

61

From: [4.1(b)]
Sent: 22 April 2014 17:21
To: [4.1(b)]
Subject: FW: Applied Materials: Position on Conflict Minerals / Our meeting from 2014-04-15
Attachments: 20140325_Background_Briefing_Conflict_Minerals_Applied_Materials.pdf

For info

From: [4.1(b)]
Sent: Tuesday, April 22, 2014 11:41 AM
To: [4.1(b)]
Subject: RV: Applied Materials: Position on Conflict Minerals / Our meeting from 2014-04-15

Dear [4.1(b)] please find enclosed a presentation by APPLIED MATERIALS made to us last week. Probably you'll have it by now.

Regards

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Issue Backgrounder



On the Proposed Regulation on Responsible Sourcing of "Conflict Minerals"

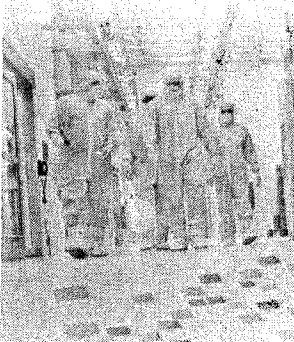
In March 2014 the European Commission published a Proposal for a Regulation on conflict minerals to address the responsible sourcing of these minerals originating from conflict-affected areas. This followed a public consultation launched by the European Commission in the first half of 2013, during which stakeholders were able to submit inputs and suggestions.

As proposed by the Commission, the Regulation would aim to improve the ability of EU operators to comply with existing due-diligence frameworks, notably the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected (OECD-DDG) areas and the U.S. Dodd-Frank Act's regulations.

Applied Materials welcomes and supports Commission's proposal and acknowledges that this complex issue requires the engagement of multiple stakeholders, including governments, the private sector and civil society. A voluntary, bottom-up approach represents in our experience the most appropriate way to determine minerals' sources.

Applied Materials further supports the Commission's decision to **limit the minerals covered under the regulation to tantalum, tin, tungsten and gold.** This is consistent with the current requirements of the Dodd-Frank Act and so provides regulatory congruence among different regions (Annex I). The proposed Regulation would complement the named U.S. legislation on responsible sourcing of conflict minerals and would contribute to the harmonization of global compliance programmes.

Applied Materials Overview



| | |
|----------------------|--|
| Stock Ticker: | Nasdaq: AMAT |
| Fiscal 2013 Revenue: | \$7.5 billion |
| Fiscal 2013 R&D: | \$1.3 billion |
| Founded: | November 10, 1967 |
| Headquarters: | Santa Clara, California |
| Global Presence: | 84 locations in 18 countries |
| Principal Locations: | United States, Israel, Singapore, Germany, Italy, Taiwan |
| Employees: | ~13,700 worldwide |
| Patents: | ~10,400 issued |

Indeed, we believe **EU legislation should be complementary with the U.S. Dodd-Frank Act and OECD-DDG to avoid unnecessary duplication of effort, increased costs and administrative burden, and confusion if conflicting approaches were to be adopted.** In this framework Applied Materials believes the regulation should focus on existing bodies and programmes (*i.e.*, Conflict Free Sourcing Initiative, Electronic Industry Citizenship Coalition or Global e-Sustainability Initiative).

We are concerned, however, that the **definition for "conflict-affected and high-risk areas" is not more precise in the proposed EU Regulation, nor does it use the same language as the Dodd-Frank Act (Art. 2e).** Clarity, certainty and harmony across regulatory regimes will best enable private-sector compliance and accomplishment of the humanitarian goals intended by these regulations.

Global, complex supply chains are a fact of life in commerce today and this is certainly true in the manufacturing of capital equipment, which is Applied Materials' business. As such, Applied Materials is particularly pleased that the Commission has proposed a voluntary scheme that directly addresses upstream operators. **As their operations are at beginning of the supply chain, importers and**

traders are better placed than downstream operators to obtain the required information to verify the source of the minerals provided (Annex II).

Applied Materials also welcomes the Commission's initiative to **propose incentives for compliant importers and traders**. Reductions in import tariffs, where they exist, and the development of a common EU label for compliant products are examples of measures the EU should consider to incentivize compliance.

For these and other reasons,

Applied Materials endorses the proposal of the European Commission and calls on the EU institutions to:

Maintain the current list of minerals in the scope of the regulation to ensure consistency with the US Dodd-Frank Act and avoid an unmanageably broad scope (Annex I).

Make the regulation complementary to the US Dodd-Frank Act as well as OECD-DDG and deploy existing systems and programs to avoid undue administrative burden.

Better define "Conflict-affected and high risk areas" to guarantee the proper implementation of the Regulation (Art. 2e).

Keep the voluntary approach that targets upstream operators as they are at the heart of the overall tracing process (Annex II)

Propose concrete incentives for upstream operators to comply with the regulation and include these operators in the Commission's list of responsible importers and traders.

About Applied Materials

Applied Materials is the global leader in providing manufacturing solutions for the semiconductor, flat panel display and solar photovoltaic industries. Applied Materials' technologies help make innovative products such as smartphones, flat screen TVs and solar panels more affordable and accessible to consumers and businesses around the world. Headquartered in Santa Clara, California, Applied Materials has a substantial presence in Europe, with approximately 2.000 employees in 10 different countries and 31 different office locations, including manufacturing activities in Treviso (Italy) and Alzenau (Germany), as well as sites in Ireland, Belgium, Netherlands, France, Germany and elsewhere.

For additional information please contact:

Applied Materials

☞ 41(b) ☞ - Sr. Manager, Government Affairs Europe
Phone: +49 174 338 7056 or ☞ 41(b) ☞

612

From: [4.1(b)]
Sent: mercredi 21 mai 2014 19:06
To: [4.1(b)]
Subject: Possible EU Initiative on Responsible Sourcing of Minerals - Potential distortion of competition and discrimination
Attachments: 2013.11.22 Ltr to Ms Ratso - EU Regulation of Gold (FINAL).pdf

Dear [4.1(b)]

It was good to meet you last week at the RJC workshop. Many thanks again for coming and presenting.

I wanted to follow up with you on the brief conversation we had around the potential distortion of competition and discrimination that will result from the European Commission initiative limiting itself to gold and the 3Ts. We firmly support the development of an EU Initiative on Responsible Sourcing and are committed to responsible sourcing of gold. However, this should apply to all minerals. Specifying out gold is stigmatisation.

In case you have not already seen it, I have attached a letter that was sent on our behalf to your colleagues, Ms. Ratso and [4.1(b)]. A similar letter was also sent to Ms. Peresso.

I look forward to seeing you again in Paris next week,

Kind regards,

[4.1(b)]

[4.1(b)]

Managing Director, Gold for Development



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From: [4.1(b)]
Sent: 20 May 2014 08:02
To: [4.1(b)]

∴ [4.1(b)]
Subject: RE: Meeting at oecd with rjc, lbma and wgc

hanks [4.1(b)] that would be useful. I have booked room MZ05 were we can meet.

egards,

[4.1(b)]

From: [4.1(b)] [mailto:[4.1(b)]]
Sent: Tuesday, May 20, 2014 8:20 AM
To: [4.1(b)]
Cc: [4.1(b)]
Subject: Meeting at oecd with rjc, lbma and wgc

Dear [4.1(b)] Lovely to see you at the RJC conference on Thursday and thanks again for your contributions.

I was with [4.1(b)] and [4.1(b)] yesterday and we wondered if you would like to meet with our 3 organizations together? If so, would Monday at 6.30pm suit?

Let us know and look forward to seeing you in Paris.

Best wishes, [4.1(b)]

[4.1(b)]

Director - Standards Development
Responsible Jewellery Council

This e-mail has been scanned for viruses by MessageLabs.

61²

Luther.

Luther Rechtsanwaltsgesellschaft mbH, Avenue Louise 328, 1050 Brussels

BY E-MAIL

Ms. Signe Ratso

Ms. [47(b)]

Director, Trade Strategy and Analysis, Market Access

Policy Officer, Market Access, Industry, Energy and Raw Materials

European Commission

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Brussels, November 22, 2013

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Re: Possible EU Initiative on Responsible Sourcing of Minerals Originating from Conflict-Affected and High-Risk Areas – Our Meeting of October 25, 2013

Dear Ms. Ratso:

Dear [47(b)]

We are writing on behalf of the World Gold Council to thank you again for meeting with us at your Offices on October 25, 2013. We highly appreciated the opportunity to discuss with you the possible EU Initiative on Responsible Sourcing of Minerals Originating from Conflict-Affected and High-Risk Areas. As promised, following please find additional information on the points we discussed with you in our meeting.

The World Gold Council supports the development of an EU Initiative on Responsible Sourcing of Minerals. Indeed, as you know, the World Gold Council developed the "Conflict-Free Gold Standard", which is intended to support the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. The World Gold Council is committed to responsible sourcing of gold and supports a possible EU Initiative that would be

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applied at global level. We support the flexible, process-based approach, as currently envisaged by the EU. The World Gold Council further supports the EU's approach of working together with industry to restrict resources being extracted in a manner that fuels unlawful, armed conflict, while at the same time encouraging responsible mining companies operating in conflict areas to continue to provide to local employment and economic growth and development, where they can demonstrate that their production is conflict-free. The World Gold Council has made these views public in the attached article, published in EurActiv during the Consultation Period.

However, the World Gold Council is concerned about the restricted scope of minerals presently considered by the European Commission for coverage in its proposed Initiative. As you noted, the Commission plans to focus the Initiative on only four minerals, gold and the 3Ts, namely tungsten, tantalum and tin. We believe that this limited approach raises a number of concerns, which we urge the Commission to take into account in its legislative process.

As discussed, the World Gold Council supports the global application of this Initiative that would not be limited to the African Great Lakes Region, as is the case in S.1502 of the U.S. Dodd-Frank Act. However, in so doing, the coverage of the minerals to be addressed should, likewise, be expanded to all minerals that have been associated with unlawful, armed conflict (including, for example, cobalt, copper, coal, diamonds, and other precious stones). The U.S. legislation covers only gold and the 3Ts on the basis of concerns, voiced by the UN Group of Experts and others, that these minerals may, unfortunately, be linked to unlawful, armed conflict in the Democratic Republic of the Congo (DRC) and adjoining countries. However, if the EU expands the approach to cover the entire world in any new legislation, then it must, only logically we believe, also expand the scope of the minerals it covers.

We discussed the fact that the Commission intends to base this Initiative on the OECD Due Diligence Guidance. While the OECD Guidance is global in scope, it is important to note that the OECD Guidance was established following detailed discussions with the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo and the International Conference on the Great Lakes Region. All the OECD Fora, to date, have been jointly hosted by these two organizations, with the OECD. Therefore, it is clear that the OECD focus on gold and the 3Ts is linked to the orientation of this work related to the DRC and the African Great Lakes Region.

We urge the Commission not to apply a global focus while limiting the Initiative only to minerals associated with unlawful, armed conflict in the DRC. If the Commission were to do this, the world gold industry would face distortion of competition in mineral markets and significant discrimination and lack of equal treatment *vis-à-vis* other minerals. In addition, there will be

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significant socio-economic impacts, not only in the EU but also in developing countries. These three points are discussed in more detail below:

1) Distortion of Competition

Gold is competing with other minerals in a variety of industry sectors. Any EU Initiative that affects gold, and not also other minerals that are competitors, holds the potential of distorting competition in the relevant markets. For instance, gold competes with copper as a wiring and connector material in electronic devices. Copper is mined in many countries, including a number that have been linked to conflict. As an investment product and when used for jewelry, gold also competes with diamonds and other precious stones. It is well understood that diamonds have, unfortunately, been associated with unlawful, armed conflict in a number of countries.

We are concerned that the proposed Initiative may place a reporting or additional financial burden on companies when they choose to use gold but not when they choose to use copper, diamonds, or other precious stones. As well as the additional financial costs these companies would likely incur in choosing gold, they would also take on reputational risk related to sourcing a so-called "conflict mineral". The consequences of the Initiative could, therefore, be reflected in a decreased demand for gold relative to copper and diamonds, distorting competition in these markets.

2) Discrimination

The general trade law principles of equal treatment and non-discrimination require that comparable situations must not be treated differently and that different situations must not be treated in the same way unless such treatment is objectively justified. By limiting the scope of its proposed coverage only to gold, tungsten, tantalum and tin - while leaving other minerals unregulated - the proposed Initiative would discriminate unjustly and unjustifiably against these minerals. As outlined above, gold competes with many other minerals, be it as a means of investment, as in jewelry, or in the electronics industry. The competing products are partially sourced in conflict-affected areas, some of them in the worst affected parts of the world. Nonetheless, only gold and the 3Ts will fall under the proposed Initiative, as it is currently contemplated, and, thus, be treated differently, despite being in comparable situations.

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It is our opinion that such a differentiation cannot be objectively justified. The fact that other legislation and supranational guidelines may also focus on only these four minerals does not constitute a justification.

3) Socio-Economic Impacts in the EU and in Developing Countries

A decrease in gold mining would negatively affect EU industries and jeopardize employment in the EU linked to the gold supply trade. In particular, there is a significant and important gold jewelry industry in Italy and France, a thriving trading center in the UK, and much activity in the rest of the EU.

If undertaken responsibly, gold mining can be an important factor in achieving social and economic development. Especially in developing countries, the gold mining industry provides jobs, tax revenue, and other developmental support. Often, the gold mining industry is of greater importance for the country in which the mines are located than it is for the worldwide supply of gold. For example, gold from the DRC constitutes less than 1 % of the worldwide gold supply. However, recent World Gold Council research, "Responsible Gold Mining and Value Distribution", shows that gold sales in the country were valued at 22 % of total exports. Any EU Initiative should take this into consideration and should include safeguard measures to prevent responsible mining companies from discontinuing their economic activities in conflict-affected areas.

In fact, only an extension of the scope to all minerals will prevent the demand from shifting to competing, non-regulated minerals. We believe that this consideration should not be ignored, given the EU's goals in developmental policy.

As discussed in our meeting, we consider it of overriding importance that the EU does not stop at merely duplicating existing legislation or guidelines on these issues. When analyzing improvement potentials and discussing policy options for further improving the effects sourcing of minerals have in conflict-affected Regions, the above points, we believe, must be considered. Therefore, any EU legislative measure on this subject requires a careful assessment in terms of its effects on the competitiveness of the minerals regulated and the impact, not only on EU industry, but also on industries in those countries affected by conflict. It should also be ensured that gold is not discriminated against unjustifiably.

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Again, thank you for your time and the opportunity to meet with you to discuss the concerns of the World Gold Council on this important matter. Please let us know if you have any questions or comments on this correspondence. We also remain at your disposal if you require any further information on the World Gold Council's "Conflict-Free Gold Standard", or the role that responsible gold mining can play in socio-economic growth and development in conflict-affected areas.

Best regards.

Very truly yours,

[4.1(b)]

[4.1(b)]
(Juris Doctor)

cc: [4.1(b)]
[4.1(b)]

Attachment

62

From: [4.1(b)]
Sent: 30 May 2014 10:50
To: [4.1(b)]
Cc: [4.1(b)]
Subject: DIGITALEUROPE Position Paper on EU Conflict Minerals Proposal
Attachments: DIGITALEUROPE Position EU Conflict Mineral proposal_20140530.pdf

Dear all,

We are pleased to send you in attachment the DIGITALEUROPE position paper on the "EU draft Regulation setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk areas".

We hope you will find it informative and remain available for any further questions you may have.

Thanks and regards,

[4.1(b)]
Senior Policy Manager

Follow our Director General on twitter: @EURODIGIDG and DIGITALEUROPE
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30 May 2014

DIGITALEUROPE POSITION ON

**THE EU DRAFT REGULATION SETTING UP A UNION SYSTEM FOR SUPPLY CHAIN
DUE DILIGENCE SELF-CERTIFICATION OF RESPONSIBLE IMPORTERS OF TIN,
TANTALUM AND TUNGSTEN, THEIR ORES, AND GOLD ORIGINATING IN CONFLICT-
AFFECTED AND HIGH-RISK AREAS**

1- INTRODUCTORY REMARKS

DIGITALEUROPE welcomes the European Commission's proposal for a regulation on conflict minerals and supports the three goals of the EU integrated approach to responsible sourcing:

- Breaking the link between minerals extraction, trading and the financing of armed conflict
- Supporting a market in the EU for responsible traded minerals that originate in conflict regions
- Improving the ability of EU operators throughout the supply chain to comply with existing due diligence measures.

As far as the provision of assistance to SMEs is concerned, we consider it as a welcome measure to help SMEs establish systems and best practices.

The objective of increased transparency requires involvement of all actors in the supply chain, and also participation of the conflict affected areas and those regions where many of the smelters and refiners are located. Even if individual companies continue to work on responsible sourcing via voluntary industry systems, given the complexity of the issue, the engagement of multiple stakeholders is required. The Commission's proposal - focusing on the critical upstream part of the supply chain - is a first step in the right direction.

As an industry with many suppliers and sub-suppliers, we have gained in-depth knowledge and experience on this topic through the implementation of the Conflict Free Sourcing Initiative's (CFSI) tools and programmes, the OECD Due Diligence Guidance and Section 1502 of the US Dodd-Frank Act. As such, we are happy to help improve understanding across other economic sectors and competent authorities in order to establish systems, facilitate compliance with and enforcement of the EU scheme. The involvement of other sectors using 3TG is key for responsible sourcing to gain momentum, as the electronics sector is only one of the many industries that consume these minerals. The increase of demand for responsible sourcing will grow as other industry sectors join the CFSI and help reaching the goal of breaking the link between minerals trade and the financing of armed conflicts.

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2- MORE CONCRETE ACTIONS IN THE FOREIGN POLICY AREA

It is very positive that the proposal is part of a comprehensive package with additional measures such as an increase in the development cooperation with the Democratic Republic of Congo (DRC), promotion of responsible practices by smelters and refiners through policy dialogues with countries where the majority of these operations are located and also incentives that support the development of the responsible minerals trade from the DRC and the surrounding region.

A more concrete description of what these actions are going to look like would be highly appreciated to see how the proposal on the responsible importer relates to these.

3- SMELTERS AND REFINERS ARE IMPORTANT ACTORS

As stated in our response to the Commission consultation in 2013¹, we acknowledge the importance of involving smelters and refiners due to their crucial role in increasing transparency in the mineral supply chain. After the smelter / refiner operation, it becomes technically impossible to identify the origin of minerals or metals. Being relatively few in numbers, smelters and refiners are also the “pinch point” in the global supply chains.

The EU's recognition of the important role of smelters and refiners is consistent with industry's voluntary programmes. Through the Conflict Free Smelter Programme (CFSP)², the electronics industry has developed an audit process to validate smelters' and refiners' sourcing practices. CFSP compliant smelters and refiners receive a “conflict free” designation. The smelter identification efforts undertaken by CFSI have made it clear that the majority of the smelters are not located in Europe. They are mainly based in Asia, especially China and Indonesia, and often government owned companies. So far, we have had limited success with engaging these smelters, and we welcome the EU's diplomatic and foreign policy actions necessary to increase smelter engagement in all smelter hosting countries, both in and outside the EU.

4- AVOIDING UNDERMINING ONGOING VOLUNTARY INITIATIVES

Smelters in countries around the world have put in great efforts to have their procurement and processing activities validated through the CFSP audit protocols or equivalent industry programmes. The list of CFSP compliant smelters can be found at: www.conflictreesourcing.org. There is a positive trend in terms of participation in these programmes. Care should be taken to ensure that the design and implementation of the EU 'responsible importer' self-certification scheme and the accompanying measures lead to further participation in CFSP and equivalent programmes and does not send inconsistent messages to upstream operators and potentially undermine these on-going initiatives.

¹ http://www.digitaleurope.org/DocumentDownload.aspx?Command=Core_Download&EntryId=587

² <http://www.conflictreesourcing.org/conflict-free-smelter-program/>

5- CLEAR PROCESS FOR GEOGRAPHICAL SCOPE EXPANSION

Today, supply chain due diligence initiatives for responsible sourcing are largely focused on the DRC and the Great Lakes Region. In order to expand the geographical scope for responsible sourcing beyond the DRC and surrounding countries, we urge the Commission to create, in collaboration with relevant stakeholders, clear, transparent and predictable criteria or a process for defining a conflict-affected or a high-risk area. It would also be helpful to provide clarity on implementation timelines once an area is defined as conflict-affected and high risk. Traceability schemes, such as the iTCSI scheme being implemented in the DRC, are required under the OECD Guidance to demonstrate materials are responsibly sourced from conflict affected and high-risk regions. Designating an area as conflict-affected before such systems are in place may lead to a *de facto* ban on all materials from that area and unintended impacts to people whose livelihoods depend on mining activities. We encourage the Commission to consider supporting the development of in-region systems for responsible sourcing in any given jurisdiction before setting requirements further downstream for 'responsible importers'.

6- PUBLIC PROCUREMENT SHOULD INCENTIVIZE DUE DILIGENCE IN ACCORDANCE WITH OECD GUIDANCE

The Joint Communication to the European Parliament and the Council outlines a number of incentives, including on public procurement, for companies to promote responsible sourcing. In our view, the Commission should focus the use of public procurement incentives on encouraging companies to perform due diligence in accordance with the OECD Due Diligence Guidance.

We also note that the Joint Communication states that "*products* purchased through public procurement containing tin, tantalum, tungsten and/or gold will need to respect the OECD Due Diligence Guidance or equivalent due diligence schemes in order to satisfy contractual obligations." It is companies, not products, that follow the OECD Guidance and we recommend that this language be revised to ensure implementation is consistent with the international due diligence framework.

We recommend that companies should be able to use their Specialized Disclosure Reports filed with the U.S. SEC as one of the ways to demonstrate that they have programs in place consistent with the OECD Due Diligence Guidance for any EU public procurement incentive or requirement. We also suggest providing financial assistance to SMEs to help them carry out due diligence: while a number of companies already operate due diligence management systems in their supply chains, those can be more difficult for SMEs to implement.

7- INTERNATIONAL HARMONISATION TO AVOID UNNECESSARY ADMINISTRATIVE BURDENS

We would also like to underline the importance of complementarity between the EU scheme and Section 1502 of the US Dodd-Frank Act. It is vital that any reporting requirements are aligned to avoid unnecessary administrative burdens that do not actually lead to changes in

conflict-affected and high-risk areas. We also urge alignment between the existing voluntary systems that have identified smelters/refiners as conflict-free and the EU responsible smelter/refiner list to avoid the creation of an unclear situation for those smelters/refiners that consider becoming, or already are identified as conflict free. Alignment in reporting requirements and the approach to the EU responsible importer certification audits and smelter list will also serve as an incentive for participation in the EU 'responsible importer' certification scheme.

8- ENSURING CONSISTENCY ACROSS THE EU

ICT/CE companies design, manufacture and market their products for a single EU market, in fact, the global marketplace. A worldwide supply chain supports these products. While the legal basis for the EU initiative is Art. 207 of the Treaties governing the functioning of the European Union with regard to common commercial policy, we would like to stress the importance of ensuring consistent and common approaches across Member States in implementing the EU approach to responsible sourcing. Resources should be focused on implementation of existing international due diligence tools with a focus on supporting the infrastructure needed in conflict-affected regions for responsible minerals trade. There should be a common standardized approach to third party auditing of import certification.

Last but not least, any product level reporting, marking and / or labeling should be avoided at Member State level in that it would only add complexity and contribute to creating a patchwork of inconsistent initiatives.

ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies.

DIGITALEUROPE ensures industry participation in the development and implementation of EU policies. DIGITALEUROPE's members include 60 global corporations and 33 national trade associations from across Europe. In total, 10,000 companies employing two million citizens and generating €1 trillion in revenues. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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Belarus: INFOPARK; **Norway:** IKT NORGE; **Switzerland:** SWICO; **Turkey:** ECID, TESID, TÜBISAD; **Ukraine:** IT UKRAINE.

63

Ref. Ares(2014)2404579 - 18/07/2014

From:

Sent:

To:

Cc:

[4.1(b)]
vrijdag 18 juli 2014 15:00
[4.1(b)]
[4.1(b)]

Subject: BUSINESSEUROPE letter on the EU Initiative on Responsible Sourcing of minerals from conflict-affected and high-risk areas
Attachments: RAW-I170714-EUResponsibleSourcingInitiative-De Gucht.pdf

For the attention of Mr. Karel De Gucht, European Commissioner for Trade

Dear Commissioner,

I am pleased to send you attached a letter signed by Mr. Markus J. Beyrer, Director General of BUSINESSEUROPE, regarding the recently published EU Initiative on Responsible Sourcing of minerals from conflict-affected and high-risk areas.

The letter reiterates our commitment as European business representatives to effectively contribute to a viable solution to the problem of the link between conflict and illegal exploitation of minerals. We welcome the importance the EU attaches to responsible sourcing of minerals and the work conducted at the OECD. We also take note that the Commission has chosen a system-based approach on upstream sector that seems to be more effective than the product-based approach pursued by the Dodd Frank Act section 1502.

We also take the opportunity to bring to your attention a number of elements of the Initiative on which European business seeks more clarity. Our concerns are concentrated around the general political framework and the role of European diplomacy as well as particular aspects of the Initiative, namely achieving a harmonised implementation at Member State level and providing clear and efficient definitions of key concepts.

We thank you for the attention and remain committed to a constructive dialogue and at your disposal for any further information that may be required.

Sincerely yours,

(sent on behalf of)

[4.1(b)]
DIRECTOR
INTERNATIONAL RELATIONS

BUSINESSEUROPE

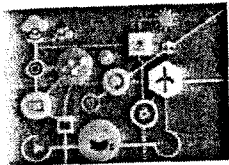
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[4.1(b)]

EU Transparency register 3978240953-79

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63

BUSINESSEUROPE

THE DIRECTOR GENERAL

Mr Karel De Gucht
 Commissioner for Trade
 European Commission
 Rue de la Loi 200
 BE-1049 Brussels
 BELGIUM

17 July 2014

Dear Commissioner,

Alain Mr. De Gucht

I am writing to you with regards to the EU initiative on responsible sourcing from conflict-affected and high-risk areas. BUSINESSEUROPE has been actively engaged in discussions around this issue since 2011. With this letter, I would first of all like to reiterate our commitment as European business representatives to effectively contribute to a viable solution to the problem of the nexus between conflict and illegal exploitation of minerals and provide a first general reaction to the recently published EU initiative.

BUSINESSEUROPE overall welcomes the importance the EU attaches to securing EU supplies of raw materials, to responsible sourcing of minerals and to the work carried out by the OECD in this field. We recognise that the EU proposal is an effort to address the problem of the use of trade as a finance source for conflict in a comprehensive manner – not only through regulatory solutions in the area of trade via the draft Regulation, but also by providing a general framework for policy action, through the accompanying joint Communication of the European Commission and the External Action Service. We also take note that the Commission has chosen a system approach focused on upstream actors, which seems to be considerably more effective and less bureaucratic than the product-based approach pursued by the U.S. Dodd Frank Act section 1502.

The EU initiative on responsible sourcing should be in line with other EU policies and initiatives, such as the EU Raw Materials Initiative. In this context, I would like to share BUSINESSEUROPE's views on the EU initiative on responsible sourcing as a whole and bring to your attention a number of elements on which the European business seeks more clarity.

The general framework for policy action

1. The EU initiative should be part of a comprehensive approach, integrated with other policies and actions on the ground. Emphasis should be put on promoting good governance and security issues in the conflict-affected and high-risk areas. In this regard, the role of the local EU delegations is essential, as our diplomats and experts could provide valuable assistance to local authorities. We would have preferred to see more measures and positive incentives in the joint Communication for promoting responsible mining in the conflict regions. Currently, the lack of a

general policy framework in the conflict-affected regions is the source of uncertainties for companies which take on their shoulders all responsibility to minimise risks.

2. A sustainable solution to the problem also necessarily requires the involvement of other regions in the world, besides the EU and the US for two reasons. First, without strong collaboration and commitment at global level, all efforts will be in vain. Important partners, that play a significant role in the supply chain of the minerals covered by the EU and US initiatives, need to join discussions at the UN and the OECD more actively and consistently. Second, unless our trading partners take up the OECD Due Diligence Guidance and put in place similar strategies, the competitiveness of EU companies will unavoidably be affected. A strong EU raw materials diplomacy is indeed required. We appreciate that the Communication sets ambitious targets, and we look forward to see them materialised.

The EU Initiative

3. The EU initiative should clearly recognise existing schemes based on international standards – such as the OECD Due Diligence Guidance – and accept complementarity with those schemes as well as with voluntary initiatives. In this manner, EU companies, especially SMEs, would not be required to multiply their annual reporting and auditing activities, reducing the implementation costs and ensuring a more efficient resource management in applying responsible sourcing initiatives in an effective manner. European business is also concerned by the fact that the obligations for responsible importers under the EU initiative go beyond international standards, for instance as regards third-party auditing requirements, which may significantly increase implementation costs. In this context, existing auditing schemes, CFSP for instance, should be recognised as equivalent. Furthermore, it should be ensured that commercially sensitive information is excluded from publication requirements.
4. Furthermore, the EU should seek to synchronise its approach with the US. We recognise that one of the Commission's objectives through the initiative on responsible sourcing is to help EU companies that fall under the Dodd Frank Act section 1502 requirements to better comply with the US regime. Achieving equivalence between the EU and US schemes is not an automatic process. It is however crucial for European industry that we arrive at such a result. We therefore call on the Commission to intensify these efforts with US counterparts.
5. Precise definition of the 'conflict-affected' and 'high-risk' areas is essential, as the current term leaves room for interpretation and uncertainty. A list of countries should be regularly updated and published, giving operators sufficient time to adjust to the changes. Furthermore, the definition of 'importer', cornerstone of the proposed EU Regulation, should also be more precise and according to the categories listed in the Annex.
6. It is also important that the scope of mineral coverage in the EU scheme is not expanded further, in order to include minerals, or other raw materials, for which not enough experience with implementing responsible sourcing initiatives exists. The

EU should follow closely developments at international fora. It took time before the OECD Due Diligence Guidance Supplements on Tin, Tungsten, Tantalum (3Ts) and Gold were produced and became operational. And it will take more time before additional Supplements can be approved and adopted.

7. As regards the performance clause for public procurement, included in the joint Communication, it is crucial that the criteria which the European Commission will be using in their internal public procurement procedures are clearly specified. It is understandable that the measure seeks to boost the uptake of the EU initiative by importers. However, this constitutes an extremely complex and costly product-based approach that requires the origin of minerals to be retraced over the entire supply chain, which includes a significant number of SMEs. As the original intention of the EU was to get round these approaches, which were particularly criticized after the adoption of the U.S. Dodd Frank Act section 1502, we would seek more clarifications from the part of the Commission on how this measure would help incentivise companies and how SMEs – which are not familiar with Due Diligence procedures – would be further supported in this context. It is also unclear at the current stage whether Member States – and at which level – will be required to implement the same criteria as the Commission in their public procurement procedures.
8. Finally, although we support the intention of the Commission to produce a number of Guidelines, BUSINESSEUROPE believes that the key elements of the Regulation should be defined in the course of the decision making process and in the text, not after the adoption of the Regulation. Additional clarifications beyond these elements will be useful to help Member States' responsible authorities implement the Regulation requirements, clarify the publication requirements with respect to commercially sensitive information and explain how the performance clause will work in practice for public tenders. We would also like to underline that the Guidelines should not be adopted before the legislative procedure is finalised, as they should be up-to-date with the final Regulation text.

We thank you for your attention and remain committed to a constructive dialogue and at your disposal if you require further information.

Yours sincerely,



Markus J. Beyrer

CC:

The Rt. Hon. Baroness Ashton, High Representative of the EU and Vice-President.
Mr Andris Piebalgs, Commissioner for Development.
Mr Bernd Lange, Chair of the INTA Committee in the European Parliament.
The letter will also be shared with the Italian Presidency.

64

Ref. Ares(2014)2522939 - 30/07/2014

From: [41/6)]
Sent: 30 July 2014 10:39
To: TRADE ARES REGISTRATION
Subject: Letter - Conflict Minerals
Attachments: 140717 - Conflict Minerals.pdf

For registration,pls

[41/6)]
Info: Signe Ratsoi

Merci

From: [41/6)]
Sent: Wednesday, July 30, 2014 9:49 AM
To: RATSO Signe (TRADE)
Subject: Letter - Conflict Minerals

Dear Signe

Please find attached for your information a letter sent from the LME to the OECD regarding the proposed EU legislation for responsible sourcing of minerals originating from conflict-affected and high-risk areas.

Regards

[41/6)] EA to Nick Ong-Seng, Managing Director: Regulation and Compliance

Direct +44 (0) 207 423 5785 Web www.lme.com
Address 56 Leadenhall Street, London, EC3A 2DX, UK



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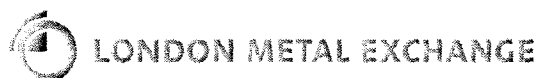
the Financial Conduct Authority (FCA).

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64



17 July 2014

[41(b)]
Head of Project and Legal Adviser
OECD Investment Division

Dear [41(b)]

by email

PROPOSED EU POLICY ON RESPONSIBLE SOURCING OF MINERALS

1 I am writing to you regarding the proposed EU legislation for responsible sourcing of minerals originating from conflict-affected and high-risk areas.

2 The London Metal Exchange (LME) fully supports the intentions behind the legislation to target supply chains that finance conflict. Nevertheless, further consideration is required to ensure the legislation generates the positive outcomes it is seeking to achieve in a way that does not impact the competitiveness of European businesses. The over-riding concern is that a lack of global consistency in the application of conflict mineral legislation will damage the global reference price and risk mitigation mechanism industry relies upon. In order for the proposed legislation to be accepted and operate effectively this global consistency must be assured.

The London Metal Exchange

3 The LME is an international commodity futures and options exchange based in London. It specialises in non-ferrous metals and is the world's centre for trading metal derivative contracts. As a Recognised Investment Exchange regulated by the Financial Conduct Authority, the LME is internationally recognised as the global market place for industries to protect their base metals pricing risk.

4 The LME serves three primary purposes:

- (a) hedging: it provides a global forum for all those who wish to manage the risk of future price movements in metals;
- (b) price formation: it provides daily reference prices for the world-wide trade in metals; and
- (c) physical delivery of last resort: since every trade on the LME is potentially a physical trade in metal, the LME authorises appropriately located storage facilities to enable market participants to make or take physical delivery of approved brands of metals.

5 These services are provided to LME members (mainly brokers) and through them to non-member clients.

6 The LME specifies a number of conditions which must apply to all LME contracts, including:

(a) all contracts must be for the delivery of the relevant metal on a prompt date (the term used for the settlement or delivery date);

(b) the metal to be delivered must conform to the LME's specifications as set out in its Special Contract Rules (these govern matters such as quality, shape and weight);

(c) the metal must be one of the brands listed and approved by the LME;

(d) the metal must be held by one of the LME listed and approved warehouse companies and for which the warehouse company has issued a bearer receipt in the form specified for an LME warrant; and

(e) metal delivery obligations are satisfied first by offset and secondly by the seller giving to the buyer an LME warrant of the seller's choice for the relevant metal.

7 LME contracts have been developed with the aim of providing the metals trade and industry with a global reference price. For this to be achieved, both producers and consumers of these metals must have confidence in the prices established by the LME contracts. To instil confidence in industrial users of these contracts, the contracts have been designed to include the following features: (a) physical settlement, this is very important since it plays a vital role in creating price convergence; (b) global reach; and (c) contract specifications set out in the Special Contract Rules.

8 A unique aspect of the LME, as opposed to other futures markets, is that all contracts are for physical delivery and cannot be settled until the prompt date. Physical delivery is achieved through the transfer of LME warrants. An LME warrant is a bearer warehouse receipt for a specified lot of metal in an LME approved warehouse.

9 Delivery on the LME is at the seller's option: the seller chooses which warrant he wishes to use to fulfil his delivery obligation. The LME price therefore constitutes the 'cheapest to deliver' price, as the seller will almost always use the least valuable warrant to fulfil his delivery obligations. Participants in the physical market always pay a premium over the LME price in order to obtain the metal which meets their specific needs (e.g. as to specification, grade, location, specific delivery date etc).

10 The LME price is the only global reference price for the tin industry. LME warehouses held approximately 1.8 million tons in 2013, located in 10 countries and 21 separate delivery locations. Stocks are potentially generated from 8 countries and 19 smelters/refiners.

11 The LME registers tin by listing the stand-alone brand names of tin producers' smelters/refineries after conducting due diligence on the individual company and its products. This due diligence of the company does not extend to its position in the supply chain in terms of raw material or finished product. The LME has stringent brand listing requirements and checks to ensure that the standard of all metal brands in LME approved warehouses is reflective of metal used in industry to ensure price convergence so that LME prices are a valuable global reference for the underlying physical metal it represents.

Audit failure must relate to forward production

12 LME metal may stay on warrant at an LME registered warehouse for months or years (during which time ownership of the warrant may transfer many times over). The major concern with the proposed legislation is that material in LME warehouses could, at a certain point in time, be declared to be non-conflict free status (non-CFS). This would result in a devaluation of certain stocks of tin held in LME warehouses. As LME stock is the base reference price for the industry, and as the LME works on a 'cheapest to deliver' model, the reference price would be depreciated, and organisations who use the LME as part of their supply chain and who have paid the LME price would be retrospectively penalised were their stock to be devalued by a post-production embargo on end use due to an audit failure. Such an action would result in the LME price becoming the lowest common reference point of perceived suitability; in effect, not reflecting the true cost of tin. This would destroy the only valid global reference price mechanism for the industry and create unnecessary volatility throughout the supply chain.

13 The difference in values between CFS and non-CFS could be significant. The LME price would be subject to non-transparent premiums for CFS status metal on a day by day basis; this will affect the stability of product pricing and make it impossible to accurately hedge price risk for fabricators. As physical settlement of LME contracts is at the sellers option the buyer does not know which brand of metal they will receive. Buying at the LME price and taking delivery may result in taking up restricted end use metal if current proposals do not address this issue.

14 The above economic scenario will be unaffected irrespective of whether the LME is engaged in the audit approval process. As an example a smelter/refinery may pass audits 1 and 2, but then fail on audit 3, meaning that anything produced until the failure date is considered non-CFS. LME stocks may well contain some quantity of that brand. It is vital that when metal owners deliver CFS stocks into LME approved warehouses they have comfort that these stocks will maintain their market price and cannot be retrospectively downgraded to non-CFS stock.

15 If any new audit system proposed by this new legislation is designed to check the smelter/refinery supply chain management process to ensure conflict minerals do not enter their supply chain, then any failure on audit 3 should result in disenfranchising, but for *future* production only until the producer gains a subsequent audit pass. Any production between audit 3 (fail) and 4 (pass) could therefore be considered as non-CFS. The LME can trace production dates through company records linked to production marks on metal and the dates of documentation, meaning that the LME can restrict potential future deliveries into warehouses from smelters/refineries where there has been failure on audit 3. Any existing stocks would retain their CFS status and thereby not impact on price realisation. The LME believes that the threat of disenfranchising may deter smelters/refineries from taking non-CFS supplies due to the risk on their future production, were the supplies to be later discovered as non-CFS.

Full supply chain buy-in is essential

16 The LME fully supports the principles of the EU proposal, but believes for such an initiative to be successful it will require the full support of the entire supply chain (from the smelter/refinery through to the end user). A more considered approach is required to ensure the relevant parties are responsible at each stage of the sourcing process. Without the entire supply-chain being engaged, the stated aim of responsible sourcing of minerals will not be fully achieved.

17 The tin industry is a global market utilising a global reference price and it is important that any European policy on conflict minerals harmonises as much as possible with similar policies from other jurisdictions. Without this harmonisation artificial barriers will be introduced affecting competition which will harm the efficiency of the global market in serving buyers and sellers.

Summary

18 In summary, the LME believes that there is an inherent risk of inefficiency being introduced into the existing reference price system through the proposed legislation. The potential for retrospective action that leads to the disenfranchising of stock, coupled with a lack of support from all sections of the supply chain, will lead to delays and complications for businesses and may result in European firms becoming less competitive internationally. Further clarification within the proposed policy is required in order to ensure the utility of the global reference price is not destroyed or damaged.

19 The LME is committed to assisting yourselves and other relevant parties in achieving the overarching aim of responsible sourcing of minerals. Please feel free to contact the LME on the following email address if you would like to discuss these matters further: nick.ong-seng@lme.com.

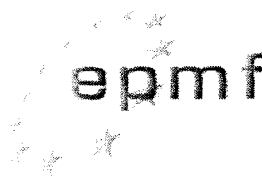


Yours sincerely



[4.1(b)]
CEO London Metal Exchange

64a



EUROPEAN PRECIOUS METALS FEDERATION
Response to EU DRAFT LEGISLATIVE PROPOSAL ON RESPONSIBLE SOURCING
Published on 5 March

31 July

Ms Signe RATSO
Director, DG Trade
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[41(b)]
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[41(b)]
Member of Cabinet
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[41(b)]
Member of Cabinet
Commissioner Antonio Tajani
DG Industry and Entrepreneurship
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Charlemagne building
Rue de la Loi 170
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fabrizia.benini@ec.europa.eu

Brussels, 31 July

Dear Ms Ratso, [41(b)]
Dear [41(b)] []
Dear [41(b)] []
Dear [41(b)] []

The European Precious Metals Federation represents the interests of its member companies and national associations vis-à-vis the European authorities on several topics of relevance for the precious metals (PM) sector, such as the safety of chemicals and waste management; access to raw materials, recycling and sustainability including responsible sourcing; energy and climate change; trade, customs, tax and competitiveness; etc.

Gathering the experience, the knowledge and the expertise of industrial and regulatory specialists of the sector is achieved by establishing a cooperation network, and where necessary, forming alliances, with organisations such as Eurométaux (of which EPMF is a Member), and other associations with whom EPMF shares common goals and values, such as the International Platinum Group Metals Association (IPA), the World Gold Council (WGC), the London Bullion Market Association (LBMA), and the Responsible Jewellery Council (RJC).

The PM sector has shared constructive comments on the initiatives of the US Securities Exchange Commission (SEC), the OECD, and the European Commission on responsible sourcing and was pleased to see that they were positively considered in all cases. In parallel, a series of interlocking responsible production and sourcing standards have been put in place through industry initiatives intended to operationalise the OECD Guidance Gold Supplement. The first third party audits and resulting certifications have recently been reviewed and granted successfully.

We believe that the Draft Legislative Proposal on Responsible Sourcing published by the European Commission

31 July 2014

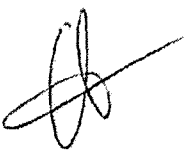


reports produced for the purpose of the industry initiatives of the LBMA, WGC, and RJC, for example, will be deemed acceptable under the EU legislation? Likewise, though streamlining the US Dodd Frank Act on conflict minerals and the EU legislative proposal on responsible sourcing is unlikely to be fully achievable, hopefully the resulting reporting duties will not result in duplicate deliverables. Ideally, each (third party audit) report should be able to fulfil both the US and the EU schemes.

- **Article 8(1): No maximum timing foreseen for the European Commission to issue and update list of 'responsible smelters and refiners'.** Nowhere in the draft legislative proposal is the time allowed to the European Commission to prepare and update the list of 'responsible smelters and refiners' specified. As rightly pointed out in the Commission's communication accompanying the draft proposal, appearing on a list of 'responsible smelters and refiners' may enhance the commercial visibility and credibility of responsible entities towards customers. Such a list should hence be produced and updated quickly after the Member States have submitted their reports to the European Commission. Would the European Commission consider adding a specific timing in a future version of the proposal?
- **Article 8(4): Declaration submitted by importers but COM generates a list of 'responsible smelters and refiners'.** Although importers (who may or not be smelters and refiners) are the ones submitting responsible sourcing declarations to their Member States Competent Authorities, the European Commission issues a list of 'responsible smelters and refiners' (who may or not be the importers). Can the European Commission perhaps clarify which entities will appear on the list: a) responsible smelters and refiners, b) responsible importers, or c) responsible smelters, refiners, and importers or 'responsible suppliers'? This would add value to the 'commercial image' effect of the list overall and appeal entities to implement responsible sourcing practices.

As a last remark, whereas precious metals associations can contribute to improving due diligence practices of precious metals companies via their certification and auditing schemes, the capacity to measure the actual impact of either private or public-led measures high in risk and conflict affected areas goes beyond businesses' control and reach. We were hence wondering how the success of the legislation and its parallel actions (e.g. to incentivise implementation of due diligence practice, and intervene locally too) will be measured? Since the legislation would be subject to a review three years after its entry into force, our sector wonders what concrete parameters will be measured and by whom, to determine how forceful the implementation of the legislation has been, and whether and how it actually delivered, in its 'voluntary format', a decrease or weakening of armed and other conflicts in the affected regions.

We would be pleased to discuss the above questions and comments with you and your experts at your most convenient time.

Kind regards,


[4.1/b)]
Secretary-General
EPMF
[4.1/b)]
President
EPMF
[4.1/b)]
Vice-President
EPMF

KAREL DE GUCHT
MEMBER OF THE EUROPEAN COMMISSION

Brussels, 18. 08. 2014
Ares (2014) S2826568

Dear Mr Beyrer,

I wish to thank you for your letter of 17 July 2014 expressing BUSINESSEUROPE's support and position regarding the EU initiative on responsible sourcing of minerals originating from conflict and high-risk areas.

Let me first reassure you that the EU approach to the problem of conflict minerals is an integrated one to stop profits from trading minerals being used to fund armed conflicts. It was important for us to develop a reasonable, effective and comprehensive EU framework in coherence with other policies and actions in the EU, on the ground and in other third countries. This comprehensive approach has been laid down in the joint Communication through the envisaged package of measures on which the Commission and the EEAS services will duly follow up.

Regarding your specific questions on the draft Regulation, DG TRADE intends to hold detailed consultations with relevant stakeholders including BUSINESSEUROPE in due time to continue the fruitful and constructive dialogue witnessed during the preparatory phase of the proposal.

Yours sincerely,

Karel De Gucht

Mr Markus J. Beyrer
Director General
BUSINESSEUROPE
168 Avenue de Cortenbergh
1000 Brussels - Belgium

65^a

From: [41(b)]
Sent: jeudi 28 août 2014 16:09
To: [41(b)]
Cc: [41(b)] (EEAS-WASHINGTON); [41(b)] (TRADE);
[41(b)] (TRADE)
Subject: Re: Conflict Minerals Call

Dear [41(b)]

Thank you for your response. I'll continue to check back in throughout the fall for updates if you don't mind. I'll keep you posted on any further developments here on the US side, including the issuance of the Department of Commerce smelter list.

Best regards,

[41(b)]

On Aug 28, 2014, at 8:25 AM, [41(b)] wrote:

Dear [41(b)]

Thanks for the update.

Activities in Brussels are picking up as after the EU Member States preparations are ongoing by the European Parliament to scrutinize the proposal. There is however no clear picture emerging on the timing, while on the one hand ambitions seems to be good to advance in the first reading, on the other hand progress may very well depends on how the different EP committees and political fractions aims to pursue the file.

Best regards,

[41(b)]

From: [41(b)]
Sent: Wednesday, August 27, 2014 6:49 PM
To: [41(b)]
Subject: RE: Conflict Minerals Call

Dear All,

I hope you are doing well and enjoying the remaining days of summer.

We have exchanged emails with the US Department of Commerce regarding the list of smelters and processors of conflict minerals that they are directed to compile. Here is the update they provided us:

We have been working diligently to put our smelter list together given existing resources. As you know, our deadline for publishing a list is September 1, 2014, and we are poised to meet that deadline at this

time. We have had requests from outside parties to consult with us on amalgamating a list of 3T and G facilities worldwide, but have asked all parties to meet with us after we publish our first list so that we can take everyone's input and improve our 2015 list. This will be an annual activity housed by Commerce, so we will really need advice, assistance and input from groups such as ITIC moving forward.

Is there any update you are able to share regarding the expected timing or process for considering the conflict minerals proposal in Brussels? Thank you in advance.

Best,

[4.1(b)]

From: [4.1(b)]
Sent: Monday, June 30, 2014 4:51 PM
To: [4.1(b)]

Subject: RE: Conflict Minerals Call

Hi [4.1(b)]

Thank you for clarifying. First I heard of the September 1 target date was in this new report.

Best,

[4.1(b)]

From: [4.1(b)]
[4.1(b)]
Sent: Monday, June 30, 2014 4:49 PM
To: [4.1(b)]
Subject: RE: Conflict Minerals Call

Thanks, [4.1(b)]

To clarify for Brussels colleagues, the list was required by Dodd-Frank, but Commerce has yet to produce it. A bit slow, as the State Department was for the map at first . . . See below in yellow, also from GAO report.

The September 1 delivery date for the list is indeed new to me (perhaps you had a heads-up on that earlier, Rick).

[4.1(b)]

However, the Department of Commerce (Commerce) has

Commerce cited difficulties with, for example, tracking conflict minerals operations but told GAO that it had completed outreach efforts with the majority of stakeholders. Commerce did not have a plan of action, with associated time frames, for developing and reporting on the list of conflict minerals processing facilities worldwide. Standard practices in program and project management include, among other things, developing a plan to execute specific projects needed to obtain defined results within a specific time frame. An action plan with timeframes could better position Commerce to report on the status of its efforts to produce a final list to Congress and to hold its personnel accountable for completing activities.

[41(b)]
Senior Trade Advisor
Delegation of the European Union to the United States
202.862.9594 Phone
benjamin.harrison@eeas.europa.eu

From: [41(b)]
Sent: Monday, June 30, 2014 4:06 PM
To: [41(b)]
Cc: [41(b)]
Subject: RE: Conflict Minerals Call

Dear All,

Last Thursday, the United States Government Accountability Office released its latest annual report to the U.S. Congress on conflict minerals: CONFLICT MINERALS: Stakeholder Options for Responsible Sourcing Are Expanding, but More Information on Smelters Is Needed. The report is available HERE.

GAO's primary recommendation is included on page 2 of the document:

"GAO recommends that the Secretary of Commerce provide Congress a plan that outlines the steps, with associated timeframes, to develop and report the required information about smelters and refiners of conflict minerals worldwide. Commerce concurred with GAO's recommendation and noted that it will submit a listing of all known conflict minerals processing facilities worldwide to Congress by September 1, 2014."

ITI will contact the Commerce Department to schedule a follow-up meeting to discuss the development of the list of worldwide processing facilities. We are also happy to make the appropriate connections between the EC and Commerce if you would like.

Best,

[41(b)]

From: [41(b)]
Sent: Wednesday, June 18, 2014 10:06 AM
To: [41(b)]
Cc: [41(b)]
Subject: RE: Conflict Minerals Call

Thanks, [41(b)] I appreciate the update. The issue has been relatively quiet here since the courts ruled against the NAM lawsuit. I have a note in to the SEC inquiring as to their initial reactions to the reports filed and will let you know what I hear back.

Best,

[4.1(b)]

From: [4.1(b)]
Sent: Wednesday, June 18, 2014 8:59 AM
To: [4.1(b)]
Cc: [4.1(b)]
Subject: RE: Conflict Minerals Call

[4.1(b)]

No important news as the EP is still organizing itself. Member States have started to analyse the proposal for a Regulation and are generally speaking supportive of the initiative.

Any news from the SEC/US DF: responses or overviews of the first submissions?

Regards,

[4.1(b)]

From: [4.1(b)]
Sent: Tuesday, June 17, 2014 4:30 PM
To: [4.1(b)]
Cc: [4.1(b)]
Subject: RE: Conflict Minerals Call

Dear All - I wanted to check in and see if there are any recent developments regarding the status of the Commission's conflict minerals proposal. Thank you in advance.

Best,

[4.1(b)]

From: [4.1(b)]
Sent: Tuesday, March 11, 2014 8:51 AM
To: [4.1(b)]
Cc: [4.1(b)]
Subject: RE: Conflict Minerals Call

Thank you both!

From: [4.1(b)]
[4.1(b)]
Sent: Tuesday, March 11, 2014 5:52 AM
To: [4.1(b)]
Cc: [4.1(b)]
Subject: RE: Conflict Minerals Call

Dear [4.1(b)]

Thanks for the opportunity to comment, please see some clarifications in track changes.

Best regards,

[4.1(b)]

From: [4.1(b)]
Sent: Monday, March 10, 2014 8:26 PM
To: [4.1(b)]
Cc: [4.1(b)]
Subject: RE: Conflict Minerals Call

Dear [4.1(b)]

Thank you both very much for sharing your time and insights with us earlier today. I have attached my write-up of our discussion, in case you have the time and interest to review it. I will share this with our companies and describe it as ITI's understanding of our discussion - not as anything reviewed by the EC.

Thanks again.

Best,

[4.1(b)]

From: [4.1(b)]
Sent: Friday, March 07, 2014 12:08 PM
To: [4.1(b)]
Cc: [4.1(b)]
Subject: RE: Conflict Minerals Call

Sure you can call +32 2 295 53 60
That's my direct line

[4.1(b)]

From: [4.1(b)]
Sent: Thursday, March 06, 2014 11:56 AM
To: [4.1(b)]
Cc: [4.1(b)]
Subject: Re: Conflict Minerals Call

Yes, thanks. Please let me know what number to call.

On Mar 6, 2014, at 3:25 AM,

[4.1(b)]

[]
Would Monday 4pm Brussels time work?

From: [41(b)]
Sent: Wednesday, March 05, 2014 9:14 PM
To: [41(b)]

Cc: [41(b)]

Subject: RE: Conflict Minerals Call

Thanks [41(b)] Much appreciated.

All, please let me know some days and times that are convenient for you next week. Thank you in advance.

Best,

[41(b)]

From: [41(b)] (EEAS-WASHINGTON)
[41(b)]

Sent: Wednesday, March 05, 2014 3:02 PM

To: [41(b)]

Cc: [41(b)] (TRADE); [41(b)] (TRADE); [41(b)] (TRADE)

Subject: RE: Conflict Minerals Call

[41(b)]

I'm circling Michelangelo and his team in since I'll actually be in Brussels myself next week and so won't be part of the call. But do keep me in copy – if I can, I'll try to join Michelangelo in the office.

Thanks.

[41(b)]

[41(b)]

Senior Trade Advisor
Delegation of the European Union to the United States
202.862.9594 Phone

From: [41(b)]
Sent: Wednesday, March 05, 2014 12:11 PM
To: [41(b)]
WASHINGTON)
Subject: RE: Conflict Minerals Call

Hi [41(b)]

I cannot make tomorrow at 11 ET due to an unavoidable conflict. Could we look to schedule something next week?

Also, I am in the process of reviewing all the documents, and I have a few initial questions.

The first three concern the following sections from the Communication and the press release (respectively):

Public Procurement incentives

The Commission will promote the uptake of both the responsible importer certificate and the list of responsible smelters/refiners through performance clauses in the European Commission's own public procurement contracts. Products purchased through public procurement containing tin, tantalum, tungsten and/or gold will therefore need to respect OECD Due Diligence Guidance or equivalent due diligence schemes in order to satisfy contractual obligations.

*

Public procurement incentives for companies selling products such as mobile phones, printers and computers containing tin, tantalum, tungsten and gold;

1. Does this mean that the EC will only purchase products containing 3TG from "responsible importers"?
2. Is this a requirement, or is it an incentive?
3. Are the public procurement requirements/incentives only targeted at tech devices (e.g., mobile phones, printers and computers containing 3TG, or

will they include other products?

4. How far does the definition of "importer" extend? The NGO community has already released a statement claiming that the scope of the draft regulation only includes "importers of raw ores and metals" and does not apply to "manufacturers and companies that import finished products."

Thanks in advance for any light you and your colleagues can shed on these!

Best,

[41(b)]

From: [41(b)]

[41(b)]

Sent: Wednesday, March 05, 2014 8:17 AM

To:

Subject: Re: Conflict Minerals Call

[41(b)]

1. Proposal has been adopted. Here is the link: http://europa.eu/rapid/press-release_IP-14-218_en.htm. Everything is there.

2. Michelangelo has suggested 11:00 tomorrow. Do I recall correctly that you have a conflict or is that okay?

Thanks.

[41(b)]

Sent from my Verizon Wireless 4G LTE smartphone

[41(b)] wrote:

>Hi Ben, >>Thanks again for the call and for the opportunity to speak with

[416] Is it fair to say that the proposal as drafted primarily focuses on the upstream section of the supply chain? Thanks. >>Best, >Rick >>>
>Rick Goss >Senior Vice President of Environment and Sustainability
>Information Technology Industry Council >1101 K Street NW, Suite 610
>Washington, DC 20005 >202-626-5724 >Email: rgoss@itic.org >Website: www.itic.org >Twitter: @TechElect >
>[logo_iti_600dpi] >>Please consider the environment before printing this e-mail. >

652

SCOPE/IMPORTER

Q1: How far does the definition of "importer" extend? The NGO community has already released a statement claiming that the scope of the proposed regulation only includes "importers of raw ores and metals" and does not apply to "manufacturers and companies that import finished products."

A1: The requirements directly apply to importers (participating in the scheme) of minerals/ores, concentrates and metals listed in Annex I of the proposed regulation. Importers of finished products are not directly included in the self-certification/due diligence process, but may be affected by the EU procurement element.

PROCUREMENT

Q2: Will the EU only purchase products containing 3TG from "responsible importers"?

A2: The EC is looking to drive proper due diligence and chain-of-custody activities through procurement policy. The overall scheme will include performance clauses in EU procurement contracts for product suppliers to undertake due diligence per the OECD Due Diligence Guidance (DDG) or an equivalent system. Procurement clauses like this are already authorized under current EU law and are common in the EU system – hence, there is not a specific additional mention of this in the proposed regulation.

In general, EU performance clauses require the winning bidder to provide services per the contract specifications. The procurement authorities work to verify that the bidder can or will meet those clauses.

Q3: Is this a requirement, or is it an incentive?

A3: This remains an open question. The proposal is for EU institutions to either (a) require procurement of, or (b) provide a procurement preference for products supplied by companies that perform proper due diligence activities. EC officials still need to work out the specifics in discussions with their procurement counterparts. This is also subject to the legislative/political process in the European Parliament and Council.

[ITI NOTE: The EC's intent here is that European Union offices and institutions will apply a procurement preference or requirement, possibly to be joined by the Member State governments. This is not a preference/requirement to conduct business with private sector customers in the EU.]

Q4: Are the public procurement requirements/incentives only targeted at tech devices (e.g., mobile phones, printers and computers containing 3TG), or will they include other products?

A4: They will apply to all devices containing 3TG. The EC estimates that the EU and its institutions purchase approximately 100 million products a year that contain 3TG.

This volume will markedly increase if the EU Member States also agree to participate in the procurement program.

Q5: With respect to public procurement, how will the EC verify that a product respects the OECD due diligence guidance? Will this be a self-certification, or will there be a verification process (and if so, what would it consist of)?

A5: The relevant EU or Member State procurement authority would check on this in the same way that it verifies any other contract clause. In the case of conflict minerals, it is likely that the procurement officials would check with the appropriate competent authorities in the EU Member States, who will be conducting post-market verification activities of self-certified companies. The objective is to determine that the winning bidder satisfied the 5-step OECD process (or equivalent).

Q6: Are there any incentives to source responsibly from conflict-affected areas? There is additional documentation, reporting and due diligence expectations per the OECD DDG when sourcing from conflict affected areas; therefore, what benefits exist for these companies to support traceability and source in these areas rather than embargo all regions that are suspected to be conflict-affected?

A6: At present, the proposal does not contemplate an additional incentive for in-region sourcing activities, but that is a possibility. The EC first needs to determine how the performance clauses will be drafted. The way it is currently worded, we could take it in a positive sense as well, i.e., that products should/must be sourced in accordance with proper due diligence practices, with an additional preference for clean in-region sourcing.

SMELTER LIST

Q7: How will the EC create its list of "responsible smelters", i.e., what criteria will be used? How will this list interact (if at all) with the existing EICC-GeSI CFS list?

A7: The list of smelters/refiners called for in the proposed regulation will be largely based on information supplied by those importers that elect to self-certify as "responsible importers." The EC expects high uptake of due diligence practices by covered importers due to a combination of existing requirements under Dodd-Frank (which have an international effect); ongoing private industry schemes within supply chains; and, peer pressure. The responsible importers will generate a volume of information for the EC to establish a list, and could trigger a "snowball effect" of more and more information. The proposed regulation also calls for the EC to coordinate with the OECD on the list, and this opens up possibilities for additional coordination, e.g., with the CFS Initiative, the US government, etc.

Q8: Section 2.1, second paragraph says the EU will annually issue a list of smelters and refiners that are considered responsible, paying special attention to those that

source responsibly from conflict zones. Will the CFSI process qualify a smelter for the responsible importer certification?

A8: The intent is to build on the CFSI process and other successful efforts. If a smelter/refiner (exporting to the EU or established in the EU) satisfies the OECD process – including the independent audit – it is perfectly eligible to be on the EC list.

Deleted: CFSI

GEOGRAPHIC SCOPE

Q9: The FAQ states that EU does not intend to publish a list of conflict-affected, high risk regions that would be in scope. As a practical matter, do they anticipate this work happening at the OECD? Will individual companies be told to decide?

A9: Companies will make their own determinations, and the EC will further develop this idea within future guidelines. The definition of high risk and conflict affected areas in the proposed regulation differs slightly from the OECD definition. The EC approach is more precise and should therefore be easier to implement. The EC will refer to helpful information resources to assist companies to determine which countries and/or regions should be included within the definition. They will also include a methodology within the framework of the (future) guidelines.

The overall philosophy behind the proposed regulation is that this is a process. The EC will be much more attuned to (a) the system that a company puts in place, (b) the methodologies it employs and (c) the risk management structures and steps it takes, than to the company's exact determination of whether a given area is in conflict or not. The EC process will be tolerant to a certain degree, and focused on resolving inconsistent determinations between companies.

AUDITS/VERIFICATION

Q10: Regarding audits for self-certification of responsible importers: The audit objective would be verifying that a company's due diligence is consistent with the practices laid out in the document (which are essentially the OECD practices). Audit standards do not exist today to audit against this – would this be something they would expect to be developed by industry, a standards process, the Commission?

A10: The EC expects that industry will develop these audit approaches in relation to the OECD DDG or equivalent but the EC will provide more information in the upcoming guidelines in view of harmonised approaches. Ultimately, it will be up to the Members States to determine if the company has conducted these audits in a satisfactory manner vis-à-vis the due diligence regime. The whole spirit of the process is akin to the approach established by the OECD: establish a process; make sure that companies engage; identify challenges over time; and, implement proper improvements. The EC's overall approach, especially in the beginning years, is to work with companies to improve their practices, rather than to crack down on those that might depart from the norm.

Q11: Will companies that provide Conflict Mineral Reports (CMR) under Dodd Frank be considered to "respect OECD Due Diligence Guidance?"

A11: Companies that follow the OECD DDG (or equivalent) and file a CMR with the U.S. will have gone a long way towards also fulfilling the EC process. If the CMR is only for the African Great Lakes Region, then the company will have to similarly conduct proper due diligence on other conflict affected/high risk areas in order to satisfy the EC regime. EU companies that are not covered by Dodd-Frank or have otherwise not commenced due diligence for minerals sourcing will need to start from the beginning.

VOLUNTARY/MANDATORY

Q12: What are the chances that this becomes a mandatory regime?

A12: The proposed regulation now goes into the legislative process, where it will be considered by the European parliament and Council. Based on the process so far, it seems there will be a low-to-medium possibility that it is amended to become mandatory. Also, as noted in the proposed regulation, there will be a review process in three years after the entry into force of the regulation to determine if private sector uptake is sufficient. If there is not enough uptake or transparency, then the odds increase that the EU will impose mandatory measures.

Deleted: the

Deleted: accompanying
documentation

65⁶

From: [41(b)]
Sent: vendredi 5 septembre 2014 19:51
To: [41(b)]
Cc: [41(b)]
Subject: Department of Commerce Releases Report on Global Conflict Minerals Processing Facilities

All - the U.S. Department of Commerce report is available [HERE](#).

We are in the process of reviewing the report and would welcome your comments.

Best,

[41(b)]

[41(b)]

Senior Vice President of Environment and Sustainability
Information Technology Industry Council
1101 K Street NW, Suite 610
Washington, DC 20005
202-626-5724
Email:
Website: www.itic.org



Information Technology
Industry Council

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66

From: [41(b)]
Sent: 17 September 2014 13:51
To: [41(b)]
Cc: [41(b)]
Subject: Comparative Table of the EU proposal on conflict minerals with existing schemes
Attachments: Joint Conflict Minerals Comparison Table_FINAL.pdf

Dear [41(b)]

On behalf of DigitalEurope and the American Chamber of Commerce to the EU (AmCham EU) I hereby send you our jointly developed Comparative Table of the EU proposal on conflict minerals with existing schemes.

The objective of this comparative table is to facilitate the work of EU policy makers to define a complementary and effective approach in pursuit of conflict free. We hope that you will find this useful in the ongoing work that you and your colleagues are undertaking on this issue.

Conflict minerals is a complex issue that requires the engagement of multiple stakeholders, including governments, the private sector and civil society.

Our associations welcome the European Commission's proposal for a regulation on conflict minerals and support the three goals of the EU integrated approach to responsible sourcing:

- Breaking the link between minerals extraction, trading and the financing of armed conflict;
- Supporting a market in the EU for responsibly traded minerals that originate in conflict regions;
- Improving the ability of EU operators throughout the supply chain to comply with existing due diligence measures.

Both associations would very much welcome the opportunity to meet with you to present and discuss the comparative table in detail, and to have an exchange on the current progress on the legislative proposal and the Communication. We will follow up with you individually.

We look forward to engaging in a dialogue with you in the near future, and remain at your disposal should you have any questions.

[41(b)]
Senior Policy Manager
DigitalEurope

[41(b)]
Policy Officer
AmCham EU

[41(b)]

[41(b)]

Best regards,

[41(b)]



[41(b)]

American Chamber of Commerce to the EU (AmCham EU)

Avenue des Arts 53, 1000 Brussels

Direct line: +32 (0)2 289 10 15 | Mobile: +32 (0)484 795 809

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European
Public Affairs
Awards
2014

**TRADE
ASSOCIATION
OF THE YEAR**

Comparative table of the EU proposal on conflict minerals with existing schemes

Comparing different regulatory approaches on responsible trading of conflict minerals

Executive summary

The objective of this comparative table is to help facilitate the work of EU policy makers to define a complementary and effective approach in pursuit of conflict free. Conflict minerals is a complex issue that requires the engagement of multiple stakeholders, including governments, the private sector and civil society. There is a clear need to promote real change, and we believe the Commission proposal is a step in the right direction.

* * *

ABOUT AMCHAMEU – 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 €2 trillion in 2013 and directly supports more than 4.3 million jobs in Europe.

ABOUT DIGITALEUROPE – DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies.

* * *

POSITION PAPER

Comparison of approaches to the responsible trading of Conflict Minerals

10 September 2014

The objective of this comparative table is to help facilitate the work of EU policy makers to define a complementary and effective approach in pursuit of conflict free minerals. The undersigned associations welcome the European Commission's proposal for a regulation on conflict minerals and support the three goals of the EU integrated approach to responsible sourcing:

- Breaking the link between minerals extraction, trading and the financing of armed conflict
- Supporting a market in the EU for responsible traded minerals that originate in conflict regions
- Improving the ability of EU operators throughout the supply chain to comply with existing due diligence measures.

The proposed Regulation would complement existing US legislation on responsible sourcing of conflict minerals (Dodd-Frank Act) and contribute to the harmonisation of global compliance programmes. We are pleased to see that the Regulation will exert pressure on importers of conflict minerals to source from smelters and refiners that are verified as being conflict-free. In addition, the list of smelters and refiners that the Commission would publish, and the information developed by responsible importers, would assist companies with their due diligence inquiries under the US Dodd-Frank Act.

POSITION PAPER

Comparison of approaches to the responsible trading of Conflict Minerals

EU Regulation

| ISSUE | EU Proposal | Dodd-Frank Act (DFA) | Comments |
|---------------------------|--|---|---|
| Approach | Voluntary self-certification program | Mandatory disclosure requirement | The self-certification programme is embedded in a wider comprehensive approach to promote responsible sourcing of minerals based on the OECD due diligence guidelines. Different initiatives, such as Conflict Free Sourcing Initiative (CFSI) and the Conflict Free Tin Initiative (CFTI) have so far proven to be both effective and cost efficient. A voluntary approach carries less risk of a de-facto embargo. |
| Focus | Upstream (importers of minerals, metals listed in Annex A) | US Publically traded listed companies (upstream + downstream) | Concentrating on upstream supply chain operators and on facilitating transmission of quality information in the supply chain leverages the appropriate point in the supply chain and is consistent with the OECD Guidance, with industry initiatives, such as the Conflict-Free Smelter Program (part of CFSI), and complements the Dodd-Frank Act. Beyond the pinch point of smelters, it becomes exponentially more difficult to identify the origin of metals. |
| Geographical Scope | "Conflict-affected and high-risk areas" | DRC and adjoining countries | Today, supply chain due diligence initiatives are largely focused on the DRC and the Great Lakes Region. This focus was identified at the highest international level in a UN Security Council Resolution. It is imperative that a consistent process and criteria is defined for identifying areas as conflict-affected and high risk for the purposes of the EU regulation. |

POSITION PAPER

Comparison of approaches to the responsible trading of Conflict Minerals

| | | | |
|---|---|---|--|
| Definition of Conflict-Free | Not defined. Designed to support further compliance with the OECD Guidance and with a process-oriented focus | Product may be described as DRC conflict-free if it does not contain minerals that directly or indirectly benefit armed groups in the DRC and adjoining countries | OECD Guidance does not define conflict-free. It provides due diligence guidance to help companies respect human rights and avoid contributing to conflict through their sourcing decisions. The OECD describes their views on conflict-free in a letter to the SEC dated 29 July 2011. |
| Minerals Scope | Tantalum, Tungsten, Tin, Gold (3TGs) | 3TGs | A focus on 3TGs achieves coherence between the EU and US policy approaches. Alignment of mineral scope would allow the current initiatives to mature. |
| Institutional bodies responsible | Competent authorities in Member States | Securities & Exchange Commission (SEC) | Responsibility should lie with public authorities that have the appropriate expertise and capacity to effectively implement and enforce the requirement, aiming to avoid market fragmentation within the EU. |
| Due Diligence Approach | OECD Guidance Five-Step Framework | Nationally or internationally recognized Due Diligence Framework. May use OECD Guidance | Companies support the five-step framework in the OECD due diligence guidance. |
| Auditing | Audit required for importers that have volunteered to participate | Audits are to be levied against companies that file DRC conflict free or if they have determined whether the conflict minerals financed have benefited armed groups, starting in 2015 | A common approach to auditing is necessary. At an industry level, voluntary initiatives focus audits at smelters/refiners in the supply chain consistent with Step 4 of the OECD Guidance. |

POSITION PAPER

Comparison of approaches to the responsible trading of Conflict Minerals

| | | | |
|----------------------------------|---|---|---|
| List of smelters/refiners | Based on information provided by Member States, COM shall make publicly available a list of responsible smelters and refiners | Worldwide list of 3TG minerals processing facilities to be put together by US Dept of Commerce 30 months after law's entry into force | It is important to have a common list of known smelters/refiners. Current industry initiatives list smelters/refiners that are compliant with the Conflict-Free Smelter Program, LBMA's Responsible Gold Program (London Bullion Market Association), RJC's Chain of Custody Certification Program (Responsible Jewellery Council). |
|----------------------------------|---|---|---|

EU Joint Communication

| ISSUE | Joint Communication | US Policy Measures | Comments |
|-----------------------------|---|--|--|
| Public Procurement | COM and Member States to include requirements for respecting OECD Guidance in procurement contracts | N/A | <p>There should be a consistent approach to public procurement incentives across Member States and Commission.</p> <p>Performance clauses should aim to encourage the uptake of due diligence at a company level. It is companies, not products, that follow the OECD Guidance and we recommend that this language be revised to ensure implementation is consistent with the international due diligence framework. Such an approach would enable consistency across the EU and also allow for the flexible application of due diligence as recognized in the OECD Guidance. Public procurement should address all 3TG containing products.</p> |
| Consumer information | Member States to consider complimentary initiatives in the area of consumer info and labelling | SEC filing posted on company's website | <p>Avoid market fragmentation. Annual reporting on supply chain due diligence is Step 5 of the OECD Guidance. Consistent with the EU Directive on disclosure of non-financial and diversity information, companies should have the flexibility to disclose relevant information in the way they consider most useful.</p> |

POSITION PAPER

Comparison of approaches to the responsible trading of Conflict Minerals

| | | | |
|---|--|---|---|
| | | | |
| "In-region" sourcing and responsible minerals trade | EU supports ICGLR Regional Initiative on Natural Resources. Member-State activity. | US support ICGLR Regional Initiative and Public-Private Alliance for Responsible Minerals Trade. USAID activity in DRC supports responsible minerals trade. | In-region sourcing and the development of systems to enable responsible trade from conflict areas should be a priority. Without such in-region efforts, due diligence further downstream may result in unintended embargo of all material from an area. |
| Outreach to countries with minerals/metals processing facilities | Outreach to countries w/smelters, including an int'l conference | State Dept diplomatic and commercial outreach | Outreach to smelters is important to help boost participation in industry's Conflict-Free Smelter Program and equivalent initiatives. There is an opportunity for EU and its economic partners to collaborate on outreach to countries with minerals/metals processing facilities |
| Institutional bodies involved | European Commission, External Action Service, EU Member States, European Parliament | State Department, USAID, SEC, Commerce Dept. | Institutional bodies involved at international level include UN Security Council Group of Experts on DRC, ICGLR, OECD |
| SMEs | Financial assistance available for Small and Medium Sized Enterprises via the COSME (Competitiveness of Enterprises and Small and Medium-sized Enterprises) program. | SEC rule extends phase in period for product descriptions to 4 years for SMEs (vs. 2 years) | It is critical that SMEs receive administrative and financial support to implement conflict-free systems. |

67

From: [4.1/b)]
Sent: [4.1. (b)
To:

Cc:

Subject:
Attachments:

7

Dear OECD MSG

Please find attached a DRAFT Best Practice Toolkit. These are optional tools which refiners may choose to use in conducting due diligence. Many thanks to Argor-Heraeus, Metalor and PAMP for their hard work and collaboration in the creation of these documents.

This toolkit includes:

Recycled Gold

Due Diligence Checklist

KYC Questionnaire

Assessment Forms

Mined Gold (Large scale, medium & small scale).

Due Diligence Checklist

KYC Questionnaire

Assessment Forms

[On-site Assessment Form *in progress*]

[ASM Gold Toolkit in progress; MSG stakeholder engagement encouraged]

These forms are intended to support LBMA refiners implementation of the LBMA RGG Guidance and simplify the due diligence process. It is also intended to assist auditors in their interpretation of the LBMA Responsible Gold Guidance and ensure consistency.

Comments are welcomed and asked to be submitted by 15th October. If you require further time, please either email me or call me on [47(b)]

Kind regards,

[47(b)]



LBMA

[47(b)]

General Counsel

London Bullion Market Association

1-2 Royal Exchange Buildings

Royal Exchange

London EC3V 3LF

[Show on Google Maps](#)

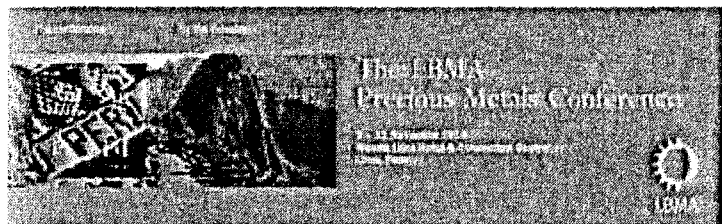
Tel: 020 7337 9773

Email: [47(b)]

Web: www.lbma.org.uk



The LBMA Precious Metals Conference 2014 will be in Lima, Peru, 9-11 November, 2014. Click on the image below for more details and how to register for the premier event in the industry.



67

LBMA RGG Questionnaire – Mined Gold

1. COMPANY DETAILS

| | |
|--|--|
| a. Name | |
| b. Registered Address | |
| c. Business Address | |
| d. Phone number | |
| e. Date of Incorporation | |
| f. Country of Incorporation | |
| g. Business registration number | |
| h. Tax Identification/Registration number | |
| i. If listed, indicate name of stock exchange(s) and ticker | |
| j. Website | |
| k. External financial auditors since date | |
| l. How many direct and indirect subsidiaries does the company have? <i>Please provide a Group chart</i> | |

2. BUSINESS ACTIVITY

| | | |
|---|---|---|
| a. Type of business | Large scale mine (>100'000 oz/year) Medium scale mine (30-100'000 oz/year) Small scale mine (<30'000 oz/year) | <input type="checkbox"/> Precious Metals trader <input type="checkbox"/> <input type="checkbox"/> Others, please specify: <input type="checkbox"/> <input type="checkbox"/> _____ |
| b. Description of core business activity | | |
| c. In which country do you currently refine your precious metals? | | |
| d. Are the refineries you work with LBMA accredited? | | |

3. BENEFICIAL OWNERS**SHAREHOLDER(S) (MORE THAN 25%)**

| Percentage Holding (%) | Name | Address | Country of incorporation/ Nationality(ies) | Date of incorporation/ Date of birth |
|------------------------|------|---------|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

ULTIMATE BENEFICIAL OWNER (MORE THAN 25% - INDIVIDUAL ONLY)

| Percentage Holding (%) | Name | Address | Nationality(ies) | Date of birth |
|------------------------|------|---------|------------------|---------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

4. MANAGEMENT STRUCTURE

| | Names | Title | Nationality(ies) | Date of birth |
|-----------------------|-------|-------|------------------|---------------|
| a. Board of directors | | | | |
| b. Top Management | | | | |

5. FINANCIAL INFORMATION**5.1 Financial statements details**

| | Currency | Last reporting period | Previous year |
|--|----------|-----------------------|---------------|
| a. Share Capital | | | |
| b. Total Shareholder's Equity | | | |
| c. Total Balance Sheet | | | |
| d. Sales | | | |
| e. Net Income | | | |
| <i>Please provide copy of latest annual report</i> | | | |

| 5.2 Other financial information | | | | | | | | | |
|---|---|--------------|----------------|----------------|--|--------|--|------|--|
| f. Source of mining operation funding | <input type="checkbox"/> Own equity <input type="checkbox"/> Government entity, name(s): _____ <input type="checkbox"/> Bank loan, name(s): _____ <input type="checkbox"/> Other third party loan, name(s): _____ | | | | | | | | |
| g. What usual payment method does the Company use to pay its suppliers? | <table border="1"> <thead> <tr> <th>Payment type</th> <th>Percentage (%)</th> </tr> </thead> <tbody> <tr> <td>Bank transfers</td> <td></td> </tr> <tr> <td>Checks</td> <td></td> </tr> <tr> <td>Cash</td> <td></td> </tr> </tbody> </table> | Payment type | Percentage (%) | Bank transfers | | Checks | | Cash | |
| Payment type | Percentage (%) | | | | | | | | |
| Bank transfers | | | | | | | | | |
| Checks | | | | | | | | | |
| Cash | | | | | | | | | |

| 6. REGULATORY ENVIRONMENT | YES | NO | N/A |
|--|-----|----|-----|
| a. Does your Company need to comply with detailed health and safety regulations in the country/province of operations? | | | |
| b. Does your Company need to comply with detailed environmental regulations in the country/province of operations? | | | |
| c. Is child labour regulated in mining activity in the country/province of operations? | | | |

| 7. HUMAN RESOURCES | |
|---|--|
| a. Number of employees within the Company | |
| b. Number of employees within the Group | |

| 8. ORIGIN OF PHYSICAL PRECIOUS METALS, CAPACITY AND MINING PRACTICES | |
|---|--|
| a. From how many mining site(s) is the gold extracted? | |
| b. Name of the mining site: | |
| c. Where exactly is the mining site located (country, province, closest city, GPS coordinate)? | |
| d. In which perimeter (km) around the centre of operation/processing plant is the mining site(s) located? | |
| e. Is the mining site legally required to hold a mining license? <i>Please provide a copy</i> | <input type="checkbox"/> Yes <input type="checkbox"/> No Date of issue: _____ Expiry date: _____ |
| f. What is the daily production of the mining site? | |
| g. What are the estimated reserves of the mining site? | |
| h. How many people are working on the mining site? | |

| | |
|---|---|
| i. What is the gold extraction method (mining equipment & methods)? | |
| j. Are there any comprehensive procedures and system to guarantee the safety of the working environment in the mining site (ex: use of proper protective equipment, first aids materials and emergency procedures)? | <input type="checkbox"/> Yes, please describe: <input type="checkbox"/> No |
| k. Are there any comprehensive processes in the mining site to avoid negative impact to the environment by gold extraction (such as adequate tailing treatment, system to avoid pollution emission, etc)? | <input type="checkbox"/> Yes, please describe: <input type="checkbox"/> No |
| l. Does the mining site support the local community ? | <input type="checkbox"/> Yes, please describe: <input type="checkbox"/> No |
| m. Is there a comprehensive procedure in the mining site to ensure prevention of child labour? | <input type="checkbox"/> Yes, please describe: <input type="checkbox"/> No |
| n. Is there any armed groups stationed on/near the mine site? If yes: | <input type="checkbox"/> Yes <input type="checkbox"/> State Armed group <input type="checkbox"/> Non State Armed Group <input type="checkbox"/> Public or private security forces <input type="checkbox"/> No |
| o. Does the Mining Company employ professional security forces to control the mine site? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| p. Has the Regulator responsible for mining operation done an on-site visit | <input type="checkbox"/> Yes, date of last visit: _____ <input type="checkbox"/> No |

| | |
|--|---|
| q. If no on-site visit has been performed yet (question 8p above), is there any visit planned? | <input type="checkbox"/> Yes, date of planned visit: _____ <input type="checkbox"/> No |
|--|---|

9. PROCESSING PLANT

| | |
|--|---|
| a. Where exactly is the gold processing plant (s) located (country, province, closest city, GPS coordinate)? | |
| b. How many people are working in the gold processing plant? | |
| c. Is the gold processing plant held by the mining company or is it outsourced to an external party? | <input type="checkbox"/> Mining company processing plant <input type="checkbox"/> Gold processing outsourced to an external plant Name: _____ |
| d. If the Mining Company has its own processing plant, does it also source from external parties? | <input type="checkbox"/> Yes Name and location of mining sites: _____ <input type="checkbox"/> No |
| e. What is the gold processing method (processing equipment & methods)? | |
| f. What chemical products are used during processing? | <input type="checkbox"/> Mercury <input type="checkbox"/> Cyanide <input type="checkbox"/> Others, please specify: _____ |
| g. What is the capacity of the processing plant per day? | |
| h. Is your Company legally required to have a license to export precious metals? | <input type="checkbox"/> Yes – Please provide a copy Date of issue: _____ Expiry date: _____ <input type="checkbox"/> No <input type="checkbox"/> N/A |

| | |
|--|---|
| i. Are there any comprehensive procedures and system to guarantee the safety of the working environment in the processing plant (ex: use of proper protective equipment, first aids materials and emergency procedures)? | <input type="checkbox"/> Yes, please describe: <input type="checkbox"/> No |
| j. Does the processing plant have comprehensive processes to avoid negative impact to the environment by gold processing (such as adequate tailing treatment, system to avoid pollution emission, etc)? | <input type="checkbox"/> Yes, please describe: <input type="checkbox"/> No |
| k. Does the processing plant support the local community? | <input type="checkbox"/> Yes, please describe <input type="checkbox"/> No |
| l. Does the processing plant have a comprehensive procedure to ensure prevention of child labour? | <input type="checkbox"/> Yes, please describe <input type="checkbox"/> No |
| m. Has a village been developed near the mine sites/processing plant with adequate structure (school, hospital, drugstore, market) | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| n. Is there any armed groups stationed on/near the processing plant? | <input type="checkbox"/> Yes <input type="checkbox"/> State Armed group <input type="checkbox"/> Non State Armed Group <input type="checkbox"/> Public or private security forces <input type="checkbox"/> No |
| o. Does the processing plant employ professional security forces to control the plant | <input type="checkbox"/> Yes <input type="checkbox"/> No |

10. MATERIALS

a. What type of precious metals is the Company planning to send for refining?

☐ Gold
☐ Silver
☐ Others, please specify: _____

b. What is the form of precious metals planned to be sent for refining?

☐ Gold concentrate
☐ Mining by-product
☐ Gold dore
☐ Others, please specify: _____

11. Transportation

a. How is the ore transported from the mining sites to the processing plant?

☐ By your company

☐ By a third party (external company), which company? _____

b. How is the dore transported from the processing plant to the export location?

☐ By your company

☐ Truck ☐ Helicopter ☐ Armoured vehicle ☐ Fixed wing aircraft

☐ Others, please specify

☐ By a third party (external company), which company? _____

☐ Truck ☐ Helicopter ☐ Armoured vehicle ☐ Fixed wing aircraft

☐ Others, please specify

c. How will the dore be transported from the export location to the refinery?

☐ By your company

☐ Aircraft ☐ Boat ☐ Armoured vehicle ☐ Others, please specify:

☐ By a third party (external company), which company? _____

☐ Aircraft ☐ Boat ☐ Armoured vehicle ☐ Others, please specify:

d. Is there any military/police checkpoint along the road from the mining site until the export location?

☐ Yes

If yes, how many and for what purpose?

☐ No

12. RESPONSIBLE PRECIOUS METAL SUPPLY CHAIN POLICY

a. Did your company establish a responsible supply chain of gold from conflict-affected and high risk areas policy which is consistent with the standards set forth in the model supply chain policy in Annex II of the OECD Due Dillgence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas?
<http://www.oecd.org/daf/Inv/mne/GuidanceEdition2.pdf>

☐ Yes – Please provide a copy

☐ No

| | |
|---|---|
| b. Does your company comply or plan to comply with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| c. Does your company comply with any of the following industry initiatives: <input type="checkbox"/> RJC Chain of Custody Standard <input type="checkbox"/> RJC Code of Conduct <input type="checkbox"/> WGC Conflict Free Gold Standard <input type="checkbox"/> Fair Trade Standard <input type="checkbox"/> Fair Mined Standard <input type="checkbox"/> Others, please specify: _____ <i>Please provide a copy of the certification</i> | Additional comments: |
| d. What are the procedures in place to ensure that the precious metals purchased have not financed conflict? | |

| 13. ANTI MONEY LANDERING (AML) – COMBATING FINANCIAL TERRORISM (CFT) | |
|---|---|
| a. Is your company subject to Anti-Money Laundering/Combating financial terrorism Law/Regulation? | <input type="checkbox"/> Yes – Please fill in the Wolfsberg questionnaire attached <input type="checkbox"/> No |
| b. Name of the AML-CFT Law/Regulation | |
| c. Name of the Regulator | |
| d. Did your company establish a conformity program that contains AML/CFT policies and procedures, according to internal & international laws, rules and standards? | <input type="checkbox"/> Yes – Please provide a copy <input type="checkbox"/> No |

| 14. BRIBERY POLICY | |
|--|--|
| a. Does your Company have any bribery policy in place? | <input type="checkbox"/> Yes – Please provide a copy <input type="checkbox"/> No |
| b. Does the company or the Senior Management have ever been charged anywhere in the World for violation of applicable anti-bribery laws or regulations? | <input type="checkbox"/> Yes – Please provide details <input type="checkbox"/> No |

SIGNATURE

I/we hereby declare that the information given above is true and accurate as of the date of writing.

I/we undertake to automatically and promptly inform [*The refinery*] of any material changes.

| | Authorized signatory | Authorized signatory |
|--------------------|----------------------|----------------------|
| Signature: | | |
| Print Name: | | |
| Title: | | |
| Company Name | | |
| Date and location: | | |

ATTACHMENT – TO BE FILLED IN ONLY FOR COMPANY SUBJECT TO AML-CFT REGULATION

Wolfsberg Anti-Money Laundering Questionnaire

Corporate Name:

Location:

If you answer “no” to any question, please ensure that an explanation and additional information is supplied at the end of the relevant section

| I. General AML Policies, Practices and Procedures: | Yes | No |
|--|------------|-----------|
| 1. Is the AML compliance program approved by the Corporate's board or a senior committee? | | |
| 2. Does the Corporate have a legal and regulatory compliance program that includes a designated Compliance officer that is responsible for coordinating and overseeing the AML framework? | | |
| 3. Has the Corporate developed written policies documenting the processes that they have in place to prevent, detect and report suspicious transactions? | | |
| 4. In addition to inspections by the government supervisors/regulators, does the corporate client have an internal audit function or other independent third party that assesses AML policies and practices on a regular basis? | | |
| 5. Does the Corporate have a policy prohibiting accounts/relationships with shell banks? (A shell bank is defined as a bank incorporated in a jurisdiction in which it has no physical presence and which is unaffiliated with a regulated financial group). | | |
| 6. Does the Corporate have policies to reasonably ensure that they will not conduct transactions with or on behalf of shell banks through any of its accounts or products? | | |
| 7. Does the Corporate have policies covering relationships with politically exposed persons (PEP's), their family and close associates? | | |
| 8. Does the Corporate have record retention procedures that comply with applicable law? | | |
| 9. Does the Corporate require that its AML policies and practices be applied to all branches and subsidiaries of the corporate both in the home country and in locations outside of the home country? | | |
| II. Risk Assessment | Yes | No |
| 10. Does the Corporate have a risk-based assessment of its customer base and their transactions? | | |
| 11. Does the Corporate determine the appropriate level of enhanced due diligence necessary for those categories of customers and transactions that the Corporate has reason to believe pose a heightened risk of illicit activities at or through the Corporate? | | |
| III. Know Your Customer, Due Diligence and Enhanced Due Diligence | Yes | No |

| | | |
|---|------------|-----------|
| 12. Has the Corporate implemented processes for the identification of those customers on whose behalf it maintains or operates accounts or conducts transactions? | | |
| 13. Does the Corporate have a requirement to collect information regarding its customers' business activities? | | |
| 14. Does the Corporate assess its FI customers' AML policies or practices? | | |
| 15. Does the Corporate have a process to review and, where appropriate, update customer information relating to high risk client information? | | |
| 16. Does the Corporate have procedures to establish a record for each customer noting their respective identification documents and Know Your Customer Information? | | |
| 17. Does the Corporate complete a risk-based assessment to understand the normal and expected transactions of its customers? | | |
| IV. Reportable Transactions and Prevention and Detection of Transactions with Illegally Obtained Funds | Yes | No |
| 18. Does the Corporate have policies or practices for the identification and reporting of transactions that are required to be reported to the authorities? | | |
| 19. Where cash transaction reporting is mandatory, does the Corporate have procedures to identify transactions structured to avoid such obligations? | | |
| 20. Does the corporate screen customers and transactions against lists of persons, entities or countries issued by government/competent authorities? | | |
| 21. Does the Corporate have policies to reasonably ensure that it only operates with correspondent banks that possess licenses to operate in their countries of origin? | | |
| V. Transaction Monitoring | Yes | No |
| 22. Does the Corporate have a monitoring program for unusual and potentially suspicious activity that covers funds transfers and monetary instruments such as travellers checks, money orders, etc. | | |
| VI. AML Training | Yes | No |
| 23. Does the Corporate provide AML training to relevant employees that include identification and reporting of transactions that must be reported to government authorities, examples of different forms of money laundering involving the Corporate products and services and internal policies to prevent money laundering? | | |
| 24. Does the Corporate retain records of its training sessions including attendance records and relevant training materials used? | | |
| 25. Does the Corporate communicate new AML related laws or changes to existing AML related policies or practices to relevant employees? | | |
| 26. Does the Corporate employ third parties to carry out some of the functions of the Corporate? | | |

67

LBMA RGG Questionnaire – Recyclable Gold

1. COMPANY DETAILS

| | |
|--|--|
| a. Name | |
| b. Registered Address | |
| c. Business Address | |
| d. Phone number | |
| e. Date of Incorporation | |
| f. Country of Incorporation | |
| g. Business registration number | |
| h. Tax Identification/Registration number | |
| i. If listed, indicate name of stock exchange(s) and ticker | |
| j. Website | |
| k. External financial auditors | |
| l. How many direct and indirect subsidiaries does the company have? <i>Please provide a Group chart</i> | |

2. BUSINESS ACTIVITY

| | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|-------------------------|--------------------------|----------|--------------------------|-------------------------------|--------------------------|--------------|--------------------------|------------------------------|--------------------------|--------------|--------------------------|------------|--------------------------|------|--------------------------|------------|--------------------------|-------------------------|--------------------------|--|--|-------|--|
| a. Type of business | <table border="0"> <tr> <td>Bank</td> <td><input type="checkbox"/></td> <td>Jeweller</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Precious Metals Trader/Dealer</td> <td><input type="checkbox"/></td> <td>Scrap dealer</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Other Financial Intermediary</td> <td><input type="checkbox"/></td> <td>Coins dealer</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Industrial</td> <td><input type="checkbox"/></td> <td>Mint</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Wholesaler</td> <td><input type="checkbox"/></td> <td>Others, please specify:</td> <td><input type="checkbox"/></td> </tr> <tr> <td></td> <td></td> <td>_____</td> <td></td> </tr> </table> | Bank | <input type="checkbox"/> | Jeweller | <input type="checkbox"/> | Precious Metals Trader/Dealer | <input type="checkbox"/> | Scrap dealer | <input type="checkbox"/> | Other Financial Intermediary | <input type="checkbox"/> | Coins dealer | <input type="checkbox"/> | Industrial | <input type="checkbox"/> | Mint | <input type="checkbox"/> | Wholesaler | <input type="checkbox"/> | Others, please specify: | <input type="checkbox"/> | | | _____ | |
| Bank | <input type="checkbox"/> | Jeweller | <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | |
| Precious Metals Trader/Dealer | <input type="checkbox"/> | Scrap dealer | <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | |
| Other Financial Intermediary | <input type="checkbox"/> | Coins dealer | <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | |
| Industrial | <input type="checkbox"/> | Mint | <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | |
| Wholesaler | <input type="checkbox"/> | Others, please specify: | <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | |
| | | _____ | | | | | | | | | | | | | | | | | | | | | | | |
| b. Description of core business activity | | | | | | | | | | | | | | | | | | | | | | | | | |
| c. Does the company hold a license to conduct its business(es)? <i>Please provide a copy(ies)</i> | | | | | | | | | | | | | | | | | | | | | | | | | |
| d. Main market | | | | | | | | | | | | | | | | | | | | | | | | | |
| e. Main products | | | | | | | | | | | | | | | | | | | | | | | | | |

3. BENEFICIAL OWNERS**SHAREHOLDER(S) (MORE THAN 25%)**

| Percentage Holding (%) | Name | Address | Country of incorporation/ Nationality(ies) | Date of incorporation/ Date of birth |
|------------------------|------|---------|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

ULTIMATE BENEFICIAL OWNER (MORE THAN 25% - INDIVIDUAL ONLY)

| Percentage Holding (%) | Name | Address | Nationality(ies) | Date of birth |
|------------------------|------|---------|------------------|---------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

4. MANAGEMENT STRUCTURE

| | Names | Title | Nationality(ies) | Date of birth |
|-----------------------|-------|-------|------------------|---------------|
| a. Board of directors | | | | |
| b. Management | | | | |

5. FINANCIAL INFORMATION

| | Currency | Last reporting period | Previous year |
|-------------------------------|----------|-----------------------|---------------|
| a. Share Capital | | | |
| b. Total Shareholder's Equity | | | |
| c. Total Balance Sheet | | | |
| d. Sales | | | |
| e. Net Income | | | |

Please provide copy of latest annual report

6. HUMAN RESOURCES

| | |
|---|--|
| a. Number of employees within the Company | |
| b. Number of employees within the Group | |

7. ORIGIN OF PHYSICAL PRECIOUS METALS

| | |
|---|---|
| a. Profile of your precious metals suppliers (Individual / Company) | |
| b. Country(ies) of origin of precious metals delivered to us? | |
| c. Countries of destination of precious metals delivered once refined? | |
| d. Is the Company legally required to have a license to import precious metals? | <input type="checkbox"/> Yes – Please provide a copy <input type="checkbox"/> No <input type="checkbox"/> N/A |
| e. Is the Company legally required to have a license to export precious metals? | <input type="checkbox"/> Yes – Please provide a copy <input type="checkbox"/> No <input type="checkbox"/> N/A |

8. FACILITIES

| | YES | NO | N/A |
|--|-----|----|-----|
| a. Does the Company have any smelting or refining facilities? | | | |
| b. Does the Company have any manufacturing facilities? | | | |
| c. Does the Company produce its own jewellery? | | | |
| d. What are the types, forms and percentage of precious metals sourced by the Company <input type="checkbox"/> Recycled precious metals (% _____) <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> LBMA GD Bullion <input type="checkbox"/> Rudimentary Bars <input type="checkbox"/> Coins </div> <div> <input type="checkbox"/> Non LBMA Good Delivery Bullion (Au =>995 / AG =>9999) <input type="checkbox"/> Jewellery <input type="checkbox"/> Collected waste </div> <div> <input type="checkbox"/> Broken jewellery <input type="checkbox"/> Others, please specify _____ </div> </div> <input type="checkbox"/> Primary material – mined precious metals (% _____) | | | |
| e. What type of precious metals is the Company planning to send for refining? <div style="display: flex; justify-content: space-between;"> <input type="checkbox"/> Gold <input type="checkbox"/> Silver <input type="checkbox"/> Others, please specify: _____ </div> | | | |

f. What is the form of precious metals planned to be sent for refining?

☐ **Unprocessed recycled precious metals**

- ☐ LBMA GD Bullion ☐ Non LBMA Good Delivery Bullion (Au =>995 / AG=>9999)
☐ Coins ☐ Jewellery ☐ Broken jewellery
☐ Own production waste ☐ Collected waste ☐ Others, please specify: _____

☐ **Melted recycled precious metals**

- ☐ Rudimentary Bars (undefined dimension and fineness) ☐ Others, please specify: _____

9. RESPONSIBLE PRECIOUS METAL SUPPLY CHAIN POLICY

a. Did your Institution establish a responsible supply chain of gold from conflict-affected and high risk areas policy which is consistent with the standards set forth in the model supply chain policy in Annex II of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas? <http://www.oecd.org/daf/inv/mne/GuidanceEdition2.pdf>

- ☐ Yes – Please provide a copy
☐ No

b. Does your institution comply or plan to comply with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas?

- ☐ Yes
☐ No

c. Is the company complying in any of the following industry initiative:

- ☐ LBMA Responsible Gold Guidance
☐ RJC Chain of Custody Standard
☐ WGC Conflict Free Gold Standard
☐ Conflict Free Smelter (CFS) Program
☐ Others, please specify: _____

Additional comments:

d. What are the procedures in place to ensure that the precious metals purchased have not financed conflict?

| 10. ANTI MONEY LANDING (AML) – COMBATING FINANCIAL TERRORISM (CFT) | |
|--|---|
| a. Is your institution subject to Anti-Money Laundering/Combating financial terrorism Law/Regulation | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| b. Name of the AML-CFT Law/Regulation | |
| c. Name of the Regulator | |
| d. Has your institution established a conformity program that contains AML/CFT policies and procedures, according to internal & international laws, rules and standards? | <input type="checkbox"/> Yes – Please provide a copy <input type="checkbox"/> No |

| 11. BRIBERY POLICY | |
|---|--|
| a. Does your Company have any bribery policy in place? | <input type="checkbox"/> Yes – Please provide a copy <input type="checkbox"/> No |
| b. Does the company or the Senior Management have ever been charged anywhere in the World for violation of applicable anti-bribery laws or regulations? | <input type="checkbox"/> Yes – Please provide details <input type="checkbox"/> No |

| 12. PRECIOUS METALS SUPPLIERS DUE DILIGENCE QUESTIONNAIRE | YES | NO | N/A |
|--|-----|----|-----|
| Organisation | | | |
| a. Does the Company have a person responsible (Compliance Officer) for all AML-CFT matters (Due Diligence, AML policies, internal training)? If yes, please provide us with his/her name, phone number and e-mail address | | | |
| b. Is the Company subject to an AML-CFT audit by an independent party or a governmental party? Date of your last AML-CFT compliance audit: | | | |
| c. Does the Company have an AML-CFT training for the employees? | | | |
| d. Does the Company delegate to third parties some of the compliance functions to be carried out? If yes, what and to which company do you delegate? | | | |
| e. How long does the Company keep its due diligence files (records)? | | | |

Precious Metals Suppliers Due Diligence**YES NO N/A****f. What is the typical profile of your precious metals suppliers?**

| | |
|--|--|
| <input type="checkbox"/> Corporate (%_____) | |
| <input type="checkbox"/> Individual persons (%_____) | |

g. What type of information does the Company request from its precious metals suppliers?

| Companies | YES | NO | Individuals | YES | NO |
|--|--------------------------|--------------------------|---|--------------------------|--------------------------|
| Company name | <input type="checkbox"/> | <input type="checkbox"/> | Name and first name | <input type="checkbox"/> | <input type="checkbox"/> |
| Address | <input type="checkbox"/> | <input type="checkbox"/> | Address | <input type="checkbox"/> | <input type="checkbox"/> |
| Date of incorporation | <input type="checkbox"/> | <input type="checkbox"/> | Date of birth | <input type="checkbox"/> | <input type="checkbox"/> |
| Country of incorporation | <input type="checkbox"/> | <input type="checkbox"/> | Nationality | <input type="checkbox"/> | <input type="checkbox"/> |
| Business register extract or equivalent document | <input type="checkbox"/> | <input type="checkbox"/> | Copy of ID card or passport | <input type="checkbox"/> | <input type="checkbox"/> |
| Beneficial owners | <input type="checkbox"/> | <input type="checkbox"/> | Beneficial owners | <input type="checkbox"/> | <input type="checkbox"/> |
| Origin of precious metals | <input type="checkbox"/> | <input type="checkbox"/> | Origin of precious metals | <input type="checkbox"/> | <input type="checkbox"/> |
| Description of main activity and financial information | <input type="checkbox"/> | <input type="checkbox"/> | Supplier profile (activity, wealth, etc.) | <input type="checkbox"/> | <input type="checkbox"/> |

h. Does the Company have a risk-based assessment of its precious metals suppliers (e.g. low, medium or high risks)?

| | | |
|--|--|--|
| | | |
|--|--|--|

i. Does the Company screen precious metals suppliers and transactions against lists of persons, entities or countries issued by government/competent authorities?

| | | |
|--|--|--|
| | | |
|--|--|--|

j. Does the Company perform enhanced due diligence for high risk precious metals suppliers?

| | | |
|--|--|--|
| | | |
|--|--|--|

k. Does the Company assess its corporate precious metals suppliers' AML-CFT and purchase procedures and practices?

| | | |
|--|--|--|
| | | |
|--|--|--|

Transactions monitoring**YES NO N/A****l. Does the Company perform a risk-based assessment to understand the normal and expected transactions of its suppliers (in order to identify the unusual transactions)?**

| | | |
|--|--|--|
| | | |
|--|--|--|

m. Does the Company have a monitoring program for unusual and potentially suspicious activity that covers funds transfers and monetary instruments (e.g. travelers cheques) or third party payments?

| | | |
|--|--|--|
| | | |
|--|--|--|

n. Does the Company have to register all purchases and sales?

| | | |
|--|--|--|
| | | |
|--|--|--|

o. To which of the following suppliers does the Company purchase its precious metals and what is the average amount of purchase by deal?

| Supplier type | Purchase percentage (%) | Average amount in USD per deal |
|---------------|-------------------------|--------------------------------|
| Bank | | |
| Corporate | | |
| Individual | | |

p. What usual payment method does the Company use to pay its precious metals suppliers?

| Payment type | Percentage (%) |
|----------------|----------------|
| Bank transfers | |
| Checks | |
| Cash | |

q. Does the Company have a procedure in place to prevent, detect and report suspicious transactions from its suppliers to the relevant Authority?

r. How many suspect reports has the Company filled and handed over to the relevant Authority the last two years?

s. Does the Company have a maximum amount as per internal policy or regulatory framework:

- amount allowed for cash payment?
If yes, how much?
- amount of deal per supplier in USD?
If yes, how much?

t. Where cash transaction reporting is mandatory, does the Company have procedures to identify transactions structured to avoid such obligations?

13. TRANSACTION MONITORING ON PURCHASE FROM INDIVIDUALS ONLY
TO BE FILLED ONLY BY COMPANY PURCHASING PRECIOUS METALS FROM INDIVIDUALS

| | YES | NO | N/A |
|---|-----|----|-----|
| a. Does the Company perform statistics on precious metals sold by person in order to identify unusual transactions? | | | |
| b. Does the Company have a specific procedure if a deal with an individual is significantly higher than the average deal? If yes, please describe: | | | |
| c. Is the Company able to verify that a person does not come several times in the counter/in different counters to sell each time a small amount but for a global material amount (smurfing)? If yes, how? | | | |

14. INDUSTRIAL SOURCING – TO BE FILLED ONLY BY INDUSTRIAL COMPANIES

| | YES | NO | N/A |
|--|-----|----|-----|
| a. What type of precious metals do you purchase for industrial purposes? | | | |
| <input type="checkbox"/> LBMA GD Bullion <input type="checkbox"/> Non LBMA Good Delivery Bullion (Au =>995 / AG=>9999) <input type="checkbox"/> Grains <input type="checkbox"/> Semi finished products <input type="checkbox"/> Industrial products, please describe <input type="checkbox"/> Others, please specify | | | |

| | | | | |
|--|--|--|--|--|
| | | | | |
| b. In which country do you purchase your precious metals products? | | | | |
| c. From whom do you source your precious metal products? | | | | |
| <input type="checkbox"/> Refineries <input type="checkbox"/> Precious metals dealers <input type="checkbox"/> Banks <input type="checkbox"/> Industrial <input type="checkbox"/> Others, please specify | | | | |
| d. Have you identified the refinery which produced the precious metals used in your supply chain? | <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| e. Have you assessed the refiner's policies and practices on the responsible supply chain? | <table border="1"> <tr> <td></td> <td></td> <td></td> </tr> </table> | | | |
| | | | | |

Comments / Additional information (please indicate which question the information is referring to):

| |
|--|
| |
| |
| |
| |
| |
| |

SIGNATURE

I hereby declare that the information given above is true and accurate as of the date of writing.

I undertake to automatically inform *[The refinery]* of any material changes.

| | Authorized signatory | Authorized signatory |
|---------------------------|----------------------|----------------------|
| Signature: | | |
| Print Name: | | |
| Title: | | |
| Company Name | | |
| Date and location: | | |

LBMA DUE DILIGENCE CHECKLIST

Mined Gold

| No | Check when received | KYC Documents |
|----|--------------------------|--|
| | <input type="checkbox"/> | "LBMA RGG Questionnaire – Mined Gold" or any equivalent assessment document <i>Please note that some of the requirements below are already included in the LBMA RGG Questionnaire</i> |
| | <input type="checkbox"/> | Identify the counterparty - [included in the LBMA RGG Questionnaire, section 1] <ul style="list-style-type: none"> • Name • Address • Country of incorporation |
| | <input type="checkbox"/> | Evidence of incorporation using reliable independent source documents, data or information, such as: <ul style="list-style-type: none"> • Business register extract • Certificate of Incorporation • Certificate of good standing • Article of associations • Extract from reliable private database/from regulatory body database |
| | <input type="checkbox"/> | Identify the beneficial owner(s) – [included in the LBMA RGG Questionnaire, section 3] |
| | <input type="checkbox"/> | Screening (through reliable database such as Worldcheck) on: <ul style="list-style-type: none"> • Counterparty • Beneficial owner(s) • Others (based on risk assessment) |
| | <input type="checkbox"/> | Financial details – [included in the LBMA RGG Questionnaire, section 5] |
| | <input type="checkbox"/> | Documentation of the purpose of the business relationship - [included in the LBMA RGG Questionnaire, section 10] |
| | <input type="checkbox"/> | Documentation of business details / Customer profile – [included in the LBMA RGG Questionnaire] |
| | <input type="checkbox"/> | Identifying gold origin - [included in the LBMA RGG Questionnaire, section 8] |
| | <input type="checkbox"/> | Copy of mining license(s) for mining operations located in conflict affected or human right abuse high risk areas - [requested in LBMA RGG Questionnaire, section 8] |
| | <input type="checkbox"/> | Copy of export license(s) for gold supplying counterparty located in conflict affected or human right abuse high risk areas - [requested in LBMA RGG Questionnaire, section 9] |
| | <input type="checkbox"/> | Collecting and assessing mining practice – [included in the LBMA RGG Questionnaire, section 6 & 8 & 9] |
| | <input type="checkbox"/> | Collecting mining capacity, if available - [included in the LBMA RGG Questionnaire, section 8 & 9] |
| | <input type="checkbox"/> | Corroborative documentation based on the risk assessment such as for example: <ul style="list-style-type: none"> • Authorized signatories' IDs • Beneficial owners' IDs • Internet research • Annual report • Corporate social responsibility report • Group chart • References • Licenses • Certifications • Counterparty's policies and procedures (Code of conduct, CSR policy, health and safety procedures, bribery policy, etc.) • Google map of given address • Mining site and processing plant pictures • Regulatory environment assessment • Etc. |
| | <input type="checkbox"/> | Risk assessment from the Refiner's perspective <i>Note that the LBMA Supply Chain Assessment Form can be used</i> |

| Additional requirements for high risk supply chain | | |
|--|--------------------------|---|
| | <input type="checkbox"/> | Report visit on on-site visit – [LBMA on site visit form may be used] |
| | <input type="checkbox"/> | Identification with verification of all companies located in conflict related areas in the supply chain from the mine to the refinery |
| | <input type="checkbox"/> | Screening on all companies located in conflict related areas in the chain from the mine to the refinery |

67

LBMA SUPPLY CHAIN ASSESSMENT FORM

Counterparty

Counterparty's country of incorporation

Relationship Manager

1. Summary of origin of precious metals and supply chain description

| |
|--|
| |
|--|

2. High risk criteria

- ☐ The mined gold or recycled gold originates from, has transited or has been transported via a conflict-affected or human rights abuse high risk area
- ☐ The mined gold is claimed to be originated from a country that has limited known reserves, likely resources or expected production levels of gold
- ☐ The recycled gold comes from a country where gold from conflict affected and human rights abuse high risk areas are known, or reasonably suspected, to transit
- ☐ Gold supplying counterparty or other known upstream companies are located in a country representing high risk for money laundering, crime or corruption
- ☐ Gold supplying counterparty or other known upstream companies or their beneficial owners are politically exposed persons
- ☐ Gold supplying counterparty or other known upstream companies are active in a higher-risk business activity such as arms, gaming and casino industry, antiques and art, diamond merchants, sects and their leaders

3. Risk level of the business relationship☐

High

☐

Non high

Rationale:

| |
|--|
| |
|--|

4. Approval

Relationship Manager

Compliance

Senior Management for high risk

☐☐☐

Date and Name

5. Review process

Next review date:

Review comments:

Risk level:

☐

High

☐

Non high

Compliance

Senior Management for high risk

☐☐

Please note that this form is a minimum requirement to be completed in addition to your existing internal policies.

67

LBMA DUE DILIGENCE CHECKLIST

Recyclable Gold

| No | Check when received | KYC Documents |
|----|--------------------------|---|
| | <input type="checkbox"/> | <p>"LBMA RGG Questionnaire – Recyclable Gold" or any equivalent assessment document</p> <p><i>Please note that some of the requirements below are already included in the LBMA RGG Questionnaire</i></p> |
| | <input type="checkbox"/> | <p>Identify the counterparty - [included in the LBMA RGG Questionnaire, section 1]</p> <ul style="list-style-type: none"> • Name • Address • Country of incorporation |
| | <input type="checkbox"/> | <p>Evidence of incorporation using reliable independent source documents, data or information, such as:</p> <ul style="list-style-type: none"> • Business register extract • Certificate of Incorporation • Certificate of good standing • Article of associations • Extract from reliable private database/from regulatory body database |
| | <input type="checkbox"/> | Identify the beneficial owner(s) – [included in the LBMA RGG Questionnaire, section 3] |
| | <input type="checkbox"/> | <p>Screening (through reliable database such as Worldcheck) on:</p> <ul style="list-style-type: none"> • Counterparty • Beneficial owner(s) • Others (based on risk assessment) |
| | <input type="checkbox"/> | Financial details – [included in the LBMA RGG Questionnaire, section 5] |
| | <input type="checkbox"/> | Documentation of the purpose of the business relationship - [included in the LBMA RGG Questionnaire, section 8] |
| | <input type="checkbox"/> | Documentation of business details / Customer profile – [included in the LBMA RGG Questionnaire] |
| | <input type="checkbox"/> | Collecting and assessing Recycled Gold-supplying counterparty's AML-CFT policy and practices, if applicable – [included in the LBMA RGG Questionnaire, section 10 & 12] |
| | <input type="checkbox"/> | <p>Corroborative documentation based on the risk assessment such as for example:</p> <ul style="list-style-type: none"> • Authorized signatories' IDs • Beneficial owners' IDs • Internet research • Annual report • Group chart • References • Licenses • Certifications • Counterparty's policies and procedures (AML-CFT policy, responsible supply chain policy, etc.) • Google map & street view of given address • Counterparty's office pictures • Regulatory environment assessment • Etc. |
| | <input type="checkbox"/> | <p>Risk assessment from the Refiner's perspective</p> <p><i>Note that the LBMA Supply Chain Assessment Form can be used</i></p> |
| | <input type="checkbox"/> | Additional requirements for high risk customers only |
| | <input type="checkbox"/> | Report visit on on-site visit |
| | <input type="checkbox"/> | Identification with verification of all companies located in conflict related areas in the supply chain from the gold supplying counterparties to the refinery |
| | <input type="checkbox"/> | Screening on all companies located in conflict related areas in the chain from the gold supplying counterparties to the refinery |

68

From: [41(b)]
Sent: 08 October 2014 09:05
To: RATSO Signe (TRADE)
Cc: [41(b)]
Subject: In confidence - Investor letter re. Conflict Minerals Disclosure
Attachments: Investor statement on EU CM legislation FINAL_DG Trade.pdf

Dear Mrs. Ratso,

I hope that this email finds you well. Thank you again for your participation to our annual event this coming thursday. About 130 people have signed up to the event, a mix of pan-European investment professionals, business trade associations, ngos and lobbying firms.

Although this is still not public, I wanted you to be aware that a group of European and U.S. investors is preparing a letter regarding the proposal. Eurosif and its U.S. counterpart will be signatories of the letter. I attach a final draft of the letter for your information as it might be mentioned by the Triodos participant during the panel.

The letter will most probably be officially sent to a number of EU senior officials around October 22nd or so. Of course, you will receive an official copy.

While we are very supportive of the Commission taking the initiative on this, the letter expressed serious concerns with the current self-certification system and urges co-legislators to consider strengthening the Proposal.

I am looking forward to meeting you.

Sincerely Yours,

[41(b)]
Executive Director
EUROSIF

Eurosif aisbl | 333 Rue du Progrès, B-1030 Brussels | Telephone: +32 (0)2 274 14 35
Check our latest work on : www.eurosif.org
Follow us on : www.twitter.com/Eurosif

<Date>

Dear <Name>,

We commend the Directorate General for Trade on its proposed regulation concerning corporate conflict minerals due diligence and reporting and note the proposal's focus on various geographies where the trade in natural resources fuels conflict.¹ In significant ways, your proposal stands to broaden corporate attention to the human rights impacts of supply chains. We recommend, however, that the Commission amend the regulation proposed in March 2014 to ensure an important level of harmonization between the European proposal and currently operational U.S. federal rules on corporate conflict minerals due diligence and reporting. Thus, the undersigned sustainable and responsible global investors and investment organizations, representing over €855 billion in assets under management, are writing to urge you to adopt legislation on conflict minerals (tin, tantalum, tungsten, and gold, or "3TG") that better aligns with Section 1502 of the U.S. Dodd-Frank Wall Street Reform and Consumer Protection ("1502").

Together, European and U.S. regulators have an opportunity to create a conflict minerals due diligence and disclosure framework that ensures consistency in key areas, thus setting a single, international standard, not unlike the harmonized country payment reporting regime that these regulators already have achieved for the extractive sectors.

As the European Parliament demanded in its resolution of February 2014 on promoting development through responsible business practices, harmonizing the proposed European regulation with 1502 will create a consistent international regulatory environment that will promote companies' broad adoption of robust conflict minerals due diligence and reporting. These disclosures are fundamental to investors' evaluation of corporate risk management and to the investment decision-making process in relevant sectors. Importantly, a harmonized reporting regime will help curtail the nearly two-decade-long conflict in the Democratic Republic of the Congo ("DRC") and the Great Lakes Region, by encouraging responsible mineral sourcing from the region and limiting armed groups' major revenue streams.

We recommend that the Commission amend its proposal to take a stronger stance on conflict minerals due diligence and reporting that aligns with existing U.S. law on this issue:

1. The reporting mechanism should be mandatory.

¹ See Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk areas (COM/2014/0111 final).

2. The rule should apply to any European company that manufactures or contracts to manufacture products containing 3TG that is necessary to product functionality or manufacture.

Amending the proposal in this way will enable streamlined company due diligence and reporting. Mandatory reporting rules will prompt companies' pro-active efforts to comply with the letter and spirit of the legislation. Expanding the scope of the rule to include companies that manufacture or contract the manufacture of products containing conflict minerals will ensure that the rule targets a more comprehensive proportion of companies that create the market for conflict minerals and which face significant supply chain risks due to this involvement. This approach will ensure that key actors throughout the supply chain—both dealers in raw materials and relevant manufacturers—operate within an international framework comprised of consistent rules.

We urge you to consider amending the proposed regulation to ensure that it achieves its desired effect: to stimulate widespread, robust supply chain due diligence and reporting that will limit investor risk, to increase the region's legitimate extractive sector revenue streams, and help bring an end to the conflict in the DRC.

Sincerely,

ACTIAM
ASN Bank
Aviva Investors
Boston Common Asset Management
Calvert Investments
Candriam Investors Group
CHE Trinity Health Inc.
Central Finance Board of the Methodist Church
Domini Social Investments, LLC
Epworth Investment Management
Etica SGR SpA
EUROSIF
Hermes Investment Management
ICCR
Maryknoll Sisters
Miller/Howard Investments, Inc.
Natural Investments, LLC
Sonnet Capital, LLC
Sustainalytics
Trillium Asset Management
Triodos Investment Management
US SIF
Walden Asset Management

69

Ref. Ares(2014)3485300 - 21/10/2014

From: [47(b)]
Sent: Tuesday 21 October 2014 15:06
To: [47(b)]
Cc: [47(b)] DEMARTY Jean-Luc (TRADE);
RATSO Signe (TRADE); [47(b)]
Subject: Conflict minerals - Investors statement - Urging stronger EU legislation
Attachments: Investor Statement on EU Proposed Conflict Mineral Regulation.pdf

[47(b)]
[47(b)]
European Commissioner for Trade

European Commission
BE-1049 Brussels

cc: [47(b)] - Directorate-General for Trade

cc: Jean-Luc Demarty - Director General - Directorate-General for Trade

cc: Signe Ratso - Director of Trade Strategy and Analysis and Market Access -
Directorate-General for Trade

cc: [47(b)] Market Access, Industry, Energy and Raw
Materials - Directorate-General for Trade

October 21, 2014

RE: Proposal for a "supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict affected and high-risk areas – COM 2014/111

Dear Commissioner [47(b)]

I am writing to you on behalf of a group of European and global investors with reference to the European Commission's Proposal for a "supply chain due diligence self-

certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict affected and high-risk areas". This group is representing over €855 billion in assets.

We strongly welcome the initiative of the Commission to tackle the issue of so-called "Conflict Minerals" and the objective of stopping profits from trading minerals used to fund armed conflicts. We think that transparency alongside supply chains of such minerals and more broadly of extractive industries, can go a long way in mitigating conflict situations in resource-rich developing countries as highlighted in the recent joint communication on Responsible sourcing of minerals originating in conflict-affected and high-risk areas.

While the group of signatory investors to the statement acknowledges that the Proposal includes real positive developments -such as a broad geographical scope of application-, it wishes to express deep concerns with the current self-certification system and urges you to consider strengthening the Proposal so that it aligns with Section 1502 of the U.S. Dodd-Frank Wall Street Reform and Consumer Protection ("1502").

You will find the detailed reasoning of this demand in the attached investors statement.

Thank you for your attention. We remain at your disposal for any questions or requests.

Sincerely,

[41(b)]

[41(b)]

Executive Director

European Sustainable Investment Forum

+32 (0)2 274 14 36

[41(b)]

About the European Sustainable Investment Forum

Eurosif is the leading pan-European sustainable and responsible investment (SRI) membership organisation whose mission is to promote sustainability through European financial markets. Eurosif works as a partnership of Europe-based national Sustainable Investment Forums (SIFs) with the direct support of over 65 Member Affiliate organisations drawn from the sustainable investment industry value chain. These Member Affiliates include institutional investors, asset managers, financial services, index providers and ESG research and analysis firms totalling over €1 trillion assets. Eurosif's indirect European network spans across over 500 Europe-based organisations. Eurosif is also a founding member of the Global Sustainable Investment Alliance, the alliance of the largest SIFs around the world. The main activities of Eurosif are public policy, research and creating platforms for nurturing sustainable investing best practices.

www.eurosif.org

<http://www.gsi-alliance.org>

Investor Statement on EU Proposed Conflict Mineral Regulation

We commend the Directorate General for Trade on its proposed regulation concerning corporate conflict minerals due diligence and reporting and note the proposal's focus on various geographies where the trade in natural resources fuels conflict.¹ In significant ways, the proposal stands to broaden corporate attention to the human rights impacts of supply chains. We recommend, however, that the regulation proposed in March 2014 be amended to ensure an important level of harmonisation between the European proposal and currently operational US federal rules on corporate conflict minerals due diligence and reporting. Thus, the undersigned sustainable and responsible global investors and investment organizations, representing more than €855 billion in assets under management, are writing to urge the adoption of legislation on conflict minerals (tin, tantalum, tungsten, and gold, or "3TG") that better aligns with Section 1502 of the US Dodd-Frank Wall Street Reform and Consumer Protection ("Dodd-Frank Section 1502").

Together, European and US regulators have an opportunity to create a conflict minerals due diligence and disclosure framework that ensures consistency in key areas, thus setting a single, international standard, not unlike the harmonised country payment reporting regime that these regulators already have achieved for the extractive sectors.

As the European Parliament demanded in its resolution of February 2014 on promoting development through responsible business practices, harmonising the proposed European regulation with Dodd-Frank Section 1502 will create a consistent international regulatory environment that will promote companies' broad adoption of robust conflict minerals due diligence and reporting. These disclosures are fundamental to investors' evaluation of corporate risk management and to the investment decision-making process in relevant sectors. Importantly, a harmonised reporting regime will help curtail the nearly two-decade-long conflict in the Democratic Republic of the Congo ("DRC") and the Great Lakes Region, by encouraging responsible mineral sourcing from the region and limiting armed groups' major revenue streams.

We recommend that the proposal be amended to take a stronger stance on conflict minerals due diligence and reporting that aligns with existing US law on this issue:

1. The reporting mechanism should be mandatory.
2. The rule should apply to any European company that manufactures or contracts to manufacture products containing 3TG that is necessary to product functionality or manufacture.

¹ See Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk areas (COM/2014/0111 final).

Amending the proposal in this way will enable streamlined company due diligence and reporting. Mandatory reporting rules will prompt companies' pro-active efforts to comply with the letter and spirit of the legislation. Expanding the scope of the rule to include companies that manufacture or contract the manufacture of products containing conflict minerals will ensure that the rule targets a more comprehensive proportion of companies that create the market for conflict minerals and which face significant supply chain risks due to this involvement. This approach will ensure that key actors throughout the supply chain—both dealers in raw materials and relevant manufacturers—operate within an international framework comprised of consistent rules.

We urge the consideration of amending the proposed regulation to ensure that it achieves its desired effect: to stimulate widespread, robust supply chain due diligence and reporting that will limit investor risk, to increase the region's legitimate extractive sector revenue streams, and help bring an end to the conflict in the DRC.

Statement Signatories:

1. ACTIAM
2. ASN Bank
3. Aviva Investors
4. Boston Common Asset Management
5. Calvert Investments
6. Candriam Investors Group
7. CHE Trinity Health Inc.
8. Central Finance Board of the Methodist Church
9. Domini Social Investments, LLC
10. Epworth Investment Management
11. Etica SGR SpA
12. European Sustainable Investment Forum (EUROSIF)
13. Hermes Investment Management
14. Interfaith Center on Corporate Responsibility (ICCR)
15. Maryknoll Sisters
16. Miller/Howard Investments, Inc.
17. Natural Investments, LLC
18. Responsible Sourcing Network
19. Sonen Capital, LLC
20. Sustainalytics
21. Trillium Asset Management
22. Triodos Investment Management
23. US SIF: The Forum for Sustainable and Responsible Investment
24. Walden Asset Management

21 October 2014

70

From: [41(b)]
Sent: 05 November 2014 17:40
To: [41(b)] [41(b)]
Cc: RATSO Signe (TRADE)
Subject: CFSI-EC Audit meeting
Attachments: CFS protocol considerations-2015pptx.pptx

Hello colleagues at the European Commission,

We are eager to meet on Friday and thank you, in advance for taking the time to meet. Attached is a presentation I would like to review with you on Friday. This presentation discusses the CFSI's proposed approach for 2015 and beyond to create a more flexible audit protocol and data publication scheme to address anticipated challenges to the current program.


Kind regards,

[41(b)]
Program Director
Electronic Industry Citizenship Coalition
T: +1 571 858 5724
M: +1 703 647 0968

[41(b)]

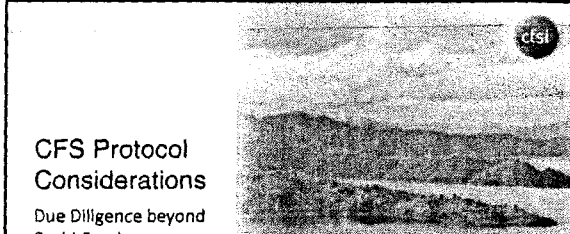


7



Conflict-Free Smelter (CFS) Protocol Consideration
 (in consideration of the anticipated challenges of future conflict designations)

The Conflict-Free Smelting Initiative
www.conflict-free-smelting.org | 800-226-0000 | 800-226-0000

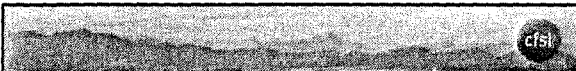


CFS Protocol Considerations

Due Diligence beyond Dodd-Frank

- Why One Protocol?
- Why?
- What?
- Where are the practical challenges?
- Who can help?


The Conflict-Free Smelting Initiative
www.conflict-free-smelting.org | 800-226-0000 | 800-226-0000



Why One Smelter Protocol

- Simplifies requirements for smelters and encouragement from downstream actors
- Minimizes confusion in communications within downstream supply chain
- Reduces cost, stakeholder and company engagement
- Enables the ability to accomplish the conflict free goal quicker


The Conflict-Free Smelting Initiative | www.conflict-free-smelting.org | 800-226-0000 | 800-226-0000



Why Change Anything?

- To accommodate legislative requirements from different geographies in flexible, adaptable, sustainable, and decentralized way
- Align the CFS protocol and the approach of the OECD Due Diligence Guidance by:
 - Having smelters be responsible for conducting due diligence
 - Addressing areas beyond Great Lakes Region (GLR)
- Avoid challenges:
 - Relying on defined countries as conflict-affected
 - Situations where risk assessments and management of supply chains can more adequately address local and provincial issues.

The Conflict-Free Smelting Initiative
www.conflict-free-smelting.org | 800-226-0000 | 800-226-0000



What Does the CFS Protocol Do?


CFS Does:

- Addresses Dodd-Frank scope for smelter sourcing
- Evaluates specific Chain of Custody to test country of origin documentation on a country risk basis

CFS Does not:

- Does not accommodate areas outside of GLR
- Provide flexible documentation requirements around DRC sourcing, because certain in-region programs are required to be in-place to verify documentation
- Places burden of country/sourcing risk assessment on companies closer to the raw materials sourcing decisions


The Conflict-Free Smelting Initiative
www.conflict-freesmeltinginitiative.org | @CFSI Twitter | @CFSI LinkedIn



What are the CFS Protocol Considerations?

- How to assess that smelters management system for OECD DDG 5 steps?
- Should documentation requirements be determined by specific geographies?
- How might an evaluation of an upstream company's risk assessment be implemented transparently and fairly?
 - Is that risk assessment sufficient to test the concerns of the countries and chain of custody documentation?
- How to review remediation and risk mitigation that is occurring/has occurred to demonstrate and encourage continuous improvement in-line with OECD?
- How might this account for business confidentiality?


The Conflict-Free Smelting Initiative
www.conflict-freesmeltinginitiative.org | @CFSI Twitter | @CFSI LinkedIn



Where are the Practical Challenges?

- Increase Smelters' Responsibility
 - Could detract from smelters interest and participation in getting audited
- Audits Risk Assessment
 - Many smelters need significant training /commitment and notice to adequately prepare.
- Documentation Requirements
 - The documentation needs to be flexible to account for regional documentation variation
- New "in-region" traceability programs
 - Smelters will need to have tools to develop and evaluate other chain of custody programs that implement OECD conforming programs like ITSCI or closed-pipe type of activities.
- Assessing Risk Assessment
 - Auditors need capability building to do risk assessment testing to enable consistency
- Continuous Improvement:
 - Tolerances for remediation and risk mitigation in-line with OECD need development
 - Auditors and the program would need to develop a way to interpret and consider maturation

The Conflict-Free Smelting Initiative
www.conflict-freesmeltinginitiative.org | @CFSI Twitter | @CFSI LinkedIn



Who could support this change?

- Formalized agreement on this approach between CFSI and EC
- OECD support to review consideration for protocol revisions
- Stakeholder feedback on creating an annual review of literature/sources/reports that should, at minimum, be reviewed for consideration of "conflict"
- Training and discussions on how to prepare a risk assessment
- Trainings and discussions on how to develop an OECD conforming program in a higher risk region

The Conflict-Free Smelting Initiative
www.conflict-freesmeltinginitiative.org | @CFSI Twitter | @CFSI LinkedIn