



Beyond Tier 1 - Challenges in Meaningful Due- Diligence for Mineral Supply Chains

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The DiliCHANCE project

The Challenge

The European Union perceives due diligence as crucial to its economic and sustainability goals. It is needed to secure critical raw materials, support the green and digital transition, and promote sustainable practices that reduce societal and environmental harm.

for more details please visit

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Our Approach

DiliCHANCE improves due diligence in mineral value chains and responsible business conduct by (a) raising awareness and knowledge of human rights and environmental due diligence (HREDD) among corporate actors, (b) identifying gaps in HREDD implementation in policy and industry, (c) enhancing due diligence operations with better tools and new solutions, and (d) promoting multi-stakeholder engagement and capacity building.



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Work package 1 (Forming the DD One-Stop-Shop)

Dissemination level: public

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1. Executive Summary

The OECD's six-step framework for responsible business conduct (RBC) relies fundamentally on the information that can be obtained in Step 2, identifying and assessing adverse impacts along supply chains, as the analytical foundation for effective supply chain due diligence. However, many companies struggle to see beyond Tier 1 suppliers due to sub-supplier reluctance, governance gaps, complexity, or fears of losing competitive advantages. Overcoming these visibility barriers is key, as it is estimated that most human rights and environmental risks occur in the remote supply tiers. To tackle these challenges to visibility deeper in the supply chain, downstream firms can leverage EU reporting regulations, engage upstream suppliers as dual-role agents, collaborate with NGOs and business associations, utilize informational assistance platforms like the DiliCHANCE One-Stop-Shop, or adopt mineral traceability schemes, collectively enabling a scalable approach to building transparent and resilient supply networks.

Recommendations / Key findings

In the OECD RBC Framework, step 2 is where the effort of due diligence in the supply chain truly begins. It can be seen as the analytical backbone and ensures that subsequent steps of the framework actions are grounded in a robust understanding of the company's real and potential adverse impacts. Step 2 is extensive, especially in the sourcing networks of complex supply chains of raw materials and of products that rely on them, such as in the automotive or technology industry, and many companies can underestimate the actual extent to which their supply chains go.

- Downstream companies can utilize their direct suppliers in a way of “double agency”, where they simultaneously act as both buyers and de facto regulators of their sub-suppliers, leveraging contractual power to drive data collection¹.
- Downstream companies can creatively collaborate with other actors and responsible business associations to improve implementation of voluntary sustainability standards or the implementation of voluntary mineral supply chain standards.
- Collaborating with mineral traceability initiatives and innovative efforts such as blockchain enabled digital product passports, can assist downstream companies with improved understanding and increased sustainability of their supply chains.
- Regulations, such as the EU's Corporate Sustainability Reporting Directive (CSRD), the Corporate Sustainability Due Diligence Directive (CSDDD), and its Omnibus reforms, will soon create a legal baseline for scoped companies to prove the origin of materials. Many companies who will no longer fall under the CSRD and CSDDD mandatory reporting requirements reported that their companies are still planning to maintain or even expand their sustainability reporting for business risk management^{2,3}.

2. Overview OECD Guidance for Responsible Business Conduct

“ENTERPRISES SHOULD USE THIS GUIDANCE AS A FRAMEWORK FOR DEVELOPING AND STRENGTHENING THEIR OWN TAILORED DUE DILIGENCE SYSTEMS AND PROCESSES, AND THEN SEEK OUT ADDITIONAL RESOURCES FOR FURTHER IN-DEPTH LEARNING AS NEEDED.”

- OECD RBC GUIDANCE (2018)

The Organisation for Economic Co-operation and Development (OECD) introduced their *Due Diligence Guidance for Responsible Business Conduct* in 2018⁴. This document consists of a six-step, practical framework for embedding and implementing responsible business conduct (RBC) into a company’s corporate policies and management systems. This framework is based on the OECD *Guidelines for Multinational Enterprises on Responsible Business Conduct*, which is a set of voluntary principles for companies wanting to acknowledge the potential adverse impacts their activities can have on others while also taking steps towards positive economic, environmental, and social contributions^{4,5}. Thus,

companies wanting to conduct meaningful human rights and environmental due diligence (HREDD) must take steps towards identifying and assessing actual or potential environmental, social, or governance risks across its own operations or of its subsidiaries, its suppliers, subcontractors or other business relationships⁶.

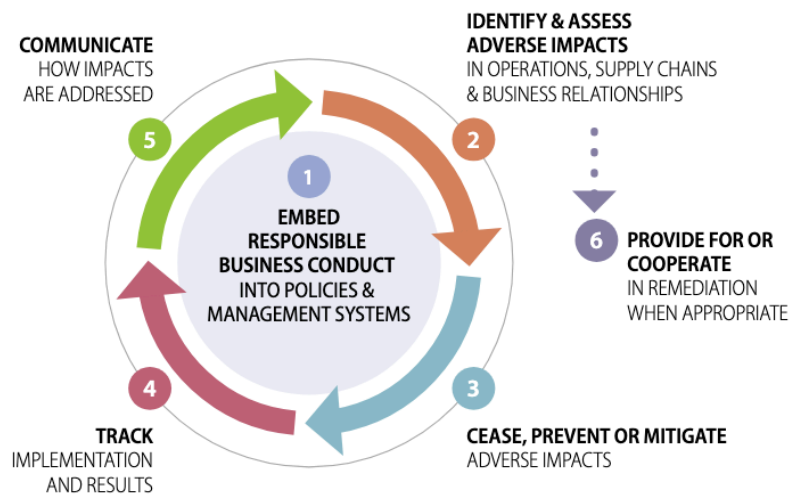


Figure 1. The six steps of the OECD Guidance for Responsible Business Conduct⁴

The six steps of the OECD RBC are shown in Figure 1. They are the following⁴:

- 1. **Embed responsible business conduct into policies and management systems** – This means adopting a formal RBC policy (based on the OECD Guidelines), integrating it into corporate governance, and publishing the policy so stakeholders can see the company’s commitment.
- 2. **Identify and assess actual and potential adverse impacts** – This requires mapping the value chain, gathering data on operations, supply-chain relationships, and business partners, and

evaluating the severity and likelihood of human rights, environmental, labour rights, bribery, or consumer interest risks.

- **3. Cease, prevent or mitigate identified adverse impacts** – Design and implement measures to stop harmful practices, reduce their intensity, or offset them (e.g., supplier contracts, remediation programmes, technical upgrades).
- **4. Track implementation and results** – Monitor the effectiveness of mitigation actions, keep records, and adjust the approach as needed; this creates an audit trail for internal and external review.
- **5. Communicate how impacts are addressed** – Disclose, in a transparent manner, the policies, risk-assessment outcomes, mitigation steps and performance metrics to stakeholders (e.g., in sustainability or annual reports).
- **6. Provide for or cooperate in remediation when appropriate** – If harms have occurred, work with affected parties, victims, or authorities to remediate the damage, or support external remediation mechanisms.

While each step is critical, step 2 sets in motion much of the important aspects of due diligence by pushing companies to move from high-level policy statements to deeper systematic supply chain analyses.

2.1. In Focus - Step 2 Identify & Assess Adverse Impacts

As mentioned, step 2 consists of identifying and assessing a company's adverse impacts and is where the effort of due diligence in the supply chain truly begins. It can be seen as the analytical backbone of the OECD RBC framework and ensures that subsequent steps of mitigation, monitoring, and reporting actions are grounded in a robust understanding of the company's real and potential adverse impacts. In this step, a company moves beyond simply making commitments and embedding RBC into their management systems and begins to systematically conduct assessments and data gathering of their supply chain. There are many guidance documents in place to assist companies in how to do this in a meaningful way, but it generally consists of collecting reliable, up-to-date evidence from internal company records, supplier self-assessments, third-party audits, public reports, satellite data, or stakeholder testimony. Throughout this process, a company should ultimately determine whether it *causes, contributes to, or is merely linked to* risks in their supply chain⁵. Step 2 is indeed extensive, and many companies can underestimate the actual extent to which their supply chains go. Thus, having visibility and a greater understanding of the depths of the supply chain, a company can begin to assess where their potential risks may be and start to prioritize how to minimize or eliminate them.

3. Supply Chain Landscape

For a company, understanding its suppliers and their subsequent sub-suppliers is a critical component of due diligence and for building a sustainable supply chain. Most companies carry out stakeholder supply chain mapping utilizing a framework for categorizing suppliers, such as breaking down suppliers into tiers: tier 1 suppliers are the company's direct suppliers, tier 2 suppliers are the companies that directly supply the tier 1 companies, while tier 3 and beyond are the suppliers to the tier 2 companies, and so on. This supplier mapping is often carried out by the procurement or sustainability departments, and this work is central to the company building resiliency in their business relationships. This categorizing of suppliers support company procurement specialists in gaining visibility into their supply chains, assisting them in identifying in advance possible human rights or environmental risks in their supply chains, such as any delays due to product quality or delivery issues, supply chain disruptions, or any failure caused by a lack of due diligence compliance, such as sub-suppliers having issues complying with local laws or regulations. Depending on product complexities, a supply chain can have many tiers of suppliers, making it difficult for the downstream company to have true visibility of all the potential upstream risks. This can have serious ramifications for long-term company resilience.

Once a company understands their supply chain, it is imperative for measures to be taken such that company ethos, and responsible business policies and practices are conveyed to the business partners, especially to those in areas where high risks may exist or potentially develop. This can be done several ways, but usually involves the downstream business having to implement systems of controls and transparency^{7,8}. This often includes prioritising communication and collaboration with certain tiered suppliers and understanding where the control points exist, or companies that are at the specific critical points in a mineral supply chain who also, due to the nature of their activities, proactively identify, assess, and mitigate their own risks, such as at the smelter, refinery or the commodity trading step⁹. Engaging with direct suppliers can help ensure their corporate policies on issues like human rights, labour practices, and environmental compliance are in line with the downstream company ethics. This often includes the downstream company sending surveys, speaking directly to suppliers, or conducting on-site audits⁹. This active communication and collaboration can also safeguard ongoing compliance monitoring and that the supplier continues to meet company standards and expectations. For the upstream companies acting as control points, they are expected to introduce system of chain of custody or traceability systems to collect due diligence information, and can thus use their influence over their own suppliers to mitigate human rights or environmental risks and impacts, while also addressing the effects to which their own operations may directly cause or contribute^{8,9}.

While it may sound like the downstream company – upstream supplier collaboration on due diligence would be easy to manage, many companies in fact lack visibility beyond their tier 1 partners, leading to problems for companies trying to conduct meaningful and impactful due diligence and to fully implement responsible business conduct in their operations. The causes of this are many and finding solutions to these challenges are fundamental to business risk management.

4. Challenges of Extending Beyond Tier 1

Why is seeing beyond tier 1 suppliers so challenging for downstream companies? Indeed, in a 2023 survey of 350 senior procurement leaders from more than 40 countries world-wide, only 2% of respondents said they had a high visibility beyond their first level suppliers¹⁰. The OECD suggests that actually, the most significant adverse impacts often lie in those remote tiers (beyond “tier 1”), making them a weak point for potential adverse human rights and environmental risks in the supply chain⁴.

Immediate coordination with suppliers is the basis for due diligence and a lack of this engagement is one fundamental cause of supply chain opacity. Seemingly obvious, downstream companies will first and foremost seek out coordination with their tier 1 suppliers, as these are directly involved in business operations. Tier 1 companies should have immediate information on the businesses with which they source, thus making tier 1 companies a key component of multi-tier transparency. The important role of tier 1 firms has been referred to as the notion of “double agency”, or how tier 1 firms simultaneously act as both buyers and de facto regulators of their sub-suppliers, leveraging contractual power to drive data collection¹. However, sub-suppliers or direct manufactures are often unwilling or reluctant to share information because of confidentiality issues or concerns towards any hidden risks that could disrupt their own ongoing business operations. Some tier 1 suppliers even report being aware of unsatisfactory sustainability performance of their suppliers (tier 2), but they do not intervene or share this information for fear of losing cost advantages¹. Furthermore, there may be limited resource availability at the lower-tier, small and medium enterprise (SME) supplier level to direct towards gathering data for due diligence¹¹. Another challenge faced by smaller supplier companies is that they are repeatedly asked by different buyer or downstream companies to provide sustainability information through a variety of templates, self-assessment questionnaires, or customer-specific audits. As a result, many of these suppliers experience “supplier assessment fatigue” due to the need to respond to multiple, often overlapping, requests from different customers^{12,13}.

The increasing complexities in the global sourcing networks is also a primary driver preventing downstream companies from seeing deeper into their supply chains. Certain industries can have thousands of suppliers, for example the automotive industry is estimated to have over 250 tier 1 suppliers and up to 18’000 sub-suppliers¹⁴ while some companies report having up to ten tiers of suppliers⁸. This makes coordinating amongst all business partners and the subsequent due diligence data management challenging. Furthermore, it may be difficult for downstream companies to know which control points, like smelters and refiners, actually exist in their mineral supply chains, given they may be many tiers upstream in their supply chain⁸.

In addition, with increased transparency comes increase scrutiny on the sub-tiers, where perhaps years supply chain opacity with regards to issues of human rights and environmental due diligence have allowed sub-suppliers to withhold sensitive information about their operations. Sub-tier companies frequently seek anonymity to evade rigorous oversight, such that they often do not adhere to the same environmental, social, and governance (ESG) standards as the purchasing company¹¹.

Regions with weak or absent regulatory environments can also influence the ability of a downstream company to obtain due diligence information beyond its tier 1 suppliers. Obtaining reliable information

on the environmental or occupational conditions for mineral extraction from the far upstream suppliers can be challenging, as this often occurs in regions where resource related conflicts or informal or illegal artisanal or small-scale mining are present together with a limited capacity for local enforcement of laws and regulations¹⁵. Furthermore, there are additional challenges that are unique to areas where the extraction conditions of minerals and the sub-supplier relationships are occurring in designated conflict affected and high-risk areas (CAHRA)^{7,16}. These areas are identified by the presence of armed groups, widespread violence or areas of political instability, where human rights abuses are common,⁷ making remote tier, supplier visibility limited, which can in turn yield high risks to the downstream companies.

5. Practical & Scalable Pathways Forward

Achieving reliable insight into tier 2, tier 3 and deeper supply chain layers is increasingly becoming a strategic necessity. There exist practical and scalable pathways forward that can assist downstream companies in charting a roadmap to improved visibility in their supply chain. By capitalizing on the current regulatory momentum, companies can consider such actions as taking up harmonized international standards, co-creating solutions for improved visibility with their direct suppliers, providing targeted incentives, or utilizing existing collaborative and/or traceability tools to improve their due diligence performance. Together, these pathways offer a pragmatic, scalable blueprint for moving beyond tier 1 visibility and building more resilient, responsible supply networks.

Increased regulatory pressures can have the potential to make a positive impact on greater visibility in company supply chains. Stronger regulations, especially the EU's CSRD, the CSDDD, and its subsequent Omnibus I package, now create a legal baseline for scoped companies to prove the origin of materials. For the large companies included, these directives create mandatory due diligence that seek to establish a legally enforceable standard of care that reflects the level of effort a company could reasonably be expected to exercise under the specific circumstances of their business operation⁶. The Omnibus reforms, which include simplifying reporting and limiting the primary obligations to just tier 1 suppliers, will indeed prompt firms to adopt more granular internal processes to meet the broader CSDDD and CSRD requirements. While Omnibus has reduced the number of EU companies in the scope of these regulations, a recent survey of over 400 senior decision makers in companies across the EU and the UK with >1000 employees revealed that 90% of the descoped companies still plan to maintain or even expand their sustainability reporting³. In a similar survey of 688 German companies descoped out of CSDDD, 75% say they will still release a voluntary report in the coming years¹⁷. Thus, the combination of tighter EU rules and the Omnibus driven shift in reporting scope is still expected to drive improvements in visibility by forcing companies to embed more robust due diligence governance throughout their supply chains.

Downstream companies that utilize their direct suppliers in this dual role, i.e., as a principal to its own upstream sub suppliers and as an agent for the downstream buying firm, can take meaningful steps toward increase supplier visibility. Contractual and incentive driven mechanisms can be affective in increasing visibility in the absence of regulatory pressures. This requires developing additional capabilities for first tier suppliers, especially when there are limited resources available. This can

include a system of incentives structures for tier 1 and lower tier actors to increase due diligence. Such a system can be both monetary, such as providing preferential procurement terms or performance linked financing, and/or non-monetary, such as providing capacity building and trainings, or offering recognitions and awards that increase (sub)supplier reputation. This system can indeed motivate upstream partners to improve their ESG disclosure and practices¹.

Collective efforts between lead firms and their tier 1 suppliers together with business associations, external organizations like NGOs or other community-based groups, can help facilitate implementation of voluntary sustainability standards. Downstream firms that struggle to pinpoint upstream actors beyond their direct suppliers, can collaborate with fellow industry partners who share the same suppliers, or with downstream partners they already do business with, to implement voluntary mineral supply chain standards⁷. For example, together they can identify the smelters and refiners in their supply chains, evaluate their subsequent due diligence practices, or use industry-wide validation schemes to confirm which smelters or refiners meet the prescribed standards⁷. Furthermore, there are several public and private, sector-specific, and well-respected business associations that have the aim of collectively aiding companies' supply chain due diligence and supplier visibility. Such associations, like the Responsible Business Alliance (RBA)¹⁸ or the European Battery Alliance (EBA)¹⁹, encourage downstream companies towards coordinated, multi-stakeholder actions that extend due diligence and ESG visibility beyond the first tier of mineral supply chains. Moreover, there are several online tools that can assist companies facing major challenges managing their global supply chains. For example OECD and the European Partnership for Responsible Minerals (EPRM) both have a due diligence checker to assist companies in understanding how well they are implementing RBC^{20,21}. Moreover, the EU Horizon Europe funded DiliCHANCE project has on its One-Stop-Shop (OSS), a comprehensive tool designed for the mobility, renewable energy, and electronics sectors. The OSS features over 200 different digital tools, regulations, and standards as well as providing webinars, interviews and articles all for assisting companies in integrating due diligence into business practices²². Furthermore, its MineralTrail is a self-assessment tool that helps companies evaluate their current due diligence systems against the OECD RBC and gives practical recommendations to strengthen their practices²².

Over the past decade there has been an increased interest in innovating creative solutions for improved due diligence and supply chain visibility. There has been increasing focus on the role that mineral traceability schemes can play as a tool for visibility in company operations and business relationships. Traceability refers to ways in which a company can track the origin of a purchased commodity or mineral from its suppliers, as well as following the associated geographic pathway, chain of custody and how the commodity or mineral has evolved or changed over time⁸. There are now several examples of successful and commodity specific schemes already existing, such as that of the pioneering International Tin Supply Chain Initiative (ITSCI) for tracing of the tin, tantalum, and tungsten (3T) minerals²³ or the Fairmined Initiative for responsible gold sourcing from artisanal and small scale miners²⁴. In addition, companies can ensure they are working with responsible control points, such those listed under the certified smelter registries and companies utilizing third-party verification schemes of the Responsible Minerals Initiative²⁵. Furthermore, blockchain enabled digital product passports²⁶ can lead to enhanced transparency in mineral supply chains. It creates a digital shared record, ideally from mine to market, where the mineral is assigned a unique digital ID at the extraction

point and as it moves through the supply chain, every exchange is recorded in a tamper-proof digital ledger, allowing for downstream companies to verify the provenance of extraction and the geographic route and physical evolution^{8,26,27}. While there are still challenges using blockchain enabled traceability and it is not a silver bullet to solve all supply chain visibility issues, it is one tool a company can utilize for greater visibility of their suppliers²⁷. These tools can help a company provide the technical backbone for transparent, auditable supply chains in high-risk sectors.

6. Conclusion

The OECD has a six-step, practical framework for embedding and implementing RBC into a company's corporate policies and management systems. Of this, step 2, *identifying and assessing actual and potential adverse impacts*, is where a company's efforts of due diligence in the supply chain begins. It acts as the analytical backbone that ensures that subsequent steps of RBC are grounded in a robust understanding of the company's real and potential adverse impacts.

Fundamental to enabling data gathering in step 2, is the ability for a company to truly understand its supply chain and all the key players in it. Often many companies have difficulties seeing beyond their immediate suppliers, whether this be because sub-suppliers are unwilling or reluctant to share information, fear of increased scrutiny causing loss of a competitive edge or favorable cost advantages, poor governance and oversight in mineral extraction countries, or simply because of the sheer complexity of their supply chains makes obtaining information on all sub-suppliers difficult. These challenges can be tackled by the primary downstream company by utilizing an array of tools such as: following reporting regulations outlined by the EU; using upstream suppliers in a dual role of both principal to its own sub suppliers and as an agent for the downstream buying firm; collaboratively working together with NGOs or with reputable business associations; using existing assistance tools like the DiliCHANCE One Stop Shop; or working with mineral traceability schemes. Collectively, these pathways provide a practical, scalable framework for extending visibility beyond tier 1 and constructing more resilient, responsible supply networks.

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