

Workshop “Building the Legal Framework for Sustainable Economic Activities”  
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## **A look outside the EU: the Swiss approach on Business & Human Rights**

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# 1. Overview of the Swiss BHR Framework

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## Extra-financial reporting

ESG in a broad sense  
Art. 964a-c CO

01.01.2022  
FY 2023

Source of inspiration: NFRD

## Transparency in raw material companies

Bribery  
Art. 964d-i CO

01.01.2022  
FY 2023

Source of inspiration: Dodd-Frank Act, Art. 1504

## Conflict Minerals and Child Labour

Supply chain due diligence  
Art. 964j-l CO

01.01.2022  
FY 2023

Source of inspiration: EU Regulation 2017/821 and Dutch Child Labour Due Diligence Act

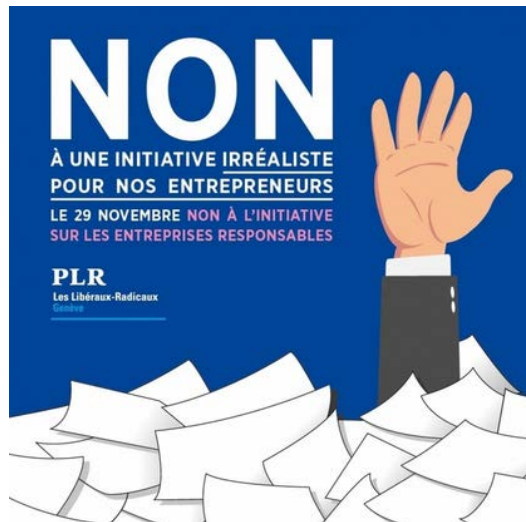


## 2. Context and (hectic) legislative process

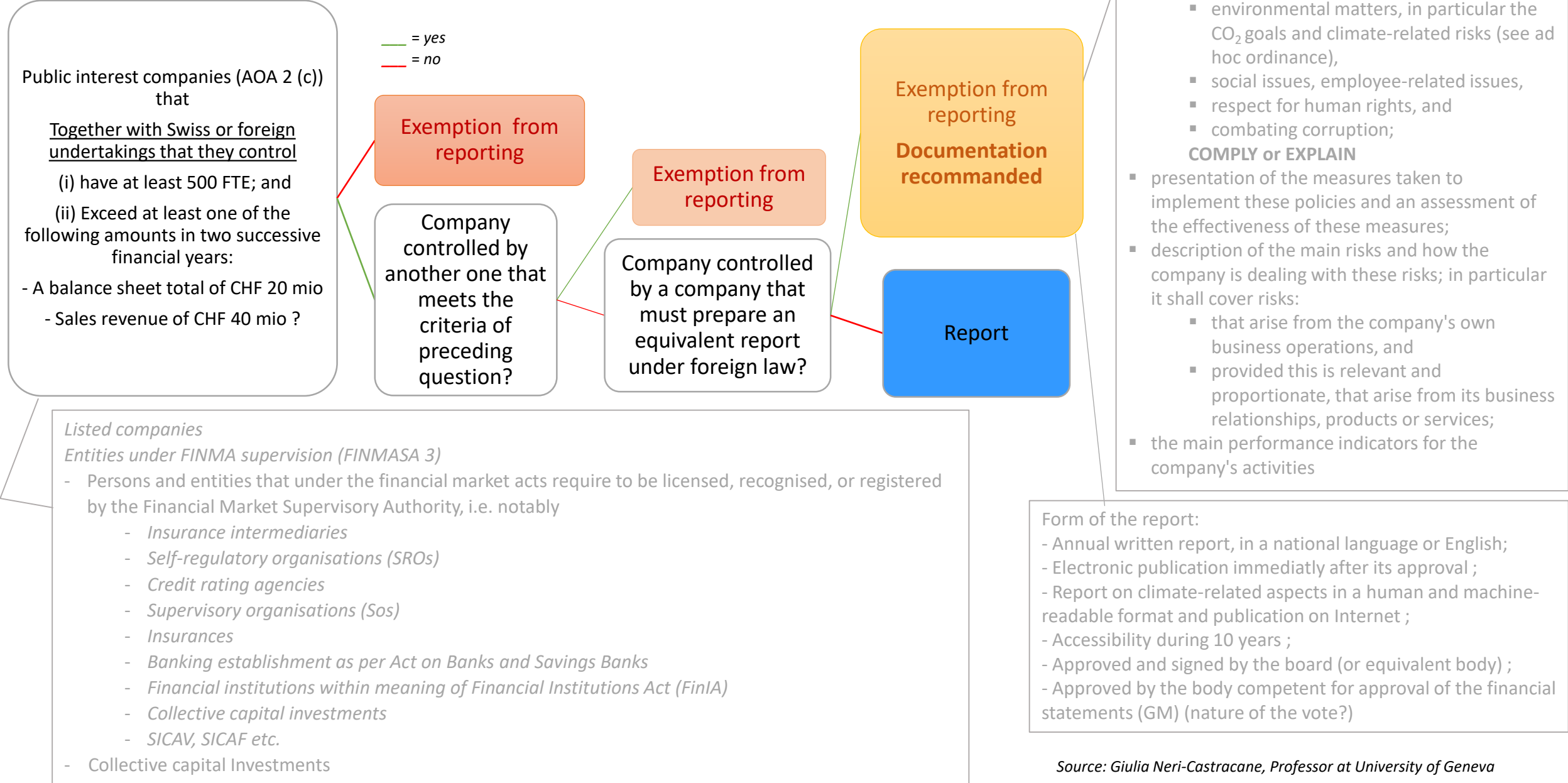
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### ■ Timeline:

- 2016 : Launch of the Swiss Responsible Business Initiative
- June 2020 : Swiss Parliament adopts a (much lighter) counterproposal
- November 2020 : The Swiss Responsible Business Initiative is rejected



# CO 964a-c : Extra-financial reporting



# CO 964d-i : Transparency in raw material companies

Enterprises undergoing an ordinary audit, which are, directly or through a company that they control involved in the extraction of minerals, oil or natural gas or harvesting of timber in primary forests?

Exemption of reporting

Payment to state bodies?

Exemption of reporting

Payment amounting to min. CHF 100'000.- in a financial year?

*In one or several sums*

Exemption of reporting  
Documentation recommended

Mention of all payments (indication of the amount of the payments made in total and by type of service to each state body and each project);  
National language or in English;  
Approval by the board (or equivalent body);  
Publication within 6 months from the end of the financial year;  
Accessibility during 10 years

No report  
Report replaced by the group report  
Reference to group report in the annex to financial statements (CO 964d II and III)

Company as part of a group that draws up consolidated annual accounts?

Company covered by foreign company's report as per equivalent regulation? (CO 964d III)

Annex to financial statements (reference to the other company)

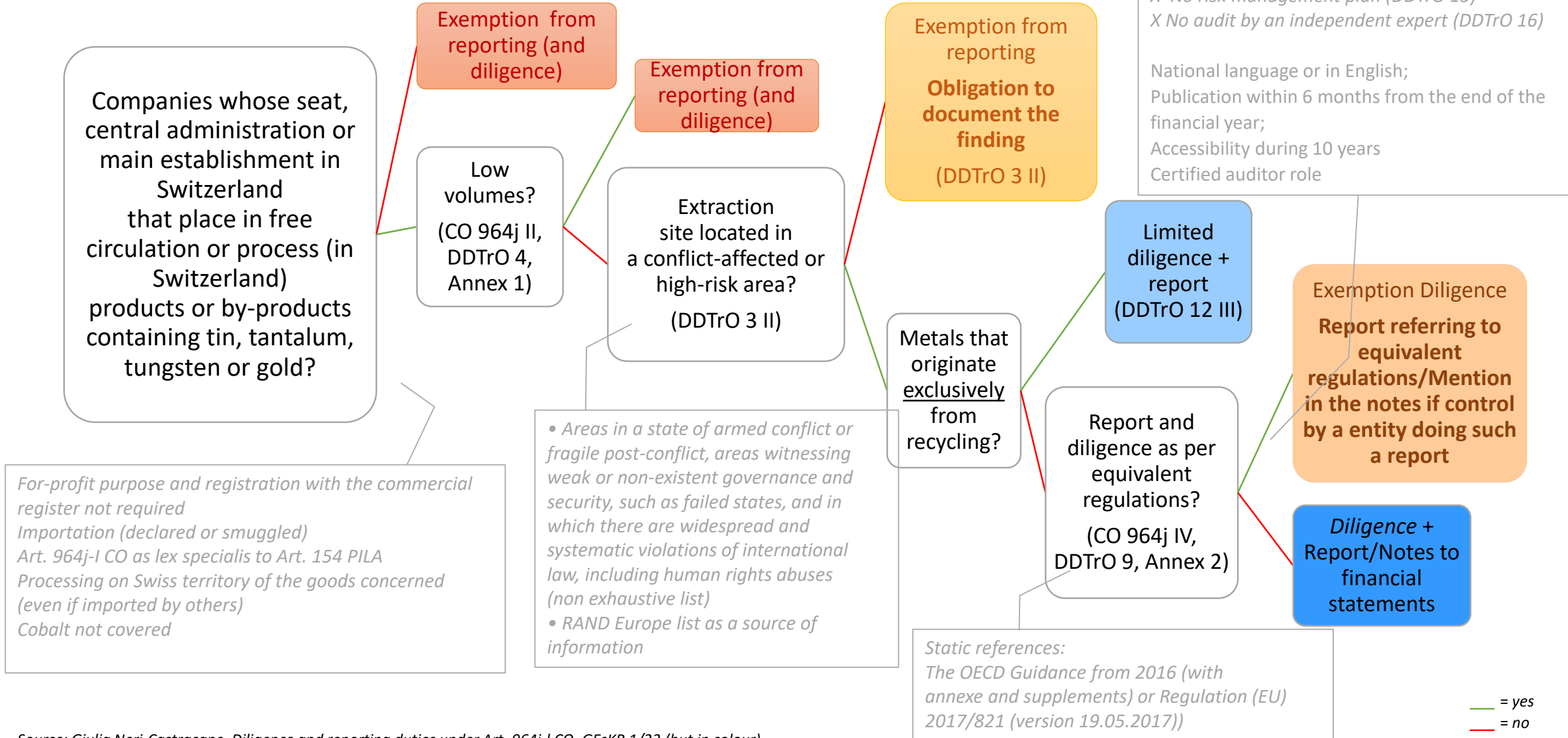
Report

Extraction includes all activities carried out by the company in the areas of exploration, prospecting, discovery, development and extraction of minerals, oil and natural gas deposits and the harvesting of timber in primary forests (CO 964d IV)

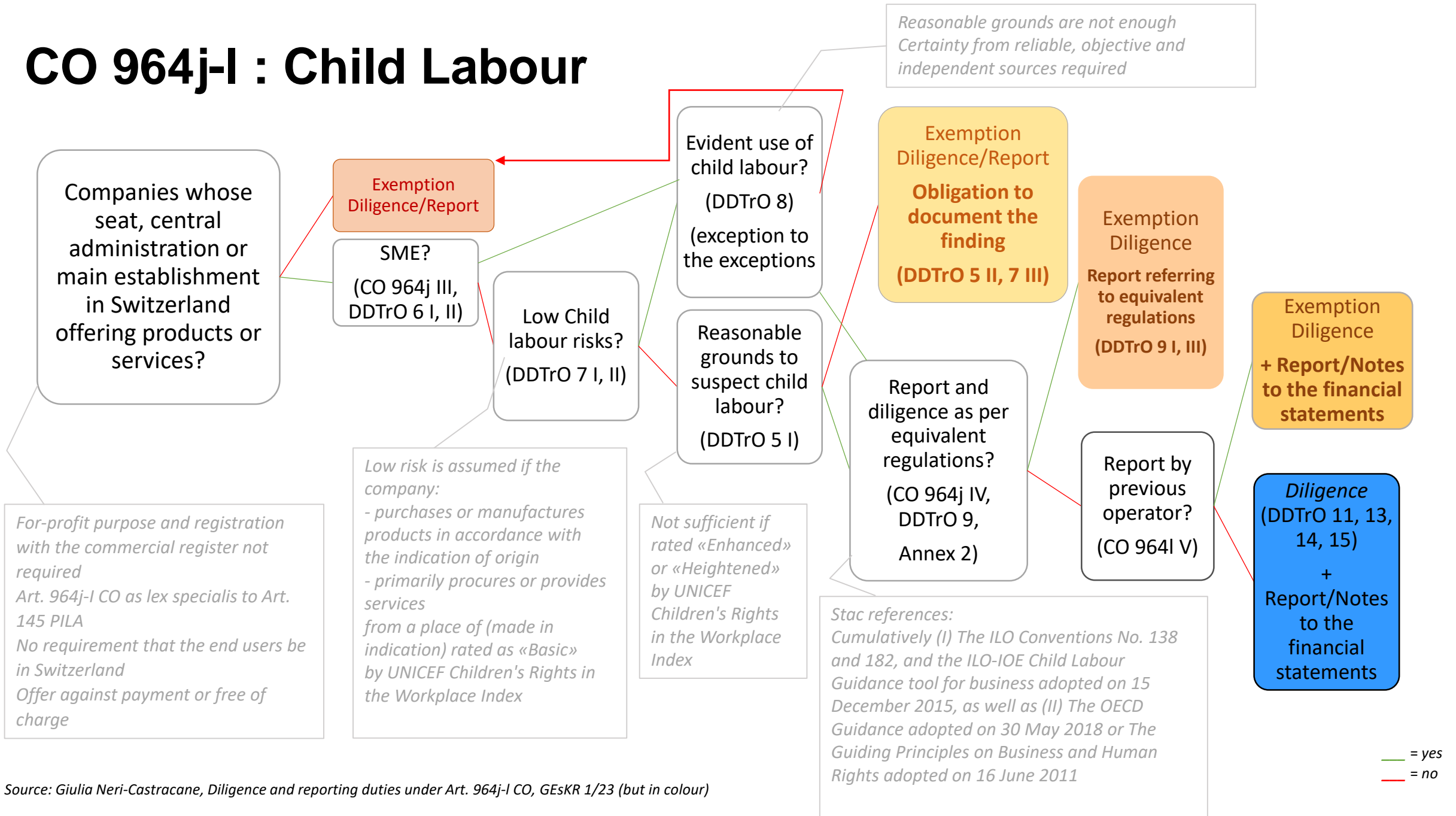
- State bodies = national, regional or local authorities in a third country together with the departments and businesses controlled by such authorities (CO 964d V)
- *Payment* = payments in cash or in kind, notably those listed at CO 964e I
- In the case of a payment in kind, the subject matter, value, method of valuation and if applicable the extent must be indicated (CO 964e II)

— = yes  
— = no

# CO 964j-I : Minerals and Metals from Conflict-Affected Areas



# CO 964j-I : Child Labour





### 3. Interactions and gaps with the EU BHR legislation

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- **Interactions** between Swiss and EU BHR legislation:
  - Extraterritorial application of the EU BHR legislation
  - Exemption for the application of equivalent foreign regulation
  
- **Gaps** of the Swiss legislation towards the EU BHR legislation:
  - No general supply chain due diligence
  - No mandatory reporting standards
  - Lacunary enforcement mechanisms and sanctions
  
- The way forward: **harmonization** with the EU BHR legislation?





## Conclusion

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- Questions / Comments?

**Thank you for your attention !**

