

Recommendation to replace the Artisanal and Small-Scale Mining Policy (ASM Policy)

Explanation to Members

The Tantalum-Niobium International Study Center (T.I.C.) authored and adopted the original Artisanal and Small-Scale Mining Policy (ASM Policy) in 2009. In 2009 there was little consensus on how, or if, companies could ethically source material from ASM sources. Due to the importance of ASM to our membership, and to our industry, the T.I.C. produced the ASM Policy as an early form of guidance into the ethical procurement of material from artisanal sources.

The situation today is very different from 2009. Today, many laws address issues involved in mineral sourcing. In addition to laws, there are a range of regulations applying to ore procurement, depending on the communities that participate in the sourcing, purchasing or consuming supply chain. Due to the expansion of the regulatory framework, the Executive Committee of the T.I.C. recommends that the ASM Policy should be replaced by an ASM Code of Conduct that aims not to provide specific guidance to members, but rather to encourage members to comply with laws and best practices. It is important that our organization, and membership, avoid actions that damage the perception of our industry as such damage is detrimental to the T.I.C. promotion of tantalum and niobium consumption.

Your Supply Chain sub-team
September 2016

ASM Code of Conduct

Our Mission as the Tantalum-Niobium International Study Center (T.I.C.) is to increase awareness and promote the remarkable properties of tantalum and niobium.

In order for our organization to successfully achieve its mission, members should act to build verifiable supply chains that confirm the fact that sourcing of tantalum and niobium is legal and ethical. Members should avoid actions which result in a globally negative perception of the tantalum and niobium industries.

The T.I.C. requires that members avoid contributing to conflict through their sourcing of products containing tantalum and niobium by keeping the following code of conduct in mind:

1. Obey laws governing minerals purchasing that may apply based on the source of minerals
 2. Make reasonable effort to investigate and comply with regulations covering the integrity of supply
 3. Act to further the reputation of the tantalum and niobium industry
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1. Obey laws governing minerals purchasing that may apply based on the source of minerals
 - Members are required to conduct their business activities in a manner that is legal and proper, under the laws of the jurisdictions in which they operate.
 - Members are required to facilitate their customers with information necessary for compliance with the laws of the jurisdiction in which their customers operate.
 - Members are required to respect public officials in jurisdictions in which they operate, and are prohibited from engaging in, or benefiting from, illegal or unethical influence to expedite or influence any government action.
 2. Make reasonable effort to investigate and comply with regulations covering the integrity of supply
 - Members are required to investigate regulations that may be applicable to them due to supply chains they participate in.
 - Members are required to investigate regulations that may be applicable to the countries or regions in which they operate.
 - Members are required to comply with all applicable regulations to the extent reasonably possible.
 3. Act to further the reputation of the tantalum and niobium industry
 - Members are required to conduct their business in a manner that avoids activities that bring any form of disrepute to our industry as a whole.

Regulatory and legal environment surrounding ASM

The T.I.C. does not provide legal advice to members. The T.I.C. objective, in this document, is to provide a general overview of the various legal and regulatory issues that members may encounter when conducting tantalum and niobium sourcing in various communities.

Once equipped with basic general knowledge of regulations that may affect member activities, members are advised to seek competent advice on what regulations and laws are applicable and the T.I.C. requires members to comply with applicable laws and make all reasonable effort to comply with applicable regulations.

As the US government began to discuss regulation of the tantalum industry, downstream consumers co-operated in the EICC (Electronics Industry Citizenship Coalition) and the GeSi (Global e-Sustainability Initiative) in order to create workable regulation. Ultimately this resulted in the CFSI (Conflict Free Smelter Initiative) - <http://www.conflictreesourcing.org/>. This was a due diligence system of yearly audits at the smelter/refiner level, the 'pinch point' of the upstream supply chain, and there are currently 46 tantalum refiners who are listed as CFSI compliant.

The effort at industry self-regulation did not prevent legislation and a clause was added to the Dodd Frank Act (the Act), where Section 1502 of the Act requires disclosure of some minerals including tantalum should these minerals have originated in the Democratic Republic of Congo (DRC) or an adjoining country.

The Act was signed into law by President Barack Obama on July 21st 2010. On August 22nd, the SEC adopted rules regarding 'conflict minerals disclosure' into US Federal Law - <https://www.sec.gov/spotlight/dodd-frank/speccorpdisclosure.shtml>

For compliance with the Act the CFSI required an on the ground provenance system. The T.I.C. joined the iTSCi Programme as part of the Governance Committee in April 2011 - <https://www.itri.co.uk/itsci/frontpage>. Compliance with the iTSCi system, together with the CFSI, was subsequently adopted by the tantalum industry as best practices and many downstream customers who were subject to the Act have successfully used this for Act compliance.

During this time the OECD (Organisation for Economic Co-operation and Development) along with the UN Group of Experts was working on producing the *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* - <https://www.oecd.org/daf/inv/mne/mining.htm>

The OECD guidance was approved and endorsed by the eleven member states of the International Conference on the Great Lakes Region (ICGLR) in the Lusaka declaration, which was adopted on December 15th 2010. In May 2011 it was approved for publication and subsequently amended on July 17th 2012 to include a reference to the supplement on gold.

The China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCCMC) more recently, in November 2015, introduced its own *Due Diligence Guidelines for Responsible Mineral Supply Chains*, for Chinese companies operating in conflict-affected and high-risk areas - <http://en.cccmc.org.cn/news/cccmcinformation/44298.htm>

Finally, we have the European Union working on the EU Conflict Minerals regulation. At present it is unclear whether it will be mandatory or voluntary, whether it will be just 3Ts and gold or other metals and whether countries other than the African Great Lakes Region will be included. Members are advised to keep a very close eye on the progression of this regulation. This is the link to the final version from the European parliament - <http://eur-lex.europa.eu/procedure/EN/1041751>. However, the current discussion in Council/draft version is not public, but they make general remarks: <http://www.consilium.europa.eu/en/press/press-releases/2016/05/12-conclusions-on-responsible-global-value-chains/>