Concerning Proposed Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains put forward by the China Chamber of Commerce of Metals, Minerals and Chemicals Importers & Exporters

The IPC - Association Connecting Electronics Industries is pleased to offer the following comments on the China Chamber of Commerce of Metals, Minerals and Chemicals Importers & Exporters (CCCMC)’s public consultation concerning possible CCCMC due diligence guidelines for responsible mineral supply chains.

IPC, a global trade association, represents 3,700 member facilities in the electronic interconnection industry, including design, printed board manufacturing and electronics assembly. Printed boards and electronic assemblies are used in a variety of electronic devices that include computers, cell phones, pacemakers, and sophisticated defense systems. IPC is a strong advocate for scientifically-based regulations.

IPC members are keenly interested in, and supportive of, the development of responsible supply chains for tin, tantalum, tungsten and gold (3T&G). IPC has been an active participant in the Organization for Economic Cooperation and Development (OECD), including serving as member of the Multi-stakeholder Steering Group (MSG) of the Organisation for Economic Co-operation and Development (OECD) multi-stakeholder 3T &G joint forum (Forum) for the promotion and implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Area.

IPC welcomes participation and ongoing cooperation of the CCMC.

IPC appreciates the opportunity to provide the following comments and suggestions with regard to the draft guidelines.

Scope of Application

While the CCCMC Guidelines are very well-intentioned, IPC would like to suggest that the scope be carefully reviewed. The draft states “These Guidelines apply to the global supply chains of all mineral resources ...” The experience of companies complying with the more limited Conflict Minerals provision in the U.S. Dodd-Frank Act is that tracing the origin of just four mineral substances (namely tin, tungsten, tantalum and gold) in just nine countries has been extremely difficult and consumes extraordinary amounts of resources, both time and money. CCCMC may wish to focus their initial actions on the 3T&G minerals, for which companies throughout the supply chain are developing mechanisms for responsible supply chains.

The CCCMC Guidelines state that:

“These Guidelines apply to all Chinese companies which are extracting and/or using mineral resources and their related products and are engaged at any point in the
supply chain of minerals. This definition includes all Chinese companies which are engaged in upstream (exploration, development, etc.), midstream (trading, processing, including smelting and refining, storing, transporting, etc.) and downstream companies which are using mineral resources and their related products (for example, electronics, electrical appliances, instruments, jewelry, communications equipment, etc.).” (Emphasis added).

While industry can establish goals and objectives, the farther away a company is from a mineral source, the more difficult, if not impossible, it is to determine the source and whether or not it funded armed conflict.

One of the lessons learned by companies in complying with the United States Dodd-Frank requirements on conflict minerals is that the supply chain for electronic goods is extremely large with many layers. Due diligence in this supply chain varies from difficult to impossible. The typical method employed in tracing mineral supplies is sending questionnaires to suppliers and sub-suppliers. The result is a tremendous burden for companies in sending, responding to, and managing these inquiries. Additionally, if all members of the supply chain do not participate, or provide unclear or incomplete responses, it is virtually impossible for downstream companies to identify mineral sources. For example, in China the only legal trading entity for gold is the Shanghai Gold Exchange Center (SGE). If the SGE does not adopt the guidelines, then it will be impossible for all downstream companies to conduct due diligence on gold.

The OECD Guidelines recognize the complexity and fluidity of supply chains and the limited leverage end-product manufacturers have on remote tiers of their supply chains, stating:

“Internal control mechanisms based on tracing minerals in a company’s possession are generally unfeasible after smelting, with refined metals entering the consumer market as small parts of various components in end products. By virtue of these practical difficulties, downstream companies should establish internal controls over their immediate suppliers and may coordinate efforts through industry-wide initiatives to build leverage over sub-suppliers, overcome practical challenges and effectively discharge the due diligence recommendations contained in this guidance.”\(^1\)

Supply chain solutions simply cannot be effective when they are multiple layers between the source of the minerals and a company that is within the scope of the CCCMC voluntary guidelines.

The statement in Section VI of the draft Guidelines that “it is necessary for all Chinese companies...engaged at any point in the supply chain of minerals to gather sufficient information to trace their resources supply down to the specific location of origin__i.e., the extraction site and transport routes” articulates a completely unachievable goal for both Chinese and non-Chinese

companies. This objective is also, as noted above, inconsistent with the OECD Guidelines and the due diligence practices that have evolved under them.

The Guidelines should be Voluntary

We also suggest that the Guidelines remain guidance only and not be enacted as regulatory measures with the force of law as again they appear somewhat unrealistic and thus unenforceable. Those companies in a position to follow the guidelines will undoubtedly benefit from the due diligence as will their customers, but many companies will be hard pressed indeed to get in line with the standards set forth in the Guidelines.

Need for Close Alignment with International Guidelines

We urge that any new guidelines meet CCCMC’s own stated objective that they be aligned and consistent with the OECD Guidelines, and that they allow for mutual recognition of existing international initiatives and legislation. The CCCMC Guidelines, although clearly intended to align with the OECD Guidelines, diverge from it in very significant ways that would complicate multinational compliance efforts. Because of their wide international acceptance compliance with the OECD Guidelines should be considered as a “safe harbor,” satisfying any CCCMC guidelines. In addition, the CCCMC guidelines also should expressly acknowledge and treat other accepted international, national, association or industry compliance schemes, including Section 1502 of the Dodd-Frank Act and any future European Union regulation, as explicitly acceptable means of exercising reasonable due diligence and compliance satisfying any CCCMC guidelines. Such mutual recognition will avoid duplication of effort and unnecessary burdens on the supply chain, such as multiple redundant smelter audits or supply-chain questionnaires.

Unworkability of the Audit Requirement

Conducting on the ground audits in high-risk areas has also proved to be rather challenging, to say the least and these Guidelines contemplate a significant expansion of such activity. We strongly urge the CCCMC to maintain realistic expectations regarding the efficacy and application of the Guidelines.

Conclusion

IPC appreciates this opportunity to provide comments on behalf of our membership.

Sincerely,

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