligence recommendations in this Guidance
 - Analyze information from suppliers and about transactions
 - Analyze information about smelters/refiners

Step 2 – Identify and Assess Risks in the Supply Chain

- Risk Assessment
 - Assess versus CAHRAs list
 - Clarify chain of custody
 - Assess activities and relationships with upstream suppliers
 - Identify mine locations and conditions
 - On-the-ground assessment

- Spot checks at smelters/refiners

Next Week

- Step 3 of the Guidance
 - Address and Mitigate Risk (which includes mitigation measures with suppliers and measuring improvement)

Presenters



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Global Coverage

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- Doha
- Dubai
- Frankfurt
- Hong Kong
- Houston
- Leeds
- London
- Los Angeles
- Madrid
- Manchester
- Miami
- Milan
- Moscow
- New Jersey
- New York
- Palo Alto
- Paris
- Perth
- Phoenix
- Prague
- Riyadh
- San Francisco
- Santo Domingo
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- Singapore
- Sydney
- Tampa
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- Washington DC

- Africa
- Brazil
- Caribbean/Central America
- India
- Israel
- Mexico
- Turkey
- Ukraine

- Office locations
- Regional desks and strategic alliances

