



How to address bribery and corruption risks in mineral supply chains



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About this booklet

This booklet provides practical answers to frequently asked questions relating to how companies can identify, prevent, mitigate and report on risks of contributing to bribery and corruption through their mineral sourcing.

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (“the Minerals Guidance”) provides due diligence recommendations on how all companies along mineral supply chains, from the miner to the final product manufacturer, should combat bribery and corruption linked to minerals production and trade (OECD, 2016a).

The following FAQs do not represent new or additional guidance but aim to explain in simple terms the recommendations already set out in the Minerals Guidance and other OECD standards and best practice. Note, this booklet does not aspire to be an exhaustive stocktaking of all corruption issues and possible mitigation responses.

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Introduction

The extractives sector has the potential to sustain livelihoods, foster local development through job creation and skills development, bring much needed tax revenue, and increase investment, particularly in conflict-affected and high-risk areas. However, the sector is prone to corruption risks; according to the OECD Foreign Bribery Report, one in five cases of foreign bribery occurs in extractives (mining, quarrying, oil and gas extraction and mining support services activities) (OECD, 2014). Corruption risks may arise, for example, when companies enter into joint ventures, when a government awards or amends mining licenses, when companies subcontract during the exploration or extraction phases, during routine government inspection of mine sites, when minerals are shipped across borders, and in the collection of taxes. Companies or their agents are reported to offer bribes to public officials for favourable treatment, or conversely, public officials may solicit bribes from companies. Company staff are also reported to solicit bribes from other companies. Corrupt behaviour can range from simple acts such as a cash payment to a border guard, or involve complex networks of enablers, corporate entities and sophisticated financial transactions across multiple jurisdictions.

Corruption has a wide range of corrosive effects, depriving countries of revenues, stifling economic growth, distorting markets, undermining the rule of law, and enabling criminal networks and terrorism. Beyond the economic impact, corruption in the mining sector causes harm to people and the environment, often as an enabler of serious human rights abuses and lack of enforcement of environmental and labour obligations (BIAC and IOE, 2020). While many forms of corruption affect both women and men, corruption disproportionately affects vulnerable populations and hits the poor the hardest, especially women. Furthermore, there are specific forms of corruption, such as sexual extortion, where sex is the currency of the bribe, which disproportionately affect women (TI, 2016). Larger companies may be more exposed to grand corruption risks, involving larger sums of money and the potential for greater harm. Likewise, smaller companies and artisanal miners may be more vulnerable to petty corruption and sexual exploitation, particularly in high-risk areas.

While corruption risks certainly exist further down the supply chain, the objective and scope of the Minerals Guidance prioritises risks in the extraction and trade of minerals. Downstream company due diligence is characterised by cascading due diligence responsibilities to upstream business relationships, checking on smelter/refiner due diligence efforts, and supporting upstream efforts where appropriate, including by taking direct action when they have leverage to do so. Also, given the wealth of available resources providing guidance on how companies can effectively carry out anti-corruption compliance on their own operations, the answers provided in this booklet focus primarily on addressing corruption risks in their supply chains.

Key Principles Underpinning the Minerals Guidance

The Minerals Guidance provides practical due diligence recommendations to assist companies in avoiding contributing to serious human rights, conflict and financial crimes through their mineral purchasing decisions and practices. This Guidance is for use by any company in the mineral supply chain potentially sourcing minerals or metals from conflict-affected and high-risk areas. The Minerals Guidance is global in scope, and applies to all mineral supply chains. More information on [the Minerals Guidance](#) and [OECD Responsible Minerals Implementation Programme](#) can be found on their respective webpages.

1. Establish strong management systems

Adopt due-diligence policies and build internal capacity to implement them. Engage with suppliers and business partners. Develop internal controls and transparency over the mineral supply chain, collect data, and set up grievance mechanisms.

3. Manage Risks

Report risk assessment findings to senior management and improve internal systems of control and oversight. Only disengage from suppliers associated with the most harmful impacts. In all other cases, take steps to increase leverage, either individually or collaboratively, to prevent or mitigate risks. Build internal and business-partner capacity.

5. Communicate & report on due diligence

Publicly report on supply chain due diligence policies and practices including by publishing the supply chain risk assessment and management plan, with due regard to business confidentiality and other competitive concerns. Respond to stakeholder questions, concerns, and suggestions.



2. Identify, assess, & prioritise tasks

Review information on the supply chain to identify any red flags that would trigger enhanced due diligence. Delve deeper and map the factual circumstances of the red-flagged operations, supply chains, and business partners. Prioritise risks as set out in Annex II of the Guidance.

4. Audit control points

Carry out independent third-party audits to verify that due-diligence practices have been implemented properly at key “control points” (refiners and smelters for tin, tungsten, tantalum and gold, for example) in the supply chain. Auditors should gather findings and recommend specific improvements to existing processes.



Miners Traders Point of transformation

Market makers Manufacturers End-user

Upstream

- Establish traceability or chain of custody to mine of origin
- For red flagged supply chains, undertake [on-the-ground](#) assessments of mines, producers, and traders for conflict, serious abuses, bribery, tax evasion, fraud, money laundering
- Collaborative engagement with local government, CSOs, local business to prevent and mitigate impacts, monitor
- Report publicly on due diligence efforts

Downstream

- Identify 'choke points' in supply chain (e.g. metal smelter or refiners)
- Collect information on their upstream due diligence (e.g. both through individual efforts and industry auditing)
- Use collective industry leverage to encourage improvement of upstream due diligence
- Report publicly on due diligence efforts

Binding international instruments and domestic laws on the fight against corruption impact companies' operations and supply chains. The United Nations Convention Against Corruption (UNCAC) requires its 187 Parties to criminalise a broad range of corrupt conduct. Many jurisdictions, including all Parties to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention), also establish foreign bribery as a criminal offence. Domestic laws criminalising foreign bribery in particular, such as the US Foreign Corrupt Practices Act and UK Bribery Act, have been a driving force for companies to take action to combat corruption and bribery in their supply chain purchasing practices. These laws may have consequences not only for extractive companies but also for their business relationships which, under certain circumstances, may face risks of criminal liability when purchasing minerals from a company that engages in corrupt practices.

Companies are obliged to comply with the law. All answers in this FAQ take into account that companies should first seek out professional legal advice on applicable anti-corruption laws to understand in which cases they may face criminal, civil, and/or administrative liability as a result of their mineral sourcing practices.

Companies should undertake risk-based due diligence in line with the Minerals Guidance to identify, prevent, and mitigate risks of corruption deeper in the supply chain, potentially outside the scope of criminal liability, but nonetheless directly linked to company operations. Throughout the document, the term 'suppliers' is used to encompass all types of business relationships across the supply chain (e.g. sub-contractors, third parties, suppliers' suppliers, etc.).

Under the Minerals Guidance, due diligence is an on-going process of proactive engagement to identify, prevent and mitigate risks based on available and updated information, and make improvements that address risks over time. Companies should work with their suppliers to drive change and address harmful parts of the supply chain. Constructive engagement with suppliers will enable companies to progressively reduce the risks in their supply chain.

Due diligence should be risk-based. The higher the risk (likelihood and severity) of corruption, the more intensive the due diligence and monitoring that is expected. Companies should furthermore document their process for identifying and prioritising risks to be able to explain the rationale for their due diligence decisions.

The Minerals Guidance has an outward-facing approach to risk. For many companies, the term “risk” means primarily risks to the company – financial risk, market risk, operational risk, reputational risk, etc. OECD Responsible Business Conduct standards, however, refer to the likelihood of adverse impacts on people, the environment and society that companies cause, contribute to, or to which they are directly linked through business relationships in their supply chains.

Identifying, assessing, reporting and mitigating risks as per the 5 steps of the Minerals Guidance can demonstrate reasonable and good faith due diligence efforts. In many jurisdictions, these good faith efforts may be taken into account by law enforcement agencies as a defence or mitigating factor when they face regulatory action or prosecution for bribery and corruption.

Industry and multi-stakeholder initiatives are encouraged to take on activities that help members assess the circumstances of their supply chains while sharing costs and reducing the burden of data collection. **While cooperation across industry groups, local partners, and civil society organisations is encouraged, the ultimate responsibility to carry out appropriate due diligence on supply chains lies with the company itself.**

Frequently Asked Questions

Q1

What do bribery and corruption mean in the context of supply chain due diligence?

The Minerals Guidance lists bribery as one of the priority risks companies should address in their supply chains. As per the Model Supply Chain Policy in Annex II of the Minerals Guidance, companies commit that they will not offer, promise, give or demand any bribes, and resist the solicitation of bribes from others.

Box 1. Corruption terminology

- **Bribery & corruption:** While there is no internationally agreed definition of corruption, it is often defined as the abuse of entrusted power for private gain, while bribery is the offering, promising, giving, accepting or soliciting of an undue advantage (including non-pecuniary advantages such as sexual favours, a job, gifts, paid travel) as an inducement for an act or omission. Note, it is still bribery under the Anti-Bribery Convention if the bribe was given/taken in order for someone to perform their duty (i.e. even if the act or omission is not necessarily undue, illegal, unethical or a breach of trust). Corruption is generally broader than what is obtained by bribery, as it can include fraud, embezzlement, misappropriation of funds, etc.
- **Grand corruption:** A public official or other person deprives a particular social group or substantial part of the population of a State of a fundamental right; or causes the State or any of its people a loss greater than 100 times the annual minimum subsistence income of its people; as a result of bribery, embezzlement or other corruption offence.
- **Petty corruption:** Everyday abuse of entrusted power by public officials in their interactions with citizens, who often are trying to access goods or services in places like mine sites, mineral transport routes, security checkpoints, trading houses, airports and ports.
- **Facilitation payments:** Commonly known as "grease payments," these are small bribes to speed up routine governmental actions that the payer would have otherwise been entitled to (e.g. provision of electricity, speeding up the processing of a permit, etc.). While a small number of countries may provide an exemption for small facilitation payments under their foreign bribery laws, most countries extend bribery laws to these types of payments, including countries where the payments may be made. In all cases, even in most countries where facilitation payments may be permissible, such payments must be accurately accounted for in companies' books and financial records. When small facilitation payments are not criminalised, countries can and should address this phenomenon by such means as support for programmes of good governance [Commentary 9 on Article 1 of the OECD Anti-Bribery Convention].
- **Business to business (B2B) corruption:** Although bribes are often associated with public officials, companies may bribe other companies to unduly influence procurement processes to obtain sub-contracts, for example in logistics, transport, customs clearing or security of large-scale mining operations. Where insufficient due diligence is carried out on B2B corruption, there might be a risk of infiltration and indirect support to criminal and non-state armed groups in the supply chain, fraud and money laundering, or an indirect way of bribing a public official if a sub-contracted company is controlled by politically exposed persons (PEPs).¹

Source: Transparency International, no date.

¹ PEPs generally cover government officials, political party officials, senior executives, relatives and close associates. See Financial Action Task Force (FATF), 2013 for more detail on the definition.

The Minerals Guidance also explicitly references other international anti-corruption legal instruments, including the OECD Anti-Bribery Convention, the UNCAC, and the OECD MNE Guidelines. The MNE Guidelines are the foundational instrument behind the Guidance and place a comprehensive set of expectations on companies regarding bribery, which covers the following:

“Enterprises should not offer, promise or give undue pecuniary or other advantage to public officials or the employees of business partners. Likewise, enterprises should not request, agree to, or accept undue pecuniary or other advantage from public officials or the employees of business partners.

Enterprises should not use third parties such as agents and other intermediaries, consultants, representatives, distributors, consortia, contractors and suppliers and joint venture partners for channelling undue pecuniary or other advantages to public officials, or to employees of their business partners or to their relatives or business associates” (OECD, 2011).

These instruments encourage companies to identify, mitigate and prevent corruption across their supply chains, thus going beyond direct suppliers. For more information on how to conduct risk identification and mitigation on commercial relationships many tiers away, please see Q.4 and Q.8 below.

Q2

In what circumstances is mining and trade of minerals most vulnerable to corruption risks?

The below represents an indicative, non-exhaustive list of circumstances in the upstream part of the supply chain (mine to refiner) that are particularly vulnerable to corruption risks. See also Annex B for more detail on specific red flags that arise in the below circumstances.

Table 1. Circumstances of vulnerability in the upstream part of mineral value and supply chain

Award of contracts and licenses	<ul style="list-style-type: none"> • Potential for undue influence on the decision by policy makers to allow for extraction, exploration or expansion • Discretionary bid evaluation or mining rights allocation processes • Asymmetries in information (e.g. on value of reserves) and lack of legal and technical capacity of authorities • Lack of demonstrated experience in the sector from a partner in the consortium • Opacity of beneficial ownership of bidders, partners, associated interests and terms of contracts • Local content requirements that force engagement with state-owned enterprises (SOEs) or their subsidiaries
Consent and compensation of affected communities	<ul style="list-style-type: none"> • Underestimation of environmental and social impacts or overestimation of economic benefits in Free Prior and Informed Consent (FPIC), Environmental and Social Impact Assessment (ESIA) and resettlement approvals • Opaque land tenure and community decision making systems (including in FPIC, ESIA and resettlement processes); unclear rules regarding consultation, limited consultation, information not easily accessible to communities
Extraction, production, and trade	<ul style="list-style-type: none"> • Weak regulations and/or lack of / uneven enforcement of applicable laws and regulations • Dealing with SOEs and SOE subsidiaries: preferential access to sales contracts or favourable terms, and dealing with officials with conflict of interests through opaque entities • History of inappropriate use of force, solicitation and extortion by private/public security forces for the illegal extraction and trade of minerals, including sexual extortion • Lack of transparency in negotiating and contracting procurement of goods, services, and infrastructure associated with mining, including public/private security services; service providers with little/no business track record and opaque ownership • Public officials have a history or reputation of requesting bribes to fraudulently provide documentation related to due diligence certification, transport and export, valuation of minerals, misreporting or misclassification of minerals
Paying taxes, fees, royalties and payments to other funds	<ul style="list-style-type: none"> • Discretionary taxation regimes and other government fees, with special attention to SOEs and suppliers; undisclosed contracts • Lack of government capacity and expertise leading to inefficient taxation regimes and other government fees • Opacity of beneficial ownership and governance structures of key actors involved in the supply chain • Unclear rules and weak governance around donations (in particular to PEPs), charitable giving, social development funds and payments to traditional authorities

Source: Adapted from OECD, 2016b; LTRC, 2020; Transparency International Accountable Mining Programme, 2017

Q3

What management systems should my company put in place to identify and address corruption risks in my supply chain?

Establish or adapt any existing anti-corruption compliance programme for risks arising from the company's own operations and business relationships in the supply chain. Step 1 of the Minerals Guidance expects companies to set up strong management systems, and this includes anti-corruption controls. In some countries, having a robust system of compliance in place is required by law or can help as a defence or mitigating circumstance if bribery allegations in the supply chain do arise.

An effective anti-corruption compliance system can be based on the Good Practice Guidance (GPG) on Internal Controls, Ethics and Compliance.² This should include, inter alia, commitments from the board of directors (or equivalent body) and senior management to a strong anti-corruption policy, an employee code of conduct, periodic and targeted ethics and compliance risk assessments, a compliance training programme and adequate disciplinary measures in case of breach (OECD, 2010; see also e.g. OECD, 2013, FCPA Resource Guide, 2012: 57-65, G20, 2015).

The compliance programme should include a system of confidential reporting of concerns or suspicion of irregularity (**whistle-blower mechanism or operational-level grievance mechanism**), guaranteeing confidentiality, adequate follow-up, protection from retaliatory measures, and gender sensitivity (OECD, 2018). Gender sensitivity in corruption reporting and whistle-blowing is highly influenced by contextual, social and demographic characteristics (U4, 2020). Whistle-blower mechanisms should be regularly reviewed to ensure they are operating effectively, for example the case of no reports in the whistle-blower hotline is rarely a sign of no corruption, rather a sign that people don't feel comfortable reporting wrongdoing. To increase the effectiveness of their management systems, companies should allocate adequate resources towards stakeholder engagement at all stages of the due diligence process. This includes engagement with institutions in the broader accountability environment such international organisations and local and international civil society.

Set up an inter-departmental system to address corruption risks in the supply chain. Since corruption risks are not only an ethics question but also a legal compliance matter, anti-corruption oversight requires close collaboration between several departments and at all levels of seniority in the company, including:

- Board of directors (or equivalent body) / Senior Management
- Compliance / Legal / Human Resources
- Supply / Procurement
- Accounting / Finance / Information Technology
- Corporate Social Responsibility / Sustainability
- Operations / Security

² The Good Practice Guidance on Internal Controls, Ethics and Compliance (GPG) set forth in Annex II of the Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions ("2009 Anti-Bribery Recommendation") [[OECD/LEGAL/0378](#)] assists companies in developing a risk assessment based on their individual circumstances.

Box 2. Are SMEs also required to put in place supply chain management systems?

The Minerals Guidance expects companies to carry out due diligence in a way that is commensurate with the size and risk exposure of the company. While SMEs may not be able to establish the same sophisticated management systems as large companies, they are still expected to demonstrate best efforts towards establishing internal management systems, and understanding and addressing their supply chain risks. Therefore, relevant staff (e.g. procurement, legal, or operations staff) should integrate due diligence responsibilities as part of their broader job descriptions, and adequate resources be made available for them to effectively carry out their role (e.g. training, administrative and logistical support, etc). Given their smaller size, individuals in SMEs often have multiple overlapping functions in the firm, which also enables easier functional alignment and coordination on due diligence processes and decision-making. However, the practice of overlapping functions may result in difficulties in maintaining independence of the compliance function from other business decisions. SMEs should hence establish documented roles and responsibilities for the relevant staff in charge of compliance. Top-level managers may need to be personally involved in initiating, developing and implementing bribery prevention procedures.

SMEs are likely to have fewer suppliers and long-lasting business relationships with them, which should help them meet expectations to provide due diligence information when it may be requested from business partners. SMEs should consider to periodically review or renew contracts with contractors, consultants and suppliers to identify corruption red flags or insert appropriate anti-corruption safeguards in such contracts. A very small business may be able to rely on periodic oral briefings to communicate its policies, but should ensure that appropriate records of measures are taken. SMEs with many suppliers should consider joining an industry association to combine forces with other companies and increase their leverage. Industry associations often provide helpful tools for mapping supply chains, specialised data collection services and software, model supplier contracts, due diligence reporting templates, avenues for engagement with local civil society organisations, and general advice and support on resisting solicitation of bribes and extortion.

Source: United Kingdom Ministry of Justice, 2011

Q4

My company has multiple suppliers and sub-suppliers. Should all be subject to the same type of corruption-related risk assessments?

Mineral supply chains are often complex and fragmented and can include many tiers between the mining stage and certain manufactured goods. All business relationships should be subject to some level of scrutiny, but the extent of such scrutiny can be informed by a risk-based approach.

Risk-based approach. Consistent with the Minerals Guidance, several guidelines adopted in international fora encourage companies to use a risk-based approach when conducting due diligence on corruption throughout the supply chain (OECD, 2018; World Economic Forum, 2013; UN Global Compact, 2016). Companies should apply enhanced scrutiny to their suppliers and/or sub-suppliers, as well as in cases of mergers and acquisitions, if they encounter one of the below high-risk scenarios (PACI, 2013; G20, 2015; NRG1, 2020).

Table 2. High-risk scenarios

	High-risk scenarios	Non-exhaustive list of potential sources
Geographic location	Operating in a country with serious legal, judicial or implementation gaps in the anti-corruption framework, including weak implementation (or absence) of conflict of interest rules, revolving doors, and political donations by mining companies	OECD and UNODC anti-corruption country monitoring reports, and Extractive Industries Transparency Initiative (EITI) reports where available, Corruption Perception Index, Council Of Europe GRECO and Organisation of American States MESICIC
	Registered in a jurisdiction that presents financial secrecy risks or identified as tax haven	Financial Action Task Force list of high-risk and non-cooperative jurisdictions and European Union list of non-cooperative jurisdictions; Tax Justice Network Indexes; Basel Anti-Money Laundering Index
	Operating in country that encourages or requires relying on local agents to negotiate or obtain government contracts	
	Operating in a country with local content / offset obligations that might provide an avenue for current or former PEPs, especially sub-national government officials, to take advantage of these obligations to gain undue advantage in the award of these contracts	
Industry sub-sector	Operating in a sector perceived as prone to corruption or lacking a history of anti-corruption enforcement. As mentioned, the extractive sector is generally considered high-risk for corruption, but companies should consider risks related to the sub-sector (e.g. extraction, transport, handling, trading, processing, smelting, refining and alloying, manufacturing or selling).	Annual OECD data on enforcement of the Anti-Bribery Convention and the OECD Foreign Bribery Report
Background, identity, or function of the supplier (or key personnel)	Undisclosed beneficial ownership	
	The supplier has been or is subject to regulatory action, prosecution and/or legal proceedings relating to corruption and related offenses	Trace Compendium of Bribery Cases
	The supplier features on designated persons/entities lists as a result of alleged corrupt behaviour or other financial crimes	
	The supplier is recommended by or is imposed by a government agent or third party intermediary	
	The suppliers past anti-corruption audit reports, surveys of current employees or external parties and mitigating controls conclusions identify specific risks in the suppliers operations or absence thereof	
	Internet searches reveal grave and/or recurrent allegations with regards to the suppliers integrity	Basel Open Intelligence
	The supplier has changed names / disguised its name over time to hide political connections or illicit practices	
Connection to the government, government officials, or politically exposed persons (PEPs)	The supplier's joint ventures with SOEs are opaque (e.g. lack of transparency on contract terms, revenue management, and oversight)	
	The supplier is (completely or partially) owned by the government or PEPs, including SOEs and statutory corporations, or relies on a substantial amount of its business from an SOE	
	The suppliers key personnel worked with or for the government or appears to be closely connected with the political elite	
	The supplier is considered to be of public or special interest, and receives subsidies or loans from the state and/or is exempt from rules related to public procurement, taxation, disclosure, etc.	

A number of resources helpful for gathering the above information for corruption risk assessments are available in Annex A of this FAQ.

Large-Scale Mining (LSM) and Artisanal and Small-Scale Mining (ASM). In many contexts scrutiny should be as thorough for large-scale mining as it is for artisanal and small-scale mining, since corruption risks affect extractive and mineral trading companies both large and small, as well as artisanal mining cooperatives. Larger companies may be more exposed to grand corruption risks, involving larger sums of money and the potential for greater harm. Likewise, smaller companies may be more vulnerable to petty corruption, solicitation, sexual exploitation and extortion, particularly in high-risk areas. Companies should prioritise due diligence efforts based on the scale and scope of the adverse impact of the corruption.

Not all informal ASM is criminally sanctioned. In many countries ASM takes place in a regulatory grey zone, whereby its role is not explicitly recognised by the relevant legislation, but is largely tolerated.³ When taking place in contexts of high degree of informality, ASM mining and mineral trading activities will also be characterised by unrecorded transactions and complex payment structures. Cash transactions usually bear greater risk, but are often the only available option in sectors or areas with low or inexistent levels of financial inclusion (OECD, 2016c).



Q5

What should my company check for when conducting an anti-corruption risk assessment of high-risk suppliers?

Data collection can start with desk research on the supplier and the context in which they are operating. This can include internet, database and media searches, including sanctions lists and PEP screening, to obtain information about the supplier's integrity profile and to identify flagrant problems which may be of public knowledge. Desk research can be complemented by an internal questionnaire, to be completed by relevant departments, and an external questionnaire to be completed by the supplier. Validation of data should look at inconsistencies and gaps, and can involve the assistance of external risk assessment services where appropriate (WEF, 2013). Companies can refer to model questionnaires and red flag checklists, for example those developed by the WEF Partnering Against Corruption Initiative and the Natural Resource Governance Initiative.

Companies should consider checking the supplier for the following elements:

- Internal oversight and independence of ethics and compliance policies, programmes or measures, including the authority to report matters to monitoring bodies such as whistle-blower and grievance mechanisms, internal audit committees, or supervisory boards. For example, checking the number of complaints as well as the frequency and minutes of audit committee meetings.
- Payment information and contractual relationship information between the supplier and government entities.
- Payment information, ownership and governance arrangements between supplier and its state shareholder in the case of SOEs.
- Beneficial ownership information of the supplier or of any of its third parties potentially linked to risk (joint venture partner, subcontractor, sub-supplier, etc.).

³ The Minerals Guidance encourages companies to engage with legitimate ASM and provides a framework for engaging with ASM, presenting measures to create economic and development opportunities for artisanal and small-scale miners in the Appendix of the Minerals Guidance and the FAQ on sourcing from ASM (OECD, 2016c).

- Information on remuneration of the supplier to any third parties linked to risk (joint venture partner, subcontractor, sub-supplier, shell companies with unidentified beneficial owners etc.), to verify it is appropriate and for legitimate services only.
- Previous demonstrated experience in the sector.
- Prior involvement with other high-risk companies.
- Appropriate implementation of disciplinary and remediation procedures to address violations at all levels of the company.
- Transparent accounting practices according to international standards.

These elements should be part of the pre-contractual check, plus any later ongoing checks as per Q.6.

Depending on the level of risks, accounting firms and law firms may be helpful additional resources for internal personnel to identify risks and propose mitigation measures.



Q6

How can my company work with suppliers to ensure they have effective anti-corruption management systems in place?

Assess the strength of suppliers' due diligence systems in pre-contractual evaluations. Companies should carry out pre-contractual assessment of their suppliers' due diligence systems. It will be important to assess the strength of suppliers' due diligence systems for corruption, checking that supply chain business relationships are included within the scope of these systems, and how corruption risks are dealt with. The assessment should include not only systems and policies in place, but also the suppliers' resources available to carry out due diligence.

Integrate anti-corruption policies and clauses into suppliers' codes of conduct, contracts or other types of written agreements. Companies should communicate clearly to their suppliers that corrupt practices will not be tolerated and have consequences for the commercial relationship with the customer.

Companies can ask suppliers to adopt similar anti-corruption policies, or they can integrate significant sections thereof into existing supplier codes of conduct. The codes and policies should in turn be applied to the suppliers' own suppliers. Companies should always include anti-corruption clauses in their supplier contracts, detailing consequences in case terms are not respected, especially in cases where a pre-contractual assessment identified corruption risks.

In that case, companies should also implement mechanisms to ensure that the suppliers' contract terms specifically describe the services to be performed, that the payment terms are appropriate, that the described contractual work is performed and that compensation is commensurate with the services rendered and that payments made to suppliers can be monitored (in order to ensure that suppliers are paid in accordance with the contract) (US DOJ, 2020).

Box 3. Anti-corruption model clauses in supplier contracts

The International Chamber of Commerce (ICC) has drafted and published a model clause that can be integrated into any third-party agreement, including supplier contracts (ICC, 2012). The key elements include the prohibition of corrupt practices; the right to audit alleged corrupt practices, conducting spot checks, including right to access any relevant contractual and financial information; and the right to terminate a contract in case of serious or repeated allegations of corrupt practices. If the supply contracts include performance deadlines and penalties for late performance, companies should “exclude liability delays resulting from bribery demands from government entities and require immediate reporting of such demands to customer” (UN Global Compact, 2016).

Examples of anti-bribery contractual provisions, protocols and other internal measures can be found in Transparency International UK and Transparency International USA, 2016.

Provide regular anti-corruption training. Companies (or industry associations) should provide dedicated training to internal staff, and relevant staff of subsidiaries and joint ventures. Companies may also offer training to suppliers in high-risk supply chains, supplement existing training, or work with suppliers to develop training specific to the supplier. This can be conducted in-person, through web-based modules, through interactive modules, or one-way communication, or a combination of these measures in a “train the trainer” approach. To increase effectiveness, trainings should follow best practices highlighted in OECD, 2020a.

Supplier monitoring. Taking the following steps will strengthen visibility and safeguards with suppliers:

- Require that supplier internal compliance and due diligence systems conform with local and international regulation; and that these standards and systems are integrated into suppliers’ management processes.
- Require suppliers, sub-contractors, and their supply chains adhere to anti-corruption clauses of supplier agreements. This can be done periodically through exercising the right to audit, supplier questionnaires, spot checks, and risk assessments that include targeted questions about supplier’s anti-corruption policies, training, oversight and practices, as well as corporate structure (including beneficial ownership). Such questions should address the risks that are specific to the extractive sector and geography where the supplier is operating. The more detailed the questions of the questionnaire, the more useful they are in actually detecting risks.
- Extend the company’s whistle-blower mechanism to suppliers, including multi-language support and relevant promotion clauses in agreements or monitor the effectiveness of the suppliers’ whistle-blower mechanism (e.g. number of complaints received).
- Require the supplier has diverse oversight of the due diligence and contracting processes, i.e. a process that includes approvals from multiple divisions and the company’s leadership (see Q.3 for list of potential relevant departments).

Q7

My company has identified corruption risks linked to a direct supplier. How can I prevent or mitigate this risk?

In some cases, the company should decide not to work with the party at all to prevent potential corruption risks (e.g. if the indicators listed in Table 2 of this document are present). In others, it may choose to manage the risk through tailored mitigation measures, and then assess their effectiveness regularly. Companies can establish detailed policies on third parties they will not work with (e.g. on PEPs, agents, suppliers and sub-suppliers with undisclosed beneficial ownership) and make these policies public where relevant.

A company which has identified corruption risks linked to a direct supplier should first attempt to investigate the allegations and adopt a risk management plan. Beyond seeking immediate legal advice on anti-corruption issues, the company should take reasonable steps to gather facts related to the allegation in order to make the most informed decision on how to proceed. This is especially relevant in circumstances where a direct supplier might be considered an intermediary or under effective control. This includes consulting and gathering information from relevant sources and stakeholders beyond your direct supplier, such as government officials, the press, local and international civil society, and other businesses and local trade organisations. Companies should also consider whether they have any mandatory reporting obligations to law enforcement, including under anti-money laundering or related laws.⁴

Given the direct relationship with the supplier, the company can exercise its contractually-agreed audit rights to investigate the allegation by collecting and reviewing documents and conducting interviews with relevant employees. Companies can also require the supplier to disclose any steps taken to manage the risk (e.g. codes of conduct, anti-corruption trainings, internal disciplinary actions, internal audits, etc.). If companies lack leverage to compel direct suppliers to disclose relevant due diligence information, they are encouraged to collaborate with other companies, industry associations and other stakeholders (government or civil society) to apply stronger collective force. For more detail on how to increase and exercise leverage, please see Q.8 on collective action.

Depending on the context of the allegations against or concerns about your direct supplier and the potential legal liability, the Minerals Guidance does not recommend immediate disengagement from the business relationship without adopting a risk management plan. If after six months, a reasonable risk still exists and attempts at mitigation have failed, then companies should consider suspending or disengaging completely from the relationship with this supplier.

If a reasonable risk of bribery exists, companies should request that their suppliers undergo audits, take disciplinary or legal action against responsible employees or business counterparts, disclose beneficial ownership information and foreign bribery allegations, and fully cooperate with law enforcement authorities, not only in the country of operation but also in their home country. Where relevant, companies are expected to provide remediation (see Q.12 for more detail). Where upstream suppliers fail to prevent or mitigate risks of adverse impacts and do not achieve measurable improvements in reasonable timescales, companies should consider suspending or discontinuing engagement.

⁴ It is worth noting that a number of countries that rely on non-trial resolutions (for example settlements or deferred prosecution agreements) to resolve bribery cases vis-à-vis companies, make self-reporting a condition, or at least an essential element, for relying on non-trial resolutions.

Q8

As a downstream company, my company has identified credible corruption allegations in the supply chain beyond my direct supplier (i.e. several tiers away from me). How can my company increase leverage on an indirect supplier to drive change?

Companies may be linked to corruption risks through their purchasing practices, as suppliers many tiers further up the supply chain (e.g. miners, traders, refiners) could be involved in bribery or other forms of corruption, which could expose companies to criminal/civil liability in some jurisdictions.

For corruption risks, the Minerals Guidance recommends that companies adopt and implement a mitigation plan for the supplier and cascade anti-corruption measures further upstream before considering disengagement. Mitigation/prevention measures should start as soon as risks are identified; this ranges from undisclosed beneficial ownership to confirmed reports of bribery. Measures should be commensurate with and tailored to the type of risk identified.

Because of their purchasing power, some companies (such as large consumer-facing manufactures) may have sufficient leverage on the party linked to bribery even when they are located many tiers away in the supply chain. Where this is the case, please see Q.7 for direct mitigation measures.

Leverage may be limited where no direct relationship exists with the party potentially involved in corruption. Companies can increase their leverage in various ways:

- **Cascading contractual clauses**. Companies can include due diligence and integrity expectations in contracts to reach further up in the supply chain and track the implementation thereof. Material flow down provisions⁵ can play an important role in providing legal ground to exert pressure on suppliers across many tiers in the supply chain. This can also include rights to review the supplier's audits and records.
- **Cross-industry collaboration**. Companies can join forces with their peers, usually at a similar position in the supply chain, to apply pressure on specific issues such as corruption. This can be done via established fora, such as industry associations, multi-stakeholder groups and High Level Reporting Mechanisms⁶ where available, or by working with buyers from the same supplier associated to corruption risks. Collaboration is particularly relevant when the supplier associated to corruption risks has a dominant position in the market, or when the company has limited buying power (i.e. when the company does not represent a significant portion of business of the problematic supplier, or the company has only a short-term business relationship), and should be carried out with due regards for business confidentiality and other competitive concerns.⁷

⁵ Cascading (or flow down) contractual clauses require suppliers to proactively cascade requirements (for example related to anti-corruption) in their supply chain beyond their own direct suppliers.

⁶ The High Level Reporting Mechanism (HLRM), jointly developed by the OECD and the Basel Institute of Governance, is a reporting mechanism created by a group of international stakeholders to effectively address complaints of bribery solicitation and related practices that involve public officials. Upon receipt of a complaint, the HLRM triggers a process of rapid analysis and pragmatic response on the part of a government, customised according to the reality of different countries. Examples of different contexts can include public procurement, the issuance of commercial licenses, tax refunds and the release of goods by customs authorities (OECD website; OECD, 2020).

⁷ Business confidentiality and other competitive concerns means price information and supplier relationships. All information will be disclosed to any institutionalised mechanism, regional or global, once in place with the mandate to collect and process information on minerals. For more detail on supply chain due diligence and competition law, see OECD (2015).

- **Focus on control points.** Downstream companies may apply pressure at identified control points⁸ that are subject to annual third-party audits. Companies can verify whether control points are adequately carrying out the risk assessments and implementing measurable risk mitigation strategies, can signal corruption risks linked to certain suppliers or geographies to the control point and require auditors with the appropriate skills to check integrity processes. Industry programmes or institutionalised mechanisms should include effective anti-corruption due diligence checks in their audits of control points.
- **Investor/financial pressure.** Investors and financial institutions may play a major role in changing the behaviour of companies they lend to. Companies can work together with investors and financial institutions to prompt shareholder activism on specific anti-corruption issues in suppliers many tiers away. Institutional investors in particular may help to influence anti-corruption policies taken by companies. Failure to implement such policies, or breaches of such policies, may also lead to companies being unable to access certain funding, such as from development finance institutions, or in the form of export credits (OECD, 2017). Suppliers positively reacting to shareholder pressure report higher stock price, better price resilience, higher reported investor satisfaction, and better access to cheaper financing (OECD, 2016d).

The Minerals Guidance specifically recommends that, if within six months from the adoption of the risk management plan there is no significant measurable improvement to prevent or mitigate the risks of bribery and corruption, companies should suspend or discontinue engagement with the supplier for a minimum of three months. Suspension may be accompanied by a revised risk management plan, stating the performance objectives for progressive improvement that should be met before resuming the trade relationship.



Q9

My suppliers are exposed to petty corruption at mining sites, while transporting minerals or at trading and exporting centres. What should I do?

Petty corruption is an especially complex and nuanced issue and may be systemic in contexts where public officials are not regularly paid, where rules are arbitrarily enforced and security arrangements are not formalised. Reported cases of petty corruption may involve public and private security officials soliciting bribes, in-kind contributions (e.g. a share of the minerals) or other gifts or commissions. The risk of solicitation of sexual extortion can be high given the stark power disparity that often accompanies artisanal mining, which engages women for almost half its workforce across digging, washing, and trading functions, and the presence of children on mine sites in some cases (Transparency International Accountable Mining Programme, 2021).

According to the Minerals Guidance, in the cases of direct or indirect support to public security forces and bribery, a company may continue sourcing or temporarily suspend the relationship with a supplier to promote progressive performance improvement within reasonable timescales. For example, companies should consider requesting additional information from the supplier, checking the supplier's policies on

⁸ Control points under the Minerals Guidance are key points of transformation in the supply chain where traceability or chain of custody information may be aggregated or lost, and where the smallest number of actors process or handle the largest amount of inputs, while having a good level of visibility and leverage over the upstream supply chain (OECD, 2018). The Minerals Guidance expects third-party audits at control points, usually at the smelter/refiner level for most metal supply chains.

handling corruption incidents, reviewing the effectiveness of the supplier's compliance programme via a third-party audit, and carrying out trainings focused on corruption risk identification and mitigation.

When the supplier is exposed to solicitation of bribes from public officials, it shall resist paying the bribe, until the threat of the use of force by the official becomes apparent.⁹ The supplier should immediately report to the relevant law enforcement agency according to national laws in the country of operation and their home country, and, when available, through grievance mechanisms and local monitoring committees.¹⁰ Where such committees do not exist, companies could still consult local stakeholders, but need to be inclusive, effective and context-sensitive in doing so (OECD, 2017b).

Companies could explore whether senior members of the relevant law enforcement agency (or the agency soliciting bribes) or other government authorities might intervene, escalate it to provincial or national-level committees where these are available, and join forces with other companies that face the same problem to apply joint pressure (see Q.8 above). For exposure to bribe solicitation in public procurement in particular, companies could make use of High Level Reporting Mechanisms (HLRMs) when available (OECD, 2020b), and contact their home country's diplomatic representation for advice.

Whenever possible, companies should privilege using wire transfers to make payments to the appropriate authorities and avoid handing cash payments to state agents, or public or private security forces on site.

B2B petty corruption may also be applicable to the ASM sector. For example, in those jurisdictions where artisanal miners can only sell their mineral production through a cooperative, the cooperative management might solicit unofficial payments or a portion of the production of ASM miners to allow them to market their minerals, often without providing meaningful services to miners in return. In some cases, PEPs might be part of the cooperative management and political affiliation may represent the main factor behind the decision to allocate a certain cooperative for an artisanal mining zone, and sometimes the existence of the cooperative itself. PEPs may be involved in other points of the ASM supply chain, such as transporting, trading and refining.

Particularly in these cases, companies should prioritise addressing potential adverse impacts for miners by encouraging more equitable relationships between artisanal miners and entities they depend on to market their minerals. Risk management plans could entail, for example, stipulating in supply agreements basic terms of cooperatives' relationships with artisanal miners, mandating disclosure of fees charged to artisanal miners and building capacity among ASM cooperatives in areas such as governance, access to finance and production techniques (OECD, 2019).

In any case, the company should record all informal payments, commissions, gifts and in-kind contributions, and monitor trends when the issue is not resolved quickly, or in case of multiple incidents, to demonstrate improvements over time. Moreover, the company should maintain written documentation of all mitigation attempts, even when these have not been successful. The documentation can be shown to buyers and auditors, and if necessary law enforcement authorities, to demonstrate good faith effort to mitigate petty corruption risks.

⁹ Under Annex I.A.1 of the 2009 Anti-Bribery Recommendation, the Anti-Bribery Convention should be implemented in such a way that it does not provide a defence or exception where the foreign public official solicits a bribe. Furthermore, the UNCAC requires the criminalisation of bribe solicitation by national public officials.

¹⁰ One of the recommended options for undertaking risk identification, analysis and management is the establishment of multi-stakeholder risk monitoring committees composed of members of the government, business, and civil society. These multi-stakeholder committees can assist in the establishment of assessment teams for extraction sites, transport routes and trading points. They provide a continuous source of information to identify emerging risks, analyse them jointly and formulate risk management and mitigation measures. See the Appendix of the Minerals Guidance for more detail.

Q10

How should companies deal with payments made to traditional authorities or customary institutions?

Corruption can reportedly be disguised as payments made towards community stakeholder engagement. For example, companies may promise or give payments, gifts, food support, or other advantages to community leaders to obtain approval for an extraction project on indigenous land. Likewise, community leaders may appear to tolerate, solicit, or even encourage payment for companies to retain business or other improper advantage. If the advantage is not permitted or required by written law or regulation (including case law), companies should suspend payments until they obtain lawful authorisation by sub-national or national authorities as basis for the request of the payments. There is an important nuance as to the nature of these payments, in particular when it comes to payments to traditional authorities (individuals) as opposed to payments to communities.

Payments to communities can be made for a range of legitimate reasons including as part of legislatively required community development agreements, as compensation for certain rights or permissions (e.g. access to land) and as part of voluntary benefit sharing agreements with the community. In some contexts, community leaders may have both a quasi-governmental legitimacy but informal nature and request payments as part of the traditional tithing system.

Under the OECD Anti-Bribery Convention, offering, giving or promising a bribe is an offence irrespective of perceptions of local custom and the tolerance of such payments by local authorities (Commentary 7 to Article 1 of the OECD Anti-Bribery Convention).¹¹

Companies should check that their suppliers have in place and enforce policies that require robust governance structures to be set up for local community development funds. Where the parameters for these funds are not explicitly dictated by law, companies should make every effort to publicly consult with local stakeholder representatives to determine and disclose, at a minimum, the following elements:

- The amount of payment requested;
- How these payments are made and to whom, and, where applicable, who has oversight over the disbursement of the funds;
- The intended use of the funds, how the intended use was determined, and resulting projects (which should also be monitored).

Meaningful stakeholder engagement will also help companies navigate local communities' expectations with regards to local community development funds. Disclosure of this information should be made in conformity with the standards adopted as part of the relevant national EITI process in application of Requirements 4.6 and 5.2 of the EITI Standard on subnational payments and subnational transfers. This is required in EITI implementing countries and disclosure in the same manner is recommended in countries not implementing the EITI Standard.

In cases where a supplier is identified as facing risks of unlawful payments to traditional authorities, companies may continue sourcing from their supplier while simultaneously seeking to implement a risk mitigation plan. As recommended by the Minerals Guidance, if within six months from the adoption of the risk management plan there is no significant measurable improvement to prevent or mitigate the risks, companies should suspend or discontinue engagement with the supplier for a minimum of three months and until improvement.

¹¹ This will not constitute an offence only if the advantage was required or permitted by written law or regulation (Commentary 8 to Article 1 of the OECD Anti-Bribery Convention).

Q11**My company has identified corruption risks in my supply chain. How do I communicate anti-corruption due diligence in my annual due diligence reporting?**

Communication of corruption risks should follow the same recommendations as with other risks.¹² Reports should provide detail on the key findings from the risk assessment and actions taken by the company to address identified risks (e.g. management systems established; risk assessment methodology implemented; corresponding due diligence measures in line with the Minerals Guidance and relevant foreign bribery compliance laws; steps taken to identify and manage risks; and efforts made to monitor and track performance for risk mitigation).

It is critical for companies to document and disclose agreed improvement plans, criteria for assessing progressive improvements, track performance and set timelines for significant and measurable improvements. These should also include availability and easy access to guidance relating to compliance policies for employees; follow-up to internal reports of alleged misconduct.

Companies should include in their plan the risks that remain even after considering the risk reduction impact of due diligence and monitoring (OECD – UNODC – World Bank, 2013). In many jurisdictions, implementation of an effective anti-bribery and corruption framework (including policies and procedures) can be used by companies as a defence or mitigating factor when bribery is discovered. Documenting (including by collecting evidence) proactive and regular due diligence and supplier engagement will showcase that due diligence and risk assessments are taken seriously and integrated into every day company activities.

Q12**How can a company remediate the adverse impacts related to grand corruption in the supply chain?**

Remediation refers to the processes and to the substantive outcomes that can counteract, or “make good”, the adverse impact. Remediation is a crucial element of international RBC instruments, such as the OECD Guidance for Responsible Business Conduct, which provides practical recommendations and advice to companies to implement the MNE Guidelines. The Due Diligence Guidance for Responsible Business Conduct and the Minerals Guidance are complementary and companies can find more information on remediation in Questions 48 through 54 of the Guidance for Responsible Business Conduct (OECD, 2018).

If a company caused or contributed to the adverse impacts, it is expected to cease or prevent it through mitigation, and provide a remedy. In the case of corruption the remediation may take the form of compensation or restitution to victims. Identifying victims of corruption is not always easy, as individuals, entities and, sometimes, even States may be considered victims, and companies seeking to provide remedy are encouraged to adopt an inclusive approach and collaborate with civil society organisations in defining and recognising victims of corruption. Individuals may not have a direct and specific interest in the

¹² Concerns around confidentiality and competition between commercial entities mean that not all information must be made public. For base metals, this includes price information and supplier relationships. For precious metals and precious stones, this includes price information; supplier identities and relationships (however the identity of the refiner and the local exporter located in red flag locations should always be disclosed except in cases of disengagement); transportation routes; and the identity of information sources and whistle-blowers located in conflict-affected and high-risk areas, where revealing the identity of such sources would threaten their safety. Professional privileges (e.g. attorney-client privilege) should also be taken into account.

matter, but in the context of corruption the broader damage to the public interest (or “social damage”) also should be considered.

This includes damage to collective rights such as health, security, education, good governance and the environment (UNODC, 2016). Calculation of damages caused by corruption is particularly challenging with regard to the profits that have not been gained due to corruption as well as non-pecuniary damage that cannot be immediately calculated, and companies should refer to international guidance, such as those issued by the Stolen Asset Recovery Initiative (Brun et al, 2011; Brun, 2014; StAR-OECD, 2012).

Annex A. What types of sources can a company consult to identify corruption risks?

A first step should be to conduct a general online search to identify any obvious red flags, by including search terms such as “Name of Mining Company [or parent company] + Country of operations + corruption” to see if any credible news outlet, NGO, government agency, or industry body has reported on a potential red flag. There are several ways to go deeper.

The “[Exposing the Invisible](#)” website provides a step-by-step introduction to supply chain investigations including an overview of the main tools, techniques, data resources and essential precautions to take.

Other useful sites for due diligence on extractive companies include:

- If the company is listed, financial statements, notices of important information and sustainability reports should be easily accessible and give an overview of acquisitions, assets, and commercial interests, possibly including (or deliberately redacting) whom it acquired the asset from
- [EITI reports](#) cover a wide range of relevant information for countries implementing the EITI, such as: licence procedures; contract information; production statistics per company; tax payments, non-tax payments and social expenditures, sub-national payments and subnational transfers payments per company to specific state entities; beneficial ownership of all extractive companies
- Transparency International’s [Responsible Mining Business Integrity Tool](#) helps mining companies evaluate and strengthen their anti-corruption controls and procedures, with a specific focus on project licensing, permitting and acquisitions
- The World Economic Forum, *Partnering Against Corruption Initiative*, [Good Practice Guidance on Conducting Third-Party Due Diligence](#), provides model questionnaires for internal and external risk assessments, as well as a red flag checklist
- [Country reports](#) on the implementation of the OECD Anti-Bribery Convention provide helpful overviews of anti-corruption legal frameworks, trends, and case studies.
- [Resource Contracts](#) is a database aggregating mining, oil and gas contracts published across the world
- [Resource Projects](#): database aggregating mining, oil and gas tax payments published across the world, in particular data published in “Payment to Government” and “ESTMA” reports
- [Trace Compendium](#): database with all past and ongoing international bribery proceedings
- Transparency International’s Accountable Mining Programme MACRA [Tool](#) has a list of 83 common corruption risks. Their [global report](#) shows how many of these risks manifest in country case studies and [full country corruption risk assessment](#) reports are also available
- The [Natural Resource Governance Index](#) measures the quality of resource governance in 81 countries that together produce 82 percent of the world’s oil, 78 percent of its gas and a significant proportion of minerals. Also consider the [NRGI paper on red flags](#)
- The [FATF](#) and [EU](#) respectively publish and regularly update a list of high-risk and non-cooperative jurisdictions
- [Openownership](#) provides over 12 million beneficial ownership records and [Opencorporates](#) provides an open database of global firms
- The International Consortium of Investigative Journalists maintains the [Offshore leaks database](#) collecting data from the Panama Papers, the Offshore Leaks and the Bahama Leaks
- The [Basel Open Intelligence](#) is a targeted open-source search tool. It helps compliance officers and investigators to spot and analyse potential links between individuals, companies and criminal activities

Annex B. Corruption risk indicators

The below table offers more detail on the areas of vulnerabilities identified in Q.2, 6, 7, and 8, and includes helpful sources of information for further risk identification. The risk indicators are based on known case studies across different mineral value and supply chains. This list does not pretend to be exhaustive and not all indicators have the same weight.

Table A B.1. Corruption risk indicators

Corruption risk indicators	Award of mineral rights, extraction, production and trade	Regulating and monitoring operations	Paying taxes, fees and royalties	Sources of information
Presence of Politically Exposed Person (PEP)¹³	<p>A PEP can be a director, officer or shareholder (direct or indirect) in the company that acquires the licence or signs the contract.</p> <p>A PEP takes advantage of local content obligations to gain undue advantage of the award of the contract or becomes a direct or indirect stakeholder in the company acquiring the licence</p> <p>A PEP acquires a license (possibly under market standards) and quickly sells it on to the mining company for a profit.</p>	<p>A PEP is a subcontractor to the mining company.</p> <p>A PEP is a hidden shareholder in a subcontracting company.</p> <p>A PEP gets a contract to ensure government relations for the company.</p>	<p>A PEP is involved in collecting taxes or in-kind payments.</p> <p>Tax payments are allocated to PEPs</p> <p>A PEP is a direct beneficiary of community development fund spending</p>	<p>> Media background check on key players involved in negotiations</p> <p>> Proprietary database with information on company ownership and public registries of PEPs</p> <p>>Specially Designated Nationals lists and databases</p>
Intervention of a public official	<p>A public official influences the permit allocation process in exchange for a kickback, a subcontract with or a job in the company (aka "revolving doors") or to ensure the allocation benefits a political ally or other associate.</p> <p>The mining company is asked to rely on a politically connected and/or unusually priced consultancies or law firms to negotiate the deal.</p> <p>Compensation can take the form of a political contribution</p> <p>Public official influences procurement or hiring processes</p>	<p>A company belonging to a public official carries out drilling / trucking / clearing / construction / scrap / catering or other essential services</p> <p>A company belonging to a public official carries out 'consultancy services' that are ill-defined.</p> <p>Compensation can take the form of a political contribution</p>	<p>A public official's former law firm acts as the company's tax advisor</p> <p>The mining company outsources its custom clearance payments to a company connected to an influential public official.</p> <p>The company pays a large signing bonus to a SOE in exchange for</p>	<p>> Media search</p> <p>> In case of rumours of political interference, reliance on political risk firm for anti-corruption due diligence</p>

¹³ PEPs generally cover government officials, political party officials, senior executives, relatives and close associates. See Financial Action Task Force (FATF), 2013 for more detail on the definition.

			<p>significant tax, export, production or other types of exemptions</p> <p>The company accepts to pay taxes or other state dues into the private account of a government official or their associate</p>	
Potential restriction or rigging of competitive process	<p>For licences typically allocated via auction or tender, there is no open and competitive bidding process.</p> <p>The bidding process is rigged by political capture, collusion, patronage or conflict of interest.</p> <p>The mining permit allocation process is unduly restricted to a handful of companies.</p> <p>Bidding terms are crafted to favour one particular company over its competitors.</p> <p>Shares, interests or assets of a state-owned company are sold without competitive process.</p>	<p>Subcontractors, suppliers, consultants are selected without competitive offer.</p> <p>Commodities are sold without proper competition or use of appropriate commodity pricing benchmarks.</p> <p>Local content provisions that require the reliance on local firms are disproportionately used to the benefit of politically connected companies.</p>		<p>> EITI report (should detail how contracts and licences are awarded, and what local content requirements apply)</p> <p>> Stock exchange reports (should detail how and whom the company acquired its mining assets from)</p> <p>> Consult national procurement laws, cross checking that with news reports or reports by government actors on contract award decisions and justifications to find out how the company in question was awarded a contract/license</p>
Reliance on a controversial or politically connected intermediary	<p>An intermediary previously accused of corrupt practices or linked to a PEP facilitates negotiations with the government to acquire mining permits.</p> <p>The company finances or relies on a third party to make a payment in order to secure a contract.</p> <p>The company relies on an intermediary to lobby government for changes in the rules to favour the company's business interests (e.g. new areas to mine, fast-track approvals, changes in regulation, remove red tape)</p> <p>The supplier's compensation is based on obtaining approvals from government or state agencies</p>	<p>An intermediary with a reputation of potentially corrupt practices is hired to secure government relations.</p> <p>The mining company provides interest-free loans, preferential agreement or other advantageous commercial interests not provided to other investors to a controversial intermediary to be able to co-invest in the project.</p>	<p>An intermediary previously accused of corrupt practices or linked to a PEP facilitates negotiations with the government for tax exemption.</p> <p>The company pays royalties normally due to the SOE to an intermediary or third-party.</p>	<p>> Stock exchange reports (should detail how and whom the company acquired its mining assets from, co-investors and commercial or loan agreements).</p> <p>> EITI reports (should detail to which entity royalties and other payments are made).</p> <p>> National transparency registers for lobbyists</p>
Agreed terms are lower than market standards	<p>The mining contract is clearly lopsided in favour of an investor.</p> <p>The company acquires a valuable state asset at a steep discount or at advantageous terms.</p> <p>The company systematically refuses</p>	<p>The company systematically breaches the law without legal or administrative penalties.</p> <p>The company benefits from exemptions in the law and regulation.</p>	<p>The mining company benefits from excessively generous tax cuts or exemptions</p>	<p>> Media reports and national laws where relevant</p> <p>> Stock exchange reports (should detail financial statements and tax exemptions).</p> <p>> Opencorporates.com and</p>

	<p>to disclose the terms of its mining contracts.</p> <p>The company acquires a permit in an environmental protection zone or circumvent other land access restrictions.</p>	<p>Sub-contracts are inflated or non-performance occurs without consequence.</p> <p>Commodities are sold at unusually high or low prices.</p>		<p>ResourceContracts.org for available contracts</p>
<p>Presence of an entity that does not have significant technical, operational or financial capabilities, or has hidden beneficial ownership</p>	<p>The outcome of the bidding allocation process differs greatly from the respective skills of competing companies.</p> <p>The mining company is able to acquire or maintain (a large number of) mining licences without fulfilling the financial and technical requirements.</p> <p>A shell company with hidden beneficial ownership acquires a licence and sells it on to the mining company.</p> <p>A listed mining company fails to disclose whom it bought its mining assets from.</p> <p>Some of the mining company's shares are bearer shares that can be owned by whomever is in their physical possession.</p>	<p>The company is able to hold on to its concessions without any significant progress for an extended period of time.</p> <p>The company favours suppliers and other contractors over competitors on non-market based grounds, e.g. for reasons of political capture or affiliation</p> <p>The third-party consultant is in a different line of business than the one for which it has been engaged.</p> <p>A mining company pays significant amounts for undefined services from a secretive shell company.</p>		<p>> Beneficial ownership disclosure in EITI reports in host country</p> <p>> Beneficial ownership registries in home country (relatively rare)</p> <p>> OpenOwnership provides over 12 million beneficial ownership records</p> <p>> The International Consortium of Investigative Journalists maintains the Offshore leaks database collecting data from the Panama Papers, the Offshore Leaks and the Bahama Leaks</p>

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How to address bribery and corruption risks in mineral supply chains

This booklet provides practical answers to frequently asked questions relating to how companies can identify, prevent, mitigate and report on risks of contributing to bribery and corruption through their mineral sourcing.

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (“the Minerals Guidance”) provides due diligence recommendations on how all companies along mineral supply chains, from the miner to the final product manufacturer, should combat bribery and corruption linked to minerals production and trade.

The following FAQs do not represent new or additional guidance but aim to explain in simple terms the recommendations already set out in the Minerals Guidance and other OECD standards and best practice guidance. Note, this booklet does not aspire to be an exhaustive stocktaking of all corruption issues and possible mitigation responses.