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Environmental Due Diligence - A promising tool to manage supply chain risks

Abstract:

This briefing document examines the case for using environmental due diligence as an effective tool for risk assessment, along the entire mineral supply chain. It outlines the benefits of using a due diligence approach; the success of assessing human rights abuse risks through due diligence and the lessons learned that can be used to implement effective environmental risk assessments. This briefing document complements the panel discussion on [‘Expanding due diligence to the environment – How to move towards holistic impact’](#) which was held during the RE-SOURCING virtual conference ‘On the Road to Responsible Sourcing’ on the 9th of November 2021.

The [RE-SOURCING Project](#) aims to build a global stakeholder platform for responsible sourcing. The project addresses the challenges facing businesses, NGOs, and policymakers in a rapidly evolving ecological, social, business and regulatory world; through a collective, consultative, and industry & civil society driven approach. RE-SOURCING is funded by the European Commission’s Horizon 2020 programme and runs from 1 November 2019 to 31 October 2023.

1. Due Diligence and Environmental Risk Assessments



Expanding the scope of environmental risk assessment across the mineral supply chain

In the past years, companies working on reducing their environmental impacts, focused their efforts on their immediate operations. This included addressing impacts of on-site activities such as GHG emissions from manufacturing plants and offices and the proper disposal and treatment of waste streams. This approach did not fully consider the environmental impacts upstream of the supply chain and the large detrimental effect that could be potentially occurring there.

These environmental impacts are often diffused across multiple upstream suppliers, frequently located in regions with less stringent or enforced environmental laws, resulting in environmental damages at several locations. Certain guidelines have been developed, that address the issues related to supply chain/upstream impacts (OECD, 2018), but the major focus of these risk assessments has been on human rights related issues. Recently companies are being increasingly asked to expand their environmental risk assessment to all actors along their supply chain, with a specific focus on primary extractive activities within these chains (OECD, 2021).

Overview of environmental risks in mineral supply chains

The environmental risks associated with extractive activities are manifold if not managed properly. A major issue of mining projects, especially when located in pristine environments, is the loss of local biodiversity. Mining activities are inherently very land-use intensive and need additional supporting infrastructure. Therefore, clearing and preparing an area for a mine site has a high impact on local biodiversity through the destruction of habitat and pollution, especially in species-rich and/or fragile ecosystems. In addition, mining can be very water intensive and competing water uses need to be properly managed. Specifically in arid regions, this can lead to conflicts with local communities and put additional strain on ecosystems.



Another water related issue is the treatment and discharge of wastewater, which often contains toxic components. If there are no adequate systems in place to store or treat wastewater there is a high risk of polluting the environment, not only local but also downstream of rivers, resulting in potential damages to the environment in places far away from the mine.

Finally, a further major environmental risk emanates from mining waste. A plan to adequately store or dispose of this waste, even after the mine closure, is essential to reducing the environmental impacts of extractive activities (IGF, 2021; Germanwatch, 2020). These environmental risks and their linkages to individual raw materials are discussed in-depth in the three RE-SOURCING state-of-play reports for the [Renewable Energy](#), [Mobility](#) and [Electronics](#) sectors.

Due Diligence as an approach to risk assessment

When it comes to risk assessment, an efficient due diligence exercise provides a company with an in-depth process to identify its risks. In broad terms, due diligence is an 'on-going, proactive and reactive process' (OECD, 2016: p. 13) focusing on the identification of risks along the supply chain, followed by the mitigation of these risks and ultimately the remediation of negative impacts already caused by mining activities.

This is done by analysing framework conditions around the supplier's activities, such as location of the mine and mined material. As well as by engaging with third party organisations and suppliers to ensure they engage in risk reduction activities and are following certain responsible sourcing guidelines. More details on due diligence schemes and efforts can be found in the [RE-SOURCING State-of-Play Report on the International Responsible Sourcing Agenda](#).

The main international framework benchmark on due diligence is the [OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High-Risk Areas](#). This framework is comprised of five steps for the implementation of effective risk-based due diligence. Figure 1 illustrates the individual steps for the implementation and the related actions to be taken by companies.

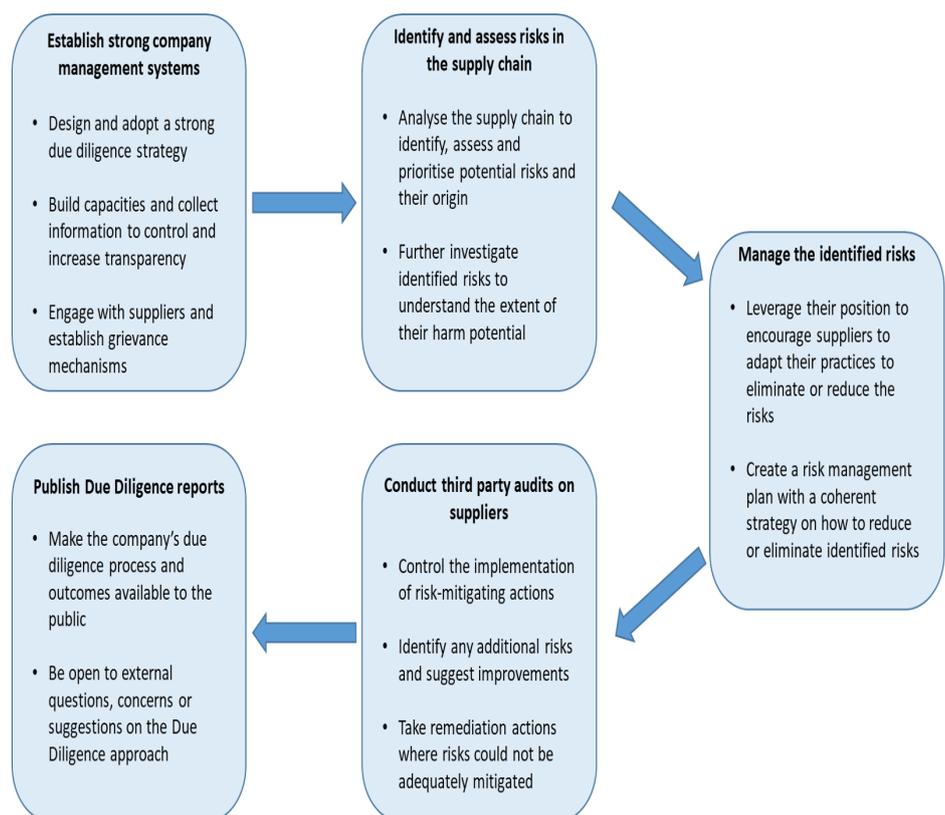


Figure 1: 5 steps of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals¹

¹ Graphic created by the author, based on <https://www.oecd.org/corporate/mne/mining.htm>

2. The effectiveness of due diligence in addressing human rights issues

How has due diligence worked in reducing human rights related issues?

Due Diligence was context specific in its emergence, as it was responding to the plethora of risks associated with sourcing minerals from the African Great Lakes region. This region spans across countries with weak institutions, such as the DRC, Uganda, Burundi and Rwanda, that did not have or could not enforce legislations on labour standards, and suffered from bad governance.



This resulted in mineral sourcing, especially of 3TGs and Cobalt, to be linked to a variety of human rights abuse and other negative social impacts. The main issues related to inhumane working conditions, forced and child labour, sexual violence, armed groups illegally controlling and benefiting from mine sites or transportation routes, extortion by armed groups, bribery and fraudulent misrepresentation of the origin of minerals and money laundering (OECD, 2016: Annex II).

An increased uptake of due diligence measures, motivated by a variety of factors, helped to tackle these issues. These factors include an increased awareness of the public on human rights in mineral sourcing, emphasised through campaigns by Civil Society Organisations (CSOs), news articles and others, such as the movie 'Blood Diamond'. The emergence of first guidance documents supported companies in their uptake of due diligence and addressing issues in their supply chains, which was further encouraged by growing policy and investor pressure to conduct risk assessment (OECD, 2021).

These efforts were further complemented by the emergence of certification schemes such as the [Initiative for Responsible Mining Assurance \(IRMA\)](#). While the aforementioned problems have not been fully resolved, they have been significantly reduced by companies engaging with upstream actors, contractually demanding transparency around the sourcing operations and reporting, proof of compliance with certain responsible sourcing standards as well as on-site controls by third party auditors and grievance mechanisms to report infringements of these requirements (GRI, 2010).

Why was Due Diligence effective in reducing human rights issues along mineral supply chains?

The uptake, implementation and success of due diligence measures for reducing human rights abuses along mineral supply chains has been enabled by efforts from a multitude of actors with different backgrounds. CSOs, globally and on the ground, have played a major role in highlighting and addressing the various issues occurring in mineral supply chains and brought them to the attention of companies, policy makers and the public alike, while fostering dialogue and engagement between downstream and upstream actors.



Companies have implemented due diligence practices in response to compliance requirements with legislation such as the EU Conflict Mineral Regulation or section 1502 of the Dodd-Frank Act; through investor pressure such as financial lenders requiring risk assessments to be undertaken before providing loans/equity (OECD,

2021); and finally due to reputational reasons from consumers which have become more conscious in their purchasing behaviour (Deloitte). This process has been facilitated by the emergence of a multitude of guidelines, standards, tools and other supporting materials which companies can use as guidance for implementing thorough due diligence (Farooki, 2020). In addition, the emergence of a wide array of certification schemes has facilitated the identification of compliant suppliers and generally made the implementation of due diligence measures more accessible to companies.

3. How can this process be transferred to assess environmental risks?



The way that human rights due diligence has been implemented holds many lessons that are transferable to environmental due diligence efforts. For several years, CSOs have been opposing the environmental issues caused by mining activities as well as working with local communities, such as the report on the planned [Llurimagua Copper Mine in Ecuador](#) by the CSO Germanwatch. The external policy, investor and public pressure on companies has expanded to include environmental issues in their risk assessment and mitigation activities.

In addition, national and international regulations on supply chain due diligence are increasingly including environmental requirements such as the [EU Directive on Mandatory Human Rights, Environmental and Good Governance Due Diligence](#), or the French [Loi de Vigilance](#) (Duty of vigilance law). Many of the existing certification schemes for mine sites have incorporated environmental performance into their assessments, paving the way for downstream companies to readily identify suppliers in accordance with environmental sustainability requirements. Different tools have been adapted or created to support companies in their environmental due diligence efforts such as the soon to be published [OECD Practical Tool on Environmental Due Diligence in Mineral Supply Chains](#).

How can environmental risk due diligence work?

As has been outlined in this document, there are several steps that companies can take to implement environmental due diligence along their supply chain.

- 1.** A first step would be to consult resources, such as guidance documents, guidelines or toolkits on environmental due diligence and conduct an initial risk assessment of their suppliers. Examples of such resources include the publication on '[Advancing Reporting on Responsible Mineral Sourcing](#)' by the Global Reporting Initiative (GRI) and Responsible Mineral Initiative (RMI), the soon to be published '[OECD Tool on Environmental Due Diligence in Mineral Supply Chains](#)', or the '[Metals Environmental Risk Assessment Guidance – MERAG](#)' by the International Council on Mining and Metals (ICMM).
- 2.** Furthermore, engaging with certification schemes, such as the ones provided by the [Initiative for Responsible Mining Assurance \(IRMA\)](#) or the [Responsible Minerals Initiative](#), can help to identify additional upstream actors engaging in responsible sourcing practices to procure minerals from.
- 3.** In addition, companies can collaborate with CSOs and certification schemes to start a dialogue with suppliers and get on-the-ground insights on sourcing practices.

4. By looking beyond the required national and international legal frameworks, and into the different aforementioned certification and sustainability schemes, the necessary level of compliance for internationally recognised sustainability practices can be established.

5. Being able to demonstrate, via a report, proper due diligence efforts and risk management systems will also help to satisfy investor and consumer expectations in relation to adequate risk assessment and mitigation. Guidance on reporting practices can be found in the [GRI revised Universal Standards 2021](#), the [GRI Sustainability Reporting Guidelines & Mining and Metals Sector Supplement](#), as well as the [ISO 19011:2018](#) publication, and the [OECD Due Diligence Guidance](#).

Engaging in these actions will provide companies with the ability to identify environmental risks at every level of their supply chain and take necessary actions to mitigate, or where applicable remediate, negative environmental impacts.

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