



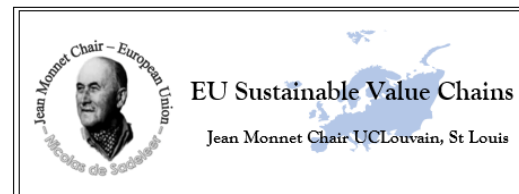
# Conflict Minerals Regulation

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Challenges and opportunities*



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# Introduction

In politically unstable areas, the minerals trade can be used to finance armed groups, fuel forced labour and other human rights abuses, and support corruption and money laundering.

## **Responsible sourcing**

- . OECD Guidelines for Multinational Enterprises
- . UN Guiding Principles on Business and Human Rights
- . US law on conflict minerals, Section 1502 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*

# Material and personal Scope

## Material Scope

Four minerals – tin, tantalum, tungsten (3TG) and gold on the grounds that these four minerals that are most often linked to armed-conflicts and related human rights abuses

## Personal Scope

- It applies **directly** to between 600 and 1,000 EU importers.
- and **indirectly** affect about 500 smelters and refiners of tin, tantalum, tungsten and gold, whether they are based inside the EU or not.

**Geographical Scope**  
Countries or areas  
considered to be  
conflict-affected or  
high-risk

‘areas in a state of armed conflict or fragile post-conflict as well as areas witnessing weak or non-existent governance and security, such as failed states, and widespread and systematic violations of international law, including human rights abuses’ (Article 2,f))





## Upstream companies

Supply chain from the extraction sites to the smelters and refiners

- mining companies;
- raw material traders;
- smelters, and;
- refiners.

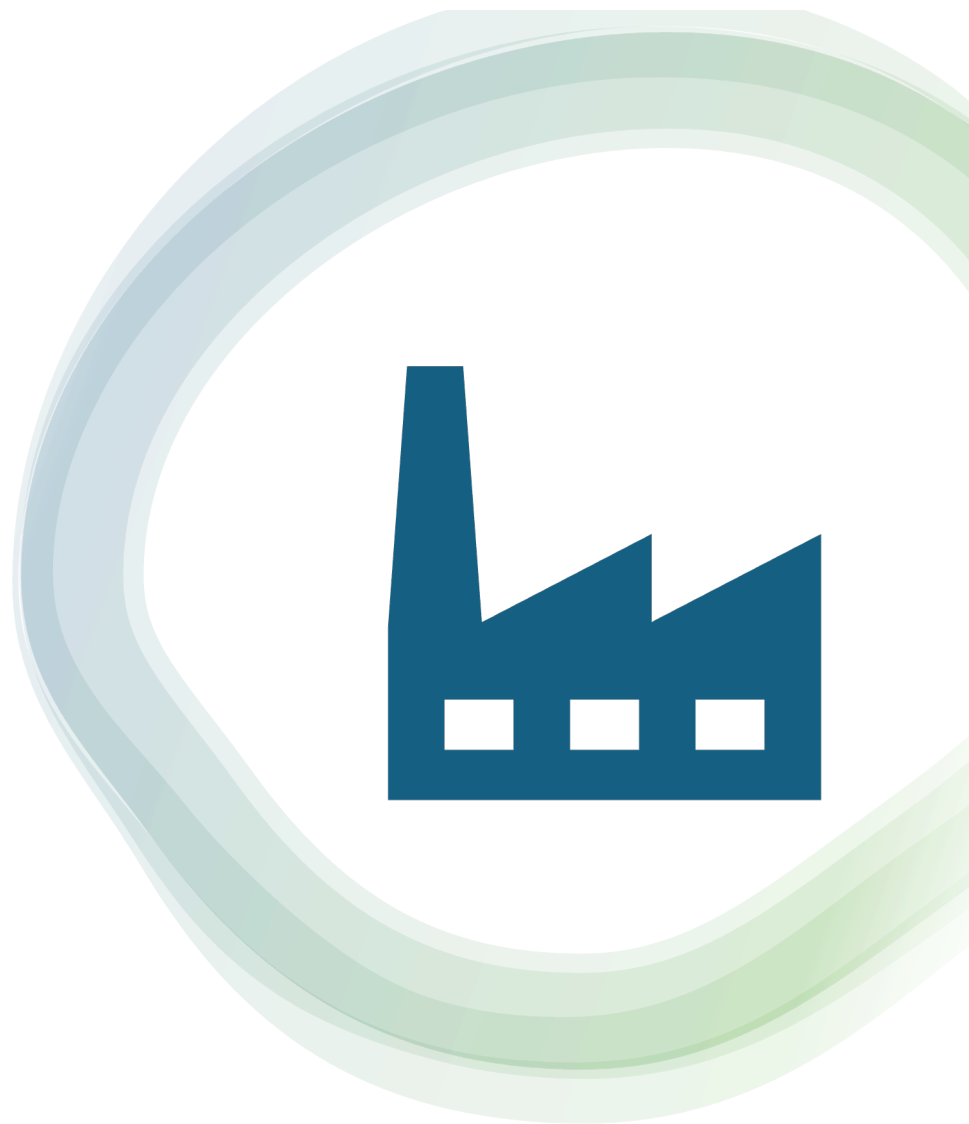
‘Smelters and refiners are an important stage in global mineral supply chains as they are typically **the last stage in which due diligence can effectively be assured** by collecting, disclosing and verifying information on the mineral's origin and chain of custody. After this stage of transformation, it is often considered to be unfeasible to trace back the origins of minerals’. (Preamble §16)

They have to comply with mandatory rules on due diligence when they import, as this is the most-risky part of the supply chain

# Downstream companies

Metal supply chain from the stage following the smelters and refiners to the final product. This includes the sale of the product.

- those importing **metal-stage products** also have to meet mandatory due diligence rules;
- those operating **beyond the metal stage** do not have obligations under the regulation, but they are expected to use reporting and other tools to make their due diligence more transparent, including, for many large companies, those in the non-financial reporting directive.



# Due Diligence Obligations

Importers have to follow a five-step framework set forth by the OECD

'Due Diligence Guidance for Responsible Supply Chains from Conflict-Affected and High-Risk Areas'.

- establish risk management systems (article 4);
- identify and assess risk in the supply chain (article 5);
- design and implement a strategy to respond to identified risks (article 6);
- carry out an independent third-party audit of supply chain due diligence (article 6), and;
- report annually on supply chain due diligence (article 7).

## **Strategy to respond to the identified risks designed so as to prevent or mitigate adverse impacts (article 5)**

- risk management plan;
- monitoring risk mitigation efforts;
- suspending or discontinuing engagement with a supplier after failed attempts at mitigation; (article 5(1)iii).



# Responsible smelters and refiners



EU importers will be required to identify the smelters and refiners in their supply chains and check whether they have the correct due diligence practices in place.



However, they are exempted from the third-party audit obligation if they can provide substantial evidence, including third-party audits, that all smelters and refiners in its supply chain comply with the EU Conflict Minerals Regulation (so-called responsible smelters and refiners).



European Commission implementing act: List of the names and addresses of global responsible smelters and refiners.



Indirectly, the Regulation promotes the responsible sourcing of smelters and refiners, whether they are based inside the EU or not.

# Standards - supply chain actors

- The Alliance for Responsible Mining (ARM) and Resolve, Code of Risk-Mitigation for Artisanal and Small-Scale Mining Engaging in Formal Trade (CRAFT)
- Fairtrade Gold and Fairmined, Standard for Gold and Associated Precious Metal from Artisanal and Small-Scale Mining (partially related to the EU Conflict Minerals Regulation as standards apply to the mine site and/or traders which is a different stage of the supply chain).
- Initiative for Responsible Mining Assurance (IRMA) Standard for Responsible Mining;
- International Council on Mining and Metals (ICMM) Code of Conduct;
- International Tin Supply Chain Initiative (ITSCI)
- World Gold Council (WGC), Conflict-Free Gold Standard and responsible Gold Mining Principles

# Control

Member States' Competent Authorities are responsible for ensuring the "effective and uniform" implementation of the Regulation.

They lack the necessary sector expertise and capacity to fulfill their task



## Conclusion

- Regulation is largely based on the OECD Due Diligence Guidance