

15. September 2021

OECD Practical Tool on Environmental Due Diligence in Mineral Supply Chains

Summary of the kick-off-event, partner side session at the 14th OECD Forum on Responsible Mineral Supply Chains, 26 April 2021

Notice

The event has been held under Chatham House Rule, this summary has been authored accordingly: statements are not attributed to individuals nor organizations.

Statements do not necessarily appear in the order of speakers, have been grouped thematically. Statements are not necessarily consensual among participants and might contradict each other.

Comments and questions from chat are included. Please contact us in case of remaining questions.

Background

With support from the Government of Germany, the OECD is developing a Practical Tool on Environmental Due Diligence in Mineral Supply Chains. In supporting business conduct environmental due diligence in the sector, the Tool will provide practical actions that businesses can take in implementing the due diligence framework to address environmental risks and impacts across global mineral supply chains.

To kick-off the process, this session served as a first multi-stakeholder event to outline the initiative, exchange perspectives and experience from stakeholders on environmental due diligence issues, assess gaps and needs for further support, and to invite interested parties to contribute to the process.

Introduction and general considerations

UNEP's Global Environmental Outlook (GEO 6) shows that humanity is not on track to reach the Sustainable Development Goals: the state of the environment has continued to deteriorate, the bio-physical foundations of human civilization are in danger. Unsustainable production and consumption patterns are one main determinant of this trend, including parts of the minerals and metals sector. On the other hand, minerals and metals are essential for the urgently required global shift towards sustainability, including the transition to a low carbon economy. All societal actors need to act fast, the windows for action are closing, especially for climate change.

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From a footprint perspective, environmental impacts of high-income countries occur to a large part in the upstream value chain located in other countries. Therefore, policy and business action for environmental protection should also address impacts in global supply chains. Accordingly, in recent years, there has been increasing public attention on the role of business in addressing both, their dependencies on and their impacts on the environment. There is a need to increase business understanding of how global environmental threats (e.g. climate change, biodiversity loss) are to be integrated in environmental management and risk management processes, in line with evolving stakeholder expectations.

The OECD Guidelines for Multinational Enterprises (MNE) as well as the OECD Due Diligence Guidance for Responsible Business Conduct (RBC) capture business responsibilities to people and the environment. There is a demand for practical support to operationalize these standards, in particular with respect to environmental impacts. Requirements for environmental due diligence (EDD) are increasingly emerging, in industry initiatives as well as in national and European legislation, room for further definition is remaining: E.g. the EU Batteries regulation generally formulates goods to be protected by a supply chain due diligence (DD) approach, but how exactly is not clear yet.

The German Government has taken up the issue in its Raw Material Strategy and the Environment Ministry - supported by UBA and BGR - has initiated the development of an *OECD Practical Tool on Environmental Due Diligence in Mineral Supply Chains* (the Tool). The envisaged result of this initiative is an OECD publication to be launched by the end of 2022. It will be developed in a participative multi-stakeholder process at the OECD during 2021 and 2022, informed by a newly established expert working group (EWG), which aims to represent relevant stakeholder groups: governments of high-income as well low-and-middle-income countries, international organisations, industry (up- and downstream), mining communities, civil society organisations (CSO).

The Tool is meant to support companies in global mineral supply chains - from mine to end product manufacturing - with their supply chain due diligence and environmental management, building on existing practices, tools and approaches, to create synergies and find efficiencies. It shall help companies to identify and assess risks for adverse environmental impacts of extracting, processing and refining minerals and develop effective measures to cease, prevent and mitigate these.

Questions raised by participants:

- ▶ How can the concept of due diligence in mineral supply chains, with solid experience related to conflicts, be applied to environmental issues, risk based and aimed at continuous improvement?
- ▶ How do environmental impacts intersect with adverse impacts to human rights and how can companies perform risk assessments for adverse impacts on human rights and the environment in an integrated way?
- ▶ Should the Tool maintain the same division of supply chains into up- and downstream as the Minerals Guidance, with different responsibilities and the refiners as critical choke point?
- ▶ How do downstream actors get the needed information on environmental impacts from upstream actors? What type of information needs to be passed up the supply chain so that upstream actors are able to make the technical assessments?

- ▶ What can be expected from due diligence with regard to mitigating environmental impacts, what leverage do companies in mineral supply chains have?
- ▶ What are red lines for adverse environmental impacts (in analogy to Minerals Guidance)?
- ▶ What are circumstances where responsible businesses cannot engage and which are circumstances where companies can engage with mitigation?

Expectations raised by participants towards the Tool and EDD in mineral supply chains in general:

- ▶ The tool should help to concentrate on the hot-spots in the value chain, where highest impacts emerge but also where the biggest drivers for transformation are placed (risk-based as well as chance-based approach)
- ▶ The Tool should help to develop a common understanding of environmental performance and how to get there. It should show how to apply commonly accepted and increasingly adopted frameworks to develop a level playing field and a common set of expectations.
- ▶ It should provide links to credible, accessible and updated information around risks (e.g. new Material Insights Platform by RMI) and opportunities to work independently or collectively to enact positive change.
- ▶ It should build on existing tools for diagnostics/risk assessment, assurance frameworks, standards, 3rd party audits. Frameworks/standards mentioned include: RMIs risk readiness assessment, IRMA, ICMM principles, To UN-ECE UNFC, CRIRSCO reporting scheme, World Banks Climate Smart Mining incl. indicators for Forest Smart ASM.
- ▶ It should include practical examples of actions that different actors in the supply chain, can take, not just focusing on actions of mining companies or smelters, refiners. It should allow for adaptation by many kinds of company circumstances: mining company, suppliers of mines, trader, manufacturer, small and medium enterprises (SME).
- ▶ It needs to consider the full mine lifecycle: Closure and post-closure phase are usually not in the focus of risk assessment, as they are outside of the direct supplier relationship, but are highly relevant for long-term environmental impact.
- ▶ The Tool needs to consider different realities at mines, smelters and refineries around the world: large scale mining (LSM), artisanal and small-scale mining (ASM), new best-practice sites, old sites with extensive pollution issues, variable climatic and governance conditions.
- ▶ The tool should be designed to raise the bar for business performance, but could also inspire governments in filling governance gaps. Independent 3rd party audit is crucial to drive race to the top, as intrinsic motivation to engage seriously in DD processes is often lacking.
- ▶ Public participation is key: Tool could help to engage the more vulnerable parts of the value chain, affected communities and environmental defenders in two ways:
 - a) Bring in their perspectives in development of the Tool.
 - b) Rolling out of the Tool could help to consider their perspectives in practice, e.g. through anonymous whistleblowing channels.

- ▶ EDD could be key to address environmental harms and related social impacts in jurisdictions with weak enforcement of environmental legal frameworks.
- ▶ EDD is a (company) inward-looking process. A tool in the public domain could enable monitoring of DD processes of companies by CSO and general public.
- ▶ The Tool should be valuable for ongoing national activities to implement the Minamata Convention in ASM gold sector.
- ▶ The Tool should evolve over time and allow for adaptation, it should be informed and shaped by lessons-learned of applying OECD framework and emerging stakeholder needs.

Views of participants on environmental challenges in the minerals sector and limitations of EDD:

- ▶ The world experiences a continuous increase of mining resulting in increasing pressure on ecosystems and overlap with mining concessions and protected areas. The minerals demand to support a green recovery raises questions whether greening one country's economy comes with social and environmental damages to others.
- ▶ Large Scale Mine development can induce further impacts on ecosystems by other industries which might follow infrastructure development, e.g. plantation.
- ▶ EIA and DD look at impacts at project level, but cumulative effects are crucial. Mandatory strategic environmental assessments (SEA) would be a step forward. In practice, EIAs are facing multiple governance challenges: CSO participation late in the process, lacking transparency, authorities are lacking capacities to assess EIAs.
- ▶ Legacy mines without ownership are a major environmental problem, it should be in the collective interest of the mining sector to see these issues addressed.
- ▶ Most common challenges in minerals sector according to UNEP global consultation 2020: Limited capacities, management of mine waste, ASM, sand extraction, inclusion and participation of affected stakeholders, protection of environmental defenders, transparency and accountability, need for alignment of existing governance initiatives.

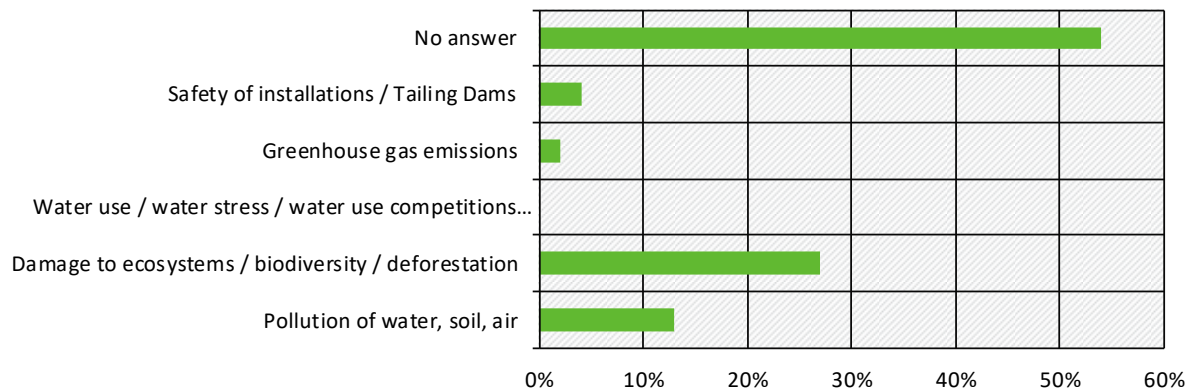
Wrap up and Outlook:

Environmental risks and adverse impacts are an important component to conducting due diligence across supply chains in the minerals and mining sector. Downstream actors have leverage, have responsibilities and they also might have regulatory obligations soon. There is a need for support and guidance regarding how to conduct environmental, in addition to human rights, due diligence in mineral supply chains. There are a lot of initiatives out there to build upon, the issues have been identified and standards for responsible mineral production have been defined. The Tool should not recreate those but provide a guiding framework for how to use and leverage existing practices in implementing supply chain due diligence to address environmental risks and adverse impacts.

With this and the more detailed points raised at the kick-off-event in mind, the Tool will be developed in the course of the next months and presented for consultation at the 2022 OECD Minerals Forum.

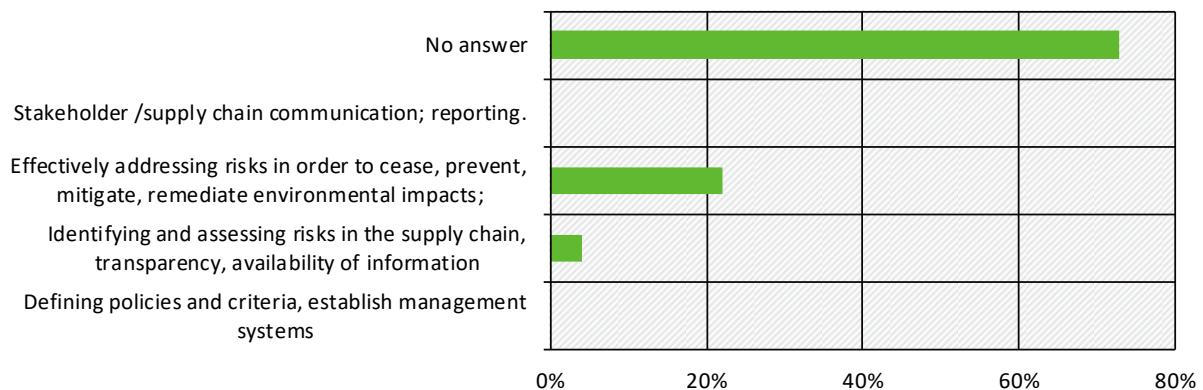
Annex: Polling results:

1. What are the most important environmental issues in mineral supply chains to be addressed by the envisaged practical tool? (n=52)



Source: UBA 2021

2. Where do you see major challenges for Environmental Due Diligence in mineral supply chains with reference to the 5-step framework? (n=45)



Source: UBA 2021

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