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# BEYOND AUDITS IN COPPER SUPPLY CHAINS:

Using leverage to prevent and address copper-specific salient human rights issues

Report commissioned by the copper project group of the German Sector Dialogue Automotive Industry

January 2024



## Beyond audits in copper supply chains: Using leverage to prevent and address copper-specific salient human rights issues

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About this report: This report was commissioned by the copper project group of the German Sector Dialogue Automotive Industry, convened by the German Federal Ministry of Labour and Social Affairs to advance implementation of Germany's National Action Plan for Business and Human Rights. The aim of the guidance is to suggest practical actions that businesses in the automotive sector can take to prevent and address adverse human rights risks and impacts in their copper supply chains in ways that complement and go beyond the implementation of audits and certification schemes. The core of this guidance note focuses on how mid- and downstream companies in the automotive sector can build and exercise their leverage to effectively prevent and address severe adverse human rights risks and impacts ("salient human rights issues") at the extraction (mining) tier of the copper supply chain. Illustrative examples are included throughout, drawing on experiences from businesses within and beyond the copper supply chain. The report reflects Levin Sources' experience and expertise over 13+ years of working in minerals value chains. It does not reflect new research conducted for this report.

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## I. EXECUTIVE SUMMARY

This guidance has been commissioned by the copper project group of the Sector Dialogue Automotive Industry, which has been convened by the German Federal Ministry of Labour and Social Affairs to advance implementation of Germany's National Action Plan for Business and Human Rights.



The aim of the guidance is to suggest **practical actions** that businesses in the automotive sector can take to prevent and address adverse human rights risks and impacts in their copper supply chains in ways that complement and go beyond the implementation of audits and certification schemes. The core of this guidance note focuses on how mid- and downstream companies in the automotive sector can **build and exercise their leverage** to effectively prevent and address severe adverse human rights risks and impacts ("salient human rights issues"<sup>1</sup>) at the extraction (mining) level of the copper supply chain. **Illustrative examples** are included throughout, drawing on experiences from businesses within and beyond the copper supply chain. 

The development of this guidance has been prompted by recognition that businesses in the automotive sector and their copper supply chains confront a broad range of human rights risks and impacts (see section II). Many of the salient human rights issues associated with the copper supply chain are located in the more upstream tiers of the supply chain. This means that in order to effectively manage these salient issues, **mid- and downstream actors in the automotive sector will have to work collaboratively with other actors to build and exercise leverage as a means to prevent and address issues that they themselves may not have actually or potentially caused**, but are connected to via their supply chain business relationships.

Companies in the copper supply chain can use the five categories of leverage<sup>2</sup> (see graphic in section IV) to consider the full range of options to prevent and address salient issues. The top two layers of the triangle may be less applicable to very downstream companies that do not have contractual ("direct") relationships with suppliers that are very close to where salient issues are or could be occurring. However, a lack of a direct supplier relationship to actors causing adverse impacts, or difficulties in establishing traceability in the supply chain to these actors, does not absolve downstream companies from their duty of care in the exercise of due diligence. Furthermore, not all mid- or downstream automotive sector companies are so many tiers removed from the extraction tier, especially as an increasing number of companies in the automotive sector become more vertically integrated.

Research and practice<sup>3</sup> over the past decade and more indicates that in order to prevent and address human rights impacts effectively, **businesses may make use of audit and certification schemes, but they should be cautious about solely relying on them for all of their risk mitigation**. This general finding also applies to the copper supply chain. For instance, analysis conducted in 2023 by Levin Sources for the copper project group indicates that a selection of audit and certification schemes used in the copper supply chain have some strengths but also limitations in terms of their likely ability to effectively manage common salient human rights issues in the copper supply chain. Readers can find further discussion of smart uses of audits and certifications

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<sup>1</sup> For a definition of salient human rights issues, see: "The Corporate Responsibility to Respect Human Rights: An Interpretative Guide," United Nations Office of the High Commissioner for Human Rights, 2012, [https://www.ohchr.org/sites/default/files/Documents/publications/hr.puB.12.2\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/publications/hr.puB.12.2_en.pdf).

<sup>2</sup> The triangle graphic is drawn from "Using Leverage in Business Relationships to Reduce Human Rights Risks," Shift, 2013, <https://shiftproject.org/resource/using-leverage-in-business-relationships-to-reduce-human-rights-risks/>.

<sup>3</sup> See, for example, the resource page from the Business & Human Rights Resource Centre, "Beyond Social Auditing," <https://www.business-humanrights.org/en/big-issues/labour-rights/beyond-social-auditing/>.



in section IV-C. Where companies do use these schemes, they will need to be cognisant of their strengths and limitations, and consider how they can complement the schemes. **Ideas on those complementary actions are the core purpose of this guidance note.**

Beginning in section V, this note sets out theoretical guidance as well as illustrative examples of how a given type of leverage can be put into practice in the copper supply chain to address specific salient issues. **An effective approach may draw on or combine multiple types of leverage.** The guidance note also explains general principles regarding the choice to leave a business relationship if the leverage efforts have been unsuccessful.

Finally, the guidance note offers two case examples of building and exercising leverage that have relevance for managing salient issues at the extraction (mining) tier of the copper supply chain. There are currently limited examples of leading practice in building and using leverage to manage salient issues in upstream copper supply chains. **Businesses and their stakeholders will have to exercise creativity in order to extrapolate ideas and learning from practices in other minerals supply chains or other sectors entirely – and perhaps come up with new approaches as well.** This guidance note has been developed with the aim to foster such creative thinking and articulate pathways for mid- and downstream companies in the automotive sector to contribute to the effective management of salient issues in copper supply chains.



## II. TYPICAL SEVERE HUMAN RIGHTS RISKS IN COPPER SUPPLY CHAINS

### Common human rights risks in copper supply chains

Businesses in the automotive sector and their copper supply chains confront a broad range of human rights risks and impacts. Many of the typical most severe risks – the salient human rights issues – are concentrated at the more upstream part of the copper supply chain, in particular the mining and minerals processing tiers. Below is a summary list of salient issues for the copper supply chain. This list is highly condensed and is not exhaustive. It is included in this guidance note in order to provide some contextual basis for the ideas and examples about how mid- and downstream automotive sector companies can seek to address these issues through the exercise of leverage.<sup>4</sup>

- **Impacts on workers' labour rights**, including related to forced labour, child labour, occupational health and safety, precarious work.
- **Impacts on community members' right to a clean, healthy and sustainable environment.** Impacts on this right usually indicate there is a 'domino effect' occurring which impacts a range of rights, including (but not necessarily limited to) health, water and sanitation, livelihoods and impacts arising from biodiversity loss, deforestation and climate change.
- **Impacts on community members' and artisanal and small-scale mining (ASM) workers' right to life, health and to be free from child labour**, including where this arises from gender-based violence, violence perpetrated by public or private security forces or through company-community conflict (which may be new or have been ongoing for some time).
- **Impacts on land rights** due to issues around land acquisition, forced displacement and resettlement.
- **Impacts on Indigenous rights**, including failure to conduct adequate FPIC (free, prior and informed consent) and impacts on traditional cultural practices.

More in-depth descriptions of these issues, how they manifest and where they occur in the copper supply chain can be viewed on the [Raw Material Outlook](#), operated by Drive Sustainability with support from Levin Sources.

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<sup>4</sup> This list of risks is derived from research conducted by Levin Sources in 2023 for various projects, including the Raw Material Outlook operated by CSR Europe / Drive Sustainability. Levin Sources has discussed the methodology for the risk assessment with the copper working group. As the list of issues is not the focus in this guidance document, the methodology is not included here. Should readers wish to understand more about the methodology, they are welcome to [contact Levin Sources](#).

## A. The limits of traceability: should the business prevent and address risks and impacts only after it knows with certainty who its suppliers are?

The global copper supply chain – like some other materials supply chains – is fairly opaque. It is more difficult to establish where a downstream company is getting its copper from as compared to asking the same question for some other minerals and metals. This is still true despite over a decade of collaborative industry efforts to be able to accurately trace all actors and locations of many minerals supply chains from the final consumer product up to the mine where raw materials are extracted.

In these circumstances, **it is important for businesses to not let the quest for complete supply chain traceability entirely delay actual risk mitigation.** In many minerals and metals supply chains, including copper, traceability will never be perfect, and it changes frequently as new markets and actors engage or disengage in the supply chain. So while it is still valuable for businesses to build a picture of their own unique supply chain, they can and should still take action to mitigate risks where they have a credible basis to believe that they are probably connected to the risk. For instance, copper mining does have dominant market geographies because of where deposits and mines exist. In 2022, the five top production countries for copper – Chile, Peru, the Democratic Republic of the Congo (DRC), China and the United States – produced over half of the global volume of copper. If a downstream copper supply chain company is unable to trace its copper back to the mining level, it may be reasonable to assume that its copper is coming from some or all of these top production countries. The business may then need to assume, pending further research, that it is connected to general risks associated with copper mining in these countries. Risks related to copper mining in these countries are well-documented in public resources.

Once the business determines to operate on the basis of this initial assumption, it may then be logical to begin risk mitigation efforts by joining conversations with other supply chain actors to learn more, exchange information, and ultimately exercise leverage to try to prevent and address the risks. Another way to describe these actions is *leverage*, which is addressed specifically for these types of circumstances beginning in section V of this guidance note.

When the business has limited traceability and has to operate based on some assumptions, it may be unable to identify the exact mine site from where it sources its copper. This would make a site audit impossible. But in more opaque supply chains like copper, perfect traceability may be unattainable, at least in the nearer term. In this circumstance, site audits or an audit of the mining company is infeasible – another reason for businesses to ensure they have other tools available to them for risk mitigation beyond audits.



### III. TAKING ACTION TO PREVENT AND ADDRESS HUMAN RIGHTS RISKS

#### What steps should be taken to prevent and address adverse impacts?



When considering what action to take, it will be helpful for the business to understand how it is connected to the (potential) impact – and any other entities that may also be connected.

Broadly speaking, measures to prevent and address adverse impacts in the copper supply chain will include:

- ⇒ **Stopping actions** that the business is taking that could cause or contribute to the impact. This may be more relevant for vertically integrated or mid-supply chain companies in the copper supply chain.
- ⇒ Taking steps to **prevent impacts** that the business has caused or contributed to from happening again. Again, this may be more relevant for vertically integrated or mid-supply chain companies in the copper supply chain.
- ⇒ **Building and exercising the business' leverage** to prevent and address adverse human rights impacts that occur in its copper supply chain, where other entities are involved. Mid- and downstream automotive sector companies will need to undertake this action due to their position in the supply chain and relative distance from the upstream part of the copper supply chain, where many salient human rights impacts are or could be occurring.

If the business has not caused the impact, it will not be practical to try to 'solve' the problem alone.

However, not 'doing something' could cause problems for the business and lead to impacts on affected people not being resolved – or being exacerbated. So, it is ***both the sensible and responsible thing to do to contribute to efforts to address such human rights risks and impacts***, even if the business is not able to fully address the situation by acting alone. These 'contributory efforts' frequently look like collaborative efforts that build and exercise leverage.



## B. Are the business' own activities contributing to human rights impacts in its copper supply chains?

While it might feel – and often is – logical to identify when suppliers are causing human rights impacts, it is also possible that the business may be contributing to a supplier's harmful actions.

It may be helpful to consider whether the business' purchasing practices place pressure on suppliers that might contribute to adverse impacts. For example, low price points, fast turnaround times and constantly changing suppliers can have a detrimental impact on suppliers' own human rights risk management, as well as the customer business' visibility into the supplier's practices. In the metals and minerals sector specifically, some observers have noted that when short-term financial gains and price points ultimately determine purchasing practices, we tend to see too little valuing of other issues including responsible business conduct.<sup>5</sup> A business that consistently demands the greatest short-term financial gain and the lowest price at the expense of all other considerations will be in a contributory role should those pressures mean that human rights risks are heightened or that risks manifest into adverse impacts.

## IV. WHAT IS LEVERAGE?

*Leverage is the ability to change how others think and behave – for example, suppliers, contractors, business partners, customers, clients or government authorities.*

There are many ways a business can build and use leverage to address human rights risks in its copper supply chains – this is where creativity and effort pay off. Actions may range from simple steps a business can take on its own, such as making an in-person visit to try to persuade a key individual within a supplier's business to shift their approach, to more resource-intensive efforts taken alongside others, such as establishing or participating in a collaborative initiative to address root causes of a particular human rights risk.

**Your business may have more leverage than you or your colleagues realise**

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<sup>5</sup> See, for example, the concluding comments of Professor Justine Nolan at the 2023 UN Annual Forum on Business and Human Rights, <https://webtv.un.org/en/asset/k1z/k1zu25peg5>, and "From Baby Steps to Bold Action: Challenging the Current Economic Model to Ensure a Just Energy Transition," Joseph Wilde-Ramsing, Centre for Research on Multinational Corporations (SOMO), 1 January 2024, <https://www.business-humanrights.org/en/blog/from-baby-steps-to-bold-action-challenging-the-current-economic-model-to-ensure-a-just-energy-transition/>.



Businesses can think about leverage in five general categories: traditional commercial leverage, broader business leverage, leverage together with business partners, leverage through bilateral engagement, and leverage through multi-stakeholder collaboration. Given the copper project group’s attention to how mid- and downstream automotive sector companies can exercise leverage toward the extraction tier of the copper supply chain, the latter three types of leverage (the lower parts of the triangle) are the focus of this note.

### C. Why should businesses go beyond sole reliance on audit and certification schemes? What is a smart use of audits and certifications in copper supply chain due diligence?

When asked how they manage risks to people in their supply chain, many businesses will respond that they use voluntary sustainability standards and their related certification or audit scheme. This is also true for copper supply chains, which are addressed in varying degrees by a few different existing schemes. Over the past decade, several schemes and their participants active in minerals value chains, including copper, have demonstrated that they are able to build a common understanding of human rights issues in minerals value chains and can galvanise and help enable businesses to play their part in mitigating these issues.

Commonly used schemes for copper rest on similar foundations to voluntary sustainability standards for other minerals and metals. They require business users to establish specific policies and procedures that the standard setters believe will lead to improved outcomes for people affected by the business (and in some cases, the environment also). When the audit is conducted, these standards vary somewhat in terms of the degree to which they check two main aspects: first, the existence of these policies and procedures, and secondly, whether or not these policies and procedures have improved outcomes for affected people (and, where covered, the environment).

An analysis commissioned by the copper project group and conducted by Levin Sources in 2023 that examines the likely fitness of some audit and certification schemes to manage copper-specific salient human rights issues shows that these standards, in general, have strong checks to determine the existence of policies and procedures that play an important role in managing salient issues. Compared to their strengths in examining policies and procedures, the schemes reviewed appear somewhat less capable of assessing whether these policies and procedures are actually working in practice to effectively prevent and address the typical salient issues in copper, leading to improved outcomes for affected people.

Checking whether outcomes for affected people have improved is admittedly difficult and it is one of the more under-developed aspects of human rights due diligence. At the same time, human rights due diligence is an intrinsically challenging and ongoing process that requires continual adjustments to make it more effective. Audits and certification schemes can (and many do) continuously seek to improve in order to serve as ever more effective contributing tools to broader human rights due diligence.

As a tool in due diligence, audits can serve a useful and specific role. At the same time, they have their limitations, which have been well documented in other materials.<sup>6</sup> Regarding the copper supply chain specifically, one limitation of reliance on auditing as the primary or even sole risk mitigation tool is that the audits prevalent in copper supply chains are focused primarily on sites. Given that many downstream copper supply chain actors will struggle to identify the specific sites they source from at the extraction tier<sup>7</sup>, they may be unable to identify the specific sites to be audited.

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<sup>6</sup> See footnote 3.

<sup>7</sup> And at other upstream tiers, but mining is referenced here due to the focus of this guidance note on that tier of the supply chain.

That being said, should companies be able to identify sites or entities they want to audit, how can they use these auditing and certification schemes smartly? Below are some ‘smart’ questions that copper scheme users may want to ask themselves:

- **Is the risk lens of the scheme sufficiently broad to encompass copper-specific salient issues** – and any other issues that fall within the scope of internationally recognised human rights<sup>8</sup>? In prevalent schemes used in copper supply chains, the risk lens varies somewhat, although some schemes offer a risk lens that should capture most of the copper-specific salient issues.
- Does the scheme check for policies and procedures on due diligence **aligned to key international normative frameworks** (the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct)? **Is the scheme very prescriptive** about specific due diligence aspects? A very prescriptive approach may lead to blind spots and weak points in the due diligence, because it can prohibit companies from considering and responding to their unique risk profile. Some prevalent schemes used in copper supply chains are largely aligned to the due diligence requirements of the international normative frameworks, although their prescriptiveness varies somewhat.
- **Are the perspectives of affected people represented in the scheme** – in terms of being part of its governance and contributing to the findings of the audit? Consideration of the perspectives of affected people are one of the core critical factors of effective due diligence. Leading practice shows that audit and assurance processes where affected people are at the core of the process – sometimes referred to as “worker-driven monitoring<sup>9</sup>” – tend to be more effective and accurate. Some schemes used in copper supply chains incorporate representatives of potentially affected people in governance as well as in audit processes, while others consult with these representatives, but they do not have decision-making power in the scheme and their consultation in audit processes is typically less extensive.
- Do the people writing the audit protocol and carrying out the audits have **sufficient expertise and experience in human rights due diligence, the copper supply chain, and the human rights context in the given country**? Auditor training and expertise is a recognised challenge in social auditing in minerals supply chains, including copper.<sup>10</sup> The prevalent schemes used for copper have somewhat varied requirements with regard to auditor qualifications and the expertise of those who write audit protocols.
- **How transparent is the scheme regarding audit reports**? Transparency of audit reports is a useful accountability mechanism for the scheme and its users, and greater accountability can engender a scheme that is more effective to help improve outcomes for affected people. The prevalent schemes used for copper are rather different in terms of their transparency requirements.

<sup>8</sup> See UN Guiding Principles on Business and Human Rights, principle 12, for a definition of internationally recognised human rights.

<sup>9</sup> See, for example: <https://knowthechain.org/addressing-forced-labor-risks-in-lower-tiers-of-electronics-supply-chains-examples-of-company-practice/#1615914899823-423168ad-feb0>

<sup>10</sup> See, for example: <https://mneguidelines.oecd.org/Alignment-assessment-of-industry-programmes-with-the-OECD-minerals-guidance.pdf>. The statement about insufficient auditor training and expertise is also drawn from private interviews and roundtable discussions including the copper sector, in which Levin Sources was involved.

- **To what degree can the scheme provide insights about whether outcomes have been improved for affected people?** See the paragraph at the beginning of the previous page regarding this topic and how some prevalent schemes in copper capture this information.
- Does the corrective action plan generated by the audit **focus on addressing root causes?** While developing policies and procedures can be a straightforward way to close non-compliances in a corrective action plan, their existence does not necessarily result in improved outcomes for affected people.

Overall, a smart use of an audit process may be to use it as an engagement opportunity: engagement with the supplier, and an opportunity to gain insights from affected people (where their perspectives are part of the audit). Findings from the audit are another opportunity for complementary measures through engagement, dialogue, joint capacity building, senior leadership dialogue, and other creative means. If the process and findings of the audit do not appear to meet the criteria of the smart questions above, that may mark another opportunity to engage with the scheme regarding the robustness of its standard. These opportunities are addressed in more detail in the next section of this guidance note.

For general guidance about the benefits and limitations of audit and certification schemes, see:

- [“Beyond Social Auditing”](#) resource page from the Business & Human Rights Resource Centre
- [“Audits and Beyond”](#) resource page from the Ethical Trading Initiative
- [“From Audit to Innovation: Advancing Human Rights in Global Supply Chains,”](#) Shift, 2013

## V. BUILDING AND EXERCISING LEVERAGE TO PREVENT AND ADDRESS COPPER-SPECIFIC SALIENT HUMAN RIGHTS ISSUES: GUIDANCE AND SUGGESTIONS FOR ACTION



There are many ways to build and use leverage to address adverse impacts in copper supply chains. The table that begins on the next page illustrates actions businesses can consider to address a range of adverse human rights impacts.

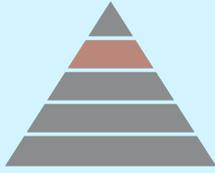
The hypothetical examples provided here are illustrative, not exhaustive. They are, however, drawn from real practice and are designed to address actual salient issues in the copper supply chain. Those issues are underlined in the body of the relevant text.



Overall, it is important to keep in mind that exercising leverage is an opportunity for creativity and focused effort to successfully prevent and address adverse human rights impacts in the supply chain.

*Based on shared perspectives about challenges to manage salient issues in the automotive copper supply chain, the copper project group requested that this guidance note focus its suggestions on the exercise of leverage with the extraction (mining) tier of the copper supply chain. Most project group members do not have direct suppliers at this tier level. The project group nonetheless recognises that adverse human rights impacts can and do occur at other tiers of the copper supply chain. Reflecting this focus, this section discusses leverage actions that may be more relevant in cases where businesses are directly linked to adverse risks and impacts, but are not causing or contributing to them.*

## D. Broader business leverage



Preparing to build and exercise leverage: the stance toward the supply chain

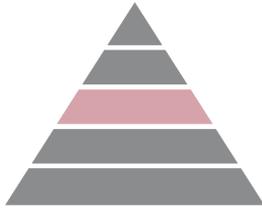
In the copper supply chain, as in many other supply chains, different businesses at different tiers of the supply chain sometimes operate in tension with each other. This may be due to a perceived shifting of responsibility for adverse impacts in the supply chain, the perception of burdens of audit and requirements being passed up the chain, and commercial pressures on issues such as price. These attitudes toward various actors in the supply chain can hinder the collaboration that is necessary to effectively manage human rights issues arising in the supply chain. Regardless of the nature of a business' connection to another actor in the supply chain where human rights harms are or may be occurring, the prospects for successful leverage may increase if businesses take the following approach:

- Work to establish a **mutually respectful relationship** based on trust and shared aims (rather than 'policing') with suppliers – attitude matters.
- **Be open to hearing how other supply chain actors perceive and address human rights risks and impacts.** Their approaches may be as effective or more effective than the approach another supply chain actor thinks will be useful. Avoid imposing one-size-fits-all requirements in the supply chain if they are not effective to prevent and address salient issues. For instance, in the copper supply chain, as previously referenced in this note, some risks are the subject of longstanding, context-specific issues or grievances. A company with long-term operations in this area may know more than a downstream customer that has only recently built knowledge about human rights risks associated with sourcing from this area.
- If audits are being used, ensure they are being leveraged as an opportunity to align on expectations, build capacity, and jointly problem solve. Try to **avoid audits being perceived as a 'command and control' or 'policing' burden** being imposed by other supply chain actors.
- Focus on **real conversations** – aim to avoid that the only exchanges with suppliers are template emails and online questionnaires. Many minerals supply chain actors – including in the copper supply chain – are by now well-versed in standardised questionnaires and what the 'right' answers are. Challenging issues will typically only come out through more focused relationship building and real conversations. Leading practice to foster effective relationships in minerals value chains – including copper – often looks like making use of events and conferences where supply chain actors gather (whether issue-specific or general industry events), and using those opportunities for bilateral conversations. Some companies even invite or pay the fees of certain actors in the supply chain to ensure that relationships can be built in-person at these events.

## E. Building and using leverage in cases where businesses are directly linked to risks and impacts in the copper supply chain

### Illustrative potential actions and examples

#### LEVERAGE TOGETHER WITH BUSINESS PARTNERS



#### GENERAL GUIDANCE ON POTENTIAL ACTIONS

Collective action with other businesses<sup>11</sup>:

- Set up regular exchange sessions with other businesses in the copper supply chain to discuss challenges and explore solutions in a confidential or 'safe' space. To host such sessions, there are a number of options, such as:
  - Convening and facilitating your own group.
  - Convening your own group with facilitation support from an external expert.
  - Asking your industry association or multi-stakeholder initiative to convene the group. There are several industry bodies working on copper, as well as industry groupings working on responsible business conduct in the automotive sector more generally, such as the German Sector Dialogue Automotive Industry and Drive Sustainability.
  - Arranging for an external expert facilitator or participant from an industry association or multi-stakeholder initiative to contribute suggestions on an action plan or make connections with other experts to provide relevant insights. Where feasible and safe for them, affected people or their legitimate representatives can and should also be asked to make these contributions.
  - Considering disseminating findings, insights or key discussion points that emerge from exchanges publicly or privately with participants – and using these in conversations with suppliers or other actors, such as government authorities or civil society organisations that play a role in addressing human rights impacts in copper supply chains.
- Join an existing industry or other relevant initiative that focuses on establishing shared expectations, understanding risks, taking action, developing metrics and/or exchanging practices and approaches. Where standards, audits or certification schemes provided by the initiative fall short of the business' needs or expectations, including where they appear unfit to effectively manage salient issues in the copper supply chain, membership of the initiative may enable the business to influence efforts to strengthen these over time and seek to 'raise the bar' at an industry level.

<sup>11</sup> Some businesses may be concerned that collaborating to tackle human rights risks in the supply chain may violate anti-trust and competition law. A range of industry efforts over the past decade and more demonstrate that it is possible to collaborate to address human rights issues in value chains, without violating these types of laws. For instance, see the [anti-trust policy of Drive Sustainability](#), which describes the ways in which its members will and will not work together to further sustainability in the automotive industry.



### HYPOTHETICAL EXAMPLE APPLYING THE GUIDANCE TO THE COPPER SUPPLY CHAIN

A European business in the downstream automotive value chain is aware of regular reports of child labour occurring in connection with copper mines operating in an African mineral-rich country. However, because of the opacity of the copper supply chain, the business is not sure its copper is being mined in this country, or exactly which mining companies it is connected to in this country through its supply chain. Still, because of this country's prevalence in copper production, the business decides to assume for the time being that it is connected to this risk.

It approaches three other businesses that it believes may also source copper from this country. They share insights about what they know about child labour risks in the country, and potential sources of additional information, such as civil society organisations, trade unions, journalists and academics. They create a list of potential contacts and share the work of reaching out to them to learn more about the situation and to discuss approaches they might use to confirm whether they are connected to these risks.

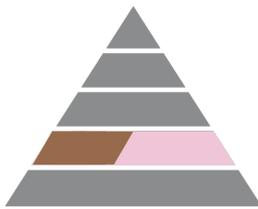
Based on what they learn, they decide to develop shared talking points to discuss with large-scale copper mining companies operating in the production country. At this stage, some of the downstream companies have determined which mining companies in this country are their actual copper suppliers, and they approach them individually. The talking points focus on their concerns about child labour in copper mining in this country, and ask for information about measures that these mining companies are taking steps to prevent, address and remediate this issue.

In these exchanges, some of the mining companies acknowledge the existence of child labour on their mining concessions. They explain that the child labour is not occurring in their industrial mining operations, but is take place at an unwanted artisanal mining operation comprising thousands of miners that settled on its concession a decade ago. Due to the size of the artisanal operation and the risks (and costs) associated with forced eviction, some of the mining companies say that their approach is to tolerate the artisanal miners while keeping far away from their operations to avoid association with their dangerous working practices.

Although the four downstream businesses understand the complexity of the situation, some of them feel that the mining companies' child labour risk mitigation approach could be more robust. They decide to invite the mining companies to engage a specialised ASM and child labour expert team to suggest an action plan. Some of the mining companies agree. All participants – the downstream and the mining companies – jointly fund the engagement of the team. Subsequent to site visits and consultations, the expert team makes a set of proposals, including to build a relationship with ASM cooperative representatives, and to discuss conditions for continued ASM operations on the mining companies' concessions, which would address, among other topics, child labour. The expert team also suggests the establishment of a multi-stakeholder child labour remediation task force, comprised of local mining authorities, the cooperative, and local civil society organisations.



**LEVERAGE THROUGH  
BILATERAL ENGAGEMENT**



The downstream and mining companies participating in this effort are now considering how they can support the implementation of the expert team’s proposals, including through a joint funding model and engagement with industry groupings to scale up the approach. Some of the downstream companies in the group that have identified their copper mining company supplier in this country have informed their supplier that participation in the expert team’s proposed actions will be required for the sourcing relationship to continue.



**ACTIONS**

Engage 1-1 with business peers and other third parties:

- Talk with individual businesses in the copper supply chain where there may be likeminded concerns and ambitions for addressing salient issues in the upstream copper supply chain. Patterns relating to the salient issues or gaps in risk management systems revealed by audit and certification schemes may help provide an entry point for such discussions.
- Engage with relevant host government authorities about human rights impacts in the copper supply chain and opportunities to address them – in some situations, a private discussion may be more appropriate and effective than taking a public position.
- Engage with the business’ home government on salient issues in the copper supply chain, to understand what assistance or support may be available. For instance, local embassies, private sector development programmes, and trade facilitation offices may be a logical place to start.
- Reach out 1-1 to trade unions, civil society organisations and/or other relevant stakeholders to understand their perspective and discuss opportunities to address salient issues in the copper supply chain (and their root causes).



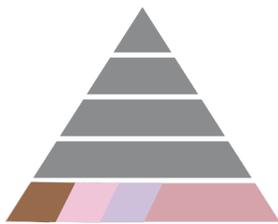
**HYPOTHETICAL EXAMPLE APPLYING THE GUIDANCE TO THE COPPER SUPPLY CHAIN**

A business has managed to determine that copper in its automobile is coming, in part, from an area in South America where several Indigenous communities are raising concerns with two large-scale copper mining companies regarding their alleged infringement on Indigenous rights, including a failure to gain free, prior and informed consent (FPIC). The concerns originate from a time prior to the business’ connection with this mining region, but now the business realises it is connected to the issues through its current copper sourcing. The conflict between the community and the two mining companies is continuing, and, in line with the UNGPs, the business recognises it has a responsibility to use its leverage to address the issues, and would like to also use its leverage to enable access to remedy.

The business establishes a partnership with a South American civil society organisation that focuses on Indigenous rights in mining. The civil society organisation holds a series of discussions and trainings with various functions within the business to help them understand the issues at hand. Together, they prepare to hold in-person meetings between the business’ senior leadership



**LEVERAGE THROUGH  
MULTI-STAKEHOLDER  
COLLABORATION**



and representatives from both mining companies to discuss the concerns and understand how the mining companies have sought to address them.

At these meetings, the mining companies say the concerns are unfounded, but conflict with the Indigenous community continues. The business offers to provide names of qualified mediators who might assist in establishing an effective company-community dialogue, but the mining companies decline to use a mediator. The business and the civil society organisation have held some informal conversations with other businesses that probably also source copper from this area, to see if they would like to join the effort to put pressure on the mining companies to more adequately address the communities' concerns.



**ACTIONS**

Collaborate with diverse stakeholders:

- Join or help create a multi-stakeholder effort to address salient issues in copper supply chains – for example, by jointly developing asks or requirements for specific sourcing geographies and actors, or setting up programmes such as for worker-driven monitoring or community engagement and training. While there are a few different industry bodies doing work on responsible copper, there are fewer multi-stakeholder efforts focused on copper. It is important to note that multi-stakeholder collaboration does not require a large initiative with a secretariat and a significant operating budget. An effective multi-stakeholder collaboration can be less formalised and does not always need to be very large in order to have a positive impact (although strength in numbers can be important in the exercise of leverage). What matters is the multi-stakeholder nature of the effort – which is often necessary to effectively tackle systemic issues that cause salient human rights issues in value chains, including in the copper supply chain. Multi-stakeholder efforts focused on copper can also sit under the auspices of a broader multi-stakeholder body – see the hypothetical example below.
- Convene or participate in a dialogue that brings together relevant stakeholders – for example, from government, business and civil society<sup>12</sup> – to discuss copper-specific salient issues. The purpose of the dialogue may be to articulate concerns or challenges (e.g., the root causes of the salient issue, or the existence of company-community conflict), determine if there is potential to jointly address the issues, and, if there is this potential, jointly chart a path toward addressing the issues. Dialogue facilities – meaning a platform for regular, consistent exchange in a fashion that fosters trust and openness – tend to be particularly important to address complex, systemic situations that often constitute the root cause of salient human rights issues in value chains, including in copper. See the case studies at the end of this guidance note for some

<sup>12</sup> Some critics of such dialogue efforts have raised concerns that a focus on dialogue does not yield tangible results in terms of risk mitigation. However, it's important to remember, as set out earlier in this guidance note, that leverage efforts, particularly those focused on systemic root causes of salient issues, may need time and careful fostering in order to yield results. As discussed separately in this guidance note, if dialogue efforts fail because the parties cannot agree on risk management measures, businesses will need to consider if they must terminate the business relationship.



examples of multi-stakeholder efforts that, at least to some degree, provide this type of dialogue facility.



#### HYPOTHETICAL EXAMPLE APPLYING THE GUIDANCE TO THE COPPER SUPPLY CHAIN

A business is aware that the copper in the batteries used in its electric vehicles comes from a country in Latin America where there are concerns about impacts on the right to water due to environmental impacts of copper mining. The business has not been able to confirm whether the specific batteries it uses include copper from water scarce regions, but considers it to be a real possibility because of the prevalence of this country in copper production. It joins a multi-stakeholder initiative that brings together businesses across the supply chain, civil society organisations and governments from the host region as well as from consumer countries with major industrial, technology hardware and automotive sectors.

The initiative addresses a range of topics related to responsible mining, and the business pushes for the initiative to establish a work stream on access to water as a key risk in mining in this region, with copper as the pilot material for the work stream efforts. The work stream is established, and the business actively participates in exchanges with local and regional water and mining authorities, representatives of local communities, water engineering experts, industry representatives, and representatives from governments in consumer market countries for electric vehicles.

The group quickly realises that local communities and technical experts appear to be ‘speaking different languages’ – their expectations and concerns are different. The business suggests that the working group undertake a dialogue and consensus-building process to identify whether there is an approach to water quality and use that would be mutually satisfactory for mining companies, water authorities, and affected communities. The group agrees and a local think tank that specialises in community-company engagement in the mining sector is engaged. Initial dialogue sessions are set to commence in a few months, following a planning stage. The business helps pay for this dialogue through a contribution to the cost of the engagement, which is shared by other industry participants in the working group.

## F. Leverage with direct business relationships

What about when the business does have a direct business relationship with the supplier causing the risks or impacts?



Where businesses do have direct business relationships with suppliers causing human rights risks or impacts, that is the obvious 'first stop' with regard to managing salient issues. This box sets out high-level guidance on exercising leverage with direct business relationships.

### Contracts

- Incorporate into contracts with direct suppliers a requirement that suppliers will prevent, address and remediate adverse human rights impacts, and provide workers (and, where relevant, affected communities) with access to effective grievance mechanisms.
- Incorporate a requirement or set an expectation that direct suppliers will, in turn, require their suppliers to take similar measures to manage human rights risks. This is not the same thing as externalising the business' own responsibilities to suppliers; this is about communicating expectations to suppliers. That communication is an exercise of leverage. There may be practical value in linking such a requirement to a relevant industry standard to support uptake. However, it will be important to consider the potential implications of any limitations identified in the standard selected (for example, the standard may exclude potential human rights impacts the business has identified as salient).
- Consider requiring suppliers to share information about their suppliers – and/or, where available, to participate in emerging traceability schemes – to enhance visibility of the business' copper supply chain. While copper is a relatively opaque supply chain, there are traceability efforts, particularly those using traceability-relevant technologies such as Blockchain, that indicate that greater traceability should be somewhat feasible for copper.<sup>13</sup> It will not always be possible to achieve full visibility up to the mine site, but requirements such as these can help build a more detailed picture. As emphasised throughout this guidance note, businesses should not wait for perfect traceability of copper before commencing risk mitigation – if they do, risk mitigation is unlikely to ever occur.

<sup>13</sup> These efforts are related to cobalt sourcing. Given that cobalt is a frequently co-occurring mineral to copper, these efforts may be useful for copper traceability as well.

**Supplier selection:**

- Ask suppliers to explain and provide evidence about how they assess, prevent and address, and remediate adverse human rights impacts in their copper supply chain, and how they identify their copper-specific salient human rights issues. Ask to see their list of salient issues and check whether it seems to reflect generally known risks associated with the generic copper supply chain.
- Triangulate suppliers' assertions about their human rights risk management in the copper supply chain against publicly available information and/or insights from your discussions with stakeholders. This could focus on their risk management performance, their response to any concerns that have been raised about impacts (such as from civil society organisations), the risks they have identified, or other related topics.
- Ensure that human rights-related policies with relevance for suppliers and other business partners (i.e., a supplier code of conduct) are integrated into supplier qualification, selection and onboarding processes.
- Incorporate the standards set out in business policies into selection criteria.

**Verification of supplier standards and practices**

- If audit or certification schemes are used to verify that suppliers are meeting the business' expectations with regard to copper supply chain human rights risk management, businesses should ensure audits are independent, collaborative processes that support a relationship based on learning, continuous improvement and a commitment to working together to address issues. See section IV-C regarding limitations of audits and how to use them smartly when managing copper-specific salient issues.

**Extending or terminating a supplier relationship**

- Develop a supplier engagement plan that focuses on building long-term relationships with key suppliers in the copper supply chain, offering capacity building and engagement opportunities on copper-specific human rights risk management.
- Consider whether the business can offer suppliers a longer-term relationship and/or other advantages (such as on price) for strong human rights risk management in the copper supply chain. These can provide an effective incentive for suppliers to make the necessary investments in human rights risk management.
- Create opportunities for real supplier engagement, not only automated questionnaires or standardised information portals. These can look like:
  - Assigning a supplier relationship manager who understands human rights due diligence in the copper supply chain, who regularly speaks with suppliers about this topic
  - Speaking in person with suppliers about human rights due diligence in copper supply chains at events such as annual supplier days, site visits or conferences
  - Undertaking joint capacity building with suppliers focused on tackling shared human rights issues in the copper supply chain
  - Sharing the business' own training, policy, or procedural materials with relevance for copper-specific human rights due diligence, to serve as models or templates with suppliers getting started with or adapting their own materials
  - Inviting suppliers to join industry or multi-stakeholder platforms that regularly exchange information and approaches on managing human rights issues in copper supply chains.



If a supplier's approach to human rights is not aligned with the business' values and human rights expectations, be prepared to first work to shift their thinking and approach, support them to make changes and – as a last resort – consider pausing or existing the relationship. Read more about responsible exit in section VII of this guidance note.

## VI. PRACTICAL TIPS AND GUIDANCE IN THE EXERCISE OF LEVERAGE IN THE COPPER SUPPLY CHAIN

- **To be effective, it may be necessary to combine 'carrot' and 'stick' approaches.** When the business acts alone, it is seeking to both support and push suppliers to improve outcomes for people.
- **The added value of collaborating with others may include opportunities to:**
  - increase understanding of risks in the copper supply chain
  - benefit from others' ideas and knowledge to tackle copper's specific challenges
  - increase leverage with copper supply chain actors that are closer to risks
  - enable businesses to take more effective action, even where resources are limited.
- **Avoid relying on a single factor that provides the business with 'confidence'** that there are no human rights risks or impacts in its copper supply chain. In copper supply chains, some businesses rely heavily on audit or certification schemes for this confidence – and may struggle to know what to do when allegations reach them of harms that have occurred at a site that passed its audit. By avoiding relying on a single factor, like an audit or certification, businesses can triangulate their information and establish information sources and relationships that are useful for strengthening their understanding of the contexts and risks. These information sources and relationships can also be useful for finding out more should one information source – such as an audit or supplier questionnaire – seem at odds with another information source, such as a report from a local civil society organisation.
- **The start of the exercise of leverage often looks like information gathering and situational analysis.** In many instances, in particular in more opaque supply chains such as copper, businesses struggle to find out sufficient information about risks and impacts on their own. They may need to come together with other actors to first build this understanding, which then enables them to identify what actions they could jointly take to prevent and address the issues. Particularly for more downstream businesses, which tend to struggle with the scale of risks they are connected to in the supply chain, joint research can be an effective use of resources to analyse risk more efficiently. This is particularly true when gaining access to accurate information is difficult, such as due to civic space restrictions<sup>14</sup>. The hypothetical examples in the tables in this guidance note on exercising leverage show this joint information gathering in practice.
- **Building and using leverage can take time** – and the most effective time to establish leverage, particularly with direct suppliers, is at the outset of the relationship. Further, while leverage can improve outcomes for affected people, it will not always 'solve' a human rights impact. Even where a business seeks to exercise leverage in a serious way, human rights outcomes might be partial or short-

<sup>14</sup> Civic space restrictions significantly hamper businesses' ability to access accurate information about human rights risks in those contexts. For guidance on how businesses can work together to gather risk information from places with civic space restrictions, see "No News Is Bad News," ABN AMRO Bank et al., 2023, [https://assets.ctfassets.net/1u811bvgvthc/22Y4ddIgfM8anXgfYkiH/adefff21ab9e78594d9166529a215d0b/No\\_news\\_is\\_bad\\_news.pdf](https://assets.ctfassets.net/1u811bvgvthc/22Y4ddIgfM8anXgfYkiH/adefff21ab9e78594d9166529a215d0b/No_news_is_bad_news.pdf).



lived. Communicating transparently about the business' efforts and, where relevant, its commitment to engage with human rights challenges in the longer-term, can help support stakeholders to understand and engage more effectively with the business' approach.

## G. Preventing and addressing human rights risks with limited resources

It will not always – or even typically – be possible for companies in the automotive sector copper supply chain to pass on the costs of doing business with respect for human rights to customers.

When business survival depends on being cost competitive, businesses may need to consider the cost effectiveness of the actions they take to prevent and address impacts on people in their copper supply chains. Many of these approaches may also apply to small and medium-sized enterprises (SMEs) that lack the scale and resources to take the same approach to managing human rights impacts as larger businesses.

To minimise costs, businesses can consider the following approaches:

- **Share policies, standards, training packages and other guidance resources** developed internally with suppliers and other supply chain actors. Make the barrier for them to use these low, and communicate shared objectives and expectations effectively (e.g. transparency, effective information sharing and collaboration to tackle systemic risks in specific tiers or geographies).
- **Review the costs and benefits of initiatives and schemes** in which the business participates, to see if there is a better fit or more customised approach that could save it and its suppliers time and budget, while enabling improved outcomes for people. For instance, audits can be expensive – it can be useful to take a critical look at their utility for effectively managing risks. If they are not particularly useful, the business might consider using them in a different way that may save costs.
- **Prioritise based on salient human rights issues.** This puts the business on the front foot in terms of risk management and helps to avoid (potentially harmful and costly) blind spots. It also provides a basis for explaining to others why the focus is on those particular issues, supporting them to avoid shifts in approaches that may not be suited to effective risk management. This focus on salient issues also provides the principled basis necessary for compliance with reporting obligations, such as sustainability-related reporting requirements in European Union countries.
- **Accept that the business may need to put limitations on investment in traceability.** Particularly in more opaque supply chains such as copper, businesses may have the impression that they could expend infinite resources (including personnel time) seeking traceability information. But perfect traceability should not become the enemy of good risk mitigation. Businesses can consider making use of generic copper risk information for the supply chain and prepare to make some assumptions about risks they could be connected to, to inform thinking about potential actions for leverage.
- **Join multi-stakeholder initiatives that tackle human rights risks in copper supply chains** (where they exist for, or can be adapted to address, the relevant salient human rights issues). These initiatives can give multiple individual voices a stronger platform and can build leverage in the copper supply chain, calling for improved management of copper's human rights impacts that result in better outcomes for people.
- **Consider the value of business-civil society partnerships.** Issue-specific partnerships between businesses, civil society and trade unions can prove effective for hands-on risk mitigation that turns general dialogue into real action. Local civil society and trade unions can be a valuable source of information and insight into the situation on the ground and contextual factors that may help the business to address adverse impacts effectively. Local trade unions and civil society groups can also have strong relationships with workers, communities and other actors – relationships which can be critical to understand and address issues effectively. See the hypothetical example in the leverage

table section on bilateral partnerships in this guidance note for an example of this type of partnership in action.

- **Find the right key performance indicators** that enable the collection of data that provides information about how the business is doing when it comes to respecting human rights in its copper supply chain (e.g., fatalities and injuries, number of complaints received and cases where remedy was provided or enabled, qualitative input from affected people about the effectiveness of measures, water and air quality, wage levels across different segments of the workforce, completion of training courses, progress against action plans, etc.). KPIs that are fit-for-purpose can help enable the business to adjust its activities to focus on effective actions, rather than those that do not lead to improved outcomes for people. KPIs could be shared to enable suppliers across the copper supply chain to work towards the same goals.<sup>15</sup>
- If a business invests in a technology solution to keep track of supply chain data, **ensure the solution is suited to its human rights risk management approach and unique risks**, rather than the solution dictating a list of human rights risks and the management approach. Otherwise, the business could spend a lot of money on a solution that does not help improve its performance.
- **Build the capacity of employees** to understand how human rights in the copper supply chain connect to their roles – from legal to procurement to compliance and beyond. Empowering and enabling existing employees can be less expensive overall than continually hiring external advisors, and it can help cut down on blind spots when those employees manage the business’ efforts over years and learn from experience. Empowering employees to detect and help address human rights risks at various levels of the organisation helps ensure a consistent and more comprehensive approach, and decreases the risk of missing potential harms in the supply chain.
- **Make use of publicly available information, talk to well-informed stakeholders, and analyse existing supply chain information** to infer insights about risks to people in the copper supply chain. If a business decides to pay for copper supply chain data that covers human rights risks, aim to put in place a strong methodology that is tailored to the types of human rights risks that are often seen in its own supply chain. A supply chain data set that only looks at certain types of risks or geographies may be costly and not fit-for-purpose.<sup>16</sup> This is particularly true in minerals sourcing, where historically the risk lens has focused on a specific set of issues (such as minerals production and trade that exacerbates conflict) that does not fully encompass the typical salient issues seen in copper supply chains.
- **Engage with customers to see what they really need in terms of data and documentation.** Work to understand customers’ needs and try to provide equivalent context for them (explaining the type of data and documentation on copper supply chain human rights risk management that the business already has, and the systematic approach taken to develop these).
- **Make sure that perfect doesn’t become the enemy of good.**

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<sup>15</sup> Setting appropriate and effective key performance indicators is a challenging topic in human rights due diligence. This guidance note is not focused on this aspect of due diligence. However, readers may consider reviewing chapter 3.5 from “[Doing Business With Respect for Human Rights](#)” and well as the [Indicator Design Tool](#) from Shift.

<sup>16</sup> For more on avoiding blind spots in risk assessment, and the importance of engagement with relevant stakeholders in risk assessment, see “[No News Is Bad News](#),” ABN AMRO et al., 2023.

## VII. WHAT IF EFFORTS TO BUILD AND USE LEVERAGE ARE UNSUCCESSFUL?

In some situations, a business' efforts to build and use leverage to prevent and address human rights impacts in its copper supply chain may be unsuccessful.

In these situations, consider ending the business' relationship with the relevant supplier.<sup>17</sup>

**However, be aware that doing so may also cause or contribute to adverse human rights impacts by terminating the relationship.** Assessing the potential implications of termination can support the business to make an informed and responsible decision. Indeed, it may find that the business has more leverage to address the situation if it continues the relationship.

**When considering terminating a relationship, consider the following questions:**

- **How severe are the adverse impacts?** Where an impact is more severe, it is reasonable to expect faster action by suppliers.
- **Are there ways to increase leverage with the supplier – or have all options been exhausted?** If there are, consider remaining in the relationship while taking steps to increase leverage.
- **How crucial is this supplier to the business?** In some situations, there may not be a reasonable alternative way to source a raw material, product or service. This can be the case, for example, where key copper deposits are located in a high-risk geography.
- **Will terminating the relationship itself lead to human rights impacts?** Assessing the potential human rights impacts of ending the relationship can enable the business to seek to prevent and address these if it does choose to terminate the relationship.
- **Is there a risk of complicity in gross human rights abuses?** If so, a decision about whether to exit the relationship may need to be reached rapidly, and given the severity of the potential impacts (and risks to the business) it may be prudent to treat these kinds of human rights impacts with the seriousness the business would typically bring to a legal compliance issue.

**If the business decides to continue the relationship,** it should consider being open with stakeholders about its decision-making about the relationship, and look for ways to demonstrate ongoing effort to mitigate the human rights impact. It will be important to remember that there may still be consequences for the business (legal, reputational or financial) if it continues the relationship.

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<sup>17</sup> For more information on responsibly exiting supplier relationships, and a decision tree tool that sets out key questions to help inform decision-making about ending a relationship, see “Doing Business With Respect for Human Rights,” [chapter 3.4, section 6](#).



**EXAMPLE:** Let us assume that a downstream business finds out that a large-scale copper mine site (LSM) in its supply chain is attracting ASM miners, whose extraction methods are polluting water and soil. Rather than encouraging the LSM to develop an ASM management plan, the business removes this mine site from its supply chain, and the LSM in turns forces the ASM miners off the land surrounding the LSM mine. But these workers may lose their livelihoods or turn to other environmentally-damaging forms of work, such as forest clearing and burning to sell charcoal, because the root causes of their work in ASM (typically poverty) have not been addressed.

In addition to continuing or even exacerbating the human rights impacts, the decision to leave may have negative consequences for the business, too. For example, a supply chain that lacks diversity may be less resilient. The business may continue to be named in public reports that link it to the site where the adverse impact occurred, and it may suffer reputational damage for having ‘cut and run’ rather than made efforts to address the negative aspects of ASM adjacent to the LSM site.

## VIII. RELEVANT EXAMPLES FROM PRACTICE

### VIII.1. Local initiatives using a development approach to address adverse impacts (DRC)



The Democratic Republic of the Congo (DRC) is Africa’s leading producer of copper, accounting approximately for 10 percent of global copper production and top third country for copper refining.<sup>18</sup>

Copper in the DRC is often mined alongside cobalt using both large-scale (LSM) and artisanal and small-scale mining (ASM) methods. Although salient issues exist related to large-scale mining, such as adverse impacts on the environment and community health, this section focusses on initiatives around ASM (unless indicated differently). A number of serious human rights and environmental risks are known to be related to copper ASM mining such as child labour, sexual- and gender-based violence, impacts arising from conflict including the use of public and private security forces connected to large-scale mining operations, hazardous working conditions, and others.

As a result, various capacity building, social investment and multi-stakeholder initiatives have emerged in the DRC which aim to mitigate these risks and address the root causes of salient issues. Businesses from various industries participate in these initiatives, even in instances when an exact supplier or mine of origin were unknown to them:

- **DRC-based multi-stakeholder engagement to strengthen contextual understanding:** Extensive engagement with multi-stakeholder initiatives or dialogue platforms such as IDAK (*Investissement Durable au Katanga*), including civil society organisations, government representatives and businesses, to understand if and how they could build and exercise leverage to better address specific risks or impacts. Workshops and quarterly meetings organised through IDAK typically bring together various entities, including LSM business representatives, ASM cooperatives, national and provincial mining authorities, civil society organisations representing affected people and research organisations, . The platform could also serves as an opportunity to deepen participants’ understanding of the local

<sup>18</sup> USGS, 2015-2022

situation and dynamics, the local government's plans, and identify suitable partners for risk mitigation measures. As set out previously in this guidance, the first step in the exercise of leverage is often information gathering and building the business' understanding of the situation.

- **Supply chain engagement and social investment initiatives to formalise ASM and address root cause issues:**
  - Some businesses engage with supply chain initiatives implementing ASM improvement projects in the region to address root causes of associated human rights and environmental risks. For instance, the Fair Cobalt Alliance (FCA) is a multi-stakeholder action platform that aims to strengthen and professionalise the DRC's artisanal cobalt mining sector and contribute to local economic development, improving working conditions for miners, ASM productivity and child labour remediation measures<sup>19</sup>, including children's integration into education. By engaging with the FCA, downstream companies as well as mineral traders and DRC-based LSM copper and cobalt companies work to ensure that mine improvement programmes' impact is maximised through pooling of resources and knowledge, and to ensure that solutions are implemented through local organisations that understand the context and root causes<sup>20</sup>. It also creates opportunities for delegation visits and offers an opportunity to partner and source directly from the mine.
  - Some companies support and engage in capacity building programmes through Cobalt for Development<sup>21</sup> (C4D) to explore whether and how ASM cobalt mining can be conducted in a responsible manner in the DRC, in line with national laws and international norms<sup>22</sup>. C4D has been working with cooperatives, artisanal miners and the government authority, SAEMAPE, to create interactive training materials and methods.
- **Industry collaboration:** Partnering with peers to better understand industry-wide challenges, which can facilitate engagement with various key actors in the DRC's copper-cobalt sector, such as via the Cobalt Institute or the Global Battery Alliance's Cobalt Action Partnership. Some businesses have also used this as an opportunity to engage on responsible sourcing topics.

Various downstream businesses have engaged directly with suppliers (when known) over the past years using traditional commercial leverage as well as management level visits from downstream businesses to the DRC to build supplier relationships and become familiar with the context.

Additional potential actions for businesses to address salient issues in ASM copper mining in the DRC may include:

- Businesses can engage with the efforts of the Carter Center on issues of governance, corruption and institutional capacity in the extractives industry in the DRC.<sup>23</sup> Addressing these issues are key to alleviate root causes of some of the salient issues related to ASM copper mining in the DRC.

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<sup>19</sup> In collaboration with the FCA and Save the Children, the Centre for Child Rights and Business set up a project in Katanga to identify child labour instances at ASM sites and prepare tailored remediation plans to reintegrate children back into their families and/or schooling.

<sup>20</sup> [https://www.faircobaltalliance.org/app/uploads/2023/02/fca\\_report-annual-2022\\_final-digital.pdf](https://www.faircobaltalliance.org/app/uploads/2023/02/fca_report-annual-2022_final-digital.pdf)

<sup>21</sup> Cobalt for Development (C4D) - Towards responsible artisanal cobalt mining in the DR Congo

<sup>22</sup> This previously included the Mutoshi pilot project <https://www.trafigura.com/news-and-insights/publications/white-papers/2019/the-mutoshi-pilot-project/>

<sup>23</sup> See: [https://www.cartercenter.org/peace/human\\_rights/extractive-industries-governance.html](https://www.cartercenter.org/peace/human_rights/extractive-industries-governance.html)

- Businesses can support recommendations from experts, such as the German Federal Institute for Geosciences and Natural Resources (BGR), which call for the establishment of legal, viable ASM sites in order to alleviate community-company conflict for minerals resources<sup>24</sup>.

## VIII.2. Addressing environmental impacts related to access to water (Chile and Peru)



Chile and Peru are copper-rich countries with uneven distribution of fresh water across the two countries, leading to competition between local communities and copper processing facilities in some areas. Chile holds more than 40 percent of Latin America region's copper projects and the copper mining industry is the largest user of industrial water in Chile<sup>25</sup>. Also, given that copper production depends on a water-intensive process and significant copper mining is taking place in water scarce region, access to fresh water has become one of the major issues in Chile and Peru in relation to copper mining. Various mining projects in Chile and Peru were delayed or opposed due to the expectation related to the social licence to operate and free, prior and informed consent from the local communities that are contingent on water access and water use.

In addition to direct engagement with their suppliers and using traditional commercial leverage, various businesses sourcing copper from Chile and Peru have used and tried to increase their leverage in copper supply chains through various initiatives. Here are some examples<sup>26</sup>:

- **Participation in a multi-stakeholder initiative:** For example, the multi-stakeholder initiative MinSus<sup>27</sup> implemented by GIZ and BGR, focuses on copper mining, including water use, in the Andean region. The initiative collaborates with various actors to understand the potential impacts of mining<sup>28</sup> and identify prospective measures to prevent and address adverse impacts related to access to water. It also supports cooperation programmes between large-scale mining and artisanal and small-scale mining<sup>29</sup> in the Andean region to encourage responsible mining practices.
- **Dialogue platform that represents affected people:** Businesses have supported and engaged with dialogue platforms representing a range of stakeholders, including potentially affected people, such as Mesa Multiactor<sup>30</sup> to discuss challenges and opportunities in protecting the watershed in the region.

<sup>24</sup> A lack of clarity and inequities in property rights and land tenure are a significant driving factor behind community-company and community-state disputes over access and benefits from minerals resources. See, for example, "[Mapping of the Artisanal Copper-Cobalt Mining Sector in the Provinces of Haut-Katanga and Lualaba in the Democratic Republic of the Congo](#)" BGR, 2019

<sup>25</sup> [Water for copper mining](#), pages 5-6

<sup>26</sup> While it is not specific to water use in copper mining, there are also other examples of multi-stakeholder efforts to tackle salient issues in copper mining, such as the [collaboration](#) between trade union CNV International, Tata Steel Netherlands and Wuppermann Steel Netherlands to address occupational health and safety issues in mining (including copper mining) in Peru. The collaboration is an outgrowth of multi-stakeholder collaborative efforts on metals value chains in the context of the Dutch International Responsible Business Conduct Agreement for the metals sector.

<sup>27</sup> See <https://minsus.net/en/> and, specifically on shared water infrastructure, <https://minsus.net/taller-internacional-analisis-experiencias-en-infraestructura-hidrica-compartida-en-inversiones-de-la-mineria/>.

<sup>28</sup> <https://responsiblerawmaterials.com/post/nicolas-maennling-avoiding-the-not-in-my-backyard-backlash-by-merging-technology-and-sustainability-drivers-to-benefit-mining-regions/>

<sup>29</sup> <https://minsus.net/en/Media-Publicaciones/analysis-and-systematization-of-innovative-cooperation-programs-between-large-scale-mining-and-artisanal-and-small-scale-mining/>

<sup>30</sup> Dialogue platform that consists of indigenous communities, local civil society, academia, the local private sector and government, as well as local mining companies: <https://www.mesamultiactor.cl/quienes-somos/>



The platform offers an opportunity to hear from affected communities directly and better understand their perspectives.

In terms of potential additional actions businesses could consider in the context of water impacts in copper mining in Latin America, the hypothetical example in section V-E of this guidance note may provide further inspiration for action, as it focuses on the challenge of different perspectives regarding water use and using mediation to identify if there is common ground between stakeholder groups regarding water use and how to manage it.