

Appendix C: Guidance Note on Conflict-Affected and High-Risk Areas (“CAHRAs”)

1. Purpose of Appendix C

In February 2023, the LME published the results of its Request for Feedback on minor amendments to the LME Policy on Responsible Sourcing of LME-Listed Brands (“the Policy”), including a summary of feedback received from the market (for full details, see Notice 23/201 – “Amendments to the LME responsible sourcing policy”).

As part of this process, the LME formalised the requirement for Producers of its listed Brands complying through Tracks B (Audited LME RFA Track) and Track C (Published LME RFA Track) to provide a Conflict-Affected and High-Risk Areas determination methodology in their Red Flag Assessment (“RFA”)¹. The LME believes that this determination is a key aspect to operating an effective supply chain due diligence, and is an expected part of the Organisation for Economic Co-operation and Development’s (“OECD”) Due Diligence Guidance on Responsible Sourcing of Minerals from Conflict-Affected and High-Risk Areas (“OECD Guidance”). Previous versions of the Policy had not made the requirement to provide this methodology explicit, hence its inclusion in the revised Policy provided with the Request for Feedback.

The majority of the respondents to the Request for Feedback supported this proposal, but suggested that the LME clarifies its expectations regarding an “acceptable” methodology for Tracks B and C. The LME recognises the value of this request, and is now publishing this guidance note to that end. It includes the LME’s expectations for Producer’s CAHRA determination process (Section 4) and resources (Section 5).

Once Producers provide their CAHRA determination methodology in the RFA, the LME requires this information to be included in the public disclosure of the RFA in line with the transparency timeline as set out in the Policy section 7.6 for Track C. Though not directly referenced in the OECD Guidance, disclosure is important for several reasons. First and foremost, transparency is a key aspect of Track C and transparent CAHRA determination is one of the ways to build trust in the due diligence system. Additionally, public disclosure can lead to increased stakeholder engagement and dialogue, as interested parties can review a Producer’s methodology. This can help identify areas for improvement and ensure that Producers are taking a comprehensive and proactive approach to assess potential supply chain risks. Lastly, Producers complying through Track A (Recognised Alignment-Assessment Standard Track) are required to report their CAHRA determination methodologies and the LME aims to bring more alignment between disclosure practices between Producers following Tracks A, B, and C. To this end, the LME will also continue to work with auditors to clarify expectations and monitor the Step 5 reports for the Producers following Track B.

The LME does not dictate a specific methodology for determining CAHRAs and leaves this decision up to the Producer. The LME expects that the Producers have the best access to information about areas from which they source and thus are best placed to determine what is considered a CAHRA. It is important for Producers to conduct their own research and analysis to determine the risks associated with operating in specific regions or regions that are relevant to their production. As noted in the Policy, the LME did anticipate that some Producers may wish to use CAHRA lists provided by third parties and

¹ Full details on the Tracks to compliance, and other aspects of the Policy can be found on the website: <https://www.lme.com/en/About/Responsibility/Responsible-sourcing> or by contacting responsiblesourcing@lme.com.

believes this is acceptable should the methodology prove appropriate. This document provides resources that Producers may find helpful as they work to determine CAHRAs.

2. Definition of a CAHRA

In line with the Policy for Tracks B and C, the LME expects that the definition of a CAHRA will be as set out in the “Supplement on Gold” of the OECD Guidance, page 66:

***Conflict-affected and high-risk areas**² – Areas identified by the presence of armed conflict, widespread violence, including violence generated by criminal networks, or other risks of serious and widespread harm to people. Armed conflict may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars. High-risk areas are those where there is a high risk of conflict or of widespread or serious abuses as defined in paragraph 1 of Annex II of the Guidance. Such areas are often characterised by political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure, widespread violence and violations of national or international law.*

The exception to this is for existing Track A standards, which have already been alignment-assessed, and which prefer to maintain the CAHRA definition from the main section of the OECD Guidance rather than the definition in the “Supplement on Gold”.

3. The LME’s expectations

In question 2.g. of the RFA, the Producer of the LME Brand is expected to provide a description of:

- (i) The resources or reference data used in the CAHRA determination methodology;
- (ii) The decision-making processes that are followed to reach CAHRA determination decisions; and
- (iii) How frequently the CAHRA determination procedure is updated.

The list of resources can include educational institutions, government sources, peer-reviewed databases, independent consultancies, and other sources from professional organisations. The resources should be relevant to Input Material’s type. For example, [the indicative, non-exhaustive list of conflict-affected and high-risk areas under Regulation \(EU\) 2017/821](#) is designed for areas relevant to the production of tin, tantalum, tungsten, or gold³. Producers of other metals may refer to this list, but will need additional references that are relevant to their metal type.

The Producer’s methodology should not be engineered to arrive at any specific result. CAHRAs may be determined at the national or sub-national level.

4. Resources

4.1 Third-party CAHRA mapping tools

This section provides tools that may be used to inform the Producer’s CAHRA determination methodology. The LME does not adopt any of these tools as its own method, nor any specific CAHRA

² OECD (2016), OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264252479-en>

³ Bellasio, Jacopo, Anna Knack, Victoria Jordan, and Ruth Harris, Provision of an indicative, non-exhaustive list of conflict-affected and high-risk areas under Regulation 2017/821: Task A – Methodology development, RAND Corporation, RR-A158-1, 2020. As of January 12, 2023: https://www.rand.org/pubs/research_reports/RRA158-1.html.

list. The resources are simply provided to assist Producers in formulating their own systems to determine CAHRAs. The LME encourages Producers to seek multiple sources when formulating a CAHRA determination methodology.

The following sources may provide useful information and guidance in respect of CAHRAs:

- Responsible Minerals Initiative
 - [Overview](#) (free)
 - [RMI CAHRAs Guidance](#) (free)
 - [RMI Global Risk Map, including CAHRAs](#) (auditee and members access only)
- [TDI Sustainability CAHRA index](#) (free)
- [Kumi Consulting CAHRA Map](#) (subscription access only)
- The indicative, non-exhaustive [list](#) of conflict-affected and high-risk areas under Regulation (EU) 2017/821, relevant to tin, tantalum, tungsten and gold (free)

Many of the resources provided above are built from a synthesis of quantitative indicators such as the Heidelberg Institute for International Conflict Research Conflict Barometer, Global Peace Index, Corruption Perceptions Index and sanctions lists. Qualitative and real-time information – including information directly from the suppliers of material, industry groups, media, and civil society reports – may be useful to incorporate as well.

4.2 Track A standard CAHRA determination requirements, information and advice

The LME aims to see consistent implementation of the OECD Guidance across Tracks A, B, and C. Producers following Track A will be following the CAHRA determination requirements of their chosen standard, all of which are shown below. Producers following Tracks B and C may find the CAHRA determination criteria required by Track A standards helpful for meeting best practices, thus these are included as additional references in Table 1.

Table 1 CAHRA determination requirements and advice from Track A standards⁴

Standard	CAHRA determination requirements and advice
<u>Aluminium Stewardship Initiative Performance Standard V3 (2022), page 170</u>	<p>“Table 5 - Examples of resources you may find useful in identifying red flags and CAHRAs. In general terms, credible resources may include:</p> <ul style="list-style-type: none"> • Research reports from governments, international organisations, civil society and media • Maps, UN reports and UN Security Council sanction lists, OECD reports • Relevant industry literature on Bauxite extraction and impacts on conflict and Human Rights • Information raised through your Complaints Resolution Mechanism.

⁴ References in Table 1 are taken in-part or wholly from Track A standard guidance; standards may have additional information on their websites that is relevant to CAHRA determination requirements.

	<ul style="list-style-type: none"> • Keep records of how you reviewed and considered credible sources of information on potential CAHRAs and red flags that you can show to an ASI Auditor. • Make sure you regularly review and evaluate your risks, especially when forming relationships with new suppliers or when existing suppliers change their sourcing practices.”
<p><u>Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains (second edition) 19 May 2022, page 29, 33</u></p>	<p>“Red flag locations of mineral origin and transit, description of supporting document/evidence:</p> <ul style="list-style-type: none"> • Procedure for identifying Conflict-Affected and High-Risk Areas (including references) • Identification checklist of Conflict-Affected and High-Risk Areas • Certificates of origin/customs declaration documents/transportation documents of all minerals • UN report • NGO report • Media reports etc. <p>5.2.1.3 The warning signs screening process can refer to the information released by highly recognized international institutions. The sources of information can include reports from governments agencies, international organizations, civil society organizations, worker representatives and trade unions, national human rights institutions, think tank, the media, or other experts. If the information is incomplete, the opinions of relevant stakeholders and experts can be consulted”</p>
<p><u>Cobalt Refiner Supply Chain Due Diligence Standard 19 August 2021, page 18</u></p>	<p>“To identify Red Flags or warning signs, the Company shall: Design and implement a process to determine any CAHRAs as defined by the Chinese Guidelines or OECD Guidance in its supply chain. The process shall include, at a minimum:</p> <ul style="list-style-type: none"> • The types of resources used by the refiner to identify CAHRAs¹¹; • The tool and/or criteria used by the Company to determine a CAHRA¹²; • The frequency within which the determination is reviewed and updated. • A record of all the countries and / or areas identified as a Conflict-Affected or High-Risk within the Company’s supply chain.” <p>¹¹Companies may refer to available resources to determine CAHRAs, such as the indicative list of CAHRAs provided by the European Commission pursuant to Article 14.2 of the EU Regulation (EU) 2017/821, or those provided by OECD-aligned initiatives, or assurance mechanisms, etc ¹²The Company must identify reasonable thresholds for determining CAHRAs, where indices are referenced</p>

Joint Due Diligence Standard for Copper, Lead, Nickel and Zinc rev. 3, 26 August 2022, page 22

“5.2.3.1. CAHRA Determination

To identify red flags, the company shall design and implement a reasonable process to determine CAHRAs. As part of the CAHRA determination process, the company shall:

- Adopt and consistently implement a methodology or process to make the CAHRA determination, including establishing the frequency at which the CAHRA determination is reviewed and updated.
- Adopt and record credible sources of information and resources used to make the CAHRA determination. The company may refer to resources provided by a Joint Initiative or Institutionalised Mechanism, or indicative list of CAHRAs issued by governments.
- Document the CAHRA determination process and its findings.

Credible source: Generally, a credible source is one that has been recently published (3–5 years); is extracted from an academic peer-reviewed database; or, from a website registered by government or educational institution (.gov, .edu, .ac); is written by respected and well-known authors or institutions such as the UN, think-tanks, or research institutions.”

London Bullion Market Association Responsible Gold Guidance Version 9 November 2021, page 22

“Step 2. Identify and Assess Supply Chain Risks

The objective of Step 2 is to identify actual and potential adverse impacts with respect to OECD Annex II and consider adverse ESG factors in the Refiner’s gold supply chain. Due diligence is expected to be proportional to the business activities of each Refiner and its supply chains. An integrated due diligence process that considers sourcing from Conflict-Affected and High-Risk Areas (CAHRAs) as well as additional location-, supplier- or type of material-based high risks is considered most effective.

Sources of such an integrated assessment must include, but are not limited to:

- Sanctions lists (US, UK, EU, UN, and relevant sanctions lists)
- Dodd Frank s. 1502
- EU CAHRA list
- Heidelberg Barometer
- Fragile States Index or equivalent
- UN Human Rights Office of the High Commissioner or equivalent
- Reports (including relevant country reports) by the Financial Action Task Force (FATF)
- Credible market intelligence on high-risk gold centres/transit hubs and on countries where there is a high risk of money laundering.

	Refiners should also consider credible market intelligence to cover the risk factors included in Step 1.1, as relevant”
<p><u>RMI Global Responsible Sourcing Due Diligence Standard for Mineral Supply Chains All Minerals 15 December 2022, page 18</u></p>	<p>“Design and implement a process to determine any CAHRAs. The list of CAHRAs must include, at a minimum:</p> <ul style="list-style-type: none"> • The Democratic Republic of the Congo (DRC) and its nine adjoining countries as outlined in Section 1502 of the Dodd Frank Act, namely Angola, Burundi, Central African Republic, Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia • the indicative list of CAHRAs provided by the European Commission pursuant to Article 14.2 of the European Union Regulation 2017/821 <p>The process to determine any CAHRAs must include, at a minimum:</p> <p>5.1. The types of resources used by the company to identify CAHRAs¹³;</p> <p>5.2. The criteria used by the company to determine a CAHRA;</p> <p>5.3. The frequency within which the determination is reviewed and updated;</p> <p>5.4. A record of all the countries and/or areas identified as a Conflict-Affected or High-Risk within the Company’s supply chain; and</p> <p>5.5. Include in the process a general consultation of relevant national and international sanctions lists.”</p> <p>¹³Companies may refer to available resources to determine CAHRAs, such as those listed by the US Dodd-Frank Act Section 1502 and the indicative list of CAHRAs provided by the European Commission pursuant to Article 14.2 of the EU Regulation (EU) 2017/821, or those provided by OECD-aligned initiatives, or assurance mechanisms.</p>
<p><u>RMI Tin and Tantalum Standard 7 February 2020, page 15</u></p>	<p>“Identification Of Conflict Affected And High-Risk Areas:</p> <p>The auditee shall design and implement a reasonable process to determine if there are any Conflict Affected and High-Risk Areas (CAHRAs) as defined by the OECD Guidance in its supply chain. The process shall include, at a minimum:</p> <ul style="list-style-type: none"> • The types of resources used by the smelter to identify CAHRAs²²; • The criteria used by the smelter make a CAHRA determination²³; • The frequency within which the determination is reviewed and updated. <p>The auditee shall record the countries and / or areas identified as CAHRA. The CAHRAs list shall include, at a minimum, countries identified as high-risk by relevant conflict minerals regulations.²⁴ Auditees may refer to the program website for further information on the identification of CAHRAs.²⁵”</p>

	<p>²² The smelter may refer to resources provided by joint initiatives, institutionalized mechanisms, or government bodies. The resources must cover the areas of conflict, governance, and human rights. Primary resources should be internationally-recognized, secondary resources could include other credible information sources.</p> <p>²³ The smelter must identify reasonable thresholds for determining CAHRAs, where indices are referenced.</p> <p>²⁴ The list of CAHRAs must include, at a minimum: 1) The Democratic Republic of the Congo (DRC) and its nine adjoining countries as outlined in Section 1502 of the Dodd Frank Act, namely Angola, Burundi, Central African Republic, Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia; and 2) the indicative list of CAHRAs provided by the European Commission pursuant to Article 14.2 of the European Union Regulation 2017/821. https://www.cahraslist.net</p> <p>²⁵ http://www.responsiblemineralsinitiative.org/minerals-due-diligence/risk-management/conflict-affected-and-high-risk-areas</p>
<p><u>Tin Code (Standard 7.3 Responsible Sourcing) assessed with the ITA-RMI Assessment Criteria (version 2) 23 March 2021, page 17</u></p>	<p>“Design and implement a reasonable process to determine CAHRAs from which tin minerals may be produced as follows. The company may refer to resources provided by aligned joint initiatives, institutionalized mechanisms or indicative list of CAHRAs provided by the European Commission pursuant to Article 14.2 of the EU Regulation to inform the design and implementation of the process.</p> <p>4.1. Record the types of information and resources used by the company to identify CAHRAs</p> <p>4.2. Establish a method or procedure to make a CAHRA determination</p> <p>4.3. Establish the frequency at which the CAHRA determination is reviewed and updated</p> <p>4.4. Include in the process a general evaluation of relevant national and international sanctions lists”</p> <p>*National or international sanctions lists: Includes the U.S. List of Specially Designated Nationals and Blocked Persons (“SDN List”); the U.S. Foreign Sanctions Evaders List (“FSE List”); the UK Consolidated List of Targets; the Consolidated List of Persons, Groups and Entities subject to EU Financial Sanctions; and United Nations sanctions lists.</p> <p>ITA notes: Companies may additionally refer to other ITA information including the Criteria Guidance and ITA Supporting Note on CAHRA (Tin Code reporting companies only).</p>