



Mr. Karel De Gucht
Commissioner for Trade

European Commission
200, rue de la Loi
B-1049 Brussels
Belgium

26 June 2013

Dear Commissioner,

Following BUSINESSEUROPE's online contribution to the European Commission's public consultation on a possible EU initiative on responsible sourcing from conflict-affected and high-risk areas, I am writing this letter to summarise BUSINESSEUROPE's constructive engagement on this issue and further elaborate on particular aspects which the limited space of the questionnaire did not allow for.

EU initiative: Not binding legislation but strong governance angle

I would like to express BUSINESSEUROPE's serious concerns on the possibility of the EU adopting binding legislation in the area of conflict minerals. As experience from the implementation of the U.S. Dodd Frank Act section 1502 has shown, rigid legislation that only focuses on responsible sourcing does not contribute to the solution of the actual problem – which is conflict – rather the opposite. A series of socio-economic problems rise, including trade embargos, unemployment, social unrest, deterioration of the livelihood of people in conflict-affected areas.

A future EU initiative should therefore effectively contribute to the ultimate goal, which is to improve the situation on the ground. The problem of responsible sourcing in conflict-affected areas is a global one and global solutions are required, with the cooperation of both resource-holding countries and other international players. The EU, via the External Action Service and its local Permanent Representations can play an important role in raising awareness on the complexity of the issue, opening dialogue with local governments and promoting the support by more governments of international schemes and standards.

In addition to the repercussions at local level – in the conflict-affected areas, binding legislation would also negatively affect the competitiveness of EU industry, as their competitors will not be obliged to follow equivalent regimes. Burdensome and costly requirements will create de facto trade embargos, which will in turn result in market losses for EU companies, not to mention the disruption of security of supply of minerals in the EU. In this light, the EU should at least seek equivalence with the US regime in the framework of the TTIP negotiations.

**EU to support existing voluntary initiatives**

The EU should further support and build upon already existing voluntary initiatives that are based on international standards, such as the OECD Due Diligence Guidance and the UN Guiding Principles on Business and Human Rights. There are numerous industry-led and regional schemes that are laudable and – if further supported – can make a difference on the ground, without the need of binding legislation. These include efforts by the International Conference on the Great Lakes Region (ICGLR), the Conflict-Free Tin Initiative, the Electronic Industry Citizenship Coalition – Global e-Sustainability Initiative (EICC-GeSI) and the Conflict-Free Smelter Program.

Multi-stakeholder, risk-sharing approaches, in which governments, the private sector and the civil society participate, are able to globally address the problem of conflict and create the right incentives for business to keep trading in and from the conflict-affected area. The value-added of voluntary initiatives is that they offer flexibility to their users, which can develop tailor-made solutions adapted to their particular needs.

Minerals covered by an EU initiative

The EU should furthermore avoid opening up the coverage of minerals. In lack of international experience, an EU initiative should not go any further than the minerals covered by the Dodd Frank Act and other international schemes, such as the OECD Due Diligence Guidance.

I thank you, dear Commissioner, for taking our concerns into consideration.

Sincerely yours,

Adrian van den Hoven
Deputy Director-General
BUSINESSEUROPE