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Implementation guidance for small- and medium-sized enterprises on information and communication technology supply chain due diligence concerning conflict minerals

ITU-T L-series Recommendations – Supplement 21

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Supplement 21 to ITU-T L-series Recommendations

Implementation guidance for small- and medium-sized enterprises on information and communication technology supply chain due diligence concerning conflict minerals

Summary

Supplement 21 to ITU-T L-series Recommendations provides a set of guidelines to assist information and communication technology (ICT) downstream small- and medium-sized enterprises (SMEs) in developing and implementing a comprehensive conflict minerals management system, based on the *Due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas* of the Organisation for Economic Co-operation and Development [b-OECD, 2013a].

To this end, this Supplement also collects, collates and makes reference to other relevant information from different organizations to avoid conflicting guidance and to provide a more detailed standardized methodology where applicable.

This Supplement can be used by any ICT downstream company and can be adjusted to meet the company's specific needs, nature, organizational structure and characteristics.

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The World Telecommunication Standardization Assembly (WTSA), which meets every four years, establishes the topics for study by the ITU-T study groups which, in turn, produce Recommendations on these topics.

The approval of ITU-T Recommendations is covered by the procedure laid down in WTSA Resolution 1.

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Introduction

Like other manufacturing industries, ICT companies are at risk of using critical minerals, namely tin, tantalum, tungsten and gold (3TG), that are necessary for the manufacture of their products, extracted and traded from the conflict-affected or high-risk areas of the Democratic Republic of Congo (DRC) and the countries of Africa's Great Lakes region, thereby fuelling armed conflicts and human rights abuses.

The worsening of the political, socio-economic and environmental emergency situation in the DRC and its adjoining countries has driven governments and private companies from different manufacturing industries to adopt and implement necessary measures to address this issue. In response, heterogeneous due diligence regulatory frameworks and certification schemes have been developed and put in place to improve transparency of the mineral supply chain. Among those, some are voluntary, others legally binding; some national, others multilateral initiatives; some regional, others industry based. They also differ from each other in terms of the reach and scope of their underlying due diligence approach.

The *Due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas* of the Organisation for Economic Co-operation and Development [b-OECD, 2013a] is the most widely adopted policy which helps all companies carry out due diligence practices.

Since the requirements of [b-OECD, 2013a] are intended for all actors in the mineral supply chain rather than being industry-specific, ICT companies, and specifically downstream ICT small- and medium-sized enterprises (SMEs), have expressed the need for a clear industry-specific implementation methodology for performing due diligence concerning conflict minerals. ICT downstream SMEs are looking for a clearer understanding of [b-OECD, 2013a] and how to apply it in a way that is more specific to the downstream ICT industry.

This Supplement aims to assist downstream ICT SMEs to undertake responsible supply chain due diligence practices by providing an implementation methodology (based on [b-OECD, 2013a]) that can help improve supply chain resilience, display business integrity and sustainability and pursue a credible policy of corporate social responsibility (CSR).

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Supplement 21 to ITU-T L-series Recommendations

Implementation guidance for small- and medium-sized enterprises on information and communication technology supply chain due diligence concerning conflict minerals

1 Scope

This Supplement aims at assisting information and communication technology (ICT) downstream small- and medium-sized enterprises (SMEs) in developing and implementing a comprehensive conflict minerals management system.

To this end, it provides specific implementation guidance for ICT supply chain due diligence concerning conflict minerals (focused on downstream ICT SMEs), based on *Due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas* [b-OECD, 2013a] in terms of:

- establishment of conflict minerals management systems for SMEs;
- risk identification and evaluation of the supply chain;
- establishment of strategies and implementation measures for reducing identified risks and public reporting;
- grievance and audit mechanisms under an institutionalized mechanism;
- disclosure and reporting on documentation and findings of companies' supply chain due diligence concerning conflict minerals.

2 References

None.

3 Definitions

3.1 Terms defined elsewhere

This Supplement uses the following terms defined elsewhere:

3.1.1 adjoining countries (covered countries) (footnote 7 of [b-SEC, 2012]): A country that shares an internationally recognized border with DRC, which presently includes Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda and Zambia.

3.1.2 chain of custody (p. 65 of [b-OECD, 2013a]): A record of the sequence of entities which have custody of minerals as they move through a supply chain.

3.1.3 conflict-affected and high-risk areas (p. 66 of [b-OECD , 2013a]): Areas identified by the presence of armed conflict, widespread violence, including violence generated by criminal networks, or other risks of harm to people.

3.1.4 Democratic Republic of Congo (DRC) (p. 8 of [b-AI–GW, 2015]): Located in Central Africa, [the Democratic Republic of] Congo is one of the world's least developed countries despite its huge wealth of natural resources.

3.1.5 downstream companies (p. 33 of [b-OECD 2013a]): "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.

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3.1.6 due diligence (p. 13 of [b-OECD 2013a]): 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. 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.

3.1.7 mineral supply chain (p. 14 [b-OECD 2013a]): 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 the 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.

3.1.8 risks (p. 13 of [b-OECD 2013a]): 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.

3.1.9 smelters or refiners (p. 8 of [b-AI–GW, 2015]): Also known as metal processors. They "smelt" or "refine" mineral ores, like coltan or wolframite, into more pure metals, like tantalum or tungsten respectively, to be used in manufacturing products.

3.1.10 traceability (p. 6 of [b-UN GC–BSR, 2014]): The ability to identify and trace the history, distribution, location and application of products, parts and materials, to ensure the reliability of sustainability claims, in the areas of human rights, labour (including health and safety), the environment and anti-corruption.

3.1.11 upstream companies (p. 32 of [b-OECD 2013a]): "Upstream" means the minerals supply chain from the mine to smelters/refiners. Upstream companies include miners (artisanal and small-scale or large-scale producers), local traders or exporters from the country of mineral origin, international concentrate traders, mineral re-processors and smelters/refiners.

3.2 Terms defined in this Supplement

This Supplement defines the following terms:

3.2.1 3TG: Tin, tantalum, tungsten and gold.

3.2.2 company: Downstream small- and medium-sized enterprise (SME) in the information and communication technology (ICT) industry.

3.2.3 conflict-free: Minerals that have neither any relation with nor any contribution to any armed groups in conflict areas such as the Democratic Republic of Congo and its adjoining countries.

3.2.4 conflict mineral: mineral mined in conditions of armed conflict and human rights abuses and financing rebellions, notably in the Democratic Republic of the Congo (DRC) and its adjoining countries. Examples include tin (cassiterite), tantalum (coltan), tungsten (wolframite) and gold.

3.2.5 corporate social responsibility (CSR): Consideration of ethical concerns, environmental issues and human rights in a company's policies and operations. It takes into account corporate actions, such as a company's contribution to society and warrants for product defects. Corporate social responsibility to society is other than economic and legal obligations.

3.2.6 ICT Due Diligence Database: A global platform and repository of due diligence mineral information and communication technology (ICT) supply chain data accessible from the Internet by any company or individual involved in the ICT mineral supply chain. It is proposed that this *ICT Due Diligence Database* serve as an umbrella for all existing due diligence initiatives related to the ICT

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sector, including: traceability schemes, smelters or refiners certifications (by existing certification mechanisms, such as the Conflict-Free Sourcing Initiative (CFSI) Conflict Minerals Reporting Template (CMRT), due diligence reporting mechanisms, grievance and audit reports, accredited auditors and mediators.

3.2.7 ICT due diligence guidance: Implementation guidance for information and communication technology (ICT) supply chain due diligence, focused on downstream ICT small and medium-sized enterprises (SMEs) and based on *Due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas* [b-OECD, 2013a].

3.2.8 ICT Due Diligence Task Force: Administering body of the *ICT Due Diligence Database*, under the secretariat support of the ITU's Telecommunication Standardization Sector (ITU-T). It is proposed that the *ICT Due Diligence Task Force* serve as an independent entity for the coordination of grievance and audit procedures and concerned players.

3.2.9 on-site verification: The act of verifying the origins of 3TG on a supplier's site.

4 Abbreviations and acronyms

This Supplement uses the following abbreviations and acronyms:

3TG	Tin, Tantalum, Tungsten and Gold
AFP	Analytical Fingerprint
CEO	Chief Executive Officer
CFSI	Conflict-Free Sourcing Initiative
CFSP	Conflict-Free Smelter Program
CMRT	Conflict Minerals Reporting Template
CSR	Corporate Social Responsibility
DRC	Democratic Republic of the Congo
GPS	Global Positioning System
ICT	Information and Communication Technology
IT	Information Technology
NDA	Non-Disclosure Agreement
NGO	Non-Governmental Organization
SOR	Smelter or Refiner
PDF417	Portable Data File 417
QR	Quick Response
RCOI	Reasonable Country of Origin Inquiry
RFID	Radio-Frequency Identification
SME	Small- and Medium-sized Enterprises

5 Conventions

None.

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6 General information on due diligence

6.1 Available guidance document and supply chain example

Recognizing the importance of available guidance on adopted policy by industry and governments worldwide, this Supplement proposes industry-specific standardized requirements for due diligence concerning conflict minerals intended for the downstream ICT SMEs and in line with [b-OECD, 2013a].

This Supplement makes reference to other relevant information from different organizations, including the United Nations Security Council (UNSC), the International Conference on the Great Lakes Region (ICGRL), the Conflict-Free Sourcing Initiative (CSFI) and the Association Connecting Electronics Industries (IPC), to avoid conflicting guidance and to provide a more comprehensive methodology. This Supplement also takes into consideration certain requirements of the Securities and Exchange Commission (SEC) of the United States (US), as compliance to the US SEC rule impacts a large number of US and non-US companies.

This Supplement can be adjusted to apply to every downstream ICT SME. The scope of its application to companies' supply chains depends on each company's circumstances, such as its products and its relationships with its suppliers.

6.2 Defining a small and medium sized enterprise

Definitions of SMEs [b-ILO, 2015] often vary by country and are usually based on the number of employees, the annual turnover or the value of assets of enterprises. Typically, microenterprises are defined as enterprises with up to 10 employees, small enterprises as those that have 10 to 100 employees, and medium-sized enterprises as those with 100 to 250 employees. Unless otherwise specified, the definition of an SME that is used in this Supplement is any enterprise with fewer than 250 employees. This includes all types of enterprises, irrespective of their legal form (such as family businesses, sole proprietorships or cooperatives) or whether they are formal or informal enterprises. For the sake of readability, this Supplement uses the term SME throughout, unless a differentiation of sub-segments is needed.

[b-Brookings, 2008]: An SME is a formal enterprise with an annual turnover, in US dollar terms, of between 10 and 1 000 times the mean per capita gross national income, at purchasing power parity, of the country in which it operates.

[b-OECD, 2005]: Small and medium-sized enterprises (SMEs) are non-subsidiary, independent firms that employ fewer than a given number of employees. This number varies across countries. The most frequent upper limit designating an SME is 250 employees, as in the European Union. However, some countries set the limit at 200 employees, while the US considers SMEs to include firms with fewer than 500 employees.

Small firms are generally those with fewer than 50 employees, while micro-enterprises have at most 10 or, in some cases, 5 workers.

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Financial assets are also used to define SMEs. In the European Union, a new definition came into force on 1 January 2005 applying to all Community acts and funding programmes as well as in the field of state aid, where SMEs can be granted higher intensity of national and regional aid than large companies. The new definition provides for an increase in the financial ceilings: the turnover of medium-sized enterprises (50-249 employees) should not exceed EUR 50 million; that of small enterprises (10-49 employees) should not exceed EUR 10 million, while that of micro-firms (less than 10 employees) should not exceed EUR 2 million. Alternatively, balance sheets for medium, small and micro-enterprises should not exceed EUR 43 million, EUR 10 million and EUR 2 million, respectively.

7 Guidelines for due diligence concerning conflict minerals in mineral supply chains

Companies sourcing, trading and processing rare minerals, such as tin, tantalum, tungsten and gold (3TG), coming from the Democratic Republic of Congo (DRC) or its adjoining countries should be aware of the risk that the circumstances of their business activities might directly or indirectly affect the socio-economic and political stability of those countries, where criminal networks, rebels or non-state armed groups compete with governments to take control over those resources, while practictising human rights abuses and illegal trade.

Companies should commit to putting in place any necessary measure to avoid sourcing, trading and processing minerals in circumstances that might support illegal traffic of natural resources and other environmental crimes, human rights abuses or war crimes, or finance criminal networks or non-state armed groups.

An explanation of a mineral supply chain is shown in Figure 1.

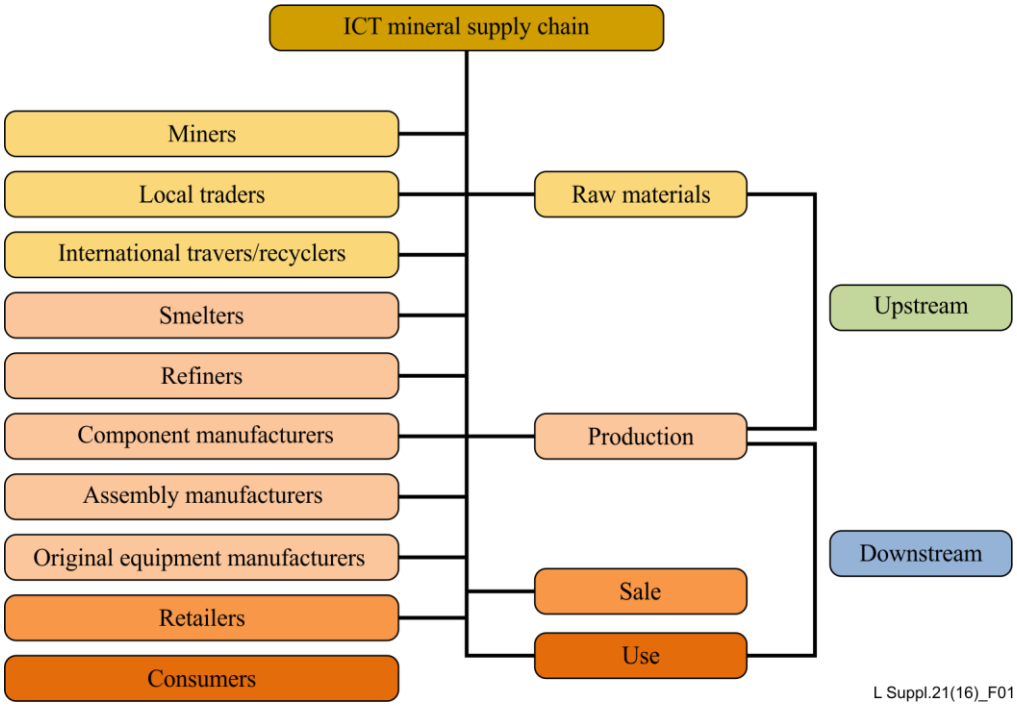

Figure 1 – Explaining the ICT mineral supply chain

7.1 Establishment of companies' conflict minerals management systems

[b-OECD, 2013a] was written for all companies within the supply chain (miners, smelters, manufacturers and retailers) to provide recommendations concerning steps those companies could take to respect human rights and avoid contributing to conflict through their metal sourcing or procurement practices.

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[b-OECD, 2013a] includes detailed recommendations for companies in the entire (both upstream and downstream) segments of the supply chain. When describing practical implementation steps for downstream companies, it is important to distinguish their role from the role of upstream companies. Downstream companies are typically several tiers removed from smelters or refiners (SORs) and, when acting individually, downstream companies have no visibility beyond their direct supplier to companies in the upstream supply chain, in part because suppliers consider their sub-suppliers' information confidential. Furthermore, downstream companies likely have no direct visibility to SORs and the mine of origin. Therefore, it is necessary to highlight where there may be specific approaches relevant to downstream companies before providing an interpretation of the steps set out. Specifically, downstream companies need to take into consideration the facts and circumstances of their position several tiers removed from SORs when considering risk assessment and risk management. Given their place in the supply chain, downstream companies *with no direct relationships with an SOR* possess no independent means of determining the source and origin of conflict mineral ores processed by SORs.

[b-OECD, 2013a] was written with the intent of defining a process and continued improvement. This Supplement was written to interpret this process in a form that is relevant to downstream companies several tiers removed from the SOR.

The first step for downstream companies is to establish management systems to support the execution of a company-wide conflict minerals programme that operates efficiently and is sustainable into the future. Companies' conflict mineral management systems should address the risk that the tantalum, tin, tungsten and gold contained in their final products originated within a conflict-affected area.

In accordance with [b-OECD 2013a], companies should then proceed as follows:

- Adopt, and clearly communicate to suppliers and the public, a company policy covering the supply chain of minerals originating from conflict-affected and high-risk areas. The policy should incorporate the standards against which due diligence is to be conducted.
- Structure internal management to support supply chain due diligence.
- Establish systems of control and transparency throughout the mineral supply chain. This includes a chain of custody or a traceability system or the identification of upstream actors in the supply chain.
- Strengthen their engagements with suppliers. A supply chain policy should be incorporated into contracts or agreements with suppliers. Companies should, where necessary, assist suppliers to build capacities with a view to improving due diligence performance.
- Establish a company-level or industry-wide grievance mechanism that would function as an early-warning risk-awareness system.

The following elements of a management system may be appropriate for downstream companies.

7.1.1 Development of a company's conflict minerals policy

A policy in this regard is management or procedure based primarily on material interest. A company's policy may establish and communicate conflict minerals goals that are reasonable and achievable. This policy thus forms the expectations to which the company holds itself and its supply chain accountable. A company need not specifically use the terms "policy" or "conflict minerals policy" to designate its principles, provided that the company makes clear its guiding principles for dealing with the issue. A company may also consider the model policy where there are examples of abusive practices and exploitation that are considered as supporting conflict. The model policy also covers topics beyond the scope of the SEC rule and direct action to mitigate the referenced issues.

The policy may include one or more of the following:

- principles regarding the use of tantalum, tin, tungsten and gold (3TG) from conflict-affected areas;

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