



“TOWARDS A CONFLICT FREE TECHNOLOGY”

Advocacy proposal
Xavier Network

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Why “conflict minerals”?

According to the United Nations Environment Programme, over 40 per cent of the conflicts of the past 60 years are related to natural resources. While the exploitation of and trade in raw materials are unlikely to be the primary causes of conflicts, they often contribute to their funding and exacerbate and prolong them.

Transparency is an essential weapon in the fight against illegal logging and diversion of funds from mining to armed groups. Transparent and responsible supply chains enable minerals and timber to be traced back to their source and minimize the risk of armed groups appropriating revenue through taxation and forced labour and can significantly reduce human rights violations and environmental degradation.

Why now?

The European Commission has published a draft regulation on the responsible sourcing of minerals in order to break the link between the illegal exploitation of certain minerals and armed conflicts. Unfortunately, the regulations proposed in this draft are unlikely to be effective because they are voluntary and apply only to 450 importers of tin, tantalum, tungsten and gold (3T and Gold), the so-called ‘conflict minerals’.

The proposed regulation envisages a “responsible importer” self-certification process for EU importers of 3T and gold. In other words, importers would have only a voluntary duty to carry out their own due diligence on their supply chains. In addition, the proposals would apply to only 0.05 per cent of Europe-based companies which use or market products which contain these minerals. In fact, most of the minerals imported into Europe come from smelters outside the European Union or are already incorporated in components or finished products. In order to be effective, the legislation should cover all first placer companies which introduce these minerals within EU for the first time whatever the form.

The European Parliament and the Council, which have to amend the regulation, are currently discussing the content of the EC proposal.

The advocacy challenge for civil society is to persuade Members of the European Parliament and Member States in the Council to improve the text and increase its chances of making a positive difference in the many regions of the world affected by the so-called ‘natural resource curse’.

Today Democratic Republic of Congo (DRC), Colombia, Côte d'Ivoire, Zimbabwe, Rwanda, Burundi, Myanmar, Central African Republic and Afghanistan are all experiencing conflict related to natural resources.

What does the civil society recommend?

- That the voluntary proposal to be replaced by binding requirements;
- That the proposal include other natural resources at risk of funding conflicts;
- That the regulations should apply to all first placer companies introducing these minerals within EU;

- That all companies should conduct and publish an independent audit of their due diligence practices.

Which is the international context?

The United States of America, the International Conference for the Great Lakes Region (ICGLR), Rwanda and the Democratic Republic of Congo all have binding legislation on due diligence in supply chains of 3T and gold.

The EU draft law is said to be inspired by the Dodd Frank Act in the United States, which requires listed companies that use above-mentioned four minerals from Central Africa to implement due diligence procedures in order to ensure that they do not contribute to the financing of the conflict.

The Organization for Economic Cooperation and Development (OECD) and China have also developed voluntary due diligence tools. The UN has its own normative framework on business and human rights, which also makes reference to the OECD due diligence. Today it is internationally recognized that, in order to ensure that they are not fuelling conflict and to avoid human rights violations, that companies have to practice responsible sourcing.

Who are our partners?

In addition to the GNMR-Europe, we are working on this issue with the following NGOs: EurAc, RBRN, Global Witness, Amnesty International, SOMO, Pax, Justice and Peace Commission, Christian Aid, Power Shift, CIDSE.

Support has also come from the Catholic Church. 70 bishops from four continents signed an open letter urging the European Union to adopt binding and coherent legislation on this issue. They point out that European citizens do not want to be complicit with human rights violations caused by the illegal exploitation of natural resources.

What can you do?

Here are a number of possible actions which you can take which could influence the European legislative discussions on responsible sourcing:

- Email the joint letter to MEPs (Member of the European Parliament) from your member state or national politicians to tell them about the issue and to publicize the interest and the position taken by the Jesuits and the Catholic world;
- Disseminate the attached information to your networks;
- Inform the wider public about the issue, using the awareness tools developed by ALBOAN on its website campaign: <http://www.tecnologialibredeconflicto.org/en/contacta/>;

- Organize meetings and debates with European and national politicians and concerned companies. If necessary, GNMR-Europe members of NGOs can provide support;
- Urge your contacts to ask questions about the origin of the minerals when purchasing new mobile phones or other electronic equipment;
- Promote products and companies which are known to have taken steps (due diligence) to ensure that their minerals are responsibly sourced;
- Sign the petition that ALBOAN has posted on its website:
<http://www.tecnologialibredeconflicto.org/en/contacta/>

What are the deadlines?

The European Parliament and the Council are currently discussing this bill and the Parliament is expected to vote on the legislation in spring 2015. The regulation will then be negotiated with the Parliament, the Council and the Commission in the process called "TRIALOG".

It is now time to make use of our national and European political contacts in order to ensure that the legislation will have a positive impact on people who live in fear of armed groups which profit from mining and trade in conflict minerals.

We insist that you don't need to be an expert to discuss this quite complex issue. You just have to show your interest and to put some pressure on your representatives asking them questions and to take some measures.

What are the resources?

Please find here the following documents, which are also available in electronic and printable version:

- A double triptych explaining what the conflict minerals are and the content of the proposed European legislation;
- A short European civil society briefing, summarizing the issues of conflict minerals and how to improve the regulation of the European Union;
- The open letter from Catholic bishops urging the EU to adopt binding and effective legislation;
- A more comprehensive explanatory document, *Breaking the Link*, providing more detailed information on conflict minerals;
- The link to the website of ALBOAN's Campaign for Conflict-Free Technology:
<http://www.tecnologialibredeconflicto.org/en/>
- Below a sample letter to send to the members of the European Parliament from your member state, to national policy makers and to the companies in your country which use these minerals;
- A website providing on MEPs contact details for every EU member state to find easily email's contact: <http://www.europarl.europa.eu/meps/en/map.html>

What is the message?

Here is a draft letter, which you can adapt and/or translate as required, to send to European parliamentarians and representatives from the Council of EU:

« We write to you to express our deep concern regarding the Commission's proposed legislation on "conflict minerals" now before the European Parliament. Our concerns are set out below. We ask you to join with other MEPs to amend the proposal to make it an effective European instrument for the defense of human rights and the promotion of development.

There is now a substantial body of research documenting the links between the exploitation and trade in natural resources and the funding of some of the most brutal conflicts in the world, conflicts which continue today.

We are fully aware of the complexity of the dynamics of each conflict and acknowledge that there is no one measure which can bring peace, but we are also keenly aware of the role which minerals play in fuelling them, together with the regional and global supply chains which deliver the minerals to world markets.

On 5th March 2014, the European Commission, under the leadership of the Commissioner for Trade, Karel De Gucht, presented a regulation proposal designed to break the links between trade and mineral extraction and the funding of armed conflicts (2014/0059 COD). A voluntary self-certification system is proposed to which some 300-400 companies importers of tin, tantalum, tungsten and gold into the European Union may adhere. Certification would be performed in compliance with the OECD due diligence guide, its aim being to gradually create a European market for minerals supplied responsibly from conflict-affected and high risk areas.

The major weakness of the current proposal is that the measure is voluntary. It is not going to prevent minerals that fund conflicts and brutal human rights violations from entering the European market. American experience, with the implementation of section 1502 of the Dodd-Frank Act, shows that companies respond to mandatory provisions. According to a survey commissioned by the European Commission itself in 2013, only 4 per cent of the 330 companies surveyed voluntarily undertook studies to identify the risks of financing conflicts and human rights violations in their supply chains.

Since 2010, there have been important changes in legislation outside the European Union to stem the flow of resources to armed groups from mining or trade in minerals by requiring companies to undertake due diligence of their supply chains. If the current European proposal is adopted in its present form, it will mean that the EU will fall behind global partners in efforts to create responsible supply chains and that tainted minerals will continue to be

imported into the European Union, in contradiction to the Union's own development and cooperation policies.

For these reasons we now ask the members of the European Parliament to vote in favor of legislation that includes the following recommendations:

- 1. That there be mandatory certification, compliant with the OECD due diligence guide.*
- 2. That, in line with Dodd Frank section 1502, the legislation be extended to companies that place components or finished products containing these minerals on the European market for the first time. At present only companies which directly import the four minerals are affected.*
- 3. That the proposal should be amended to include other commodities coming from conflict-affected or high risk areas where their extraction or trade could be contributing to or associated with human rights violations and conflicts.*
- 4. That the current audit and public reporting requirements be amended to meet the criteria contemplated in the OECD guide.*
- 5. That the proposal retain its positive features, namely its global geographical scope together with its adoption of the OECD definition of "conflict-affected" and "high risk" areas. »*