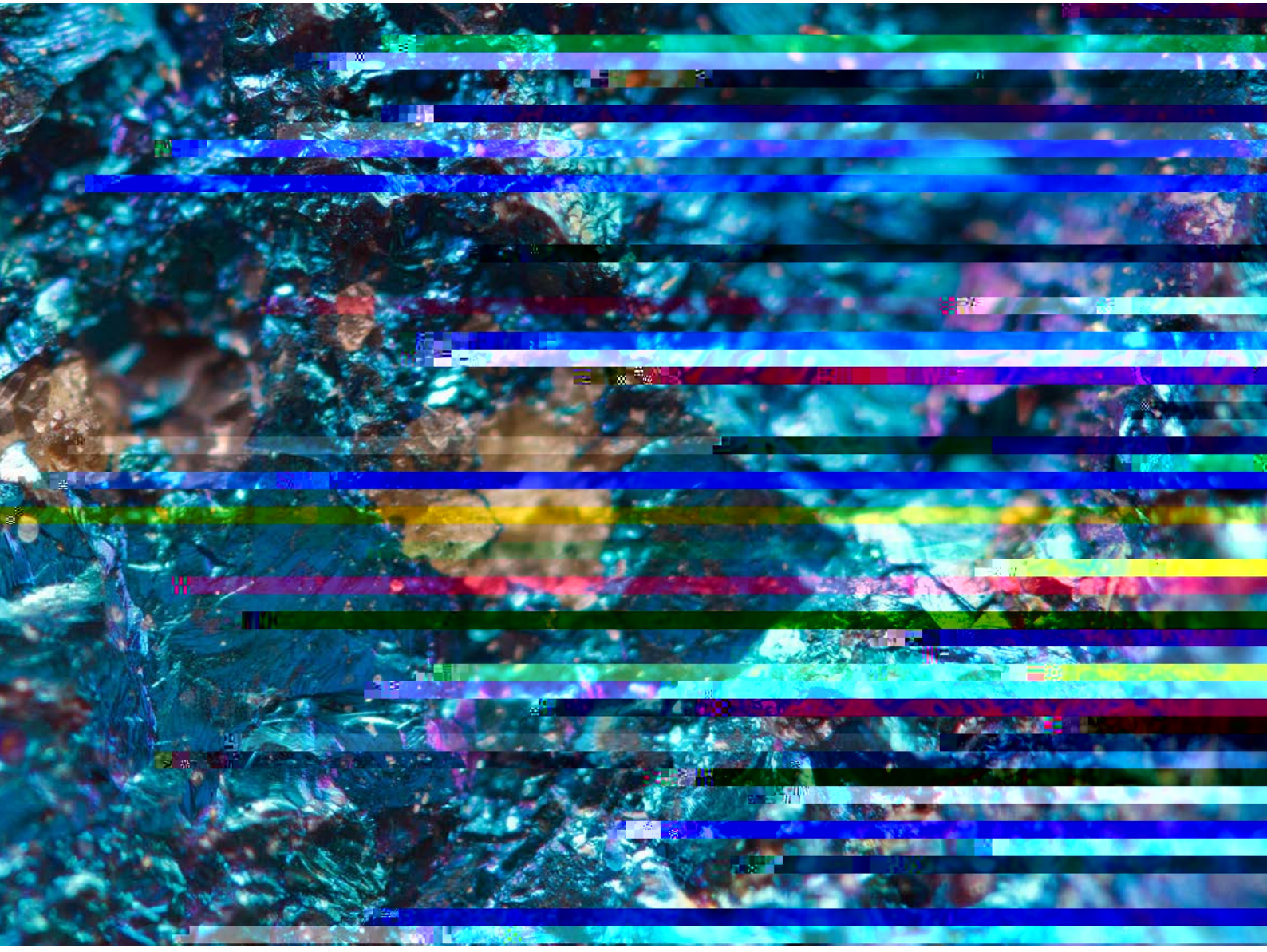
Practical actions for companies to identify and address the worst forms of child labour in mineral supply chains



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Foreword

Practical actions for companies to identify and address the worst forms of child labour in mineral supply chains (hereafter, Practical Actions) is for use by companies to help them identify, mitigate and account for the risks of child labour in their mineral supply chains. It has been developed to build on the due diligence framework of the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (hereafter, the OECD Due Diligence Guidance).

The OECD Due Diligence Guidance recommends that upstream and downstream companies involved in mining and trade in minerals from conflict-affected and high-risk areas (Box 1) 93 4C8Bi(S215(t)5(ha)-(1)a)-180(18( )-29w)6(nhen78(ai4(i)

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fatality rate of 32 per 100,000 full-time worker equivalents (FTEs) for children between ages 5 and 17 years, in comparison to fatality rates of 16.8 and 15 per 100,000 FTEs in agriculture and construction respectively.[9] The United States Department of Labor's (USDOL) 2016 List of Goods Produced with Child Labor or Forced Labor (TVPRA)[10] features 139 goods in 75 countries that USDOL has reason to believe are produced by child or forced labour; 29 of these goods are in minerals and quarrying.[11] According to the TVPRA list, child labour in gold was prevalent in Bolivia, Burkina Faso, Colombia, the Democratic Republic of the Congo, Ecuador, Ethiopia, Ghana, Guinea, Indonesia, Mali, Mongolia, Nicaragua, Niger, Nigeria, North Korea, Peru, Philippines, Senegal, Sudan, Suriname, Tanzania and Uganda.[12]

ILO 182 - The Worst Forms of Child Labour Convention[13] defines the worst forms of child labour as:

> All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage, and serfdom, and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict
>
> The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances
>
> The use, procuring or offering of a child for illicit activities in particular for the production and trafficking of drugs as defined in the relevant international treaties
>
> Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children

The prohibition against the worst forms of child labour is among the most well-established international human rights norms on the basis of near-universal ratification of the relevant ILO standards (ILO Convention 182 - Worst Forms of Child Labour Convention and ILO Convention 138 – Minimum Age Convention) by Member States. Both conventions are also referenced in the ILO Declaration on Fundamental Principles and Rights at Work, which means that even member States that have not ratified these Conventions are expected to respect, promote and realise the principles.[14] Companies also have a responsibility under international law to respect the rights laid out in both Conventions 182 and 138 to address all forms of child labour.

Child labour in mining is to a great extent caused by poverty. The economic drivers of child labour are complex and can include a child working to supplement their family's income. Artisanal and small-scale mining offers quick cash returns for limited/low skill work. Poor quality of education, a far distance to school, and barriers such as having to pay for school, also contribu.04 T1.98 Tm5e(l)-5(abour)4(374(n

Table 1. **Selected common mining and quarrying tasks, hazards and potential consequences**

Tasks	Hazards	Injuries and potential health consequences
Tunnelling, diving into muddy wells		
Digging or hand-picking ore, slabs, rock or sand		
Crushing and amalgamating; sieving, washing and sorting		
Removing waste or water from mines		
Transporting materials via carts or carrying		
Cooking and cleaning for adults		
Selling goods and services to miners		
Mining and quarrying in general		

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1.1 Policy commitment. When adopting a policy commitment regarding child labour, the OECD Due Diligence Guidance recommends that all companies articulate their public commitment, including

Inclusion of trained staff knowledgeable about the issues of child labour and the complexities of how best to mitigate and address child labour, and how to integrate this into systems and procedures.

Ensuring the availability of resources necessary to support the operation and monitoring of processes as highlighted in the OECD Due Diligence Guidance. For example, management commitment to provide capacity building and training to staff to ensure the appropriate level of competence and knowledge about the issue of child labour to develop a comprehensive programme to eradicate the worst forms of child labour in the minerals supply chain.

Upstream companies who are at risk for causing or contributing to the worst forms of child labour can, for example, develop a child protection Code of Conduct for all employees to sign and take disciplinary measures against any employees violating this code.

x Downstream companies should use their best efforts to identify the refiners/smelters in their supply chain and have documentation and/or systems in place to demonstrate that the refiners/smelters they are sourcing from are conducting due diligence in line with the OECD Due Diligence Guidance and that the minerals are from legitimate sources and not the product of child labour. Examples of

controls via an industry scheme or other form4.9 138.5 Tm( )]TJE138.5 Tmgina12[sm4.9 138.5 Tm( )]TJ9.

Box 2. **Questions to check that strong management systems are in place**

Is responsibility for child labour risks part of senior managements' function? Is staff trained in understanding the issues of child labour and is there a commitment from management to support continued learning? Does management/staff consult experts in the region to understand the local context?

Is there a written policy commitment against child labour in the supply chain? Does the policy explicitly reference the mining level? Does the policy reference international standards such as the UN Convention of the rights of the child and ILO Convention No. 138 on minimum age for admission to employment and ILO Convention No. 182 on the Worst Forms of Child Labour?

Is there a process in place to identify and prioritise which parts of the supply chain could be at risk for child labour impacts?

Does the company permit safe work for children above the minimum age, if such work exists?

Are there procedures in place to verify the age of employees and maintain records?

If child labour is found, is there a remediation programme in place to address it? Does the remediation programme include collaboration or coordination with other stakeholders such as the government or community actors? (*Note: Any remediation steps should take account of the impact on the well-being of the children concerned, so that children do not end up in similar or worse forms of child labour*)

Does the policy make clear the company's expectations of personnel, business partners and other parties directly linked to its operations, products or services?

How is the policy inco

2.1 Supply chain position. With regards to identifying and assessing for the risks of child labour, including the worst forms of child labour, the OECD Due Diligence Guidance recommends that upstream companies focus on on-the-ground assessments for red-flagged mines sites, trading routes and business partners, while downstream companies focus on identifying the smelters/refiners in their supply chain and assessing the smelter/refiner level due diligence, including their on-the-ground efforts.

2.2 Upstream companies (i.e. mineral producers – including artisanal and small scale enterprises[21], medium or large scale mining companies, buyers, local traders/exporters, international concentrate traders, mineral re-processors and refiners/smelters). The OECD Due Diligence Guidance recommends that:

> Upstream companies use an **evidence-based approach**[22] to assess the risks of the worst forms of child labour in their supply chain. Upstream companies may individually or collaboratively map the factual circumstances of the company's red flagged[23] supply chains and establish on-the-ground assessment teams to find verifiable, reliable, up-to date evidence on the qualitative circumstances of mineral extraction, trade, handling and export. On-the-ground assessments, including site visits, can be carried out by a local partner or through collaborative initiatives. Upstream companies should ensure that the on-the-ground assessment is independent, credible and robust. See Table 2 for types of information that upstream company may gather in order to assess their supply chains.
>
> Local exporters, international concentrate traders and mineral re-processors in the supply chain facilitate the assessment teams access to all information gained as part of the company's own due diligence practices and respond to requests for assistance.
>
> Information provided to assessment teams include access to cross-border transporters and sites in neighbouring countries or other countries; access to all books, records and or other procurement practices to identify if the minerals are sourced from areas at risk for the worst forms of child labour and document the factual circumstances of how the minerals have been produced.

Smelters/refiners' identify relevant personnel to act as contact points for the assessment team and allow for the auditing of their due diligence practices by independent third parties, including through an institutionalised mechanism.

Mine site visits and unannounced monitoring form part of refiners and smelters, as well as those companies with an operations presence in mineral producing countries, risk-based management plans. The OECD Due Diligence Guidance recommends that supply chain information be collected and updated regularly, and that validated information be integrated into supply chain transparency systems.

Upstream companies provide the results of their risk assessments to their customers to promote transparency in the supply chain and enable due diligence actions to be implemented. Under the OECD Due Diligence Guidance, upstream companies should collect supply chain information including, for example, mine site information (if minerals come from artisanal and small-scale mines); the conditions under which the minerals have been mined, transported or processed; if any serious abuses of human rights have occurred in the mineral extraction, transport, processing or trade of the minerals, etc.

For further information, upstream companies should refer to the *Guiding Note for Upstream Company Risk Assessments*, found in the Appendix to the Supplement on Tin, Tantalum and Tungsten in the OECD Due Diligence Guidance and the OECD *FAQ on Responsible Supply Chains in Artisanal and Small-Scale Gold Mining.*

Theme	Questions	Resources
extraction		

how to assess the due diligence practices of their smelters and refiners against the OECD Due Diligence Guidance.

Recognising the challenges posed by multiple levels of the supply chain and the indirect nature of the relationship, downstream companies may collaborate with other companies – including refiners and smelters and/or stakeholders in the supply chain, to gather information and conduct due diligence in line with the OECD Due Diligence Guidance. Downstream companies are encouraged to consider how they can assist their SME suppliers with understanding what is being asked of them and how they can collect that information, for example through knowledge sharing, tool development, and capacity building.

The OECD Due Diligence Guidance recognises that control mechanisms based on tracing minerals in a company's possession can be more challenging after smelting, particular in supply chains that are not part of a closed-pipe system. Because of these practical difficulties, downstream companies are recommended to establish internal controls over their immediate suppliers and coordinate efforts through industry-wide initiatives to build leverage over sub-suppliers, including smelters and refiners, overcome practical challenges and implement the recommendations of the OECD Due Diligence Guidance.

Table 3. **Risk indicators and potential data sources for companies**

Consideration	Indicators	Data sources	

Mineral trade			
Child labour			

2.5 Monitoring. The OECD Due Diligence Guidance recommends that assessments and monitoring of risks, including child labour risks, be conducted regularly. Companies (both upstream and downstream) are responsible for their own due diligence but may coordinate with other companies and stakeholders to ensure effective monitoring. Companies can also stay informed of re

community leaders, trade unions, community members, staff who visit suppliers in the field, local NGOs and government officials.

To ensure that incidences of child labour are reported and can be effectively dealt with, employees, suppliers, service providers and other stakeholders are encouraged to be informed about the available channels to report incidences and how child labour can be recognised.

Outreach on the use of the grievance mechanism maybe similarly be incorporated into community training on child labour. In order to facilitate this, companies may provide training to local civil society on the use of child-friendly and accessible grievance mechanisms f

3.1 Responding to adverse impacts. Actions that companies are encouraged to take are rooted in the expectations of the OECD Guidelines for Multinational Enterprises (hereafter MNE Guidelines) with regards to if a company causes or contributes to an adverse impact, or if a company is directly linked to an adverse impact[24]. Companies should provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts. The MNE Guidelines envisage a responsibility to seek to prevent or mitigate adverse impacts directly linked to operations, products or services by a business relationship, even beyond their supply chain.[25]

3.2 Responding to the worst forms of child labour. In line with the OECD Due Diligence Guidance, companies should not tolerate nor by any means profit from, contribute to, assist with or facilitate the commission by any party of the worst forms of child labour. The OECD Due Diligence Guidance recommends that companies immediately suspend or discontinue engagement with upstream suppliers where a reasonable risk that suppliers are sourcing from or linked to any party committing serious abuses is identified.[26]In practice, companies can immediately inform suppliers and urge them to take measures to end the use of child labour in their supply chains within a specified time. For example, children can be removed from performing these tasks and a plan put in place to assist the child. This could for example be referral to the appropriate local child protection authority or service provider. Companies are encouraged to take into consideration that company actions do not result in instances of the child being subject to further harm, or of child labour being ever more hidden and that the children who need support become increasingly difficult to reach.

3.3 Putting children first. Effective company actions to prevent or mitigate child labour will seek the betterment of the child, prevent the child from being pushed into a more precarious situation and avoid situations where the child is further penalised. Companies and their suppliers may consider developing operational guidelines which detail their expected actions if and when they find child labour. Such guidelines may take into account the local context and refer to experts, child protection based services or on the ground NGOs which could be contacted in instances of child labour.[27] More specifically, companies can consider a number of concrete actions, depending on the circumstance:

Where the child is below the legal working age, withdrawal from child labour is the goal. Steps taken together with the child, family,

social worker, the relevant local and national authorities to ensure that alternatives such as free basic education, rehabilitation, social integration and/or actions to address the needs of their family, may also be appropriate where the child is below the legal working age.

For children above the minimum age (according the national rule), who have finished compulsory schooling, remediation through engaging them in safe work is an option. This may be for example be a practical approach for working age children (according to national rule), teen parents and other children who may not be able to go back to school.

In situations where the child is removed from the mine and the company/employer pays the school fees of the child while the child is enrolled in school (until the minimum ages), companies are encouraged to consider any unintended consequences such as more children actively seeking work in order to benefit from free schooling. As such remediation should also be done in close collaboration with other stakeholders notably the government and local community in order to address root cause issues.

The child is removed from the mine and a member of the child's family is hired in his/her stead or cash support is provided to the family (possibly with conditions attached such as school enrolment of the family's children, participation in health or nutrition programmes etc.).

The child is removed from the mine and enrolled in a transitional school for children who have fallen behind their peer group.

The child's family is enrolled in an existing social protection programme to help address root causes of child labour (e.g. cash transfer programmes, school feeding programmes or other measures to mitigate income gaps).

The child is removed from the mine and enrolled in a vocational training / apprenticeship scheme, in accordance with the laws in the country on the age of apprenticeship.

3.4 Collaboration with other stakeholders. Child labour is a complex multi-faceted problem which has its roots in the development state of a country or region. Collaboration throughout the sector, community and area of operation is strongly encouraged. Companies can develop a comprehensive programme beyond the supply chain, in collaboration with

in-country government officials, local NGOs and local community stakeholders which could includ

Box 4. **Child labour and artisanal and small-scale mining**

Artisanal and small-scale miners may be particularly vulnerable to human rights impacts, including child labour, associated with the extraction, transport, trade, handling and export of minerals. These vulnerabilities are increased when artisanal and small-scale mining is informal and operates in the absence of an enabling regulatory environment conducive to responsible mineral production and legitimate trade.

The OECD Due Diligence Guidance aims to minimise the risks related to the artisanal and small-scale mining by proposing measures that governments, international organisations, donors, companies in the supply chain, and civil society organisations can consider to support the formalisation and legalisation of artisanal and small-scale mining. For companies, supporting such economic and development opportunities for artisanal miners in their supply chains can be an effective means of addressing root causes of risk and preventing child labour in their supply chains in the long term.

An Appendix to the OECD Due Diligence Guidance Supplement on Gold highlights the following suggested measures to create economic and development opportunities for artisanal and small-scale miners, which are broadly relevant for artisanal mining in any type of mineral:

1. Assessment of artisanal mine sites consistent with the standards in Annex II of the OECD Due Diligence Guidance.
2. Formalisation of operations, including through: (a) knowing the reasons for lack of formalisation in existing artisanal production and trading systems, in order to identify the best strategies for incentivising and enabling formalisation; (b) providing technical assistance to help formalise artisanal and small-scale miners; (c) acknowledging the diversity in the types and sizes of artisanal and small-scale mining activity; and (d) creating and participating in collaborative initiatives to establish the modalities and financing of support funds to assist with the formalisation process.
3. Legalisation of operations, including through assistance to artisanal and small-scale miners to obtain mining rights and other related authorisations through legitimate, predictable processes.
4. Assessment of trading hubs and regular mapping of transportation routes consistent with the standards in Annex II of the OECD Due Diligence Guidance.
5. Establishment of traceability and/or chain of custody systems that ensures security of shipments and enables data collection on minerals from assessed mine sites.
6. Providing financial support for formalisation, legalisation and due diligence implementation. Support may take on a variety of forms, including direct support to initiatives, low interest rate financing that incentivises

labour.

Conducting regular site visits where the mineral is sourced from and asking suppliers to put up signs at their depots to say that they will not purchase minerals from children under the age of 18 or minerals mined by children under the age of 18.

Recognising if certain children are habitually at he mines, despite efforts to deter them, and ensuring these children are referred to specialist support services or programmes.

support organisation of small producers to help facilitate formalisation and create an enabling environment for the promotion, creation and development of cooperatives and associations.

Supporting programming by international agencies, local authorities, NGOs and other stakeholders, that address the root causes of child labour in communities affected by mining as a means to support long-term sustainable solutions.

Where child labour affects more than the mining sector within a region, consider **coordination and collaboration across sectors** to harmonize approaches and indicators for tracking child labour impacts.

Establishing **backwards and forwards linkages** with local business and sourcing locally can help increase the social and economic benefits of mining and contribute to the elimination of child labour.

3.6 Working with suppliers –actions for downstream companies. Downstream companies' ability to mitigate the impact of child labour and affect change in the supply chain rests on its leverage.

Downstream companies should use their leverage with existing suppliers or other business relationships to encourage them to prevent and mitigate adverse impacts. Downstream companies may also consider what practical help (e.g. training, capacity building, sharing of information/research on child labour, letters of support, name of NGOs working on addressing child labour issues, examples of tools etc.) they can provide to their suppliers to promote risk-based due diligence and awareness of child labour risks in the supply chain.

While the extent of a company's leverage does not change the expectation to prevent and mitigate adverse impacts it may affect how a company seeks to prevent or mitigate adverse impacts in its supply chain. See Figure 1 for considerations on how to prevent or mitigate risks associated with suppliers or business relationships depending on company leverage. Essential to exercising leverage over upstream suppliers, is fact-based and current knowledge of high-risk regions and the nature of those risks. Downstream companies may want to obtain independent third-party data to hold the supply chain accountable.

Figure 1. **Business leverage and due diligence expectations –Downstream companies**

DUE DILIGENCE STEPS TO ADDRESS WORST FORMS OF CHILD LABOUR IN MINERAL SUPPLY CHAINS

collaborative initiatives to conduct child labour due diligence, such multi-stakeholder initiatives should be periodically reviewed to ensure that they are aligned with the OECD Due Diligence Guidance recommendations.

5.1 The OECD Due Diligence Guidance recommends that all companies provide a publicly available annual report on their due diligence actions and steps to inform consumers and the public at large that they are implementing due diligence as recommended by the OECD Due Diligence Guidance. Companies should be accounting, by public reporting, for all the risks listed in the *Model Supply Chain Policy*, *Annex II* of the OECD Due Diligence Guidance, including the risks of the worst forms of child labour.

due regard taken of business confidentiality and other competitive or security concerns.

Managing the risk – Companies are encouraged to include a summary report on the strategy for risk mitigation in the risk mitigation plan. What steps are taken to manage the risk of child labour? How does the company prioritise to address the worst forms of child labour? What measures does the company take if it becomes aware of human rights abuses taking place in connection with its suppliers? What time bound limits are set to ensure that remedial action takes place? How are local government and community stakeholders involved? How is progress measured?

Reports – Companies may share investigative reports and audits of smelters and refiners in their supply chains, as well as any other audits conducted at segments of their supply chain that are considered most at risk for child labour. Refiners and smelters can publish the third-party audit reports of their due diligence efforts. Reports should take due regard of business confidentiality and other competitive or security concerns.

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1. OECD Due Diligence Guidance, *Model Supply Chain Policy, Annex II* item 1 (iii), explicitly cites the worst forms of child labour as a serious human rights abuse. “While sourcing from, or operating in, conflict-affected and high-risk areas, we will neither tolerate nor by anKmreannfit

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NOTES

broad and covers adverse impacts associated with business relationships, for example in the company's supply chain.

25. OECD Guidelines for Multinational Enterprises, Chapter II: General Policies, Commentary on General Policies, item 14 "Potential impacts are to be addressed through prevention or mitigation, while actual impacts are to be addressed through remediation."

26. OECD Due Diligenn GBD

ANNEX I:

International law and policy on child labour is premised upon the belief that each child has inherent dignity and worth as a human being, and that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education, the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families.

The definition of child labour is derived from the United Nations Convention on the Rights of the Child, ILO Convention No. 138, Minimum Age Convention and ILO Convention No. 182, Worst Forms of Child Labour Convention (see Table A.1). According to the ILO, child labour refers to work that (i) is mentally, physically, socially and morally dangerous and harmful to children; (ii) interferes with their schooling by depriving them of the opportunity to attend school, by obliging them to leave school prematurely, or by requiring them to attempt to combine school attendance with excessively long and heavy work (iii) work that is done by children who are below the minimum age (set at 15 years old).

Table A.1. **Definitions of child labour**

	The minimum age which children can start work	Possible exceptions for developing countries
Hazardous work	18 *16 under strict conditions*	18 *16 under strict conditions*
Basic Minimum Age	15	14 *depending on national legislation*
Light work	13-15 *depending on national legislation*	12-14 *depending on national legislation*

1. The minimum working age is usually set by the national legislation, and must be respected. According to international standards, it is at least 15, which is typically the age when compulsory

The use, procuring or offering of a child for illicit activities in particular for the production and trafficking of drugs as defined in the relevant international treaties

Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children

ILO Convention No. 138, the Minimum Age Convention sets the minimum age for work for children at 15, and provides a range of protections to those working children.[1] The minimum age of 15 only applies to work that is not defined as one of the worst forms of child labour (prohibited until age 18). Companies have a responsibility under international law to respect the rights laid out in both Conventions in order to address all forms of child labour. Any measures to rescue a child from the worst forms of child labour should not lead to pushing him or her into another situation of child labour, including the minimum age violation in accordance with ILO Convention No. 138. It is also an obligation under Convention No. 182 (Article 7(2) (c)) to ensure access to education (or training according to age) for children removed from the worst forms of child labour. The UN Convention on the Rights of the Child protects children from economic exploitation, physical and sexual violence, and environmental pollution, and spells out their right to education.[2] Two other international laws provide specific protections against child trafficking, forced labour, and the sale of children.[3]

Many activities in artisanal mining are considered hazardous as it includes work underground, under water, carrying heavy loads, work with dangerous machinery and tools and working with toxic chemicals such as mercury and cyanide. The ILO includes in its definition of hazardous child labour "work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health"[4].

1. ILO Convention No. 138.

2. Convention on the Rights of the Child, articles 24, 28, 32, 34, 39.

3. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

4. ILO Recommendation 190 to C182, Section II Hazardous work, item 3d.

International Institute for Environment and Development

ITRI Tin Supply Chain Initiative (iTSCi) Incident reports (tin mines, annual summaries available online

National Resource Government Institute mining sector tools

Responsible Jewellery Council Standards (2013)
Section COP 17 on child labour

Save Act Mine – online database on mines in DRC

The Consumer Goods Forum

UNICEF - Child Labour Resource Guide

UNICEF Report on Children's Rights (2015)

United States Department of Labor Bureau of International Labor Affairs

United States Department of Labor, Bureau of International Labor Affairs
Toolkit for Responsible Business

4 92:

Alliance for Responsible Mining
http://responsiblemines.org/

Amnesty International
www.amnesty.org

Berne Declaration
www.bernedeclaration.ch

Global Witness
www.globalwitness.org

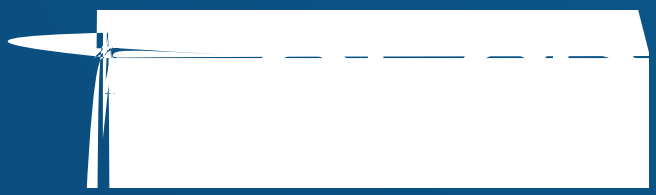
Human Rights Watch
www.hrw.org

Natural Resources Defence Council
www.nrdc.org

Pact
www.pactworld.org

Plan International
https://plan-international.org

Save the Children
www.savethechildren.net

II. LIST OF RESOURCES

- PRACTICAL ACTIONS FOR COMPANIES TO IDENT