

Securing a strong and effective EU regulation for supply chain due diligence to stop complicity in funding conflicts

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The European Parliament's vote: a great step forward

When considering the European Commission's "conflict minerals" proposal in March 2014, the vote in the European Parliament represents a great step forward for communities affected by human rights abuses fueled by natural resource extraction. The European Parliament's vote legally requires that all EU companies processing, importing and using tin, tantalum, tungsten and gold (3TG) act responsibly and undertake due diligence. This goes much further than the European Commission proposal, which only required European smelters and refiners to check their supply chains, on a voluntary basis. This evolution is a clear victory, though some gaps remain. But the message to the European Council and the European Commission is clear: A voluntary opt-in system for importers of raw materials is unacceptable.

Ahead of the vote, Church leaders calling for a strong regulation:

Nearly 150 Bishops from 38 countries on 5 continents joined their voices by signing the below [statement](#) supported by CIDSE the International alliance of Catholic development agencies, to highlight that *"this European regulation will succeed in bringing tangible change to suffering communities if it can be further strengthened in a few critical ways:*

- **Consistency in the range of natural resources covered.**
- **Shared responsibility by companies along the entire supply chain, from extractives companies to importers, suppliers and end-users that trade products containing natural resources.**
- **A mandatory due diligence system that follows best practices of the related OECD guidance, for undertaking and publicly reporting on efforts to source responsibly".**

Due Diligence, a practical tool for managing risks in supply chains:

According to the 2011 UN Guiding Principles' on Business & Human Rights, businesses must act with due diligence. Due diligence is *"an ongoing risk management process...in order to identify, prevent, mitigate and account for how [a company] addresses its adverse human rights impacts. It includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed."*

Due diligence is a practical and flexible tool. It focuses on what a company should do to assess and manage risks in its supply chain, not where it should do business. It recognises that a range of individual factors will affect a company's response to a risk, such as its position in the supply chain, size and leverage over suppliers. It takes a risk-based approach—efforts to investigate and manage risks should be on a case by case basis, tailored to the risks companies face in practice. It is based on companies making reasonable, proactive efforts and continual improvement.

There are many examples from around Europe, such as the Due Diligence law proposal in France¹ or the Modern Slavery Act in the United Kingdom², that show a clear trend to better regulate the activities of companies, so as to prevent their involvement in human rights abuses while giving guarantees to citizens that they are not complicit through their purchases.

In the [Encyclical](#) letter *Laudato Si* (24th may 2015), Pope Francis underlines that a due diligence approach must be a prerequisite to any economic activities: *“In any discussion about a proposed venture, a number of questions need to be asked in order to discern whether or not it will contribute to genuine integral development. What will it accomplish? Why? Where? When? How? For whom? What are the risks? What are the costs? Who will pay those costs and how?”* (para 185)

Recommendations for a strong and effective EU regulation:

In the new upcoming phase of the Trialogue (negotiation between European Parliament, European Council and European Commission), the involved stakeholders have a historical opportunity to secure a key achievement as well as to further strengthen the European Parliament text by:

1. **Supporting** a Regulation that requires **all companies first placing covered minerals on the EU market** —whether as raw materials or within products— to source responsibly, consistent with the OECD Due Diligence Guidance.
2. **Supporting** a Regulation that reflects the **flexible and progressive** nature of due diligence. Standards should be based on “reasonable” efforts and continual improvement, and tailored to a company’s individual circumstances, such as its position in the supply chain, size and influence over suppliers.
3. **Strengthening the upstream provisions** in the Parliament’s proposal and invite the Commission, OECD or other bodies to develop tools and guidance to assist upstream companies in meeting their obligations.
4. **Translating the downstream standards** in the OECD Due Diligence Guidance into legal text, and invite the Commission, OECD or other bodies to develop tools and guidance to assist downstream companies in meeting their obligations.
5. **Extend the monitoring and enforcement provisions** to cover all companies included within the scope of the regulation, including downstream companies that first place covered minerals on the internal market, and invite the Commission to provide guidance to ensure a harmonized and workable approach.
6. **Strengthen the accompanying measures** so that they better address potential development challenges linked to implementation, such as those faced in the artisanal and informal mining sectors.
7. **Include a mechanism that** allows other minerals and natural resources to be added to the scope of the regulation at a later date, as is the case under similar legislation in the US.

In a [letter](#) sent to community leaders affected by Mining on the 17th of July 2015, the Holy Father highlights that the extractive industry must share the responsibilities of the impacts: *“The entire mining sector is decisively called to effect a radical paradigm shift to improve the situation in many countries. To this change a contribution can be made by the governments of the home countries of multinational companies and of those in which they operate, by businesses and investors, by the local authorities who oversee mining operations, by workers and their representatives, by international supply chains with their various intermediaries and those who operate in the markets of these materials, and by the consumers of goods for whose production the minerals are required. All these people are called upon to adopt conduct inspired by the fact that we constitute a single human family, “that everything is interconnected, and that genuine care for our own lives and our relationships with nature is inseparable from fraternity, justice and faithfulness to others”*

¹ <http://ccfd-terresolidaire.org/infos/rse/de-la-responsabilite/un-premier-pas-4989>

² <http://www.cafod.org.uk/News/Campaigning-news/modern-slavery-bill-amend>

We need supply chain due diligence to stop complicity in funding conflicts

Companies are selling products containing natural resources that fuel violence and suffering.

We, Catholic leaders throughout the world, call on the EU to put an end to this.

As images and stories of horrors inflicted on vulnerable children, women and men in conflicts around the world strike us daily, citizens are expecting guarantees that they are not complicit. The indifference of a few, who look away from their part of responsibility for other peoples' pain, threatens our shared human dignity. To stop this, new rules are urgently needed to ensure that the bounty of God's creation does not serve unquestioning consumption while underwriting the destruction of life. **The Earth's resources must be managed wisely by good stewards, with assurances for people at both ends of today's global supply chains that join us as to the morality of our trading system.**

In certain Southern countries and especially those rich in resources (minerals, wood, gas, oil ...), the control, extraction, processing and trade of these resources are financing armed groups and security and military forces who commit serious violations of human rights, rather than contributing to human development. Everywhere in her power, the Church is at the side of the poor, working to protect those suffering from violence and to dialogue with those who can help end abuses.

We love this magnificent planet on which God has put us, and we love the human family which dwells here, with all its tragedies and struggles, its hopes and aspirations, its strengths and weaknesses. The earth is our common home and all of us are brothers and sisters. If indeed "the just ordering of society and of the state is a central responsibility of politics", the Church "cannot and must not remain on the sidelines in the fight for justice". (Pope Francis, *Evangelii Gaudium* 183)

As a major world trading power, the EU imports a significant amount of raw materials from regions affected by conflict. Through their supply chains, some European companies are complicit in abuses. This situation is intolerable. States are surely required to make every effort to ensure the conditions for peace, not only in their own territory but around the world. This is certainly the social teaching of the Catholic Church. **Governments, citizens and businessmen and men in the European Union must therefore take it upon themselves to ensure that their companies source natural resources responsibly.**

Economy, as the very word indicates, should be the art of achieving a fitting management of our common home, which is the world as a whole. Each meaningful economic decision made in one part of the world has repercussions everywhere else; consequently, no government can act without regard for shared responsibility. (Pope Francis, *Evangelii Gaudium* 206)

We welcome the fact that the European Commission has proposed a draft European regulation based on "a strategy for responsible trade in minerals from conflict zones [...] intended to put an end to the use of revenues from mining to finance armed conflict" in March 2014.

We are encouraged by the progress made as a result of Members of the European Parliament championing payment transparency in the extractive industries in 2013. **It is now time to continue on this positive path, with ambitious and binding rules to promote supply chain due diligence by companies concerning natural resources sourced from high-risk or conflict-affected areas.**

Section 1502 of the U.S. Dodd Frank Act adopted in 2010 represents a milestone. Companies listed on U.S. stock markets must now undertake supply chain due diligence to check whether minerals in their products contributed to funding armed groups in the Democratic Republic of the Congo and its nine neighboring countries. The European Commission's proposed regulation extends its scope to all areas of conflict and high risk in the world. This is an important and welcome development, showing the potential to continue to improve upon approaches.

We believe this European regulation will succeed in bringing tangible change to suffering communities, if it can be further strengthened in a few critical ways:

Consistency in the range of natural resources covered. In Peru, Zimbabwe, Myanmar and beyond, the suffering of people from human rights abuses and violence inflicted by armed groups and security and military forces controlling copper, diamonds and other precious resources is no different from situations related to tin, tantalum, tungsten and gold.

Shared responsibility by companies along the entire supply chain, from extractives companies to importers, suppliers and end-users that trade products containing natural resources. Including end-user companies in the scope will allow European citizens to bring positive influence to bear in setting the conditions for morality in supply chains. Their expressions of solidarity and empathy with people in situations of desperate violence will not be betrayed.

A mandatory due diligence system that follows best practices of the related OECD guidance, for undertaking and publicly reporting on efforts to source responsibly. As many of us are first-hand witnesses to the powerful dynamics in regions affected by conflict, having engaged in dialogue with all involved, we can assure that nothing less will be able to change the behavior of companies and other actors.

We, bishops and leaders of the Catholic Church, lend our support to civil society in the South and North working for peace and the responsible stewardship of creation. The EU has a unique opportunity to help end violent conflicts connected to natural resources, which have represented 40% of all conflicts globally over the last 60 years. We call on European Parliamentarians and European governments to rise up to this challenge.

The dignity of each human person and the pursuit of the common good are concerns which ought to shape all economic policies. At times, however, they seem to be a mere addendum imported from without in order to fill out a political discourse lacking in perspectives or plans for true and integral development. How many words prove irksome to this system! It is irksome when the question of ethics is raised, when global solidarity is invoked, when the distribution of goods is mentioned, when reference is made to protecting labour and defending the dignity of the powerless, when allusion is made to a God who demands a commitment to justice. At other times these issues are exploited by a rhetoric which cheapens them. Casual indifference in the face of such questions empties our lives and our words of all meaning. Business is a vocation, and a noble vocation, provided that those engaged in it see themselves challenged by a greater meaning in life; this will enable them truly to serve the common good by striving to increase the goods of this world and to make them more accessible to all. (Pope Francis, *Evangelii Gaudium* 203)

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