

Supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas

2014/0059(COD) - 20/05/2015 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament, by 402 votes to 118 with 171 abstentions, adopted amendments to

the 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.

The **question was referred back to the competent committee for re-consideration** and the vote was deferred to a later session.

The main amendments adopted amended the Commission proposal as follows:

Purpose: the Regulation was one of the ways of **eliminating the financing of armed groups by means of controlling trade of minerals from conflict regions**. It reflected the need for due diligence along the entire supply chain from the sourcing site to the final product.

Accordingly, **all companies** who first place covered resources, including products that contain those resources on the Union market must conduct and publicly report on their supply chain due diligence.

Certification system: Parliament stated that the Regulation should establish the European certification of responsibility' (and not just self-certification as the Commission had proposed) regarding due diligence obligations in order to curtail opportunities for armed groups and security forces to trade in tin, tantalum and tungsten, their ores, and gold.

All Union importers who source minerals and metals falling within the scope of this Regulation must conform to the OECD Due Diligence Guidance.

Downstream companies: these companies must take all reasonable steps to identify and address any risks arising in their supply chains for minerals and metals coming within the scope of the Regulation. In this connection, they should be **required to provide information** on the due diligence practices they employ for responsible supply chains. The exercise of due diligence must be tailored to the activities of the undertaking in question, its size and its position in the supply chain. The Commission may provide **further guidelines** on the obligations to be met by undertakings, depending on their position in the supply chain, to ensure that the system involves a flexible procedure that takes into account **the position of SMEs**.

Verification by third-parties: certified responsible importers of smelted and refined metals shall be exempted from carrying out independent third-party audits provided they submit substantive evidence that all smelters and refiners in their supply chain conform to the provisions of the Regulation.

List of responsible importers: the Commission should adopt and make publicly available a decision listing the names and addresses of responsible importers of minerals and metals within the scope of the

Regulation. It must update and publish, including on the internet, the information included in the list in a timely manner.

Due diligence obligations applicable to smelters and refiners: smelters and refiners established in the Union which process and import minerals and concentrates thereof would have an obligation to apply the Union system for supply chain due diligence or a due diligence system recognised as equivalent by the Commission. If there were a failure to comply with these obligations, the authorities would notify the fact to the smelter or refiner, and ask them to take corrective measures in order to comply with the European due diligence system.

In the event of a persistent failure to comply, Member States competent authorities would impose penalties for the infringement.

Transition period: provision should be made for a two-year transitional period to allow the Commission to set up a third-party audit system and for responsible importers to become familiar with their obligations under the Regulation.

Accompanying measures: the Commission should submit a **legislative proposal**, as appropriate, within the transitional period setting up accompanying measures in order to enhance the effectiveness of this Regulation in line with responsible sourcing of minerals. These should cover the following:

- **support for responsibly sourcing enterprises** in the form of incentives, technical assistance and guidance to enterprises, taking into account the situation of small and medium-sized enterprises;
- ongoing **policy dialogues** with third countries;
- continued, **targeted development cooperation with third countries**, in particular aid for the marketing of non-conflict minerals;
- close cooperation with Member States for the launching of complementary initiatives in the area of **consumer, investor and customer information**.

Strengthened review clause: Parliament recommended stricter monitoring of the system, with a review two years after its application and every three years thereafter (rather than three and six years respectively, as proposed by the Commission).