

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) - 16/03/2017 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 558 votes to 17, with 45 abstentions, a legislative resolution on 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.

Parliament's position adopted at first reading following the ordinary legislative procedure amended the Commission proposal.

Subject matter and scope: the Regulation, by controlling trade in minerals from conflict areas, is one of the ways of **eliminating the financing of armed groups**. It lays down the supply chain due diligence obligations of Union importers of minerals or metals containing or consisting of tin, tantalum, tungsten or gold.

This Regulation shall not apply to Union importers of minerals or metals, where their annual import volume of each of the minerals or metals concerned is below the volume thresholds set out in Annex I to the Regulation.

All volume thresholds are set at a level that ensures that the vast majority, but no less than **95 %**, of the **total volumes** imported into the Union of each mineral and metal under the Combined Nomenclature code is subject to the obligations of Union importers set out in this Regulation.

In exercising its power to adopt delegated acts to modify existing thresholds, the Commission has undertaken to take account of the position of micro, small and medium-sized enterprises which import gold.

Importers' obligations: Union importers of minerals or metals shall comply with the supply chain due diligence obligations set out in this Regulation and shall keep documentation demonstrating their respective compliance with those obligations.

Union importers of metals shall identify and assess, in accordance with the **OECD Due Diligence Guidance**, the risks in their supply chain based on available third-party audit reports concerning the smelters and refiners in that chain, and, by assessing, as appropriate, the due diligence practices of those smelters and refiners.

Union importers shall carry out audits of their own supply chain due diligence via an **independent third-party** unless there is evidence of conformity with a supply chain due diligence scheme recognised by the Commission.

The Commission shall adopt implementing acts establishing or amending the **list of the names and addresses** of global responsible smelters and refiners.

Disclosure obligations: Union importers shall: (i) make available to the Member State competent authorities the reports of any third party audit carried out or evidence of conformity with a supply chain due diligence scheme recognised by the Commission; (ii) make available to their immediate downstream purchasers all information gained and maintained pursuant to their supply chain due diligence; (iii) publicly report as widely as possible, including on the internet, and on an annual basis on their supply chain due diligence policies and practices for responsible sourcing.

Certification: the amended text stipulates that governments, industry associations and groupings of interested organisations having due diligence schemes in place ('scheme owners') may apply to the Commission to have the supply chain due diligence schemes that are developed and overseen by them recognised by the Commission.

The methodology and criteria for such schemes to be recognised as equivalent to the requirements of this Regulation shall be established in a delegated act to avoid double auditing. Such schemes shall incorporate the overarching due diligence principles, ensure that requirements are aligned to the specific recommendations of the OECD Due Diligence Guidance.

The Commission shall establish and keep up-to-date a **register** of recognised supply chain due diligence schemes. It shall be made publicly available on the internet.

Guidelines: in response to the European Parliament's request for specific guidelines, the Commission shall prepare non-binding guidelines in the form of a handbook for economic operators, explaining how best to apply the criteria for the identification of conflict-affected and high-risk areas.

By means of such guidelines, relevant companies with **more than 500 employees** that are required to disclose non-financial information would be encouraged to disclose specific information in relation to products containing tin, tantalum, tungsten or gold.

Review clause: by 1 January 2023 and every three years thereafter, the Commission shall review the functioning and effectiveness of this Regulation in order to assess the adequacy and implementation of these due diligence schemes and the impact of the Union system on the ground. It shall propose new mandatory measures in order to ensure sufficient leverage of the total Union market on the responsible global supply chain of minerals.