



EUROPEAN COMMISSION

*Brussels, 8.6.2015
C(2015) 3738 final*

*Mr Pietro GRASSO
President of the
Senato della Repubblica
Piazza Madama, 1
IT – 00186 ROMA*

Dear President,

The Commission would like to thank the Senato della Repubblica for its Opinion concerning a 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 {COM(2014) 111 final}.

The Commission considers the voluntary approach retained under the draft Regulation to be both effective and proportionate as existing market forces, coupled with additional measures such as the EU list of responsible smelters, the Commission's public procurement policy and other incentives¹, should ensure adequate acceptance of the certification scheme. Moreover, a mandatory scheme could have unintended consequences for the conflict-affected and high-risk zones concerned as international buyers could stop sourcing from those regions in order to facilitate their compliance with a mandatory scheme, a scenario that was set out in the Commission's Impact Assessment {SWD(2014)53}². A mandatory approach could also have a negative impact on the supply position of small and medium-sized enterprises in the Union.

As for the question of extending the application of the due diligence framework to downstream operators, the Commission's public consultation³ revealed a broad consensus amongst stakeholders that regulating and increasing transparency at the "choke point" of the supply chain (i.e., the smelters' and refiners' stage) is an effective approach complementing existing international frameworks.

Turning to the proposed Regulation's product scope, the Commission took into account the existing scope of Section 1502 of the U.S. Dodd Frank Act as well as the availability of

¹ See Joint Communication to the European Parliament and the Council, Responsible sourcing of minerals originating in conflict-affected and high-risk areas, Towards an integrated EU approach, JOIN(2014) 8 final.

² <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1032>

³ http://trade.ec.europa.eu/consultations/index.cfm?consul_id=174

detailed due diligence guidance (i.e., OECD Due Diligence Guidance) so as to ensure the proper implementation of the proposed draft Regulation.

Finally, the Commission is of the view that a solid package of accompanying measures deployed through political, diplomatic, and development cooperation means as announced in the Joint Communication {JOIN(2014) 8} will – together with a voluntary approach – contribute to breaking the links between conflict and the exploitation of minerals, while allowing the countries concerned to maximize the economic opportunities of their extractive sectors.

In the meantime, the Commission remains committed to work with the European Parliament and Council in the ongoing legislative process so as to achieve a successful conclusion as soon as possible.

The Commission hopes that these clarifications address the concerns raised by the Senato della Repubblica and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Cecilia Malmström
Member of the Commission*