ETHICAL SOURCING AND EVERYDAY ELECTRONICS
EXECUTIVE SUMMARY

The global electronics industry that produces our mobile phones, laptops, tablets and many more items we use daily is one of the largest industrial sectors in the global economy, generating more revenue than any other goods-producing sector. A part of that revenue is made at the expense of people that are part of the complex electronics supply chains that can comprise multiple tiers, hundreds of supplier locations and thousands of individuals.

Businesses at the top tiers of the supply chains are increasingly held to account by their clients, investors, the media, law enforcers, NGOs and other stakeholders on ethical issues in their supply chains, whereas companies with a proactive approach regarding ethical sourcing reduce a range of business risks and increase opportunities.

Modern slavery for forced labour is one of the human rights risks in electronics supply chains. Currently over 45 million people are estimated to be entrapped in modern slavery across the world. They are deprived of their freedom by someone, for the personal or financial gain of their exploiter. They end up in this situation either by deception or coercion.

Labour intensive sectors in which temporary and irregular work are common, as well as low-skilled and low-waged jobs, are considered high risk sectors for forced labour. Several parts of the electronics sector fit this description, such as manufacturing labour in the industry as well as the extraction of raw materials.

This crime occurs on any continent, in any country, anywhere exploiters try to make money of people in which they spot a vulnerability. Two high-risk countries which are important to many electronics supply chains are the Democratic Republic of the Congo (DRC) with its abundance of raw materials and Malaysia which hosts more than 5,000 international businesses from 40 countries that rely on many subcontractors or third-party employment agencies to fill the thousands of electronics manufacturing factories with workers.

Ethical sourcing starts with commitment and strong due diligence. But with more than 50 percent of organisations discovering issues with third parties after their initial due diligence investigations, ongoing risk monitoring is required. A proactive and reactive approach within a business, at the highest level and across departments, and throughout supply chains, will help to comply with regulatory measures as well as to go beyond and improve the situation of people working in supply chains across the world.
Every day we use our mobile phones, tablets, laptops to work, communicate and entertain. Who are the people involved in making these devices; do they have opportunities to communicate and entertain or just to work? What are the conditions they work and live in and are they mining, assembling, manufacturing and testing our everyday electronics by choice or are they deceived, coerced and/or trapped in their situation?
**Introduction**

Electronic devices are produced by complex, global supply chains with extensive networks in which clients, subcontractors, suppliers and third-party relations are involved.

Customers are asking questions about company ethics and corporate responsibility. Investors are using ethical criteria to screen investments. NGOs and others are increasingly benchmarking companies and holding them to account for their decisions. Clients and stakeholders increasingly expect transparent and ethical sourcing of products and labour for the production of electronics, while governments across the world are strengthening policy, regulation and guidelines.

Many major electronics brands originate in the United States, Japan, and other developed countries, but the production of most electronic and electrical products takes place in developing and middle-income countries, largely in the tens of thousands of manufacturing companies in Asia and Southeast Asia. The shift to these countries is a result of a trend toward offshoring to lower labour costs and to gain other efficiencies. The dozens of minerals used in the production of the products have been extracted from the ground in every continent except Antarctica.4

Like in other sectors, many electronics companies depend on third-party suppliers for the provision of components, raw materials and services that form key elements of their finished products. These suppliers, in turn, may outsource to others leading to complex supply chains that can comprise multiple tiers, hundreds of supplier locations and thousands of individuals.

This paper provides insight in the importance of and incentives for ethical sourcing in the global electronics supply chains by highlighting some of the risks, in particular forced labour. The electronics supply chain tiers that are highlighted in this paper are manufacturing and mining in two key countries: Malaysia and the Democratic Republic of the Congo.

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1 http://cips.org/Documents/About%20CIPS/News/ten-tips.pdf
2 http://responsiblesourcingtool.org/download/reports/JTIP_ExecutiveOrder_Report_2017_06.pdf#page=52
ETHICAL SOURCING AND EVERYDAY ELECTRONICS

DRIVERS FOR ETHICAL SOURCING

Incentives for businesses for ethical sourcing, beyond the moral and social incentives, are to mitigate risks as well as to recognise opportunities to increase business profitability.

INCREASED SUPPLY CHAIN LEGISLATION

In recent years, a range of laws have been introduced around the world that impact businesses with global supply chains. Companies that fail to comply with regulations like these can face fines, civil, and even criminal liabilities.

EU NON-FINANCIAL REPORTING DIRECTIVE

The EU Directive (2014/95/EU) on disclosure of non-financial and diversity information by certain large undertakings and groups (2014/95/EU) entered into force on 6 December 2014. The disclosure requirements apply to large public-interest companies with more than 500 employees. The companies will have to apply the Directive as of 2018, on information relating to the 2017 financial year. They will have to publish reports on the policies implemented, outcomes and risks related to at least:

- Environmental protection
- Social responsibility and treatment of employees
- Respect for human rights
- Anti-corruption and bribery
- Diversity on company boards (in terms of age, gender, educational and professional background).

UK MODERN SLAVERY ACT

In October 2015, the UK Modern Slavery Act came into effect, including the Transparency in Supply Chains clause (section 54). Section 54 of the Act requires organisations carrying on a business in the UK with an annual turnover over GBP 36 million to produce an annual slavery and human trafficking statement for each financial year, indicating the steps they are taking to prevent modern slavery abuses in their operations and supply chains. Businesses with a year-end of 31 March 2016 were the first ones required to publish their modern slavery and human trafficking statements.

“Three key incentives for electronics businesses to source ethically are:

1) Brand reputation
2) Customers, including public procurers, are expecting assurance policies and programmes to be in place
3) Increased regulatory measures.

In the US, the FAR (Federal Acquisition Regulation) rule introduced in January 2015 which requires federal contractors and subcontractors to take specific proactive preventive measures to detect and eliminate human trafficking and forced labour in their supply chains, has been of particular importance. In countries including France, the UK and the Netherlands new regulation applying to business operations has been introduced as well.”

CARLOS BUSQUETS, DIRECTOR OF PUBLIC POLICY, EICC

8 http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted
FRENCH ‘DUTY OF VIGILANCE’ LAW

In March 2017, the new French law “Devoir de vigilance des entreprises donneuses d’ordre” was adopted. The law applies to companies registered in France with at least 5,000 employees including employees in direct or indirect affiliates located in France, and for non-French companies operating in France with more than 10,000 employees worldwide, including employees in direct or indirect affiliates.

It makes it compulsory for these companies to set up vigilance plans from 2017. A vigilance plan “includes reasonable vigilance measures to identify risks and prevent serious violations of human rights and fundamental freedoms, health and safety of persons and environment resulting from the activities of the company and of the companies it controls, either directly or indirectly, as well as the activities of subcontractors or suppliers with whom an established business relationship is maintained.” Reporting on the effective implementation of the plan will only come into effect after the report on the first financial year after the publication of the law, i.e. 2019 for companies with a financial year starting at 1 January.

US LEGISLATION:

- **California Transparency in Supply Chains Act (2010):** applies to major manufacturers and retailers who do business in California and have a worldwide annual revenue of over USD 100 million. It requires these businesses to publicly disclose what efforts they are making to eliminate forced labour and human trafficking in their supply chains.

- **The Trade Facilitation and Trade Enforcement Act (2015):** gave the US Customs and Border Protection, in part, the right to seize, at the border, goods suspected of being made with child and forced labour.

- **Executive Order 13627, commonly known as the Strengthening Protections against Trafficking in Persons in Federal Contracts (passed in September 2012):** this Order further enhances the responsibilities and duties of federal contractors and subcontractors to prevent human trafficking.

- **The Business Supply Chains Transparency on Trafficking and Slavery Act (2015)** was introduced into the US House. If this Act passes and becomes law, it requires corporations with an annual turnover of USD 100 million or more to publicly disclose the steps they are taking to prevent labour abuses in their supply chains.

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9 [www.assemblee-nationale.fr/14/dossiers/devoir_vigilance_entreprises_donneuses_ordre.asp](http://www.assemblee-nationale.fr/14/dossiers/devoir_vigilance_entreprises_donneuses_ordre.asp)

INVESTORS AND CONSUMERS KEEP A CLOSE EYE

Consumer and investor behaviour is influenced by a company’s or brand’s reputation, including its reputation regarding ethical sourcing. More and more organisations are assessing and benchmarking companies’ ethical performance to give consumers, investors and other stakeholders insight. This results in a strong commercial incentive for companies to source ethically.

INVESTORS

Investors are showing awareness and are applying pressure to ensure that businesses are actively working to mitigate human rights risks. This was apparent during the development of the UK Modern Slavery Act (2015), during recent campaigning from 34 investors with over USD 2 trillion in assets under management for an Australian version of the Modern Slavery Act and a recent push from 79 institutional investors brought together by ShareAction, to demand companies disclose “more information on how they manage their global workforce”.

Investors have also shown an interest in businesses that are proactively supporting achievement of the UN Sustainable Development Goals (SDGs). For example, the Dutch financial sector backs the SDGs: 18 financial institutions, managing around EUR2900 billion in assets, are collaborating to invest in the SDGs. SDG 8 is “to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”. It includes the objective 8.7 to “take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking.”

CONSUMERS

77 percent of respondents in emerging markets said buying ethical brands was important or very important to them. In advanced markets, this is 58 percent. These are the findings from an analysis of Trajectory’s Global Foresight Survey amongst 90,000 consumers, as reported by HSBC in 2016.

“We are [...] seeing an evolution in consumer expectations. These include [...] those relating to transparent, ethical and sustainable business practices.”

Paul Flatters, Chief Executive of Trajectory

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1. https://www.rathbonegreenbank.com/insight/investors-support-inclusion-supply-chain-reporting-modern-slavery-bill?inf_contact_key=027907bd1e0d19232f8d4b3f68bc8a50f8f0c9d6f3f654ee6d0351e589
3. https://shareaction.org/press-release/7-9-trillion-investor-coalition-pushes-companies-for-disclosure-on-global-workforces/?inf_contact_key=26827123d90a82d372717de85381820c6941c010b6dd64d42b4ba8585279eb8
4. https://shareaction.org/press-release/7-9-trillion-investor-coalition-pushes-companies-for-disclosure-on-global-workforces/?inf_contact_key=26827123d90a82d372717de85381820c6941c010b6dd64d42b4ba8585279eb8
Another study, by Nielsen, surveyed 30,000 consumers in 60 countries to understand how passionate consumers are about sustainable practices when it comes to purchase considerations, came to a similar conclusion:

“Consumers around the world are saying loud and clear that a brand’s social purpose is among the factors that influence purchase decisions. This behaviour is on the rise and it provides opportunities for meaningful impact in our communities, in addition to helping to grow share for brands.”

Amy Fenton, Global leader of public development and sustainability, Nielsen

Increased benchmarking will acknowledge and highlight companies that are putting human rights at the core of their business. For example, the Corporate Human Rights Benchmark assesses companies from a range of sectors on their performance across six themes: governance and policy commitments; embedding respect and human rights due diligence; remedies and grievance mechanisms; company human rights practices; responses to serious allegations; transparency. Examples of reports that have benchmarked electronics companies on ethical issues, specifically on their efforts to eradicate forced labour from their global supply chains, are KnowTheChain’s 2016 ICT Benchmark report which looked at 20 companies and The truth behind the barcode: Electronics industry trends report (2016) which rated 56 companies.

KnowTheChain’s 2016 ICT Benchmark Report

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17 https://www.corporatebenchmark.org/
OVERALL GRADE:

Ethical sourcing and everyday electronics

Policies

Traceability and Transparency

Monitoring and Training

Worker Rights Group

Key: A = A+; B = B+; C = B; D = B-; E = B-

Overall grade

Acer

Amazon Kindle*

Apple

Arcelik A.S.

Asus

Blackberry

Breville

BSH Group

Canon

Capital Brands

Dell

De’Longhi

Dick Smith Electronics

Dyson*

Electrolux

Ericsson

Fujitsu

Garmi

Google*

GoPro*

Haier*

Hewlett Packard

Hisense*

Hitachi

HTC

Huawei*

Intel

JVC Kenwood*

Kodak

Kogan*

Leica Camera AG*

Lenovo*

LG Electronics

Microsoft

Motorola Motability

Motorola Solutions

Nikon

Nintendo

Olympus

Oracle*

Palsonic

Panasonic

Philips

Polaroid

Ricoh*

Samsung

SanDisk

Sharp*

Soniq*

Sony

Sunbeam*

TEAC*

TomTom

Toshiba

Vorwerk*

Whirlpool*

Worker Rights Group

Overall grade: A+ B+ D+ B+ D+ cB- c+ B+ D+ d- bc B- dB- c+ D+ Bc- d- d- Bf cD+ D+ B+ d- c- d- d- d+ B+ B+ B+ bc c- c+ d+ fB- bf B- B+ Bc- d- Cd- d- c+ B+ D- d+

SOURCE: BAPTIST WORLD AID AUSTRALIA

Reputational and financial risk and opportunity

Ethical scandals caused by shortcomings in labour, safety and other ethical practices have become an increasingly regular feature in the media. The consumer facing industries, such as food, garments and electronics appear to feature most. Having to go through lengthy investigations which disrupt operations and can result in fines. Also, the reputational damage can result in costs of lost business. This will far outweigh the costs of any proactive investment a business makes to mitigate the risks. Prevention is better than cure. In addition, showing a proactive approach to dealing with ethical issues can be the differentiator that sets a business apart from their competitors.

Focus on mining of minerals and metals: Democratic Republic of the Congo

Mining is one of the points in the electronics supply chain where ethical risks are prevalent, including forced labour. Mining and the use of mined products in industry drive an estimated 45 percent of global GDP.20 A range of minerals and metals is used in consumer goods electronics such as mobile phones, tablets and game computers. Four of the most commonly mined minerals (known as 3TGs, from their initials) are cassiterite (for tin), wolframite (for tungsten), columbite-tantalite (for tantalum) and gold. They are considered conflict minerals as they are predominantly mined in areas of armed conflict and traded illicitly to finance the fighting; the area being the Democratic Republic of the Congo (DRC) and its adjoining countries. These countries are estimated

20 http://responsiblesourcingtool.org/download/reports/JTIP_ExecutiveOrder_Report_2017_06.pdf#page=63
Modern Slavery

An umbrella term that covers various terminologies used by different entities and people regarding slavery, forced and bonded labour, human trafficking and the worst forms of child labour. The 2016 Global Slavery Index defines modern slavery as “situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, abuse of power or deception”.

Modern slavery is a largely hidden crime. Data on the scale of the problem is scarce and gathering it is difficult. The most recent and reputable estimates:

- In 2017 the International Labour Organization (ILO) and the Walk Free Foundation, in partnership with the International Organization for Migration (IOM), estimated that there are 40.3 million people in modern slavery across the world.22
- 24.9 million of them in forced labour: 16 million in the private economy, 4.8 million in forced sexual exploitation and 4.1 million in forced labour imposed by state authorities. More women than men are affected by privately imposed forced labour, with 57.6 percent female and 42.4 percent male. Based on this estimate, “at any given point in time 5.4 out of every 1,000 persons worldwide are suffering in forced labour”.23

Human trafficking is one of the fastest-growing criminal industries.24 Forced labour in the private economy generates USD 150 billion in illegal profits annually, the ILO said in 2014. Two thirds, or USD 99 billion, of this trade is commercial sexual exploitation. Another USD 51 billion results from forced economic exploitation.25

Modern Sourcing and Everyday Electronics

to account for 15 to 20 percent of the world’s supply of tantalum and smaller percentages of the other three minerals.21

Armed groups engaged in mining operations in the region are believed to, as well as using proceeds from the sale of conflict minerals to finance regional conflicts, subject workers and indigenous people to serious human rights abuses. Also, widespread illegal mining is believed to have spread corruption, unrest, persecution and environmental devastation on a massive scale.

The DRC is one of the poorest countries in the world and has suffered from decades of war and poor governance. The soil in DRC contains an abundance of untapped minerals. According to a 2017 report by NGO Global Witness, at least 20 percent of revenue paid to state bodies by mining companies from 2013 to 2015, approximately USD 750m, disappeared, instead of being used on vital public services for the Congolese people.22

Modern Slavery in DRC Mining

The 2017 Trafficking In Persons report by the US Department State reported that men, women, and children working in artisanal mines in DRC are subjected to forced labour by mining bosses, other miners, family members, government officials, and armed groups. They are forced to work in the illegal mining of diamonds, copper, cobalt, tungsten ore, tantalum ore, and tin, as well as the smuggling of minerals, and are subject to debt bondage, extremely long working hours and physical abuse by security guards. DRC was rated Tier 3 country in the report, which is the lowest tier and includes countries whose governments do not fully meet the minimum standards and are not making significant efforts to do so.27

The Responsible Sourcing Tool by the US State Department’s Office to Monitor and Combat Trafficking in Persons, NGOs Verité and Made in a Free World, and the Aspen Institute, has identified the following forced labour risk factors regarding extracting and processing of minerals:28

- Hazardous/undesirable work
- Vulnerable, easily replaced, and/or low-skilled workforce
- Migrant workforce
- Presence of labour contractors, recruiters, agents or other middlemen in labour supply chain
- Long, complex, and/or non-transparent supply chains
Since 2016, NGOs and other stakeholders have raised the question whether cobalt, a key mineral in the lithium batteries used in mobile phones, laptops, and tablets, and which also largely mined in DRC, should be added to the list of conflict minerals. More than half of the world’s total supply of cobalt comes from the DRC.30

Cobalt is the most expensive raw material inside a lithium-ion battery. As part of an in-depth investigation on cobalt mining in the DRC in 2016, the Washington Post reported that worldwide, cobalt demand from the battery sector had tripled in the past five years and is projected to at least double again by 2020, according to Benchmark Mineral Intelligence. This increase has mostly been driven by electric vehicles.32

According to UNICEF, approximately 40,000 children work in mines in DRC. Amnesty International reported in its 2016 report on the conditions of miners

A conflict minerals survey by PwC in 2014 across businesses—with technology businesses key amongst the respondents—found that more than 80 percent of companies are dealing with quality issues in their supplier responses to reasonable inquiry of origin enquiry, indicating that monitoring in other ways is required to get a clearer picture of risks.28

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**COBALT**

SMARTPHONE
5 TO 10 GRAMS
(as heavy as 2 to 4 pennies)

LAPTOP
1 OUNCE
(a slice of bread)

TYPICAL ELECTRIC CAR
10 TO 20 POUNDS
(2 to 3 gallons of milk)

**GOOD PRACTICE**

Since 2016, Apple publish a list of their 3TG smelters, which also includes their cobalt suppliers. Apple reports that 100 percent of their 3TG smelters and refiners, as well as 100 percent of their cobalt smelter and refiner partners are participating in third-party audits.33

The minerals extracted in the DRC must be refined to be used or sold on the global market. This is most commonly performed by companies in (South) East Asia, who may combine Congolese minerals with minerals from other countries.

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**AMOUNT OF COBALT IN DIFFERENT DEVICES:**

**MEDIA ATTENTION FOR MODERN SLAVERY IN MINING IN THE DRC:**
Number of articles in the last year (Aug 16–17) as identified by LexisNexis Newsdesk®

According to UNICEF, approximately 40,000 children work in mines in DRC. Amnesty International reported in its 2016 report on the conditions of miners

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29 https://www.complianceweek.com/blogs/the-filing-cabinet/is-cobalt-the-next-conflict-mineral#.WY7wqVGGPIV
31 https://www.washingtonpost.com/graphics/business/batteries/congo-cobalt-mining-for-lithium-ion-battery/
32 https://www.washingtonpost.com/graphics/business/batteries/congo-cobalt-mining-for-lithium-ion-battery/
33 https://www.apple.com/uk/supplier-responsibility/
in DRC’s cobalt mines, that it is widely recognised internationally that the involvement of children in mining constitutes one of the worst forms of child labour, which governments are required to prohibit and eliminate. Their research found that the nature of the work that the children do in artisanal cobalt mining in the DRC is hazardous, and likely to harm children’s health and safety.34

In October 2016, GeoPoll conducted a SMS survey amongst mine workers in the DRC on health, safety and child labour. GeoPoll said about the survey: “Perhaps ironically they received and responded to the survey using their mobile phones, the components of which were probably mined under the same questionable circumstances.”

HOW YOUNG ARE CHILDREN WORKING IN MINES?36

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 18</td>
<td>69%</td>
</tr>
<tr>
<td>Under 15</td>
<td>25%</td>
</tr>
<tr>
<td>Under 12</td>
<td>7%</td>
</tr>
</tbody>
</table>

“Their place is at school, not in the mines”, a woman who works in the gold mines in the North Kivu province of the Democratic Republic of Congo (DRC) told us via SMS when we asked if she had seen children working in the mines.

LEGISLATION ON CONFLICT MINERALS

US: DODD-FRANK ACT

In 2010, the United States Congress enacted Section 1502 of the Dodd Frank Act, because of concerns that the exploitation and trade of conflict minerals by armed groups is helping to finance conflict in the DRC region and is contributing to an emergency humanitarian crisis.37 Section 1502 requires domestic and foreign companies that file reports with the US Securities and Exchange Commission under the Exchange Act, to provide annual disclosures about whether any of the products manufactured or contracted to be manufactured by the company contains specified conflict minerals that originate in the DRC or any of its nine adjoining countries: Angola, Burundi, Central African Republic, Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia. It also requires that if so, the company should provide a report describing the measures taken to exercise due diligence on the source and chain of custody of those minerals, which must include an independent private sector audit of the report that is certified by the company filing the report.38

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34 https://www.amnestyusa.org/files/this_what_we_die_for_-_report.pdf
37 http://www.sec.gov/spotlight/dodd-frank/speccorpdisclosure.shtml
38 https://www.sec.gov/opa/Article/2012-2012-163htm---related-materials.html
The initial reporting period started in January 2013. In 2017, it was reported that President Trump was considering an Executive Order to suspend the conflict minerals provision of the Dodd-Frank Act.

A criticism to Section 1502 in the Dodd-Frank Act is that it could potentially cause a boycott on all minerals from the DRC which would have a negative effect on the miners, their families and the overall economy, with some companies noting the difficulty of verifying the source due to the extremely weak and chaotic regulatory environment. However, several companies have committed to sourcing ethical minerals from within DRC by working cooperatively in industry initiatives and/or with NGOs. Also, a recent study conducted by the International Peace Information Service indicates positive results as it found that 79 percent of tin, tantalum, and tungsten miners surveyed now work in conflict-free mines; 204 mines have been officially certified as conflict-free; and 75 percent of smelters/refiners worldwide for the four conflict minerals have passed audits by the Conflict-Free Sourcing Initiative or associated programs.

EU REGULATION

On 3 April 2017, the European Council which brings together EU leaders to set the EU’s political agenda, adopted Regulation 2017/821, aimed at stopping the financing of armed groups through trade in conflict minerals.

The regulation obliges EU companies to source their imports of tin, tantalum, tungsten and gold responsibly and to ensure that their supply chains do not contribute to funding armed conflict. These ‘due diligence’ rules will become binding from 1 January 2021, though importers are encouraged to apply them as soon as possible.

The regulation carries clear obligations to source responsibly for the ‘upstream’ part of the production process, which involves the extraction and refining of these minerals. At least 95 percent of all EU imports of metals and minerals will be covered, while small volume importers will be exempt. Companies will be required to set up supply chain policies which must be publicly shared, and report to their member state their auditing reports. The competent authorities will carry out checks to ensure that EU importers of minerals and metals comply with their due diligence obligations.

In addition, the Commission will carry out a number of other measures to further boost due diligence by both large and small EU ‘downstream’ companies, which are those that use these minerals as components to produce goods.

OECD DUE DILIGENCE GUIDANCE

The Organisation for Economic Co-operation and Development (OECD) has published a practical guide on how due diligence should be carried out for minerals supply chains from conflict-affected and high-risk areas. The guidance lays out a five-step process for all companies involved in the mineral supply chain to follow. Whereas initially the Guidance’s language limited its application only to the supply chains of tin, tantalum, tungsten and gold, in 2017 a new edition of the guidance was published extending the scope to all minerals.

40 http://www.huffingtonpost.com/entry/repeal-and-replacement-of-conflict-minerals-rule-1502_us_S8e34778e4b02e7e0e6e052
41 http://responsiblesourcingtool.org/download/reports/JTIP_ExecutiveOrder_Report_2017_06.pdf#page=209
42 http://www.huffingtonpost.com/entry/repeal-and-replacement-of-conflict-minerals-rule-1502_us_S8e34778e4b02e7e0e6e052
“Elements that make the electronics industry an at-risk sector for modern slavery include long and complex supply chains. Think about all the small components and parts that have to be manufactured. An example of a country where these components are being manufactured is Malaysia. The electronics manufacturing industry in Malaysia has been identified in research by Verité as at-risk, in particular for migrant workers. Also, raw materials used to produce electronics come from very high-risk areas.”

CARLOS BUSQUETS, DIRECTOR OF PUBLIC POLICY, EICC

INDUSTRY COLLABORATION

Examples of collaborative initiatives are:

- Conflict-Free Sourcing Initiative
- Electronic Industry Citizenship Coalition’s Responsible Raw Materials Initiative
- Public-Private Alliance for Responsible Minerals Trade
- Responsible Cobalt Initiative
- Solutions for Hope

“When it comes to tracing supply chains back to their sources, refiners are the critical link. After the mineral ore is refined into metal, it becomes impossible to distinguish tin or tantalum that originated in Congo from other sources, and supplies from all over the globe are mixed together at this step in the chain.”

Global Witness

FOCUS ON MANUFACTURING: MALAYSIA

Another point in the electronics supply chain which is at-risk of forced labour and other ethical issues, is manufacturing. The workers manufacturing components in electronics supply chains are often migrant workers. They are particularly vulnerable to exploitation during the recruitment process, which often includes several brokers and agencies, as well as in their workplaces.

According to the UN Commodities Trading database, the top countries exporting electrical and electronics in 2013 were China, the United States, Germany, South Korea, Singapore, Japan, Mexico, and Malaysia. Although high value-adding labour in this sector is concentrated in advanced economies, such as the US, Japan and several European countries, the lower value-adding, labour-intensive aspects of production in this sector increasingly take place in less advanced economies with large low-skilled workforces and lower labour costs, largely in (South) East Asia.

45 https://www.lexology.com/library/detail.aspx?g=80cece0d3-06ab-465c-bba9-242689d199fe
46 http://www.conflictfreesourcing.org/
47 http://www.eiccoalition.org/initiatives/rrmi/
48 www.resolv.org/site-ppa/participation
50 www.solutions-network.org
52 http://responsiblesourcingtool.org/download/reports/JTIP_ExecutiveOrder_Report_2017_06.pdf#page=52
ETHICAL SOURCING AND EVERYDAY ELECTRONICS

MODERN SLAVERY IN MALAYSIAN MANUFACTURING

The US Department of Labor has identified two countries that produce electronics with forced and/or child labour, in its 2016 List of Goods Produced by Child Labour or Forced Labour: China and Malaysia. This section focuses on the latter.

The electrical & electronics (E&E) industry is the leading sector in Malaysia’s manufacturing sector, contributing significantly to the country’s exports (36.6 percent) and employment (25.3 percent) in 2016. According to the Malaysian Insight, Malaysia’s export of E&E goods increased 3.5 percent to RM287.72 billion last year, compared with 2015’s figures. In the first quarter of this year, E&E products took up the largest part (35 percent) of all exports.

Approximately 86 percent of E&E project investment approved in 2016 originated from foreign sources.

E&E has four subsectors:

- Consumer electronics
- Electronic components—In 2016, the electronic components sub-sector became the second largest sub-sector with approved investments of RM3.9 bil.
- Industrial electronics
- Electrical—The electrical sub-sector is the largest sub-sector, comprising 44.4% of the total investments approved in the E&E sector for 2016.

Malaysia hosts more than 5,000 international businesses from 40 countries, thanks to 500 nationwide industrial estates and “free zones” for trade. Many global electronics brands operating in the country rely on subcontractors or third-party employment agencies to fill the thousands of electronics manufacturing factories with workers. These agencies often operate by using a network of agents in Malaysia, as well as individuals and intermediaries in countries that source workers to the manufacturing sector in Malaysia.

Media attention for modern slavery in manufacturing in Malaysia in August 2016–August 2017: 567 articles
According to research by NGO Verité in 2014, at least a third of migrant workers in Malaysia’s electronics sector are in situations of forced labour, producing products for some of the world’s major electronics brands. Brands might not be aware if they do not implement robust due diligence frameworks and risk monitoring solutions, as the manufacturing companies in their supply chain often use a myriad of employment agents and/or informal labour recruiters. Employers, agents and recruiters have been known to exploit workers.

The workers’ situations can involve:

- Debt bondage: being trapped by debt owed to recruitment agents or employers for excessive recruitment fees, travel fees, visa processing
- Deception about wages, hours, overtime requirements or pay, provisions regarding termination of employment, or the nature or degree of difficulty or danger of their jobs
- Retention of identity documents: being deprived of access to their passports
- Working excessive hours for minimal pay
- Restricted movement
- Contract violations
- Poor living conditions

The Trafficking In Persons report 2017 mentions that “foreign workers in Malaysia and the companies that employ them are subject to a complex system of government fees for immigration processing, foreign worker levies, and other administrative processes. The law allows many of the fees, which are initially paid by employers, to be deducted from workers’ wages, incentivising employers to prevent workers from ending their employment before fees are recouped. Authorities report large organised crime syndicates are responsible for some instances of trafficking. Official complicity and corruption among immigration and police officers remains a problem and impedes some efforts to address trafficking.”

The step by step guide, ‘Eliminating Recruitment and Employment Fees Charged to Workers in Supply Chains’ Toolkit has been developed by the Association of Labour Providers in partnership with the Institute for Human Rights and Business (IHRB) and the International Organization for Migration (IOM). The toolkit supports brands, retailers, employers and labour providers to implement the necessary standards and systems to eradicate the charging of fees to workers in their operations and supply chains and is available to download for free from www.ResponsibleRecruitmentToolkit.org.

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64 https://www.state.gov/j/tip/rls/tiprpt/2017/index.htm
65 https://www.theguardian.com/global-development/2014/sep/17/modern-day-slavery-malaysia-electronics-industry
Ethical Sourcing and Everyday Electronics

Steps for ethical sourcing

The UN Guiding Principles on Business and Human Rights (UNGPs)\(^66\) provide an authoritative global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity. Business-led, multi-stakeholder initiative Stronger Together\(^67\) has developed six steps for businesses to implement the UNGPs regarding tackling modern slavery in global supply chains, which have been applied here to ethical sourcing.\(^68\)

1. **Commit**
   
   The Board and senior management should commit to ethical sourcing and assign responsibility for addressing this within the company to a senior member of staff.

2. **Assess**
   
   - Map the supply chain
   - Identify and prioritise risks

   "Leverage readily available commercial business information as a first pass risk assessment of your supply chain. This includes checking for company directors who are politically exposed persons (posing a higher risk for involvement in bribery or corruption), any company sanctions etc."\(^68\)

   - Chartered Institute of Purchasing and Supply (CIPS)

3. **Act**
   
   Develop a strategy and action plan to mitigate and respond to identified risks. This should include for example:
   - Staff training
   - Buyer–supplier relationship and capacity building, by providing appropriate supplier support
   - Policy development
   - Industry collaboration
   - Collaboration with other stakeholders such as NGOs

4. **Remedy**
   
   It is recommended to put a process in place for when victims of modern slavery and other human rights abuses are being found in a company’s operations or supply chain. Elements to consider are restitution, compensation, rehabilitation and satisfaction and guarantee of non-repetition.

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\(^67\) [www.stronger2gether.org](www.stronger2gether.org)

\(^68\) [https://www.cips.org/Documents/About%20CIPS/News/ten-tips.pdf](https://www.cips.org/Documents/About%20CIPS/News/ten-tips.pdf)
“In different countries, the issue and risks of forced labour appear in different ways, for example related to working hours, wage or working and living conditions. It can involve migrant workers but can also be domestic.”
CARLOS BUSQUETS, DIRECTOR OF PUBLIC POLICY, EICC

“Make it a continuous process. The majority of firms consider supply chain due diligence an annual administrative exercise rather than the on-going, reactive and proactive process that it is. Compliance is a means to an end and not an end in itself. Annual box-ticking leaves your company wide open to risk and is likely to lead to nasty surprises later on.”
NGO Global Witness

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