

# International Responsible Business Conduct Agreement for the Metals Sector

## Delivering Responsible Metals Supply Chains Together



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The Parties:



The Supporting Organisations:



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# List of abbreviations and acronyms

**ASM** Artisanal and Small-scale Mining

**CSOs** Civil Society Organisations

**CSR** Corporate Social Responsibility

## **EU Conflict Minerals Regulation**

Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas

## **EU Waste Framework Directive**

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives

**ILO** International Labour Organization

**IRBC** International Responsible Business Conduct

**LSM** Large-Scale Mining

**MNEs** Multinational Enterprises

**NCP** National Contact Point for the OECD Guidelines for Multinational Enterprises

**NGOs** Non-Governmental Organisations

**OECD** Organisation for Economic Co-operation and Development

## **OECD Guidelines for MNEs**

OECD Guidelines for Multinational Enterprises

## **OECD Minerals Guidance**

OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas

**RBC** Responsible Business Conduct

**SDGs** Sustainable Development Goals of the United Nations

**SER** Social and Economic Council of the Netherlands

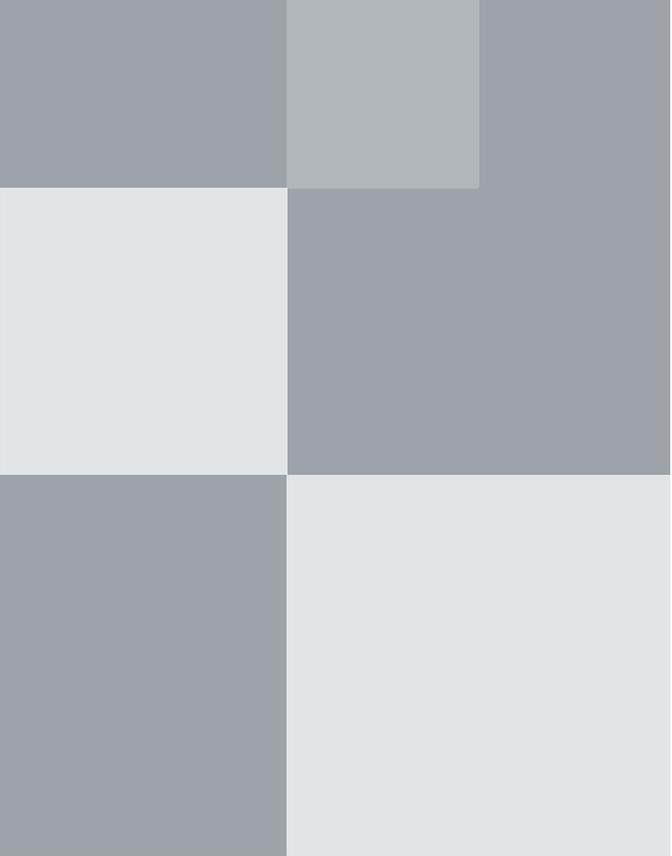
## **SER Advisory Report**

SER Advisory Report on Agreements on International Responsible Business Conduct, 2014

## **The Guidance**

OECD Due Diligence Guidance for Responsible Business Conduct

**UNGPs** United Nations Guiding Principles on Business and Human Rights



International  
Responsible  
Business Conduct  
Agreement for  
the Metals Sector



## Executive Summary

In many parts of the world, the mining and production of raw materials for the metals sector can be associated with potential risks to workers and local communities, as well as the stability and fragility of States and the surrounding natural environment.

Many metals companies import a majority of the raw materials essential for their production from other countries both in and outside the European Union. The 2014 KPMG CSR Sector Risk Assessment, commissioned by the Dutch government, revealed that the extractives sector is one with heightened potential risks in relation to human and environmental rights violations. Visibility of the supply chain of the materials, especially beyond the trader is often limited.

The signatory organisations, including companies in the metals sector, industry associations, trade unions, non-governmental organisations (NGOs) and the government of the Netherlands, commit to this *International Responsible Business Conduct Agreement for the Metals Sector*.

This Agreement is a multi-stakeholder instrument for implementing (individual and collective) due diligence. Through the Agreement the Parties and Supporting Organisations come together to improve the lives and livelihood of both the people in the metals supply chain, and the natural environment at risk from specific activities and operations within a predetermined period. The Agreement covers the entire metals supply chain.

The Agreement builds on the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises (including the accompanying OECD Due Diligence Guidance for Responsible Business Conduct). This includes all chapters of the OECD Guidelines: for example, the chapters on human and labour rights, as well as the environment chapter, which encourages companies to improve their environmental performance.

The Parties aspire to increase the number of signatories to boost the impact of the Agreement on a global scale. The Agreement is therefore open to relevant organisations, initiatives and companies active in different nodes of the metals supply chain at the national, regional and global level and that endorse its goals and aspirations.



# Parties and Supporting Organisations

## The Parties

1. The Minister for Foreign Trade and Development Cooperation, Ms. S. Kaag MA, MPhil, acting in the capacity of governing body
2. The State Secretary of Economic Affairs and Climate Policy, Mrs. mr. drs. C.G. Keijzer, acting in the capacity of governing body

*Parties 1 and 2 collectively referred to hereafter as “the Government”*

3. Association of the Dutch Metallurgy Industry (VNMI)
4. European Association of Metals (Eurometaux)

*Parties 3 and 4 collectively referred to hereafter as “the Industry Associations”*

5. Century Aluminum Vlissingen B.V.
6. Climax Molybdenum B.V.
7. E-MAX Aluminium Profielen N.V.
8. Hunter Douglas Europe B.V.
9. Tata Steel Nederland B.V.
10. Uzimet B.V.
11. Wuppermann Staal Nederland B.V.

*Parties 5 through 11 referred to hereafter as “the Companies”*

12. Christelijk Nationaal Vakverbond (CNV)
13. Federatie Nederlandse Vakbeweging (FNV)

*Parties 12 and 13 collectively referred to hereafter as “the Trade Unions”*

14. Global March against Child Labour
15. Stichting IUCN Nederlands Comité
16. UNICEF Nederland

*Parties 14 through 16 collectively referred to hereafter as “the Non-governmental organisations (NGOs)”*

*Parties 12 through 16 collectively referred to hereafter as “the Civil society organisations (CSOs)”*

*Parties 3 through 16 collectively referred to hereafter as “the Private Parties”*

## The Supporting Organisations

1. Bettercoal
2. FME Dutch Technology Association
3. International Tin Association
4. International Zinc Association
5. Metaal Recycling Federatie
6. Terre des Hommes



# 1 Considerations

Considering that:

- 1.1 There is a rising demand for metals worldwide;
- 1.2 The metals sector is the backbone of the production and manufacturing of goods and technology, supplying vital materials for many industries, including automotive, construction, pharmaceutical and aviation;
- 1.3 The metals sector generates employment and revenue, and contributes to local economic development in many parts of the world;
- 1.4 The extraction, trade, and processing of raw materials for the sector are associated with potential environmental and human rights<sup>1</sup> risks and violations;
- 1.5 These risks range from violations and potential violations of both formal and informal workers' rights, children's rights and the rights of local communities, to risks to the stability and fragility of States, as well as risks to our own life support system, the natural environment;
- 1.6 Companies in the Netherlands and across Europe rely on imported raw (primary and secondary) materials for their production processes;
- 1.7 The import and use of primary and secondary materials exposes companies to the risk of implication in human and environmental rights issues and violations in the supply chain;
- 1.8 The EU Waste Framework Directive<sup>2</sup> lays down basic waste management principles requiring waste to be managed with respect for human health and the environment;
- 1.9 One of the ambitions of the Agreement on the Circular Economy,<sup>3</sup> signed by several actors in the manufacturing industry, is to achieve a circular economy in which the efficient and intelligent use of raw materials and products enhances the earning capacity of the Dutch economy, and gives rise to the sustainable use of natural capital while achieving climate-related and other environmental goals;
- 1.10 The recycling of secondary materials can help reduce the demand for and extraction of primary raw materials;

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1 The term *human rights* as used in this document also encompasses labour rights, and the basic obligations of States under human rights law as related to the enjoyment of a safe, clean, healthy and sustainable environment as defined in the OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights.

2 Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (EU Waste Framework Directive).

3 Dutch Government (2017), *National Agreement on the Circular Economy: Letter of intent to develop transition agendas for the Circular Economy together*, <https://www.government.nl/documents/discussion-documents/2017/01/24/national-agreement-on-the-circular-economy>, (accessed 8 May 2019).

- 1.11 The collection and processing of secondary materials for recycling can be associated with certain human rights risks and violations of environmental standards, especially in (non-EU) countries with weak governance, ineffective rule of law and where international standards and treaties are not well observed;
- 1.12 The production and sourcing of secondary materials for recycling require specific attention in relation to the transparency of the supply chain;
- 1.13 The 2014 KPMG CSR Sector Risk Assessment<sup>4</sup>, commissioned by the Dutch government, revealed that the metals sector is one of the industries in the Netherlands with heightened risks in its supply chain with regard to the rights of people and the environment;
- 1.14 The visibility of the metals supply chain and the traceability of materials to their point of origin is complex due to a number of factors, including the diversity in the types and manner in which they are extracted, processed and traded. Furthermore, the political, governance and socio-economic situations of the producing countries can impede efforts to trace materials to their origin and tackle identified severe risks and violations;
- 1.15 The companies in the metals sector are diverse in terms of size, institutional structure, the type of input materials and metal(s) used, and sustainability practices;
- 1.16 Smelters, traders and refiners are examples of the main choke points in the metals supply chain and hold a critical position for securing transparency and tackling severe adverse impacts in the supply chain;
- 1.17 Responsible business conduct in the metals sector is a condition for sustainable and inclusive economic growth and contributes to sustainable global value chains and to the achievement of the Sustainable Development Goals of the United Nations (SDGs);
- 1.18 Worldwide, a growing number of regulations and initiatives are aimed at ensuring that companies do not directly or indirectly contribute to severe human rights abuses and/or violations of environmental laws and international environmental standards;
- 1.19 In 2014, at the government's request, the Social and Economic Council of the Netherlands (SER) published an advisory report on *Agreements for International Responsible Business Conduct* in which it called for sectors to take the initiative to enter into multi-stakeholder agreements to collectively address severe risks

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<sup>4</sup> KPMG (2014), *CSR Sector Risk Assessment: Considerations for dialogue*, <https://www.imvoconvenanten.nl/~media/files/imvo/mvo-sector-risk-assessment.ashx>, (accessed 8 May 2019).

and violations to people and the environment that companies cannot tackle on their own<sup>5</sup>;

- 1.20 The SER, in its advisory report, states that these agreements offer companies the opportunity to increase their leverage by working together at sector level with the government, civil society and other organisations in order to address specific complex problems in a cohesive and solution-oriented manner;
- 1.21 Companies and governmental agencies in the Netherlands use multi-stakeholder international responsible business conduct (IRBC) agreements to meet the expectations of the *UN Guiding Principles on Business and Human Rights*<sup>6</sup> (hereafter, UNGPs) and the *OECD Guidelines for Multinational Enterprises*<sup>7</sup> (hereafter, OECD Guidelines for MNEs);
- 1.22 The OECD Guidelines for MNEs are the most comprehensive framework for promoting IRBC and include a dispute resolution mechanism, the National Contact Point (NCP);
- 1.23 The EU Conflict Minerals Regulation<sup>8</sup> and this *International Responsible Business Conduct Agreement for the Metals Sector* (hereafter, the Agreement) are both based on the OECD Guidelines for MNEs. Therefore, participating in this IRBC Agreement enables EU importers to comply with the EU Conflict Minerals Regulation;
- 1.24 The collective benefits of cooperating in the Agreement for all participating organisations (the Parties and Supporting Organisations) include the following:
  - They are able to collectively address severe risks and violations to people and the environment that they otherwise would be unable to tackle on their own.
  - By working together, they increase their leverage towards specific actors in the supply chain to address specific complex problems.
  - They contribute to achieving relevant SDGs.
  - Collaboration helps shift the focus away from incidental issues and how to manage them, towards structural management and solutions for complex problems in the global supply chain.

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5 Social and Economic Council (2014), *Agreements on International Responsible Business Conduct*, <https://www.ser.nl/-/media/ser/downloads/engels/2014/international-responsible-business-conduct.pdf>, (accessed 8 May 2019).

6 United Nations Office of the High Commissioner for Human Rights (2011), *Guiding Principles for Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, [https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr\\_eN.pdf](https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf), (accessed 8 May 2019).

7 OECD (2008), *OECD Guidelines for Multinational Enterprises*, <http://www.oecd.org/investment/mne/1922428.pdf>, (accessed 8 May 2019).

8 This legislation is officially known as Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas.

- International upscaling of the Agreement and its approach to due diligence will be more likely through collaboration.
- 1.25 The main benefits for the Companies of cooperating in the Agreement include the following:
- Collaboration through the Agreement helps to increase the awareness of the Companies of the impact of their operations on people and the environment.
  - The support the Companies receive facilitates efficient implementation of their due diligence responsibilities.
  - Collaboration through the Agreement also helps lower the costs of due diligence, for example in relation to due diligence tools and instruments developed together and made available in the process.
  - Through the Agreement, the Companies gain access to a network of stakeholders and experts.
  - Collaboration through an agreement helps the Companies comply with current legislation and facilitates compliance with future legislation.
  - Through an IRBC agreement, a company and the sector can gain a positive reputation in relation to sustainability practices.
- 1.26 The benefits of the Agreement for the Government include the following:
- It gives substance to the Government's *duty to protect* which entails that States must protect their own nationals and other inhabitants against human rights abuses by third parties, including business enterprises within their jurisdiction.
  - It gives substance to the Government's ambition to increase the sustainability of global value chains.
  - It serves as a vehicle for promoting the implementation of the OECD Guidelines for MNEs and UNGPs in the Dutch private sector.
  - It can accelerate the endorsement of the OECD Guidelines for MNEs and the UNGPs by companies within the metals sector outside this Agreement, and serve as an example for other industries to come to a similar agreement for international responsible business conduct.
  - The interaction with the metals sector in the context of this IRBC Agreement provides the opportunity to inform the sector about the EU Conflict Minerals Regulation and the obligations stemming from this Regulation, and to discuss potential synergies and challenges with its implementation with the sector.
  - The Agreement underlines the pioneering role on responsible business conduct of the Netherlands in Europe and may serve as an example for similar industries in other countries.

- 1.27 For the Civil society organisations (CSOs) the Agreement provides the following advantages:
- They gain access to the Companies and related networks in the supply chain, both nationally and internationally.
  - They get support for the implementation of CSO initiatives (on the ground) for responsible mining.
  - The Agreement provides visibility and a voice for target groups of CSOs, and helps to improve the situation of these groups in connection with the supply chain.
  - The Agreement is a means for collaboration on achieving systemic change in the metals supply chain to improve the lives and livelihood of people and the natural environment.
  - Collaborating in an Agreement increases the leverage of CSOs for engagement in the international supply chain for achieving specific impacts.
- 1.28 Although there are similar agreements and initiatives already in place, each sector needs a tailor-made approach for implementing responsible business conduct;
- 1.29 This Agreement is inspired by existing international responsible business conduct agreements for the garment and textile, banking, gold, forestry, insurance, pension, natural stone and food products sectors;
- 1.30 This Agreement is a proactive response of companies and industry associations in the metals sector to the expressed desire of both the government and the parliament of the Netherlands for an agreement on international responsible business conduct in high-risk sectors (as identified in, the KPMG CSR Sector Risk Assessment, for example) in line with the SER Advisory Report;
- 1.31 The Parties and Supporting Organisations shall implement the Agreement in accordance with relevant national, European and international law and obligations.

Hereby agree as follows:



## 2 Scope of the Agreement

- 2.1 This *International Responsible Business Conduct Agreement for the Metals Sector* contains the individual and collective responsibilities of the Parties towards each other, in relation to the actions and added benefits for identifying, mitigating, preventing, reporting on and remediating risks and violations to people and the environment in the supply chains of companies active in the metals sector.
- 2.2 The OECD Guidelines for MNEs and the UNGPs form the basis of this Agreement, and for assessing the sustainability policies and practices of the Companies. The Parties affirm that all the chapters of the OECD Guidelines for MNEs and UNGPs fall within the scope of the Agreement. These include, for example, the chapters on human rights, employment rights, and the environment chapter, which encourages the Companies to improve their environmental performance.
- 2.3 The metals sector as referred to in this Agreement consists of companies (and industry associations representing companies) that produce and/or rely on metals and metallurgical materials in their (production) processes and/or provide essential materials or services to enable this.
- 2.4 The Agreement is an instrument with tools and tailored support that facilitates compliance with international guidelines and expectations. The collaboration utilises a multi-stakeholder approach to solving complex problems that encourages *knowing and showing* in relation to identified adverse supply chain impacts, and the actions undertaken to address these.
- 2.5 It is also a framework and platform for cooperation and peer-to-peer learning between different actors in the supply chain to support continuous and progressive improvement in terms of international responsible business conduct.
- 2.6 The Agreement covers the entire supply chain of metals, from extraction to recycling.
- 2.7 The Agreement covers all operations of a company as well as the services and materials used in its production processes.
- 2.8 While the due diligence efforts of the individual Companies must focus on their respective operations and supply chains, the Parties – collectively – will work to secure substantial improvement in the different nodes of the supply chains. This could also be achieved with other actors in the sector that have not signed the Agreement.
- 2.9 The Parties further acknowledge the importance of undertaking activities to promote the rights of formal and informal workers, women, children, and

local communities, the formalisation of labour and the adherence to environmental law and environmental performance standards in the supply chain.

- 2.10 While they recognise the relevance of artisanal and small-scale mining (ASM) as a source of livelihood for many individuals across the globe, they also acknowledge that ASM can have severe negative impacts on people and the environment. Therefore, in relation to primary materials sourcing, the Agreement shall focus on large-scale mining and ASM.
- 2.11 The Agreement contains the following substantive commitments:
- To conduct individual Company due diligence and collective due diligence;
  - To advance responsible secondary materials supply chains;
  - To undertake collective actions to address systemic risks of human rights and environmental violations, and to increase collective leverage through sign-on and national and international upscaling.
- 2.12 The Parties have developed a *Roadmap for implementing the IRBC Agreement for the Metals Sector*<sup>1</sup> (hereafter, the Roadmap) containing a high-level overview of the deliverables expected from the Agreement presented in a timeline (Annex 1).
- 2.13 Annex 2 of the Agreement provides a list of international RBC risks associated with the metals sector, a list of terms used in the metals supply chain with their definitions, and a glossary of the terms specifically used in this Agreement.
- 2.14 Annex 3 and Annex 4 present a flowchart of the governance structure and the dispute resolution mechanism, respectively.
- 2.15 The annexes contained in this Agreement form an integral part of the Agreement. In the event of conflict between the content of an annex and the main Agreement text, the Agreement text shall prevail.
- 2.16 A number of the chapters of the Agreement contain a table with highlights of the main actions and deliverables expected by the Parties. Below is the legend with the explanation about the symbols used:

Symbol	Deliverable category
	<b>Report:</b> deliverable in the form of a report or other kinds of written documents that follows from the provisions of the Agreement
	<b>Action:</b> deliverable that mainly consists of a specific activity, process or decision that follows from the provisions of the Agreement
	<b>Tool:</b> deliverable that relates to the development of a specific tool(box) or template to be used for follow-up actions following from the provisions of the Agreement

<sup>1</sup> The “red lines” (in relation to specific timelines) in the Agreement and in the Roadmap provide clarity about the expectations on the achievement of specific deliverables. However, the Roadmap should be regarded as a “living document”, which can be adapted and revised if needed.

## 3 Individual Company and Collective Due Diligence

- 3.1 Companies are expected to respect human and environmental rights in all aspects of their operations in accordance with the UNGPs and the OECD Guidelines for MNEs.
- 3.2 Due diligence is the process companies should carry out to identify, prevent, mitigate and account for how they address actual and potential adverse impacts on people and the environment in their own operations, their supply chains and other business relationships.
- 3.3 By signing the Agreement, the Companies – including those that source metals as well as products that contain metals and metallurgical materials (including scrap) – commit to carrying out risk-based due diligence in line with the *OECD Due Diligence Guidance for Responsible Business Conduct*<sup>1</sup> (hereafter, the Guidance).
- 3.4 The Companies that source materials falling under the scope of application of the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*<sup>2</sup> (hereafter, OECD Minerals Guidance) shall utilise this guidance accordingly.
- 3.5 The Parties agree to develop instruments to support and monitor the due diligence progress made by the Companies.
- 3.6 Within 6 months after the Agreement has entered into force, the Companies shall put out a public statement in which they declare that they have signed the IRBC Agreement and commit to operate in accordance with the OECD Guidelines for MNEs and UNGPs. They shall also incorporate the Agreement into their policies on sustainability and other corporate policies.

### Due diligence maturity assessment and improvement

- 3.7 The Parties shall develop a maturity assessment tool to be used to determine the maturity level of individual Companies in relation to their due diligence performance, and to be used (as a baseline) for measuring the progress made by the Companies in implementing due diligence.

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1 OECD (2018), *OECD Due Diligence Guidance for Responsible Business Conduct*, <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>, (accessed 8 May 2019).

2 OECD (2016), *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, [http://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf?\\_ga=2.263278604.129546958.1546599619-909296703.1540794268](http://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf?_ga=2.263278604.129546958.1546599619-909296703.1540794268), (accessed 8 May 2019).

- 3.8 All Companies that sign the Agreement within two years after the entering into force of the Agreement are expected to reach full maturity after year 5 of the implementation phase.
- 3.9 Companies that join the Agreement from year 3 will be assigned a maturity target for year 5 following an initial assessment by the Parties.
- 3.10 All Companies shall complete their individual assessment within the predetermined period set by the Parties in the Roadmap.
- 3.11 The Companies shall develop an individual Company maturity improvement plan with concrete targets to enhance their due diligence performance in accordance with the Guidance. The outcome of the maturity assessment shall form the basis of the company maturity improvement plan.
- 3.12 The Companies shall execute the individual Company maturity improvement plan and report to the Parties at the predetermined frequency set by the Parties in the Roadmap.
- 3.13 The independent Secretariat shall consolidate the individual Company maturity assessment results and improvement plans for the Parties. The Parties shall use this to develop and implement a collective due diligence support programme.

Process for supply chain risks identification, assessment, prevention and mitigation

- 3.14 The Companies shall collect due diligence information<sup>3</sup>, identify and assess the risks and violations in their supply chain, following which they will conduct in-depth due diligence (following prioritisation in conjunction with the UNGPs).
- 3.15 The Parties shall provide the Companies with tools and instruments for collecting and analysing the information at an individual and collective level.
- 3.16 Each Company shall develop a *heat map* containing information about identified risks and violations. The heat map shall contain information about the risk hotspots and challenges in understanding the chain of custody. The heat map shall also have different levels of depth in relation to the information contained therein.
- 3.17 The Companies shall develop and share individual due diligence action plans based on the heat map and following consultations with the Parties (in conformity with Article 3.36 of the Agreement). The action plans shall guide the action of the Companies in preventing, mitigating and accounting for identified existing and potential risks and violations.

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<sup>3</sup> Information relating to its national and international activities, materials sources, external services used, potential and actual negative impact connected to the company operations, etc.

- 3.18 The Parties shall provide the Companies with a template for the due diligence action plans and indicate a timeline for sharing the plans with the independent Secretariat.
- 3.19 Due diligence information required for determining the opportunities for collective actions and assessing the progress made by the Companies will be made available to the independent Secretariat.
- 3.20 The independent Secretariat shall produce a report, using the aggregated data from the individual heat maps, with information about the industry-specific hotspots and challenges around risks and chain of custody.
- 3.21 The Roadmap contains the main deliverables and expected timelines for the due diligence related goals.
- 3.22 The Parties reiterate that due diligence is not a static, but an ongoing, responsive and changing process, and will act in accordance with this observation. Throughout the due diligence process, the Parties shall adequately respond to changes and potential changes in risks as circumstances and the context of the operations of the Companies change.
- 3.23 The Parties shall establish a working group to support the achievement of the ambitions in this Agreement in relation to due diligence.

#### Addressing impacts and risks following prioritisation

- 3.24 The Companies shall take the general risks and violations mentioned in the following instruments and reports into account in their due diligence exercises:
  - OECD Guidelines for MNEs
  - The Guidance
  - OECD Minerals Guidance
  - The KPMG CSR Sector Risk Assessment
- 3.25 Annex 2 contains a list of the generally known human and environmental risks related to the supply chain, and corporate governance risks associated with the metals sector.
- 3.26 The Companies should prioritise the materials or activities on which they take action based on the severity and likelihood of their impact or potential impact. This must be done in accordance with the Guidance following a general scoping exercise.
- 3.27 The prioritisation of risks and violations in the course of due diligence should give the Companies insight into their individual areas of influence for their individual follow-up actions.
- 3.28 In their due diligence exercises, the Companies shall consult other Parties in the process (where relevant) for input in relation to the identification of risks and measures for risk prevention and mitigation.

- 3.29 In their due diligence activities, including risk analyses, the Companies shall include the needs and specific context of vulnerable groups, such as women and children, negatively affected by their activities in their supply chain.
- 3.30 Additionally, the Companies are expected to adopt an active attitude to ensure improvements in the supply chain in relation to environmental rights and biodiversity as well as human rights (including freedom of association and social dialogue, living wage and the elimination of discrimination, child labour and forced labour).

#### Supporting supply chain due diligence

- 3.31 To support the Companies with their due diligence, the Industry Associations shall provide all their members with information about the UNGPs and the OECD Guidelines for MNEs, and support the Companies with their due diligence actions.
- 3.32 The Industry Associations commit to monitoring and guiding their members who have signed the Agreement to meet their commitments under the Agreement.
- 3.33 The Civil society organisations shall offer due diligence support by:
- i Providing quickscans of risks/impacts on vulnerable groups;
  - ii Raising awareness about actual and potential adverse impacts on human rights in relation to children's rights, gender, conflict, land rights, migration, environment, employment, safety and security, and ASM;
  - iii Advising on how to integrate the rights of vulnerable groups, including women and children, into company policies and processes;
  - iv Providing country-specific opportunity scans including information and advice regarding the local context in relation to environmental and human rights risks and violations, taking into account vulnerable groups;
  - v Helping organise local stakeholder consultations when appropriate;
  - vi Encouraging the Companies to engage internally with their workers and works councils in implementing supply chain due diligence;
  - vii Providing the Companies with appropriate support and expertise in relation to the implementation of due diligence, and sharing best practices with the Parties;
  - viii Providing the Companies with expertise to mitigate severe risks identified in due diligence processes, with a focus on structural improvements;
  - ix Advising on country-specific issues regarding environmental laws and standards, and impacts on the natural environment.

- 3.34 The Government shall undertake actions to address structural challenges to due diligence identified by the Companies. These actions shall include:
- i Striving to adopt policy instruments at national level to remove barriers to responsible business conduct;
  - ii Calling upon specific EU and international actors to address structural challenges;
  - iii Reaching out to other governments to help address the challenges;
  - iv Exploring possibilities for strengthening the use of supplementary corporate social responsibility criteria in public procurement procedures for metal-bearing materials by EU institutions;
  - v Consistently calling attention to the challenges in the metals supply chains in bilateral contacts with governments of main metals-producing countries and countries with significant and potentially significant e-waste problems;
  - vi Conducting specific activities in countries that produce and process primary and secondary materials to promote the implementation of the Agreement, through the Dutch embassies;
  - vii Publicly and bilaterally calling on relevant companies to sign on to the Agreement.
- 3.35 The Parties shall request the European Commission to recognise this Agreement as a supply chain due diligence scheme of equivalence with the requirements of the EU Conflict Minerals Regulation, in accordance with Article 8, paragraphs 1 and 2 of the Regulation.

#### Due diligence information sharing between the Parties<sup>4</sup>

- 3.36 The Parties commit to sharing information following from individual Company and collective due diligence exercises with each other, through the independent Secretariat, within the bounds of European and national competition law, and taking into account the Confidentiality Protocol they have signed. The goals of due diligence information sharing are:
- i To understand the risk context in order to advise the Companies about their prioritisation and follow-up actions;
  - ii To determine focus areas for collective due diligence (both projects and actions).
- 3.37 The Parties shall make available tools and instruments to facilitate and enable information-sharing and further analysis. The level of information shared by the independent Secretariat with the rest of the Parties shall be determined

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<sup>4</sup> This paragraph is an add-on to the expectations following from the OECD Guidelines MNEs and UNGPs for Companies to report publically on their due diligence findings.

by the Parties and the Secretariat collectively, in consideration of European and national competition law.

## Overview of the main actions, deliverables and timelines in relation to due diligence

Symbol	Actions and deliverables for the first two years	Action holder	Timeline
	Template for maturity assessment	The Parties	Month 1 to 5
	Completion of maturity assessment	The Companies	Month 6 to 8 Month 22 and 23
	Completion of maturity improvement plans	The Companies	Month 9 and 21
	Execution of maturity improvement plans	The Companies	From month 10
	Development and execution of due diligence maturity support program for the Companies	The Parties	From month 10
	Development of a toolbox for performing due diligence risk assessment	The Parties	Month 1 to 15
	Provide Companies with a list of the necessary (due diligence) information they need to gather for the risk assessment	The Parties	Month 4
	Perform risk assessment and identify risks through a heat map	The Companies	Month 9 and 10
	Develop a template for the individual due diligence action plans	The Parties	Month 4 to 8
	Consult the Parties and seek advice for individual due diligence action plans based on the identified hotspots	The Companies	Month 11 and 12
	Completion of individual due diligence action plans	The Companies	Month 15
	Execute individual due diligence action plan	The Companies	From month 17
	Report on company due diligence hotspots and chain of custody challenges	The Companies	Month 12 and 24
	Develop collective due diligence action plan with concrete key performance indicators	The Parties	Month 16 to 20
	Execute collective action plan	The Parties	From month 20

# 4 Responsible Secondary Materials Supply Chains

- 4.1 The Parties recognise that the due diligence challenges related to secondary materials are different from those of primary materials.
- 4.2 Companies that supply secondary materials or rely on secondary materials for their production processes shall work together with the other Parties and actors to move towards responsible secondary materials supply chains.
- 4.3 To this end, the Companies shall conduct due diligence on secondary materials in accordance with the Guidance.
- 4.4 In order to help address the specific needs of the supply chain, the Parties shall set up a working group that will develop tailored actions to address issues associated with the secondary materials supply chain including engaging with supply chain actors and developing tailored tools/templates for secondary materials supply chain due diligence.
- 4.5 One year after the entering into force of the Agreement, the working group shall develop and present a plan with the tailored actions and tools to support due diligence in secondary materials supply chains.
- 4.6 The Parties shall bring national and international secondary materials collectors, traders and processing companies on board to help facilitate the due diligence process of the Companies in the Agreement that source secondary materials, and with a view to encouraging them to undertake their own due diligence. One year after the entering into force of the Agreement, three additional secondary materials collectors, traders and/or processing companies will be brought on board.
- 4.7 The Roadmap shall include specific actions and deliverables in relation to promoting secondary materials supply chains.
- 4.8 The Government shall stimulate the use of recyclable materials (i.e. sustainable recycling) to promote the circular economy.

## Overview of the main actions, deliverables and timelines in relation to secondary materials supply chains

Symbol	Actions and deliverables for the first two years	Action holder	Timeline
	Development of a plan with tailored actions and tools to support secondary materials supply chains due diligence	The Parties	Month 1 to 12
	Reach out to three additional secondary materials collectors, traders and/or processing companies	The Parties	Month 1 to 12



## 5 Collective Actions to Address Systemic Risks and Increasing Collective Leverage

- 5.1 The Parties commit to undertake collective actions to address systemic risks in the industry supply chains following the identification and collective prioritisation of such risks. These actions could also take the form of:
  - mobilising the industry to build leverage to address risks and
  - encouraging other relevant parties to sign the Agreement.
- 5.2 The selection of collective actions shall be based on the relevance of the action for meeting the general goals of the Agreement, and the connection of the participating Parties to the specific issue or context.
- 5.3 The Parties shall advocate at the local, national and international levels for the adoption of the OECD Guidelines for MNEs by industry associations and other relevant actors.
- 5.4 The Parties shall work towards achieving a generally recognised uniform methodology for companies in the metals sector for implementing the UNGPs and the OECD Guidelines for MNEs at the national, EU and international levels.
- 5.5 The Government will ensure continued dialogue and consultations with the Parties and external actors, with a view to collectively developing additional practical methods, measures and initiatives that support the implementation of this Agreement.
- 5.6 The Parties shall work together to mobilise resources for collective actions.
- 5.7 The Roadmap shall include concrete deliverables and timelines for meeting collective action targets.
- 5.8 The Parties shall establish a working group responsible for developing and executing the collective actions and national and international upscaling ambitions of the Parties.

### Collective projects

- 5.9 The Parties will engage in collective projects to address identified collective risks and violations (associated with both primary and secondary materials supply chains) following from collective and individual due diligence exercises.
- 5.10 The Parties agree to conceptualise and implement projects based on the outcome of the individual and collective due diligence, such as:
  - a. *Specific supply chain projects.* These projects are directly linked to the supply chain of the Companies. These projects could target suppliers at

the mining level, collectors and processors of secondary materials, refiners/smelters and/or traders.

- b. *General supply chain projects.* These are projects that seek to positively contribute to human rights and the environment surrounding the mines, smelting/refining facilities and other nodes in the supply chain. These projects can also relate to the availability, use and recycling of secondary materials globally. They do not necessarily have to be overtly linked to the supply chain of the individual Companies in the Agreement process.
  - c. *Awareness and leverage-increasing projects.* These are projects that aim to raise the awareness of specific actors in the supply chain such as employees, suppliers, consumers, sector initiatives and industry associations of the risks in the supply chain, and how they could contribute to preventing and/or mitigating these risks.
- 5.11 A Party to the Agreement can initiate a project and invite other relevant Parties to join, indicating the way in which the invited Parties can help boost the impact of the project.
- 5.12 Two months after the first collective due diligence action plan has been completed, the Parties shall identify two collective risks for further action (see Chapter 3).
- 5.13 Within six months after the identification of the collective risks, the Parties shall develop and implement specific tools/actions to address prioritised collective risks and create leverage for tackling them.
- 5.14 Within 28 months after the Agreement has entered into force, the Parties shall define at least one collective action/project following the completion of the report on industry due diligence hotspots and chain of custody challenges.

#### Increasing sign-on and upscaling

- 5.15 The Parties aim to expand the impact of the Agreement beyond the borders of the Netherlands.
- 5.16 The Parties agree to reach out to relevant actors in the Netherlands and beyond to become Party to the Agreement, in order to increase the number of signatories.
- 5.17 Within three months after the entering into force of the Agreement, the Parties shall make a list of relevant actors, including traders and industry associations, to reach out to (for increasing the qualitative leverage). The Parties shall reach out to all the supply chain actors on the list within two years after the Agreement has entered into force.

- 5.18 The Parties aim to increase the number of companies that have signed the Agreement to twenty within two years after the Agreement has entered into force.
- 5.19 The Parties aim to increase the number of companies that have signed the Agreement to 50 by the end of year 5.
- 5.20 The Parties shall actively reach out to international and European metals industry associations to join the Agreement.
- 5.21 Within six months after the Agreement has been in effect, the Parties shall design and implement an outreach strategy and action plan to coordinate the scaling up of the Agreement.
- 5.22 All Parties shall engage in advocacy about the Agreement within their networks and endeavour to bring new parties on board.
- 5.23 All Parties shall stimulate the Dutch subsidiaries of international mining companies to become signatories to this Agreement and/or act in accordance with the Guidance.
- 5.24 All Parties shall use their leverage and networks to influence relevant actors in the metals supply chains to cooperate with the Companies and provide information for their due diligence processes.
- 5.25 The Companies shall act as ambassadors and, where the opportunity arises, inform and encourage other companies in the supply chain to join the Agreement.
- 5.26 The Agreement shall offer the opportunity for the Companies to gain external recognition for their participation in the Agreement.
- 5.27 The Parties shall cooperate with and learn from recognised existing industry programmes<sup>1</sup> in relation to the implementation of the OECD Guidelines for MNEs and/or in relation to the financing of projects that aim to improve the situation in the metals supply chains. The Parties will, for example, reach out to the European Partnership for Responsible Minerals (EPRM) with a view to exchanging expertise on implementing the OECD Guidelines for MNEs, stimulating synergy between projects within the Agreement and EPRM, and reaping the benefits of each other's networks in reaching out to potential new signatories.
- 5.28 The Parties may decide to undertake specific actions towards governments to gain their cooperation for meeting the goals of the Agreement.

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<sup>1</sup> This refers to sustainability initiatives, standards, systems, certification bodies and verification mechanisms for responsible business conduct.

#### Internal and external communication

- 5.29 Within one month after the Agreement has entered into force, the Parties and Supporting Organisations shall put information about the Agreement and their participation in the process on their website.
- 5.30 Within one month after the Agreement has entered into force, the Parties will make known to their staff and management – and within six months to external parties (business relations) – that this Agreement has been concluded, that they endorse its objectives and that they will pursue the activities described in this Agreement that fall within the scope of their organisation.
- 5.31 Individually, the Parties can communicate externally in a constructive way about the Agreement in observance of the provisions of the Confidentiality Protocol.
- 5.32 If agreed upon in the Steering Committee, a designated Party can communicate on behalf of all the Parties.
- 5.33 The Parties shall establish an *ad hoc* working group responsible for developing and executing actions relating to internal and external communication about the Agreement and its deliverables.
- 5.34 Within six months after the entering of the Agreement into force, the Parties shall develop a collective communication strategy containing the objectives and processes for internal and external communication about the progress being made within the process.
- 5.35 Within their respective organisations, each Party shall appoint a communication contact person to contribute to the development and implementation of the communication strategy.
- 5.36 The Industry Associations shall regularly update their members about the Agreement and its deliverables through online and offline communication channels.
- 5.37 The Steering Committee oversees joint communications about the Agreement.

#### Collaboration with other IRBC agreements

- 5.38 The Parties shall collaborate with other relevant international RBC sector agreements being implemented or developed with respect to issues related to the metals industry, for example the Dutch Banking Sector Agreement and the Dutch Gold Sector IRBC Agreement. The envisaged collaboration shall be in the form of exchanging knowledge and expertise, tools and instruments and working together on specific projects related to addressing/tackling supply chain risks.

5.39 Within one year of the implementation of the Agreement, a first exploratory meeting will be organised with other sector Agreements to exchange knowledge and discuss areas/opportunities for cooperation.

## Overview of the main actions, deliverables and timelines in relation to collective actions and upscaling

Symbol	Actions and deliverables for the first two years	Action holder	Timeline
	Inform staff and management about the Agreement and role in the process	The Parties	Month 1
	Inform external parties and business relations about the Agreement and role in the process	The Parties	Month 1 to 6
	Information about the Agreement and their participation in the process on their website	The Parties & Supporting Organisations	Month 1
	Communication strategy containing the objectives and processes for internal and external communication about the progress	The Parties	Month 1 to 6
	List of relevant actors to reach out to with a view on upscaling	The Parties	Month 1 to 3
	Outreach strategy and action plan to organise the scaling up of the Agreement	The Parties	Month 1 to 6
	Execute outreach strategy and communication strategy	The Parties	From month 7
	Outreach to all the supply chain actors on the list	The Parties	Month 4 to 24
	Increase number of companies that have signed the Agreement to twenty	The Parties	Month 1 to 24
	Identification of two collective risks for further action	The Parties	Month 21 and 22
	Development and implementation of specific tools/actions/projects to address these collective risks	The Parties	Month 23 to 28
	First exploratory meeting with other sector Agreements to exchange knowledge and discuss areas/opportunities for cooperation	The Parties	Month 1 to 12



## 6 Governance and Implementation

- 6.1 In accordance with the SER Advisory Report, the multi-stakeholder nature of this Agreement is reflected in its diverse participants: companies, government, industry associations, NGOs and trade unions.

### Compliance with competition law

- 6.2 The sharing and exchange of information between the Parties in the context of the Agreement will be done in compliance with all relevant national and European law, including competition laws.
- 6.3 A declaration of compliance with competition law will be read and agreed to by all present at the beginning of each meeting of the Parties.

### Roles in the process

- 6.4 There are three categories of involvement in the process:
- *Party*. An organisation that adheres to the Agreement and actively contributes to the achievement of the goals and ambitions of the Agreement. A Party contributes financially and/or in kind to the implementation process, for example by being a member of one of the implementing bodies and/or by participating in collective actions.
  - *Supporting Organisation*. An organisation that subscribes to the spirit, goals and ambitions of the Agreement and commits to actively promoting the Agreement on its platform(s) and among members of its network. A Supporting Organisation may contribute financially to specific activities organised in the context of the Agreement, and/or make non-monetary contributions to collective actions.
  - *Expert*. An individual or institution invited by the Parties to provide specific knowledge and expertise to the Parties and Supporting Organisations of the Agreement.
- 6.5 Parties and Supporting Organisations must sign the individual signature pages appended to this Agreement in order to be admitted to the process.
- 6.6 All Parties and Supporting Organisations must also sign and adhere to the Confidentiality Protocol that has been developed for the implementation phase.
- 6.7 Experts will sign a non-disclosure agreement in relation to how they should handle information made available to them over the course of the process.
- 6.8 Each Party is expected to contribute to the implementation of the Agreement in line with its existing mandate/responsibilities and to arrange for appropriate capacity for this, by:

- Supporting the Companies with their due diligence efforts
- Contributing to/engaging in collective actions
- Participating in external communication activities
- Being a source of knowledge, expertise and information about issues and best practices in the supply chain.

#### The constituencies

##### 6.9 The Parties are grouped into five constituencies:

- *Companies*. Private-sector actors that engage in commercial activities including but not limited to extraction, production, processing, trading, component manufacturing, product manufacturing of metal, and/or processes involving secondary materials containing metals.
- *Industry Associations*. Collaborative bodies representing several private actors (incl. companies) active in the metals or minerals supply chains.
- *Non-governmental organisations*. Non-profit, voluntary citizen groups organised on a local, national or international level that are task-oriented and driven by people with a common interest in an issue or issues relating to the metals sector.
- *Trade Unions*. Organisations the membership of which is made up of workers, represented by union leaders, united to protect and promote their common interests.
- *Government*. Representatives of public bodies/institutions, such as the Minister for Foreign Trade and Development Cooperation and the State Secretary for Economic Affairs and Climate Policy, that sign the Agreement as Parties.

6.10 Organisations that may not directly fall within the above descriptions but are relevant for achieving the goals of the Agreement can, upon their request, be admitted to the Agreement as a Party or Supporting Organisation based on their merits. The Steering Committee shall decide which constituency fits with the nature of that organisation or propose the creation of a new constituency to the General Assembly.

#### Governance structure

6.11 In their first plenary meeting after the Agreement has entered into force, the Parties shall install implementation bodies which include: a General Assembly, a Steering Committee and working groups.

6.12 Annex 3 contains a diagram of the implementation bodies to be installed at the time of the Agreement entering into force.

- 6.13 Unless specifically stated otherwise, decisions by all the implementation bodies will be based on consent.

#### General Assembly

- 6.14 The General Assembly consists of all Parties to the Agreement, and will be the highest body in the implementation phase with final say in all matters pertaining to the implementation of the Agreement. This includes:
- a. Overall monitoring of the implementation of the Agreement;
  - b. Approving annual draft budget for the implementation of the Agreement;
  - c. Overseeing monitoring and evaluation exercises;
  - d. Approving progress reports for publication;
  - e. Admittance of new parties and termination of the Agreement towards a non-compliant organisation;
  - f. Facilitating the resolution of disputes between Parties.
- 6.15 The General Assembly can delegate specific actions to the Steering Committee and/or explicitly mandate the latter to act on its behalf in certain matters.
- 6.16 Supporting Organisations may be invited to participate in General Assembly meetings by the Parties but do not contribute to the decision-making in the General Assembly.

#### Steering Committee

- 6.17 The Parties establish a Steering Committee composed of representatives of the different constituencies who shall oversee the overall implementation of the Agreement with the goal of achieving its ambitions.
- 6.18 The constitution of the Steering Committee is as follows in relation to the representation of the constituencies:
- a. Industry Associations and Companies: two seats
  - b. Government: one seat
  - c. Non-governmental organisations: one seat
  - d. Trade Unions: one seat.
- 6.19 Participation in the Steering Committee is on behalf of the constituency the particular individual represents, and not on behalf of their respective/affiliated organisation.<sup>1</sup>
- 6.20 The Steering Committee members must be appointed by the constituency that it represents. If for any reason an appointed Steering Committee member

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<sup>1</sup> The representative of the Government will be the principal contact for the other Parties and will facilitate and coordinate the commitments and contributions to this Agreement by the Minister for Foreign Trade and Development Cooperation and State Secretary for Economic Affairs and Climate Policy taking into account their respective legal competences.

is no longer able to participate in the process, the constituency retains the right to collectively appoint another representative.

- 6.21 Steering Committee members are expected to regularly consult with the members of their constituency to gather input for the Steering Committee meetings and actions.
- 6.22 A Steering Committee member can only be dismissed by the constituency it represents.
- 6.23 A rotation schedule for the Steering Committee membership will be developed by the Steering Committee.
- 6.24 The Steering Committee is responsible for governing the implementation of the Agreement within the limits set by the General Assembly.
- 6.25 The Steering Committee's responsibilities include:
  - a. Developing an annual plan and budget for the implementation of the Agreement with short and long-term goals;
  - b. Setting and approving the framework for further action by the working groups;
  - c. Monitoring the Parties' adherence to the Agreement;
  - d. Monitoring and supporting the individual Companies' due diligence efforts and collective due diligence actions;
  - e. Ensuring that the Agreement continues to be in line with international developments;
  - f. Generally overseeing the communication in relation to the Agreement;
  - g. Preparing progress reports;
  - h. Installing and dissolving working groups;
  - i. Other actions mandated by the General Assembly.
- 6.26 The Steering Committee will decide upon and structure its own working processes including the number of meetings per year.

#### Independent Secretariat

- 6.27 The Private Parties in the Agreement shall appoint an independent secretariat to support and facilitate the implementation of the Agreement.
- 6.28 The obligations of the independent Secretariat will be laid down in a separate *Assignment Agreement*, which must be signed by the Private Parties.
- 6.29 The independent Secretariat shall annually draft a budget for the implementation of the Agreement for the Steering Committee.
- 6.30 The independent Secretariat shall monitor and inform the Parties about relevant external developments relating to international responsible business conduct, and share its expertise on the implementation of IRBC agreements with the Parties.

- 6.31 The independent Secretariat will aggregate and anonymise any commercially sensitive information from the Companies so that this information can be shared with the other Parties in compliance with competition law and regulations.

#### Independent chairperson

- 6.32 The Parties shall appoint an independent chairperson to chair the General Assembly and the Steering Committee.
- 6.33 The profile and tasks of the independent chairperson shall be clearly defined by the Steering Committee before the appointment of the independent chairperson.
- 6.34 The independent chairperson shall act as an ambassador of the Agreement on behalf of the Parties.
- 6.35 The independent chairperson shall be appointed for a twelve-month period. Following an annual evaluation, the chairperson can be re-appointed for a new term of twelve months.

#### Working groups

- 6.36 The General Assembly shall install three working groups at the beginning of the implementation phase:
- The working group on *Due Diligence*, with responsibility for developing due diligence tools and templates, analysing due diligence actions and reports, and ensuring alignment of the process with recognised international due diligence processes and guidelines. The Due Diligence working group shall be responsible for supporting due diligence-related obligations following from the Agreement, especially Chapter 3.
  - The working group on *Sustainable Secondary Materials Supply Chains*, which will develop and undertake actions to promote the transparency and sustainability of the secondary materials supply chains. This relates in particular to Chapter 4 of the Agreement.
  - The working group for *Collective Actions and National/international Upscaling*, which shall take actions to increase the collective leverage of the group as well as initiate, implement and support collective actions in accordance with Chapter 5 of the Agreement. The working group shall work closely with the *ad hoc* working group on *Communication* that will be established by the Parties (see, Article 5.33).
- 6.37 The Steering Committee can propose the installation of new working groups or the dissolution of existing working groups to the General Assembly and

clearly motivate this proposal taking into account the goals of the Agreement and the availability of resources.

- 6.38 Each working group shall annually develop a time-bound work plan for its activities based on the framework proposed by the Steering Committee.
- 6.39 All the Parties are encouraged to participate in and/or actively contribute to at least one working group.

#### Duration

- 6.40 The Agreement has a duration of five years and will enter into force on 1 July 2019 following the signing of the Agreement by the Parties.
- 6.41 The Parties shall consult with each other about the continuation of this Agreement no later than six months before the expiry date of the Agreement. If no decision is made to continue, the Agreement will end after the expiry date.
- 6.42 The Parties agree that this Agreement is not an agreement enforceable by law, and that disputes about the implementation of this Agreement may be submitted for settlement in accordance with Chapter 8 of this Agreement.

#### Accession to the Agreement

- 6.43 Organisations that subscribe to the goals of the Agreement and want to make a contribution to its achievement (either as a Party or Supporting Organisation), shall inform the General Assembly of their intentions, their motivation and expected contribution.
- 6.44 A request to join the Agreement by acceding Parties and Supporting Organisations must be assessed by the General Assembly using objective and non-discriminatory criteria for accession predefined by the General Assembly.
- 6.45 The application of an organisation willing to commit to the obligations in the Agreement can only be denied in the event that admission will seriously impair the spirit and ambitions of the Agreement.
- 6.46 New Parties shall become bound by the Agreement from the first day of the month following the date they sign the Agreement.

#### Termination of participation in the Agreement

- 6.47 A Party or Supporting Organisation can terminate its participation in the Agreement with a written termination notice to the General Assembly indicating the reason(s) for termination.
- 6.48 The termination notice should be received by the independent Secretariat at least six months before the end of the implementation year of the Agreement. For organisations that financially contribute to the Agreement, the failure to

meet this notification deadline shall result in the obligation to pay the full financial contribution owed in the next implementation year of the Agreement.

- 6.49 The General Assembly will make the termination public.
- 6.50 Where a Party or Supporting Organisation terminates its participation in the Agreement, its obligations following from this Agreement cease with effect as of the beginning of the next Agreement year.
- 6.51 When a Party or Supporting Organisation terminates its participation in the Agreement, the Agreement shall remain in force for the other Parties or Supporting Organisation to the Agreement, insofar as the content and scope do not dictate otherwise.

#### Financing the Agreement

- 6.52 The budget and financing of this Agreement is based on an estimate that has been agreed to by the Parties.



## 7 Monitoring and Evaluation

- 7.1 The Parties shall put SMART measures in place for an evaluation of the progress made by the Parties and Supporting Organisations in implementing the Agreement.
- 7.2 The Parties have identified three types of monitoring exercises:
  - *Individual Company due diligence monitoring*: monitoring how far the Companies are with due diligence based on the Guidance using among others, the maturity assessment, the heat map and individual due diligence action plans.
  - *Collective actions monitoring*: monitoring of the progress made by all Parties collectively in meeting the goals of the Agreement, including the progress made by the Parties in implementing the collective due diligence actions.
  - *Process monitoring*: monitoring the cooperation process between the Parties and Supporting Organisations.
- 7.3 The Parties shall conduct monitoring and evaluation together.
- 7.4 The cooperation between the Parties shall be regularly discussed in Steering Committee and General Assembly meetings.
- 7.5 The Steering Committee shall be mandated to structure and oversee the annual monitoring and evaluation processes. The General Assembly has the final say in relation to monitoring and evaluation.
- 7.6 Each Party shall annually report on how it has contributed to achieving the overall goals of the Agreement using a template approved by the Steering Committee.
- 7.7 The Companies shall, in addition, report on their due diligence-related plans, actions and results.
- 7.8 The reports shall be shared with the independent Secretariat for aggregation (where needed) and consolidation.
- 7.9 The Steering Committee shall review and provide feedback on the report.
- 7.10 Supporting Organisations shall also brief the Steering Committee annually about their contribution to the Agreement in a particular year.
- 7.11 The Parties shall publish the first collective progress report 24 months after the entering into force of the Agreement, and in each following year.
- 7.12 The collective progress report shall include the following elements:
  - The report by each Party and Supporting Organisation about their annual contribution to the Agreement;
  - Information about the realisation of the goals and sub-objectives mentioned in the Agreement using the related key performance indicators;
  - Individual Company due diligence action information;

- Collective due diligence actions information;
  - Other collective actions and their results.
- 7.13 The Parties shall provide for company-to-company peer review to share lessons and challenges in relation to due diligence practices.
- 7.14 Annually (and subject to the availability of resources) a randomly selected number of Companies will be assessed on their due diligence efforts, with the help of an independent due diligence expert. The lessons and advice following from the assessment shall be shared with all Parties.
- 7.15 The General Assembly shall decide (after two and a half years of the implementation) on whether a broad evaluation is needed about the progress and impact of the Agreement including the method of evaluation. The General Assembly shall decide on the method and scope of the evaluation.
- 7.16 Five years after the Agreement has entered into force, the Parties' engagement should provide an indication of specific improvement in the supply chain that relate to one or more of the following issues: access of rights for (formal and informal) workers, women, children, local communities and the respect of environmental law and environmental performance standards.
- 7.17 The deliverables and timelines indicated in the various chapters of the Agreement and/or reflected in the Roadmap shall be taken into account in the monitoring and evaluation activities.

## Overview of the main actions, deliverables and timelines in relation to monitoring and evaluation

Symbol	Actions and deliverables for the first two years	Action holder	Timeline
	Discussion about progress being made through the Agreement and evaluation of the cooperation between Parties	The Parties	Month 1 to 24
	Structuring and execution annual evaluation	The Parties	Month 12 and 24
	Annual report on contribution to the Agreement	The Parties & Supporting Organisations	Month 12 and 24
	Annual report on due diligence-related plans, actions and results	The Companies	Month 12 and 24
	Publication of a collective progress report	The Parties	Month 24
	Annual assessment of Companies' due diligence status and efforts/progress	The Parties	Month 12 and 24
	Decision on a broader evaluation	The Parties	Month 30

## 8 Dispute Resolution Mechanism

### Resolving disputes involving Parties and/or Supporting Organisations

- 8.1 Disputes involving Parties or Supporting Organisations in relation to the fulfilment of the commitments laid down in this Agreement (or lack thereof) will first be resolved by those involved (disputing organisations) bilaterally.
- 8.2 If the bilateral discussions to resolve the dispute fail (in the view of one or all disputing organisations), the dispute will be submitted to Steering Committee in writing.
- 8.3 The disputing organisations shall provide the Steering Committee with the necessary information for a proper assessment of the facts as soon as possible, but in any event no later than ten working days after the Steering Committee has been notified of the dispute.
- 8.4 If one or more of the disputing organisations are unable to provide the necessary information within this period, the organisation(s) in question may request the Steering Committee for postponement. The organisation(s) in question can be granted a postponement of three weeks to provide the necessary information, unless the Steering Committee decides otherwise.
- 8.5 Within fifteen working days of receiving all required information, the Steering Committee will initiate a dialogue with the disputing organisations and can invite other Parties or external organisations to participate in this dialogue.
- 8.6 The Steering Committee should be able to make its assessment of the dispute freely and may convene a meeting without the disputing organisations to do so.
- 8.7 Within three months after receiving the required information about the dispute, the Steering Committee shall deliver its advice. Decision-making in the Steering Committee will be done by consent.
- 8.8 The advice of the Steering Committee shall include time-bound follow-up actions to be monitored by the independent Secretariat, which reports to the Steering Committee.
- 8.9 If the advice of the Steering Committee does not meet the approval of any or all of the disputing organisations, the Steering Committee can recommend formal mediation of the dispute by an external party allocating resources to enable this within the confines of the annual implementation budget.
- 8.10 The formal mediation process shall be confidential between the disputing organisations and shall be concluded in three months.
- 8.11 The disputing organisations are strongly encouraged to share the results and lessons from the mediation with the rest of the Parties.

- 8.12 The disputing organisations shall inform the Steering Committee about the outcome of the mediation.
- 8.13 If the formal mediation process fails, the Steering Committee will request the General Assembly (excluding the disputing organisations) to provide a final decision on the conflict.
- 8.14 The decision of the General Assembly – adopted on the basis of consent – is binding.
- 8.15 The Steering Committee can propose detailed general rules of procedure for the resolution of disputes to the General Assembly for adoption.
- 8.16 The dispute resolution mechanism as described in this chapter will not interfere with the role and function of the OECD National Contact Point to contribute to the resolution of issues that arise relating to the implementation of the OECD Guidelines for MNEs in specific instances.
- 8.17 The independent Secretariat will monitor and inform the General Assembly about the compliance of the disputing organisations with the final decision.
- 8.18 The disputing organisations shall at all times refrain from public disclosure about the content of the dispute and the dispute settlement process and the outcome unless (i) agreed to in the General Assembly or (ii) if one of the disputing organisations is required to disclose information by applicable law or by any order of any judicial, administrative or regulatory authorities.

#### Termination of the Agreement towards non-compliant organisations

- 8.19 If the decision of the General Assembly is not followed up by a disputing organisation within the given period determined by the General Assembly, the General Assembly will hold a meeting with this organisation and may, as a last resort, terminate the Agreement towards the non-compliant organisation.
- 8.20 A decision to terminate the Agreement towards a non-compliant organisation must be taken by consent by the Parties (excluding the non-compliant organisation) present at a prescheduled General Assembly meeting, and shall be with immediate effect.
- 8.21 The General Assembly will inform the organisation in question that:
  - all the Parties terminate the Agreement in relation to that organisation and
  - it can no longer derive any rights from the Agreement, nor may it continue to publish about participating in the Agreement.
- 8.22 The Steering Committee will make a public statement about the termination of the Agreement towards a non-compliant organisation.
- 8.23 Annex 4 contains a flowchart of the dispute resolution mechanism described above.

Third-party complaints about alleged violations of the OECD Guidelines and UNGPs by a Company

- 8.24 The Companies shall open up their internal grievance mechanisms to third parties who have complaints or information about alleged violations of the OECD Guidelines and the UNGPs through the individual Companies' activities and their supply chains. The Companies shall strive to align their internal grievance mechanisms with UNGPs 22, 29 and 31.
- 8.25 The Companies commit to participate in the mediation process recommended by the National Contact Point if a complaint against them is deemed admissible (*ontvankelijk*) by the National Contact Point and they are called upon to cooperate with the process.

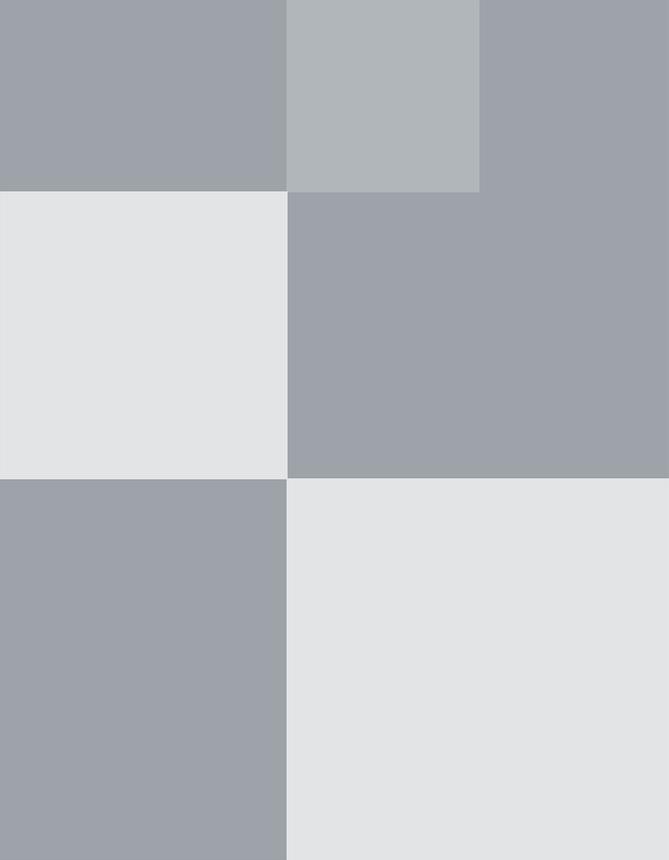


## 9 Final Provisions

- 9.1 Within 90 days after the Agreement has entered into force, an executive summary of the Agreement will be published in the Official Gazette, and on the international RBC website of the Social and Economic Council.
- 9.2 The Official Gazette shall also state that the Agreement shall be made available for perusal for the first six months after it comes into effect.
- 9.3 Article 9.2 shall apply mutatis mutandis to amendments to the Agreement. The admission of new organisations to the Agreement, termination of the Agreement towards a Party or the dissolution of the Agreement shall also be published in the Official Gazette.
- 9.4 If any provision of this Agreement is to any extent to be considered null and void, void, invalid, unlawful or otherwise non-binding, that provision shall, to the extent necessary, be removed from the Agreement and replaced by a provision that is binding and legally valid and approximates the content of the invalid provision as closely as possible. The remaining provisions of the Agreement will remain unchanged in such a situation.
- 9.5 The Agreement is governed exclusively by Dutch law.

Signed in The Hague, the Netherlands on 23 May 2019.



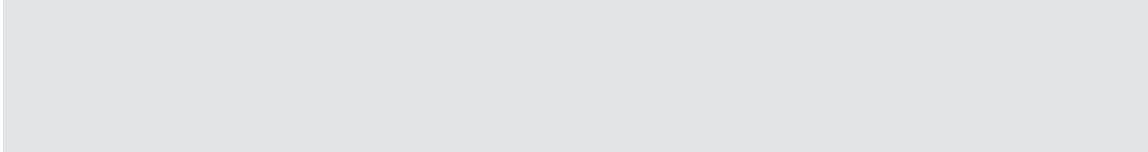


Annexes



## Roadmap for implementing the IRBC Agreement for the Metals Sector

Due to its size, Annex 1, *Roadmap for implementing the IRBC Agreement*, has been published separately. Kindly refer to the back cover of the hardcopy of the Agreement or the website of the Agreement to view the Roadmap.



# Inventory and definition of terms

## A. List of IRBC risks in mining and processing of metals

### Environment, biodiversity and health

1. Accidents and incidents related to chemicals
2. Biodiversity loss
3. Deforestation
4. Discharge of hazardous substances and heavy metals into the environment
5. Greenhouse gas emissions linked to mineral extraction and metal production
6. Health issues due to deterioration of air and water quality
7. Health issues due to direct exposure to hazardous chemicals and substances
8. Illegal chemical use
9. Illegal land use
10. Mining and non-mining waste
11. Physical land alteration
12. Post-closure maintenance
13. Salinisation of soils
14. Waste management
15. Water pollution and scarcity as a result of the extraction of metals (surface and groundwater)

### Governance and security

16. Briberies and corruption
17. Conflicts and violence due to social instability
18. Contribution to organised crime
19. Non-compliance with Safety and Health in Mines Convention (ILO Convention C176)
20. Poor law enforcement

### Human rights

21. Depletion of natural resources
22. Deprivation of the right to a clean, safe and healthy environment
23. Financing of conflicts
24. Land grabbing/violation of land rights

### Children's rights

25. Hazardous work
26. Health-related pollution
27. Loss of land rights (inheritance)

- 28. Recruitment/violence/psychological problems and separation from families because of mining-related conflicts
- 29. Risks related to inward migration
- 30. Safety surroundings of mines
- 31. Security forces violence/brutality
- Gender equality
- 32. Degradation to unskilled work (with less payment)
- 33. Embedded societal discrimination that keeps women from participating in formal community decision-making
- 34. No access to loans or other capital to buy tools or equipment
- 35. No equal chances for the same work or to obtain a leading or management role
- 36. No equal payment for the same work
- 37. Risks of violence and economic/sexual exploitation
- Land-related rights
- 38. Chance find procedure
- 39. Clearing or resettling people from their land
- 40. Cultural heritage related to land
- 41. Decline of agricultural land
- 42. Illegal land use of mines
- 43. Lack of community consultation
- 44. Livelihood restoration
- 45. Physical and economic displacement
- 46. Unfair compensation for loss of land
- Workers' rights
- 47. Child labour
- 48. Discrimination
- 49. Excessive working hours
- 50. Human trafficking
- 51. Lack of adequate accommodation
- 52. Lack of grievance mechanisms or effective grievance mechanisms
- 53. Lack of workforce layoff plan/unemployment after mine cycle plan
- 54. Living wage violation
- 55. Non-transparent labour composition
- 56. Slavery, bonded and/or forced labour
- Supply chain
- 57. Domination of LSM
- 58. Lack of traceability

- 59. Lack of transparency
- 60. Money-laundering
- 61. Taxation issues

#### Urban mining and recycling of e-waste

- 62. Child labour in e-waste collection and processing
- 63. Illegal smuggling of e-waste, especially from and between developing countries
- 64. Inefficient processing of e-waste, losing a lot of value, and creating extra waste
- 65. Lack of experience and knowledge in developing countries for dealing with e-waste
- 66. Unnecessary recycling of reusable items
- 67. Unsafe processing and collection of e-waste

#### Working conditions

- 68. Breach of women's rights
- 69. Child labour
- 70. Excessive working hours
- 71. Exposure of workers to hazardous chemicals and substances
- 72. Fatal and nonfatal accidents of workers as a direct result of mining
- 73. Forced labour
- 74. Lack of awareness on hazardous substances and chemicals among workers
- 75. Lack of emergency preparedness and response
- 76. Lack of protective equipment for workers
- 77. Low wages/living wage
- 78. Mental health problems of workers
- 79. Respiration problems of workers
- 80. Right to organise, freedom of association and collective bargaining
- 81. Unhealthy working conditions
- 82. Unsafe working conditions

## B. Metals supply chain specific terms

**Artisanal and small-scale mining (ASM):** Formal or informal mining operations with predominantly simplified forms of exploration, extraction, processing, and transportation. ASM is normally low-intensity in terms of capital but high-intensity in terms of labour-intensive technology.

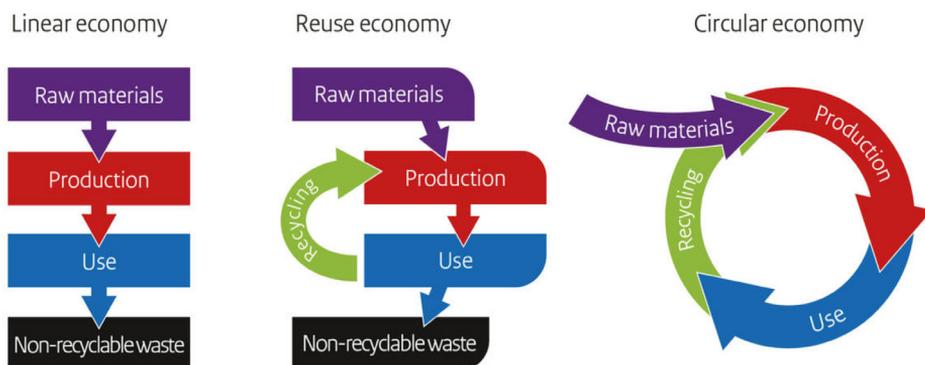
**Choke points:** Companies can identify bottlenecks by taking into consideration:

- Key points of transformation in the supply chain
- Stages in the supply chain that generally include relatively few actors that process a majority of the commodity
- Stages in the supply chain with visibility and control over the circumstances of production and trade upstream.

**Circular economy:** In a circular economy, manufacturers design products to be reusable. For example, electrical devices are designed in such a way that they are easier to repair. Products and raw materials are also reused as much as possible. (See figure 1)

Figure 1

From a linear to a circular economy



Source: Government of the Netherlands

**Conflict-affected and high-risk areas (CAHRAs):** Areas identified by the presence of armed conflict, widespread violence (including violence generated by criminal networks) or other risks of serious and widespread harm to people. Armed conflict may take a variety of forms, such as a conflict of an international or non-international character, which may involve two or more states, or may consist of wars of liberation, insurgencies or civil wars. High-risk areas are those where there

is a high risk of conflict or of widespread or serious abuses as defined in paragraph 1 of Annex II of the OECD General Due Diligence Guidance. Such areas are often characterised by political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure, widespread violence and violations of national or international law.

**Conflict-affected areas:** Areas with the presence of armed conflict or widespread violence resulting from conflict of a national (or regional) or international character that may involve two or more states, or may consist of wars of liberation, insurgencies, civil wars, etcetera

**Downstream supply chain and downstream companies:** Downstream supply chain means the *metal supply* chain from refiners to retailers. Downstream companies include refined metal/mineral traders and their markets, exchanges or other entities that do their own manufacturing and retailing, and other companies using metals and minerals in the fabrication of products (e.g. manufacturers and retailers of electronics). (See figure 2)

Figure 2

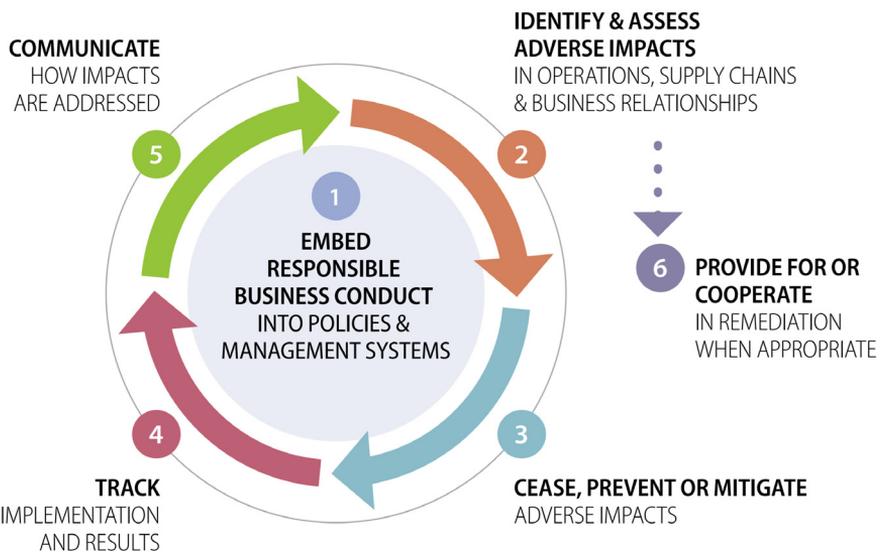
Simplified metal supply chain



Source: OECD

**Due diligence:** Due diligence is an ongoing proactive and reactive process through which Companies can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management systems. Due diligence can help Companies ensure they observe the principles of international law and comply with domestic laws, including those governing the illicit trade in minerals and United Nations sanctions. (See figure 3)

Figure 3 Due diligence process & supporting measures



Source: OECD

**E-waste/urban-mined materials:** Metals or metal containing materials recovered or extracted from electronic waste material and other secondary sources.

**Enhanced due diligence:** In-depth due diligence activities into specific aspects of the supply chain following the prioritisation of risks based on an assessment of the severity and likelihood of the real or potential adverse impacts linked to specific materials and activities.

**High Risk Areas:** Areas characterised by widespread human rights abuses and violations of national or international law due to political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence.

**Industry programme:** An initiative or programme created and managed by an industry organisation or similar industry initiative to support and advance some or all of the recommendations of the OECD Guidelines for Multinational Enterprises. An Industry Programme may be a part of the organisation's broader activities that encompass other goals. Any reference in this Agreement to relevant activities and/or initiatives of an Industry Programme is understood to mean that such activities and/or initiatives will be consistent with the OECD Guidelines for Multinational Enterprises and related due diligence instruments.

**International Responsible Business Conduct (IRBC):** Entails companies' compliance with international laws and guidelines, regarding human rights, environmental protection, labour relations etcetera, even where these are poorly enforced, and through their supply chains. The phrase "responsible conduct through the supply chain" has the same connotation as IRBC.

**Legitimate artisanal and small-scale mining and legitimate collection and processing of e-waste:** The legitimacy of artisanal and small-scale mining and/or informal collection and processing of e-waste is a difficult concept to define because it involves a number of situation-specific factors. For the purposes of this Agreement, legitimate refers, in part, to artisanal and small-scale mining and/or informal collection and processing of e-waste that is consistent with applicable laws. When the applicable legal framework is not enforced, or in the absence of such a framework, the assessment of the legitimacy will take into account the good faith efforts of artisanal and small-scale miners and/or informal collectors and processors of e-waste and enterprises to operate within the applicable legal framework (where it exists) as well as their engagement in opportunities for formalisation as they become available (bearing in mind that in most cases, there is very limited or no capacity, technical ability or sufficient financial resources to do so). In either case, Artisanal and small-scale mining, as with all mining and informal collection and processing of e-waste, cannot be considered legitimate when it contributes to conflict and serious abuses associated with the extraction, transport or trade of minerals.

**Management system:** Management processes and documentation that collectively provide a systematic framework for ensuring that tasks are performed correctly, consistently and effectively to achieve the desired outcomes, and that provide for continual improvement in performance.

**Manufacturing industry:** The manufacturing industry encompasses companies that turn raw materials into new products or goods. The manufacturing industry is made up of the following branches: food and luxury products, textile and leather, paper, printing and publishing, oil, chemicals, rubber and synthetics, base metals, metal products, machinery, electrical engineering, transport equipment, wood and furniture, etcetera.

**Multinational Enterprises (MNEs):** A precise definition of multinational enterprises is not required for the purposes of the *Guidelines*. These usually comprise Companies or other entities established in more than one country and so linked that they may coordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another. Ownership may be private, state or mixed. The *Guidelines* are addressed to all the entities within the multinational enterprise (parent Companies and/or local entities). According to the actual distribution of responsibilities among them, the different entities are expected to co-operate and to assist one another in facilitating observance of the *Guidelines*.

**Primary raw materials:** Raw materials not previously used, processed or consumed that serve as a basis for production.

**Recycling:** Reworking materials so that they retain their quality, are of better quality (upcycling), or are of lower quality (downcycling).

**Responsible public procurement:** Involves conscious and direct efforts of contracting authorities to take social and environmental considerations into account in the procurement of goods and services.

**Secondary materials supply chain:** Refers to the system of inter-connected activities, organisations, actors, technology, information, resources and services involved in, for example, the disposal, collection, sorting, grinding, trading and processing of metal scrap.

**Secondary raw materials:** Raw materials that have been recovered and can be recycled; substances recovered from previously used raw materials. This includes scrap metal.

Note: Secondary raw materials can also be divided into pre-consumer (e.g. home scrap) and post-consumer (raw materials that have already had a useful life, e.g. old electrical appliances).

**Sustainable recycling:** The process of recycling in which recycled materials lose as little value as possible and secondary raw materials retain as much of their value as possible and are reused to fabricate new materials, with due consideration for IRBC-related risks in the whole supply chain.

**Upstream supply chain and upstream companies:** Upstream supply chain means the supply chain from the mine to refiners. Upstream companies include miners (artisanal and small-scale enterprises or medium and large-scale mining companies), local metal/mineral traders or exporters from the country of origin, transporters, and international traders of Mined/Recyclable metals/minerals and refiners. Artisanal and small-scale producers such as individuals, informal working groups or communities are not included as upstream companies for the purposes of carrying out due diligence in line with the OECD Due Diligence Guidance, although they are encouraged to remain involved in due diligence efforts of their customers and formalise the process so they can carry out due diligence in the future.

**Urban mining:** An economic system intended to maximise the recovery of products and raw materials and minimise value destruction. Waste is regarded as a raw material and waste-treatment enterprises become raw materials suppliers that recover high-value raw materials from the waste that they collect.

## C. Metals IRBC Agreement-specific terms

**Assignment Agreement:** An agreement between the Private Parties to the Metals IRBC Agreement and an independent Secretariat appointed by the private Parties to support and coordinate its implementation. The Assignment Agreement outlines the secretarial and program management tasks of the independent Secretariat, as well as obligations in relation to how it handles confidential and/or commercially sensitive information.

**Chain of custody:** Chain of custody refers to the chronological documentation or paper trail that records the sequence of custody, control, transfer, analysis, and disposition of physical or electronic evidence. It is a mechanism that creates transparency throughout the supply chain, guaranteeing the integrity of the product and reassuring the customers.

**Collective leverage:** The amount of influence the Parties and Supporting Organisations have together. It refers to the ability of the group to effect change in the wrongful practices of a third party that is causing or contributing to an adverse human rights impact. The collective leverage can be exerted to improve transparency in the supply chain, as well as to address and reduce real or potential negative impact in the chain as a whole.

**Collective risks:** Prioritised severe risks that have been selected by the Parties collectively for joint follow-up action on limited individual leverage, existing approaches and opportunity to create positive impact.

**Communication strategy:** a plan of action by and for all Parties to inform the external world about the ambitions and results of the Agreement with the aim of increasing awareness about responsible business conduct and subsequently gaining support for the efforts of the Parties within and outside the Netherlands. A communication strategy can be part of an outreach strategy.

**Confidentiality Protocol:** A protocol that has been developed for the implementation phase of the Agreement, containing obligations and expectations of the Parties and Supporting Organisations with respect to each other on how they exchange and use of confidential information and/or commercially sensitive information. All Parties and Supporting Organisations must sign the Protocol. Experts and other individuals/organisations receiving confidential information about the Agreement shall sign a non-disclosure agreement.

**Consent:** An implicit or explicit expression of agreement with a proposal or the summary of the conclusions of the discussions during a meeting. Consent is implied when none of the Parties raises an insurmountable objection against a proposed decision or summary of the discussions.

**Country-specific opportunity scans:** Assessments, using desktop research and corporate networks in a particular country, containing identified third parties and local/regional stakeholders to collaborate with in an effort to understand the local/regional context and find solutions to sustainably reduce risks and impacts in the supply chain.

**Due diligence action plan:** Plan developed by individual companies that identify steps they will be taking to comply with the due diligence expectations for international responsible business conduct based on the Guidance.

**Heat map:** The result of supply chain analysis containing information about materials, suppliers and related identified risks and impacts. The collective heat map is the synthesis of the information gathered by all the Companies about the risks and challenges identified in the supply chain.

**Hotspot (in relation to risks):** The concentration and/or clusters of severe IRBC risks following the extrapolation of the Companies' risk-mapping exercises. The heat map should help to identify the hotspots (in relation to risks).

**Informal workers:** Workers in the informal sector/economy. The informal sector/economy is broadly characterised as consisting of units engaged in the production of goods or services with the primary objective of generating work and incomes to the persons concerned. These units typically operate at a low level of organisation, with little or no division between labour and capital as factors of production and on a small scale. Labour relations in the informal economy, where they exist at all, are based primarily on casual employment, kinship or personal and social relations rather than contractual arrangements with formal guarantees. Informal sector workers are neither registered nor formally employed; they can be self-employed or wage workers but are neither taxed nor monitored by any form of government.

**Knowing and showing:** Refers to the efforts made by all Parties to the agreement to obtain the relevant information on the sector supply chain and related risks, and to communicate about the information gathered (whether positively or negatively) as well as the planned actions to address identified risks.

**Maturity Assessment Tool:** An instrument containing structured questions (based on the six steps of the OECD Due Diligence Guidance for Responsible Business Conduct), which allows individual companies to assess, evaluate and monitor their level of compliance with the Guidance.

**Outreach strategy:** A plan of action by and for all Parties to increase the number of signatories – reflecting the diversity in the metals sector (electronics, automotive, producers of raw metals and metal alloys and semi-finished products, etcetera) – and focussing on players with significant market impact, with the aim of increasing the reach and leverage of the Agreement within and outside the Netherlands.

**Prioritisation:** It may not always be possible for enterprises to identify and respond to all adverse impacts related to their activities and business relationships immediately. In this respect, the OECD Guidelines for MNEs also clarify that where “enterprises have large numbers of suppliers, they are encouraged to identify general areas where the risk of adverse impacts is most significant and, based on this risk assessment, prioritise suppliers for due diligence”. Enterprises are responsible for addressing any adverse impacts that they have caused or contributed to. The significance of an adverse impact is understood as a function of its likelihood and severity. Severity of impacts will be judged by their scale, scope and irremediable character.

- *Scale* refers to the gravity of the adverse impact.
- *Scope* concerns the reach of the impact, for example the number of individuals that are or will be affected or the extent of environmental damage.
- *Irremediable character* means any limits on the ability to restore the individuals or environment affected to a situation equivalent to their situation before the adverse impact.

Severity is not an absolute concept and it is context specific.

**Quickscans (of vulnerable groups):** Vulnerable stakeholders (such as women and children) are often overlooked in risk and impact assessments. Quickscans help to identify such risks in a certain sector and/or geographic area.

**Risks:** For many enterprises, the term “risk” means primarily risks to the enterprise – financial risk, market risk, operational risk, reputational risk, etcetera. When they look at risks, it is typically risks to themselves. For this Agreement, however, the term risk refers to the likelihood of adverse impacts on people and the environment that a Company may cause, contribute to, or be directly linked to. In other words, it is an outward-facing approach to risk.

**Roadmap for implementing the IRBC Agreement for the Metals Sector:**

A timeline for the implementation of the Agreement, (largely) based on the obligations following from the Agreement. The Roadmap is a living document that will be adapted by the Parties to align it with future aspirations and expected deliverables.

**Severe risks:** The human and environmental rights at risk of being violated (impact) through the Company's activities and business relationships. A negative impact is severe by virtue of one or more of the following characteristics: its scale, scope and irremediability. Scale refers to the gravity of the impact; scope refers to the number of individuals that are or will be affected; and irremediable character refers to any limits on the ability to restore those affected to a situation at least the same as, or equivalent to, their situation before the impact.

**SMART measures:** Refers to measures that are specific, measurable, achievable, relevant and time-bound.

**Social Dialogue:** Social dialogue is defined by the ILO to include all types of negotiation, consultation or simply exchange of information between or among representatives of governments, employers and workers, on issues of common interest relating to economic and social policy. It can exist as a tripartite process, with the government as an official party to the dialogue, or it may consist of bilateral relations between labour and management (or trade unions and employers' organisations) only, with or without indirect government involvement. Social dialogue processes can be informal or institutionalised, and are often a combination of the two. It can take place at the national, regional or enterprise level. It can be inter-professional, sectoral or a combination of these.

**Supply chain:** Refers to the system of all the activities, organisations, actors, technology, information, resources and services involved in moving metals/minerals or metals/minerals bearing materials from the source to end consumers. It includes entities with which a Company has a direct or indirect business relationship and which either (a) supply products or services that contribute to the Company's own products or services or (b) receive products or services from the Company.

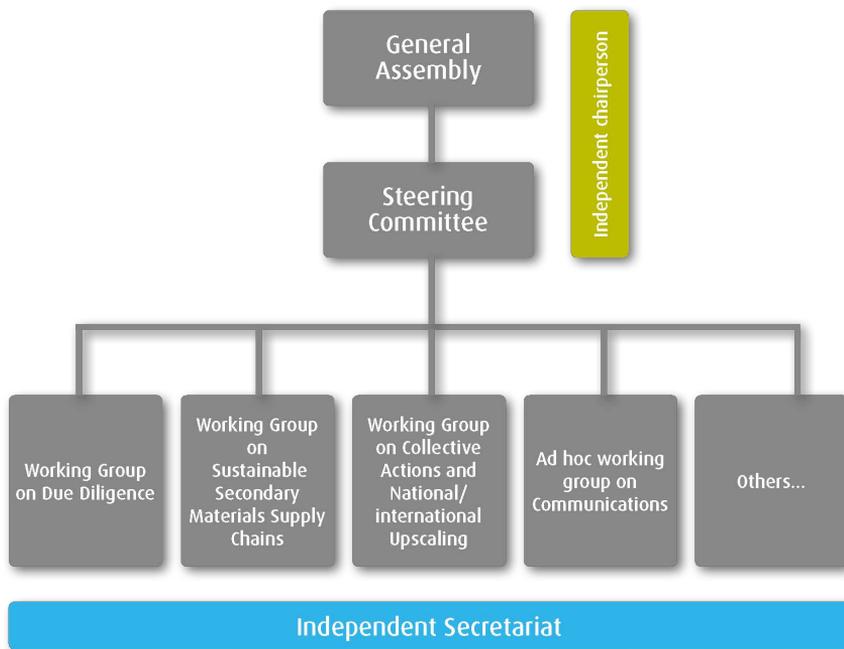
**Systemic risks:** Systemic risks/issues refer to problems or challenges that are prevalent within a context and are driven by root causes outside of the enterprise's immediate control, but that nonetheless increase the risk of adverse impacts within the enterprise's own operations or supply chain.

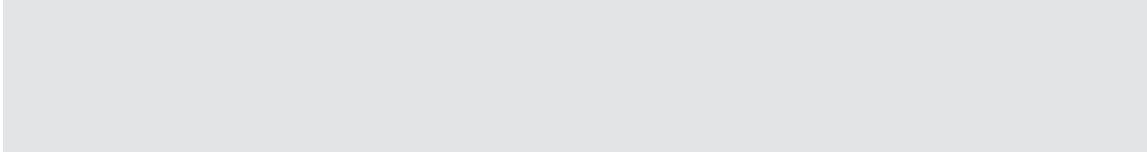
**Traceability of the supply chain:** Traceability is the process by which enterprises track and trace materials and products as they progress through the supply chain.

**Transparency of the supply chain:** The identification of all suppliers/actors in the Company's mineral supply chain, such as mining companies, local metal/mineral traders or exporters from the country of origin, transporters, international traders, smelters, refiners, refined metal/mineral traders, exchanges, manufacturers, retailers.

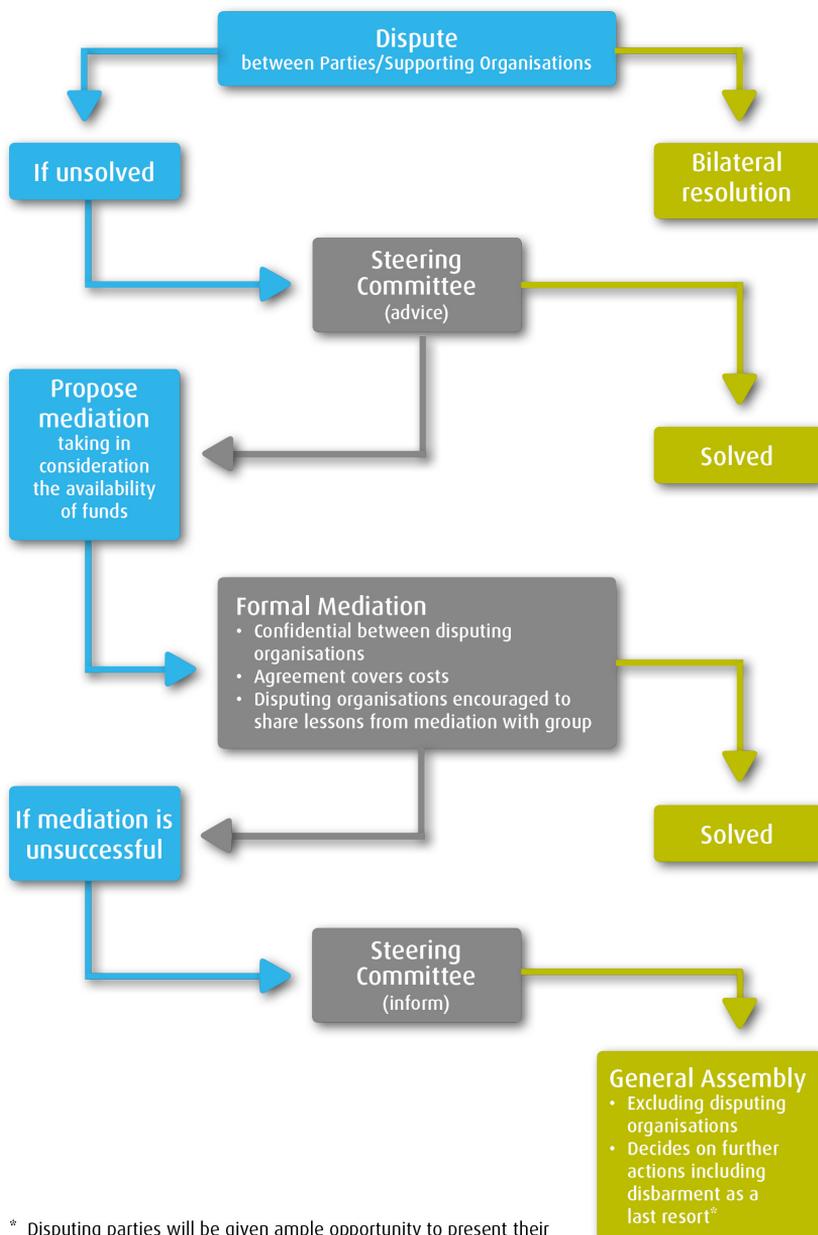
**Vulnerable groups:** There are particular groups who, for various reasons, are weak and vulnerable or have traditionally been victims of violations and structural discrimination, and consequently require special protection for the equal and effective enjoyment of their human rights. These include women and children, indigenous peoples, migrant workers, etcetera.

## Implementation and governance structure

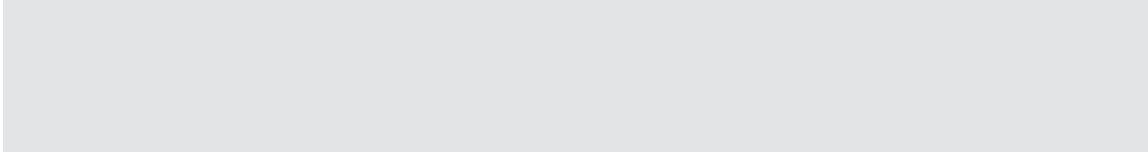




## Flowchart of the dispute resolution mechanism



\* Disputing parties will be given ample opportunity to present their case. The general assembly shall ensure a fair process.



## Miscellaneous: List of publications and background documents

1. Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas (EU Conflict Minerals Regulation).
2. Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (EU Waste Framework Directive).
3. Dutch Government, 'National Agreement on the Circular Economy: Letter of intent to develop transition agendas for the Circular Economy together', *Government of the Netherlands*, 2017, <https://www.government.nl/documents/discussion-documents/2017/01/24/national-agreement-on-the-circular-economy>, (accessed 8 May 2019).
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10. United Nations, *Sustainable Development Goals*, 2015, <https://sustainabledevelopment.un.org>, (accessed 8 May 2019).



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