

Questions and Answers

ENABLING A JUST TRANSITION

A multi-stakeholder approach to identifying and mitigating the hidden risks of the global energy transition in key mining supply chains

4 May 2022

4.00-5.30 PM CEST

Part I: Chatbox questions

1. *Question: What kind of companies do use the Online Due Diligence Portal/ tool? And which sources determine the risk analysis?*

Answer (SER): Currently the tools are used by companies that are member of the Metals Agreement, these include mostly downstream companies and recycling companies. However, the tool is created to be used by upstream, downstream and recycling companies. We also offer an overview of recognised sources for companies to conduct risk analysis. These include public databases, reports on childrens rights, labour rights and environmental issues such as the Children's Rights Index and the Environmental Justice Atlas. The civil society organisations to the Agreement can direct the companies to relevant sources and provide input for their risk analysis directly.

2. *Question: Will the (Online Due Diligence Portal) system/tool be accesible for the coming years even if the covenant could be ending at some point?*

Answer (SER): This is not confirmed yet, but we believe the portal will be accessible after the Agreement ends.

3. *Question: RMI is expanding the supply chain mapping to all minerals through an agnostic mineral reporting template. With more than 400 members potentially using it, it would be great to work closely to the SER to leverage joint efforts.*

Answer (SER): We would be happy to get in touch with organisations to leverage our joined efforts. Please contact us through metaalconvenant@ser.nl.

4. *Question: Is the participatory monitoring tool of CNV Internationaal also available for companies that want to research their own supply chains? How can we get in touch with CNV about this?*

Answer (CNV): The monitoring tool is available for all companies interested to get good information on what happens on the ground. The monitoring will be done with local trade unions. For more information you can contact CNV internationaal; Maurice van Beers m.vanbeers@cnv.nl

5. *Question: How can we get in touch with the IRBC metals agreement?*

Answer: Would you like to learn more about the Metals Agreement online due diligence portal or the IRBC Agreements in general? Get in touch for an introductory meeting with the secretariat!

Metals Agreement: metaalconvenant@ser.nl or <https://www.imvoconvenanten.nl/en/metals-sector>

Renewable Energy Agreement: REAscretariat@ser.nl or <https://www.imvoconvenanten.nl/en/renewable-energy>

Part II: Questions from Moderator to the Presenters (following their presentations)

6. *Question for René van Hell, Ministry of Foreign Affairs:
What must governments do specifically to make sure that the energy transition in Europe leads towards a just transition in the carbon and metals international supply chains?*

Answer: It is crucial that our energy transition in Europe takes into account a just transition in international supply chains. As

governments, there are a number of things we can do, of which the impact and efficiency can be increased by aligning our action with other governments. That is why we signed a declaration at the COP26 in Glasgow supporting the conditions for a just transition. Actions formulated in this declaration are for example:

- a. Supporting workers in the transition to new jobs and promote green and inclusive jobs by supporting skills development and favorable labor policies;
- b. Supporting and promoting social dialogue and stakeholder engagement;
- c. Supporting countries in creating enabling frameworks and long-term economic strategies to ensure sustainable and inclusive economic recovery and growth.

Governments should be acutely aware of the fake news about climate change, address it and at the same time communicate about the potential of all the difficult transition measures that are needed and be clear that while transitioning towards a green society, we will innovate and hence make mistakes.

7. Question for Anouk van Esch, SER:

What is the added value of civil society organisations like (local) trade unions and (local) NGO's when filling in the online Due Diligence-tool?

Answer: There are a lot of advantages regarding multi-stakeholder collaboration within the Metals Agreement:

First of all, the companies can consult civil society organisations during their supply chain risk assessment, for example regarding international RBC risks in relation to a specific material, country or production process. Civil society organisations have knowledge and expertise in certain fields and many local partners with "on the ground" experience. For example, they can provide a quick-scan of the international RBC risks in a particular region.

Secondly, based on their due diligence action plan, companies can engage with civil society organisations on how to address the prioritised (most salient) risks in their supply chains. Collective actions with companies and civil society organisations are part of the Metals Agreement as well. Civil society organisations have networks in many production countries and they have experience with developing and implementing positive impact projects. Thirdly, civil society organisations can also be approached for substantive feedback on, for example, a draft RBC policy or RBC report of a company. This way, the Metals Agreement provides tailor-made support for participating companies.

Lastly, the civil society organisations were also involved in the development of the online due diligence portal of the Metals Agreement. The portal is therefore a combination of the input from different stakeholders.

8. *Question for Maria Paula Quiceno and Gianina Echeverría, CNV Internationaal:*

What is the advantage of this participatory monitoring tool in relation to company due diligence risk assessments?

Answer: The added value of participatory monitoring is that it -provides direct information from workers on the workplace about how they experience the situation around workers' rights. This is important because generally in the due diligence assessments that are done by companies themselves, the information is mostly provided by the HR departments of the companies. The information from participatory monitoring not only provides additional information but also ensures that due diligence assessments are more reliable about what is really going on in terms of labor rights violations.

9. *Question for Pim Bergkamp and Chantal Dekker, Tata Steel:*

How do multistakeholder agreements like the IRBC Metals agreement help in preparing the sector for due diligence legislation?

Answer: The IRBC Metal Agreement provides a framework to work in and guidance for the processes to follow. It gives us also a good idea of what is going on in a broader sense. We attend many seminars, etc. and try to get as much information as possible, but we are occupied with what is going on in our own environment or at our suppliers, and we get a lot of broad input in particular via the SER and their network.

10. *Question for Diana Quiroz and Barbara Kuepper, Profundo:*

How can government, companies, trade unions and civil society prepare themselves for the coming shifts to assure they will be just and to provide that global south doesn't pay the price for our energy transition in Europe?

Answer: Certainly, transparency is quite an issue. Improving transparency is a must. Moreover, we should be accompanied by policies that are more binding. So that companies are obliged take into account human rights in what they purchase.

11. *Question for Mark van der Wal, IUCN:*

What is the first thing multi-stakeholder agreements, like our own, should do to make sure we are prepared for a just energy transition in the mining sector?

Answer: Agree on the fact that (International) Responsible Business Conduct starts with value chain transparency, it is only when we

know the sources of our raw materials (minerals / metals) that we can make sure sourcing is taking place in a legal and responsible manner. Secondly we do not see what we do not know.....so when undertaking DD research it is crucial to consult civil society (national and local conservation NGOs) in the production countries / the production landscapes / along the value chain.

Part III: Questions during Panel Discussion

12. Question to Orlando Cuello of SINTRACARBON:

As a trade union leader from Colombia in a coal mine, in time of increased demand for coal, what are the priorities for the workers in the supply chain to guarantee a just transition?

Answer: In all the time we have been mining in Cerrejón, the company has never taken the workers into account for good times in demand or prices. The company's payroll has never exceeded 7% of profits. We have tried to obtain an agreement to receive a percentage of the profits and have been denied. A just transition will only be possible with a progressive government that understands and respects the rights of workers and communities. The multinational Glencore has its closure programme in which it establishes a reduction of contractual responsibility and in this sense it has been making progress in outsourcing, dismantling collective agreements, dismissing sick workers, promoting court rulings in its favour in environmental cases, and has obtained a great favour in tax liabilities and to change this requires much more than good intentions.

13. Question to Tineke Lambooy, Chairwoman of the IRBC Metals Agreement:

How can a voluntary initiative like the IRBC agreements contribute to a just transition? As the chairman of the IRBC Metals Agreement, what is the key take away of today's event that you will give to your members?

Answer: The first is that a change in the behavior of companies, governments, organisations and people will only happen if people wish to see that change. Hence, the mental mindset of people is crucial. Whatever role you play in society, if you really want something to change, you can be that change and will make it happen. A voluntary initiative like this helps people to find like-minded people with whom they can explore the new road and way to do things. That is more fun and more effective. So, the companies work together in developing new corporate strategies, due diligence tools and the implementation thereof. And the trade unions and NGOs (societal partners) contribute to this process by sharing their knowledge about human rights, labour and environmental issues. They have gathered so much knowledge from and with partners on the ground in many countries. Also, they have experience with implementing due diligence and assist individual companies (with the process and in projects). The collaboration between societal parties and corporate

parties is another important step in the right direction as they are creating a positive change together rather than working from a conflict model, which was often the case in the first decennium of this century.

The second thought is that the best practices which are being developed in this Agreement, are – in my view as a lawyer – norm setting. Norm setting for RBC in the whole sector, not only for the parties to this Agreement. These new norms are legitimised due to the great variety of all Agreement participants and their constituencies (i.e. besides companies and societal parties, also trade federations and governmental stakeholders participate). The new norms fill in and specify the current open norms in the law, the OECD Guidelines and other (semi)legal frameworks. Courts – and also National Contact Points (NCPs) – always look for common standards in industries when confronted with questions about RBC.

My take away of today: the changes required for the energy transition are very challenging for individual parties. Hence, sharing knowledge and enthusiasm today is crucial for the collaboration between the parties. And the collaboration is key for the realisation of the change and for keeping a level playing field in the sector.

14. Samantha Smith, ITUC:

The International Trade Union Confederation represents 200 million of organized workers in 162 countries. The Just Transition Centre is part of the ITUC, set up after the negotiation of the ILO Just Transition Guidelines and the Paris Agreement. We help unions around the world, North and South, get good agreements on Just Transition. That might be a law, regulation, or investment at national, state or city level; or a collective bargaining agreement.

Question to Samantha Smith:

What is the role of social dialogue in just transition and what must multistakeholder initiatives like the IRBC metals agreement do to support social dialogue?

Answer: Under the Just Transition Guidelines negotiated in the UN's International Labor Organization, social dialogue is an essential part of Just Transition. There is no Just Transition without it. That means that workers and our unions, employers, and sometimes governments must be at the table to negotiate binding agreements for workers and decent job creation. These usually involve training for workers and a guaranteed transition to a new and quality job, social protection measures such as early pension or extended unemployment insurance, and investment in the region to create new and quality jobs as well as decent public services. Similarly

stakeholder engagement is a key part of Just Transition as negotiated in the ILO, but it is really important to be clear that this is a different process than social dialogue. Multistakeholder processes like this one can produce consensus and shift norms, but they can't produce binding outcomes. Workers need binding outcomes.

Initiatives like the IRBC metals agreement can prepare the ground for social dialogue by getting the facts on working conditions and what is really going on in the mines. They can move the social partners towards consensus on the facts and sketch out ways forward. But negotiations about jobs, restructuring, investment in jobs and services in the community all belong in social dialogue, with a goal of reaching binding outcomes.

15. Question to all panelists:

What would be the first thing you will do tomorrow to take a next step in your own organisation to enable a just transition?

Answer Marc van der Wal, IUCN:

If it would not be Liberation Day, I would do a lot of things tomorrow. ;) No – in fact I would look at the Just Transition Centre, because I haven't heard of them. The global mission of IUCN is a just world that protects and conserves nature. So the key question is: what do we mean with the word 'just'. When we talk about the UN guiding principles, one of those is the right to a clean and safe environment. And how are we going to organize that?

Answer Sabine de Bruijn, Ministry of Foreign Affairs:

This afternoon we reflected in particular on the importance of multi-stakeholder collaboration and corporate sustainability due diligence in supply chains. It is clear that more needs to be done to advance a just transition and make responsible business conduct (RBC) the norm. The Dutch Government is implementing a smart mix of RBC policy measures to foster sustainable supply chains. In terms of concrete next steps:

- o We support legislation on RBC at EU-level. This would contribute to a level playing field for companies in the European single market and a larger, collective impact in producer countries. We will introduce national RBC legislation that promotes a level playing field and is in line with the implementation of possible EU legislation.
- o Besides legislation, we are implementing supporting measures to promote responsible business conduct. This includes - for example - financial incentives, the facilitation of sector-wide cooperation and the launch of a new RBC support office for companies.

We are taking these extra steps to ensure companies avoid and address negative impacts of their operations and maximize their contribution to sustainable development and a just transition. I believe it is fantastic that we can build on the lessons learned from the International RBC

Agreement for the Metals Sector that were presented today.

Answer Orlando Cuello, Sintracarbon:

Many organizations at many places work in line with what is fair. We're talking about the communities here – the people. That is very important. Secondly, as a union organization, we represent the workers. Solidarity is very important to obtain justice. As union organization we will continue our work with CNV. We are following a road that (hopefully) is leading towards collaboration with the government. That is not easy, however, as we want to respect the environment while working towards this fair transition.

Answer Samantha Smith, ITUC:

Two things that I would (and am going to) do: Push even more for a binding human rights due diligence regulation in Europe. Our experience from other multistakeholder initiatives is that they can only do so much. Ultimately you need regulation and independent monitoring and enforcement including a strong grievance mechanism.

And I will also share the results of the webinar with our Colombian affiliates, with whom we are working on Just Transition.

Answer Tineke, IRBC Metals Agreement :

I would organise to contact the participants of today who wish to learn more about the Metals Agreement. Please submit your contact details with the secretariat: metaalconvenant@ser.nl. I would really encourage the participants to join our Metals Agreement. Great collaboration currently takes place in the Agreement. And the more companies, the more leverage we can create for a just energy transition. And to really be the change in international supply chains. And it will help us and the parties to learn from mistakes and best practices.

Part IV: Questions submitted via registration form:

16. Question: Could you address what options SMEs have in addressing supply chain risks?

Answer: SMEs can start by step 1 from the OESO guidelines, developing their own supply chain policy and suppliers contracts. They can ask their suppliers about their Code of Conduct and more specifically they can ask questions on the most prevalent risks in their chain, how their suppliers address and mitigate risks and find out the downstream chain (if possible all the way to the mines). Furthermore, they can join other SME's – facilitated by their branch organizations – to join forces together through exchanging information but also increasing leverage when approaching providers in the tier 2 and 3.

17. *Question: How can the labor rights of mining workers be guaranteed, as a proposal from a private institution?*

Original: ¿Cómo garantizar los derechos laborales de los trabajadores mineros como propuesta desde una institución privada?

Answer: Whether it is a private or government owned institution, or company. The OESO guidelines apply for all companies, labour rights can be guaranteed if the company accepts democratic election and organisation of independent trade unions. Offer them a place to talk to the workers and let them represent all workers, including sub-contracted workers. If you are higher in the supply chain, you can ask your suppliers and downstream mine production site how labour rights are organised and workers representation.

18. *Question: The state (government) and the ministry of labour allow a group of lawyers (third parties) to offer workers “voluntary” retirement plans and are dismissing sick people and union leaders. Who holds Prodeco, a subsidiary of Glencore, accountable for their labour rights?*

Answer: Good question: the state should be the first party to guarantee for the rights of workers as a part of the duty to uphold public interests. If they are not complying, a complaint might be filed with the International Labor Organization (ILO). Already the trade unions of Prodeco requested the department of multinational companies of the ILO to intervene and facilitate dialogue between workers, government and the company Prodeco/ Glencore. Other non-legal instruments are the national contact points of the OECD (in Colombia or in Switzerland). CNV internationaal for example filed a complaint towards the Single Entry Point (SEP) of the European Commission for no compliance with the sustainability chapter of the free trade agreement between the EU and the Andean countries.