



SANTA LIZABETH - BANGALORE PROJECT

# OECD Due Diligence Guidance for Responsible Mineral Supply Chains



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# Organisation for Economic Cooperation and Development - OECD

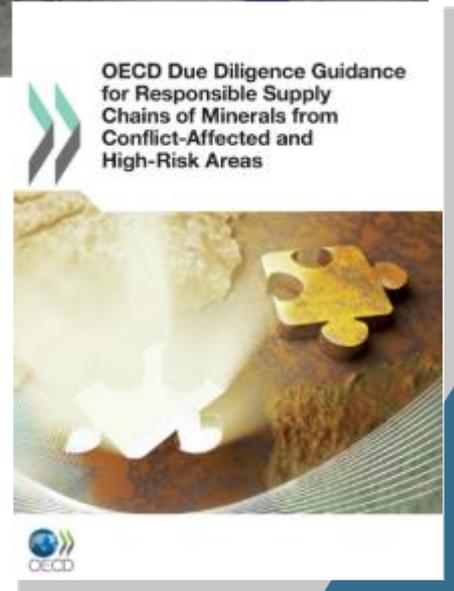
Inter-governmental organisation  
founded in 1961

37 member governments

Turkey joined the OECD in 1961 and  
committed to implementing all OECD  
instruments

This includes the OECD **Guidance for  
Responsible Mineral Supply Chains**

Turkey participates in the annual  
**Implementation Forum** meeting with  
1200+ participants in Paris

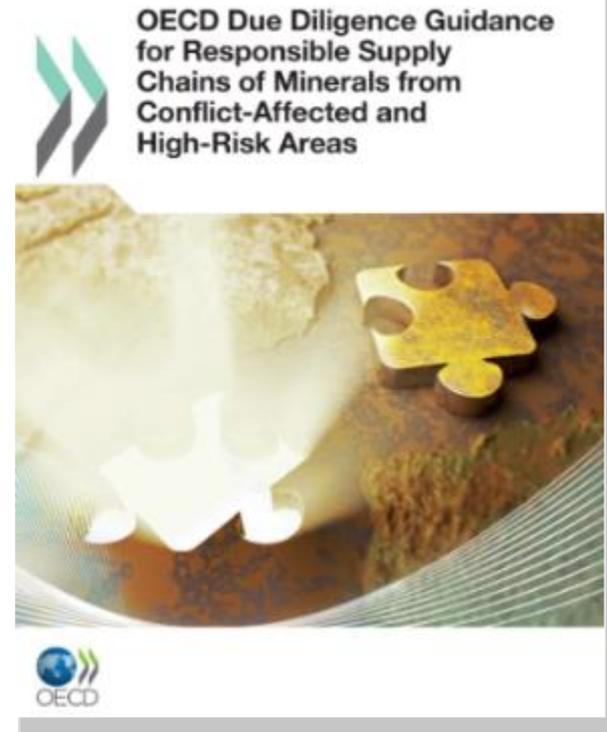




## OECD Guidance aims to promote responsible investment

Developed through a multi-stakeholder process, the Guidance:

- Clarifies **how companies can identify and manage risks** throughout the entire mineral supply chain
- **Aims to promote responsible investments in mineral production and trade** to support its contribution to sustainable development of producing countries

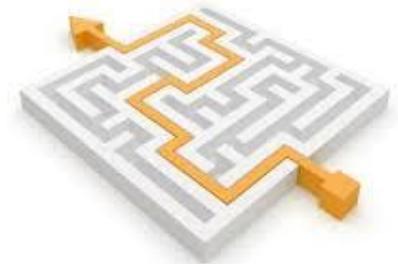




# What is supply chain due diligence?

**Due diligence** means companies need to do their 'homework' on their supply chains to understand:

- ✓ **where the minerals they buy or refine come from**
- ✓ **if the mining, transport or trade of minerals fund conflict or human rights abuses or are linked to financial crime**





# Supply chain risks

Exploitation and trade of mineral resources is a source of growth, but can be associated with negative impacts:

**Serious human rights abuses** (e.g. child labour, forced labour)

**Conflict financing**

**Financial crimes**

**Global issues** (Africa, Asia, Latin America, Europe)

**Affect all mineral resources** (gold but also tin, tantalum, tungsten, cobalt, precious stones, coal etc.)





# Why should companies care?

**Legislation** requiring companies to source responsibly and disclose their due diligence efforts:

- US Dodd Frank Law sec. 1502
- EU Regulation 2017/821



**Scrutiny from governments** on supply chain activities that potentially:

- violate sanctions
- support terrorism or conflict
- contribute to bribery and money laundering





# EU regulation 2017/821



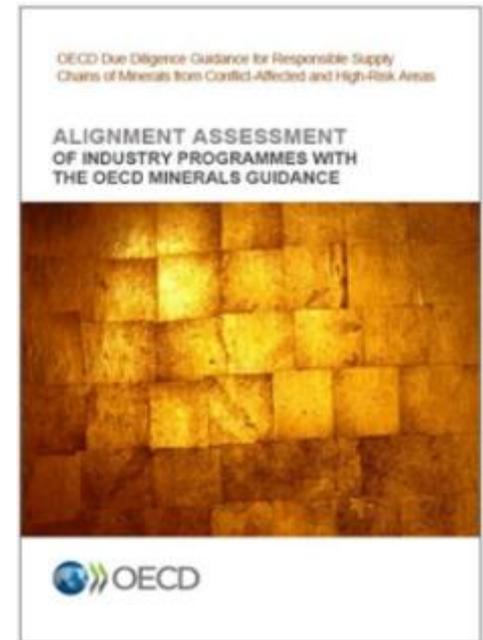
EU Regulation on responsible mineral supply chains adopted in 2017, **will come into force in 2021**

**Based on the OECD Due Diligence Guidance**

**Obligations for EU importers of gold**

**Recognition of industry programs enshrined in secondary regulation (so-called Delegated Act)**

**based on OECD assessment methodology**





# Why should companies care?

**Market access** is increasingly limited by industry audits on due diligence systems of refiners (e.g. LBMA, DMCC, RMI, and RJC)

**Investors** are more keen to avoid high-risk sectors, including sectors subject to regulatory or reputational damage

**Consumer action**, through social media and 'mega' campaign groups, are changing consumer demand



**LBMA**  
GOOD DELIVERY  
REFINER





## How does this relate to the Turkey?

- **Turkey** is a major importer and exporter of gold, a significant refiner in the region, plays a central role in the global gold supply chain
- In 2015, the World Gold Council reported that gold fabrication, consumption and recycling contributed **US\$3.8bn to Turkey's economy**
- The value chain supports 5,000 gold fabricators, 35,000 retail outlets and employs about 250,000 people in Turkey





# Industry programmes





The OECD Guidance for  
Responsible Supply Chains  
of Minerals from Conflict-  
Affected and High-Risk Areas



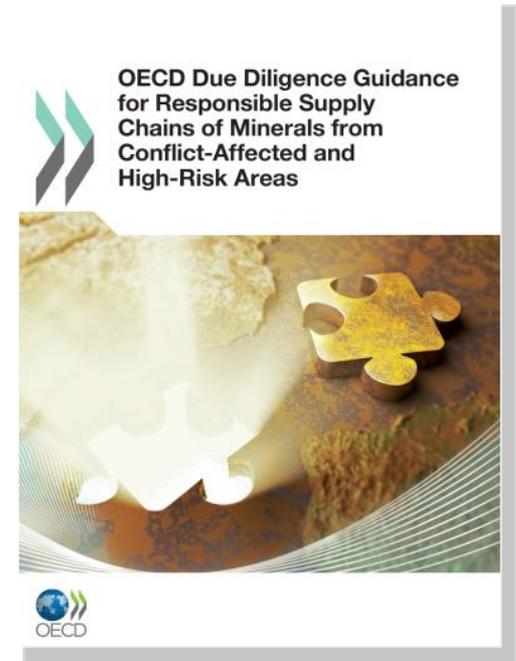
# Key features of the OECD Due Diligence Guidance

- **One set of expectations**

A common framework for due diligence expectations throughout the entire mineral supply chain *from mines until end users*

- **Progressive approach**

The promotion of *constructive engagement with suppliers* in order to gradually affect changes in their sourcing practices without embargoes!





# Due Diligence vs. Compliance

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Not intended to provide 100% certainty on the conflict-free status of minerals, but **focus on the processes to identify, prevent and mitigate risk** based on available information

**On-going, proactive and reactive:** Information and due diligence systems should be progressively improved over time

**Risk-based approach:** the higher the identified risk, the more intensive the due diligence and monitoring

Identifying, assessing, reporting and mitigating risks can demonstrate **reasonable and good faith due diligence efforts**; constructive engagement with suppliers enables companies to progressively improve due diligence practices

**Responsibility that appropriate due diligence on individual supply chains has been carried out lies with the company but industry initiatives can take on due diligence activities**



## How to read the Guidance

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- **5-step risk-based framework** for all minerals from conflict-affected and high-risk areas (**Annex I**)
- Model supply chain policy and list of high-priority risks (**Annex II**)
- Principles for **Risk Mitigation (Annex III)**
- Supplements on **Tin, Tantalum and Tungsten (2011)** and **Gold (2012)**, including *special Appendix on artisanal and small-scale mining for gold*



## Annex II Risks

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- **NO!** Sourcing from parties linked to serious abuses
- **NO!** Direct or indirect support to non-state armed groups
- **MITIGATE!** Direct or indirect support to public or private security forces
- **MITIGATE!** Bribery in the supply chain, fraud or misrepresentation of chain of custody or traceability information
- **MITIGATE!** Money-laundering through the mineral supply chain
- **MITIGATE!** Non-payment by suppliers of taxes, fees and royalties related to mineral extraction, transport and export



# Common 5-Step Framework for Due Diligence across mineral supply chains

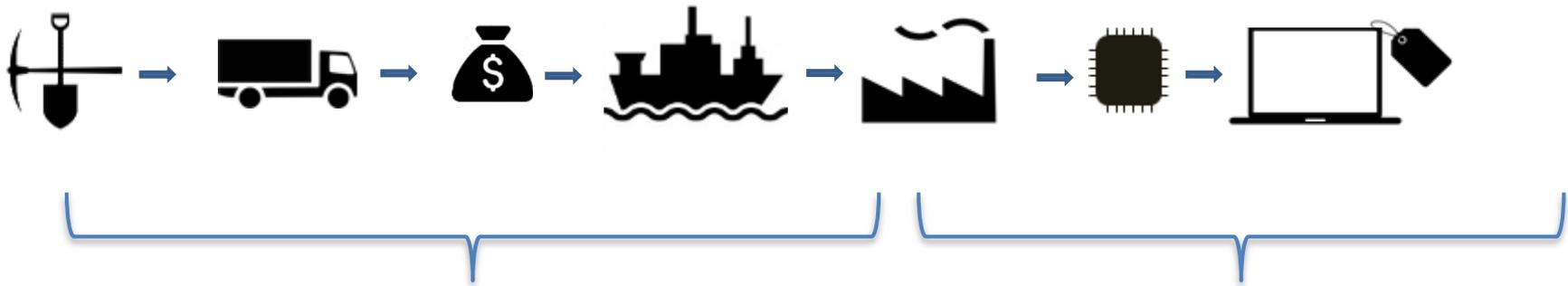
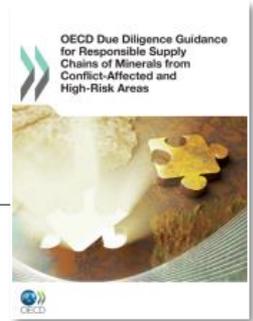
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- 1 Establish strong management systems:** Policy, internal capacity, supplier & business partner engagement, internal controls, data collection, grievance mechanism
- 2 Identify, assess and prioritise sourcing risks:** map operations, business partners & supply chains, prioritize based on severity of harm – carry out enhanced checks when location, supplier or circumstance red flags are identified
- 3 Manage risks :** inform senior management, fix internal systems, build leverage individually or collaboratively, use existing networks to manage risk (e.g. industry, monitoring groups etc.), build internal and business partner capacity
- 4 Refiner audits:** 3<sup>rd</sup> party independent audit at identified control point in the supply chain: for gold this is the refiner!
- 5 Report on due diligence:** publicly report annually with due regard for commercial confidentiality and competitive concerns



# ‘Whole of supply chain’ due diligence

*e.g. simplified metal supply chain*



## “Upstream” companies:

- ✓ Establish traceability or chain of custody to mine of origin
- ✓ For “red flagged” supply chains, undertake on-the-ground assessments of mines, producers & traders for conflict, serious abuses, bribery, tax evasion, fraud, money-laundering
- ✓ Collaborative engagement with local gov’t, CSOs, local business to prevent & mitigate impacts, monitor

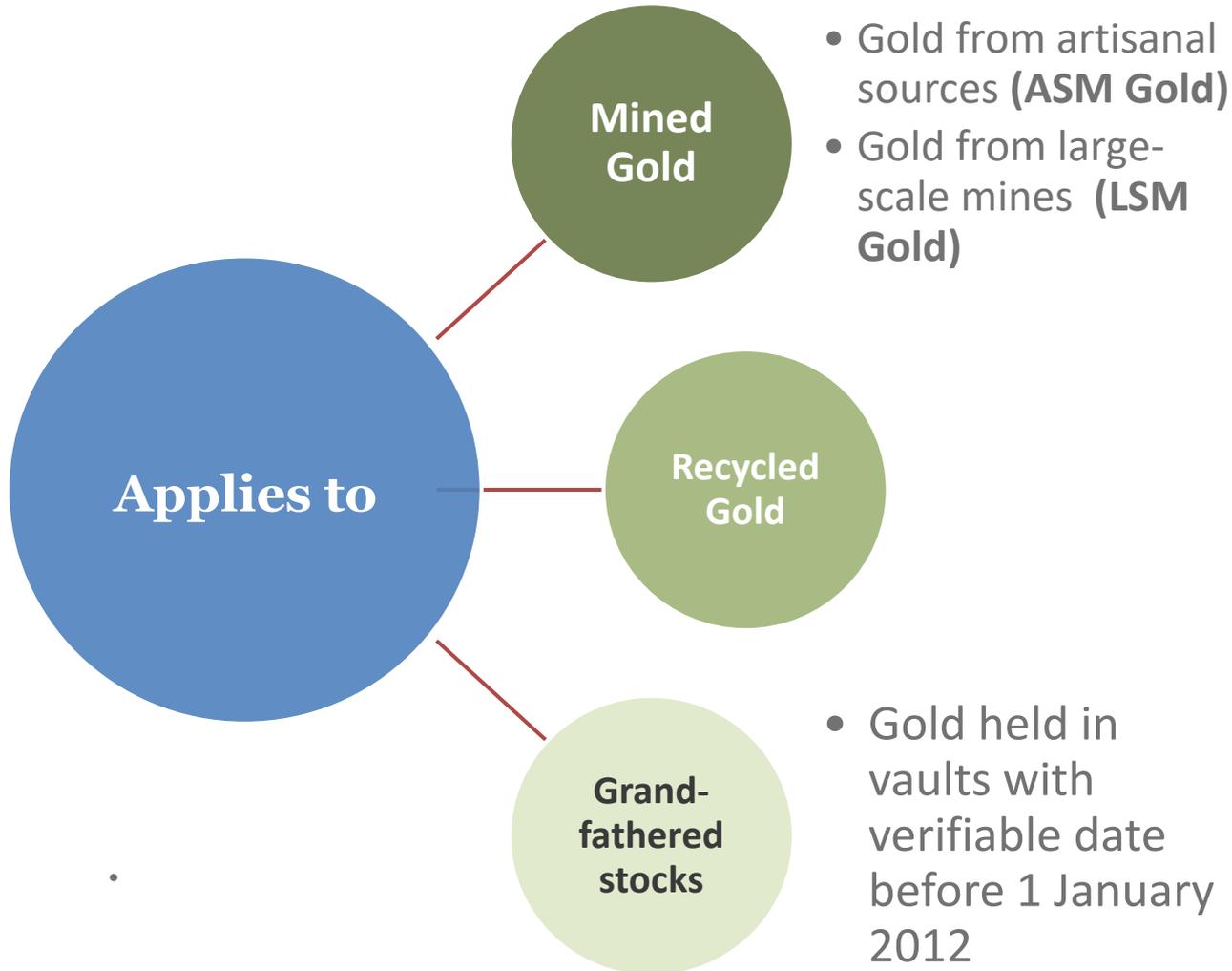
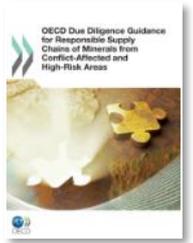
## “Downstream” companies:

- ✓ Identify “choke points” in supply chain (e.g. metal smelter or refiners)
- ✓ Collect information on their upstream due diligence (e.g. both through individual efforts and industry auditing)
- ✓ Use collective industry leverage to encourage improvement of upstream due diligence



# Supplement on Gold

*Applies to all types of gold sources*





# OECD Guidance and artisanal and small-scale mining (ASM)



- ✓ ASM has a **key role**, can drive **sector-wide changes** in responsible sourcing
- ✓ The Guidance enables **market access** through **collaborative efforts** of all actors involved
- ✓ **Detailed Appendix on ASGM** provides roadmap to create economic and development opportunities for artisanal miners,
- ✓ **All stakeholders** (e.g. governments, industry, civil society) **encouraged to use the suggested measures in the Appendix**





## Who is involved in due diligence?

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Due diligence is a responsibility of companies, but does not only involve companies as there are **important roles for other stakeholders, such as governments and civil society!**



What should be the role of civil society?

What should be the role of government?

How can stakeholders work together?



# 5-step due diligence framework

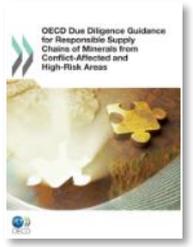
# Step 1: Set up company management systems



- ✓ Adopt a policy on minerals from conflict-affected and high-risk areas
- ✓ Communicate the policy to suppliers and incorporate due diligence expectations into contracts
- ✓ Learn and train suppliers about due diligence and responsible sourcing of minerals
- ✓ Appoint a knowledgeable staff member to be in charge of due diligence
- ✓ Keep records related to mineral purchases and risks
- ✓ Establish a transparency system over the supply chain: Use chain of custody or traceability tracking system for minerals



## Transaction information: collect for all gold-bearing products!



- a) Information regarding the form, type and physical description of gold and gold-bearing materials, e.g. gold ore, gold concentrate, gold doré, alluvial gold, recyclable gold, gold bullion, jewellery, etc.
- b) Information provided by the supplier regarding the weight and assay of gold and gold-bearing materials of input, and determinations of the weight and assay of gold inputs and outputs.
- c) Supplier details, including “know your counterparty” (“KYC”) due diligence information
- d) Unique reference numbers for each input and output.
- e) Dates of input and output, purchases and sales.



## Examples of system of transparency, information collection and control

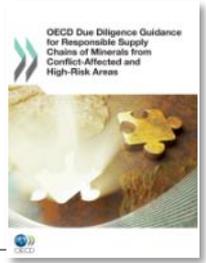
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### For international traders of Mined/Recyclable Gold and refiners:

- ✓ Assign unique internal reference numbers to all inputs and outputs and affix and/or imprint that reference number on all outputs
- ✓ Coordinate and support physical security practices used by other upstream companies.
- ✓ Inspect all shipments for conformity to supplier information; report any inconsistency, physically segregate and secure inconsistent shipments until resolved
- ✓ **FOR REFINERS ONLY:** Render all gold outputs identifiable (e.g. Refiner name, year of refining, unique reference number)



## Step 2: Identify and assess risks



### Upstream:

- ✓ Risks at mines
- ✓ Risks along transport routes and at trading centres
- ✓ Risks associated with suppliers
- ✓ Risks within chain of custody or traceability scheme (corruption, fraud etc.)

### Downstream:

- ✓ Use best efforts to identify smelters / refiners
- ✓ Assess risks by evaluating whether smelters undertake due diligence (e.g. reviewing audit participation and audit information)



# OECD Guidance Annex II Risks

Annex II of the Guidance identifies key risks prevalent in the trade and production of minerals:



Serious abuses of human rights (including forced labour, worst forms of child labour, widespread sexual violence, etc.)

Direct and indirect support to non-state armed groups

Direct and indirect support to private and public security forces

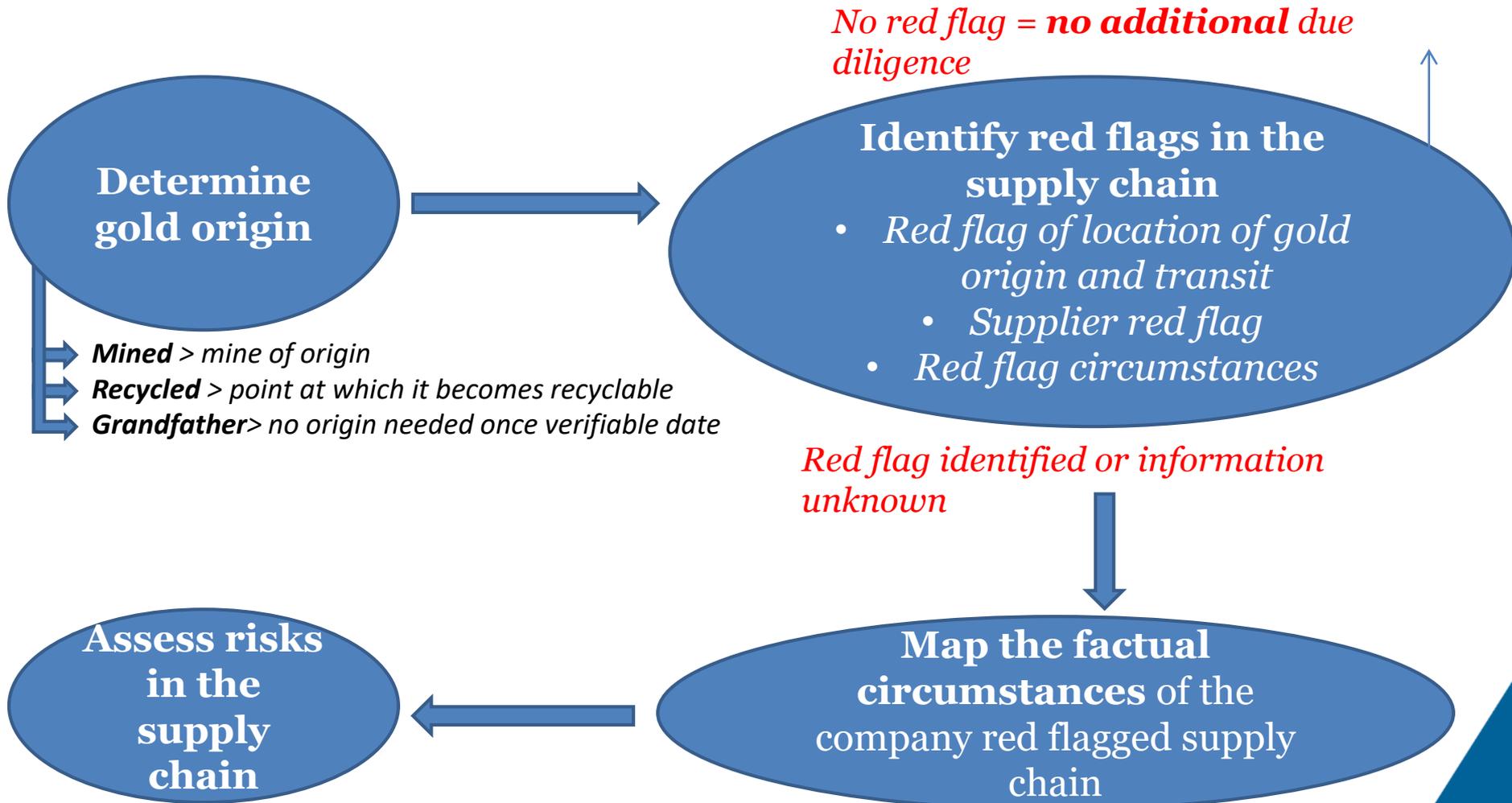
Bribery and fraudulent misrepresentation of the origin of minerals

Money laundering

Non-payment of taxes, fees and royalties due to government



# Risk identification for international gold trader, recyclers and refiners





## Triggers for enhanced and risk-based due diligence - Example: origin of gold and transit red flags

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



## Other red flags: Triggers for enhanced due diligence

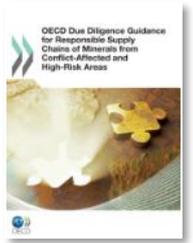
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### *Supplier red flags*

-  *Suppliers or other known upstream companies have shareholder or other interests in companies that supply minerals from or operate in one of the previously mentioned red flag locations of mineral origin and transit.*
-  *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*



# Identify and assess risk for Mined Gold



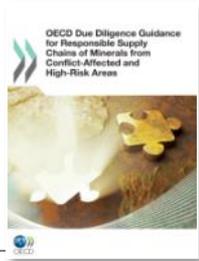
## Risk Factors for Mined Gold

*Use a risk-based approach, with more due diligence for persons, places and transactions that present higher risk!*

- ✓ **Any affiliation** of suppliers with military, criminal networks or non-state armed groups.
- ✓ **Militarisation of mine sites, transportation routes** and points where gold is traded and exported.
- ✓ **Evidence of any serious abuses (forced labour, worst forms of child labour)** committed by any party in mines, transportation routes and points where gold is traded and/or processed.
- ✓ **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 gold.
- ✓ **Instances of conflict or tensions in the relationship between ASM and LSM.**
- ✓ **Any instances, reports or suspicions of fraud** or contamination in the supply chain



## Step 3: Respond to identified risks



- ✓ Report findings to senior management
- ✓ Devise, adopt and implement a risk management plan, that includes:



STOP sourcing from or engagement with suppliers that are:

- ✓ The supplier is not using reasonable and good faith efforts to implement the Guidance or participate in related programmes
- ✓ Committing serious abuses such as forced labour, worst forms of child labour
- ✓ Providing direct or indirect support to non-state armed groups (ex: rebel or militia groups)



CONTINUE sourcing but MITIGATE RISKS for all other risks

### Risk mitigation

- ✓ Make a plan for how to eliminate the risks you identified
- ✓ Monitor supply chain with support from stakeholder networks



## Step 4: Independent third-party audits of smelter/refiner due diligence

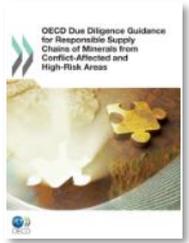


- ✓ For most mineral supply chains, the focus is on **audits at the smelter and refiner level**
- ✓ Audits usually happen outside the producing region
- ✓ Can be carried out by industry programmes, such as:





## Step 4: Carry out or support independent third-party audits of refiners' due diligence



### The scope of the audit

- ✓ All activities, processes and systems used by the refiner to implement supply chain due diligence of gold from conflict-affected and high-risk areas

### Audit criteria

- ✓ The audit should determine the conformity of the implementation of refiner's due diligence practices against an audit standard that is based on this Guidance

### Audit activities

- ✓ Documentation review
- ✓ On-site investigations of smelter facilities, a sample of the suppliers, meeting with smelters on-the-ground risk assessment, and consultation with other experts

**\*\*Can be carried out through industry programmes\*\***

## Step 5: Report annually on supply chain due diligence



Every year companies should write a report on the due diligence they have carried out, including:

- ✓ Due diligence and conflict minerals policy
- ✓ Examples of communication with suppliers regarding due diligence expectations
- ✓ Name of the person responsible for due diligence in the company
- ✓ Description of the chain of custody or traceability system
- ✓ Company risk assessment and risk management
- ✓ Summary audit reports of smelters/refiners with due regard taken of business confidentiality and other competitive or security concerns



## *Confidentiality and competitive concerns*

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### Annual public reporting is a clear expectation under Step 5

But concerns around confidentiality and competition between commercial entities mean that not all information must be made public:

- ✓ **Price information; supplier identities and relationships** (however the identity of the refiner and the local exporter located in red flag locations should always be disclosed except in cases of disengagement)
- ✓ **transportation routes**
- ✓ **identity of information sources and whistle-blowers** located in conflict-affected and high-risk areas, where revealing the identity of such sources would threaten their safety

**But all information should be disclosed to a third party**, described as “any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals from conflict-affected and high-risk areas”



# Step 5 report example

**Figure 2: 3TG Smelters and Refiners Third Party Audit Participation**

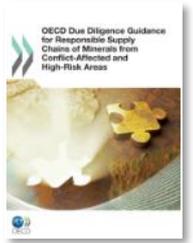


Based on end-of-year reporting.

See Annex II for additional breakdown of reported smelters and refiners.



# Summary on Due Diligence



- **Risk-based**, intensity of due diligence proportional to risk!
- **Reasonable and good faith efforts**, not 100 % compliance overnight!
- **Government and industry programmes** can help accomplish due diligence tasks!
- Use and build upon **existing systems**!

Step 1

- **Establish strong company management systems**

Step 2

- **Identify and assess risks in the supply chain**

Step 3

- **Design and implement a strategy to respond to identified risks**

Step 4

- **Refiners to get independent third-party audited**

Step 5

- **Report annually on supply chain due diligence**



## For further information on the OECD's work on Responsible Business Conduct

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- <http://mneguidelines.oecd.org/>
- <http://www.oecd.org/corporate/mne/mining.htm>
- [OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas](#)
- [FAQ on sourcing gold from artisanal and small scale miners](#)
- [OECD Council report on the implementation of the due diligence guidance](#)
- [OECD Alignment Assessment Tool](#)
- [Practical Actions for Companies to Identify and Address the Worst Forms of Child Labour](#)



# WORKING WITH GOVERNMENTS



# Government & private sector have complementary roles!



✓ *Robust government documentation & effective supervision helps companies, i.e. **better government oversight = less due diligence burden for companies!***



## How can governments support implementation of due diligence?

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- Strengthen **regulatory and policy coherence and interventions** on responsible mineral supply chains (mining sector governance and transparency; support to responsible ASM, etc.)
- **Align regulation** with international standards on customs controls, AML/CFT expectations and non-financial reporting
- **Train relevant domestic authorities** on mineral supply chains (including risks) and international standards on due diligence > cooperation underway with WCO, FATF and INTERPOL
- **Support dissemination** among domestic stakeholders – private sector and civil society
- **Participate in OECD implementation programme**



# Support and policy advice on responsible mineral supply chains

- Baseline regional assessment of mineral supply chains (DRC, Colombia, West Africa) and policy recommendations
- Support to regulatory initiatives to ensure alignment with international standards
- Work with multi-national organisations





# Promoting exchange of information / intelligence

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Development of an informal network of law enforcement officials and minerals experts with a view to:

- Bring attention to minerals related crime and enable exchanges of experience, case studies, known patterns of crime, common enforcement challenges
- Identifying weakness in the current national and international framework for combating minerals related crime
- Develop training / capacity building of law enforcement agencies
- Enhancing information cooperation between LEA/private sector/CSO
- Preparing the groundwork to organise joint operations focusing on networks smuggling precious metals and precious stones
- Organizations involved: WCO, FATF, and INTERPOL





# Working with major airline companies

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## Consultations with airlines on detection and control of hand carry gold

**Expose the magnitude of hand-carry gold**, based on UN GoE findings and discuss illegal gold transport patterns from conflict and high risk areas to destination markets

**Inform companies on existing international standards** on responsible business conduct in global mineral supply chains, including transportation of minerals

**Create a space for sharing** among various stakeholders involved in hand-carry gold control and transport

**Discuss existing policies to enable airline companies to detect / control** systematically hand-carry gold and discuss specific challenges related to the control of hand-carry gold by airlines;