

# EU acknowledges shortcomings of Conflict Minerals Regulation

## *What next?*

The European Union (EU) Regulation 2017/821, hereafter called the 'Conflict Minerals' Regulation (CMR), came into force in January 2021 and imposes due diligence obligations on EU importers of tin, tungsten, tantalum and gold (3TG) originating from conflict-affected and high-risk areas (CAHRAs). In the text, regulators also foresaw periodic evaluations of the regulation's effectiveness.

In October 2023, ahead of the first formal review by the European Commission (EC), IPIS and PAX released a [report](#) evaluating the implementation of the CMR. Their study showed disappointing results, identified key obstacles hindering the regulation's effectiveness, and provided recommendations to address them. The paper was based on an in-depth analysis of publicly available documents and interviews with a broad range of stakeholders, including regulators, industry representatives, and civil society organizations.

In September 2024, the European Commission [published the findings](#) of its comprehensive evaluation of the 'Conflict Minerals' Regulation, assessing its overall functioning and effectiveness. Additionally, the evaluation aimed to identify key areas where the regulation may be falling short and where adjustments or enhancements could be made to increase its impact in reducing the role of mineral trade in financing armed conflicts.

This policy brief explores the similarities and differences between the two reports and offers additional recommendations to enhance the regulation's effectiveness in addressing the persistent issues surrounding conflict minerals.

## Main findings

### Comparing the EC's review of the CMR with IPIS/PAX findings

While the EC's report shares similarities with the IPIS/PAX 2023 findings, our analysis highlighted concerns about the regulation's implementation that were only partially reflected in the EC's review.

First, both reports agree that, while the CMR was intended to address the issue of conflict minerals, its impact has been limited. The European Commission's evaluation suggests that the CMR's influence has been diluted by the proliferation of other mineral-related regulations within the EU and the United States. These include the EU Battery Regulation (2023/1542), the Critical Raw Material Act (CRMA), the Corporate Sustainability and Due Diligence Directive (CSDDD), and the U.S. Inflation Reduction Act, all of which were voted on after the CMR. However, the IPIS/PAX analysis highlights that the CMR's impact remains almost negligible, with illicit mineral trade continuing to fund conflicts regardless of these additional regulations. While the EC points to the other regulations as a potential factor reducing the CMR's effectiveness, our analysis does not support the view that the CMR would have been significantly more impactful if these regulations had not been introduced. Instead, the limited impact seems inherent to the CMR itself, rather than a result of external regulatory developments.

Second, the IPIS/PAX analysis revealed concerns that EU obligations often fail to trickle down to suppliers at the producer country level. The data provided in the European Commission's evaluation on the origin of 3TG imports to the EU appears to validate this worry. For instance, the evaluation reports a mere 0.04% of tantalum originating from CARHA, which is evidently inaccurate given that the majority of tantalum (coltan) is sourced from the Democratic Republic of the Congo (DRC) or Rwanda. The exclusion of manufactured goods from the regulation's scope likely contributes to the flawed data and lack of transparency, hindering the regulation's effectiveness in addressing the root causes of conflict minerals trade.

Third, the IPIS/PAX analysis highlighted the risk that importers, but also EU authorities, solely rely on due diligence schemes, considering them to be more comprehensive or reliable than the reports from NGOs, investigative journalism, or the insights from affected communities themselves. The European Commission's evaluation admitted that most EU importers use such schemes to comply with the regulation's due diligence requirements. Furthermore, the Commission invited parties to apply for industry recognition in 2019 with the aim to publish the EU list of "global responsible smelters

and refiners” (also known as the Whitelist). EU metals importers enabled to source exclusively from smelters and refiners on the Whitelist would be exempted from carrying out third-party audits. However, no smelter or refiner has been approved yet, rendering this facilitating element currently inapplicable.

Finally, the IPIS/PAX analysis highlighted that divergent interpretations of the regulation by Member States and Competent Authorities (MSCAs) have led to an uneven implementation across the EU. The European Commission’s report corroborates this, indicating that the level of compliance varies significantly, with some Member States failing to report any conclusive findings from their post-implementation compliance assessments.

### The potential role of the CSDDD

The [Corporate Sustainability Due Diligence Directive](#), adopted by the European Union, entered into force in July 2024. The directive aims to strengthen the EU’s regulatory framework by requiring (some) companies to address human rights and environmental impacts throughout their global supply chains. It places an emphasis on due diligence obligations, holding (some) companies accountable for the sourcing, production, and distribution of goods, as well as the broader social and environmental risks linked to these activities. In this context, the CSDDD could complement and enhance the ‘Conflict Minerals’ Regulation by providing clearer guidance on responsible sourcing and supply chain transparency, especially when it comes to minerals linked to human rights abuses and environmental harm.

However, key questions remain on how the CSDDD will address specific issues related to the CMR. For example, will the CSDDD explicitly cover imports of processed minerals? As the CMR primarily focuses on raw minerals, the growing challenge is in addressing processed minerals that may still be originally sourced from conflict-affected regions. Additionally, importers often face difficulties in demonstrating the country of mining origin for such minerals, which complicates due diligence efforts. Will the CSDDD introduce stricter requirements for supply chain transparency, ensuring that companies can trace the origin of processed minerals and demonstrate compliance more effectively?

## Key recommendations

The CMR could represent a relevant legal framework to reinforce compliance with due diligence requirements of 3TG sourcing originating from CAHRAs. However, the regulation has made little progress so far, and there is significant potential for improvement to increase its effectiveness and impact.

### 1. Engaging stakeholders in countries with conflict-affected and high-risk areas

Engaging stakeholders involved in the production/extraction and trade of 3TG minerals in countries with CAHRAs could strengthen the regulation’s impact. The EC’s first evaluation has highlighted the need for increased engagement with local stakeholders/authorities in these regions. In DRC, for example, IPIS and PAX found many to be unaware of the legislation. To address this, the EU could consider providing training and capacity-enhancement support to its delegations to ensure they are effectively equipped to communicate and collaborate with local stakeholders.

### 2. Investing in artisanal and small-scale mining

The regulation should also consider the role of artisanal and small-scale mining in the 3TG supply chains. Investing in and supporting this sector can have significant positive impacts, as it provides a livelihood for people in affected regions. By working collaboratively with and investing in artisanal and small-scale mining, the EU can help to formalize and improve the practices in this important segment of the industry, ultimately enhancing the regulation’s effectiveness, and securing a new source of 3TG for its companies.

### 3. Promoting transparency as a requirement for effective due diligence

Full transparency is a fundamental requirement to ensure effective due diligence under the regulation. This includes providing the names of European importers as well as the risks associated with the industry activities/scheme. However, the implementation of transparency measures has been uneven across the Member States, with some choosing to publish the list of the names of companies to which the law applies while others have not. To address this, the EU could consider introducing mandatory transparency requirements for all Member States to ensure a consistent and comprehensive approach to transparency.

### 4. Integrating transit and trading countries in the CARHAs list.

The CRM applies to the import of 3TG originating from CAHRAs, but the current CAHRAs list does not account for transferring countries. As a result, minerals such as Congolese tantalum (coltan), which may be smuggled through Rwanda, or African gold that is illegally flown via the United Arab Emirates, can still enter the EU market despite the regulation. This gap highlights the need for heightened vigilance towards trading and transit countries, which play a significant role in the illicit trade of conflict minerals. Including such countries on the CAHRAs list would not only address this loophole but also encourage more rigorous oversight and due diligence across the entire supply chain, from extraction to final import.