

**From:** [ Article 4.1 (b) ]  
**Sent:** Thursday, March 19, 2015 2:17 PM  
**To:** [ Article 4.1 (b) ]  
**Cc:** [ Article 4.1 (b) ]

**Subject:** Thank you and follow up

On behalf of [ Article 4.1 (b) ]

Dear [ Article 4.1 (b) ], Dear [ Article 4.1 (b) ],

Thank you for taking the time to meet with DigitalEurope last Monday and for participating in the CFSI conference on Tuesday ([ Article 4.1 (b) ]). We appreciate your level of engagement and the work the Commission has done to research this issue and prepare an effective and targeted proposal. On behalf of [ Article 4.1 (b) ], I wanted to take this opportunity to summarize the points we discussed in our meeting on Monday and also provide some other ideas and feedback based on the presentations and discussions that took place on Tuesday.

Accompanied measures:

We understand the Commission is developing a guideline for determining how to designate a conflict-affected area. Although many companies would prefer a list to be provided, I believe that the audit schemes (CFSI) can accommodate this guideline into its audit protocol where a normalized assessment could be done for all candidate facilities.

We understand the Commission is considering a certification process for audit schemes that would accredit these schemes to conduct audits and validate “responsible importers”. Our only request relative to this aspect is to have a period of time to understand the certification requirements ahead of the effective date of the regulation to allow the ability for the CFSI audit program (and other programs) to become accredited ahead of the effective date. We very much appreciate that the Commission is willing to consider existing industry audit schemes.

We understand the Commission is developing recommendations for public procurement for all products that use 3TG. We understand the Commission is considering that companies become certified that they are conducting due diligence consistent with the OECD Guidance. As I discussed in our meeting and in my presentation, Dodd Frank has a similar requirement and this formalization does drive costs for companies to comply that do little to advance the objectives of the regulation. An alternative could include the following: require companies to publicly post their policy (and this policy provides a position about responsible sourcing) and that the company provide evidence or links to public documents that demonstrate they are creating demand for the responsible sourcing in its procurement policy or requirements of its suppliers. If you continue towards requiring a certification of a company’s due diligence to OECD guidance, would you consider accepting SEC Conflict Minerals Disclosures that had undergone an audit, as the Dodd Frank audit includes the check on whether the companies due diligence design is in conformance with the OECD Guidance?

Security Sector Reform:

I also shared information in our meeting about how peace, rule of law, governance, and infrastructure are prerequisites for private enterprise to advance economic development. The associated development and diplomatic support will be important additions to this regulation. Please see an attached electronic version of the report I had shared (<http://www.opensocietyfoundations.org/sites/default/files/drc-ssr-report-20120416-1.pdf>).

Suggestions that might be considered for compromise (we will share this with [ Article 4.1 (b) ], from the Latvian Presidency, but thought you might be interested in these ideas):

During my discussions in the two days, there were a few ideas that might be worth considering in finding some middle ground between the parties:

- Consider mandatory reporting consistent with OECD Guidance for all smelters and metal importers and maintain voluntary for becoming a responsible importer.
- Consider a phase-in voluntary period of at least 3 years before imposing a mandatory requirement for smelters and metal importers become responsible importers.
- I believe that the regulation not naming the Eastern DRC explicitly will not mitigate an embargo of the region because the UN Security Council and the UN Group of Experts clearly classify this area as conflict-affected. Therefore, I suggest that incentives are considered for smelters, metal importers, and downstream companies (public procurement) to mitigate the potential for an embargo. Today, for smelters and for downstream companies, there is more work, cost and risk associated with sourcing from conflict-affected areas.

[ Article 4.1 (b) ]:

Finally, I wanted to share with you a person that I have come to respect as an expert on the DRC. He spent 10 years in a variety of roles including working for the United Nations. He is currently attending Yale in pursuit of his PhD. He may be a person the Commission or the External Service could turn to gain insight on different policy and development choices that the EU is considering. I also believe he has an opinion on whether or not the Dodd Frank legislation has made a difference. See his biography on Wikipedia: [ Article 4.1 (b) ]

Thank you again for your time and consideration,

[ Article 4.1 (b) ]

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