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Press release : EU Conflict Minerals Law: A missed opportunity

On 15 June the EU arrived at a compromise on the Conflict Minerals Regulation. Unfortunately, the proposed deal lacks ambition and is unlikely to improve conditions for communities suffering from harmful mineral trade.

The EU is a huge market for minerals both in raw and processed form, for instance cars, electronic devices, jewelry medical equipment. As such, improved sourcing practices for these sorts of products will likely yield great effects for communities in conflict-affected and high risk areas.

However, the deal reached on June 15 between the three EU-institutions on the issue of conflict minerals lacks ambition. The stated objective of the law is to break the links between trade in tin, tantalum, tungsten and gold (3TG) and human rights abuses and the financing of armed groups. However, it remains to be seen if this political compromise will actually contribute to cleaning up these trade flows as it exempts the majority of companies trading in these minerals.

The initial terms of the debate were set poorly with the original text of the European Commission proposing a voluntary self-certification scheme for importers of 3TGS, which provided no added value to the existing voluntary schemes, in particular the OECD Due Diligence Guidance for Responsible Mineral Supply Chains. In addition compliance with such voluntary schemes has been minimal by companies in the mineral supply chain.

Thus, there was a clear case for a binding framework, which the European Parliament provided by adopting mandatory supply chain due diligence throughout the entire supply chain in its first reading of the text. Both upstream companies such as refineries, smelters and importers of the raw materials as well as downstream manufacturers selling products containing transformed minerals would be required to perform due diligence in their supply chains.

However, the political compromise arrived at in June, watered down the ambitious Parliament proposal, by excusing the majority of companies in the mineral supply chain. In a nutshell the compromise foresees mandatory due diligence for importers of 3TG metals and minerals, while big manufacturers of products containing 3TG will be “encouraged” to undertake voluntary reporting. As a result merely 5 % of all companies trading in minerals will be covered by the final text, as such the EU missed a clear-cut opportunity to do more to break the link between minerals trade and the financing of armed groups.

Furthermore, the EU would have honoured its commitments to the SDGs far better, particularly SDG 10 on sustainable production and consumption, by adopting a more ambitious law. It seems that the only salvation for the text might come from the review clause, which foresees in the possibility to add mandatory clauses for more categories of companies and to cover more minerals (f.e. copper and cobalt) if the effectiveness of the law would be inadequate.