



About this sheet

SOMO is an independent, non-profit research and network organisation that works on social, ecological and economic issues related to sustainable development. SOMO coordinates makeITfair – a public awareness campaign run by a coalition of European and Southern NGOs, with the goal of enhancing sustainability throughout the electronics supply chain. Through an extensive international network of NGOs, SOMO is in a good position to highlight the problems and issues in different industrial sectors, as well as coordinating the expectations and demands that NGOs have of companies to address these problems.

In this information sheet for responsible investors, we will outline the priorities from an NGO perspective on the issue of conflict minerals. In particular, we will focus on the need for the European Commission to develop legislation to curb the mineral trade that contributes to armed conflict in the Democratic Republic of Congo (DRC) and elsewhere. Responsible investors can play a decisive role in encouraging law-makers to take concrete measures by making their opinions known.

Global developments

The issue of conflict minerals from the eastern DRC has attracted a great deal of attention at various international forums in recent years. In June 2010, the United States passed the Dodd Frank Act, which included a section (1502) on the use of conflict minerals by US companies. All listed companies were required to provide transparency, reporting whether the minerals they use originated from the DRC (or adjoining countries), and if so, what 'due diligence' measures they had taken to ensure that they had not inadvertently contributed to the armed conflict. Currently, the Securities and Exchange Commission (SEC) is developing an exact set of rules for US listed companies.

Other international institutions, such as the Organisation for Economic Cooperation and Development (OECD) and the United Nations (UN), have developed guidance documents for companies regarding their due diligence. The *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-affected and High-risk Areas* provides a set of guiding principles for companies that source their minerals directly or indirectly from conflict regions such as the eastern DRC. The UN has developed a similar set of due diligence standards.

Mineral supply chains and sustainability

There are a number of serious challenges to social, economic and ecological sustainability related to the extraction of minerals used in industrial sectors, such as electronics brand name companies and car manufacturers. makeITfair and a range of other organisations have identified issues such as: the forced relocation of communities in South Africa; child labour at copper and cobalt mines in Zambia and southern DRC; and the link between mining of tin, tungsten, tantalum and gold and the continuation of armed conflict in eastern DRC.

Current status in the EU

There are currently no such legislative measures relating to conflict minerals within the European Union. The European Parliament has called on the European Commission several times to develop legislative proposals similar to the Dodd Frank 1502 provision. In May 2011, makeITfair and MEP Judith Sargentini jointly organised a roundtable at the European Parliament. The outcomes of this roundtable showed a broad base of support for European legislation, while identifying that local Congolese stakeholders also need to play an integral part in the process.

Civil society positions

- makeITfair believes that there is a need for more legislation regarding corporate complicity in human right violations in general, including violations that take place in a company's supply chain. In that sense, the Dodd Frank 1502 provision has set a precedent that goes beyond previous voluntary initiatives on supply chain responsibility – and this requires a shift response from the European Commission.
- makeITfair also believes that efforts to regulate supply chain responsibility should never, whether intentionally or unintentionally, have negative consequences for the general population in areas where minerals are mined. Various reports have shown that the response of companies in anticipation of Dodd Frank 1502 coming into effect has led to a de facto boycott of minerals from eastern DRC, with grave negative consequences for the local population.
- makeITfair believes that a careful and inclusive process of law making can avoid such negative consequences. Vital in this regard is the involvement of local stakeholders, who have the knowledge and the perspective to assess which measures could be successful and which ones are likely to fail. At the roundtable in May, Congolese civil society representatives clearly indicated that measures need to be taken to avoid the de facto boycott, and that regulations on the trade of minerals need to be coupled with state building efforts and security sector reform.
- EU legislation should be based on a broad definition of sustainable sourcing of minerals, which includes, but is not limited to, conflict minerals originating from the eastern DRC. The approach also needs to address:
 - other sustainability issues, for example, child labour or forced community relocations;
 - other regions where the mining of minerals creates hardships for workers communities or the environment; and
 - complementary measures that address other conflict-related factors, such as state building and security sector reform.
- Any legislative text should be based upon and refer to internationally accepted standards, such as the OECD Due Diligence Guidance and the UN due diligence standards. A set of standards that is parallel but different from those in other regions, such as in the US or the DRC, do not contribute to a focused solution and should be avoided.

Contact us

makeITfair would like to open a dialogue about the options going forward to tackle these issues. Please contact us at info@makeitfair.org to find out more.

The role of Responsible Investors (RI)

Responsible investors (RI) played a crucial role in the legislative process in the US. By collaborating with civil society and business, RIs were able to create public momentum that contributed to the passing of Dodd Frank 1502. RIs made public statements and sent in letters and comments to US lawmakers, calling for (among other things) more public disclosure of Environmental, Social and Governance (ESG) factors in a company's supply chain.

As the discussion around conflict minerals legislation is still ongoing in Europe, a similar call for action from the RI community here could boost the momentum in the European Commission.

Links

- www.somo.nl
- www.makeitfair.org
- www.goodelectronics.org

Publications

- Voices from the inside, October 2010
- Roundtable on conflict minerals legislation, July 2011
- Unheard Voices, September 2011



Centre for Research on Multinational Corporations

Sarphatistraat 30, 1018 GL Amsterdam, The Netherlands

T: +31 (0)20 639 12 91

For questions: Tim Steinweg, t.steinweg@somo.nl

Esther de Haan, e.de.haan@somo.nl

