

CONFLICT MINERALS - DEBATE IN THE EUROPEAN PARLIAMENT

On November 6, the Committee for international Trade (iNTA) of the European Parliament will have a first exchange of views on the proposal presented in March by the European Commission on “Minerals originating in conflict affected and high risk areas”. This is the European Union version of the so-called Dodd Franck 1502 legislation in the United States, which since May of this year imposed reporting obligations to end users of “conflict minerals” originating from the Great Lakes region in Central Africa.

The Commission proposal did not make too many waves when it was presented as it was essentially suggesting a non-binding regime, imposing no obligation to the end user: The draft regulation suggested a EU system of self-certification for importers of tin, tantalum, tungsten and gold who would choose to import “responsibly” into the Union. They would be required to exercise “due diligence” by monitoring and administering their purchases in line with the relevant OECD guidelines. To increase public accountability, a list of “responsible smelters and refiners” would be set up every year. Companies selling products containing these minerals would receive public procurement incentives and SMEs and the OECD would get financial support.

If the products covered by the proposed regime are the same as those covered by Dodd Franck 1502, the geographical scope as proposed by the European Commission would be radically different: it would cover all “conflict zones” in the world and not only the Great Lakes region. The Commission judged that focussing on a specific region would be politically difficult to justify and thought the global approach would not be too problematic since the regime was voluntary. But it would obviously raise new and complex questions if the regulation were made mandatory and imposed reporting obligations to end users, as with the SEC process implementing Dodd Franck in the United States.

Even if it was strongly criticized for its “lack of ambition” by a coalition of rights groups, including Global Witness and Amnesty International, the proposal is not likely to be changed by the new Juncker Commission: Cecilia Malmström, the new Trade Commissioner, and the Commissioner in charge of Development Neven Mimica both confirmed in their hearing in the Parliament in October that they would stick to the voluntary regime proposed by Commissioner De Gucht.

But in the Parliament itself, echoing the reaction of the NGO coalition, a lot of criticism can be heard about the proposal and serious attempts will be made to make the European regime mandatory, as is Dodd Franck - but applicable all over the world.

The first efforts in the Parliament will aim at widening the discussion: the Greens have already asked that the proposal be not only under the competence of the Trade committee but also the Development and the Foreign Affairs Committee. They have also challenged the legal basis, currently a Trade article, to have it based on articles relating to Development cooperation.

The debate starting this week in INTA will set the tone for the further work. A hearing is already announced for the beginning of December in the Trade and in the Development Committee. The discussion is likely to continue next year until a consolidated Parliament position can be confronted with a “general approach” of the Council. The legislation indeed needs to be adopted in “co-decision” by the Parliament and the Council. Discussion in the Council has not yet started.

For further informations:

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