

Artisanal and Small-Scale Mining: Addressing Challenges in Global Supply Chains



Mineworker, Indonesia

Artisanal and small-scale mining (ASM) produce a wide range of materials and fuels various industries. This includes jewellery production as well as the manufacturing of electronic devices, technology and automobiles. However, due to the lack of human rights due diligence processes, the probability that companies that depend on mining products are involved in salient human rights violations occurring in ASM is quite high. Therefore, this short paper will shed light on human rights related gaps and challenges for companies resulting from ASM. It further provides perspectives on how companies can address those issues in the framework of the UN Guiding Principles on Business and Human Rights (UNGPs) and encapsulates key events that will likely change the legal environment of the European Union and suggests follow-up actions in that regard.

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01 | Artisanal and small-scale mining in global supply chains

Artisanal and small-scale mining (ASM) is widespread, especially in so called developing countries within Africa, Asia, Oceania and Central and South America.⁰¹ ASM is extremely diverse and compared to the capital-intensive large-scale mining, it is broadly defined as mining activities that are labour intensive and limited in their use of capital, mechanisation, and technology.⁰² ASM is a legal activity in many places, and the political and legal framework guiding it vary from country to country. However, in many cases it is linked to the informal economy and is often considered to be an illegal activity. These conflicting legal states that ASM operates in, lead to complexities in the overall understanding of ASM for companies.⁰³

The non-profit organisation
Business for Social Responsibility (BSR)
broadly categorizes ASM activities
as follows:

Legal: The legality of ASM activities is determined by government policy and legislation. When ASM activities are considered legal, they are recognized through the provision of ASM mining permits on specifically designated land.

Informal: This category includes any ASM activity occurring outside the legal framework of the country (also referred to as extralegal activities). Illegal mining may still apply a system of recognized property rights (through customary rights or tribal authorities), but the country's national laws do not recognize these rights.

Illegal: Illegal ASM is defined as those ASM activities that are undertaken without government accord or that the country's legislation does not recognize. This category includes ASM activities on a concession where the government has ceded

exclusive mining rights to an LSM company, thus necessitating the evacuation (or eviction) of all miners.

Trespassing: This category encompasses any ASM activity that takes place in a restricted area or on private property without proper permission, including ASM miners who are invading the mine pit of large-scale mines. However, mining concessions granted to large-scale commercial companies often have many ASM communities living on them. These communities should not be considered to be trespassing per se. Rather, the mining company is responsible for collaborating with the government to demarcate restricted areas and communicate about them to ASM miners.

Criminal activity: ASM is deemed illegal under the laws of the country.

The sector is of significant importance for sourcing valuable minerals and geological materials that are processed in products we daily use. Germany for example is the one of the worlds largest mineral consumers⁰⁴ and relies hundred percent on imports when it comes to metallic mineral resources.⁰⁵

ASM is believed to account for 15-20% of global non-fuel mineral production.⁰⁶ It is estimated that 20% of the global gold supply, 80% of sapphire and 20% of diamond come from ASM. Manufactures of electronic devices also require a wide range of minerals retrieved by ASM. It is believed that 26% of global tantalum and 25% of tin are produced through ASM annually.⁰⁷ Likewise, ASM is connected to the automotive industry because of the widespread use of cobalt, platin, graphite, iron and copper. Cobalt is especially critical in the production of batteries for electric cars.⁰⁸ Hence, ASM affects any companies whose products or production processes depend on this wide range of materials somewhere in their value chain.

ASM is an important source of income for people who are affected by poverty and are looking for (often informal) economic divers sources of income. In fact, ASM generates up to five times the income of other rural poverty-driven activities in agriculture and forestry.⁰⁹ It ensures the existence for more than 150 million people in more than 120 countries compared to about 7 million people working in industrial mining worldwide.¹⁰ 70-80% of small-scale miners are informal,¹¹ and approximately 30% are women.¹² In many cases the operations take place in distant or “difficult-to-access locations, and in regions where the institutional presence of the government is weak”.¹³

In this paper, major human rights issues occurring in the informal mining sites are mostly elucidated by cases in African countries, since public data and studies of this region are most complete.¹⁴ This region is of special importance to the global supply of minerals and gemstones. It is estimated, for example, that 60% of the world’s cobalt supply comes from the Congolese ASM sector.¹⁵ Moreover, many mining sites in Africa are in so called conflict-affected settings, where the likelihood and severity of human rights violations is considerably higher.¹⁶

⁰⁴ BGR (n.y.): [Mineral commodities](#)

⁰⁵ BGR (n.y.): [Mining sustainability](#)

⁰⁶ IGF (2017): [Global Trends in Artisanal and Small-Scale Mining \(ASM\)](#) → p. 3

⁰⁷ [ibid](#)

⁰⁸ Wirtschaftswoche (2017): [Für dein Auto](#)

⁰⁹ IIED’s sustainable Markets Group (2013): Responding to the challenge of artisanal and small-scale mining. How can knowledge networks help?

¹⁰ IGF (2017): [Global Trends in Artisanal and Small-Scale Mining \(ASM\)](#) → p. iv

¹¹ [Ibid](#) → p. v

¹² The International Institute for Sustainable Development (2018): [Women in Artisanal and Small-Scale Mining: Challenges and opportunities for greater participation](#) → p. iv

¹³ Alliance for Responsible Mining (2014): [Adressing Forced Labour in Artisanal and Small Scale Mining, preface](#)

¹⁴ IGF (2017): [Global Trends in Artisanal and Small-Scale Mining \(ASM\)](#) → p. 5

¹⁵ RCS Global (2016): The Emerging Cobalt Challenge

¹⁶ For further information on Conflict affected settings see International Alert (2018): [Human Rights Due Diligence in Conflict Affected Settings](#)

02 | Human rights challenges

In September, 2018, over 500 delegates from more than 70 countries gathered in Livingstone, Zambia for the International Conference on Artisanal and Small-Scale Mining and Quarrying (ASM18).¹⁷ Highlighted topics at the conference included ASM's potential to reduce poverty, interlock with agricultural livelihoods, and stimulate jobs through market and wealth creation in rural communities. Its ability to drive national economic growth through taxation and exports of raw and value-added minerals was also covered.¹⁸ However to realise all this potential, more formalised governance processes from governments as well as from the private sector are needed. For instance, many small-scale miners do not have a legal title, and oftentimes the regulatory frameworks for national mining policy exclude or restrict ASM practices.¹⁹ Due to informal circumstances in most places, the sector entails severe human rights risks²⁰ that affect the value chain of many businesses worldwide.

The Organisation for Economic Co-operation and Development, OECD describes the mineral supply chain as follows:

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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.

OECD Due Diligence Guidance for Responsible supply Chains of Minerals from Conflict-Affected and High-Risk Areas → p. 14

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¹⁷ For more information see: <http://asmconference.org> | ¹⁸ Pact (2018): [ASM18: Placing the voices and visions of women artisanal miners at the heart of policy discussions](#) | ¹⁹ See BSR (2014): [How Can Business Contribute to the Ethical Mining of Conflict Minerals?](#) → p. 10 | ²⁰ See IGF (2017): [Global Trends in Artisanal and Small-Scale Mining \(ASM\)](#) → p. v

Informality

Labor conditions at ASM sites are inextricably linked to complex structural, social and economic considerations. Because of social inequalities and poverty people are often forced to accept adverse working conditions, exposing themselves to known health-related risks. The possible informality of ASM can effectively trap affected miners and their communities in a cycle of poverty.²¹ Without legal registration, workers cannot negotiate wages, working hours, and health and safety concerns. In case of occupational injuries and fatalities, neither workers nor their families have access to remedy. They are excluded from legal protection, social benefits and support.²²

Health and occupational safety

The health impacts of ASM are well recognised and continue to present challenges. It includes e.g. the use of hazardous chemicals.

Mercury for instance is used in the process of gold refining when miners form an amalgam that is a mixture of mercury and gold, and further evaporate mercury from this substance.²³ This process of obtaining fine gold from the ore puts workers at high risk of developing coarse tremor and muscular disabilities, in addition to diseases of their internal organs – including the kidneys, heart, liver, spleen and lungs. Mercury gets into the human body through the respiratory system and skin²⁴ and yet miners that are performing the refining process are often not aware of the negative side effects.

Each mining material has its own specific extraction requirement. For example, gold can be extracted in open or closed mining pits, while cobalt is mined in tunnels. And despite the technical and geological requirements, underground miners often dig much deeper than is allowed without the necessary protective gear.²⁵ They work in narrow man-made tunnels that are 1.5 metres in diameter and up to 90 metres deep, drilling and removing rock with hand tools and carrying the ore to the surface in sacks.²⁶ Consequently, these unstable tunnels pose a high risk of collapsing.

The use of toxic chemicals, and failure to comply with technical requirements leads to occupational

fatalities that are common in informal ASM. Digging, crushing ore, and other extraction tasks are exhausting and dangerous forms of work, but nevertheless are primary livelihood for miners including millions of women. For instance, women continue to go to mining sites even while pregnant or nursing young children.²⁷ Due to the frequent absence of working contracts, workers exposing themselves to health risks and victims of occupational accidents are not ensured of receiving health remediation.²⁸

Forced labour

Due to the complexity of conditions of modern slavery²⁹ and the diversity of the ASM sector, world statistics on forced labour lack adequacy, but it is reported to be found in all regions where ASM takes place.³⁰ According to the International Labour Organisation (ILO), forced labour refers to “involuntary work performed under menace of any penalty applied by an employer or a third party.”³¹ Since the ASM sector develops notably in countries where corruption, weak institution and poverty flourish, there have been cases of forced labour that are linked to armed rebellion groups – namely within Rubaya in the Democratic Republic of Congo (DRC). The nation remains in a fragile state of post-conflict transition and ASM acts as a focal point in armed confrontation between police, state agents and the local population.³²

Of special consideration are women, children and migrants, which are most vulnerable due their insecure political and social status in society.³³ The DRC, for example, is host to over 4 million internally displaced people³⁴ as a result of mass migrations following the Rwandan genocide as well as protracted violence, rape and pillage during the Congo Wars from 1996-2006. These circumstances lead to an environment where the abuse of power and forced labour situations are widespread.

²¹ See IGF (2017): *Global Trends in Artisanal and Small-Scale Mining (ASM)* → p. v

²² *ibid*

²³ See e.g.: Telmer, K.H. and Veiga, M.M. (2009): ‘World Emissions of Mercury from Artisanal and Small Scale Gold Mining’ in N. Pirrone and R. Mason (eds) “Mercury Fate and Transport in the Global Atmosphere.” Springer.

²⁴ See: Reuters (n.y.): *Gold worth billions smuggled out of Africa; IIED (2013): Responding to the challenge of artisanal and small-scale mining*

Systematic violence

Hazardous mining operations jeopardise local communities as rebel groups and political actors extend violence beyond the miners. In many cases, dispossession takes place in war or conflict zones where the government has less authority or holds mining interests. Communities have become subject to forced relocation, illegal taxation, threats and intimidation.³⁵ Human displacement and the large-scale violence for example is witnessed in eastern DRC (See also “Forced Labour”). Here, a consequence of the war was the mushrooming of a variety of non-state armed groups and other informal organisations. Due to endemic state failures, these groups have been able to take control of territories in eastern Congo, funding their operations through illegal taxation and economic activities, including artisanal mining.³⁶

²⁵ See Wirtschaftswoche (2017): [Für dein Auto](#)

²⁶ IIED (2013): [Responding to the challenge of artisanal and small-scale mining](#)

²⁷ “Women in Mining-Pact”. Exposure. Retrieved 2018-10-26.

²⁸ See IGF (2017): [Global Trends in Artisanal and Small-Scale Mining \(ASM\)](#) → p. v

²⁹ For more information on Modern Slavery in Global supply Chains see our Knowledge Paper [“Tackling Modern Slavery in the Supply Chain”](#)

³⁰ See Alliance for Responsible Mining (2014): [Addressing Forced Labour in Artisanal and Small Scale Mining](#) → p. 21

³¹ ILO (2012): Hard to see, harder to count: survey guidelines to estimate forced labour of children and adults → p. 13

³² Ulula (2018): [Assessing the impact of due diligence programmes in Eastern DRC: A baseline study](#)

³³ For more information on forced labour see: [Alliance for Responsible Mining \(2014\): Addressing Forced Labour in Artisanal and Small Scale Mining](#)

³⁴ Internal Displacement Monitoring Centre: <http://www.internal-displacement.org/countries/>

³⁵ See Kelly J. (2014): “This mine has become our farmland”: Critical perspectives on the coevolution of artisanal mining and conflict in the Democratic Republic of the Congo, Resource policy 40

³⁶ Ulula (2018): [Assessing the impact of due diligence programmes in Eastern DRC: A baseline study](#) → p. 8

³⁷ See ILO (n.y.): [Mining and quarrying](#)

³⁸ ILO (2018): [Towards the urgent elimination of hazardous child labour](#)

³⁹ ILO (n.y.): [Mining and quarrying](#)

⁴⁰ United Nations (n.y.): [Sustainable Development Goals Plattform](#)

⁴¹ ILO (2006): [Child labour in gold mining, 2006](#)

⁴² ibid

⁴³ IIED (2013): [Responding to the challenge of artisanal and small-scale mining](#)

⁴⁴ See et al worldatlas (2017): [What is the Environmental Impact of the Mining Industry?](#); Wirtschaftswoche (2017): [Für dein Auto](#)

Child labour

Despite the globally circulated and ratified international conventions on prohibition of child labour, children are still, to a large extent, engaged in the mining sites.³⁷ The lack of precise data on children working in the mining sector is an obstacle that hinders the possibility of shedding light on the situation. However, the ILO estimates that almost 73 million children out of the 152 million of underage workers are involved in different hazardous activities.³⁸ Out of these, about one million children work in mines and the number is increasing.³⁹ The prevailing and unprecedented scale of child labour in hazardous activities and trafficking was encapsulated in the scope of Sustainable Development Goal 8 – End child labour by 2030.⁴⁰ Children working in ASM perform the same activities as adults, exposing themselves to the risk of explosions and falling rocks. They dig ores, crush mills, carry heavy stones and bags of mud on their backs and heads, and process the gold ore with mercury.⁴¹ Long-term adverse working environments and high exposure to toxic chemicals subsequently deteriorates their health and provokes chronic diseases in the respiratory, nervous and digestive systems as mentioned above.⁴²

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Environmental degradation

Artisanal and small-scale mines usually do not have licenses to carry out extraction practices and hence, their impact on the environment is destructive. Natural consequences include rock drainage, biodiversity loss, air and water pollution, soil erosion resulting in deforestation as well as loss of food security regarding the loss of marine species, soil degradation, and pollution.⁴³ The extraction practices destroy thousands of vegetation, animal habitats and topsoil from arable land. Consequently, this exacerbates the poverty and hunger scale.⁴⁴

03 | Why business action is needed

Business are confronted with customer and investor expectations on the one hand and a lack of political stability and will on the other hand. They cannot replace state responsibilities to protect human rights but must make sure human right are respected in their operations even under difficult circumstances.

Using risks mitigation processes, businesses have a great possibility to positively affect the livelihoods of many people in the sourcing societies. The main problem though, is the lack of transparency and visibility in most companies' supply chains. Given the informality and scale of the ASM sector, human rights due diligence and responsible procurement processes are critical for companies that use mining products anywhere in their value chain.

From extraction of minerals to the entering of companies' value chain, it involves various interim actors who do not always act according to the law. In many cases, minerals and gemstones extracted in ASM are not registered, and this makes them easy to smuggle out of the national borders into the international market.⁴⁵ This way, unregistered minerals enter the value chain of many companies that are not aware of their true cost.

The Mineral Council of South Africa⁴⁶ describes the structure of the illegal artisanal mining market in this five-tier system:



⁴⁵ See et al Institute for Security Studies (n.y.): [The true cost of mineral smuggling in the DRC](#); Mineral Council of South Africa (n.y.): [Fact Sheet](#)

⁴⁶ Mineral Council of South Africa (n.y.): [Fact Sheet](#)

Growing expectation towards companies

The expectations towards companies regarding transparency on the origins of products and resources are growing. Today brands, retailers and producers are increasingly being held accountable by authorities, consumers and notably investors for the actions of those operating along their value chains. This responsibility of companies is clearly set out in the UN Guiding Principles on Business and Human Rights (UNGPs) and has been reflected in several national legislations.⁴⁷ Likewise, international governance increasingly requires companies to address environmental and social challenges either voluntarily as e.g. in the form of the 17 Sustainable Development Goals adopted by the UN in 2015, or obligatory through legal developments.

With the adoption of the EU Regulation on Conflict Minerals (2017/821)^{48 49} selected EU importers of the respective minerals “need to comply with, and report on, supply chain due diligence obligations if the minerals originate (even potentially) from conflict-affected and high-risk areas.”⁵⁰ It largely complies with the OECD Due Diligence Guideline for Responsible Supply Chains of Minerals from Conflict-affected and High-risk areas, which was created by a multilateral initiative in 2011.⁵¹ As of 2021, approximately 600-1000 EU importers will be directly affected as well as 500 smelters and refiners indirectly.⁵²

The EU-legislation follows a US-law known as the Dodd-Frank Act. Its Section 1502 is an example of increasing regulation in the raw materials sector. As a consequence of the risk of financing armed groups in the African great lakes region, the Act requires listed US companies that manufacture, or are contracted to manufacture, products containing gold, tin, tungsten and tantalum (so called “conflict minerals”) disclose annually if those materials come from the DRC or an adjoining country. If so, it obliges corporations to perform a robust due diligence and produce public reports that have to be independently audited. Around 40 dual-listed (EU/US) companies in the EU are subject to the US Dodd-Frank Act. An additional 150,000-200,000 EU companies are estimated to be indirectly affected as they are in the supply chain of US listed companies.⁵³ Under Donald Trump's presidency, the US House of Representatives Financial Services Committee reported a bill to repeal the Section 1502 of the Dodd-Frank Act on February 20, 2018. After the government announced its intention to repeal the law, Apple and Intel, among others, expressed concern that without legal regulation, regressions could occur that would make it more difficult for them to continue auditing and certifying mines.⁵⁴ As matters stand, it is currently awaiting consideration by the House and Senate.⁵⁵

⁴⁷ For further information on legal developments see our publication: [Studie 2017 – Unternehmen und Menschenrechte. Welche Faktoren setzen Unternehmen zunehmend unter Druck, Menschenrechte zu achten?](#)

⁴⁸ European Commission: [Conflict Minerals Regulation](#)

⁴⁹ European Parliament and the Council of the European Union (2017): [Regulation \(EU\) 2017/821 of the European Parliament and of the Council](#)

⁵⁰ Deloitte (2018): [New conflict minerals regulation – Implications and lessons learned from the Dodd-Frank Act in the US](#)

⁵¹ EUR-Lex (2017): [Legislation](#).

⁵² European Commission (2017): [The regulation explained](#)

⁵³ European Commission (2014): Impact Assessment accompanying the ‘Proposal for a Regulation setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict affected and high-risk areas

⁵⁴ The Washington Post (2017): [Why Apple and Intel don't want to see the conflict minerals rule rolled back](#).

⁵⁵ Williams, Lee (2019): [Conflict Mineral Regulations](#)

04 | What companies should do

In order to maximize the positive impact of ASM instead of contributing to human rights violations and significant adverse impacts, such as financing or fuelling conditions of conflict, it must be formalized, become responsible and well governed.⁵⁶ The fragmented production process of minerals in the value chain results in complex challenges for companies. Nevertheless, independent from their position or leverage over suppliers, companies do have a responsibility for their value chain and the people affected by their operations. They are not insulated from the risk of contributing to or being associated with “adverse impacts occurring at various points in the mineral supply chain”.⁵⁷ As we know from our consultancy work, companies can take reasonable steps to prevent and mitigate the adverse impacts associated with the conditions of mineral extraction and the relationships of suppliers operating in their value chain. It may not always be in the DNA of companies but cooperating with others very often is an important part of the solution.

The core activity for businesses to avoid contributing to human rights abuses through their procurement or production operations, should be conducting human rights due diligence in line with the UNGPs. A due diligence can be described as “an on-going, proactive and reactive process through which companies can ensure that they respect human rights and do not contribute to conflict”.⁵⁸ Even though the application and the appropriate extent of a human rights due diligence will depend on each companies’ individual circumstances,⁵⁹ the UNGPs set out clear expectations for companies. In addition, the OECD Due Diligence Guideline for Responsible Supply Chains of Minerals from Conflict-affected and High-risk areas is a helpful tool for companies to build up a responsible due diligence process.

Establishing human rights due diligence is a major challenge and companies shouldn’t underestimate the effort it takes to make it effective. Our experience shows that the 5 core elements of the UNGPs provide a practical and helpful framework to structure the process of a human rights due diligence:

⁵⁶ ASM Conference (2018) “International Conference on Artisanal and Small-scale Mining & Quarrying” | ⁵⁷ OECD (2016): OECD Due Diligence Guidance for Responsible supply Chains of Minerals from Conflict-Affected and High-Risk Areas → p. 14 | ⁵⁸ OECD (2016): OECD Due Diligence Guidance for Responsible supply Chains of Minerals from Conflict-Affected and High-Risk Areas → p. 13 | ⁵⁹ Factors can for example be the size of the enterprise, the location of the production activities, the situation in a particular country, the sector and nature of the products or services involved.

1.

Establish a strong commitment and management systems.

For the implementation of a human rights due diligence process, appropriate structures need to be established within the company. The first step here is public recognition of the responsibility through a company policy statement on respect for human rights. In this policy statement, the management should formulate a clear commitment to human rights including future targets. On one hand, it serves to communicate externally, and on the other hand it represents an important instrument internally to inform employees and form a foundation for subsequent company-specific planning in the area of human rights. In addition, a so-called Code of Conduct can help to translate the requirements of the various international human rights frameworks into one's own operating environment and to make the expectations towards employees and business partners clear. It contains behavioural guidelines that serve as a binding orientation framework. Furthermore, we recommend a supply chain policy should be incorporated into contracts and/or agreements with suppliers. The own internal management for supporting supply chain due diligence should be structured accordingly.

2.

Identify and assess human rights impacts in the own supply and value chain.

One of the main difficulties for companies in identifying adverse human rights impacts is the lack of transparency and visibility in their supply chain. Therefore, companies should map their supply chain in order to assess their human rights risks. We experienced that the participation in industry-driven programs can be very helpful, as knowledge, coordination and costs can be shared in a number of ways. This helps identify any actual or potential adverse human rights impacts in which a company may be involved, either through their own activities or as a result of their business relationships.⁶⁰ Particular focus should be put on particularly vulnerable groups, such as children, women, ethnic minorities or indigenous groups. In order to achieve a holistic approach, the involvement of the rights holders is of major importance. Furthermore, the involvement of external experts, such as NGOs, trade unions or human rights experts, can help to ensure an objective evaluation.

⁶⁰ For more information see our Knowledge Paper: [Menschenrechtliche Risikoanalyse: Überblick und Notwendigkeiten](#)

3.

Mitigate and monitor adverse effects on human rights

To act upon the findings of step 2, companies should devise, adopt and implement a risk management plan for their own activities as well as with up- and downstream suppliers and other stakeholders to prevent or mitigate the risk of direct or indirect support to human rights violations. To this effect they should consult with their suppliers and affected stakeholders, including local and central government authorities, international or civil society organisations and affected third parties. Following this, measures for a structured human rights strategy can be determined, including, for example, adapting management processes, setting up a code of conduct, trainings for staff and capacity building measures for suppliers, or creating pilot projects on specific challenges. Given our expert opinion, new forms of cooperation as well as innovative solutions are essential in the field of human rights, because companies often know too little about the connections and reasons for human rights violations in their supply chains.

4.

Be transparent about what the company is doing

Once a company has identified its risks and impacts, and measures have been initiated to avert them, it should start to communicate the results. Companies should be transparent about measures being taken to respect human rights. Reporting should be based on effective risk identifying, mitigating, monitoring and evaluation processes.

Being transparent is crucial for appropriate and audience-oriented communication. Content should be processed and shared in a way that the target group understands the human rights implications and measures introduced. The target group should include the potentially affected people or groups and other relevant stakeholders, including investors. This may explicitly include formats that go beyond the usual formal sustainability reporting, e.g. face-to-face meetings, online dialogues, consultations with stakeholders concerned.

5.

Establish a grievance mechanism

For the early identification of (actual or potential) adverse impacts, companies should establish a grievance mechanism on company-level or collaborate to establish an industry-wide grievance mechanism as an “early-warning risk-awareness system”.⁶¹ Such a grievance mechanism is needed to enable affected rightsholders in the company's value chain to report on human rights violations and effectively claim their rights. At the operational level, a grievance mechanism is important for making remediation possible.

The following two sections are giving an overview of existing organisations and specific due diligence programmes that companies can make use of and highlighting some examples we consider good practice.

⁶¹ OECD (2016): OECD Due Diligence Guidance for Responsible supply Chains of Minerals from Conflict-Affected and High-Risk Areas → p. 17

Existing Organisations & Due Diligence Programms

The Tin Supply Chain Initiative (ITSCI): Established by the International Tin Association in 2011. Its purpose is to create responsible mineral supply chains that avoid contributing to conflict, human rights abuses, or other risks such as bribery.

The Responsible Cobalt Initiative (RCI): RCI aims to have downstream and upstream companies recognize and align their supply chain policies with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas in order to increase transparency in the cobalt supply chain and improve supply chain governance. It calls on companies of the cobalt value chain to face the challenges and shoulder responsibilities together, as well as take joint actions.

Tetra Tech: This organisation is working to establish links with the private sector to transform the region's mineral wealth into a foundation for economic growth and development.

IMPACT's Just Gold: They trace conflict-free and legal artisanal gold from mine site to export while applying regional and international standards applicable to conflict-affected and high-risk areas.

BGR: A project funded by the German government. It supports the certification of raw materials and traceability along mineral supply chains and contributes to the development and implementation of international requirements and recommendations, for example of the OECD.

Alliance for Responsible Mining (ARM): Their mission is to facilitate the empowerment of artisanal and small-scale miners, their organisation and the adoption of good practices, promoting favorable environments for the inclusion of artisanal and small-scale miners in the formal economy. They create voluntary standard systems for production and trade, and support the creation of responsible supply chains.

The Artisanal Gold Council (AGC): The AGC envisions a formalised, environmentally sound, and socially responsible Artisanal and Small Scale Gold Mining Sector that supplies Responsible Artisanal Gold™ to markets, attracts socially responsible investors and buyers, and encourages ethical consumer behaviours.

Pact Mines to Markets (M2M): M2M uses an integrated, holistic approach to help resource-dependent communities improve their lives. They bring together government, industry and miners themselves to make ASM formal, safer and more productive.

The Kimberley Process (KP): KP is an international certification scheme for rough diamonds created in 2000 by the United Nations General Assembly. It was initiated to disable so called conflict diamonds from the global supply chain and currently involves 55 participants from 82 countries.

The use of blockchain in the jewellery industry by De Beers Group

An example of the use of innovative technology, namely artificial intelligence in the diamond industry, is the [Tracr project](#). This blockchain traceability platform was initiated and developed by the global jewellery brand De Beers Group.⁶² Tracr is an end-to-end tracking platform pursuing provenance, authenticity and traceability of a diamond along the entire value chain. Consequently, the platform verifies each diamond's origin, quality and all processes it has passed. This way, companies can ensure their customers that their jewellery was produced in fair and adequate working conditions.

More and more companies within the diamond industry are joining the Tracr project. The initiative was enhanced by the involvement of a second global diamond producer, the Russian company Alrosa. This collaboration of leading jewellery manufacturers serves as a role model for other industries and positively affects the global supply and production of gemstones.

Apple inc. due diligence efforts

Apple inc. states that it is “deeply committed to upholding human rights across its global network of suppliers”.⁶³ For that, the company mapped their supply chain as far as possible and performs third party audit of its suppliers on a regular basis. As a result, the company audited 253 identified smelters and refineries by the end of 2018. In 2015 they removed 35 actors not willing to

participate in a third party audit from their supply chain. As noted in Apple's supplier sustainability report and conflict minerals report, in the process of supply chain due diligence it is important for companies to ensure that maintaining a conflict-free supply chain does not inadvertently contribute to exclusion

Examples of good practice

of vulnerable populations by further limiting ASM miners' access to markets. The company concludes that an improved understanding of the ASM sector is needed and that ASM operations have to improve their sustainability performance in general and continue to be included into the global economy. As part of its commitment to help safeguard the well-being of people involved in its supply chain, Apple has integrated human rights impact measurements into its overall minerals due diligence program and joined the Responsible Cobalt Initiative (RCI).

BMW Group: Complying with due diligence in supplier selection

Even though the BMW Group is not presently being supplied with cobalt directly, the company adopted due diligence standards based on the OECD Guideline. Cobalt is one of the key components in production of electrified vehicles and is used in significant quantities in high-voltage batteries for electric vehicles and plug-in hybrids. The company

has been working with direct suppliers as well as their sub-suppliers to achieve supply chain transparency and drives the development and implementation of standardised auditing for cobalt smelters and refineries as part of its activities in the Responsible Cobalt Initiative (RCI) and the Responsible Minerals Initiative (RMI). Furthermore, the BMW Group is investigating how the working and living conditions of artisanal miners in the surrounding communities in the DRC can be improved. To this end the company has, in collaboration with partner companies from their supply chain, commissioned the German development agency Gesellschaft für Internationale Zusammenarbeit (GIZ). If the pilot project is successful, those mines will qualify for supplying cobalt directly to the BMWGroup.⁶⁴

Fairphone on its way to a transparent supply chain

Fairphone started in 2010 as a campaign to increase awareness for the use of conflict minerals in consumer electronics. In 2016 the Dutch company announced that it has successfully managed to transparently source all four of the conflict minerals (tin, tantalum, tungsten and gold).⁶⁵ By partnering with programs such as the Conflict Free Tin Initiative (CFTI) and Solutions for Hope, Fairphone began sourcing tin and tantalum from validated conflict-free mines in the DRC. For their latest production it expanded its activities, becoming the first consumer electronics manufacturer to integrate Fairtrade gold into its supply chain.

About us

We are a Berlin-based management consultancy and think tank with an international team specialised in business and human rights. Our clients are listed companies, family owned businesses and international non-profit organisations with global operations. We help clients establish effective human rights due diligence processes. Working with our clients, we create strategies that strengthen overall compliance with human rights requirements, contributing to the sustainability of the business.

Akylai Anarbaeva was an intern in our firm. She is currently following a MSc course in Local Development at the University of Padova, Italy and an Erasmus Exchange programme at the Rijksuniversiteit Groningen, Netherlands. She has been working as an economist in different sectors and holds a BS/MS (Honours) in International Economics from the Kyrgyz-Russian Slavic University, Bishkek, Kyrgyzstan.

Theresa Quiachon is our research & solution expert, specialised in qualitative research methods. She holds a Master in social- and cultural anthropology. Theresa has expertise in the consideration of different societies and cultures while assessing risks in value chains and in stakeholder dialogues. She has been working on the assessment of human rights due diligence processes for NGOs and businesses from various sectors.

Raquel Althoff is our mining sector expert. For more than 10 years she has worked in the sector, where she successfully led several initiatives to implement the Guiding Principles on Business and Human Rights, engaging stake-holders from areas as diverse as Procurement, Legal, Operations, HSEC, Risk Management, Security, Investors Relations, Finance and Community Relations.

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