



A call for strong European conflict minerals legislation

FAQs

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The trade in minerals, precious stones and other natural resources provides the cash for some of the world's most brutal conflicts. Resources purchased from conflict or high-risk areas, such as parts of the Democratic Republic of Congo, Colombia, and Central African Republic can fund war and human rights abuses. These resources enter global supply chains, ending up in our mobile phones, laptops, cars and other products. Despite this, there is currently no EU law requiring companies to source responsibly by tracking whether the minerals in their products have fuelled violence.

Businesses are at risk of trading minerals that are funding the very same conflicts that European aid is trying to alleviate. A binding European law is needed to compel companies to track where their natural resources come from, the conditions under which they were extracted and traded, and to disclose their efforts to the consumer. This process is called supply chain due diligence. Without it, we have no idea whether our purchases are funding war.

In bid to close this regulatory gap, the European Commission published a proposal on responsible sourcing in March. But it is weak and ineffective. The voluntary proposal will not compel EU companies to do business responsibly and prevent the EU from becoming a major hub for conflict resources. Global Witness is supporting an alternative, mandatory law. We answer all your questions below:

What are 'conflict minerals'?

Minerals that are sourced from conflict or high-risk regions, such as parts of the eastern Democratic Republic of Congo (DRC), or parts of Colombia and Central African Republic (see [case studies](#)), whose trade funds armed groups and fuels human rights abuses. In Colombia, conflict has cost over 218,000 lives, internally displaced 5.9 million people and led to the forced disappearance of over 25,000.¹ These minerals enter global supply chains and end up in products that we use every day, including mobile phones, laptops, cars and jewellery.

Why does the trade in conflict minerals pose a global problem?

Mineral-fuelled fighting increases instability in already fragile states. In recent years the international focus has been on the Democratic Republic of Congo, where armed groups have used revenues from the country's minerals trade to fund their fight for over a decade. But conflict minerals aren't specific to DRC. In the last sixty years, at least forty per cent of all intrastate conflicts have had links to natural resources. The very presence of natural resources makes conflicts twice as likely to occur.² Resources are valuable only when there is a market for them. Like their market, the trade in conflict minerals is a global one.

What role does the EU play?

The global trade in tin, tantalum, tungsten and gold ores and metals was worth around €127 billion in 2013. The EU was responsible for almost a quarter of this trade.³ Despite this, and the fact that the EU directly and indirectly imports minerals from high-risk places like Rwanda⁴ and Colombia, there is no law compelling European companies to source these

materials responsibly. This means consumers have no guarantee that products they buy containing these minerals are not fuelling violence.

What is wrong with a voluntary EU scheme?

Voluntary or incentive-based measures do little to change the way that most companies source their minerals. International guidance already exists for companies that want to source minerals responsibly. But according to last year's European Commission survey, only four per cent of 330 companies surveyed had voluntarily prepared public reports on their mineral sourcing activities.⁵ Legislation introduced in the United States in 2010 - Section 1502 of the Dodd Frank Act - has been the only effective means of prompting U.S. companies to source responsibly by examining their supply chains to ensure that the minerals they buy do not fund harm. A 2013 survey by Dutch NGO SOMO shows that the majority of European companies not required to comply with the U.S. law do not conduct due diligence.⁶ Then there is the message voluntary legislation sends to the private sector: that it is acceptable for companies to choose not to source responsibly. It is not.

Why is a mandatory scheme the answer?

It has proved to be the only way to bear influence on global supply chains. The EU requirement must cover enough companies so as to impact sourcing practices right along the supply chain—helping create a market demand for responsibly sourced minerals. A clear law would also bring benefits to businesses: setting clarity and consistency about minimum sourcing standards, levelling the playing field for businesses operating in Europe, improving supply chain risk management, bringing new innovation opportunities and maintaining a more sustainable supply of natural resources into the continent. It would also necessitate a type of factual disclosure that is critical for investors and consumers who want to know what is in their products and whether they have contributed to conflict. According to the EU Commission, over half of the small companies that participated in its public consultation support the introduction of obligations on companies. Sixty-six per cent of small companies chose regulation as the most compelling motivation for sourcing responsibly.⁷

Isn't a mandatory scheme too expensive and time-consuming for companies?

The European Commission estimates that due diligence will initially cost companies just 0.014 per cent of annual turnover; ongoing costs will then decrease to just 0.011 per cent.⁸ Due diligence need not be onerous for companies, including SMEs. Risk-based due diligence is intended to be a flexible and iterative process, tailored to a specific company's operations and position in the supply chain. Finally, costs to companies must be weighed up against the economic and social benefits of due diligence. Companies purchasing from risky areas have a responsibility to assess and address issues in their supply chains as they arise. This is how responsible business should be done.

But won't a mandatory reporting requirement lead to a de-facto embargo in certain areas?

A mandatory due diligence reporting requirement does not place an embargo on any area or mineral. It simply means that businesses must report on their efforts to operate responsibly and transparently. Due diligence is about gathering information and making decisions based on risk, so that clean trade is supported. Implementing the international guidance set out by the Organisation for Economic Cooperation and Development (OECD) means companies can *continue* to source minerals from high-risk areas while cutting out harmful parts of the trade. Many companies helped draft the OECD Guidance. Under Section 1502 of Dodd Frank, we are seeing international companies use this guidance to begin to engage in responsible sourcing programmes in areas of DRC.

An EU law that targets minerals from all conflict-affected and high-risk areas would also significantly lower the risk of companies pulling out of any one producing country.

What's wrong with targeting a small number of importing companies?

The scope of the Commission's current proposal is too narrow. Europe is also a major consumer of end-user products that may contain conflict minerals. In 2013 the EU was the world's second largest importer of mobile phones and laptops, after the U.S. By only targeting a limited number of primary importers of metals and raw ores, the Commission's proposal will cover only 0.05 per cent of Europe-based companies using and trading tin, tantalum, tungsten and gold.⁹ It leaves end-user companies –which import products like phones, cars and heavy machinery – free to source and import products without checking whether they contain metals that have funded violence. To ensure responsible sourcing, the proposal should be expanded to include all end-user companies that first place products containing these natural resources on the EU market.

What natural resources should the proposal apply to?

The regulation should apply to all natural resources at risk of predation by armed groups or military and security forces – not only tin, tantalum, tungsten and gold. Examples include jade – used to finance Myanmar's military – and the involvement of abusive security forces in Zimbabwe's diamond mining sector.¹⁰ According to the Commission's public consultation, 68 per cent of respondents who agreed that there is a need for an EU initiative supported one with a scope that covered "all minerals". Only 50 per cent of business supported a narrow material scope based on tin, tantalum, tungsten and gold.¹¹

¹ Ignacio Gómez G, 2012, *Colombia's black-market coltan tied to drug traffickers, paramilitaries*; The Center for Public Integrity, 4 March 2012, <http://www.publicintegrity.org/2012/03/04/8284/colombia-s-black-market-coltan-tied-drug-traffickers-paramilitaries>; Kevin Boyd, 28 May 2009, *Federal Lawsuit Alleges U.S. Mining Company Drummond Paid Millions to Colombian Paramilitary* www.reuters.com/article/2009/05/28/idUS192843+28-May-2009+PRN20090528; Hannah Aronowitz, 16 March 2011, *Drummond paid Colombian paramilitaries: WikiLeaks Colombia Reports*, <http://colombiareports.co/us-coal-firm-drummond-paid-paramilitaries-wikileaks/>.

² UNEP, 2009, *From Conflict to Peacebuilding: the Role of Natural Resources and the Environment*. See www.unep.org.

³ Data from UN Comtrade <http://comtrade.un.org/>. Data reflects the global trade in tin, tantalum, tungsten and gold in the forms covered by the European Commission's proposal, as described on p. 78 of the European Commission's Impact Assessment, 5 March 2014.

⁴ Although Rwanda is not considered a conflict-affected area, the nature of its porous borders with eastern areas of the Democratic Republic of Congo leaves Rwanda's mineral sector open to the risk of minerals that may have funded conflict and human rights abuses illegally entering the country.

⁵ DG Trade, 'Assessment of due diligence compliance cost, benefit and related effects on selected operators in relation to the responsible sourcing of selected minerals', 25 September 2013, available at http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152230.pdf.

⁶ SOMO, <http://somo.nl/news-en/sourcing-of-minerals-could-link-eu-companies-to-violent-conflict>. SOMO carried out a survey of the due diligence efforts of 186 companies that are listed in Europe and make use of the 4 minerals covered by Dodd Frank 1502 (tin, tantalum, tungsten and gold).

⁷ DG Trade 'Report on the Public Consultation on a Possible EU Initiative on Responsible Sourcing of Minerals Originating from Conflict-Affected and High-Risk Areas. Contributions from Stakeholders', July 2013, p.21, available at http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152231.pdf.

⁸ European Commission Impact Assessment, 5 March 2014, p.5, available at http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152229.pdf. Reference to "companies" is to the EU importers, including SMEs, that voluntarily participate in the current self-certification scheme (Impact Assessment, p.5).

⁹ European Commission, Impact Assessment, 5 March 2014, p.19, available at http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152229.pdf. Further details on these companies have not been made available for reasons of data protection.

¹⁰ Andrew C Marshall and Min Zayar Oo, 'Myanmar's old guard clings to \$8 billion jade empire', Reuters Special Report, 29 September 2013, <http://in.reuters.com/article/2013/10/01/myanmar-jade-idINDEE98S04J20131001>; Rachel Vandenbrink, 'Kachin War a Battle for Resources, Radio Free Asia', 31 August 2012, <http://www.rfa.org/english/news/myanmar/kachin-08312012130540.html>; David Dapice and Nguyen Xuan Thanh, *Creating a Future: Using Natural Resources for New Federalism and Unity*, Harvard Ash Center prepared for Proximity Designs, July 2013, <http://www.ash.harvard.edu/extension/ash/docs/creating.pdf.contains> reference to revenues accruing to KIA/KIO on page 14.

Global Witness, 'Diamonds: A Good Deal for Zimbabwe', February 2012 and Global Witness, 'Financing a Parallel Government', June 2012 and 'Zimbabwe's elections: intimidation, vote-rigging and diamonds', July 2013.

¹¹ European Commission, DG Trade, Report on the Public Consultation, July 2013, p.16, available at http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152231.pdf.