

Joint NGO Statement: EU Conflict Minerals Regulation Failing to Reach Its Goals

20 NGOs Call on the EU to Step Up Its Enforcement and Adopt New Measures

Brussels, 19 October 2023

More than six years after it was signed into law, the EU Regulation on the responsible supply of tin, tungsten, tantalum and gold (3TG) originating from conflict-affected and high-risk areas (CAHRAs) is failing to reach its key objectives: breaking the link between mineral exploitation and conflict financing, and addressing human rights abuses in the supply chains. We, the undersigned European non-governmental organizations, call on the European Union and its Member States to take steps to better enforce the existing Regulation and to adopt new measures to improve supply chain transparency while increasing direct support for responsible sourcing in producing countries.

Today, IPIS and PAX jointly published a briefing paper, "[The EU Conflict Minerals Regulation: High Stakes, Disappointing Results](#)", analyzing the Regulation's implementation and impact. The paper provides a series of detailed recommendations to the EU and its Member States.

The EU Regulation on the responsible supply of 3TG originating from CAHRAs came into full force on 1 January 2021. Also known as the "Conflict Minerals" or "Responsible Minerals" Regulation, it is meant to have an impact not only on EU importers but also further up the supply chain: from the EU companies' direct suppliers up to the mines of mineral origin.

Disappointingly, more than six years after the Regulation was signed into law, and almost three years after the requirements for EU importers started applying, the Regulation has not achieved any notable impact along the supply chain, let alone in producing countries. At the same time, the illegal trade of minerals – in particular gold – continues to play an important role in financing certain conflicts, alongside other revenue streams.

EU importers often fail to operate adequate and complete supply chain traceability systems, and to disclose relevant information. They often do not know the origin of the minerals, or fail to include this information in their reporting to Member States Competent Authorities. Most EU importers source from smelters and refiners outside the EU that in their turn are rarely transparent on mineral origin. Because the mine of mineral origin is often not known to EU importers, it is unrealistic that the EU obligations cascade to suppliers up to the level of producing countries.

This also means that heightened due diligence in the case of CAHRAs or artisanal and small-scale mining (ASM) has not been applied to date. A decade of due diligence implementation has taught us that the tension between avoiding any human rights abuse in the supply chain on the one hand, and continuing engagement in CAHRAs and/ or the ASM sector on the other hand, cannot be solved by markets alone. Sourcing outside CAHRAs and excluding ASM is currently a low-cost and a low-risk business decision, whereas remaining engaged in CAHRAs and/ or the ASM sector often entails (additional) due diligence, audit and organisational costs.

If the EU wishes to contribute with this Regulation to an improved human rights situation in producing countries, including in CAHRAs, it has to actively intervene, both by encouraging downstream companies to engage in CAHRAs and the ASM sector through supporting progressive improvement, and by supporting upstream producers to progressively meet the EU standards. This progressive approach, that accepts imperfection, could at the same time stimulate more transparency.

In order to improve transparency, the undersigned organizations call on the EU to make it mandatory for Union importers to trace their imports back to the mine(s) of origin, regardless whether they are sourcing from a CAHRA or not, and impose dissuasive penalties on importers who persistently fail to comply with the Regulation's obligations. The EU should also widen the scope of the information that EU importers should disclose to the public. More transparency will help journalists and non-governmental organizations perform their vital role as watchdogs, and also help build confidence among the public. Further, The EU should equip the European Commission with more capacity to play a leading role in the Regulation's implementation, which in turn should reinforce the work of Member States Competent Authorities.

Regulators should avoid overreliance on industry-led schemes and third-party audits, no matter how good these are, but instead use them as one useful tool among others, such as information obtained from non-governmental organizations, academia, journalists, and affected communities themselves.

Finally, the undersigned organizations demand the EU to strengthen its collaboration with 3TG producing countries, including to better inform the relevant stakeholders on the evolving EU due diligence requirements. Sourcing more directly from CAHRAS and the ASM sector allows to shorten the supply chain and better promote practices that respect both the local communities – including artisanal miners' livelihoods – and the environment. Without these improvements, the Regulation will remain a purely technical exercise without any impacts for communities in producing countries.

Signatories

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Agir ensemble pour les droits humains	Ökumenisches Netz Zentralafrika
Alliance for Responsible Mining	PAX
Avocats sans Frontières	PMU
CNCD-11.11.11	Rainforest Foundation Norway
Diakonia	Search for Common Ground
EurAc	Solidaridad
GermanWatch	SOMO
Global Witness	Vredesactie
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