

European Parliament considering highly restrictive conflict minerals regime

February 12, 2015

Conflict Minerals

Recent developments in the European Parliament threaten to make compliance with the future EU conflict minerals regime extremely complicated for companies that require tin, tantalum, tungsten, their ores or gold.

Background

The European Commission was encouraged to propose a European regime which would emulate the US Dodd Frank 1502 legislation in order to discourage the use of the abovementioned minerals extracted in the conflict zone of the Great Lakes region, like Dodd Frank, to the benefit of armed groups.

In April 2014, EU Trade Commissioner Karel de Gucht proposed a regulation which was carefully constructed as not to impose unrealistic obligations on end users, suggesting only a voluntary “self-certification” regime for importers and a tracing system from the mine to the smelters. Many Members of the European Parliament (MEPs) vehemently criticized the Commission for a “lack of ambition.”

A mandatory / global mechanism?

The European Parliament and the Council of the European Union are now considering the proposal. We understand that rapporteurs from the Committees on Foreign Affairs (“AFET”) and Development (“DEVE”) have called for a mandatory mechanism.

Furthermore, one of the draft opinions explicitly asks for alignment of the EU legislation with Dodd Frank, thereby extending mandatory reporting requirements to “public-interest entities and large undertakings that manufacture or contract to manufacture products containing conflict minerals.”

While the draft opinions will need to be discussed and then adopted in the respective Committees, these first drafts set a worrying tone for the upcoming EU debate. These developments are all the more problematic as the proposed EU regime would not just apply to the Great Lakes region but to all conflict zones in the world.

Next steps in the legislative process

1. The Parliament’s Committee on International Trade (“INTA”), which is the lead Committee, is set to discuss a draft report on February 23-24. This draft report should be published by February 20.
2. MEPs will be able to amend the draft report until February 26, before INTA is set to adopt it on March 18-19.

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3. The DEVE and AFET Committees are due to adopt their opinions on February 24 and March 9.
4. The Parliament's plenary vote is expected to take place in April 2015 (indicative date).
5. The Council is discussing the proposal in parallel. In practice, MEPs and the Council may want to enter into negotiations in the coming weeks in view of reaching a first-reading agreement before the EP's vote.

How we can help

Companies with products containing tin, tantalum, tungsten, their ores or gold should stay abreast of EU legislative developments, and may wish to act quickly in order to inform and educate the MEPs who are considering such a strict regime

While it is important to support international efforts to discourage the financing of conflict with the revenues from minerals, any legislation must be appropriately balanced so that it does not discourage all mining activity in the Great Lakes region (or worse, all conflict zones) and does not impose requirements on end users that are almost impossible to comply with.

Covington's lawyers are among the most experienced on the Dodd Frank 1502 legislation in the US. Furthermore, our Africa practice and EU public affairs team in Brussels have been following the development of the EU regime very closely since the beginning.

Your company may be impacted by the EU legislation, and we would like to set a time to give you a call to discuss our capabilities in this area and how we might help you achieve a workable outcome in the EU institutions.

If that would be of interest, please click [here](#) to contact us. Alternatively, feel free to contact the individuals below.

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