21 December 2023

IUMI Policy Agenda

Conflict minerals

Brief description

Supply chain due diligence requirements regarding so-called conflict minerals aimed at greater transparency, are applicable or introduced by (supra) national law makers.

EU Regulation 2017/821, which came into force on 1 January 2021, puts in place a framework for EU-based importers of certain metals and minerals origination from conflict-affected and high-risk areas (CAHRAs). The purpose is to ensure that trade into the EU is not funding conflicts and human rights abuses.

Importers, traders, smelters and refiners of

- concentrates and ores containing 3TG (tin, tantalum, tungsten and gold), and
- metals containing or consisting of 3TG

have to carry out obligatory due diligence checks on suppliers and origin of the materials.

The importers, including those who are not established in the EU, must declare minerals and/or metals for release and circulation in the EU. Smelters and refiners who exercise any form of extraction and/or metallurgy processing aiming at producing a metal from a mineral, are under the same due diligence obligation. Downstream users who do not directly import any of these materials are exempted from this obligation.

The supply chain due diligence obligations can be summarized as follows:

- adopt a supply chain policy for 3TG and communicate this to suppliers and the public; this includes risk assessment, a strategy to respond to identified risks, third party independent audits in the supply chain,
- implement due diligence standards as per OECD guidance[1];
- senior management to establish strong company management systems to control, hold records of the process and report,
- incorporate appropriate contractual provisions in the supply chain,
- provide for information and disclosure to authorities, and
- establish a complaint procedure for stakeholders including access to an external expert.

A review of the regulation commenced in September 2022 and may widen its scope to include other minerals and metals.

[1] https://www.oecd.org/corporate/mne/mining.htm

Similar provisions are part of the US ‘Dodd-Frank’ Act section 1502 aiming at the Democratic Republic of Congo (DRC) and neighbouring countries.