

Due Diligence Guidance: towards conflict-free mineral supply chains

**How to boost your business and
become certified under the
ICGLR Certification Scheme**



Introduction

This simplified guide explains the basics of due diligence in the supply chain of tin, tantalum, tungsten and gold from conflict-affected and high-risk areas in Africa's Great Lakes region, in line with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

Following the steps set out in this guide will help you become certified under the ICGRIL Certification Scheme.

This guide is intended for use by artisanal and small-scale mining entities or large producers, mineral traders, processors or other treatment/conversion entities, exporters, international concentrate traders, minerals re-processors, smelters/refiners.

What is due diligence for conflict-free supply chains?

Due diligence is a process that companies or individuals should undertake to ensure that the extraction and trade of mineral ores containing tin, tantalum, tungsten and gold support peace and development, not conflict. This includes a number of steps to put in place strong systems of control over the supply chain, pass vital information to buyers and to the governments and regional institutions that regulate the mineral trade, assess conflict conditions at mine sites, transportation routes and points where minerals are traded in order to source from areas and suppliers that do not contribute to conflict, and report on due diligence.

A five-step framework for risk-based due diligence

Step 1	Strengthen your due diligence skills, internal systems and record keeping, including through chain of custody tracking and/or traceability systems
Step 2	Undertake individually, or in cooperation with your customers, a risk assessment of mines, transportation routes, points where minerals are traded and suppliers
Step 3	Engage in risk mitigation and regularly monitor risks in your supply chain
Step 4	Participate in audit programmes as they develop
Step 5	Describe annually your due diligence efforts and make the report available at your offices and on your website

How will due diligence help me?

Carrying out due diligence can help you:

- Know and show that you are not supporting conflict
- Assure buyers that you have carried out all the steps and taken measures to prevent or mitigate the risk of contributing to conflict and associated serious human rights abuses in accordance with international standards
- Find new business opportunities and responsible, long-term buyers for your minerals as trust in your due diligence builds
- Certify your mineral exports under the ICGLR Regional Certification Scheme
- Move towards “DRC conflict free” for purposes of meeting expectations of customers looking to comply with section 1502 of the U.S. Dodd Frank Act

Step 1

What should I do before making any more sourcing decisions?

- Obtain and review the **OECD Due Diligence Guidance**, available in French and English at mneguidelines.oecd.org/mining.htm
- Make a public written statement of your commitment to follow Annex II of the OECD Due Diligence Guidance which tells you what risks you may face in your supply chain and how to respond when risks are identified
- If you have multiple personnel, assign due diligence responsibility to a specific manager. Ensure manager has access to all operations and documents and provide him with the resources to learn about due diligence and carry out these steps
- Inform all your customers, suppliers, transporters, or any other contractors involved in your mineral operations that you expect them to carry out due diligence and cooperate with you in obtaining information

- Inform all your customers, suppliers, transporters, or any other contractors involved in your mineral operations that your sourcing decisions may change as a result of your due diligence and whether or not they carry out due diligence
- Participate in capacity-building workshops and actively reach out to partners or local networks that are engaged in mineral supply chain initiatives or mapping and assessing conflict conditions

Chain of custody or traceability?

Under the OECD Due Diligence Guidance, “chain of custody” refers to the document trail recording the sequence of companies and individuals which have custody of minerals as they move through a supply chain. A national example of chain of custody is the documentation generated through the application of the DRC Traceability Procedures Manual for Mining Products, From Extraction to Export.

“Traceability” refers to physical tracking of minerals at all points of the trading chain, from their mine of origin to their point of export. The iTSCi program includes a system of “bagging and tagging” which is an example of what a traceability scheme can look like. The electronic tagging system in place at some mines in Rwanda is another example of how minerals can be traced. Other traceability technologies will likely be developed in coming years in response to market demand.

You will need to put in place a robust chain of custody or traceability system once you have identified where and from whom you wish to source minerals. The Certification Manual of the ICGLR Regional Certification Mechanism contains detailed standards and procedures to follow in order to ensure traceability and chain of custody of minerals. To maintain flexibility, the OECD Due Diligence Guidance recognizes that you may use either traceability or a chain of custody system, meaning the iTSCi “bag and tag” scheme, the electronic tagging system, or any other chain of custody or traceability system that meets the standards set out in the OECD Due Diligence Guidance and the Certification Manual of the ICGLR Regional Certification Mechanism.

Step 2

How do I know where to operate or which areas and suppliers to buy minerals from?

You should undertake a risk assessment in order to identify areas to operate and suppliers to buy minerals from. This risk assessment should assess conflict-related risks as well as the risks related to fraudulent chain of custody and/or traceability information as follows:

1. Conflict risk assessment:

- a. Identify and assess **conflict risks at mines**
- b. identify and assess **conflict risks at trading centres and along transportation routes**
- c. identify and assess **conflict risks associated with suppliers**

2. Chain of custody or traceability assessment:

Assess the extent to which chain of custody or traceability procedures are used at mine sites, at places where minerals are traded, converted or upgraded, and during transport and export.

How do I carry out a risk assessment?

You carry out the risk assessment by reviewing chain of custody and/or traceability documentation and by establishing an on-the-ground assessment team. You can do this by yourself or, ideally, cooperate with your suppliers and/or customers (e.g. mineral traders, transporters, exporters, smelters).

You should seek support from local government authorities and local civil society organisations, or use the information already available (e.g. from the ICGLR Audit Committee or iTSCi stakeholder committees). You can also participate in industry programmes like iTSCi that carry out risk assessment in order to help you decide where to operate or source your minerals.

What are the risks?

Risk that that you are sourcing from or that you are linked to any party committing serious abuses associated with the extraction, transport or trade of minerals.

Serious abuses include:

- any forms of torture, cruel, inhumane and degrading treatment;
- any forms of forced or compulsory labour, which means work or service which is exacted from any person under the menace of penalty and for which said person has not offered himself voluntarily;
- the worst forms of child labour;
- other gross human rights violations and abuses such as widespread sexual violence;
- war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide.

Risk that you are providing direct or indirect support to non-state armed groups (e.g. rebel groups such as the FDLR, Mai Mai) or public or private security forces (e.g. criminal networks within the police or army units (FARDC) or private mine security).

Direct or indirect support includes sourcing from, making payments to or providing assistance to non-state armed groups, public or private security forces, or their affiliates, who:

- illegally control mine sites or otherwise control transportation routes, points where minerals are traded and upstream actors in the supply chain; and/or
- illegally tax or extort money or minerals at points of access to mine sites, along transportation routes or at points where minerals are traded; and/or
- illegally tax or extort intermediaries, export companies or international traders.

Risk of inadequate, inaccurate and fraudulent chain of custody and/or traceability information.

This may include inadequate application of chain of custody and/or traceability measures, irregularities in chain of custody and/or traceability information, or actual fraud in the chain of custody and/or traceability information.

Step 2 = Audits for the ICGLR Regional Certification Mechanism

If you are a mineral exporter operating in the Great Lakes Region, you are required under the ICGLR Regional Certification Mechanism (RCM) to undergo an audit by an accredited ICGLR Third Party Auditor at least once per year. ICGLR Third Party audits examine an exporter's operations, to ensure that all material exported with an ICGLR Regional Certificate was sourced from a clean (green) mine site, and then transported, processed and exported according to ICGLR and OECD standards (i.e. without engendering human rights abuses or contributing to finance armed groups).

ICGLR Audits therefore also evaluate mine sites, trading centres, transportation routes and ICGLR-based companies and individuals in the supply chain to ensure responsible mineral production and trade that does not contribute to conflict.

In this sense, the ICGLR audits are similar to the risk assessment you should carry out, because they will evaluate on-the-ground circumstances of mining, mineral trade, transportation and export. Once ICGLR audits are up and running, you will be able to rely on or use their findings for your own risk assessments. This will reduce your own due diligence burdens! Under these circumstances, as a mineral exporter you should allow the ICGLR Third Party Audit team access to your offices, as well as any documentation relevant to your due diligence, such as chain of custody or traceability documentation. In addition, you should direct your upstream suppliers (traders, négociants, miners, etc) to cooperate in every way with the ICGLR audit team.

How do I identify risks?

To identify risks you should collect and evaluate the following information:

Information for risk assessments	How and where can I find this information?
<ul style="list-style-type: none"> • Mine of mineral origin • Quantity, dates and method of extraction (artisanal and small-scale or large-scale mining) 	<ul style="list-style-type: none"> • Within each country, see documentation required under national traceability requirements (for example the DRC Traceability Procedures Manual for Mining Products, From Extraction to Export). • For sites where iTSCi is operational, this information is recorded in iTSCi logbooks associated with the tag and checked through a risk assessment and the iTSCi database. • For sites where electronic tagging is operational, this information is recorded in the electronic database of daily mineral production by the miner at each tunnel or pit site. • Large-scale industrial mines normally have their own internal systems for documenting the source and location of mineral production on a daily basis. Properly documented, these systems can also serve as the basis for a credible risk assessment.
<ul style="list-style-type: none"> • Locations where minerals are consolidated, traded, processed, upgraded and exported • Identification of the miner, treatment or conversion entities, négociants or other intermediaries, transporters and exporters • Transportation routes 	<ul style="list-style-type: none"> • Within each country, see documentation required under national traceability requirements (for example the DRC Traceability Procedures Manual for Mining Products, From Extraction to Export). • For sites where iTSCi is operational, this information is recorded in iTSCi logbooks associated with the tag and checked through a risk assessment and the iTSCi database. • Where electronic tagging system is operational, this information (miner ID, transporter ID, transport route, processor ID and site, etc) is encoded in radio frequency (RF) tags, captured automatically by radio frequency monitoring stations and transmitted automatically to database(s) owned and controlled by the national government, the mine operator and/or exporter, and the ICGLR.

Information for risk assessments	How and where can I find this information?
<ul style="list-style-type: none"> • All taxes, fees or royalties paid to government for the purposes of extraction, trade, transport and export of minerals 	<ul style="list-style-type: none"> • Record the payments made to all government agencies as part of the export process. In both the DRC and Rwanda, the current procedures for obtaining a Certificate of Origin (and in the near future, the procedures for obtaining an ICGLR Regional Certificate) require exporters to document all royalty payments and other export fees paid to government. This documentation should be kept to serve as the basis of a risk assessment. • Record the legitimate payments made to government agencies at both the mine site and during the purchasing operations at trading centres, forwarding and transfer operations, and export (i.e. mining royalties).
<ul style="list-style-type: none"> • The ownership (including beneficial ownership) and corporate structure of the exporter, including the names of corporate officers and directors; the business, government, political or military affiliations of the company and officers 	<ul style="list-style-type: none"> • In most countries in the Great Lakes Region, the ownership of an exporter is filed with national government authorities as part of the application for an exporter's license. This information can thus be obtained from the appropriate government agency (the permission of the exporter may or may not be required). • Within each country, see also documentation required under national traceability requirements (for example the DRC Traceability Procedures Manual (From Extraction to Export)). • Check credible reports such as the Final reports of the UN Group of Experts on the DRC for information on whether any suppliers are operating on behalf of, or named as an affiliates of non-state armed groups (e.g. FDLR, Mai Mai) or public or private security forces. • Check information on the ownership and political affiliations of exporters in the reports of international and local NGOs (e.g. IPIS, Global Witness, Enough, Human Rights Watch, PAC, PACT).

Information for risk assessments	How and where can I find this information?
<ul style="list-style-type: none"> • Instances of any serious abuses committed by any party in mines, transportation routes and points where minerals are traded and/or processed • Instances of information on any direct or indirect support to non-state armed groups or public or private security forces through the extraction, transport, trade, handling or export of minerals • Irregularities, reports or instances of fraud, misrepresentation 	<ul style="list-style-type: none"> • Review Annex II of the OECD Guidance and the standards for conflict and labour in the mine site section of the Certification Manual of the ICGLR RCM • Check credible reports such as the Reports of the UN Group of Experts on the DRC for instances of fraud, smuggling, serious abuses and the involvement of non-state armed groups (e.g. FDLR, Mai Mai) and public or private security forces (e.g. criminal networks within the police, army units or private mine security) in the extraction, trade and export of minerals. • Reach out to civil society networks operating or based on-the-ground in or around the mine of origin, the trading centres and transportation routes. Through regular and open communication with these networks and through your own on-the-ground investigative work, you should obtain a range of up-to-date information on any instances, reports, or suspicions of fraud, smuggling, serious abuses, or direct or indirect support to non-state armed groups, public or private security forces (see box above). • Check the status of mine sites assessed and mapped through the ICGLR Audit Committee or through multi-stakeholder commissions coordinated by provincial authorities. The sites identified as “green” have been already assessed for risks. Obtain or provide documentation of this assessment where it exists, which could consist of a government mines inspection report or a recent ICGLR Third Party Audit that visited the mine site. • Check information on human rights abuses and support to armed groups in the reports of international and local NGOs (e.g. IPIS, Global Witness, Enough, Human Rights Watch, PAC, PACT). • For sites where iTSCi system is operational, information on serious abuses and direct or indirect support are collected through the iTSCi risk assessment. You should review the iTSCi risk assessment and compare against your own information to look for any potential gaps.

Step 3

How should I respond to the risks I have identified?



You should decide not to source from, or immediately suspend or discontinue engagement with, specific upstream suppliers where you identify a reasonable risk that they are sourcing from, or are linked to, any party:

- committing serious abuses, as defined above
- providing direct or indirect support to non-state armed groups, e.g. rebel groups such as the FDLR or Mai Mai



Where you identify a reasonable risk of direct or indirect support to public or private security forces (e.g. criminal networks within the police, army units or private mine security), you may decide to source from those areas or suppliers but should immediately implement a risk management plan with upstream suppliers and other stakeholders to eliminate these risks. This is called “risk mitigation” and may include measures such as the formalisation of security arrangements, or reporting abusive units to competent authorities.

If you are unable to make significant measurable improvement towards eliminating the direct or indirect support to public or private security forces within six months from the adoption of the risk management plan, you should suspend or discontinue engagement with the upstream supplier and the area associated with that risk.



Where you identify a reasonable risk of nonexistent, inaccurate or fraudulent chain of custody and/or traceability information, you may decide to source from those areas or suppliers but should immediately implement a risk management plan with upstream suppliers and other stakeholders to improve chain of custody or traceability systems. This is called “risk mitigation” and may include measures to improve and regularly monitor chain of custody or traceability procedures.

If you are unable to make significant measurable improvement towards eliminating risk of inaccurate or fraudulent chain of custody and/or traceability information within six months from the adoption of the risk management plan, you should suspend or discontinue engagement with upstream suppliers and the area associated with that risk.

What measures should I take once I have assessed risks and begun sourcing from the mine sites and suppliers?

- Strengthen your chain of custody/traceability procedures, including full compliance with national chain of custody or traceability requirements.
- Monitor your chain of custody or traceability systems for irregularities or instances of fraud. For example, regularly verify that all incoming minerals accurately matches the descriptions (in terms of the quality, weight, number of sacks and batches) provided in chain of custody or traceability information. Also regularly check with on-the-ground assessment teams to see if instances of fraud have been reported. **If you are an iTSCi member or sourcing from sites where iTSCi is operational**, iTSCi will advise its members of risks associated with their specific supply chain, but still stay up to date on progress of bagging and tagging and instances of fraud detected by the iTSCi database. **If you are using the electronic tagging system**, use your mineral tracking database to verify the source, transportation and processing of each sack, mineral shipment or lot before purchasing or taking possession of the lot.
- Provide buyers with a validated declaration of origin and sale for each batch or minerals sold (see for example: Appendix 20 of the **DRC Traceability Procedures Manual for Mining Products, From Extraction to Export**), as well as a brief description outlining the transportation routes used, all taxes, fees and royalties paid to government for the purposes of mineral extraction, trade, transport and export, any instances of fraud and direct or indirect support to public or private security forces, and the status of risk management where relevant. **If you are an exporter**, ensure each one of your exports obtains an ICGLR Regional Certificate once it is up and running, as proof that the material was sourced from a clean mine site and transported and processed according to ICGLR and OECD standards. **If you are an exporter or trader**, transmit records of purchasing processing and sales to the ICGLR Secretariat.
- Make all records and information obtained through due diligence available to customers or to an industry programme like iTSCi and to ICGLR Third Party Auditors or other auditors.

- Establish regular communications with on-the-ground assessment teams and other networks (of civil society, local government officials and multi-stakeholder commissions to follow mining activities) to monitor instances of serious abuses or direct or indirect support to non-state armed groups (e.g. FDLR, Mai Mai) or public or private security forces (e.g. criminal networks within the police, army units or private mine security). Follow up and obtain more information when instances are reported. If reasonable risks are identified, respond as described above in beginning of Step 3. **If you are an iTSCi member or sourcing from sites where iTSCi is operational**, you should remain involved in the iTSCi stakeholder committees.
- Report any identified risks to **the ICGLR Independent Mineral Chain Auditor**. **If you are an iTSCi member or sourcing from sites where iTSCi is operational**, report any identified risks to the stakeholder committee or through the iTSCi incident protocol.

Step 4

Should I carry out or participate in any audits?

The OECD Guidance recommends an audit of the due diligence practices of smelters/refiners but not of everyone in the supply chain. Nonetheless, smelter/refiner audits would also include visits to its suppliers, meaning the traders or exporters who supply the smelter/refiner with minerals.

- **Audits for iTSCi** – iTSCi audits of smelters can perform step 4 of the OECD Guidance. iTSCi audits will also verify that all iTSCi members comply with iTSCi rules and the OECD Guidance, and will audit the iTSCi system itself. This will include visits to the suppliers of iTSCi members to ensure that they are also carrying out due diligence.

If you are an iTSCi member or have customers that are iTSCi members, you should allow the iTSCi auditors to access your offices, as well as any documentation relevant to due diligence, such as chain of custody or traceability documentation and communications with suppliers and on-the-ground assessment teams.
- **Audits for the Conflict Free Smelter (“CFS”) Programme** – CFS audits are focused on the smelter/refiner and look to ensure that the minerals in smelter/refiner’s supply chain are “DRC Conflict Free” according to section 1502 of the U.S. Dodd-Frank Act.

The threshold for “DRC Conflict Free” in the CFS programme requires smelters to demonstrate no direct or indirect support to non-state armed groups and any other armed groups that have been identified in the most recent annual Country Reports on Human Rights Practices issued by the US State Department as perpetrators of human rights abuses.

The OECD Due Diligence Guidance recommends you manage risks of direct or indirect support to public or private security forces (e.g. criminal networks within police, army units or mine security) that are not perpetrators of serious human rights abuses through a time-bound risk management strategy that will demonstrate significant measurable improvement within 6 months from the adoption of the risk management plan. Therefore, using the OECD Guidance will help you move towards “DRC Conflict Free” status.

In order to be eligible for the CFS programme, smelters/refiners sourcing from the Great Lakes region will have to go through an independent review process to ensure that they carry out due diligence in accordance with the OECD Guidance.

This review would include an evaluation of the suppliers of the smelters/refiners to ensure that they are also carrying out due diligence. ICGLR certificates or iTSCi audits can be used for this purpose. Under these circumstances, you should allow the reviewers to access your offices, as well as any documentation relevant to your due diligence, such as chain of custody or traceability documentation and communications with suppliers and on-the-ground assessment teams.

You can obtain more information on the CFS program as well as a list of entities that can evaluate you for conformance to the OECD Guidance at www.conflictreesmelter.org.

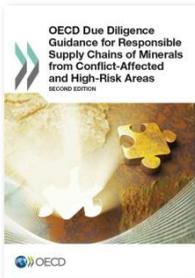
Step 5

How can I show that I have carried out my due diligence?

Every year you should write a report that outlines each of the due diligence steps you have taken. This report should be available at your offices and on your website, if you have one, and to any stakeholders that request it. By making this report public, you will build public confidence and trust in your due diligence through transparent and open processes. Your report will include:

- Your public written statement of commitment to follow Annex II of the OECD Guidance
- A description and examples of your communications with suppliers regarding due diligence expectations
- The name of the person/manager responsible for due diligence
- A description of how you implement chain of custody or traceability and comply with national and regional requirements
- Your risk assessment, without mentioning price or supplier relationships but including a detailed description of how you have reviewed traceability or chain of custody information, verified that information through checks on-the-ground for fraud or irregularities. Also describe how you obtained information on the conflict conditions at mine sites, trading centres and transportation routes through recourse to national mine site inspection reports, on-the-ground assessment teams or from initiatives that map and assess mine sites like iTSCI or the ICGLR Audit Committee and ICLGR Independent Mineral Chain Auditor.
- A description of any risk management you have in place and methods for tracking performance, including a description of the time frame for improvement
- A description of how you have strengthened your chain of custody or traceability measures after your risk assessment
- A description of the steps taken to regularly monitor the evolving circumstances of your supply chains for any changes, through on-the-ground networks or other means
- A description of any audits you have participated in

The OECD Due Diligence Guidance



The **OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas** is the first example of a collaborative government-backed

multi-stakeholder initiative on responsible supply chain management of minerals from conflict-affected and high risk areas.

Its objective is to help companies respect human rights and avoid contributing to conflict through their mineral sourcing practices. The Guidance is also intended to cultivate transparent mineral supply chains and sustainable corporate engagement in the mineral sector with a view to enabling countries to benefit from their natural mineral resources and preventing the extraction and trade of minerals from being a source of conflict, human rights abuses, and insecurity.

The Guidance was approved at ministerial level by 42 OECD and non-OECD countries, and has been endorsed by the 11 heads of State and Government of the ICGLR in the Lusaka Declaration, adopted on 15 December 2010.

Read more at:
minguidelines.oecd.org/mining.htm

The ICGLR Regional Certification Mechanism



The **ICGLR Regional Certification Mechanism** provides a single regional standard covering the mining, trading and exporting of tin, tantalum,

tungsten and gold for all 11 countries of the International Conference of the Great Lakes Region.

The ICGLR certification mechanism aims to enable regional exporters to provide their overseas customers and downstream users with proof – in the form of an ICGLR Regional Certificate – that the minerals that they are exporting were mined, traded, transported, processed and exported in accordance with internationally recognised standards.

The ICGLR standards have been completely harmonised with the OECD Due Diligence Guidance. A mineral export shipped from the ICGLR region with an ICGLR Regional Certificate is thus in compliance with the requirements of the OECD Due Diligence Guidance. The ICGLR Regional Certificate is the proof of this compliance.

The detailed standards and procedures of the ICGLR certification mechanism are defined in the Certification Manual of the ICGLR Regional Certification Mechanism is available at: www.icglr.org.