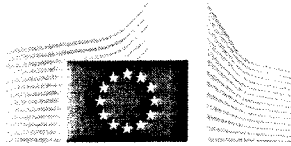


1



EUROPEAN COMMISSION

Directorate-General for Trade
Directorate G - Trade Strategy and Analysis, Market Access
Market Access, Industry, Energy and Raw Materials
Head of Unit

Brussels, February 5, 2014

TRADE/G/3

Minutes from bilateral meeting with Euratex on January 29, 2014.

Participants: [4.1(b)] (Euratex) [4.1(b)]

[

4.1(b)

]

The Dodd-Frank Act (DFA) has an impact on the clothing and accessory sector and [4.1(b)] asked about the state of play in Europe regarding conflict minerals in order to be able to downgrade the urgency among Euratex's members.

[4.1(b)] explained briefly the state of play regarding the DFA as well as the COM initiative on conflict minerals, how European companies are affected by the DFA, what companies do to comply with the DFA, the differences between the DFA and the COM initiative, product coverage, geographical coverage and the results of the public consultation.

[4.1(b)] further clarified that the initiative was much supported from KDG but that the package containing a Communication and draft legislation would not enter into force during the current mandate. The initiative would be brought up again by the next EP and the next Commissioner.

Euratex' interest in conflict minerals was limited to tin (present in zippers and buttons) although these components represented a small part of their industry (but would still be obliged to comply with any provisions). It would therefore be preferable that both systems were compatible in order not to create unnecessary burden and (hidden) costs.

As regards TTIP, AAFA has raised the issue of conflict minerals with an inconsistent approach: the organisation was against DFA but now calls for provisions on conflict minerals in TTIP (Euratex wants this issue to be excluded from the TTIP).

[4.1(b)

]

From: [4.1(b)]
 Sent: mardi 4 février 2014 15:16
 To: [

4.1 (b)

Subject: [4.1(b)] Report Meeting: [4.1(b)] at the International Relations Committee of BusinessEurope, 31 January 2014

Report Meeting: [4.1(b)] at the International Relations Committee of BusinessEurope, 31 January 2014

Summary:

[out of scope

□

out of scope

□

[] out of scope

]

Confindustria also asked about the **Conflict Minerals initiative** [16] replied that the proposal is in a good state with a non-compulsory system as the main outcome. The Commission remains vigilant to find the right balance between the demands from the civil society and the business interests.

✓

From: [4.1(b)]
Sent: vendredi 7 février 2014 18:13
To: [4.1(b)]
Subject: FW: wolframite from Africa

Meeting with Belgium trader in TUNGSTEN and TANTALUM, and owner of a small scale TUNGSTEN mine in Rwanda

He is unable to sell his Tungsten anywhere in US/EU as because of USDFA (only 2% of the tungsten originates in from Africa): we have copies of "DRC free" purchasing orders only; In this case 1,000 mining jobs are at stake (10,000 related livelihoods)

Industry is more interested in closed pipeline of Tantalum because 15-20% is from Africa.

We suggested to contact end-users (automotive or other potential users, BDI) for a conflict free pipeline project, and keep us informed.

From: [4.1(b)]
Sent: Friday, January 31, 2014 10:46 AM
To: [4.1(b)]
Cc: [4.1(b)]
Subject: FW: wolframite from Africa

[4.1(b)]

[4.1(b)] from iTSCi has advised me to write to you in the hope that you might be able to assist or advise us on our best course of action. I believe that at one time you may have been considering promoting a conflict-free tungsten supply chain from Africa to end customers which would be a very positive example. Unfortunately, the situation is worsening rather than improving, and even those companies who were buying traceable tungsten from the region are now prevented from doing so by the market dynamics.

I know that the EU is considering its own regulation on conflict minerals and looking for ways to avoid the harmful effects created by Dodd Frank; I would be very pleased to have a discussion with you and your colleagues as soon as possible.

NBM (New Bugurama Mining) is a small artisanal tungsten mine in Rwanda. SMT invested in NBM in 2009 and have been gradually investing in order to transform the mine from artisanal to semi-industrial. We currently employ directly 128 employee's and indirectly 1200 miners. As you know this roughly translates into roughly 10000 people who depend on NBM for their livelihood.

As Rwanda borders on eastern DRC it is considered an conflict region. In order for our material to be conflict free we are working with iTSCi to insure that we can certify that our product is conflict free. These additional costs we believe are worthwhile if it allows us to sell our product on the international market and allows our customers to purchase our product in the confidence that it is from a legitimate source that complies with OECD rules.

We believed that we would be able to supply our ore to refineries under the CFSI program (as with Tin and Tantalum). This was also the position of the refiner that we used to toll treat our ores in 2013.

However in September 2013 the CFSI joined forces with the Ti CMC (industry association). The Ti CMC position is slightly different as they pretend to be supportive but in practice they simply refuse to accept any African material, pretending that US end users- who might have misunderstood the Dodd Frank Act- clearly

stated they refuse to buy any W product which might have African origin material inside. Even Japanese and Korean refineries are adopting a similar attitude resulting in the de facto ban of African wolframite. This position was informally communicated to Xiamen Tungsten (our toll refiner) who were informed in October 2013 that if they want to sell their products they cannot toll convert for any African producers.

Xiamen Tungsten, with whom we have close relationship for over 20 years, have since informed us that they will not treat any African material at all.

The point of the CFSi program was to validate if a refiner is conflict free (as it was considered to be the choke point and allows for control) however we believe certain large western consumers (who also own large recycling plants in Europe and the USA) are trying to use the conflict minerals legislation to kill off small African producers who compete with via tolling at Xiamen Tungsten. They are achieving this by using Ti CMC/CFSi position in which they ban all African product.

We have been in contact with [4.1(b)] and [4.1(b)] (CFSi) to explain our position and both are supportive but I believe they are being blocked from resolving this situation by the Ti CMC, which is controlled by the big western recyclers – Wolfram Bergbau (Sandvik) and GTP (Plansee Group)- and is insisting on banning African material in order to be conflict free – unlike the consumers of Tin and Tantalum.

We and other miners in Rwanda and Burundi face this problem and it is putting the livelihood of hundreds of thousands of people in the region in jeopardy.

We would very much like to meet and discuss how we can raise our concerns in a constructive manner as small producers like us will be forced to shut down if we cannot resolve this situation of African tungsten being banned.

We have tried to raise our concerns to the Ti CMC, CFSi and the large western groups active in tungsten (Sandvik, GTP etc) but they have no interest in finding a solution as tungsten from Africa only represents 2% of world supply and we believe they see us more of a potentially costly nuisance than anything else.

Best regards

Disclaimer

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From: [4.1(b)]
Sent: jeudi 27 février 2014 15:40
To: [4.1(b)]
Cc: [4.1(b)]
Subject: 26/02/2012 - BHPbilliton

26/02/2014 BHPbilliton: [4.1(b)] Aspect (consulting firm): [4.1(b)] TRADE: [4.1(b)]

Objective: BHPbilliton is increasing its presence in Brussels. The purpose of the meeting was to introduce the company and to scope out the potential areas of interest (ENTR – raw material strategy, TRADE - conflict minerals, ^{out of scope} Meeting between [4.1(b)] and the CEO of BHPbilliton is scheduled for 12/03.

BHPbilliton is an Anglo-Australian multinational mining (world leader) and petroleum company headquartered in Melbourne and based in Australia; it's present all over the world. Main activity is in mining and smelting; the company runs its own marketing branch. Its main regions of interest are Australia, US, Canada (developing potash extraction); oil/gas production is mainly located in Australia, US, North Sea, Zamzana. ^{out of scope} For these reasons the company is interested in conflict minerals ^{out of scope} and defining its role in under ^{out of scope}.

Company was informed about i) different trade policy aspects of the raw material strategy and the negotiation objectives pursued, i.e. elimination of export restrictions (multilateral (WTO), bilateral; ii) enforcement efforts (rare earth case – [Note: Company does not produce rare earths]); iii) outreach (OECD, G20). ^{out of scope}

Finally [4.1(b)] explained the scope (in comparison with Dodd-Frank Act), content, and procedural state of play of the Commission proposal concerning the conflict minerals.

5

From: [4.1 (b)]
Sent: 13 February 2014 09:01
To: [4.1 (b)]
Subject: RE: Meeting request/ Conflict Minerals

7th March at 16h00 could work for me. Would this be ok?

Krgds

[4.1 (b)]

[4.1 (b)]

General Manager Technical & Operations
Association of European Airlines (AEA)
Louizalaan 350/4
B-1050 Brussels, Belgium
Tel 32.2.639.89.86
Fax 32.2.639.89.99
Email: [4.1 (b)]
www.aea.be

From: [4.1 (b)]
Sent: woensdag 12 februari 2014 16:31
To: [4.1 (b)]
Subject: FW: Meeting request/ Conflict Minerals

Dear [4.1 (b)]

On behalf of [4.1 (b)] I would like to thank you for your meeting request. Unfortunately, [4.1 (b)] will be out of the office tomorrow.

May I suggest you a 45-minute meeting with [4.1 (b)] on March 6th or March 7th in the afternoon? [4.1 (b)]
[4.1 (b)] Policy Officers, will also join this meeting.

Thank you to let me know which day and time is the more suitable for you so I can book the meeting in all participants' calendars.

Sincerely Yours,

[4.1 (b)]



European Commission
DG TRADE
Unit G3 Market Access, Industry, Energy and Raw Materials

CHAR 08/91
B-1049 Brussels/Belgium
+32 2 296 31 28

[4.1 (b)]

From: [4.1(6)]
Sent: Tuesday, February 11, 2014 9:38 AM
To: [4.1 (6)]
Subject: Meeting request/ Conflict Minerals

Dear [4.1(6)]

I am working for the Association of European Airlines (AEA), which is the trade association representing the major EU airlines.

I would suggest an informal in the near future to talk about the Commission planned legislation on Conflict Minerals. I would, in particular, be interested to learn about the potential implications for the aerospace industry (aircraft maintenance industry).

For example, I could be available this Thursday 13th February between 10h00 and 15h00. Would you have a short slot to meet?

krgrds
[4.1 (6)]

General Manager Technical & Operations
Association of European Airlines (AEA)
Louizalaan 350/4
B-1050 Brussels, Belgium
Tel 32.2.639.89.86
Fax 32.2.639.89.99
Email: [4.1 (6)]
www.aea.be



EU responsible trading strategy for minerals from conflict zones

*Chemical Watch Global Supply Chain Workshop
Brussels, 12 March 2014*

*Signe Ratso
European Commission
Director, DG Trade*

Outline



- 1. Integrated EU approach**
- 2. Obligations of responsible importers**
- 3. Impact on operators**
- 4. Responsibility of Member States**
- 5. Complementarity to US Dodd-Frank**

Integrated EU approach



- **The integrated EU approach consists of:**
- **Draft Regulation to create legal certainty and transparency:**
 - Voluntary self-certification by EU importers of tin, tantalum, tungsten and gold (ores and metals) regardless of origin
 - Obligations based on the OECD Due Diligence Guidance
 - Annual EU list of responsible smelters/refiners
- **Accompanying measures to promote the uptake of due diligence:**
 - Public procurement, financial support, policy dialogues, etc.
- ✓ **To act at the most effective level of the EU supply chain and to facilitate the flow of due diligence information down to end users**

3

Obligations of responsible importers



- **EU importers opting for self-certification as responsible importers should:**
 - set up a management system to inter alia track the origin of the minerals purchased
 - apply supply chain risk management procedures to address and mitigate adverse impact
 - carry out third-part audit
 - disclose relevant supply chain related information to downstream purchasers, the public and Member States competent authorities
- **Obligations consistent with the 5-step framework of the OECD Due Diligence Guidance**

4

Impact on operators



- **Impact on responsible EU importers:**

- Increased legal certainty and transparency through their self-certification to ensure that they do not contribute to the financing of armed conflicts
- Easier compliance with Dodd-Frank obligations

- **Impact on responsible smelters/refiners:**

- Increased public accountability and transparency of their practices through the publication of an annual EU list
- Identification of those sourcing from conflict areas

- **Impact on downstream users:**

- Facilitated flow of due diligence information down to end users and easier to source metals responsibly
- Public procurement incentives to satisfy contractual due diligence obligations

Responsibility of Member States



- **Ex-post checks by EU Member States competent authorities on responsible importers based on information disclosed by the self-certified importers to MS competent authorities**
- **In case of infringement, issuance of a notice for remedial action; in case of inadequate remedial action, issuance of a notice of non-recognition of responsible importer certificate**

Complementarity to US Dodd-Frank



- **Dodd-Frank indirectly responsible for due diligence efforts among EU downstream users**
- **Weakness in the present system is the flow of information from upstream to downstream**
- **Focus of the EU proposal on upstream and in particular on smelters/refiners**
- **Incentive-based EU approach corrects the current deficiency in order to open up the EU market for responsibly sourced minerals from conflict regions**

From: [4.1 (b)]
Sent: mardi 18 mars 2014 17:45
To: [4.1 (b)]
Cc: [4.1 (b)]
Subject: FLASH REPORT: 13th Conflict-Free Smelter Initiative (CFSI) Workshop, Brussels, 17 March 2014

FLASH REPORT – 13th Conflict-Free Smelter Initiative (CFSI) Workshop, Brussels, 17 March 2014

COM participants: [4.1 (b)] (speaker), [4.1 (b)]

[4.1 (b)] gave a keynote speech at the 13th CFSI workshop, whose focus was on regulatory updates notably on the EU Regulation and on CFSI developments. High number of participants (about 150) mostly industry, but also civil society, GLR representatives, OECD, press. Industry participants welcomed the approach but also highlighted some practical concerns and questions with regards to the implementation.

Main questions from online participants:

Through an online tool, a variety of questions came in during [4.1 (b)] presentation, such as:

- estimated time of the legislation
- likelihood to become mandatory under pressure from NGOs and the Greens
- predictability for companies to identify/define conflict regions
- which governmental departments will be the competent authorities
- verification of self-certification in practice
- how to secure proper governance, as some MS may dilute the execution of the checks on their own importers
- composition of the smelter/refiner list through an internal mechanism or integrating existing mechanism e.g. CFSI
- why not to have a same list for responsible traders
- voluntary/obligatory responsibilities for end users
- verification of contractual due diligence obligation in procurement
- incentives to source from conflict regions in practice
- which measures to evaluate effectiveness of the proposal
- impact on US companies by the proposed EU legislation
- How will the EU scheme work if the smelters/refiners chose not to participate

Discussion with participants:

In the margin of the meeting, we had various discussions with participants. **Nokia** had several practical questions on how the reporting/filing (similar to the SD form under Dodd –Frank?), audit standards, public procurement (EU institutions vs. MS + IT only?) would work in practice. They also sought guidance from the EU to facilitate companies' determination regarding conflict-affected and high-risk areas. **ITRI** was very critical about the EU approach, stressing that such as approach will never be effective as it does not incentivise smelters sufficiently to source in conflict regions. A **Rwandese representative** underlined the fact that no one is willing to buy from the region today and feared that an additional/different approach will enhance this negative trend. **Motorola Solutions** (CFSI Steering Committee Chairman) is willing to work with the EU on how to harmonise approaches and to provide insight into their experience in particular on audit. A meeting is organised to touch base on Wednesday afternoon. **Philips** welcomed our approach and was responsive to the idea that major multinationals in the downstream (like themselves) could play an important role in promoting and encouraging the application of the self-certification scheme among their importers.

[4.1 (b)] interview with a FR journalist:

During the on-record interview, the journalist showed a copy of a "fake regulation" (in pdf, no track changes) drafted with a mandatory approach in mind. The draft Regulation might have been changed dishonestly by someone, shared with the outside world, some of the texts were barred and some added with hand-writing. This obviously created the impression that the original intention of DG Trade was to go for a mandatory approach which was changed to voluntary in the very last moment. We clarified this with the journalist, he promised to send us a copy of that fake document.

From:
Sent:
To:
Subject:
Attachments:

[4.1 (b)]

mardi 23 juin 2015 10:53

[4.1 (b)]

FW: Request for meeting on Conflict Minerals by AmCham EU
 TEC POP Conflict Minerals FINAL.PDF

From: [4.1 (b)]

Sent: Thursday, March 13, 2014 10:02 AM

To: [4.1 (b)]

Cc: [4.1 (b)]

Subject: RE: Request for meeting on Conflict Minerals by AmCham EU

Dear [4.1 (b)]

Dear [4.1 (b)]

Please find below some information regarding next week's meeting with AmCham EU.

Topic: Commission's proposal for EU Conflict Minerals Legislation

Date/time: Wednesday 19 March 2014 at 10.00-11.00

Location: AmCham EU offices, 53 avenue des Arts, 1000 Brussels

Moderating: [4.1 (b)] Analyst, Public Policy & Government Affairs, 3M

Commission participants :

Please send list of names/titles of participants from your service.

AmCham EU participants:

Participation is drawn from the AmCham EU Environment, Trade and Transport, Energy & Climate Committees.

Representative Last name	Representative First Name	Company
[4.1 (b)]		Michelin
		Goodyear
		Boeing
		Daimler
		Caterpillar
		Johnson & Johnson
		Freshfields
		Hewlett Packard
		Intel
		Kreab Gavin
		Anderson
		Boeing
		Honeywell
		UTC

HP
Dow Corning
3M
Disney
FleishmanHillard
Alcoa
IBM

Format:

The representatives from the Commission will give a short (5-7 minute) introduction to the position of their service on the proposal, emphasising which aspects are considered especially important for their own DG, and highlighting any areas of concern identified by them. AmCham EU will give a short introduction to our position on the proposal, following by an informal discussion and a Q&A session. Chatham House rules apply.

Given that this is an informal discussion we do not foresee PP slides, but please inform me should you wish to use them, to ensure that a projector is made available.

Please find attached the AmCham EU position paper on Conflict Minerals.

If you have any questions please do not hesitate to contact me.

Best regards,

[4.1 (b)]

From: [4.1 (b)]
Sent: 07 February 2014 09:32
To: [4.1 (b)]
Subject: RE: Request for meeting on Conflict Minerals by AmCham EU

Thanks, excellent,
Have a good weekend

[4.1 (b)]

From: [4.1 (b)]
Sent: Friday, February 07, 2014 9:23 AM
To: [4.1 (b)]
Cc: [4.1 (b)]
Subject: RE: Request for meeting on Conflict Minerals by AmCham EU

Thank you very much [4.1 (b)]

I will send a list of participants from our side closer to the date.

Best,

[4.1 (b)]

From: [4.1 (b)]
Sent: 06 February 2014 16:27
To: [4.1 (b)]
Cc: [4.1 (b)]

Subject: RE: Request for meeting on Conflict Minerals by AmCham EU

Dear [4.1 (b)]

We confirm the appointment for a meeting on Conflict Minerals for 19 March, 10-11h in our premises – Charlemagne Building, rue de la loi 170, Brussels 1049.

Should you need access at the reception, do not hesitate to contact me at the phones below,

With kindest regards

[4.1 (b)]

**Assistant to the Director, Directorate G
Trade Strategy and Analysis, Market Access**



**European Commission
DG TRADE
CHAR 08/51
B-1049 Brussels/Belgium
+32 2 296 74 19**

[4.1 (b)]

From: [4.1 (b)]
Sent: Wednesday, February 05, 2014 5:14 PM
To: [4.1 (b)]
Cc: [4.1 (b)]

Subject: RE: Request for meeting on Conflict Minerals by AmCham EU

Dear [4.1 (b)]

Thank you very much for your email, and for the positive response.

We are aware that the Commission is currently working on the proposal, and that inter-service consultations are ongoing.

If possible, we would be interested to meet with officials from your team during this stage already, as we believe this is a very interesting stage for us to gain some insight into the ongoing negotiations and position of the different institutional actors.

If this is not possible, we would of course also be very happy to meet with you at a later stage, in which case 19 March at 10-11h would be best.

Kind regards,

[4.1 (b)]

From: [4.1 (b)]

Sent: 05 February 2014 09:44

To: [4.1 (b)]

Cc: [4.1 (b)]

Subject: RE: Request for meeting on Conflict Minerals by AmCham EU

Dear [4.1 (b)]

Thank you for your letter and meeting request on behalf of [4.1 (b)] and the team of colleagues. [4.1 (b)] in copy here has also received your invitation and request).

We suggest to meet and discuss the issue, however the EU Commission is currently in process of preparation of its proposal.

Therefore, we suggest to have a meeting with you in the 2nd half of month of March. We could already come up with some dates that can be précised of course,

according to your availabilities as well:

17th March – 16-17h;

18 March – 10-11h; 15.30-16.30h;

19 March – 10-11h; 16-17h;

25/26th of March – anytime in the afternoon after 14.30h.

Should you need any other questions , please, feel free to contact us.

With kindest regards

[4.1 (b)]

Assistant to the Director, Directorate G
Trade Strategy and Analysis, Market Access



European Commission
DG TRADE
CHAR 08/51
B-1049 Brussels/Belgium
+32 2 296 74 19

[4.1 (b)]

From: [4.1 (b)]
Sent: Tuesday, February 04, 2014 5:19 PM
To: [4.1 (b)]
Subject: Request for meeting on Conflict Minerals by AmCham EU

Dear [4.1 (b)]

On behalf of [4.1 (b)] Chair of the Environment Committee of the American Chamber of Commerce to the EU (AmCham EU), I would like to request a meeting with you, together with members of AmCham EU's Environment Committee.

AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled €1.9 trillion in 2012 and directly supports more than 4.2 million jobs in Europe.

As a horizontal association, AmCham EU members are active in diverse sectors of the economy. Having given input into the June 2013 Commission policy consultation on the conflict minerals initiative, we would be grateful for the opportunity to share our views with you and gather your thoughts on the latest developments within the Commission. Please find attached our position paper on the issue.

The meeting would ideally take place during the first two weeks of February at your convenience.

We would be honoured if you would accept our invitation.

Should you have any questions or require further information, please do not hesitate to contact me at the AmCham EU secretariat.

Best regards,

[4.1 (b)]



[4.1 (b)]
American Chamber of Com
Avenue des Arts 53, 1000 B
Direct line: +32 (0)2 289 1
Twitter | Facebook | YouT

AmCham EU is a proud member and the host secretariat of,
European Transparency Register: 5265780509-97



Watch AmCham EU's

22 January 2014

AmCham EU's position on EU initiatives for responsible sourcing of conflict minerals

The American Chamber of Commerce to the European Union (AmCham EU) supports the European Commission's focus on addressing responsible sourcing of minerals from conflict-affected areas. Conflict minerals have reportedly been a source of income for armed groups in central Africa, particularly in the eastern Democratic Republic of Congo (DRC). In order to promote real change, the problem must be approached in a manner that addresses the economic, political and security causes of the conflict.

In 2010, the US Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), which contains Section 1502 on conflict minerals. Section 1502 requires companies to disclose the use of conflict minerals, and whether those minerals are sourced from the DRC and its adjoining countries.

Members of AmCham EU have been conducting supplier inquiries regarding 3TG (tantalum, tin, tungsten and gold) conflict minerals and whether they are sourced from the DRC and adjoining countries to meet the reporting requirements under the Dodd-Frank Act. Some members have also implemented voluntary due diligence schemes. Our member companies support responsible sourcing of minerals through company internal policies, corporate social responsibility programmes, participation in a number of industry-wide initiatives, such as the Conflict Free Sourcing Initiative, participation in conflict-free in-region sourcing channels, such as Solutions for Hope, and joint government-industry programs, such as the Public-Private Alliance for Responsible Minerals Trade.

This paper follows AmCham EU's June 2013 input to the Commission's consultation on a potential conflict minerals initiative. We hope that additional information provided will be helpful in shaping a policy that complements existing US law, OECD due diligence guidelines and industry-led initiatives to create effective means for helping the people of the DRC and the Great Lakes Region (GLR) of Africa.

Companies' experience: Dodd-Frank Act

In conjunction with rules implementing Dodd-Frank Act Section 1502, the Securities and Exchange Commission (SEC) estimated the implementation cost for companies to be \$3-4 billion. Industry, on the other hand, calculated compliance costs of \$16 billion.¹ An independent study by Tulane University affirmed an estimate substantially higher than the SEC's, concluding it would cost \$7.93 billion, with most of the cost borne by suppliers not directly subject to SEC jurisdiction.² At this stage many companies are expected to report 'DRC conflict undeterminable' for most of their conflict minerals in the first two years, and unable to declare 'DRC conflict free' for the foreseeable future. We fear any EU initiative focusing on the supply chain in the same manner could involve comparable costs, without added clarity on the origin of those minerals.

The Dodd-Frank Act also did not clarify from the outset whether companies should additionally report products containing non-metal derivatives of conflict minerals. Including such chemical compounds could increase the complexity of correctly identifying materials that contain conflict minerals, and impose additional costs without providing a corresponding benefit. Any potential EU proposal should therefore make clear that further derivatives of conflict minerals, such as chemical compounds that include an elemental conflict mineral, are not themselves conflict minerals.

For most companies, the biggest challenge for products that contain conflict minerals is to definitively state whether the conflict minerals are from the countries in the scope of Dodd-Frank. There are significant challenges in tracing minerals to the smelters or refiners (SOR) for some of the reasons below:

1. Highly complex nature of the end product;
2. Length, breadth and complexity of supply chains;
3. Intermixing and complexity of products;
4. Supplier/supply chain capacity and capability limitations for passing information up and down the chain; and
5. Non-cooperation by entities in non-OECD countries.

Companies further upstream in the supply chain may not necessarily disclose to downstream parties the materials used to manufacture the part, component or subsystem. Companies may also be unwilling to share information on the source of supply due to confidentiality concerns.

Many companies' supply chains are complex and multi-tiered, purchasing materials from tens of thousands of suppliers, often far removed from the smelters and mines. It is incorrect to assume that they have full knowledge of,

¹ National Association of Manufacturers report (2011), page 23, http://www.nam.org/~media/DE6DA95D7CA5475BB24F80869A643CD3/NAM_Comments_on_Conflict_minerals_3_2_11_as_submitted.pdf (accessed 3 December 2013).

² Tulane University (2011), *A Critical Analysis of the SEC and NAM Economic Impact Models and the Proposal of a Third Model in View of the Implementation of Section 1502 of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act*, <http://lawprofessors.typepad.com/files/tulane-study.pdf> (accessed 3 December 2013).

or control over, the multi-tier upstream supply chain, even more so the smelter or mines. Downstream companies' decisions are therefore unlikely to influence either mines or smelters. Furthermore, manufacturers often operate in a just-in-time manner. All of these challenges lead to significant costs associated with supply chain inquiry and determining the smelters or refiners (SORs).

Companies depend on information held by SORs in order to determine the mines of origin. Accordingly, many AmCham EU companies have joined the Conflict Free Sourcing Initiative. This effort was started by the Electronic Industry Citizenship Coalition and the Global e-Sustainability Initiative (EICC-GeSI) and encourages SORs to join the Conflict Free Sourcing (CFS) programme. The CFS program involves an independent third-party audit of the SOR so that they can be designated as 'conflict free'. Similar auditing programmes are now being implemented for refiners through the Responsible Jewelry Council and the London Bullion Markets, in cooperation with the CFS programme. The EU can encourage SORs to join the CFS program or similar third-party verified programs and then pass information about their conflict-free status to the downstream supply chain.

Because the implementation of SOR third-party auditing programmes is at an early stage, expanding the types of minerals included, or the geographic scope of areas covered, could complicate and delay the implementation of the overall auditing programmes. The EU should develop a transparent assessment and designation process before considering any expansion of geographical scope for compliance requirements. It will take time to build the infrastructure (including funding and auditing capacity) to expand this effort beyond its current scope. The largest collective challenge for downstream companies in order to have reliable information is getting the SORs into the CFS and similar programs.

Ultimately, the biggest difficulty is the lack of rule of law in mining countries. Especially in the eastern DRC and some adjoining countries, armed groups and rogue military forces make it difficult to source responsibly. This issue is beyond the control of companies in the minerals supply chain. We encourage the EU, and others, to provide aid and other assistance to support the rule of law in the DRC Region (through appropriate diplomatic, economic and other measures). We are concerned that until there is effective rule of law in the region, smelters/refiners may have little choice but to avoid sourcing from potentially affected mines so as not to support conflict inadvertently.

Overall, if the EU is to adopt a supply-chain transparency approach, in the manner of Dodd-Frank, the approach should follow three criteria:

1. First, the approach should be voluntary, particularly in early years of implementation. Experience with Dodd-Frank has shown that the infrastructure and systems needed for compliance take time to design and build.
2. Second, any EU programme should avoid diverging from existing US legislation and not create conflicting reporting requirements. If a reporting system is implemented, it should recognise the efforts already

POSITION STATEMENT

undertaken by US entities to comply with Dodd Frank as fulfilling EU obligations as well. AmCham EU would support the EU in seeking reciprocal recognition for compliance with such an EU obligation.

3. Third, any reporting measure should consider the position of targeted actors in the supply chain and their potential to address the issue of financing conflicts or contributing to human right abuses in conflict areas. For example, Option 3(a) contained in the April 2003 roadmap would require '[o]perators to exercise supply chain due diligence when placing selected minerals (ores, concentrates, and metals) for the first time on the EU market'.

Targeting minerals rather than manufactured products would capture most of the benefits of a reporting scheme while avoiding most of the cost. The minerals should be clearly defined (by regulated amounts, and above any 'de minimis' level) and by nature of the minerals (e.g., excluding chemical compounds). Since the underlying goal of reporting is to encourage smelter certification, by far the most effective way to influence them is through their direct customers, not original equipment manufacturers's (OEM) many layers down the supply chain. Reporting requirements further down the supply chain increases costs exponentially and decreases effectiveness exponentially.

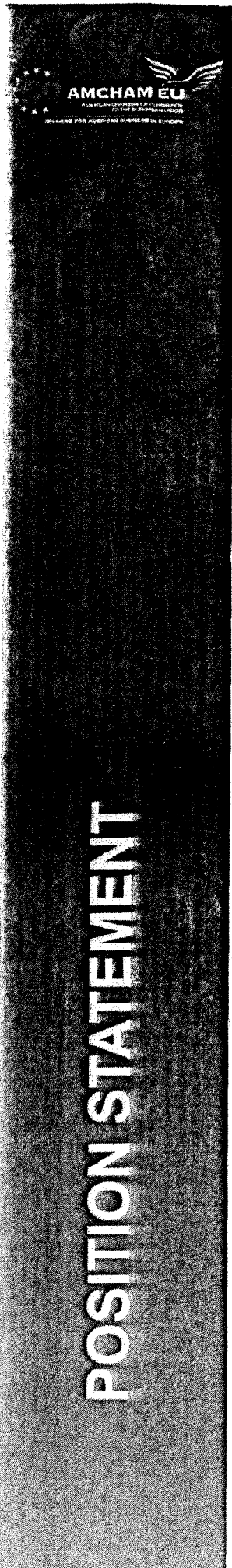
Conclusion

AmCham EU encourages the Commission to help deploy existing systems and programs and to complement the ongoing implementation of Dodd-Frank Act. It is essential that any EU initiative focus on conflict in the DRC before broadening its scope to address global conflict-affected, and high-risk, areas elsewhere or expanding the list of minerals addressed. Expansion at this time would delay or impede efforts to get SORs to join the CFS program, create confusion in the supply chain, and could have unintended consequences for global small scale mining in conflict or high-risk areas.

Efforts to develop and scale a system to validate responsible sources from the DRC should be a priority. Until such a system is in place, and is recognised as legitimate by local and international governments, purchasers of raw materials will have a disincentive to source from the region.

Tools such as the OECD Due Diligence Guidance (DDG) and the EICC-GeSI Conflict-Free Sourcing Initiative Conflict Minerals Reporting Template provide the foundation for companies, at all points in the supply chain, to conduct due diligence with their suppliers. An EU initiative could support a system of voluntary commitments based on solutions developed by industry.

Initiatives such as the iTSCI (ITRI Tin Supply Chain Initiative) Bag and Tag Program and the Conflict Free Smelter (CFS) Program address the minerals early in the supply chain, which is much more effective than downstream, where there are too many layers of suppliers in between the source and the end



product manufacturer. These are joint initiatives that assist upstream companies (from mine to the smelter) to institute the actions, structures, and processes necessary to conform with the OECD DDG at a very practical level.

At the same time, a successful approach to the underlying issue should involve all relevant economies that have significant smelting and refining capacity. An EU initiative should recognise this and identify opportunities to engage with relevant economies both bilaterally and through multilateral organizations such as the OECD.³ A successful approach needs to be based on existing international policies, consider any overlaps, and avoid inconsistencies or conflicting requirements. Multiple initiatives to drive supply-chain transparency would not contribute to the desired end result; rather, they would fragment and complicate the efforts currently underway.

* * *

AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled €1.9 trillion in 2012 and directly supports more than 4.2 million jobs in Europe.

* * *

³ Here it is also important to reference the UN Security Council's Group of Experts on the DRC's Guidelines that are applicable to these countries even if they are not full members of the OECD. These Guidelines are similar to and are agreed to be in line with the OECD Guidance.

✓
16:00 – 16:45 Meeting EC- Apple

Present: [4.1 (b)]

During the meeting between the Commission and representatives of Apple, both parties explained their approach towards due diligence in supply chains. Apple clarified the ongoing DD procedures under the U.S. Dodd-Frank Act and its obligations during the upcoming months, to provide DD reports under this body of legislation. Further, they emphasized that this process requires great administrative capacity on Apple's behalf, because of its continued presence in DRC and its support for certified suppliers this region. In this context, Apple preferred the EC approach to the US approach, since it provides more engagement incentives in conflict areas and more room for improvement in the supply chain. They stressed that the large distance with its upstream suppliers may decrease its leverage and expressed concerns on the difficulty that shared components on the product level pose to third party auditing. Also, they indicated that under the US system the outcome and impact of the auditing and certification process of the supply chain on Apple and other US-listed companies is unclear. Moreover, no specific review mechanism has been included in Dodd-Frank.

The EC clarified its inclusive approach in which action is targeted upstream for information to downstream suppliers: the effect trickles down the supply chain and assists downstream companies to carry out supply chain due diligence. Also, it was emphasized that the EC proposal supports continued trade with clean suppliers from the DRC. The Commission confirmed that the Public Procurement provision for European institutions underpins its voluntary self-certification scheme and that it may provide PP opportunities to companies working with self-certified suppliers. Further, the EC stated that it does not use a static list for the definition of "conflicts", allowing for a more dynamic process-based mechanism. It explained to Apple that the selection of the minerals is based on the OECD framework and that the incentive for legislation comes from the EP and civil society, who require a more stringent approach on the certification scheme. The Commission acknowledged the concern of Apple that the chain of custody and paper trail raise capacity issues for both sides, and has stressed the need for reliable information sources, smelter audits and indicated that it could support the OECD to create a list of responsible smelters.

From: [4.1 (b)]
Sent: 07 March 2014 10:00
To: [4.1 (b)]
Cc: [4.1 (b)]
Subject: RE: Conflict Minerals- Meeting with Safran

Dear [4.1 (b)]

Thank you very much for your email.

We would be happy to meet you on Friday 21 March, at 11am. Unfortunately, our purchasing director would not be able to come but my colleague [4.1 (b)] will join [4.1 (b)] works on the European trade policy in the European Affairs department of Safran.

With my best regards,

[4.1 (b)]

[4.1 (b)]

Affaires européennes

SAFRAN

Tel: +33 (0)1 40 60 83 54

Mobile : 06 74 24 17 04



De : [4.1 (b)]
Envoyé : mercredi 5 mars 2014 17:39
À : [4.1 (b)]
Cc : [4.1 (b)]
Objet : RE: Conflict Minerals- Meeting with Safran

Dear [4.1 (b)]

Thank you for your email.

Friday, 21 March at 11 am should work for us.

Please note that the proposal has just been published today, please follow the link to have access to all documents:
http://europa.eu/rapid/press-release_IP-14-218_en.htm

With best regards,

[4.1 (b)]

[4.1 (b)]

Policy Officer



European Commission

DG TRADE/G3

Market Access, Industry, Energy and Raw Materials

CHAR 08/115
B-1049 Brussels/Belgium
+32 2 298 53 23

[4.1 (b)]

From: [4.1 (b)]
Sent: Monday, March 03, 2014 2:48 PM
To: [4.1 (b)]
Cc: [4.1 (b)]
Subject: RE: Conflict Minerals- Meeting with Safran

[4.1 (b)]

Thank you again for accepting to arrange a meeting this month. As agreed during our phone call this morning, please find below proposals of date:

- Tuesday 18
- Wednesday 19 (morning)
- Friday 21 (morning)
- Wednesday 26
- Thursday 27

As an industrial company we are attentive to this EU initiative and we still have questions about the procedure and on the content of this initiative: would it be voluntary or mandatory (or a combination of both)? Which minerals will be concerned? Which committee will be in charge of the dossier within the EP?...

I heard that the EC will publish the legislative package this month, is it correct?

Thank you in advance.

Kind regards,

[4.1 (b)]

[4.1 (b)]

Affaires européennes
SAFRAN
Tel: +33 (0)1 40 60 83 54
Mobile : 06 74 24 17 04



De : [4.1 (b)]
Envoyé : jeudi 20 février 2014 18:11
À : [4.1 (b)]
Cc : [4.1 (b)]
Objet : RE: Conflict Minerals- Meeting with Safran

Dear [4.1 (b)]

Thank you for your email.

We are indeed happy to meet you in the second half of March. Before that I am afraid, it will not be possible because of busy schedule.

With best regards,

[4.1 (b)]

[4.1 (b)]

Policy Officer



European Commission

DG TRADE/G3

Market Access, Industry, Energy and Raw Materials

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B-1049 Brussels/Belgium

+32 2 298 53 23

[4.1 (b)]

From: [4.1 (b)]

Sent: Monday, February 17, 2014 6:32 PM

To: [4.1 (b)]

Subject: Conflict Minerals- Meeting with Safran

Dear [4.1 (b)]

Last October, we had the opportunity to discuss with you on the EU initiative on Conflict minerals. This meeting was organised by [4.1 (b)] from Boeing the 24th of October 2013. This meeting was very interesting and very useful to improve our understanding of the objectives of the Commission.

I will be very pleased to meet you again to discuss on the state-of-play of this important initiative. Would you be available for a meeting in the coming days? The purchasing director of Safran is also willing to join the meeting and to share with us an operational overview of the subject.

Regards,

[4.1 (b)]

[4.1 (b)]

Affaires européennes

SAFRAN

Tel: +33 (0)1 40 60 83 54

Mobile : 06 74 24 17 04



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