Addressing Forced Labor in Global Supply Chains:
Lessons and Applications of the Brazilian Experience

June 20, 2011
Washington, DC

Presented by:
The International Labor Organization,
In partnership with the United States Department of State,
The Embassy of Brazil in Washington, DC
Business for Social Responsibility and the Global Fairness Initiative
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CONFERENCE INFORMATION

Addressing Forced Labor in Global Supply Chains:
Lessons and Applications of the Brazilian Experience

Date: June 20, 2011
Time: 8:30A.M – 4:00 P.M.
Location: The Brookings Institution
1775 Massachusetts Avenue, NW
Washington, DC 20036
Falk Auditorium– 1st Floor

SITUATIONAL OVERVIEW

A number of recent initiatives have focused attention on the need for multi-national companies to effectively monitor and take steps to remediate forced labor in their global supply chains, including the California Transparency in Supply Chain Act that requires public reporting of audit and verification efforts and the recommendations of the USDA regarding steps companies can take to reduce the likelihood of importing goods made with forced and child labor. Additionally, the work of the OECD around due diligence demonstrates the expanding interest and need for continued clarity and understanding of these issues. As attention to these issues has grown, so has the recognition of the challenges faced by companies and countries and the paucity of promising models for identifying and combating the practice by what are often fourth or fifth-tier suppliers.

Brazil has a long experience of public and private sector efforts to combat forced labor in a range of sectors now collected around the current National Pact for the Eradication of Slave Labor (the PACT). Since 2002, the ILO has been working in Brazil with stakeholders from government, civil society and private corporations to support the innovative local efforts around the PACT that combat forced labor in supply chains. These public and private sector efforts in Brazil have helped to raise awareness about forced labor, mobilize companies, rescue thousands of forced laborers, and map complex supply chains in a range of industries. By further understanding and strengthening the experience of Brazil, with its progress and difficulties, important lessons can be extracted for overcoming challenges and making broader progress. This process can also offer useful tools to companies striving to better understand their own supply chains and make effective interventions to improve working conditions. The cooperation between the government, private sector and civil societies – and of the Brazilian and United States governments through an innovative new MOU to promote trilateral cooperation – also presents opportunities for developing a promising and coordinated roadmap to tackling forced labor in complex supply chains.
ABOUT THE EVENT

The one-day meeting agenda will be built around three facilitated panel discussions aimed at guiding participants through a dialogue on 1) shared experience and lessons learned from the PACT engagement; 2) opportunities and barriers; and 3) future action. While the meeting will maintain an underlying focus on the broad importance of addressing forced labor in global supply chains, the specific focus of the dialogue will be on the actions and opportunities related to the Brazil work on forced labor embodied in the PACT. The panels will address:

Panel 1) Shared Experience and Lessons Learned: The opening panel will set the scene regarding the U.S. context and focus on supply chain transparency and what has been achieved through the work on forced labor in Brazil and the development of the PACT. Key focus areas will include:

- **Framework**: What is the experience from Brazil and what has defined success?
- **Implementation**: What have been major challenges in practice and what are next key steps?

Panel 2) Opportunities and Barriers: The second panel will focus on the opportunities that have grown out of the Brazil program for companies and what has driven participation. Additionally, existing and anticipated barriers will be presented by stakeholders to help strengthen the program and the PACT and to help broaden participation. Key focus areas will include:

- **Creating Ownership**: What are the essential components driving supplier buy-in and participation and what can be done to prevent opt outs?
- **Pinch-Points**: Can specific pinch points in the supply chain be identified for targeted interventions by stakeholders (particularly buyers) or does this limit impact?
- **Supply Chain Variations**: What are the key variations in supply chains that are addressed in the program and can there be different approaches?
- **Gaps**: What are gaps that need to be addressed to effectively monitor and remediate violations?

Panel 3) Collaborative Discussion and Potential Future Action: The final session of the forum will open discussion of issues and opportunities that have arisen during the day and what it will take to successfully address key gaps and coalesce around future opportunities for the framework. A focus will be placed on the process to further strengthen the work within Brazil, the investment of multinational enterprises and to gather leadership from each sector around a model that can serve as a foundation for future success locally and application beyond. The recent MOU between the United States and Brazil on trilateral cooperation can be an important tool for collaboration in this regard and a driver of successful expansion.
An act to add Section 1714.43 to the Civil Code, and to add Section 19547.5 to the Revenue and Taxation Code, relating to human trafficking.

[Approved by Governor September 30, 2010. Filed with Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL’S DIGEST

SB 657, Steinberg. Human trafficking.

The federal Victims of Trafficking and Violence Protection Act of 2000 establishes an Interagency Task Force to Monitor and Combat Trafficking, as specified.

Existing state law makes human trafficking a crime. Existing state law also allows a victim of human trafficking to bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief.

Existing law generally regulates various business activities and practices, including those of retail sellers and manufacturers of products.

This bill would enact the California Transparency in Supply Chains Act of 2010, and would, beginning January 1, 2012, require retail sellers and manufacturers doing business in the state to disclose their efforts to eradicate slavery and human trafficking from their direct supply chains for tangible goods offered for sale, as specified. That provision would not apply to a retail seller or manufacturer having less than $100,000,000 in annual worldwide gross receipts. The bill would also make a specified statement of legislative intent regarding slavery and human trafficking. The bill would also require the Franchise Tax Board to make available to the Attorney General a list of retail sellers and manufacturers required to disclose efforts to eradicate slavery and human trafficking pursuant to that provision, as specified.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the California Transparency in Supply Chains Act of 2010.

SEC. 2. The Legislature finds and declares the following:
(a) Slavery and human trafficking are crimes under state, federal, and international law.
(b) Slavery and human trafficking exist in every country, including the United States, and the State of California.
(c) As a result of the criminal natures of slavery and human trafficking, these crimes are often hidden from view and are difficult to uncover and track.

(d) In recent years, significant legislative efforts have been made to capture and punish the perpetrators of these crimes.

(e) Significant legislative efforts have also been made to ensure that victims are provided with necessary protections and rights.

(f) Legislative efforts to address the market for goods and products tainted by slavery and trafficking have been lacking, the market being a key impetus for these crimes.

(g) In September 2009, the United States Department of Labor released a report required by the Trafficking Victims Protection Reauthorization Acts of 2005 and 2008 which named 122 goods from 58 countries that are believed to be produced by forced labor or child labor in violation of international standards.

(h) Consumers and businesses are inadvertently promoting and sanctioning these crimes through the purchase of goods and products that have been tainted in the supply chain.

(i) Absent publicly available disclosures, consumers are at a disadvantage in being able to distinguish companies on the merits of their efforts to supply products free from the taint of slavery and trafficking. Consumers are at a disadvantage in being able to force the eradication of slavery and trafficking by way of their purchasing decisions.

(j) It is the policy of this state to ensure large retailers and manufacturers provide consumers with information regarding their efforts to eradicate slavery and human trafficking from their supply chains, to educate consumers on how to purchase goods produced by companies that responsibly manage their supply chains, and, thereby, to improve the lives of victims of slavery and human trafficking.

SEC. 3. Section 1714.43 is added to the Civil Code, to read:

1714.43. (a) (1) Every retail seller and manufacturer doing business in this state and having annual worldwide gross receipts that exceed one hundred million dollars ($100,000,000) shall disclose, as set forth in subdivision (c), its efforts to eradicate slavery and human trafficking from its direct supply chain for tangible goods offered for sale.

(2) For the purposes of this section, the following definitions shall apply:

(A) “Doing business in this state” shall have the same meaning as set forth in Section 23101 of the Revenue and Taxation Code.

(B) “Gross receipts” shall have the same meaning as set forth in Section 25120 of the Revenue and Taxation Code.

(C) “Manufacturer” means a business entity with manufacturing as its principal business activity code, as reported on the entity’s tax return filed under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(D) “Retail seller” means a business entity with retail trade as its principal business activity code, as reported on the entity’s tax return filed under Part 25120 of the Revenue and Taxation Code.
10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(b) The disclosure described in subdivision (a) shall be posted on the retail seller’s or manufacturer’s Internet Web site with a conspicuous and easily understood link to the required information placed on the business’ homepage. In the event the retail seller or manufacturer does not have an Internet Web site, consumers shall be provided the written disclosure within 30 days of receiving a written request for the disclosure from a consumer.

(c) The disclosure described in subdivision (a) shall, at a minimum, disclose to what extent, if any, that the retail seller or manufacturer does each of the following:

(1) Engages in verification of product supply chains to evaluate and address risks of human trafficking and slavery. The disclosure shall specify if the verification was not conducted by a third party.

(2) Conducts audits of suppliers to evaluate supplier compliance with company standards for trafficking and slavery in supply chains. The disclosure shall specify if the verification was not an independent, unannounced audit.

(3) Requires direct suppliers to certify that materials incorporated into the product comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business.

(4) Maintains internal accountability standards and procedures for employees or contractors failing to meet company standards regarding slavery and trafficking.

(5) Provides company employees and management, who have direct responsibility for supply chain management, training on human trafficking and slavery, particularly with respect to mitigating risks within the supply chains of products.

(d) The exclusive remedy for a violation of this section shall be an action brought by the Attorney General for injunctive relief. Nothing in this section shall limit remedies available for a violation of any other state or federal law.

(e) The provisions of this section shall take effect on January 1, 2012.

SEC. 4. Section 19547.5 is added to the Revenue and Taxation Code, to read:

19547.5. (a) (1) Notwithstanding any provision of law, the Franchise Tax Board shall make available to the Attorney General a list of retail sellers and manufacturers required to disclose efforts to eradicate slavery and human trafficking pursuant to Section 1714.43 of the Civil Code. The list shall be based on tax returns filed for taxable years beginning on or after January 1, 2011.

(2) Each list required by this section shall be submitted annually to the Attorney General by November 30, 2012, and each November 30 thereafter. The list shall be derived from original tax returns received by the Franchise Tax Board on or before December 31, 2011, and each December 31 thereafter.
(b) Each annual list required by this section shall include the following information for each retail seller or manufacturer:

(1) Entity name.

(2) California identification number.
PROPOSED GUIDELINES ON FORCED AND CHILD LABOR

DEPARTMENT OF AGRICULTURE
Foreign Agricultural Service

Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products

AGENCY: Foreign Agricultural Service, USDA.

Consultative Group Members

- Darci Vetter (Chairperson), Deputy Under Secretary, Farm and Foreign Agricultural Services, U.S. Department of Agriculture
- Ann Wright, Deputy Under Secretary, Regulatory and Marketing Programs, U.S. Department of Agriculture
- Sandra Polaski, Deputy Under Secretary for International Affairs, U.S. Department of Labor
- Michael Posner, Assistant Secretary of State for Democracy, Human Rights and Labor, Department of State
- Bama Athreya, President, Global Works Foundation
- Eric Edmonds, Associate Professor of Economics, Dartmouth University
- Kimberly Elliott, Senior Fellow, Center for Global Development, Visiting Fellow, Peterson Institute
- Bill Guyton, President, World Cocoa Foundation
- Rachelle Jackson, Director, Research and Development, STR Responsible Sourcing
- Dennis Macray, Senior Sustainability Advisor, Theo Chocolate Company
- Edward Potter, Director, Global Workplace Rights, Coca-Cola Co.
- Margaret Roggensack, Senior Advisor for Business and Human Rights, Human Rights First
- Auret Van Heerden, President and CEO, Fair Labor Association

PROPOSED GUIDELINES

The following program elements should be part of any program intended to reduce the likelihood that imported agricultural products are produced with the use of forced labor or child labor. Section I. below provides relevant definitions for the guidelines that follow; section II outlines the elements that should be included in company programs; and section III describes the role of independent third-party reviewers.

I. Definitions
Given the variety of existing programs and the varying use of terms from one to another, the Group agreed on the following operating definitions for its recommended program:
Agricultural Products--Goods in chapters 1-24 of the Harmonized System, other than fish, as well as a few additional products outside of those chapters, including raw cotton, raw wool, hides, skins, proteins, and essential oils.

Child Labor--The worst forms of child labor as defined in ILO Convention 182, the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

Company--An entity involved in the production, processing and distribution of agricultural products or commodities; or an entity which uses such products or commodities as inputs into further processed goods.

Forced Labor--All work or service that is exacted from any individual under menace of any penalty for nonperformance of the work or service, and for which the work or service is not offered voluntarily; or the work or service is performed as a result of coercion, debt bondage, or involuntary servitude (as those terms are defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102); and by 1 or more individuals who, at the time of performing the work or service, were being subjected to a severe form of trafficking in persons (as that term is defined in that section).

Independent Third Party Monitoring--Process of evaluating the implementation of standards on child labor and forced labor by a company's supplier(s) through announced and unannounced audits conducted on randomly selected suppliers carried out by independent monitors.

Producer--Source(s) of raw agricultural materials used by companies; could be individual farms or groups of farms organized into an association or cooperative.

Remediation--Activities or systems that a company puts in place to address non-compliance with the child labor and forced labor standards identified through monitoring and/or verification. The remedies may apply to individuals adversely affected by the non-compliant conduct or to address broader systematic processes and/or those of its suppliers.

Supplier--Any organization or individual in the supply chain of a particular agricultural product or commodity.

Supply Chain--All organizations and individuals involved in producing, processing, and/or distributing an agricultural product or commodity from its point of origin to the company.

Verification--Process by which a company is evaluated to determine compliance with its documented program, including standards on child labor and forced labor. Includes an evaluation of (1) data gathered through monitoring activities to ensure results are reliable and
process is credible; and (2) the system established to remediate violations to determine if remediation is implemented and effective.

Violation--An instance where the use of child labor and/or forced labor has been identified and/or non-compliance with the company's standards on child labor and forced labor.

II. Company Program Elements

Company programs should include the elements outlined below. Once a company has implemented its program, it should seek independent third-party monitoring and verification in accordance with section III.

Company programs should be based upon management systems, capable of supporting and demonstrating consistent achievement of the elements outlined below. Companies can find information on the requirements for such systems in recognized ISO Standards, such as ISO 17021, ISO Guide 65, ISO 9001, and ISO 19011, or other relevant standards. These standards cover issues such as, impartiality and confidentiality, documentation and record control, management reviews, personnel qualification criteria, audit procedures, appeals, and complaints.

Additionally, companies adopting the Guidelines are expected to engage with governments, international organizations, and/or local communities to promote the provision of social safety nets that prevent child and forced labor and provide services to victims and persons at risk. Companies may also carry out activities that may not be included in these Guidelines but would nonetheless help them achieve their goal of reducing the likelihood of child labor and forced labor in their supply chains. For example, companies may choose to partner with other companies in their industry to share standards, tools, audit reports, or to pool remediation resources for greater potential impact.

A. Foundation Elements

1. Standards on Child Labor and Forced Labor
   a. Standards should meet or exceed ILO standards as summarized below:
      i. No person shall be involved in the worst forms of child labor, which include child slavery; sale/trafficking of children; debt bondage; serfdom; forced/compulsory labor; child soldering; all forms of commercial sexual exploitation; use of children in illicit activities; and work which harms the health, safety or morals of children. For purposes of this definition, a child is anyone under the age of 18.
      ii. No person shall be subjected to work or service exacted under the menace of any penalty and for which the person has not offered himself voluntarily.
      iii. No person shall be subjected to work imposed as a means of political coercion or education; as a punishment for holding or expressing political views; as a method of mobilizing
labor for economic development; as a means of labor discipline; as a punishment for participation in strikes; or as a means of racial, social, national or religious discrimination.

b. Where national laws on child labor are equal to or more stringent than ILO standards, company standards should meet or exceed national laws.
c. Standards may be articulated through a variety of means, such as codes of conduct, multi-stakeholder codes in which the company participates, labor/human rights policies, collective bargaining agreements, framework agreements and others.
d. Standards should be made available to the public.
e. Company may choose to set additional standards relevant to its operations, such as standards on non-working children accompanying parents to worksites or treatment of foreign contract workers.

2. Supply Chain Mapping and Risk Assessment

  a. Company should map its supply chain(s), beginning with the producer.
  b. Company should identify areas of child/forced labor risk along chains; this may be done by:
     i. Collecting available information on child/forced labor prevalence in industry in areas where product is sourced.
     ii. Consulting with local stakeholders on social, economic and cultural factors, crop cycles, migration patterns, labor recruitment practices, access to judicial systems and processes, government policies and policy gaps, producer financial exposure, and any other relevant issues.
     iii. Examining impact of company's own pricing and procurement policies on child/forced labor risks.
  c. Company should focus its program efforts (Monitoring, Continuous Improvement and Accountability) on those areas identified to be most at risk for child and/or forced labor.
  d. Company should update its risk assessment periodically based on experience operating its program.
  e. Companies should implement systems to trace commodities to the producer level where feasible.

B. Communications and Monitoring

1. Communications

  a. Company should communicate child labor and forced labor standards, rights, expectations, monitoring and verification programs, remediation policies, and complaint process and process for redress to:
     i. Suppliers through training for managers, supervisors and other staff.
     ii. Workers (including unions where they exist) and producers.
     iii. Other levels of supply chain as appropriate (traders, middlemen, processors, exporters).
     iv. Civil society groups and other relevant stakeholders in the country/geographic locations of sourcing.
  b. Company should ensure that a safe and accessible channel is available to workers and other stakeholders to lodge complaints, including through independent monitors or verifiers. Company should also ensure that a transparent and accessible communications protocol is in
place to notify victims and other affected stakeholders of complaints received and outcomes, with appropriate safeguards to protect victim's privacy.

c. All communications should include regular consultation as well as clear channels for reporting of immediate issues, and be conducted in a language(s) and manner that is understood by workers.

2. Monitoring
   a. Company should develop monitoring tools based on its standards on child labor and forced labor (see Section II.A.).
   b. Company may have internal staff of auditors and/or hire a credible organization to carry out monitoring activities.
   c. Auditors should be competent, should have knowledge of local contexts and languages, and should have the skills and knowledge appropriate for evaluating and responding to child and forced labor situations.
   d. First round of monitoring should be used to establish baseline data on incidence of child/forced labor throughout the company's supply chain.
   e. Monitoring should occur on a continuous basis, as well as in response to any whistleblower allegations, with special emphasis on those areas identified to be most at risk.
   f. Monitoring results should be tracked and updated to identify trends and persistent challenges.
   g. Monitors should check that suppliers are maintaining appropriate traceability documentation.
   h. When violations found, company should remediate (see Section II.C.1.).

C. Continuous Improvement and Accountability

1. Remediation
   a. In consultation with relevant stakeholders, company should develop and put in place a remediation policy/plan that addresses remediation for individual victims as well as remediation of broader patterns of non-compliance caused by deficiencies in the company's and/or suppliers' systems and/or processes.
   b. Company remediation plan should take into consideration all findings reported by independent third party monitors and verifiers.
   c. Remediation for individual victims:
      i. Should include protocols for appropriate immediate actions, such as referral to law enforcement or appropriate authorities in cases where, auditors discover specific violations of applicable child or forced labor laws.
      ii. Should also include resources for victim services such as rehabilitation, education and training, employment, appropriate housing, counseling, restitution for lost wages and other material assistance.
   d. Remediation of company's and/or suppliers' systems and processes:
      i. Should include working with suppliers in situations where non-compliance with child labor and/or forced labor standards have been found to develop and implement systems to correct these violations and to build systems aimed at reducing child and/or forced labor on a systematic basis.
ii. Could include provision of technical assistance to help suppliers with known violations to address specific issues; can also include technical assistance on broader labor issues that underlie child/forced labor (e.g. workplace cooperation, quality assurance, health and safety, productivity, working conditions, and human resource management).

iii. Could include positive incentives for suppliers in appropriate cases such as creation of a preferred suppliers list, a price premium, purchase guarantees, access to financing, inclusion in national or country of origin trade promotion/registries, and/or regular public reporting that rewards compliance.

iv. Could include negative incentives in cases where suppliers have performed poorly and have had repeated non-compliance with company child and/or forced labor standards. The negative incentives may include termination, suspension or reduction of contracts. These steps should only be taken after other remediation and engagement efforts have been explored and failed to achieve the desired results.

2. Internal Process Review
   a. Company should periodically check its own progress against its program goals including determining the effectiveness of its program to reduce the overall incidence of child labor or forced labor in its supply chain.
   b. Company should address areas where goals have not been met.
   c. Where remediation has been undertaken, company should confirm that remediation has been implemented and is effective.
   d. Company should make information available to the public on its monitoring program and process to remediate/improve performance;

III. Independent Third-Party Review

     Companies developing programs in accordance with the Guidelines should seek independent, third party review of their program implementation. Independent review assures the company's customers that the company is meeting the standards on child labor and forced labor and relevant requirements outlined within its own program. There are two possible methods of conducting independent review. The independent third-party monitoring model utilizes independent external monitoring organizations and monitors to evaluate conditions at the facilities of the company and its suppliers. The independent third-party verification model utilizes accredited certification bodies to verify the company's ability to implement and maintain a program that ensures its suppliers meet its standards on child labor and forced labor. There are advantages and disadvantages with each of these models. For example:

--Independent third-party monitoring may include unannounced and announced on-site visits to evaluate a company's suppliers to determine compliance with child labor and forced labor standards. The monitor identifies violations of child labor and forced labor when observed. However, independent third-party monitoring will not necessarily include an evaluation of the company's entire documented program.

--Independent third-party verification includes an evaluation of the company's entire documented program to determine compliance to the program as well as to the standards for child labor and forced labor. It includes witnessing the company evaluating its suppliers. The
verifier does not conduct independent evaluations of suppliers. However, the verifier does identify violations of child labor and forced labor when observed.

Companies may choose whichever model is most appropriate for their circumstances; however, a comprehensive program should include a combination of the two models. It should be noted that, while these review methods can verify that companies have robust systems in place to reduce the likelihood that child or forced labor is being used in their supply chains, neither model guarantees the absence of child or forced labor. Key elements of the two models are described below:

A. Independent Third Party Monitoring
   1. Monitors should be accredited to conduct independent, third party monitoring. Monitors should have expertise on labor standards and possess knowledge of local workplace conditions and prevailing industry practices. Monitors should have experience and demonstrate competence in the execution of onsite evaluations of labor standards compliance in an agricultural setting.
   2. Independent monitoring should be conducted by an entity external to the company and should demonstrate independence and impartiality as a precondition for participating in the monitoring process.
   3. Monitoring should consist of on-site visits to a representative sample of farms and/or agricultural worksites and should occur on a continuous basis focusing on times of higher risk of use of child labor and/or forced labor in order to determine if child labor and forced labor standards are being respected and enforced. Unannounced visits are necessary to carry out this function fully. Announced visits may also be useful when it is necessary to have access to specific personnel or documentation.
   4. Suppliers should be randomly selected. However, such selection should focus on suppliers that are identified to be at most risk.
   5. Monitors should provide the company (ies) with a report outlining the findings and may make recommendations for remediation measures a company should take to address any incidences where the supplier did not implement the company’s standards on child labor and/or forced labor.

B. Independent Third Party Verification

   1. Verifiers should be accredited certification bodies, complying with either ISO/IEC 17021:2006 or ISO/IEC Guide 65:1996 or other relevant systems. ISO/IEC 17021 contains principles and requirements for the competence, consistency, and impartiality of an audit and the certification of management systems of all types and for bodies providing these activities. ISO/IEC Guide 65 contains the general requirements that a third party operating a product or service certification system shall meet in order to be recognized as competent and reliable. Verifiers should have qualified and competent personnel with the appropriate skills and knowledge in child labor and forced labor standards.
   2. Third Party verification should be conducted at least annually.
3. Audits should include testing of audit data to confirm that company data systems are reliable.
4. Audits should include witness audits where the Verifier observes the company’s monitoring activities.
   5. Announced audits are important when it is necessary to have access to specific personnel or documentation. Unannounced audits may also be useful in verifying that company policies are being implemented appropriately. Verifiers should provide the company with a report identifying weaknesses found in the company's program and program implementation.
   6. Verifiers should require the company to implement remediation measures to address the weaknesses, and these remediation efforts should then be audited to confirm that they were implemented and effective.
   7. Verifiers should approve companies whose programs and program implementation are found to be in conformance to the requirements of the Guidelines.
   8. Each verifier auditing companies to the Guidelines should provide the public a list of companies under review, approved, suspended, and/or withdrawn.

Signed at Washington, DC, on April 4th, 2011.
John D. Brewer,
Administrator, Foreign Agricultural Service.
[FR Doc. 2011-8587 Filed 4-11-11; 8:45 am]
BILLING CODE 3410-10-P

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[Notices]
[Page 20305-20309]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr12ap11-31]

ACTION: Request for Comment on Guidelines for Eliminating Child and Forced Labor in Agricultural Supply Chains.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture

(USDA) invites public comment on the guidelines included at the end of this notice for a voluntary initiative to enable entities to reduce the likelihood that agricultural products or commodities imported into the United States are produced by forced labor or child labor. In addition to accepting written comments, USDA will be holding a public meeting of the Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products (Consultative Group) on May 12, 2011 to hear oral comments on the guidelines. The Notice sets forth the guidelines, as well as the process for submitting written comments and for requesting to appear at the public meeting. Issuance of these guidelines and
creation of the Consultative Group were provided for in The Food, Conservation, and Energy Act of 2008 (the Act), also known as the 2008 Farm Bill.

DATES:
April 29, 2011--Due date for submission of requests to make an oral statement at the Public Meeting. (See Requirements for Submissions and Meeting Procedures below.)
May 6, 2011--Due date to notify intention to attend the Public Meeting without making a statement or to request special accommodations.
May 12, 2011--Public Meeting of Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products, Room 104-A, Jamie L. Whitten Building, 12th and Jefferson Drive, SW., Washington, DC 20250, beginning at 8:30 a.m.
July 11, 2011--Final date for submission of written statements.

ADDRESSES: You may make written submissions by any of the following methods: by mail to the Office of Agreements and Scientific Affairs, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1040, 1400 Independence Ave., SW., Washington, DC 20250; by hand (including DHL, FedEx, UPS, etc.) to the Office of Agreements and Scientific Affairs, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4133-S, 1400 Independence Ave., SW., Washington, DC 20250; by e-mail to: Steffon.Brown@fas.usda.gov; or by fax to (202)720-0340.

FOR FURTHER INFORMATION CONTACT: The Office of Agreements and Scientific Affairs by phone on (202) 720-6219; by email addressed to Steffon.Brown@fas.usda.gov; or by mail addressed to the Office of Agreements and Scientific Affairs, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1040, 1400 Independence Ave., SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: Section 3205 of the Food, Conservation, and Energy Act of 2008 (Farm Bill, Public Law 110-246) created the Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products (Consultative Group) to develop recommendations relating to a standard set of practices for independent, third-party monitoring and verification for the production, processing, and distribution of agricultural products or commodities to reduce the likelihood that agricultural products or commodities imported into the United States are produced with the use of forced labor or child labor. As required by the statute, the Consultative Group is made up of officials from the Departments of Agriculture, Labor and State as well as representatives of agricultural enterprises, non-governmental organizations, academic and research institutions and a third party certification body. Within one year after receiving the Consultative Group's recommendations, the Secretary of Agriculture is required to release guidelines for a voluntary initiative to enable entities to address issues raised by the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.). These guidelines must be published in the Federal Register and made available for public comment for a period of 90 days. The Consultative Group will terminate on December 31, 2012.

On December 21, 2010, the Consultative Group presented its recommendations to Secretary Vilsack. On January 31, 2011, USDA reported the recommendations to Congress. They are now
available on USDA's Web site at the following URL:
The Secretary has elected to issue guidelines based on the Consultative Group's recommendations without change. Those guidelines are reproduced at the end of this notice.

As there are a wide variety of circumstances and relationships in commercial systems in the agricultural sector, the Guidelines focus on essential elements for credible, up-to-date monitoring and verification systems rather than prescribing specific detailed steps for all companies to use. There are many ways companies and other entities could implement these guidelines to fit their specific circumstances, and the methods which are suggested in the text are certainly not exhaustive. USDA hopes that these guidelines will serve to advance the cause of eliminating the use of forced labor and the worst forms of child labor in agricultural supply chains. We are interested to receive comments and particularly to engage interested parties in further discussions on ways these guidelines might be used.

Following are some questions to help respondents in framing their comments:
(a) How do the guidelines compare to current practices of companies, industry groups, and certification/accreditation organizations that are interested in making use of these guidelines? What challenges do you see for incorporating the guidelines into existing or new programs? Are there additional market-based incentives or government actions that would help in overcoming these challenges?
(b) Are there areas of the guidelines that need to be more fully developed in order to: (1) Make them useful for a particular industry; (2) increase public confidence in the integrity of programs that utilize the guidelines or (3) adequately address victim protection concerns?
(c) What additional steps by the U.S. Government would be helpful to aid entities in adopting and implementing the guidelines?

Requirements for Written Comment Submissions

Written submissions in response to this notice must be made in English and should not exceed 30 single-spaced standard letter-size pages in 12-point type, including attachments. Comments may be submitted by any of the methods described in the ADDRESSES section of this notice, but should be submitted no later than July 11, 2011. All comments will be posted on the FAS Web site.
OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas
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You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC)
OECD DUE DILIGENCE GUIDANCE FOR RESPONSIBLE SUPPLY CHAINS OF MINERALS FROM CONFLICT-AFFECTED AND HIGH-RISK AREAS

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (hereafter “the Guidance”) is the first example of a collaborative government-backed multi-stakeholder initiative on responsible supply chain management of minerals from conflict-affected 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 developed through a multi-stakeholder process with in-depth engagement from OECD and African countries (ICGLR members and South Africa), industry, civil society, as well as the United Nations. Three multi-stakeholder consultations were held in Paris in December 2009 and April 2010 and a joint ICGLR-OECD consultation in Nairobi in September 2010. As a result, the Guidance is practically-oriented, with emphasis laid on collaborative constructive approaches to complex challenges.


The Guidance has been approved by the OECD Investment Committee and the OECD Development Assistance Committee, and has been endorsed by the eleven member states of the International Conference on the Great Lakes Region (ICGLR) in the Lusaka Declaration, adopted on 15 December 2010.
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INTRODUCTION

In conflict-affected and high-risk areas, companies involved in mining and trade in minerals have the potential to generate income, growth and prosperity, sustain livelihoods and foster local development. In such situations, companies may also be at risk of contributing to or being associated with significant adverse impacts, including serious human rights abuses and conflict.

This guidance provides a framework for detailed due diligence as a basis for responsible global supply chain management of tin, tantalum, tungsten, their ores and mineral derivates, and gold\(^1\) (hereafter “minerals”).\(^2\) The purpose of this Guidance is to help companies respect human rights and avoid contributing to conflict through their sourcing decisions, including the choice of their suppliers. By doing so, this Guidance will help companies contribute to sustainable development and source responsibly from conflict-affected and high-risk areas, while creating the enabling conditions for constructive engagement with suppliers. This Guidance is intended to serve as a common reference for all suppliers and other stakeholders in the mineral supply chain and any industry-driven schemes which may be developed, in order to clarify expectations concerning the nature of responsible supply chain management of minerals from conflict-affected and high-risk areas.

This Guidance is the result of a collaborative initiative among governments, international organisations, industry and civil society to promote accountability and transparency in the supply chain of minerals from conflict-affected and high-risk areas.

WHAT IS DUE DILIGENCE IN THE MINERAL SUPPLY CHAIN AND WHY IS IT NECESSARY?

Due diligence is an on-going, proactive and reactive process through which companies can ensure that they respect human rights and do not contribute to conflict.\(^3\) Due diligence can also help companies ensure they observe international law and comply with domestic laws, including those governing the illicit trade in minerals and United Nations sanctions. Risk-based due diligence refers to the steps companies should take to identify and address actual or potential risks in order to prevent or mitigate adverse impacts associated with their activities or sourcing decisions.

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\(^1\) Gold supplement to be issued in 2011.

\(^2\) Metals reasonably assumed to be recycled are excluded from the scope of this Guidance. Recycled metals are reclaimed end-user or post-consumer products, or scrap processed metals created during product manufacturing. Recycled metal includes excess, obsolete, defective, and scrap metal materials which contain refined or processed metals that are appropriate to recycle in the production of tin, tantalum, tungsten and/or gold. Minerals partially processed, unprocessed or a by-product from another ore are not recycled metals.

For the purposes of this Guidance, “risks” are defined in relation to the potentially adverse impacts of a company’s operations, which result from a company’s own activities or its relationships with third parties, including suppliers and other entities in the supply chain. Adverse impacts may include harm to people (i.e. external impacts), or reputational damage or legal liability for the company (i.e. internal impacts), or both. Such internal and external impacts are often interdependent, with external harm coupled with reputational damage or exposure to legal liability.

A company assesses risk by identifying the factual circumstances of its activities and relationships and evaluating those facts against relevant standards provided under national and international law, recommendations on responsible business conduct by international organisations, government-backed tools, private sector voluntary initiatives and a company’s internal policies and systems. This approach also helps to scale the due diligence exercise to the size of the company’s activities or supply chain relationships.

Companies may face risks in their mineral supply chains because of circumstances of mineral extraction, trade or handling which by their nature have higher risks of significant adverse impacts, such as financing conflict or fuelling, facilitating or exacerbating conditions of conflict. In spite of the fragmented production process in the supply chain, and independent from their position or leverage over suppliers, companies are not insulated from the risk of contributing to or being associated with adverse impacts occurring at various points in the mineral supply chain. Because of this, companies should take reasonable steps and make good faith efforts to conduct due diligence to identify and prevent or mitigate any risks of adverse impacts associated with the suppliers operating in conflict-affected or high-risk areas.

In practice, due diligence is structured around the steps that companies should take to:

- Identify the factual circumstances involved in the extraction, transport, handling, trading, processing, smelting, refining and alloying, manufacturing or selling of products that contain minerals originating from conflict-affected and high-risk areas;

- Identify and assess any actual or potential risks by evaluating the factual circumstances against standards set out in the company’s supply chain policy (see the Model Supply Chain Policy, Annex II);

- Prevent or mitigate the identified risks by adopting and implementing a risk management plan. These may result in a decision to continue trade throughout the course of risk mitigation efforts, temporarily suspend trade while pursuing ongoing risk mitigation, or disengage with a supplier either after failed attempts at mitigation or where the company deems mitigation not feasible or the risks unacceptable.

THE MINERAL SUPPLY CHAIN

The process of bringing a raw mineral to the consumer market involves multiple actors and generally includes the extraction, transport, handling, trading, processing, smelting, refining and alloying, manufacturing and sale of end product. The term supply chain refers to the system of all the activities, organisations, actors, technology, information, resources and services involved in moving the mineral from the extraction site downstream to its incorporation in the final product for end consumers.
WHO SHOULD CARRY OUT DUE DILIGENCE?

This Guidance applies to all companies in the mineral supply chain that supply or use tin, tantalum, tungsten and their ores or mineral derivates and gold sourced from conflict-affected or high-risk areas. While implementation of due diligence should be tailored to particular company activities and relationships, such as their position in the supply chain, all companies should conduct due diligence aimed at ensuring that they do not contribute to human rights abuses or conflict.

This Guidance recognises that due diligence in conflict-affected and high-risk areas presents practical challenges. Flexibility is needed in the application of due diligence. The nature and extent of due diligence that is appropriate will depend on individual circumstances and be affected by factors such as the size of the enterprise, the location of the activities, the situation in a particular country, the sector and nature of the products or services involved. These challenges may be met in a variety of ways, including but not limited to:

- Industry-wide cooperation in building capacity to conduct due diligence;
- Cost-sharing within industry for specific due diligence tasks;
- Participation in initiatives on responsible supply chain management;\(^4\)
- Coordination between industry members who share suppliers;
- Cooperation between upstream and downstream companies;
- Building partnerships with international and civil society organisations;
- Integrating the model supply chain policy (Annex II) and specific due diligence recommendations outlined in this Guidance into existing policies and management systems, due diligence practices of the company, such as procurement practices, integrity and know your customer due diligence measures and sustainability, corporate social responsibility or other annual reporting.

In addition to providing the principles and processes for companies, this Guidance recommends due diligences processes and procedures that emerging industry-wide supply chain initiatives should meet as they work towards conflict-sensitive responsible sourcing practices, and may assist and complement the development and implementation of comprehensive certification schemes, such as the International Conference of the Great Region certification scheme and tools.\(^5\)

\(^4\) For example: *ITRI Supply Chain Initiative (iTSCi)*, (ITRI, June 2009); *Smelter Validation Scheme*, Electronic Industry Citizenship Coalition (EICC) and Global e-Sustainability Initiative (GeSI); *Conflict Standard and Chain of Custody Standard*, World Gold Council (2010); and *Chain of Custody in the Diamond and Gold Jewellery Supply Chain*, Responsible Jewellery Council (2010); Global Reporting Initiative Supply Chain Working Group (2010).

\(^5\) See *ICGLR Regional Initiative against the Illegal Exploitation of Natural Resources*, [www.icglr.org](http://www.icglr.org).
STRUCTURE OF THE GUIDANCE

This Guidance provides 1) an overarching due diligence framework for responsible supply chains of minerals from conflict-affected and high-risk areas (see Annex I); 2) a model mineral supply chain policy providing a common set of principles (see Annex II); 3) suggested measures for risk mitigation and indicators for measuring improvement which upstream companies may consider with the possible support of downstream companies (see Annex III); and 4) two Supplements on tin-tantalum-tungsten and gold⁶ tailored to the challenges associated with the structure of the supply chain of these minerals. The Supplements contain specific due diligence recommendations articulated on the basis of companies’ different positions and roles in their supply chains. Companies using these minerals, or their refined metal derivates, should first consult the red flags listed in the introduction of each Supplement to determine if the due diligence processes described therein are applicable.

NATURE OF THE GUIDANCE

This Guidance builds on and is consistent with the principles and standards contained in the OECD Guidelines for Multinational Enterprises and the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones. It provides recommendations jointly addressed by governments to companies operating in or sourcing minerals from conflict-affected and high-risk areas, providing guidance on principles and due diligence processes for responsible supply chains of minerals from conflict-affected and high-risk areas, consistent with applicable laws and relevant international standards. Observance of this Guidance is voluntary and not legally enforceable.

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⁶ Gold supplement to be issued in 2011.
ANNEX I
FIVE-STEP FRAMEWORK FOR RISK-BASED DUE DILIGENCE
IN THE MINERAL SUPPLY CHAIN

While specific due diligence requirements and processes will differ depending on the mineral and the position of the company in the supply chain (as detailed in the mineral Supplements), companies should review their choice of suppliers and sourcing decisions and integrate into their management systems the following five-step framework for risk-based due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas:

1. **Establish strong company management systems.** Companies should:

   A. Adopt, and clearly communicate to suppliers and the public, a company policy for the supply chain of minerals originating from conflict-affected and high-risk areas. This policy should incorporate the standards against which due diligence is to be conducted, consistent with the standards set forth in the model supply chain policy in Annex II.

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

   C. Establish a system of controls and transparency over the mineral supply chain. This includes a chain of custody or a traceability system or the identification of upstream actors in the supply chain. This may be implemented through participation in industry-driven programs.

   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.

   E. Establish a company-level, or industry-wide, grievance mechanism as an early-warning risk-awareness system.

2. **Identify and assess risk in the supply chain.** Companies should:

   A. Identify risks in their supply chain as recommended in the Supplements.

   B. 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.

3. **Design and implement a strategy to respond to identified risks.** Companies should:

   A. Report findings of the supply chain risk assessment to the designated senior management of the company.

   B. Devise and adopt a risk management plan. Devise a strategy for risk management 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 after failed attempts at mitigation or where a company deems risk mitigation not feasible or unacceptable. To determine the correct strategy, companies should review Annex II (*Model Supply Chain Policy for Responsible Global Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*) and consider their ability to influence, and where necessary take
steps to build leverage, over suppliers who can most effectively prevent or mitigate the identified risk. If companies pursue risk mitigation efforts while continuing trade or temporarily suspending trade, they should consult with suppliers and affected stakeholders, including local and central government authorities, international or civil society organisations and affected third parties, where appropriate, and agree on the strategy for measurable risk mitigation in the risk management plan. Companies may draw on the suggested measures and indicators under Annex III to design conflict and high-risk sensitive strategies for mitigation in the risk management plan and measure progressive improvement.

C. Implement the risk management plan, monitor and track performance of risk mitigation efforts and report back to designated senior management. This may be done in cooperation and/or consultation with local and central government authorities, upstream companies, international or civil society organisations and affected third-parties where the risk management plan is implemented and monitored in conflict-affected and high-risk areas.

D. Undertake additional fact and risk assessments for risks requiring mitigation, or after a change of circumstances.

4. **Carry out independent third-party audit of supply chain due diligence at identified points in the supply chain.** Companies at identified points (as indicated in the Supplements) in the supply chain should have their due diligence practices audited by independent third parties. Such audits may be verified by an independent institutionalised mechanism.

5. **Report on supply chain due diligence.** Companies should publicly report on their supply chain due diligence policies and practices and may do so by expanding the scope of their sustainability, corporate social responsibility or annual reports to cover additional information on mineral supply chain due diligence.
ANNEX II
MODEL SUPPLY CHAIN POLICY FOR A RESPONSIBLE GLOBAL SUPPLY CHAIN
OF MINERALS FROM CONFLICT-AFFECTED AND HIGH-RISK AREAS

Recognising that risks of significant adverse impacts which may be associated with extracting, trading, handling and exporting minerals from conflict-affected and high-risk areas, and recognising that we have the responsibility to respect human rights and not contribute to conflict, we commit to adopt, widely disseminate and incorporate in contracts and/or agreements with suppliers the following policy on responsible sourcing of minerals from conflict-affected and high-risk areas, as representing a common reference for conflict-sensitive sourcing practices and suppliers’ risk awareness from the point of extraction until end user. We commit to refraining from any action which contributes to the financing of conflict and we commit to comply with relevant United Nations sanctions resolutions or, where applicable, domestic laws implementing such resolutions.

**Regarding serious abuses associated with the extraction, transport or trade of minerals:**

1. While sourcing from, or operating in, conflict-affected and high-risk areas, we will neither tolerate nor by any means profit from, contribute to, assist with or facilitate the commission by any party of:
   
   i. any forms of torture, cruel, inhuman and degrading treatment;
   
   ii. 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;
   
   iii. the worst forms of child labour;
   
   iv. other gross human rights violations and abuses such as widespread sexual violence;
   
   v. war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide.

**Regarding risk management of serious abuses:**

2. We will immediately suspend or discontinue engagement with upstream suppliers where we identify a reasonable risk that they are sourcing from, or linked to, any party committing serious abuses as defined in paragraph 1.

**Regarding direct or indirect support to non-state armed groups:**

3. We will not tolerate any direct or indirect support to non-state armed groups through the extraction, transport, trade, handling or export of minerals. “Direct or indirect support” to non-state armed groups through the extraction, transport, trade, handling or export of minerals includes, but is not limited to,

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7 This Model Supply Chain Policy for a Responsible Global Supply Chain of Minerals from Conflict-Affected and High-Risk Areas is intended to provide a common reference for all actors throughout the entire mineral supply chain. Companies are encouraged to incorporate the model policy into their existing policies on corporate social responsibility, sustainability, or other alternative equivalent.

8 To identify non-state armed groups, companies should refer to relevant UN Security Council resolutions.
procuring minerals from, making payments to or otherwise providing logistical assistance or equipment to, non-state armed groups or their affiliates who:  

i. illegally control mine sites or otherwise control transportation routes, points where minerals are traded and upstream actors in the supply chain;  

ii. 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 

iii. illegally tax or extort intermediaries, export companies or international traders.

Regarding risk management of direct or indirect support to non-state armed groups:

4. We will immediately suspend or discontinue engagement with upstream suppliers where we identify a reasonable risk that they are sourcing from, or linked to, any party providing direct or indirect support to non-state armed groups as defined in paragraph 3.

Regarding public or private security forces:

5. We agree to eliminate, in accordance with paragraph 10, direct or indirect support to public or private security forces who illegally control mine sites, transportation routes and upstream actors in the supply chain; illegally tax or extort money or minerals at point of access to mine sites, along transportation routes or at points where minerals are traded; or illegally tax or extort intermediaries, export companies or international traders.

6. We recognise that the role of public or private security forces at the mine sites and/or surrounding areas and/or along transportation routes should be solely to maintain the rule of law, including safeguarding human rights, providing security to mine workers, equipment and facilities, and protecting the mine site or transportation routes from interference with legitimate extraction and trade.

7. Where we or any company in our supply chain contract public or private security forces, we commit to or we will require that such security forces will be engaged in accordance with the Voluntary Principles on Security and Human Rights. In particular, we will support or take steps, to adopt screening policies to ensure that individuals or units of security forces that are known to have been responsible for gross human rights abuses will not be hired.

“Affiliates” includes négociants, consolidators, intermediaries, and others in the supply chain that work directly with armed groups to facilitate the extraction, trade or handling of minerals.

“Control” of mines, transportation routes, points where minerals are traded and upstream actors in the supply chain means (i) overseeing extraction, including by granting access to mine sites and/or coordinating downstream sales to intermediaries, export companies or international traders; (ii) making recourse to any forms of forced or compulsory labour to mine, transport, trade or sell minerals; or (iii) acting as a director or officer of, or holding beneficial or other ownership interests in, upstream companies or mines.

“Extort” from mines, transportation routes, points where minerals are traded or upstream companies means the demanding, under the threat of violence or any other penalty, and for which the person has not voluntarily offered, sums of money or minerals, often in return for granting access to exploit the mine site, access transportation routes, or to transport, purchase, or sell minerals.

“Direct or indirect support” does not refer to legally required forms of support, including legal taxes, fees, and/or royalties that companies pay to the government of a country in which they operate (see paragraph 13 below on disclosure of such payments).
8. We will support efforts, or take steps, to engage with central or local authorities, international organisations and civil society organisations to contribute to workable solutions on how transparency, proportionality and accountability in payments made to public security forces for the provision of security could be improved.

9. We will support efforts, or take steps, to engage with local authorities, international organisations and civil society organisations to avoid or minimise the exposure of vulnerable groups, in particular, artisanal miners where minerals in the supply chain are extracted through artisanal or small-scale mining, to adverse impacts associated with the presence of security forces, public or private, on mine sites.

**Regarding risk management of public or private security forces:**

10. In accordance with the specific position of the company in the supply chain, we will immediately devise, adopt and implement a risk management plan with upstream suppliers and other stakeholders to prevent or mitigate the risk of direct or indirect support to public or private security forces, as identified in paragraph 5, where we identify that such a reasonable risk exists. In such cases, we will suspend or discontinue engagement with upstream suppliers after failed attempts at mitigation within six months from the adoption of the risk management plan.\(^\text{13}\) Where we identify a reasonable risk of activities inconsistent with paragraphs 8 and 9, we will respond in the same vein.

**Regarding bribery and fraudulent misrepresentation of the origin of minerals:**

11. We will not offer, promise, give or demand any bribes, and will resist the solicitation of bribes to conceal or disguise the origin of minerals, to misrepresent taxes, fees and royalties paid to governments for the purposes of mineral extraction, trade, handling, transport and export.\(^\text{14}\)

**Regarding money laundering:**

12. We will support efforts, or take steps, to contribute to the effective elimination of money laundering where we identify a reasonable risk of money-laundering resulting from, or connected to, the extraction, trade, handling, transport or export of minerals derived from the illegal taxation or extortion of minerals at points of access to mine sites, along transportation routes or at points where minerals are traded by upstream suppliers.

**Regarding the payment of taxes, fees and royalties due to governments:**

13. We will ensure that all taxes, fees, and royalties related to mineral extraction, trade and export from conflict-affected and high-risk areas are paid to governments and, in accordance with the company’s position in the supply chain, we commit to disclose such payments in accordance with the principles set forth under the Extractive Industry Transparency Initiative (EITI).

\(^{13}\) As detailed in Step 3(D) of Annex I, companies should conduct an additional risk assessment on those risks requiring mitigation after the adoption of the risk management plan. If within six months from the adoption of the risk management plan there is no significant measurable improvement to prevent or mitigate the risk of direct or indirect support to public or private security forces, as identified in paragraph 5, companies should suspend or discontinue engagement with the supplier for a minimum of three months. Suspension may be accompanied by a revised risk management plan, stating the performance objectives for progressive improvement that should be met before resuming the trade relationship.

Regarding risk management of bribery and fraudulent misrepresentation of the origin of minerals, money-laundering and payment of taxes, fees and royalties to governments:

14. In accordance with the specific position of the company in the supply chain, we commit to engage with suppliers, central or local governmental authorities, international organizations, civil society and affected third parties, as appropriate, to improve and track performance with a view to preventing or mitigating risks of adverse impacts through measureable steps taken in reasonable timescales. We will suspend or discontinue engagement with upstream suppliers after failed attempts at mitigation. \(^{15}\)

\(^{15}\) As detailed in Step 3(D) of Annex I, companies should conduct an additional risk assessment on those risks requiring mitigation after the adoption of the risk management plan. If within six months from the adoption of the risk management plan there is no significant measurable improvement to prevent or mitigate the risks of bribery and fraudulent misrepresentation of the origin of minerals, money-laundering and payment of taxes, fees and royalties to governments, companies should suspend or discontinue engagement with the supplier for a minimum of three months. Suspension may be accompanied by a revised risk management plan, stating the performance objectives for progressive improvement that should be met before resuming the trade relationship.
SUPPLY CHAIN POLICY – SECURITY AND RELATED ISSUES

RISK MITIGATION:
The following suggested risk mitigation measures may be considered for implementation by upstream companies individually or through associations, joint assessment teams or other suitable means to undertake the following activities:

- alert relevant central government authority (e.g. Ministry of Mines) of abusive and exploitative practices occurring in the supply chain;
- in areas in which minerals are illegally taxed or extorted, take immediate steps to ensure that upstream intermediaries and consolidators disclose downstream or publicly the payments made to public or private security forces for the provision of security;
- engage with intermediaries and consolidators to help build their capabilities to document the behaviour of security and payments to security forces;
- while sourcing from areas of artisanal and small-scale mining (“ASM”), support the formalisation of security arrangements between ASM communities, local government, and public or private security forces, in cooperation with civil society and international organisations, as appropriate, to ensure that all payments are freely made and proportionate to the service provided, clarify rules of engagement consistent with the Voluntary Principles on Security and Human Rights, the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- support the establishment of community forums to share and communicate information;
- support the establishment of a trust or other similar fund, where appropriate, through which security forces are paid for their services;
- build partnership with international organisations or civil society organisations, as appropriate, to support capacity-building of security forces consistent with the Voluntary Principles on Security and Human Rights, on mine sites, and UN Code of Conduct for Law Enforcement Officials or the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.


RECOMMENDED INDICATORS FOR MEASURING IMPROVEMENT: See, for example, Global Reporting Initiative, Indicator Protocols Set: Human Rights, Mining and Metals Sector Supplement (Version 3.0), indicator HR8: “Percentage of security personnel trained in the organisation’s policies or procedures concerning aspects of human rights that are relevant to operations”. For further descriptions of indicators, see the commentaries to the indicator. For guidance on reporting on indicators and compiling relevant information, including with regard to risks to communities and women see Global Reporting Initiative, Sustainability Reporting Guidelines and GRI Mining and Metals Sector Supplement (Version 3.0).

With regard to minerals originating from mines or transported along transportation routes where security forces are present, the percentage of minerals or money, on a disaggregate per batch basis, illegally taxed or extorted from upstream actors by public or private security forces; the nature and type of payments to public or private security, including the nature and type of any arrangement on the provision of security and payment.
SUPPLY CHAIN POLICY – SECURITY AND EXPOSURE OF ARTISANAL MINERS TO ADVERSE IMPACTS

RISK MITIGATION:
When sourcing from areas of artisanal mining, the following suggested risk mitigation measures may be considered for implementation by upstream companies individually or through associations, joint assessment teams or other suitable means to undertake the following activities:

- minimise the risk of exposure of artisanal miners to abusive practices, by supporting host countries governments’ efforts for the progressive professionalization and formalisation of the artisanal sector, through the establishment of cooperatives, associations or other membership structures.

For further guidance on how to carry out this risk mitigation, see Responsible Jewellery Council, Standards Guidance, “COP 2.14 Artisanal and Small-Scale Mining”, including “supporting the wider community by locally sourcing the provision of as many goods and services as possible; eliminating child labour as a condition of engagement in the community; improving women’s conditions in ASM communities through gender awareness and empowerment programs.”

RECOMMENDED INDICATORS FOR MEASURING IMPROVEMENT: See, for example, Global Reporting Initiative, Indicator Protocols Set: Society, Mining and Metals Sector Supplement (Version 3.0), indicator MM8: “Number (and percentage) of […] operating sites where artisanal and small-scale mining (ASM) takes place on, or adjacent to, the site; the associated risks and the actions taken to manage and mitigate these risks”. For further descriptions of indicators, see the commentaries to the indicator. For guidance on reporting on indicators and compiling relevant information, including risks to communities and women, see Global Reporting Initiative, Sustainability Reporting Guidelines and Mining and Metals Sector Supplement (Version 3.0).

SUPPLY CHAIN POLICY – BRIBERY AND FRAUDULENT MISREPRESENTATION OF MINERALS ORIGIN

RISK MITIGATION:
Upstream companies may cooperate through associations, assessment teams or other suitable means to build capabilities of suppliers, in particular SMEs, to conduct due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.

RECOMMENDED INDICATORS FOR MEASURING IMPROVEMENT: Indicators for improvement should be based on the processes contained in the Guidance. For example, indicators may include the information disclosed downstream; the nature of chain of chain of custody or supply chain transparency systems in place; the nature and form of supply chain risk assessments and management, in particular to verify information generated by chain of custody and transparency systems; the engagement of the company in capability training and/or other industry initiatives for supply chain due diligence. 
SUPPLY CHAIN POLICY - MONEY LAUNDERING

RISK MITIGATION:
The following suggested risk mitigation measures may be considered for implementation by upstream companies individually or through associations, joint assessment teams or other suitable means to undertake the following activities:

- develop supplier, customer and transactional red flags to identify suspicious behaviour and activities;
- identify and verify the identity of all suppliers, business partners and customers;
- report suspicious behaviour of criminal activity to local, national, regional and international law enforcement agencies.

For further guidance, see Financial Action Task Force, Guidance on the risk-based approach to combating money laundering and terrorist financing.

RECOMMENDED INDICATORS FOR MEASURING IMPROVEMENT: Indicators for improvement should be based on the processes contained in the Guidance. For example, potential indicators may include:

- the supply chain policy;
- the information disclosed downstream;
- the nature of chain of custody or supply chain transparency system in place;
- the nature and form of supply chain risk assessments and management, in particular to verify information generated by chain of custody and transparency systems;
- the engagement of the company in capability training and/or other industry initiatives for supply chain due diligence.

SUPPLY CHAIN POLICY – TRANSPARENCY ON TAXES, FEES AND ROYALTIES PAID TO GOVERNMENTS

RISK MITIGATION:
The following suggested risk mitigation measures may be considered for implementation by upstream companies individually or through associations, assessment teams or other suitable means to undertake the following activities:

- support the implementation of the Extractive Industry Transparency Initiative;
- support the public disclosure, on a disaggregate basis, of all information on taxes, fees, and royalties that are paid to governments for the purposes of mineral extraction, trade, and export from conflict-affected and high-risk areas;
- inform relevant local and central governmental agencies of potential weaknesses in revenue collection and monitoring;
- support capability training of these agencies to effectively carry out their duties.

For a guide on how business can support EITI, see http://eiti.org/document/businessguide.

RECOMMENDED INDICATORS FOR MEASURING IMPROVEMENT: See, for example, Global Reporting Initiative, Indicator Protocols Set: Economic, Mining and Metals Sector Supplement (Version 3.0), indicator EC1: “Direct economic value generated and distributed, including revenues, operating costs, employee compensation, donations and other community investments, retained earnings, and payments to capital providers and governments”. For further descriptions of indicators, see the commentaries to the indicator. For guidance on reporting on indicators and compiling relevant information, see Global Reporting Initiative, Sustainability Reporting Guidelines & Mining and Metals Sector Supplement (Version 3.0).
OECD DUE DILIGENCE FOR RESPONSIBLE SUPPLY CHAINS OF MINERALS FROM CONFLICT-AFFECTED AND HIGH-RISK AREAS

SUPPLEMENT ON TIN, TANTALUM AND TUNGSTEN

SCOPE AND DEFINITIONS

This Supplement provides specific guidance on supply chain due diligence of tin, tantalum and tungsten (hereinafter minerals) from conflict-affected or high-risk areas according to the different positions in the mineral supply chain. It distinguishes between the roles of and the corresponding due diligence recommendations addressed to upstream companies and downstream companies in the supply chain.

For the purposes of this Supplement, “upstream” means the mineral supply chain from the mine to smelters/refiners. “Upstream companies” include miners (artisanal and small-scale or large-scale producers),¹⁶ local traders or exporters from the country of mineral origin, international concentrate traders, mineral re-processors and smelters/refiners. The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and this Supplement on Tin, Tantalum and Tungsten (hereafter “Guidance”), recommends, among other things, that these companies establish a system of internal control over the minerals in their possession (chain of custody or traceability) and establish on-the-ground assessment teams, which may be set up jointly through cooperation among upstream companies while retaining individual responsibility, for generating and sharing verifiable, reliable, up-to-date information on the qualitative circumstances of mineral extraction, trade, handling and export from conflict-affected and high-risk areas. This Guidance calls on these upstream companies to provide the results of risk assessments to their downstream purchasers and have the smelters/refiners’ due diligence practices audited by independent third parties, including through an institutionalised mechanism.

“Downstream” means the minerals supply chain from smelters/refiners to retailers. “Downstream companies” include metal traders and exchanges, component manufacturers, product manufacturers, original equipment manufacturers (OEMs) and retailers. The Guidance recommends, among other things, that downstream companies identify, to the best of their efforts, and review the due diligence process of the smelters/refiners in their supply chain and assess whether they adhere to due diligence measures put forward in this Guidance. Downstream companies may participate in industry-wide schemes that assess smelters/refiners’ compliance with this Guidance and may draw on the information these schemes provide to help them fulfil the recommendations in this Guidance.

This distinction reflects the fact that internal control mechanisms based on tracing minerals in a company’s possession are generally unfeasible after smelting, with refined metals entering the consumer market as small parts of various components in end products. By virtue of these practical difficulties, downstream companies should establish internal controls over their immediate suppliers and may coordinate efforts through industry-wide initiatives to build leverage over sub-suppliers, overcome practical challenges and effectively discharge the due diligence recommendations contained in this Guidance.

¹⁶ “Upstream companies” includes artisanal or small-scale producing enterprises, rather than individuals or informal working groups of artisanal miners.
RED FLAGS TRIGGERING THE APPLICATION OF THIS SUPPLEMENT

This Guidance applies to actors operating in a conflict-affected and high-risk area, or potentially supplying or using tin (cassiterite), tantalum (tantalite) or tungsten ( wolframite), or their smelted derivates, from a conflict-affected and high-risk area. Companies should preliminarily review their mineral or metal sourcing practices to determine if the Guidance applies to them. The following red flags should trigger the due diligence standards and processes contained in this Guidance:

**Red flag locations of mineral origin and transit:**

- The minerals originate from or have been transported via a conflict-affected or high-risk area.\(^{17}\)

- 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.

If a company in the supply chain is unable to determine whether the minerals in the company’s possession come from a “red flag location of mineral origin or transit”, it should proceed to Step 1 of the Guidance.

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\(^{17}\) See Guidance for definition and indicators of conflict-affected and high-risk areas.
Figure 1. Risks in the supply chain of minerals from conflict-affected and high-risk areas

**Legend**

- Risk of direct or indirect support to non-state armed groups through the extraction, transport, trade, handling or export of minerals.
- Risk that public security forces are present for purposes other than providing security.
- Risk related to contracting of security forces, public or private.
- Risk of bribery to conceal or disguise the illicit origin of minerals, to misrepresent taxes, fees and royalties paid to governments for the purposes of mineral extraction, trade, handling, transport and export.
- Risk of fraudulently misrepresented information on mineral origin, transportation routes, chain of custody and the circumstances of mineral extraction, trade, handling, transport and export.

- Risk of non-existent or inadequate due diligence for a responsible supply chain of minerals from conflict-affected and high-risk areas (as recommended in this guidance).
STEP 1: ESTABLISH STRONG COMPANY MANAGEMENT SYSTEMS

OBJECTIVE: To ensure that existing due diligence and management systems within companies address risks associated with minerals from conflict-affected or high-risk areas.

A. Adopt and commit to a supply chain policy for minerals originating from conflict-affected and high-risk areas. This policy, for all companies in the supply chain, should include:

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.

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 this Guidance.

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.\(^{18}\)

3. Put in place an organizational 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.

C. Establish a system of controls and transparency over the mineral supply chain.

C.1 SPECIFIC RECOMMENDATIONS – For local mineral exporters

1. Collect\(^{19}\) and disclose the following information to immediate downstream purchasers, who will then pass them down the supply chain, and to 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:

   a. all taxes, fees or royalties paid to government for the purposes of extraction, trade, transport and export of minerals;

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\(^{18}\) Art. 4.1 (d), ISO 9001:2008.

\(^{19}\) Due diligence is an on-going, proactive and reactive process, and therefore information may be collected and progressively built with the quality progressively improved through various steps in the Guidance, including through supplier communication [such as through contractual provisions or other processes described in Step 1(C) and Step 1(D)], through established chain of custody or transparency systems [see Step 1(C:4)], and through risk assessments [see Step 2(I) and Appendix: Guiding Note for Upstream Company Risk Assessment].
b. any other payments made to governmental officials for the purposes of extraction, trade, transport and export of minerals;

c. all taxes and any other payments made to public or private security forces or other armed groups at all points in the supply chain from extraction onwards;

d. 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.

e. the mine of mineral origin;

f. quantity, dates and method of extraction (artisanal and small-scale or large-scale mining);

g. locations where minerals are consolidated, traded, processed or upgraded;

h. the identification of all upstream intermediaries, consolidators or other actors in the upstream supply chain;

i. transportation routes.

C.2 SPECIFIC RECOMMENDATIONS – For international concentrate traders and mineral re-processors:

1. Incorporate the above disclosure requirements into commercial contracts with local exporters.

2. Collect and disclose the following information to immediate downstream purchasers and to 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:

   a. all export, import and re-export documentation, including records of all payments given for the purposes of export, import and re-export and all taxes and any other payments made to public or private security forces or other armed groups;

   b. the identification of all immediate suppliers (local exporters);

   c. all information provided by local exporter.

C.3 SPECIFIC RECOMMENDATIONS – For smelters/refiners:

1. Incorporate the above disclosure requirements into commercial contracts with international concentrate traders, mineral re-processors and local exporters.

2. Maintain the information generated by the chain of custody and/or traceability system outlined below for a minimum of five years, preferably on a computerised database and make it available

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20 It is the responsibility of the international concentrate trader to gain and maintain the information requested from local exporters regardless of whether exporters comply with the recommendations above.

21 It is the responsibility of the smelter/refiner to gain and maintain the information requested from international concentrate traders and local exporters regardless of whether they comply with the recommendations above.
to downstream purchasers and to 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.

C.4 SPECIFIC RECOMMENDATIONS – For all upstream companies:

1. Introduce a chain of custody and/or traceability system that generates the following information on a disaggregated basis for the minerals from a “red flag location of mineral origin and transit”, preferably supported by documentation: mine of mineral origin; quantity and dates of extraction; locations where minerals are consolidated, traded or processed; all taxes, fees, royalties or other payments made to governmental officials for the purposes of extraction, trade, transport and export of minerals; all taxes and other payments made to public or private security forces or other armed groups; identification of all actors in the upstream supply chain; transportation routes.  

2. Make all information gained and maintained pursuant to the due diligence standards and processes contained in this Guidance available to downstream purchasers and auditors and to 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.

3. Avoid, where practicable, cash purchases and ensure that all unavoidable cash purchases of minerals are supported by verifiable documentation and preferably routed through official banking channels.

4. Support the implementation of the principles and criteria set forth under the Extractive Industry Transparency Initiative (EITI).

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.

2. Maintain related records for a minimum of five years, preferably on a computerised database.

22 See FATF Recommendation 10. Also see Annex II, Kimberley Process Certification Scheme and Kimberley Process Moscow Declaration.

23 See ITRI Supply Chain Initiative, in particular, the templates (Appendix 8, 9, 10) and Appendix 3, list of Relevant Documentation

24 Financial institutions are encouraged to refer to this Guidance and supplement when undertaking customer due diligence for the purposes of providing their services and factor their compliance with this Guidance into their decision-making.

25 For information on the EITI, see http://eiti.org/. For a guide on how business can support EITI, see http://eiti.org/document/businessguide.
3. Support extending digital information-sharing systems on suppliers\textsuperscript{26} 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.\textsuperscript{27}

D. **Strengthen company engagement with suppliers.** Companies in the supply chain should ensure that suppliers commit to a supply chain policy consistent with Annex II and the due diligence processes in this Guidance. In order to do this, the company should:

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.

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,\textsuperscript{28} including, if deemed necessary, the right to conduct unannounced spot-checks on suppliers and have access to their documentation.

3. Consider ways to support and build capabilities of suppliers to improve performance and conform to company supply chain policy.\textsuperscript{29}

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.\textsuperscript{30}

E. **Establish a company level grievance mechanism.** Depending on their position in the supply chain companies may:

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.

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 (\textit{i.e.} ombudsman).

\textsuperscript{26} For example, see digital supplier information systems such as E-TASC: \url{http://e-tasc.com}

\textsuperscript{27} Business confidentiality and other competitive concerns means price information and supplier relationships without prejudice to subsequent evolving interpretation. All information will be disclosed to 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.

\textsuperscript{28} See steps 2-5 for information on monitoring suppliers and managing non-compliance.

\textsuperscript{29} See step 3, “Risk Mitigation”.

\textsuperscript{30} See step 3, “Risk Mitigation”.
STEP 2: IDENTIFY AND ASSESS RISKS IN THE SUPPLY CHAIN

OBJECTIVE: To identify and assess risks on the circumstances of extraction, trading, handling and export of minerals from conflict-affected and high-risk areas.

I – UPSTREAM COMPANIES

Upstream companies are expected to clarify chain of custody and the circumstances of mineral extraction, trade, handling and export and identify and assess risk by evaluating those circumstances against the model supply chain policy on minerals from conflict-affected and high-risk areas in Annex II. Upstream companies may cooperate to carry out the recommendations in this section through joint initiatives. However, 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 the scope of the risk assessment of the mineral supply chain. Smelters/refiners, international concentrate traders and mineral re-processors should review 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.

B. Map the factual circumstances of the company’s supply chain(s), under way and planned. Upstream companies should assess the context of conflict-affected and high-risk areas; clarify the chain of custody, the activities and relationships of all upstream suppliers; and identify the locations and qualitative conditions of the extraction, trade, handling and export of the mineral. Upstream companies should rely on information collected and maintained through Step 1, and should gain and maintain up-to-date on-the-ground information in order to map the supply chain and assess risk effectively. See Appendix: Guiding Note for Upstream Company Risk Assessments, which contains guidance on establishing on-the-ground assessment teams (hereafter “assessment teams”) and includes a recommended list of questions for consideration. Assessment teams may be established jointly by upstream companies operating or supplying from conflict affected or high-risk areas. Upstream companies will remain individually responsible for following any of the recommendations put forward by assessment teams and acting on them.

C. Assess risks in the supply chain. The company should assess the factual circumstances of the supply chain against the model supply chain policy on a qualitative basis to determine risks in the supply chain:

I. Review applicable standards, including:

   a. The principles and standards of the company supply chain policy, consistent with Annex II;  

   b. National laws of the countries where the company is domiciled or publicly-traded (if applicable); of the countries from which the minerals are likely to originate; and of transit or re-export countries; and

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31 See Step 1 (A) above and Annex II.
c. Legal instruments governing company operations and business relations, such as financing agreements, contractor agreements, and supplier agreements.

d. Other relevant international instruments, such as the OECD Guidelines for Multinational Enterprises, international human rights and humanitarian law.

2. Determine whether the circumstances in the supply chain (in particular, the answers to the recommended guiding questions outlined in the Appendix) meet the relevant standards. Any reasonable inconsistency between a factual circumstance and a standard should be considered a risk with potential adverse impacts.

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, in particular those which due to their size or other factors, who may find it difficult to identify actors upstream from their direct suppliers, 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 the 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 therefrom. 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 confidentiality 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.

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.

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32 See EICC and GeSI Refiner Validation Scheme.

33 See Step 1(C) ("Establish internal controls over the mineral supply chain") and Step 1 (D) above.
2. Review the information generated by the assessment team.34

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.

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34 See Appendix: Guiding Note for Upstream Company Risk Assessment.
OBJECTIVE: To evaluate and respond to identified risks in order to prevent or mitigate adverse impacts. Companies may cooperate to carry out the recommendations in this section through joint initiatives. However, 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. Report findings to designated senior management, outlining the information gathered and the actual and potential risks identified in the supply chain risk assessment.

B. Devise and adopt a risk management plan. Companies should adopt a supply chain risk management plan that outlines the company responses to risks identified in Step 2. 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 policy 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. Measurable risk mitigation should aim to promote progressive performance improvement within reasonable timescales. In devising a strategy for risk mitigation, companies should:

   a. Consider, and where necessary take steps to build leverage over upstream suppliers who can most effectively prevent or mitigate the identified risk:

      i. **UPSTREAM COMPANIES** – Depending on their position in the supply chain, upstream companies have significant actual or potential leverage over the actors in the supply chain who can most effectively and most directly mitigate the substantive risks of adverse impacts. If upstream companies decide to pursue risk mitigation while continuing trade or temporarily suspending trade, mitigation efforts should focus on finding ways to constructively engage, as appropriate, with relevant stakeholders with a view to progressively eliminating the adverse impacts within reasonable timescales.\(^{35}\)

      ii. **DOWNSTREAM COMPANIES** – Depending on their position in the supply chain, downstream companies are encouraged to build and/or exercise their leverage over upstream suppliers who can most effectively and most directly mitigate the risks of adverse impacts. Should downstream companies decide to pursue risk mitigation while continuing

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\(^{35}\) Companies should refer to Annex II for the recommended risk management strategy. Annex III includes suggested measures for risk mitigation and some recommended indicators to measure improvement. More detailed guidance on risk mitigation is expected to come from the implementation phase of the Guidance.
trade or temporarily suspending trade, their mitigation efforts should focus on suppliers’ value orientation and capability-training to enable them to effectively conduct and improve due diligence performance. Companies should encourage their industry membership organizations to develop and implement due diligence capability-training modules in cooperation with relevant international organizations, NGOs, stakeholders and other experts.

b. Consult with suppliers and affected stakeholders and agree on the strategy for measurable risk mitigation in the risk management plan. Measurable risk mitigation should be adjusted to the company’s specific suppliers and the contexts of their operations, state clear performance objectives within a reasonable timeframe and include qualitative and/or quantitative indicators to measure improvement.

i. **UPSTREAM COMPANIES** – Publish the supply chain risk assessment and the supply chain management plan, with due regard to business confidentiality and other competitive concerns, and make them available to local and central authorities, upstream companies, local civil society and affected third parties. Companies should ensure sufficient time for affected stakeholders to review the risk assessment and management plan and respond to and take due account of questions, concerns and alternative suggestions for risk management.

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.**

1. **UPSTREAM COMPANIES** – Upstream companies should implement, monitor and track performance of risk mitigation in cooperation and/or consultation with local and central authorities, upstream companies, international or civil society organisations and affected third parties. Upstream companies may wish to establish or support the creation of community-monitoring networks to monitor or track performance of risk mitigation.

D. **Undertake additional fact and risk assessments for risks requiring mitigation, or after a change of circumstances.** Supply chain due diligence is a dynamic process and requires on-going risk monitoring. After implementing a risk mitigation strategy, companies should repeat step 2 to ensure effective management of risk. Additionally, any change in the company’s supply chain may require some steps to be repeated in order to prevent or mitigate adverse impacts.

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36 See footnote 27.

37 A change of circumstances should be determined on a risk-sensitive basis through on-going monitoring of the companies’ chain of custody documentation and the contexts of the conflict-affected areas of mineral origin and transport. Such change of circumstances may include a change of supplier or actor in the chain of custody, place of origin, transportation routes or point of export. It may also include factors specific to the context, such as an increase in conflict in specific areas, changes in military personnel overseeing an area and ownership or control changes in the mine of origin.
STEP 4: CARRY OUT INDEPENDENT THIRD-PARTY AUDIT OF SMELTER/REFINER’S 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 any institutionised mechanism to be established at the industry’s initiative, supported by governments and in cooperation with relevant stakeholders.

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. The audit should include the following audit scope, criteria, principles and activities:

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.

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.

3. The audit principles:

a. Independence: To preserve neutrality and impartiality of audits, the audit organization and all audit team members (“auditors”) must be independent from the smelter/refiner as well as from smelter/refiner’s subsidiaries, licensees, contractors, suppliers and companies cooperating in the joint audit. This means, in particular, that auditors must not have conflicts of interests with the auditee including business or financial relationship with the auditee (in the form of equity holdings, debt, securities), nor have provided any other services for the auditee company, particularly any services relating to the due diligence practice or the supply chain operations assessed therein, within a 24 month period prior to the audit.

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38 This recommendation 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 the due diligence practices of smelters/refiners. Companies should consult ISO International Standard 19011: 2002 (“ISO 19011”) for detailed requirements on audit programmes (including programme responsibilities, procedures, record-keeping, monitoring and reviewing) and a step-by-step overview of audit activities.

39 See Chapter VIII (A) of FLA Charter.
b. **Competence:** Auditors should conform to the requirements set out in Chapter 7 of ISO 19011 on Competence and Evaluation of Auditors. Specifically, auditors must have knowledge and skills in the following areas:40

i. Auditing principles, procedures and techniques (ISO 19011).

ii. The supply chain due diligence principles, procedures and techniques of the company.

iii. The organizational structure of the company’s operations, particularly the company’s mineral procurement and mineral supply chain.

iv. The social, cultural and historical contexts of the conflict-affected areas of mineral origin or transport, including relevant linguistic abilities and culturally appropriate sensitivities for conducting audits.

v. All applicable standards, including the model supply chain policy on minerals from conflict-affected and high-risk areas (Annex II).

c. **Accountability:** Performance indicators may be used to monitor the ability of the auditors to carry out the audit in conformity with the audit programme, based on the objectives, scope and criteria of the audit, judged against audit programme records.41

4. **The audit activities:**

   a. **Audit preparation:** The objectives, scope, language and criteria for the audit should be clearly communicated to the auditors with any ambiguities clarified between the auditee and auditors before the initiation of the audit.42 The auditors should determine the feasibility of the audit based on the availability of time, resources, information and cooperation of relevant parties.43

   b. **Document review:** Samples of all documentation produced as part of the smelter/refiner’s supply chain due diligence for minerals from conflict affected areas should be reviewed “to determine the conformity of the system, as documented, with audit criteria.”44 This includes, but is not limited to, documentation on supply chain internal controls (a sample of chain of custody documentation, payment records), relevant communications and contractual provisions with suppliers, documentation generated by company risk assessments (including all records on business partners and suppliers, interviews and on-the-ground assessments), and any documents on risk management strategies (e.g. agreements with suppliers on improvement indicators).

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40 The requisite knowledge and skill can be determined by the auditor’s education and work experience, as laid out in Chapter 7.4 of ISO 19011:2002. Auditors must also exhibit personal attributes of professionalism, impartiality, and honesty.

41 See Chapter 5.6 of ISO 19011.

42 See Chapter 6.2 of ISO 19011.

43 Ibid.

44 See 6.3 of ISO 19011.
c. **In-site investigations:** Before beginning the in-site investigations, auditors should prepare an audit plan\(^{45}\) and all working documents.\(^{46}\) The evidence from smelter/refiner supply chain risk assessments and smelter/refiner supply chain risk management should be verified. Auditors should gather further evidence and verify information by conducting relevant interviews, making observations and reviewing documents.\(^{47}\) In-site investigations should include:

i. **The smelter/refiner facilities** and sites where the smelter/refiner carry out due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.

ii. **A sample of the smelter/refiner’s suppliers** (both international concentrate traders, re-processors and local exporters), which includes supplier facilities.

iii. **A meeting with the assessment team** (see Appendix) to review the standards and methods for generating verifiable, reliable and up-to-date information, and audit a sample of evidence relied upon by the smelter/refiner while carrying out due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas. In preparation for the meeting, auditors should request information and submit questions to the on-the-ground assessment team.

iv. **Consultations with local and central governmental authorities, UN expert groups, UN peacekeeping missions and local civil society.**

d. **Audit Conclusions:** Auditors should generate findings that determine, based on the evidence gathered, the conformity of the smelter/refiner due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas with this Guidance. Auditors should make recommendations in the audit report for the smelter/refiner to improve their due diligence practices.

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

1. **IMPLEMENTATION OF THE AUDIT.** Under current circumstances, all actors in the supply chain should cooperate through their industry organisations to ensure that the auditing is carried out in accordance with audit scope, criteria, principles and activities listed above.

a. **SPECIFIC RECOMMENDATIONS - For local mineral exporters**

i. Allow access to company sites and all documentation and records of supply chain due diligence.

ii. Facilitate safe access to on-the-ground assessment team. Coordinate logistics to provide a safe meeting point for audit teams and the on-the-ground assessment team.

\(^{45}\) See 6.4.1 of ISO 19011.

\(^{46}\) See 6.4.3 of ISO 19011.

\(^{47}\) Art. 6.5.4 of ISO 19011.
b. **SPECIFIC RECOMMENDATIONS - For international concentrate traders and mineral re-processors**

i. Allow access to company sites and all documentation and records of supply chain due diligence.

c. **SPECIFIC RECOMMENDATIONS - For smelters/refiners**

i. Allow access to company sites and all documentation and records of supply chain due diligence.

ii. Facilitate contact with the sample of suppliers selected by the audit team.

d. **SPECIFIC RECOMMENDATIONS – For all downstream companies**

i. It is recommended that all downstream companies participate and contribute through industry organizations or other suitable means to appoint auditors 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 organizations.

2. **INSTITUTIONALISED MECHANISM FOR RESPONSIBLE SUPPLY CHAINS OF MINERALS FROM CONFLICT AFFECTED AND HIGH-RISK AREAS.** All actors in the supply chain, in cooperation and with the support of governments and civil society, may consider incorporating the audit scope, criteria, principles and activities set out above into an institutionalized mechanism that would oversee and support the implementation of due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas. The institution should carry out the following activities:

a. With regard to audits:

i. Accrediting auditors;

ii. Overseeing and verifying audits;

iii. Publishing audit reports with due regard to business confidentiality and competitive concerns. 48

b. Develop and implement modules to build capabilities of suppliers to conduct due diligence and for suppliers to mitigate risk.

c. Receive and follow-up on grievances of interested parties with the relevant company.

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48 See footnote 27.
STEP 5: REPORT ANNUALLY ON SUPPLY CHAIN DUE DILIGENCE

OBJECTIVE: To publicly report on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas in order to generate public confidence in the measures companies are taking.

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.

A.1 SPECIFIC RECOMMENDATIONS – For all upstream companies

1. Company Management Systems: Set out the company’s supply chain due diligence policy; explain the management structure responsible for the company’s due diligence and who in the company is directly responsible; describe the control systems over the mineral supply chain put in place by the company, explaining how this operates and what data it has yielded that has strengthened the company’s due diligence efforts in the reporting period covered; describe the company’s database and record-keeping system and explain the methods for disclosing all suppliers, down to the mine of origin, to downstream actors; disclose information on payments made to governments in line with EITI criteria and principles.

2. Company risk assessment in the supply chain: Publish the risk assessment with due regard taken of business confidentiality and other competitive concerns. Outline the methodology, practices and information yielded by the on-the-ground assessment; explain the methodology of company supply chain risk assessments.

3. Risk management: Describe the steps taken to manage risks, including a summary report on the strategy for risk mitigation in the risk management plan, and capability-training, if any, and the involvement of affected stakeholders. Disclose the efforts made by the company to monitor and track performance.

A.2 SPECIFIC RECOMMENDATIONS – For smelters/refiners

1. Audits: Publish the audit reports of smelters/refiners with due regard taken of business confidentiality and other competitive concerns.

A.3 SPECIFIC RECOMMENDATIONS – For all downstream companies

1. Company Management Systems: Set out the company’s supply chain due diligence policy; explain the management structure responsible for the company’s due diligence and who in the company is directly responsible.

49 Business confidentiality and other competitive concerns means price information and supplier relationships without prejudice to subsequent evolving interpretation. All information will be disclosed to 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.

50 See footnote 49.
2. **Risk assessment and management:** Describe the steps taken to identify smelters/refiners in their supply chain and assess their due diligence practices, including the published list of qualified smelters/refiners through industry validation schemes conforming to the due diligence processes recommended in this Guidance. Describe the steps taken to manage risks.

3. **Audits:** Publish the audit reports of their due diligence practices, with due regard taken of business confidentiality and other competitive concerns\(^{51}\) and responses to identified risks.

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\(^{51}\) See footnote 49.
APPENDIX

GUIDING NOTE FOR UPSTREAM COMPANY RISK ASSESSMENT

A. Create enabling conditions for an effective risk assessment. When planning and structuring the supply chain risk assessment, upstream companies in the supply chain should take into account the following recommended actions:

1. *Use an evidence-based approach.* Conclusions of the company risk assessment should be corroborated by verifiable, reliable, up-to-date evidence, which should be gained through on-the-ground research carried out by an on-the-ground assessment team.

2. *Preserve the reliability and quality of company fact and risk assessment of a supply chain,* by ensuring that company assessors are independent from the activity being assessed and free from conflict of interests.\(^{52}\) Company assessors must commit to reporting truthfully and accurately and upholding the highest professional ethical standards and exercise “due professional care.”\(^{53}\)

3. *Ensure the appropriate level of competence,* by employing experts with knowledge and skill in as many of the following areas: the operational contexts assessed (e.g. linguistic abilities, cultural sensitivities), the substance of conflict-related risks (e.g. the standards in Annex II, human rights, international humanitarian law, corruption, financial crime, conflict and financing parties to a conflict, transparency), the nature and form of the mineral supply chain (e.g. mineral procurement), and the standards and process contained in this due diligence Guidance.

B. Establish an on-the-ground assessment team (hereafter “assessment team”) in the conflict-affected and high-risk areas of mineral origin and transit to generate and maintain information on suppliers and the circumstances of mineral extraction, trade, handling and export. Upstream companies may establish such a team jointly in cooperation with other upstream companies supplying from, or operating in these areas (“cooperating companies”).

1. Upstream companies establishing the assessment team should:

   a. Ensure the assessment team consults with local and central governments to gain information, with a view of strengthening cooperation and opening avenues of communication between government institutions, civil society and local suppliers.

   b. Ensure the assessment team regularly consults with local civil society organizations with local knowledge and expertise.

   c. Establish or support the creation, where appropriate, of community-monitoring networks to feed information into the assessment team.

   d. Share information gained and maintained by the assessment team throughout the entire supply chain, preferably through a computerized system with web accessibility for companies in the

\(^{52}\) Art 4, ISO 19011: 2002

\(^{53}\) Art 4, ISO 19011: 2002
supply chain and 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.

2. Upstream companies establishing the assessment team should define the scope and capacities of the on-the-ground assessment team to undertake the following activities:

a. Obtain first-hand evidence of the factual circumstances of mineral extraction, trade, handling and export. This includes:

i. **The militarisation of mine sites, transportation routes and points where minerals are traded.** The assessment team should track the militarisation of mine sites, transportation routes and points where minerals are traded. Interactive maps which indicate the location of mines, armed groups, trade routes, roadblocks and airfields can constitute an additional source of information for companies. Tracking the militarisation of mines, transportation routes and points where minerals are traded means identifying factual circumstances resulting in direct or indirect support to non-state armed groups and public or private security forces (as defined in the model supply chain policy in Annex II).

ii. **Serious abuses associated with the extraction, transport or trade of minerals (as defined in the model supply chain policy in Annex II) committed by public or private security forces, non-state armed groups or other third parties operating in mining areas, along transportation routes or points where minerals are traded.**

b. Respond to specific questions or requests for clarifications made by cooperating companies and put forward recommendations for the company risk assessment and risk management. All cooperating companies may put forward questions to, or request clarifications from, the on-the-ground assessment team on the following:

i. Evidence generated by the traceability and chain of custody system [Step 1 (C)] and the risk assessment [Step 2].

ii. Information on suppliers (intermediaries and exporters) in line with “Know your customer/supplier” protocols, such as those implemented through anti-money laundering compliance systems.

c. Receive and assess grievances voiced by interested parties on the ground and communicate to cooperating companies.

**B.1 SPECIFIC RECOMMENDATIONS - For local exporters**

1. Facilitate local logistics for the assessment team, responding to any requests for assistance.

2. Facilitate assessment team’s access to all upstream intermediaries, consolidators and transporters.

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54 Such as DRC Map, US Department of State Map, IPIS map.
55 Questions and clarifications should be recorded and feed into information systems for future use, monitoring and updating, jointly accessible by cooperating companies.
3. Allow the assessment team access to all company sites, including in neighbouring countries or other countries where trans-shipment or relabeling is likely, as well as all books, records or other evidence of procurement practices, tax, fee and royalty payments, and export documentation.

4. Allow the assessment team access to all information gained and maintained as part of the company’s due diligence practices, including payments made to non-state armed groups and public or private security forces.

5. Identify relevant personnel to act as contact points for the assessment team.

B.2 SPECIFIC RECOMMENDATIONS - For international concentrate traders and mineral re-processors

1. Facilitate assessment team’s access to all cross-border transporters, allowing them to join cross-border transportation of minerals on an unannounced basis.

2. Allow assessment teams access to all sites owned by the international concentrate traders and mineral re-processors in neighbouring countries or other countries where trans-shipment or relabeling is likely for minerals from conflict-affected and high-risk areas or where leakages in the supply chain are known or likely to exist.

3. Allow assessment team access to all books, records or other evidence of procurement practices, tax, fee and royalty payments, and export documentation.

4. Allow the assessment team access to all information gained and maintained as part of the company’s due diligence practices, including payments made to non-state armed groups and public or private security forces.

5. Proactively provide assessment team with records of minerals from other red flag locations of mineral origin and transit.

6. Identify relevant personnel to act as contact points for the assessment team.

B.3 SPECIFIC RECOMMENDATIONS - For smelters/refiners

1. Identify relevant personnel to act as contact points for the assessment team.

2. Allow assessment team access to all books, records or other evidence of procurement practices, tax, fee and royalty payments, and export documentation.

3. Allow the assessment team access to all information gained and maintained as part of the company’s due diligence practices.

C. RECOMMENDED QUESTIONS THAT COMPANY ASSESSMENTS SHOULD ANSWER:
These questions relate to common circumstances found in the supply chain of tin, tantalum, tungsten, their ores and metal derivates which give rise to risks.

1. Know the context of the conflict-affected and high-risk area of mineral origin, transit and/or export
   a. Study profiles on the conflict-affected and high-risk areas of origin, neighbouring and transit countries (including potential transportation routes and the locations of extraction,
trade, handling, and export). Relevant information will include public reports (from governments, international organisations, NGOs, and media), maps, UN reports and UN Security Council sanctions, industry literature relating to mineral extraction, and its impact on conflict, human rights or environmental harm in the country of potential origin, or other public statements (e.g. from ethical pension funds).

b. Are there international entities capable of intervention and investigation, such as UN peacekeeping units, based in or near the area? Can these systems be used to identify actors in the supply chain? Are there local means for recourse to address concerns related to the presence of armed groups or other elements of conflict? Are relevant national, provincial, and/or local regulatory agencies with jurisdiction over mining issues capable of addressing such concerns?

2. Know your suppliers and business partners

   a. Who are the suppliers or other parties involved in financing, extracting, trading and transporting the minerals between point of extraction and the point at which the company undertaking the due diligence takes custody of the minerals? Identify all significant actors in the supply chain, collecting information on ownership (including beneficial ownership), corporate structure, the names of corporate officers and directors, the ownership interests of the company or officers in other organisations, the business, government, political or military affiliations of the company and officers (in particular, focusing on potential relationships with non-state armed groups or public or private security forces).

   b. What procurement and due diligence systems do these suppliers have in place? What supply chain policies have suppliers adopted and how have they integrated them into their management processes? How do they establish internal controls over minerals? How do they enforce policies and conditions on their suppliers?

3. Know the conditions of mineral extraction in conflict affected and high-risk areas

   a. What is the exact origin of the minerals (what are the specific mines)?

   b. What was the method of extraction? Identify if minerals were extracted through artisanal and small-scale mining ("ASM") or large-scale mining, and if through ASM, identify, where possible, whether extracted by individual artisanal miners, artisanal mining cooperatives, associations, or small enterprises. Identify the taxes, royalties and fees paid to government institutions, and the disclosures made on those payments.

   c. Do conditions of extraction involve the presence and involvement of non-state armed groups or public or private security forces, including in one or more of the following: direct control of the mine or transportation routes around mine; levying of taxes on miners or extortion of minerals; beneficial or other ownership interests in the mine site or mineral rights by non-state armed groups or public or private security forces and/or their families and/or associates; engagement in mining as a second income when ‘off duty’; or provision


of security paid by miners or through taxes arising from production. Do any of these armed
groups or military units have an involvement or interest in the conflict? Do any of them
have a history of involvement in widespread human rights abuses or other crimes?

d. What are the conditions of extraction? In particular, identify if there are (i) any forms of
torture, cruel, inhuman and degrading treatment exacted for the purposes of mineral
extraction; (ii) 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; (iii) the worst forms of child labour for the purposes of
mineral extraction; (iv) other gross human rights violations and abuses such as widespread
sexual violence on mine sites or in the course of mineral extraction; or (v) war crimes or
other serious violations of international humanitarian law, crimes against humanity or
genocide.

4. Know the conditions of mineral transport, handling and trade in conflict affected and high-
risk areas

a. Were downstream purchasers situated at the mine site or elsewhere? Were the minerals
from different miners handled and processed separately and kept separate when sold
downstream? If not, at what point were the minerals processed, consolidated and mixed
when sold downstream?

b. Who were the intermediaries that handled the minerals? Identify whether any of those
intermediaries have been reported or suspected to be extracting or trading minerals
associated with non-state armed groups.

c. To what extent, if any, are public or private security forces or non-state armed groups
directly or indirectly involved in the trading, transportation or taxing of the minerals? Are
the public or private security forces or non-state armed groups benefiting in any way from
the trading, transporting or taxing of minerals being carried out by other parties, including
through affiliations with intermediaries or exporters?

d. To what extent, if any, are the public or private security forces or non-state armed groups
present along trade and transportation routes? Are there any human rights abuses occurring
in trading, transportation or taxing of the minerals? For example, is there evidence of
forced labour, extortion or coercion being used? Is child labour being used? In particular,
identify if there are (i) any forms of torture, cruel, inhuman and degrading treatment exacted
for the purposes of mineral transport or trade; (ii) any forms of forced or compulsory labour
to mine, transport, trade or sell minerals; (iii) the worst forms of child labour for the
purposes of mineral transport or trade; (iv) other gross human rights violations and abuses
such as widespread sexual violence on mine sites or in the course of mineral transport or
trade; or (v) war crimes or other serious violations of international humanitarian law, crimes
against humanity or genocide for the purposes of mineral transport or trade.

e. What information is available to verify the downstream trade, such as authentic documents,
transportation routes, licensing, cross-border transportation, and the presence of armed
groups and/or public or private security forces?
5. **Know the conditions of export from conflict affected and high-risk areas**

   a. What was the point of export and have there been reports or are there suspicions of facilitation payments or other bribes paid at points of export to conceal or fraudulently misrepresent the mineral origin? What documents accompanied mineral export and have there been reports or are there suspicions of fraudulent documentation or inaccurately described declarations (on type of mineral, mineral quality, origin, weight, etc.)? What taxes, duties or other fees were paid on export and have there been reports or are there suspicions of under-declaration?

   b. How was export transportation coordinated and how was it carried out? Who are the transporters and have there been reports or are there suspicions of their engagement in corruption (facilitation payment, bribes, under-declarations, etc.)? How was export financing and insurance obtained?
**The Department of Labor's 2009 Findings on the Worst Forms of Child Labor under the Trade and Development Act**

**Legislation**
Findings on the Worst Forms of Child Labor is the ninth annual report prepared by the U.S. Department of Labor in accordance with the Trade and Development Act of 2000 (TDA).

**Mandate**
Department of Labor, in conjunction with the Departments of State and Homeland Security, publish a list of products which were produced or manufactured by forced or child labor to ensure that federal agencies enforce laws related to these types of labor.

**Contents**
Report on 144 U.S. Trade beneficiary countries and territories to implement their international commitments to eliminate the worst forms of child labor. Covers worst forms of child labor in goods and services including forced and hazardous child labor; also describes laws, policies, and programs.

**U.S. Department of Labor’s List of Goods Produced by Child Labor or Forced Labor 2010**

**Legislation**

On January 10, 2006, the President signed into law the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005. Section 105(b)(1) of Act directed the Secretary of Labor, acting through the Bureau of International Labor Affairs, to "carry out additional activities to monitor and combat Forced and child labor in foreign countries."

On December 23, 2008, a new reauthorization of the legislation came into force, which required that ILAB publish an initial list of goods pursuant to section (C) and report to Congress on its implementation of TVPRA mandates on or before January 15, 2010.

**Mandate**
Congress mandated the Department of Labor to compile a list of goods from countries produced by forced labor or child labor.

**Contents**
On September 10, 2009, the Bureau of International Labor Affairs (ILAB) released its initial “list of goods from countries” (List), pursuant to Section 105(b)(2)(C) of the TVPRA of 2005. On December 15, 2010, ILAB released its first update to the initial List. The update adds 6 new goods and 12 new countries to the List, for totals of 128 goods from 70 countries that the
The Bureau has reason to believe are produced by forced labor, child labor or both in violation of international standards.

**Executive Order**

**Executive Order 13126 of 1999**

On June 12, 1999, President Clinton signed Executive Order (EO) 13126 ("Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor"). The EO is intended to ensure that federal agencies enforce laws relating to forced or indentured child labor in the procurement process.

That goal is consistent with current laws that, among other things, outlaw the importation of products made with forced or indentured child labor.

**Mandate**

The Department of Labor, in consultation and cooperation with the Departments of State and Treasury, develop and maintain a list of products from countries produced by forced or indentured child labor.

**Contents**

On July 20, 2010 the Department of Labor released a final determination in the Federal Register updating the EO 13126 list which includes 29 products from 21 countries; On December 15, 2010 the Department of Labor proposed revisions that would add one product and remove one product. On May 31, 2011 the Department of Labor released a Notice of Final Determination in the Federal Register updating the EO 13126 list in accordance with the Procedural Guidelines. This notice adds a product, hand-woven textiles from Ethiopia, to the list that the Departments of Labor, State and Homeland Security believe might have been mined, produced, or manufactured by forced or indentured child labor and removes charcoal from Brazil from the list, as the Departments of Labor, State and Homeland Security have a reasonable basis to believe that the use of forced or indentured child labor has been significantly reduced.

**Sanction**

Under procurement regulations implementing the EO, federal contractors who supply products on a list published by the Department of Labor (DOL) must certify that they have made a good faith effort to determine whether forced or indentured child labor was used to produce the items listed.
REAUTHORIZATION OF THE TRAFFICKING VICTIMS PROTECTION ACT

WHO WE ARE:

The Alliance to End Slavery and Trafficking (ATEST) is a diverse alliance of U.S.-based human rights organizations, acting with a shared agenda to end modern-day slavery and human trafficking around the world. We work together to create fundamental change—from strengthening laws and business standards to building public will—to change the accepted norms that enable the phenomenon to persist around the world. The fact that the enslavement and trade in human beings exists in our modern world as a disturbingly large, highly profitable illicit industry is unacceptable. Legal nowhere but present across the globe, slavery damages our communities, taints the products and services we consume and the profits we earn, and is one of the most pressing human rights challenges of our time. ATEST member organizations include: Coalition to Abolish Slavery and Trafficking (CAST), Coalition of Immokalee Workers (CIW), ECPAT-USA, Free the Slaves, International Justice Mission, Not For Sale Campaign, Polaris Project, Safe Horizon, Solidarity Center, Verité, Vital Voices Global Partnership, World Vision, and one individual member, Julia Ormond, former U.N. Goodwill Ambassador and president and founder of the Alliance to Stop Slavery and End Trafficking (ASSET).

THE OPPORTUNITY:

The Trafficking Victims Protection Act (TVPA) of 2000, which has been reauthorized in 2003, 2005 and 2008, must be reauthorized again in 2011. This is an opportunity to continue the fight to end modern-day slavery in our generation. Although the United States has taken significant steps to combat human trafficking through a comprehensive approach commonly referred to as the 4P’s (prevention, protection, prosecution and, most recently, partnership), more needs to be done. ATEST members struggle daily to effectively address this issue both here in the U.S. and abroad. Our recommendations stem from our programmatic work helping survivors in the field and working hand-in-hand with the U.S. government and international agencies addressing this issue. Our recommendations are also bolstered by the 2010 Trafficking in Persons (TIP) report, which included, but was not limited to, strengthening enforcement tools related to the restriction of importing goods made from forced and child labor; strengthening enforcement of temporary worker programs; intensifying enforcement and workers’ rights infrastructure; mandating victim identification training for immigration, detention and removal officers, and immigration services officers; increasing funding for victim services; and increasing U.S. government efforts to identify and assist U.S. citizen victims. We urge the President and Congress to expeditiously enact a Trafficking Victims Protection Reauthorization Act in 2011.

ATEST RECOMMENDATIONS FOR TVPA REAUTHORIZATION IN 2011:

Prevention of Human Trafficking and Modern Day Slavery

- Require state foster care programs to report in their annual plan, which is tied to federal funds, how they address the issue of child labor trafficking and commercial sexual exploitation of children or how they plan to do so in the future.
- Strengthen regulation of foreign labor recruiters (in the U.S. and abroad) to prevent human trafficking.
- Require retail sellers and manufacturers doing business inside the U.S. to develop, maintain, implement, and publicly state their policies on eliminating and preventing human trafficking and slavery from their supply chain.
- Direct the Department of Labor to update the child-made and slavery-made products list and to include further information on certain products.
- Create an effective mechanism to ensure that goods consumed in the U.S. are not produced using forced or indentured labor or by benefit of human trafficking.

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1 This document is a summary of a more comprehensive ATEST document that includes proposed statutory language, detailed explanations, and salient case examples to illustrate the issues highlighted. The complete document may be found at [www.endslaveryandtrafficking.org](http://www.endslaveryandtrafficking.org).
- Encourage country of origin governments and human rights organizations to establish pre-departure education sessions for persons going to work in the U.S. on non-immigrant visas to ensure that workers know their rights; allocate funds for development and distribution of pamphlets required by TVPRA 2008; and develop and fund a “Know Your Rights” video to play continually in local languages while individuals wait in line at U.S. consulates.
- Provide a mechanism for non-immigrant visa holders to find assistance and/or file a complaint about a trafficking experience in the USA from their country of origin.

**Protection of Trafficking Victims**

- Extend immigration protections to individuals who have been subject to fraud in foreign labor contracting.
- Provide immigration relief for those who have left the U.S. after the human trafficking occurred but who continue to cooperate with law enforcement.
- Ensure that law enforcement makes timely responses to requests for continued presence.
- Provide flexibility for human trafficking victims willing to cooperate with law enforcement where law enforcement has not responded to their efforts.
- Harmonize T and U-visa holders’ eligibility for adjustments of status.
- Enhance the self-sufficiency of trafficking victims who have pending T or U-visa applications by providing them with earlier access to employment authorization.
- Allow T and U-visa holders to adjust their status to that of lawful permanent residents even after their T and U-visas have expired.
- Ensure that the definitions section of the TVPA includes a definition for “abuse or threatened abuse of law or legal process.”
- Provide the right to seek restitution for child survivors of sex crimes by U.S. citizens in foreign places and civil remedies for personal injuries to child survivors of human trafficking.
- Strengthen the influence of G/TIP by elevating the Ambassador position to Assistant Secretary.
- Designate a portion of the TIP Report to highlight anti-trafficking successes.
- Clarify the definition of trafficking to ensure that trafficking survivors are not required to show proof of movement.

**Prosecution of Human Trafficking and Modern-Day Slavery Cases**

- Prohibit employers from holding workers’ identification and immigration documents.
- Criminalize the exploitation of children by U.S. citizens living overseas, and prevent sex tourists from using cultural “acceptance” of sex with children as an affirmative defense.
- Enhance trafficking prosecutions by providing whistleblower protections to exploited workers.
- Establish an office within the Internal Revenue Service to focus on violations of the internal revenue laws by persons who are under investigation for conduct relating to human trafficking.
- Exclude crime victims’ restitution under the Internal Revenue Code so survivors of trafficking and modern-day slavery may rely on the entirety of funds recovered from their traffickers to rebuild their lives.
- Designate Department of Labor Wage & Hour funding specific for training, investigations and for specialized investigators for human trafficking.
- Clarify that corporations and municipal governments cannot escape accountability for trafficking crimes.

**Partnership and Increased Capacity to Combat Modern-Day Slavery**

- Authorize an emergency fund available for the unexpected needs of human trafficking survivors occurring in the U.S., which can be tapped by service providers and law enforcement to meet emergency needs such as shelter, interpretation, legal services and medical care.
- Enhance access to legal services for human trafficking victims in the U.S., including access to immigration and civil remedies and criminal victim-witness advocacy.
- Create a separate authorized pool of funding for law enforcement human trafficking taskforces.
- Support threshold programs to bring countries on the Tier II or Tier II Watch List into compliance.
- Provide assistance (grants, cooperative agreements, or contracts) for an eligible country with a significant prevalence of trafficking in children that enter into a Child Protection Compact with the U.S. to support policies and programs to eradicate the trafficking of children.
- Encourage G/TIP to address and eradicate severe forms of TIP from particular sectors or regions by developing a comprehensive approach to the problem.
- Strengthen G/TIP’s capacity to act quickly and effectively to prevent trafficking in post-conflict and emergency situations.
- Provide G/TIP with the authority and resources to carry out or commission investigations and data collection on slavery and trafficking prevalence so as to measure and improve effectiveness of its own programs and the effectiveness of national government initiatives to combat slavery and trafficking.
- Increase current authorization of appropriations for victim services and law enforcement activities in the U.S.
Facts on Forced Labor and the National PACT in Brazil

Forced labor is a global problem, affecting almost every country worldwide. It takes different forms, including debt bondage, trafficking and other forms of modern slavery. ILO conventions 29 and 105 are two of the eight conventions that have been identified by the ILO's Governing Body as being fundamental to the rights of human beings at work. ILO estimated in 2005 that at least 12.3 million people are victims of forced labor worldwide.

Brazil ratified ILO’s Forced Labor Convention (No. 29) in 1930 and the Abolition of Forced Labor Convention (No. 105) in 1965. The Government acknowledged the existence of contemporary forced labor before the ILO and the international community in 1995 and requested ILO technical assistance, making Brazil a leading example of a country committed to solving, rather than denying the problem. The ILO has been assisting the Government of Brazil and its social partners in its efforts since 2002 in the form of a project entitled “Combating Forced Labor in Brazil”, funded by the US Departments of Labor (USDOL) and State (USDOS).

Brazil has made steady progress in the elimination of forced labor. Since 1995, over 39,000 workers have been rescued from working conditions “analogous to slavery” by the Mobile Inspection Unit of the Ministry of Labor (MOL). In 2008, the Government renewed its commitment to forced labor eradication by launching its Second National Plan for the Eradication of Forced Labor (the first edition was launched in March 2003).

Many of the strategies of this multi stakeholder effort are creative and unique, showing the need to take significant steps to deal with this severe violation of human rights and fundamental rights at work, including:

- The creation of CONATRAE (National Commission for the Eradication of Forced Labor), responsible for formulating and monitoring the First and Second National Plan for Prevention and Elimination of Forced Labor;

- The Special Mobile Inspection Group of the Ministry of Labor and Employment (GEFM) composed of labor inspectors in partnership with the labor prosecutors, as well as federal police officers and at times the Federal Highway Police;
The Labor Courts of Justice, with jurisdiction over permanent workers or migrants, in order to address the areas that are mostly affected by forced labor;

The "Dirty List" – administered by the Labor Ministry, which publicly lists the names of companies and employers who after due process have been found to be utilizing forced labor.

To corroborate the Brazilian government’s measures, a number of stakeholders are actively engaged in eradicating and identifying forced labor issues across sectors, including some industry initiatives in the charcoal and cotton sectors. Partners include the ILO, Repórter Brasil, Ethos Institute of Corporate Social Responsibility, The Social Observatory Institute, the Citizens’ Charcoal Institute (ICC), and the Pastoral Land Commission (CPT).

Why addressing forced labor is relevant to business

Forced labor is a significant risk management concern for companies. But in today's sophisticated business world, it can be very hard to monitor all aspects of production throughout complex supply chains. End buyers may not be able to ascertain what the recruitment practices are in an outsourced operation, and procedures may not be in place to ensure that such information is available. Moreover, officials at different levels of a company’s operations may not have the tools to identify a forced labor risk, or prepare the appropriate response.

In 2004, at the request of the Special Human Rights Secretariat (SEHD) of the Presidency of the Republic, the NGO Repórter Brasil, in partnership with the ILO, carried out the first study to identify the supply chains that involved the states included on the slave labor “dirty list” (a list issued by the Ministry of Labor every six months containing the names of those caught using forced labor practices). Since then, researchers from Repórter Brasil have investigated the commercial links between those estates. The study identified a network of hundreds of national and international companies that produced commercialized products from those estates.

Based on the researchers’ results, Ethos Institute of Corporate Social Responsibility, ILO, NGO Repórter Brasil and The Social Observatory Institute have coordinated meetings with the companies detected in the first and subsequent assessments. Preliminary talks evolved, leading to the launch of the Pact for the Eradication of Slave Labor, in May of 2005, to economically boycott slavery in Brazil (www.pactonacional.com.br). The initiative has engaged over 185 companies, commercial associations and social organizations as partners that are responsible for more than 20% of Brazil’s GDP.

Inclusion to the Pact is open to any social and economic actors committed to the dignity, formalization, modernization and eradication of contemporary forms of slavery.
WHAT IS THE PACT FOR THE ERADICATION OF SLAVE LABOR?

Launched in 2005, the National Pact for the Eradication of Slave Labor is a multi-stakeholder initiative that combines efforts to engage national and international companies that have become signatories of the Pact to maintain supply chains free of slave labor.

Signatory companies work to achieve the following commitments: cutting commercial ties with businesses that have made use of slave labor, incorporating contractual clauses associated with practices that characterize slavery, implementing mechanisms to track products and providing in-house training for employees and trading partners on slave labor to eradicate the problem.

Since 2005, more than 38,000 slave workers have been rescued in Brazil by the federal government. Working together, the stakeholders of the National Pact for the Eradication of Slave Labour have raised the overall well-being of rural workers.

The Pact supports law enforcement and promotes commercial restrictions on enterprises that profit from the exploitation of slave laborers, decent work, and social integration of workers. Also the Pact works to raise awareness of workers vulnerable to enticement into slave labor. Companies are also expected to monitor and implement actions and publicize the results of joint efforts to eradicate modern slavery.

Technical Services

The National Pact engages in supply chain studies that provide valuable tools in the fight against contemporary slavery in the context of complex supply chains. These instruments enable the Brazilian government, national and international buyers and suppliers and society to become more conscious and aware of the problem, and take action against companies that profit from the exploitation of slave labor.

Professional Training

The Committee also offers in-house training for employees of signatory companies free of charge. A virtual platform (www.pactonacional.com.br) has been created to provide
information about corporate social responsibility policies towards the fight against slave labor, information about the Pact, who the signatories are, how to join the Pact, news and documents on slave labor. It also provides easy access to the Brazilian government list of companies that have been demonstrated to be using slave labor, better known as the "dirty list".

CONTACT
Pacto@reporterbrasil.org.br
(11) 2506-6570

NATIONAL PACT FOR THE ERADICATION OF SLAVE LABOUR IN BRAZIL

Considering:

a) that there is a list of all employers and/or their middleman who exploit people through slave labour in Brazil (Act MTE 540/2004) by means of physical and moral constraint restricting both free option and free action on part of the workers;

b) that despite the changes already made and the efforts taken by the companies involved in the various productive chains and by agencies from both the government and civil society there still remains spots of forced labour in Brazil, and in the rural area this forced labour usually assumes the features of slavery because of debts. So the priority of the government and the society should be to eradicate this immediately;

c) that all kinds of forced labour represent a serious violation of human rights, also condemned by the Universal Human Rights Declaration, by the 29th and 105th Convention from International Labour Organization- ILO, by the Declaration of Fundamental Principles and Rights at Work from the ILO, and by the American Convention of Human Rights;

d) that expanding the promotion of a positive agenda is important, so that the commitment of all enterprises and the various agencies involved with social responsibility and sustainable development can be better valued;

All signatories, upon endorsement, agree to increase efforts to dignify and improve labour relations in all the productive chains and in every committed sector, of the "Employers Register Act 540/2004", that have kept workers in conditions analogous to slavery. So, within their own capacity, any company joining the initiative is expected to:
1. Define specific goals to regulate labour relations of producers and suppliers within the productive chains not only by providing adequate access to decent work and social protection, but also by developing preventative safety and health measures;

2. Define commercial restrictions to companies and/or identified people in the productive chain that make use of degrading working conditions associated with practices that are considered analogous to slavery;

3. Support social and productive reintegration of workers that are still working under degrading or unworthy conditions, so that they can have opportunities to overcome social exclusion;

4. Raise workers’ awareness to the vulnerabilities of slave labour enticement and support slavery prevention campaigns to society;

5. Support public and private partnership actions to facilitate vocational and professional training of rescued workers;

6. Support actions against evasion of taxes and piracy;

7. Support and discuss proposals that will subsidize and demand implementation, by the National Government, of actions foreseen in the National Plan to Eradicate Slave Labour;

8. Monitor the implementation of the actions described above and the achievements of the proposed goals as well as disseminating the results of this joint effort;

9. Systematize and disseminate the experience in order to replicate these actions in Brazil and others countries to advance in the fight against all kinds of degrading work and slave labour;

10. Assess the results of the policies and actions in this agreement a year after its formalization.

In the case of federations and entities, considering they do not have any power to control these measures, their commitment consists of advising their associates to observe the recommended practices in the present agreement.

This initiative is voluntary, any social actor committed to dignity, formalization, modernization and eradication of degrading labour and slavery can join.

Brasilia, May 19th, 2005
ABSTRACT OF ILO PROJECT IN BRAZIL

Eradicating forced labour from global supply chains through social dialogue

The project will strengthen management capacity of Brazilian suppliers and U.S. buyers to reduce risks of trafficking and forced labor, while enhancing the National Pact to Combat Forced Labor, launched in 2005.

The most common form of forced labor found in Brazil is debt bondage. Brazil ratified ILO’s Forced Labor Convention, 1930 (No. 29) in 1957 and the Abolition of Forced Labor Convention, 1957 (No. 105) in 1965. The Government acknowledged the existence of contemporary forced labor before the ILO and the international community in 1995 and requested ILO technical assistance, making Brazil a leading example of a country committed to solving, rather than denying that problem. The ILO has been assisting the Government of Brazil and its social partners in its efforts since 2002 in the form of a project entitled “Combating forced labor in Brazil”, funded by the US Department of Labor (USDOL).

Brazil has made steady progress in the elimination of forced labor, as noted in ILO’s 2005 Global Report “A Global Alliance against Forced Labour”. Over 20,000 workers were rescued from working conditions “analogous to slavery” by the Mobile Inspection Unit of the Ministry of Labor (MOL). In 2003, the Government renewed its commitment to forced labor eradication by launching its National Plan for the Eradication of Forced Labor (now in its second revised version).

**Objectives**

The key objective is to strengthen the Global Alliance Against Forced Labor by reducing risks of trafficking and forced labor facing Brazilian suppliers and international buyers. The immediate objectives and expected results are to: (a) raise general awareness of fundamental rights violations; b) strengthen capacity of enterprises to prevent and remEDIATE the use of forced labor; c) enlarge the scope of information and research on supply chains.

The project contributes to Brazilian Government-led innovations, including mobile inspection raids, a public “laundry list” of companies which feeds a ban on credit from major banks, increased fines, etc. Although governmental actions are essential to fight forced labor, they are insufficient to fully deter trafficking and forced labor. It is recognized that government efforts also require concerted action among national and global suppliers and buyers based on a risk-management approach to eliminate forced labor. Direct involvement of companies and industry associations through the various partners will lead to solid tools and incorporation to business practice, ensuring sustainability among companies.
Strategy

The project, to be implemented over a two-year period, will involve a multifaceted approach to raise awareness, build capacity and ensure sustainability through strengthening dialogue and collaboration between national and international companies. The project will also work with employers’ and workers’ organizations to mobilize their affiliates for developing and improving mechanisms to prevent and combat forced labor. Although adhesion to the Pact will remain voluntary, it is anticipated that the project will motivate more companies to become signatories or at least support its objectives and effective implementation. The capacity building and monitoring strategies of this project aim to support and strengthen ongoing efforts by Brazil’s Government as well as the ILO and its partners in the U.S and in Brazil.

Long Term Goal: To promote a culture of compliance among businesses, workers’ and employers’ organizations in respect to labor rights.

Short Term Goal: To eradicate forced labor from global supply chains in risk sectors through social dialogue.

Component 1: Raise general awareness on Fundamental Principles and Rights at Work violations within commercial supply chains

The project will concentrate in developing a full fledged campaign on fundamental principles and rights at work to be disseminated throughout supply and productive chains. Once the issue gains visibility and the research on the supply chains affected by forced labor is completed, smaller awareness raising activities targeting specific group of companies from different sectors will be held as an outreach strategy for the voluntary National Pact.

Here the project will facilitate dialogue across private actors within each country and between the countries to promote common understanding of the issue and lay a foundation for a coherent partnership approach to addressing forced labor. Results and follow-up from such workshops should feed into capacity building components of the project, in particular the development of tools for business foreseen in Component 2.

Component 2: Strengthen risk management capacity of enterprises to identify, monitor, prevent and remediate the use of forced labor in their supply chains and operations.

The project will be bringing together, improving and formalizing already existing CSR structures in Brazil precisely for the system’s sustainability and maintenance. The materials and tools to be developed in this project include training for buyers, purchasing management, and human resource functions as well as communication tools to be utilized by all parties to better enable purchasing decisions supporting
the Pact and other initiatives. These materials and tools will be universal and available for use at any time after the project’s termination. Lessons learned and technical aspects discussed during the workshops will feed into development and completion of guidance tools developed for auditors and/or purchasing agents, i.e. sample checklists, audit protocols and methodologies, and the development of a voluntary online monitoring and reporting tool.

The goal here is also to strengthen existing networks or develop a new network of Brazilian and US business actors which, with existing government policies, can advance a public-private partnership approach to preventing (re)incidence risks of forced labor in supply chains. This will be initiated first as an informal arrangement, but may be possibly formalized in the framework of the follow up to ILO’s Tripartite MNE Declaration and/or the related OECD Guidelines on Multinationals.

**Component 3: Enlarge the scope of mapped information and research on current global supply chains.**

There is still a lot to be understood and mapped out in relation to the business transactions found in supply chains. The research work planned in this component aims at providing partners with the necessary information to carry out the capacity building aspects of this project; through identifying how goods produced using forced labor were placed within national and international productive chains, taking into account initiatives already established by the steel and soy chains.

The methodology applied consists of the identification of supply chains starting from the laundry-listed properties, moving up the chain through commercial intermediaries and reaching the domestic and international market. It is impossible to state the number of economic relations or business transactions that will be identified and confirmed. However, previous investigative work with supply chains have shown that the number is always sufficient to get the attention of end-buyers and keep the commercial restrictions on laundry-listed properties by the signatories of the Pact.
AIM-PROGRESS
RESPONSIBLE SOURCING IN THE SUPPLY CHAIN

As an integral part of corporate responsibility, the members of AIM are considering programmes to aid in the development of sustainability that incorporate responsible sourcing principles – in terms of workplace health & safety, labour standards, business integrity and environmental management practices.

Without industry collaboration, individual companies throughout the supply chain will continue to create individual programs that increase complexity and hinder broad-based improvements; for example, the cost and confusion of duplicative or inconsistent assessments, while auditing to what are, essentially, common standards. By working together through AIM and focusing on internationally recognized standards and legal requirements, we can improve the efficiency and effectiveness in raising overall supply chain performance to a degree that benefits all participants in the supply chain without adding significant complexity.

The manufacturers represented in AIM have set up a task force to develop guidelines on responsible sourcing, AIM-PROGRESS. AIM-PROGRESS works in conjunction with the GMA (US Food, Beverage & Consumer Products Association) giving the initiative a global scope. The objectives of the AIM-PROGRESS task force are:
- to work jointly on the evaluation of responsible sourcing programmes, in order to achieve greater effectiveness in improving working conditions, business, and the environmental management practices within their supply chains;
- to increase efficiency by recommending common assessment standards and methodologies for responsible sourcing, so as to reduce the need for suppliers to respond to differing requirements;
- to seek convergence with similar efforts and platforms around the world.
- to always recognise that it is the choice of each manufacturer to determine whether or not, and how, to implement any responsible sourcing policies.

Participation in this programme is also open to non-members of either AIM or GMA.

For more information on this programme contact brand@aim.be.

Member companies of AIM-PROGRESS are listed on the right.
Supplier Guiding Principles

Values and Commitments at The Coca-Cola Company

The reputation of The Coca-Cola Company is built on trust and respect. Our employees and those who do business with us around the world know we are committed to earning their trust with a set of values that represent the highest standards of quality, integrity, excellence, compliance with the law, and respect for the unique customs and cultures in communities where we operate.

Our Company has always endeavored to conduct business responsibly and ethically. We respect international human rights principles aimed at promoting and protecting human rights, including the United Nations Declaration of Human Rights and the International Labor Organization’s Declaration on Fundamental Principles and Rights at Work. We actively participate in the United Nations Global Compact. These corporate values are formalized in the Workplace Rights Policy.

Our acknowledgment of these international principles is consistent with our dedication to enriching the workplace, preserving the environment, strengthening the communities where we operate.

The Supplier Guiding Principles – Reflecting the Company’s Values

The Supplier Guiding Principles (SGP) are a vital pillar of The Coca-Cola Company’s workplace accountability programs. These programs are driven by the belief that good corporate citizenship is essential to our long-term business success and must be reflected in our relationships and actions in our workplaces and the workplaces of those who are authorized to directly supply our business.

Recognizing that there are differences in laws, customs, and economic conditions that affect business practices around the world, we believe that shared values must serve as the foundation for relationships between The Coca-Cola Company and its suppliers. The Supplier Guiding Principles communicate our values and expectations and emphasize the importance of responsible workplace policies and practices that comply, at a minimum, with applicable environmental laws and with local labor laws and regulations. The principles outlined below reflect the values we uphold in our own policies, and we expect our direct suppliers to follow the spirit and intent of these guiding principles.

Freedom of Association and Collective Bargaining
Respect employees’ right to join, form, or not to join a labor union without fear of reprisal, intimidation or harassment. Where employees are represented by a legally recognized union, establish a constructive dialogue with their freely chosen representatives and bargain in good faith with such representatives.

Prohibit Child Labor
Adhere to minimum age provisions of applicable laws and regulations.

Prohibit Forced Labor and Abuse of Labor
Prohibit physical abuse of employees and prohibit the use of all forms of forced labor, including prison labor, indentured labor, bonded labor, military labor or slave labor.

Eliminate Discrimination
Maintain workplaces that are free from discrimination or physical or verbal harassment. The basis for recruitment, hiring, placement, training, compensation, and advancement should be qualifications, performance, skills and experience.

Work Hours and Wages
Compensate employees relative to the industry and local labor market. Operate in full compliance with applicable wage, work hours, overtime and benefits laws, and offer employees opportunities to develop their skills and capabilities, and provide advancement opportunities where possible.

Provide a Safe and Healthy Workplace
Provide a secure, safe and healthy workplace. Maintain a productive workplace by minimizing the risk of accidents, injury, and exposure to health risks.

Protect the Environment
Conduct business in ways which protect and preserve the environment. Meet applicable environmental laws, rules, and regulations.
Supplier Guiding Principles

Compliance with Applicable Laws and Standards

Suppliers to The Coca-Cola Company and suppliers authorized by The Coca-Cola Company are required to meet the following standards, at a minimum, with respect to their operations as a whole:

Laws and Regulations

Supplier will comply with all applicable local and national laws, rules, regulations and requirements in the manufacture and distribution of products and suppliers will comply with all applicable local and national laws.

Child Labor

Supplier will not use forced, bonded, prison, military or compulsory labor.

Freedom of Association and Collective Bargaining

Supplier will comply with all applicable local and national laws on freedom of association and collective bargaining.

Discrimination

Supplier will comply with all applicable local and national discrimination laws.

Abuse of Labor

Supplier will not use forced, bonded, prison, military or compulsory labor.

Wages and Benefits

Supplier will comply with all applicable local and national laws.

Work Hours & Overtime

Supplier will comply with all applicable local and national work hours and overtime laws.

Health & Safety

Supplier will comply with all applicable local and national health and safety laws.

Environment

Supplier will comply with all applicable local and national environmental laws.

Child Labor

Supplier will comply with all applicable local and national child labor laws.

Forced Labor

Supplier will not use forced, bonded, prison, military or compulsory labor.

Freedom of Association and Collective Bargaining

Supplier will comply with all applicable local and national laws on freedom of association and collective bargaining.

Discrimination

Supplier will comply with all applicable local and national discrimination laws.

Abuse of Labor

Supplier will not use forced, bonded, prison, military or compulsory labor.

Wages and Benefits

Supplier will comply with all applicable local and national laws.

Work Hours & Overtime

Supplier will comply with all applicable local and national work hours and overtime laws.

Health & Safety

Supplier will comply with all applicable local and national health and safety laws.

Environment

Supplier will comply with all applicable local and national environmental laws.

Demonstration of Compliance

Supplier must be able to demonstrate compliance with the Supplier Guiding Principles at the request and satisfaction of The Coca-Cola Company.

These minimum requirements are a part of all agreements between The Coca-Cola Company and its direct and authorized suppliers. We expect our suppliers to develop and implement appropriate internal business processes to ensure compliance with the Supplier Guiding Principles.

The Company routinely utilizes independent third-parties to assess suppliers' compliance with the Supplier Guiding Principles. The assessments generally include confidential interviews with employees and on-site contract workers. If a supplier fails to uphold any aspect of the Supplier Guiding Principles, the supplier is expected to implement corrective actions. The Company reserves the right to terminate an agreement with any supplier that cannot demonstrate compliance with the Supplier Guiding Principles.

For more information, or to access this brochure in additional languages, please visit our website at www.coca-cola.com.
Investor statement in support of the Guiding Principles on Business & Human Rights

May 2011

The undersigned investors express their support for the Guiding Principles on Business & Human Rights, published by the United Nations Secretary General’s Special Representative on Business and Human Rights, Professor John Ruggie.

This statement is signed by 29 investors – both asset owners and asset managers – that collectively represent over US$ 2.7 trillion assets under management. All of the undersigned investors are signatories of the United Nations-backed Principles for Responsible Investment (PRI). This group of global investors recognises that environmental, social, and governance (ESG) issues may affect the performance of investment portfolios.

We support the Protect, Respect, and Remedy Framework and the Guiding Principles developed to implement the Framework, both of which have been devised through a multi-stakeholder consultation that has included the participation of the investment community. We understand the difficulties of reaching agreement within the UN system, and see the Guiding Principles as an important step towards more clarity on responsibilities for both States and companies.

As investors we believe that establishing the respective obligations of States and businesses will enhance the operating environment for companies in which we invest and their long term prospects for financial success. Professor Ruggie’s work provides much needed guidance. We therefore call upon companies to implement the Guiding Principles and their due diligence, grievance and other provisions. The Framework and Guiding Principles will be useful tools in our analysis of how companies address human rights risks and help us to evaluate the quality of corporate approaches and performance. They will also enable credible benchmarking of company efforts in a way that has not been possible to date.

We recommend that the UN Human Rights Council (UNHRC) formally endorse the Guiding Principles at the June 2011 session. We also urge all other stakeholders to support their adoption and implementation. We further encourage the UNHRC to maintain momentum on the issue of human rights following the end of the Special Representative’s mandate in June 2011. Specifically, we urge the UNHRC to ensure adequate resources for future activities, including the provision of supplementary direction on the Framework and Guiding Principles and their implementation in areas such as business relationships between companies and States, in particular in conflict-affected areas, dealing with vulnerable groups, monitoring progress and public disclosure.

We look forward to the use of the Guiding Principles by States, companies and investors across the globe as we all seek to mitigate future human rights-related risks.
The supporting signatories (arranged alphabetically):

- APG Asset Management
- ASN Bank
- Aviva Investors
- Boston Common Asset Management
- Calvert Investments
- CCLA Investment Management Ltd
- Church of Sweden
Cyrte Investments
Element Investment Managers
Ethos Foundation
F&C Asset Management
Folksam
Governance for Owners
Henderson Global Investors
Interfaith Center on Corporate Responsibility
Mn Services

NEI Investments

Newton Investment Management Limited

Norges Bank Investment Management

PGGM Investments

Rathbone Brothers Plc

Robeco

SEIU Master Trust
THE CHALLENGE
The proliferation of codes, audit duplication and divergence of approach is causing inefficiency and slowing improvement within the supply chain. Moreover, it is in many cases hindering the application of international labour standards and hence the respect of human and workers' rights, as buying companies and their suppliers suffer from confusion over requirements and a lack of clarity on best practice and accountability. This confusion also impacts the implementation of good environmental practices in the supply chain. There is a need - and an opportunity - for cross-industry collaboration, to bring about consistency and efficiency and drive remediation to root causes of social and environmental non-compliances through continuous improvement, training and capacity building.

WHAT IS THE GLOBAL SOCIAL COMPLIANCE PROGRAMME?
Launched end of 2006, the GSCP is a business-driven programme for the continuous improvement of working and environmental conditions in global supply chains. The GSCP was created by and for global buying companies wanting to work collaboratively on improving the sustainability (ethical, social and environmental) of their often-shared supply base. To this end, these companies are working on harmonizing existing efforts to deliver a shared, global and sustainable approach based on consensus and best existing practice.

The GSCP provides a global cross-industry platform to promote the exchange of knowledge and best practices in order to build comparability and transparency between existing social compliance and environmental compliance systems.

GOVERNANCE AND THE PARTICIPATION OF STAKEHOLDERS
The GSCP Task Force brings together companies from all over the world and across all sectors. Selected from the Task Force, the Executive Board steers the Programme, ensures its objectives are delivered upon and integrates the expectations of the stakeholders. The Advisory Board is composed of influential and knowledgeable experts from NGOs, International Organisations, Trade Unions, SRIs etc. Their role is to advise and challenge the Executive Board and to help monitor and evaluate progress. Included are representatives from UNI-Commerce, FGTA-FO, the International Federation for Human Rights, CSR Asia, ICCR (SRI) and Harvard’s Kennedy School of Government.

THE PROGRAMME IS NEITHER A MONITORING SCHEME, NOR A SUBSTITUTE TO EXISTING SYSTEMS

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<th>The programme will:</th>
<th>Members’ commitment:</th>
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<td>▪ accommodate existing systems while building comparability and transparency;</td>
<td>▪ active engagement in consultation, working groups and general meetings</td>
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<td>▪ drive convergence and reduce duplication by developing a voluntary benchmarking approach;</td>
<td>▪ CEO to sign public statement of support</td>
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<td>▪ enable reallocation of resources for identification of root causes &amp; remediation of non-compliances.</td>
<td>▪ 12 month fee: €10,000 (turnover &lt;€40bn), €17,000 (€40bn - €150) or €24,000 (&gt;€150bn)</td>
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GSCP TASK FORCE - PARTICIPATING COMPANIES

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Find out more about the Global Social Compliance Programme:
Contact: Claudine Musitelli, GSCP Director
gscp@theconsumergoodsforum.com

www.gscpnet.com
www.theconsumergoodsforum.com
THE WORKING PLAN

To drive convergence and the definition of a shared, global and sustainable message to suppliers, the GSCP is building a set of reference tools and processes that describe best existing practice and provide a common interpretation of fair labour and environmental requirements and their implementation. This approach will enable mutual recognition between existing systems using the GSCP reference tools as a benchmark through the GSCP Equivalence Process.

A further step aims at building comparability and facilitating the transfer of information between different systems (Data Sharing) and the last step – the ultimate goal – focuses on a collaborative approach to capacity building.

REFERENCE TOOLS AND PROCESSES

The Reference Code


Reference tools on Audit Process & Methodology

❖ show how to carry out a good social audit, provide tools to that effect - define a clear and consistent message to auditors as well as suppliers about reference requirements - published October 2009, public review protocol in place on www.gscpnet.com.

Reference tool for Auditing Competence

❖ define the required level of knowledge and skills for 2nd or 3rd party auditors and auditing bodies (Part 1); also provides guidelines for training of auditors to reach best practice (Part 2) – aim to ensure good level of competencies, increase audit quality and trust – Part 1 published Sept 2010 – Part 2 expected end 2011.

Companies’ and Schemes’ Management Systems

❖ shows what defines the framework supporting a social compliance programme within a buying company – e.g. system structure, HR, databases, existing tools, continuous improvement and relationship with other schemes – publication expected Q3 2011.

Environmental Module

❖ site-specific environmental requirements – same structure as social component (reference requirements, APM, AC within AC ref. tool) – reference requirements published in October 2010, APM in November 2010.

Data Sharing

❖ aims at developing protocols for data and information sharing – Expert Working Group launched October 2010.

All published tools available on www.gscpnet.com

METHODOLOGY

Each step of the working plan is managed by Task Force representatives organised into an Expert Working Group (EWG). Its role is to compare and analyse existing methods, to identify best existing practices and to create a draft reference tool. The EWG then manages a web consultation to gather feedback from a global audience of companies and stakeholders. This consultation builds a consensus allowing the EWG to prepare a final draft to be submitted to the Advisory Board for recommendations and the Executive Board for approval, before publication.

Equivalence Process

❖ benchmarking process of social / envir. compliance systems against best existing practice as described in the GSCP reference tools - ultimate goal of enhanced convergence and reduction in audit duplication – IT platform to be launched June 2011.

REMEDICATION AT SUPPLIERS' SITE

How?

❖ promote the use of the reference tools by buying companies & schemes (common message sent to suppliers) and of the Equivalence Process (benchmarking of companies’ and schemes’ systems to allow mutual recognition of audit results)

❖ launch work on capacity building to support suppliers: (a) Centralised Expert Working Groups tackling endemic issues requiring cross-industry guidelines, and (b) regional clusters for a more on-the-ground perspective and focus.

❖ forum for remediation: developed for exchange of experiences and to promote collaborative approaches: general meetings, consultations, webinars etc.

SHARED BENEFITS

For buying companies ➔ simpler sourcing + lower complexity and costs + more effective risk mgmt

For suppliers ➔ clarity & consistency of requirements + time & resources to reinvest in production mgmt

For workers ➔ clear understanding of their rights + improvement of working conditions

For existing initiatives ➔ exchange & integration of global best practices + transparency & comparability

For civil society stakeholders ➔ opportunity to provide advice & constructive support on the GSCP’s strategic direction + opportunity to monitor & evaluate progress