

**Antwort der Wirtschaftsvereinigung Metalle zum Fragenkatalog der EU-Kommission zum Thema
Konfliktrohstoffe**

- 17.06.2013 -

1. Information on respondents

1.1 Do you agree that your contribution may be made public?

Yes

1.2 Please state the name of your business / association/ organisation.

WirtschaftsVereinigung Metalle e.V.

1.3 What is your profile?

Trade organisation representing business

1.4 What is your main area/sector of activities/interest?

Metals and metal products

1.5 In which country are your headquarters located?

Germany

1.6 In which regions do you operate?

Europe

1.7 Are you listed on a regulated market?

No

1.8 Do you prepare due diligence reports on a mandatory basis?

No

1.9 Do you prepare due diligence reports on a voluntary basis?

No

1.10 Can the European Commission contact you if further details on the information you submitted is required?

Yes

2. Rationale and existing frameworks

2.1 Is the private sector interested in sourcing minerals in a socially responsible manner?

Yes

2.2 What would you consider the single most compelling motivation for the private sector to source minerals in a socially responsible way?

Consumer satisfaction

Corporate Social Responsibility agenda

Regulatory obligation

2.3 Are you already undertaking efforts to ensure responsible sourcing of minerals?

Yes

2.3.1 Please shortly describe your efforts and possible difficulties you encounter.

There is already a number of partly intersecting approaches in how to handle conflict minerals. Mentioned in particular should be the OECD Due Diligence Guidelines in which the German non-ferrous metal industry participates actively. At present the OECD Due Diligence Guideline is implemented in the context of voluntary initiatives as the Conflict-Free Smelter Program of EICC or the ITRI Tin Supply Chain initiative. The non-ferrous metal industry is aware of its responsible position within the value-added chain and relies on the voluntary initiatives since many years.

2.4 Do you consider it unachievable for the private sector to source minerals in a socially responsible way?

no answer

2.5 Would you consider existing international instruments under the corporate social responsibility and supply chain due diligence agenda such as the UN Guiding Principles on Business and Human Rights, OECD Guidelines for Multinational Enterprises and OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas sufficient as they stand?

strongly agree

2.5.1 Companies have already fully integrated those international instruments into corporate risk management systems.

Somewhat agree

2.5.2 Those instruments appropriately address the issue of responsible sourcing in resource-rich, high-risk developing countries affected by conflicts.

Somewhat disagree

2.5.3 If in questions 2.5 / 2.5.1 / 2.5.2 you disagree and think there is scope for improving or complementing the existing instruments, how could this be achieved?

Instruments to increase transparency in supply chain always can only contribute to responsible sourcing but they can not only ensure this. Administrative, political and security requirements are generally missing in the countries concerned for a responsible mining. The current governments are often actively involved in the poor conditions on site. The support of democratic development and good governance is primarily task of foreign, security and development politics. The economy can and will support this process but will not replace it. An interference of commercial enterprises in the political development of raw material countries can neither be the goal nor the result of respective initiatives.

Moreover a real improvement of the situation of people on site will only happen if all processes in the concerned country itself are transparent and comprehensible, from extraction from the mine to pretreatment, to transport and dealing. This is also the indispensable condition for any transparency efforts in the downstream supply chain. The initiatives iTSCi and ICGLR together with the German Federal Institute for Geosciences and Natural Resources (BGR) are good examples.

2.6 What practical lessons can we draw from existing supply chain due diligence schemes such as the OECD Due Diligence? What are the advantages and downsides for industry and producing countries?

It is positive that the OECD Guidelines show instruments to the companies how to identify risks in their resource supply chain and how to handle them. In our view these guidelines unfortunately

are not concrete enough and do not differentiate sufficiently between different industries and therewith value-added chains. Therefore they are not readily workable for the companies but they mostly require external advising or personal and financial resources in order to work out a company specific management strategy.

2.7 What practical lessons can we draw from existing supply chain due diligence schemes adopted by third countries to promote mineral supply chain transparency (e.g. US Dodd - Frank Act section 1502)? What are the advantages and downsides for industry and producing countries?

The implementation of a mandatory proof of origin as scheduled in the DFA faces various difficulties.

*The Dodd-Frank-Act already acts as a **de facto embargo**. Currently companies concerned withdraw out of the Great Lake area because they worry about loss of image and they look for other supplying regions for their raw materials. People and families in the DRC depend on small-scale mining as it is their most important source of income. These developments which are not intended act as inhibiting development. DFA achieves the opposite effect which is intended. This shows that well-meaning regulation finally can miss the target as well.*

***Distortions of competition** arise if no international level playing field, including esp. China, is ensured.*

*The **definition of criteria** which are used in DFA to identify conflict minerals and areas **is unclear**. Though the OECD Guidelines describe clearly when a mine is free of conflict, the actual conditions on site change permanently.*

2.8 In some cases, mineral producing developing countries have introduced regulatory schemes to allow trade of minerals to be conducted in a socially responsible way. What is your assessment of such national or regional initiatives and regulatory schemes?

From our point of view it is more targeted and effective than an EU-regulation to support the efforts of countries rich in resources in establishing a sustainable raw material area within the scope of development work and foreign policy. They take great interest in providing "Good Governance" in the raw material area and not only gaining the trust of investors but also generating (tax) receipts out of the wealth of raw materials and to utilize them for economic reconstruction.

3. Need and scope of a possible EU initiative

3.1 Is there a need for the EU to promote responsible sourcing of minerals through actions focused on transparency of the supply chain, in addition to what already exists in the policy landscape?

No

3.2 Should the scope of an EU initiative refer to specific end-products or downstream industry sectors?

No

3.3 Should an EU initiative target specific segments in the minerals' supply chain?

Yes

3.3.1 If yes, which segment(s) should be targeted?

Mines

3.4 Should an EU initiative include exemptions for Small and Medium-sized Enterprises (SMEs)?

No

4. Continuation of activity, security of supply and other international actors

4.1 Should an EU initiative explore ways to support security of supply of the identified minerals for EU industry?

Yes

4.2 Would an EU initiative reach the necessary critical mass to motivate other major economies (e.g. China, Brazil, Indonesia, and Malaysia) to engage in similar initiatives?

No. The example of Congo particular shows that the opposite is true. Due to the declining market presence of European and American companies in DRC, an increasing engagement of such often Chinese companies is already observed today in DRC and these companies ignore the recommendations of OECD regarding social standards and mining of raw materials.

4.3 To the extent that the response strategies of some businesses to the U.S. Dodd-Frank Act section 1502 provisions is to stop sourcing minerals in Central Africa, what could an EU initiative do to support both market access and due diligence concerns?

The focus of an initiative has to be on the conditions on site in the crisis-ridden country. A worth-supporting approach is a continuously monitoring of mines and this is the aim within the scope of the initiatives iTSCi and ICGLR. The German Federal Institute for Geosciences and Natural Resources (BGR) early supports the efforts of ICGLR with projects for national and local certification of mines and transport routes. The approach of independent audits which are based on locally inspections and plausibility checks of documentations is helpful and worth supporting but this can not be the task of the manufacturing industry in the value-added chain.

5. Nature of the initiative

5.1 To ensure sufficient private sector participation, the implementation of an EU initiative on supply chain, due diligence should not only be voluntary but should include a degree of obligation on business operators.

Strongly disagree

5.2 How should a scheme be designed to make sure companies keep engaging and sourcing responsibly in conflict-affected and high-risk regions rather than simply move on to different regions to source their products?

See answer on question 4.3

6. Lessons learned from the EU Timber Regulation

6.1 The EU has some experience in promoting due diligence along the supply chain of the timber sector. Should the EU consider an initiative for minerals modeled on the 2010 Timber Regulation?

Strongly disagree

6.2 As is the case in the EU Timber Regulation, should an EU initiative promote responsible sourcing of minerals by requiring that the entity first placing a selected mineral (processed or not) on the EU market must provide evidence of due diligence thereby giving reasonable assurance that its supply chain is conflict-free?

No answer

6.3 Should the EU initiative consider preventing the placing on the market of specific minerals/end products extracted and exported against the laws of producing countries?

No answer

6.4 Are the laws of the mineral producing countries sufficiently developed and implemented?

No answer

7. Positive incentives to international corporations and businesses

7.1 Should an EU initiative provide positive incentives to businesses to foster clean trade from conflict-affected and high-risk areas (i.e. not contributing to adverse impacts and conflicts)?

Yes

7.2 Business would benefit in terms of brand image and consumer recognition by complying with an EU initiative on responsible sourcing.

No

7.3 Can existing frameworks such as OECD Due Diligence Guidance or certification initiative by the International Conference on the Great Lakes Region be used to facilitate incentives considered by the EU?

Yes

7.4 Numerous private sector initiatives currently carried out allow to promote responsible sourcing from conflict-affected and high-risk areas.

Strongly agree

7.5 How can governments complement private sector led initiatives? Are there examples of positive incentives provided by governments in non-EU jurisdictions?

Today the voluntary initiatives of the sectors already resulted in a high awareness of industry on the issue of conflict minerals. The non-ferrous metal industry is active in different initiatives and exercises their responsibility. The EU should acknowledge the initiatives in the sense of a sufficient contribution of transparency in the supply chain.

8. Economic and Competitiveness impacts

8.1 Would you expect any competitiveness impact (positive or negative) should the EU undertake a supply chain due diligence initiative on minerals originating from conflict-affected and high-risk areas?

Yes

8.1.1 If yes, what impact do you expect for the upstream industries?

See answer on question 8.1.2

8.1.2 If yes, what impact do you expect for the downstream industries?

WirtschaftsVereinigung represents primary producers and processors of non-ferrous metals. So it is classed among the middle of the value-added chain. We fear a considerable cost and bureaucracy charge for the non-ferrous metal industry. Especially the product-related approach in the DFA is characterized by a great complexity. Final products e.g. mobile phones, consists out of thousands different materials and parts with as much as many suppliers. The cascading collection of information means an unreasonable bureaucratic effort. It is almost impossible to get a declaration of no-objection from all involved parties within the value-added chain.

About the effects of the Dodd-Frank Act on the American economy exist different cost estimations. They range from 71,2 millions US-Dollar up to 9,34 billions US Dollar. These costs are non-transferable 1:1 to the European market but they give an indication of possible developments.

8.2 What would be the possible impact of non-action?

No answer

8.3 In case a due diligence system will be proposed, what would be the expected impacts both in terms of administrative burdens and compliance cost (e.g. cost of collecting relevant information and cost of auditing). If you already apply due diligence please provide exact information on your costs.

See answer on question 8.1.2

9. Environmental impacts

9.1 Would you expect any environmental impact (positive or negative) should the EU undertake a supply chain due diligence initiative on minerals originating from conflict-affected and high-risk areas?

No

9.2 What would be the possible impact of non-action?

No answer

10. Social impacts

10.1 Would you expect any social impact (positive or negative) should the EU undertake a supply chain due diligence initiative on minerals originating from conflict-affected and high-risk areas?

Yes

10.1.1 If yes, what impact do you expect?

We expect a negative impact on the concerned regions in terms of a de-facto-embargo. See answer on question 2.7

10.2 What would be the possible impact of non-action?

No answer

11. Other issues

11.1 If there are any other issues that are not mentioned in this questionnaire that you would like to address, please use the space below to set them out.

Secondary raw materials have to be exempted from any regulation or to be acknowledged as conflict free. On the one hand there are no conflicts financed by secondary raw materials. On the other hand the issue of a declaration of no-objection is nearly impossible for industries which are characterized by high recycling quota. Recycling quota of more than 50% are reached by the non-ferrous metal industry. The metal is not only reused once but unlimited, as metals are not used up but needed. That is why it is almost impossible to prove where the waste fractions originate from and also the minerals within, which have been returned already several times into the substance cycle.