



EUROPEAN PARLIAMENT

2014 - 2019

Committee on Foreign Affairs

2014/0059(COD)

19.12.2014

DRAFT OPINION

of the Committee on Foreign Affairs

for the Committee on International Trade

on the proposal for a regulation of the European Parliament and of the Council setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk areas
(COM(2014)0111 – C7-0092/2014 – 2014/0059(COD))

Rapporteur: Reinhard Bütikofer

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SHORT JUSTIFICATION

In July 2010 the United States signed into law via the Dodd-Frank Wall Street Reform and Consumer Protection Act mandatory disclosure requirements for the conflict minerals tin, tantalum, tungsten and gold for companies manufacturing products or contracting to manufacture products. This legislation promotes the due diligence of companies and is crucial in limiting the trade in conflict minerals thereby supporting conflict mitigation and prevention as well as the protection of human rights. As the legislation covers US-listed companies, European companies are also required if they are listed there to adhere to the mandatory disclosure requirements.

The European Parliament has supported this kind of legislation in numerous resolutions, most recently in its resolution "Promoting Development through Responsible Business Practices" adopted in February 2014. In March 2014, the European Commission published its own proposal on conflict minerals. This proposed regulation, however, only foresees a voluntary self-certification scheme for importers of the above-mentioned conflict minerals.

As such, the European proposed legislation is less ambitious than its US counterpart and would be much less effective in achieving its proclaimed goal. In this context, a wide variety of stakeholders have called on the European Parliament and Commission to strengthen the proposal and adopt similar legislation as the US. Most recently, the European Parliament's Sakharov Prize Winner 2014 - Dr Denis Mukwege - in his acceptance speech at the plenary of the European Parliament said that this proposed EU regulation "which is going to be looked at by your assembly (the European Parliament) ought to include a mandatory dimension and also ought to include looking at the final products". Global investors and investment organizations representing more than €855 billion in assets under management have also written to the European Commission, urging it to adopt legislation on conflict minerals that better aligns with Section 1502 of the US Dodd Frank legislation. Similar calls have been made by religious leaders, non-governmental organisations and industry.

It is in this context, that the enclosed draft AFET Opinion amends the European Commission's proposal to better align it with the US Dodd-Frank legislation. This would ensure consistency between the two largest trading blocks and would thereby promote a single, international standard facilitating trade harmonisation and avoiding market distortions.

AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on International Trade, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation
Title of the legal act

Text proposed by the Commission

Proposal for a

REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

setting up a Union system for supply chain
due diligence *self-certification of
responsible importers of* tin, tantalum and
tungsten, their ores, and gold originating in
conflict-affected and high-risk areas

Amendment

Proposal for a

REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

setting up a Union system for supply chain
due diligence *obligations of public-interest
entities and large undertakings that
manufacture or contract to manufacture
products containing* tin, tantalum and
tungsten, their ores, and gold originating in
conflict-affected and high-risk areas

Or. en

Amendment 2

**Proposal for a regulation
Recital 13**

Text proposed by the Commission

(13) Smelters and refiners are an important
point 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
unfeasible to trace back the origins of
minerals. A Union list of responsible
smelters and refiners could therefore
provide transparency and certainty to
downstream companies as regards supply
chain due diligence practices.

Amendment

(13) *In addition to the obligations of the
public-interest entities and large
undertakings that manufacture or
contract to manufacture products
containing minerals or metals*, smelters
and refiners are *also* an important point 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
unfeasible to trace back the origins of
minerals. A Union list of responsible
smelters and refiners could therefore
provide transparency and certainty to
downstream companies as regards supply
chain due diligence practices.

Amendment 3**Proposal for a regulation****Recital 14***Text proposed by the Commission*

(14) The Member State competent authorities are responsible to ensure the uniform compliance *of the self-certification* of *responsible importers* by carrying out appropriate ex-post checks so as to verify whether *the self-certified responsible importers of the minerals and/or metals within the scope of the Regulation* comply with the supply chain due diligence obligations. Records of such checks should be kept for at least 5 years. Member States are responsible to lay down the rules applicable to infringements of the provisions of this Regulation.

Amendment

(14) The Member State competent authorities are responsible to ensure the uniform compliance *with the obligations set out in this Regulation* of *public-interest entities and large undertakings that manufacture or contract to manufacture products containing minerals or metals within the scope of this Regulation pursuant to Directive 2013/34/EU of the European Parliament and of the Council*^{1a} by carrying out appropriate ex-post checks so as to verify whether *they* comply with the supply chain due diligence obligations. Records of such checks should be kept for at least 5 years. Member States are responsible to lay down the rules applicable to infringements of the provisions of this Regulation.

^{1a} *Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC Text with EEA relevance (OJ L 182, 29.6.2013, p. 19).*

Amendment 4

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) In order to ensure the proper implementation of this Regulation, implementing powers should be conferred on the Commission. The implementing powers relating to the *list of responsible smelters and refiners and the list of Member State competent authorities* should be exercised in accordance with Regulation (EU) No 182/2011¹¹.

¹¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Amendment

(15) In order to ensure the proper implementation of this Regulation, implementing powers should be conferred on the Commission. The implementing powers relating to the *Annexes* should be exercised in accordance with Regulation (EU) No 182/2011¹¹.

¹¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Or. en

Amendment 5

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) The Commission should report regularly to the Council and the European Parliament on the effects of the scheme. No later than three years after entering into force and every six years thereafter, the Commission should review the functioning and the effectiveness of this Regulation,

Amendment

(16) The Commission should report regularly to the Council and the European Parliament on the effects of the scheme. No later than three years after entering into force and every six years thereafter, the Commission should review the functioning and the effectiveness of this Regulation,

including as regards the promotion of responsible sourcing of the minerals within its scope from conflict-affected and high-risk areas. The reports may be accompanied, if necessary, by appropriate legislative proposals, ***which may include mandatory measures,***

including as regards the promotion of responsible sourcing of the minerals within its scope from conflict-affected and high-risk areas. The reports may be accompanied, if necessary, by appropriate legislative proposals,

Or. en

Amendment 6

Proposal for a regulation Recital 16 a (new)

Text proposed by the Commission

Amendment

(16 a) The High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission and the European Commission should implement accompanying measures leading to an integrated EU approach to Responsible Sourcing as listed in the Joint Communication of 5. 3. 2014 on the matter, in parallel with this legislation.

Or. en

Amendment 7

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

Amendment

1. This Regulation sets up a Union system for supply chain due diligence self-certification in order to curtail opportunities for armed groups and security forces¹² to trade in tin, tantalum and tungsten, their ores, and gold. It is

deleted

designed to provide transparency and certainty as regards the supply practices of importers, smelters and refiners sourcing from conflict-affected and high-risk areas.

¹² *'Armed groups and security forces' as defined in Annex II of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Second Edition, OECD Publishing (OECD (2013). <http://dx.doi.org/10.1787/9789264185050-en>.*

Or. en

Amendment 8

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation lays down the supply chain due diligence obligations of Union ***importers who choose to be self-certified as responsible importers of*** minerals or metals containing or consisting of tin, tantalum, tungsten and gold, as set out in Annex I.

Amendment

2. This Regulation lays down the supply chain due diligence obligations of Union ***public-interest entities and large undertakings that manufacture or contract to manufacture products containing*** minerals or metals containing or consisting of tin, tantalum, tungsten and gold, as set out in Annex I. ***It is designed to provide transparency and certainty as regards their supply practices when sourcing from conflict-affected and high-risk areas, in order to minimise or prevent violent conflicts and human rights abuse by curtailing opportunities for armed groups and security forces, as defined in in Annex II to the OECD Due Diligence Guidance, to trade in those minerals or metals.***

Amendment 9

Proposal for a regulation

Article 2 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) 'manufacturing products or contracting to manufacture products' means having some actual influence over the manufacturing of products containing minerals or metals containing or consisting of tin, tantalum, tungsten and gold, taking into account facts and circumstances, and the degree of influence public-interest entities and large undertakings exercise over the product's manufacturing. Public-interest entities and large undertakings are not deemed to have influence over the manufacturing if they merely: affix their brand, marks, logo, or label to a generic product manufactured by a third party; service, maintain, or repair a product manufactured by a third party; specify or negotiate contractual terms with a manufacturer that do not directly relate to the manufacturing of the product.

Or. en

Amendment 10

Proposal for a regulation

Article 2 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) 'importer' means any natural or legal person declaring minerals or metals within the scope of this Regulation for

deleted

release for free circulation within the meaning of Article 79 of Council Regulation (EEC) No 2913/1992¹³;

¹³ ' Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

Or. en

Amendment 11

Proposal for a regulation
Article 2 – paragraph 1 – point h

Text proposed by the Commission

Amendment

(h) 'responsible importer' means any importer who chooses to self-certify according to the rules set out in this Regulation;

deleted

Or. en

Amendment 12

Proposal for a regulation
Article 2 – paragraph 1 – point h a (new)

Text proposed by the Commission

Amendment

(h a) 'public interest entities' means undertakings that manufacture or contract to manufacture products containing minerals or metals containing or consisting of tin, tantalum, tungsten and gold within the scope of this Regulation and defined pursuant to first indent of Article 2(1) of Directive 2013/34/EU as those that are governed by

the law of a Member State and whose transferable securities are admitted to trading on a regulated market of any Member State within the meaning of point (14) of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council^{1a};

^{1a} Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC(OJ L 145, 30.4.2004, p. 1).

Or. en

Amendment 13

Proposal for a regulation

Article 2 – paragraph 1 – point h b (new)

Text proposed by the Commission

Amendment

(h b) 'large undertakings' mean undertakings that manufacture or contract to manufacture products containing minerals or metals containing or consisting of tin, tantalum, tungsten and gold within the scope of this Regulation which on its balance sheet dates exceed at least two of the three following criteria pursuant to Article 3(7) of Directive 2013/34/EU:

- balance sheet total: EUR 20 000 000;*
- net turnover: EUR 40 000 000;*
- average number of employees during the financial year: 250.*

Or. en

Amendment 14

Proposal for a regulation

Article 2 – paragraph 1 – point i

Text proposed by the Commission

(i) 'self-certification' means the act of declaring one's adherence to the obligations relating to management systems, risk management, third-party audits and disclosure as set out in this Regulation;

Amendment

deleted

Or. en

Amendment 15

Proposal for a regulation

Article 2 – paragraph 1 – point p

Text proposed by the Commission

(p) 'responsible smelters or refiners' means smelters or refiners in the supply chain of the *responsible importer*;

Amendment

(p) 'responsible smelters or refiners' means smelters or refiners in the supply chain of the *public-interest entities and the large undertakings, as listed under Article 8 of this Regulation*;

Or. en

Amendment 16

Proposal for a regulation

Article 3 – title

Text proposed by the Commission

Self-certification as a responsible

Amendment

Supply chain due diligence obligations of public-interest entities and large

importer

undertakings

Or. en

Amendment 17

Proposal for a regulation Article 3 – paragraph 1

Text proposed by the Commission

1. *Any importer of minerals or metals* within the scope of *the* Regulation *may self-certify as responsible importer* by declaring to a Member State competent authority that *it* adheres to the supply chain due diligence obligations set out in this Regulation. The declaration shall contain documentation in which the *importer* confirms its adherence to the obligations including results of the independent third-party audits carried out.

Amendment

1. *All public-interest entities and large undertakings* within the scope of *this* Regulation *shall* certify by declaring to a Member State competent authority that they adhere to the supply chain due diligence obligations set out in this Regulation. The declaration shall contain documentation in which the *public-interest entity or the large undertaking* confirms its adherence to the obligations including results of the independent third-party audits carried out.

Or. en

Amendment 18

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

2. The Member State competent authorities shall *carry out appropriate ex-post checks in order to* ensure that *self-certified responsible importers of the minerals or metals* within the scope of this Regulation comply with their obligations pursuant to Articles 4, 5, 6, and 7 of this Regulation.

Amendment

2. The Member State competent authorities shall ensure that *public-interest entities and large undertakings* within the scope of this Regulation comply with their obligations pursuant to Articles 4, 5, 6, and 7 of this Regulation.

Or. en

Amendment 19

Proposal for a regulation

Article 4 – paragraph 1 – introductory wording

Text proposed by the Commission

The *responsible importer of the minerals or metals* within the scope of this Regulation shall:

Amendment

The *public-interest entities and the large undertakings* within the scope of this Regulation shall:

Or. en

Amendment 20

Proposal for a regulation

Article 4 – paragraph 1– point f – indent ii

Text proposed by the Commission

(ii) name and address of the supplier to the *importer*,

Amendment

(ii) name and address of the supplier to the *public-interest entity or the large undertaking*,

Or. en

Amendment 21

Proposal for a regulation

Article 4 – paragraph 1– point f – indent v a (new)

Text proposed by the Commission

Amendment

(v a) when minerals originate from undeterminable areas, for a temporary two-year period, additional information, as follows:
- the facilities used to process the

minerals, if known;

- the country of origin of the minerals, if known;

- the efforts to determine the mine or location of origin with the greatest possible specificity;

- the steps that have or will be taken, if any, since the most recent declaration in accordance with Article 7 of this Regulation to mitigate the risk in accordance with Article 5 of this Regulation , including any steps to improve due diligence;

For those products that contain minerals of undeterminable origin, the public-interest entities and the large undertakings shall not be required to obtain a third party audit.

Or. en

Amendment 22

Proposal for a regulation

Article 4 – paragraph 1– point g – indent vi a (new)

Text proposed by the Commission

Amendment

(vi a) where the public-interest entities and the large undertakings can reasonably conclude and prove that metals are derived from recycled or scrap sources, they shall be exempt from application of this Regulation;

Or. en

Amendment 23

Proposal for a regulation

Article 4 – paragraph 1 – point g – indent vi b (new)

Text proposed by the Commission

Amendment

(vi b) where public-interest entities and the large undertakings cannot conclude that its source of gold is derived from recycled or scrap sources, they shall be required to provide additional information in accordance with the specific recommendations set out in the OECD Due Diligence Guidance and its Supplement on Gold and to obtain a third party audit;

Or. en

Amendment 24

Proposal for a regulation

Article 4 – paragraph 1 – point g – indent vi c (new)

Text proposed by the Commission

Amendment

(vi c) where public-interest entities and the large undertakings cannot conclude that its sources of tin, tantalum or tungsten are derived from recycled or scrap sources, they shall be required to describe the due diligence measures they exercised in determining that its metals are from recycled or scrap sources and shall not be required to obtain a third party audit;

Or. en

Amendment 25

Proposal for a regulation

Article 5 – paragraph 1 – introductory wording

Text proposed by the Commission

1. The **responsible importer of the minerals or metals** within the scope of this Regulation shall:

Amendment

1. The **public-interest entities and the large undertakings** within the scope of this Regulation shall:

Or. en

Amendment 26

Proposal for a regulation

Article 5 – paragraph 2

Text proposed by the Commission

2. If a **responsible importer** pursues risk mitigation efforts while continuing trade or temporarily suspending trade, it shall consult with suppliers and affected stakeholders, including local and central government authorities, international or civil society organisations and affected third parties, and agree on a strategy for measurable risk mitigation in the risk management plan.

Amendment

2. If a **public-interest entity or a large undertaking** pursues risk mitigation efforts while continuing trade or temporarily suspending trade, it shall consult with suppliers and affected stakeholders, including local and central government authorities, international or civil society organisations and affected third parties, and agree on a strategy for measurable risk mitigation in the risk management plan.

Or. en

Amendment 27

Proposal for a regulation

Article 5 – paragraph 3

Text proposed by the Commission

3. A **responsible importer** shall, in order to design conflict and high-risk sensitive

Amendment

3. A **public-interest entity or a large undertaking** shall, in order to design

strategies for mitigation in the risk management plan, rely on the measures and indicators under Annex III of the OECD Due Diligence Guidance and measure progressive improvement.

conflict and high-risk sensitive strategies for mitigation in the risk management plan, rely on the measures and indicators under Annex III of the OECD Due Diligence Guidance and measure progressive improvement.

Or. en

Amendment 28

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

The **responsible importer of the minerals or metals** within the scope of this Regulation shall carry out audits via an independent third-party.

Amendment

The **public-interest entity and the large undertaking** within the scope of this Regulation shall carry out audits via an independent third-party.

Or. en

Amendment 29

Proposal for a regulation Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) include in the audit scope all of the **responsible importer's** activities, processes and systems used to implement supply chain due diligence regarding minerals or metals within the scope of the Regulation, including the **responsible importer's** management system, risk management, and disclosure of information,

Amendment

(a) include in the audit scope all of the **public-interest entity's or the large undertaking's** activities, processes and systems used to implement supply chain due diligence regarding minerals or metals within the scope of the Regulation, including the **public-interest entity's or the large undertaking's** management system, risk management, and disclosure of information,

Or. en

Amendment 30

Proposal for a regulation Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) determine as the objective of the audit the conformity of the **responsible importer's** supply chain due diligence practices with Articles 4, 5 and 7 of this Regulation,

Amendment

(b) determine as the objective of the audit the conformity of the **public-interest entity's or the large undertaking's** supply chain due diligence practices with Articles 4, 5 and 7 of this Regulation,

Or. en

Amendment 31

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

1. By 31 March of each year at the latest, the **responsible importer of minerals or metals** within the scope of this Regulation shall submit to the Member State competent authority the following documentation covering the previous year's calendar period:

Amendment

1. By 31 March of each year at the latest, the **public-interest entity or the large undertaking** within the scope of this Regulation shall submit to the Member State competent authority the following documentation covering the previous year's calendar period:

Or. en

Amendment 32

Proposal for a regulation Article 7 – paragraph 2

Text proposed by the Commission

2. By 31 March of each year at the latest,

Amendment

2. By 31 March of each year at the latest,

the *responsible importer of minerals* within the scope of this Regulation shall submit to the Member State competent authority the documentation covering the previous year's calendar period as regards the proportion of minerals originating from conflict-affected and high-risk areas relative to the total amount of minerals purchased, as confirmed by independent third-party audits in accordance with Article 6 of this Regulation.

the *public-interest entity or the large undertaking* within the scope of this Regulation shall submit to the Member State competent authority the documentation covering the previous year's calendar period as regards the proportion of minerals originating from conflict-affected and high-risk areas relative to the total amount of minerals purchased, as confirmed by independent third-party audits in accordance with Article 6 of this Regulation.

Or. en

Amendment 33

Proposal for a regulation Article 7 – paragraph 3

Text proposed by the Commission

3. By 31 March of each year at the latest, the *responsible importer of metals* within the scope of this Regulation shall submit to the Member State competent authority the following documentation covering the previous year's calendar period:

Amendment

3. By 31 March of each year at the latest, the *public-interest entity or the large undertaking* within the scope of this Regulation shall submit to the Member State competent authority the following documentation covering the previous year's calendar period:

Or. en

Amendment 34

Proposal for a regulation Article 7 – paragraph 4

Text proposed by the Commission

4. The *responsible importer of minerals or metals* within the scope of this Regulation shall make available to its immediate

Amendment

4. The *public-interest entity or the large undertaking* within the scope of this Regulation shall make available to its

downstream purchasers all information gained and maintained pursuant to its supply chain due diligence with due regard to business confidentiality and other competitive concerns.

immediate downstream purchasers all information gained and maintained pursuant to its supply chain due diligence with due regard to business confidentiality and other competitive concerns.

Or. en

Amendment 35

Proposal for a regulation Article 7 – paragraph 5

Text proposed by the Commission

5. The **responsible importer of minerals or metals** within the scope of this Regulation shall publicly report as widely as possible, including on the internet and on an annual basis on its supply chain due diligence policies and practices for responsible sourcing. The report shall contain the steps taken by the **responsible importer** to implement the obligations as regards its management system, risk management set out in Article 4 and 5 respectively, as well as a summary report of the third-party audits, including the name of the auditor, with due regard to business confidentiality and other competitive concerns.

Amendment

5. The **public-interest entity or the large undertaking** within the scope of this Regulation shall publicly report as widely as possible, including on the internet and on an annual basis on its supply chain due diligence policies and practices for responsible sourcing. The report shall contain the steps taken by the **public-interest entity or the large undertaking** to implement the obligations as regards its management system, risk management set out in Article 4 and 5 respectively, as well as a summary report of the third-party audits, including the name of the auditor, with due regard to business confidentiality and other competitive concerns.

Or. en

Amendment 36

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

2. The Commission shall identify on the

Amendment

2. The Commission shall identify on the

list referred to in paragraph 1 those responsible smelters and refiners that source – at least partially – from conflict-affected and high-risk areas.

list referred to in paragraph 1 those responsible smelters and refiners that source – at least partially *or indirectly* – from conflict-affected and high-risk areas.

Or. en

Amendment 37

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

4. The Commission shall update the information included in the list in a timely manner. *The Commission shall remove from the list the names of the smelters and refiners that are no longer recognised as responsible importers by Member States in accordance with Article 14(3), or the names of the smelters and refiners in the supply chain of the no longer recognised responsible importers.*

Amendment

4. The Commission shall update the information included in the list in a timely manner, *but not less than every 6 months.*

Or. en

Amendment 38

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

1. Each Member State shall designate one or more competent authorities in charge of the application of this Regulation.

Member States shall inform the Commission of the names and addresses of the competent authorities within 3 months after the entry into force of this Regulation. Member States shall inform the

Amendment

1. Each Member State shall designate one or more competent authorities in charge of the application of this Regulation.

Member States shall inform the Commission of the names and addresses of the competent authorities within 3 months after the entry into force of this Regulation. Member States shall inform the

Commission of any changes to the names or addresses of the competent authorities.

Commission of any changes to the names or addresses of the competent authorities *in a timely manner*.

Or. en

Amendment 39

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. The Commission shall ***make a decision to*** publish, including on the internet, a list of competent authorities in accordance with the template in Annex III and the regulatory procedure referred to in paragraph 2 of Article 13. The Commission shall update the list regularly.

Amendment

2. The Commission shall publish, including on the internet, a list of competent authorities in accordance with the template in Annex III and the regulatory procedure referred to in paragraph 2 of Article 13. The Commission shall update the list regularly.

Or. en

Amendment 40

Proposal for a regulation Article 10 – title

Text proposed by the Commission

Ex-post checks ***on responsible importers***

Amendment

Ex-post checks

Or. en

Amendment 41

Proposal for a regulation Article 10 – paragraph 1

Text proposed by the Commission

1. The competent authorities of the Member States shall carry out appropriate ex-post checks in order to ensure whether ***self-certified responsible importers of minerals and metals*** within scope of this Regulation comply with the obligations set out in Articles 4, 5, 6 and 7.

Amendment

1. The competent authorities of the Member States shall carry out appropriate ex-post checks in order to ensure whether ***public-interest entities and large undertakings*** within scope of this Regulation comply with the obligations set out in Articles 4, 5, 6 and 7.

Or. en

Amendment 42

**Proposal for a regulation
Article 10 – paragraph 2**

Text proposed by the Commission

2. The checks referred to in paragraph 1 shall be conducted by taking a risk-based approach. In addition, checks ***may*** be conducted when a competent authority is in possession of relevant information, including on the basis of substantiated concerns provided by third parties, concerning the compliance by a responsible importer with this Regulation.

Amendment

2. The checks referred to in paragraph 1 shall be conducted by taking a risk-based approach. In addition, checks ***shall*** be conducted when a competent authority is in possession of relevant information, including on the basis of substantiated concerns provided by third parties, concerning the compliance by a responsible importer with this Regulation.

Or. en

Amendment 43

**Proposal for a regulation
Article 10 – paragraph 3 – point a**

Text proposed by the Commission

(a) examination of the ***responsible importer's*** implementation of supply chain due diligence obligations including the

Amendment

(a) examination of the ***public-interest entity's or the large undertaking's*** implementation of supply chain due

management system, risk management, independent third-party audit and disclosure,

diligence obligations including the management system, risk management, independent third-party audit and disclosure,

Or. en

Amendment 44

Proposal for a regulation Article 10 – paragraph 4

Text proposed by the Commission

4. **Responsible importers** shall offer all assistance necessary to facilitate the performance of the checks referred to in paragraph 1, notably as regards access to premises and the presentation of documentation and records.

Amendment

4. **Public-interest entities and large undertakings** shall offer all assistance necessary to facilitate the performance of the checks referred to in paragraph 1, notably as regards access to premises and the presentation of documentation and records.

Or. en

Amendment 45

Proposal for a regulation Article 11 – title

Text proposed by the Commission

Records of checks **on responsible importers**

Amendment

Records of checks

Or. en

Amendment 46

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

1. Competent authorities shall exchange information, including with their respective customs authorities, on matters pertaining to *self-certification* and ex-post checks carried out.

Amendment

1. Competent authorities shall exchange information, including with their respective customs authorities, on matters pertaining to ***obligations of public-interest entities and large undertakings*** and ex-post checks carried out ***as set out in this Regulation***.

Or. en

Amendment 47

Proposal for a regulation Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

List of conflict-affected and high-risk areas.

1. A list of conflict-affected and high-risk areas shall be established by the Commission, in close cooperation with the European External Action Service, pursuant to Article 3 of Council Decision 2010/427/EU^{1a}, in accordance with the template in (Annex III a new) and the regulatory procedure referred to in Article 13(2) of this Regulation. It shall be established on the basis of information received by its services, the Member States and its competent authorities, from open sources or third parties. It shall be updated in a timely manner, when relevant, but not less than every 6 months.

1^a Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

Or. en

Amendment 48

Proposal for a regulation Article 13 – paragraph 2

Text proposed by the Commission

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

Amendment

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Or. en

Amendment 49

Proposal for a regulation Article 14 – title

Text proposed by the Commission

Rules applicable to infringement

Amendment

Rules applicable to infringement ***and penalties***

Or. en

Amendment 50

Proposal for a regulation Article 14 – paragraph 2

Text proposed by the Commission

2. In case of an infringement of the provisions of this Regulation, the competent authorities of Member States shall issue a notice of remedial action to be taken by the *responsible importer*.

Amendment

2. In case of an infringement of the provisions of this Regulation, the competent authorities of Member States shall issue a notice of remedial action to be taken by the *public-interest entity or the large undertaking*.

Or. en

Amendment 51

Proposal for a regulation Article 14 – paragraph 3

Text proposed by the Commission

3. In case of inadequate remedial action by the *responsible importer*, the competent authority shall *issue to the importer a notice of non-recognition of its responsible importer certificate as regards the minerals or metals* within the scope of this Regulation *and inform the Commission*.

Amendment

3. In case of inadequate remedial action by the *public-interest entity or the large undertaking*, the competent authority shall *take note of such non-action as infringement of the obligations* within the scope of this Regulation.

Or. en

Amendment 52

Proposal for a regulation Article 14 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3 a) Member States shall provide for penalties applicable to infringements of this Regulation and shall take all the measures necessary to ensure that those penalties are enforced. The penalties provided for shall be effective, proportionate and dissuasive.

Or. en

Amendment 53

Proposal for a regulation Article 15 – paragraph 3

Text proposed by the Commission

Amendment

3. Three years after the entry into force of this Regulation and every six years thereafter, the Commission shall review the functioning and effectiveness of this Regulation, including on the promotion and cost of responsible sourcing of the minerals within its scope from conflict-affected and high-risk areas. The Commission shall submit a review report to the European Parliament and to the Council.

3. Three years after the entry into force of this Regulation and every six years thereafter, the Commission shall review the functioning and effectiveness of this Regulation, including on the promotion and cost of responsible sourcing of the minerals within its scope from conflict-affected and high-risk areas, ***including policy orientations taking into account effectiveness of any accompanying measures. The Commission shall review the possibility of extending the scheme to additional minerals and metals in accordance with the first sentence of this paragraph.*** The Commission shall submit a review report to the European Parliament and to the Council.

Or. en

Amendment 54

Proposal for a regulation Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Accompanying measures ensuring an integrated EU approach to Responsible Sourcing

1. The Commission shall present jointly with the European External Action Service to the European Parliament and to the Council accompanying measures in order to ensure an integrated EU approach to Responsible Sourcing, including:

- Incentives for companies to promote responsible sourcing;***
- Meaningful policy dialogues with third countries and other stakeholders; including the possibility of joining of the public-private alliance for responsible minerals trade launched by the US;***
- Continued development cooperation with third countries, in particular assistance with commercialisation of conflict-free minerals;***
- Raw materials diplomatic efforts and honest brokering;***
- Close cooperation with the Member States, in particular complementary initiatives in the area of consumer information and labelling and further incentives for responsible corporate behaviour, as well as performance clauses of procurement contracts signed by their authorities as foreseen under the Directive 2014/24/EU of the European Parliament and of the Council^{1a} EU Public Procurement Directive.***

2. The High Representative of the Union for Foreign Affairs and Security Policy /

Vice-President of the Commission and the European Commission shall present to the European Parliament and to the Council an annual progress report pursuant to this Article.

^{1a} Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

Or. en

Amendment 55

Proposal for a regulation Annex III a (new)

Text proposed by the Commission

Amendment

Annex III a

List of conflict-affected and high-risk areas referred to in Article 12 a

Conflict-affected and high-risk areas will be listed in an alphabetical order.

Or. en