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## EU Initiative on Responsible Sourcing – BUSINESSEUROPE's views

### KEY MESSAGES

- 1 The EU Initiative should remain **voluntary**, focusing on the **upstream** part of the supply chain and the scope of mineral coverage should be limited to **tin, tungsten, tantalum and gold**.
- 2 **Clarifications** need to be provided with regards to the global geographical scope of the Initiative, the definition of 'conflict-affected' and 'high-risk areas', as well as the definition of 'importer'.
- 3 The EU Initiative should **be aimed at improving the situation on the ground**. Therefore, the accompanying measures included in the Joint Communication should start being implemented as soon as possible. The **Commission** and the **EEAS** should play a key role in this context.

### BUSINESSEUROPE's POSITION

- *BUSINESSEUROPE overall recognises and supports the European Commission's efforts to (a) break the link between trade and conflict, (b) help European companies in their implementation of the Dodd Frank Act section 1502 and (c) promote legitimate trade in conflict-affected and high-risk areas.*
- *However, trade is only one part of a global, multi-stakeholder solution. The problem of conflict is complex and is comprised not only of economic, but also of governance, security, development and social aspects. It is also a global problem: it cannot be solved by EU and US efforts alone, other major partners have to join forces. A strong EU raw materials diplomacy can play a crucial role to this end. European business is deeply engaged in contributing to a viable solution to conflicts but cannot do it alone.*

*Practically:*

- *The nature of the draft Regulation should remain voluntary. As experience with the implementation of the U.S. Dodd Frank Act section 1502 has shown, rigid legislation by itself does not contribute to the solution of the actual problem – which is conflict. Rather the opposite is happening: de facto trade embargos*



occur and, as a consequence, socio-economic problems increase, including unemployment, social unrest, deterioration of the livelihood of people.

Voluntary approaches have merits: Companies can put in place systems tailor-made to the needs of their supply chains, but based on the same internationally recognised principles. A mandatory system does not offer such flexibilities, which may lead to the above mentioned results.

Furthermore, many companies have already voluntarily installed due diligence processes in their supply chains. The Conflict-Free Tin Initiative, the Conflict-Free Smelter Program or the Conflict-Free Gold Standard are only a few of such successful initiatives. These have to be further supported and recognised as compliant to the EU Initiative.

Finally, given the significant costs of conducting due diligence, which affect SMEs as well as competent authorities, it would be better to maintain the voluntary nature of the EU Initiative to help build capacity and expertise first.

- The scope of mineral coverage has to remain limited to the four minerals (tin, tungsten, tantalum and gold). With regard to other raw materials, international experience and expertise in similar schemes does not exist yet, so their inclusion under the EU Initiative should be avoided. As supply chains differ, this would further complicate the implementation and monitoring of the scheme.
- The focus should remain on the upstream part of the supply chain, which seems to be considerably more effective and less bureaucratic than product-based approaches, such as the one pursued by the Dodd Frank Act section 1502.
- The implementation of the draft Regulation also presents a number of challenges:
  - Definitions (Art.2) – too broad, especially the definitions of ‘conflict-affected and high-risk areas’. As companies will have to identify themselves whether they operate or not in such an environment, clarifications are necessary in order to facilitate risk assessment.
  - Due Diligence procedure (Art. 4, 5, 6 & 7) – significant costs are implied, especially by the auditing requirements. This will be particularly challenging for SMEs.
  - Ex post checks by Member States (Art. 10) – a step further from the procedures described under the OECD Due Diligence Guidance. Particularly problematic are the ‘on-the-spot inspections’ as it is not clear by the draft text who bears their cost.
- As regards the Joint Communication, the performance requirement clause for public procurement raises significant questions, as it seems to derogate from the principle of the draft Regulation (focusing on the upstream part of the supply chain). More clarifications are required on how this clause could become operational without overburdening downstream users, including SMEs.