



# Conflict Due Diligence by European Companies

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**The European Commission is expected to present an initiative on the responsible sourcing of minerals from conflict-affected and high risk areas before the end of 2013. In the US, Dodd Frank 1502 already places requirements on industry to publicly disclose their use of 'conflict minerals' originating from the Democratic Republic of Congo. While it is often assumed that European industry is undertaking due diligence on its use of conflict minerals, no comprehensive overview of efforts by European companies is available to date.**

This briefing paper provides an overview of the due diligence efforts of 186 companies that are listed in Europe and make use of the minerals covered by Dodd Frank 1502. The information they make publicly available regarding their approach to the issue of 'conflict minerals' is assessed. Those companies that have a dual listing in the US – and are therefore required to comply with Dodd Frank 1502 – are compared with those companies who are only listed in Europe. This briefing paper also looks more in-depth into the specifics of the due diligence efforts of those companies that refer to conflict minerals on their website.

## **The major conclusions of this paper include:**

- Only a small percentage of EU-listed companies are directly affected by Dodd Frank 1502 and are therefore required to publicly disclose their use of conflict minerals.

- The large majority of companies that are not required to comply with Dodd Frank 1502 do not conduct due diligence on conflict minerals.
- There are several sectors that use conflict minerals but in which very few European companies are undertaking due diligence efforts
- Of the companies addressing the issue of conflict minerals, only very few are actively sourcing non-conflict minerals from the Great Lakes region
- Public scrutiny serves as a driver for more ambitious approaches by companies

## **On the basis of these findings, this paper recommends:**

- The EU should introduce a legally binding obligation on businesses to conduct supply chain due diligence.
- The EU should ensure that its initiative effectively targets sectors in which very few companies are currently undertaking due diligence.
- Due diligence requirements should be based on existing international instruments.
- EU regulation should have a global geographical scope, meaning that due diligence should be conducted on supply chains originating in any conflict-affected and high-risk area
- The EU should make public disclosure of due diligence efforts mandatory

## 1. Introduction

### 1.1. Context

The mining of minerals often takes place under problematic conditions. Mining can cause significant environmental degradation when it is carried out in sensitive areas. It often takes place under poor working conditions, and it can lead to displacements and other infringements on the rights of local communities. Mining can also cause, contribute or be directly linked to violent conflict and grave human rights abuses. In fact, 40 per cent of all intrastate conflicts in the last 60 years have had links to natural resources, and the presence of natural resources makes conflicts twice as likely to recur.<sup>1</sup>

It is increasingly recognised that multinational companies are an important actor in conflict-affected areas and that they have a responsibility to respect human rights. While these actors can be a factor for peace and stability, they can also cause, prolong or profit from armed violence through the exploitation and trade of natural resources. The global nature of modern-day supply chains means that many of the natural resources that are extracted in conflict-affected areas, and that contribute to violent conflicts and

human rights abuses, are present in end products consumed in Europe or elsewhere.

The electronics industry has been confronted with this issue for several years. In 2007, through a series of reports and conferences, the European campaign makeITfair pointed to the sector's responsibility for the conditions under which its minerals are mined. In more recent years, several large international non-governmental organizations (NGOs) have advocated for more due diligence in these supply chains, in particular in relation to the so-called 'conflict minerals' originating from the Democratic Republic of Congo. In July 2010, the United States senate passed the Dodd Frank Wall Street Reform and Consumer Protection Act, which included a provision on the use of so-called 'conflict minerals' originating from the Democratic Republic of Congo (DRC) in section 1502. Dodd Frank 1502 is a disclosure requirement that requires all US-listed companies to report on the use of any of the covered materials (tin, tungsten, tantalum or gold) and whether these materials come from the DRC or adjoining countries. If companies find that the minerals do originate from the DRC or an adjoining country, they are required to report on their efforts to determine the mine or location of origin to ensure that rebel groups are

### How due diligence is defined

The concept of 'due diligence' is clearly defined in a number of international standards and principles. The most important ones are the following:

#### **UN Guiding Principles on Business and Human Rights**

In the United Nations (UN) Guiding Principles on Business and Human Rights, 'due diligence' is understood as a business process through which enterprises actively identify, prevent, mitigate and account for their potential and actual adverse human rights impacts. The process should include assessing actual and potential impacts throughout their business operations, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Due diligence implies more than just an assessment of risks for the company. The purpose is to understand and address risks and abuses that the company's activities pose to rights holders, including in its supply chain and through its other business relationships.

#### **OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas**

The Organisation for Economic Cooperation and Development (OECD) has developed an international framework to help companies meet their due diligence reporting requirements. It provides a roadmap to help companies avoid contributing to conflict through their mineral purchasing practices. These companies should establish a system of controls and transparency over the mineral supply chain and a company-level grievance mechanism as an early-warning risk-awareness system. It should identify and assess risks of adverse impacts and adopt a risk management plan in order to use their ability to influence suppliers that can most effectively prevent or mitigate the identified risk. They should publicly report on their supply chain due diligence policies and practices. The guidance includes a supplement on the so-called 3Ts (tin, tungsten and tantalum) as well as a supplement on gold, which outlines the recommended steps companies should take to identify and respond to risks in these particular supply chains.

*Source: SOMO and OECD*

not benefitting from the trade of these minerals. The OECD Due Diligence Guidance has been recognised as the international standard that companies should follow in order to comply with Dodd Frank 1502.<sup>2</sup>

While there are on-going discussions at the European Commission to develop legal proposals, there is currently no equivalent requirement for companies in Europe. In December 2012, Karel de Gucht – European Commissioner for Trade – announced that the European Commission was working on “a possible comprehensive EU response that would contribute to curbing the link between the financing of armed groups and the exploitation and trade of natural resources in minerals originating from conflict areas”.<sup>3</sup> De Gucht emphasised that such an initiative would build on the work already undertaken by the OECD. In a speech given in September 2013 at an event organised by the Federation of German Industry, de Gucht further stressed that this EU initiative would have broad regional scope.<sup>4</sup> It is expected that a proposal for this initiative will be published in late 2013.

In the meantime, European companies are only required to follow Dodd Frank 1502 if they have a secondary listing at a US stock exchange, and are therefore required to report with the SEC under Section 13(a) or 15(d) of the Exchange Act, or if they supply materials or products containing any of the ‘conflict minerals’ to companies to which Dodd Frank 1502 applies.

It is often assumed that European companies are already undertaking due diligence efforts. For example, a recent study by the German Öko Institute, on the basis of interviews with six German manufacturers, states:

*“This also holds true for many European companies, which – as suppliers to US-American companies – are often strongly affected by this legislation. While all interviewed companies already undertake measures to comply with their customers’ demands on conflict minerals and to prepare the required documentation, compliance is mostly achieved by making sure that no material is directly or indirectly sourced from the DR Congo or any adjoining country.”<sup>5</sup>*

Similarly, de Gucht indicated that “many European companies are already setting high due diligence standards for themselves as part of their corporate social responsibility agenda”, and that many European companies must comply with the reporting requirements of Dodd Frank 1502.<sup>6</sup>

However, the quotes above are based on information derived from a small number of companies and the exact extent of due diligence and responsible mineral sourcing by European industry as a whole remains unclear.

### **De facto embargo**

While Dodd Frank 1502 can be regarded as an important precedent in setting legal requirements for companies to conduct due diligence, the rule has also seen significant criticism. This has centred around the de facto embargo of all minerals from the DRC, which dried up the local economy and left local populations with no viable sources of income, without alleviating or reducing the conflict itself. The extent of and cause for this de facto embargo remains disputed, but it is likely that it was an effect of 1) the blanket ban of mineral exports announced by DRC’s President Kabila in September 2010;<sup>7</sup> 2) the conservative interpretation by end-user companies to regard due diligence as 100 per cent guaranteed conflict free, and therefore choosing not to source any minerals from the region;<sup>8</sup> and 3) the exclusive focus of Dodd Frank 1502 on one particular conflict region.<sup>9</sup>

Several end-user companies have acted on these concerns and have initiated various initiatives to source non-conflict minerals from the DRC and Rwanda. According to the OECD, such efforts by downstream companies provide access for non-conflict minerals from the region to international markets. In turn, such initiatives are reported to have created local employment, as well as improving safety at mining sites and increasing incomes received by miners.

### **1.2. Aims, objectives and target groups**

This research aims to provide insight into how European companies conduct their due diligence regarding the sourcing of ‘conflict minerals’ originating from the DRC or adjoining countries. Not only will the research draw conclusions about the current approach of European companies regarding this issue and identify areas of needed improvement, but the research can also be used in the context of the upcoming European legislative initiative to pinpoint those issues and sectors where this initiative would have the most impact.

The overall objective of the research is to enhance the due diligence conducted by multinational corporations through binding regulations in a manner that makes the biggest contribution to lasting peace and improves livelihoods in conflict-affected and high-risk areas. In the case of conflict minerals from the DRC, it is recognised that such due diligence should be undertaken in a manner that does not contribute to the de facto embargo of minerals from the region.

The target groups for this briefing paper include the European Commission, Members of European Parliament, national European governments, European civil society and business.

### 1.3. Methods

In order to provide an insight into the due diligence efforts of European industry, a broad selection of companies is assessed on the information they make available to the public regarding their approach towards 'conflict minerals'. As the paper specifically looks at information that is available to the public, no companies were consulted during the course of this research.

#### Selection of companies

The companies selected for this research are those that make use of minerals that might contribute to armed conflict and grave human rights abuses. More specifically, this research looks at minerals that are covered by Dodd Frank 1502 (tin, tungsten, tantalum and gold). It is assumed that the requirements of Dodd Frank 1502 currently serve as the major driver for companies to conduct due diligence. The companies are selected on the basis of two criteria. They are:

1. Active in a sector that makes use of conflict minerals
2. Listed on a Western European stock exchange.

In December 2012, Sustainalytics published a briefing that included an overview of sectors exposed to conflict minerals, and their preparedness to comply with the Dodd Frank legislation.<sup>10</sup> Using the ICS classification system in the Bloomberg database, the overview by Sustainalytics corresponds to the following sectors;

- ❑ Medical equipment and healthcare equipment and services (grouped)
- ❑ Diversified industrials
- ❑ Consumer electronics
- ❑ Electronic and electrical equipment
- ❑ Automobiles and parts
- ❑ Aerospace and defence
- ❑ Software and computer services
- ❑ Semi-conductors
- ❑ Technology hardware and equipment
- ❑ Telecommunications.

For each of these sectors, the 20 companies with the highest revenues listed on Western European stock exchanges were selected, resulting in an initial 200 companies.<sup>11</sup> Of these 200 companies, a total of 186 were included in this research. The other 14 companies were not included because it was clear that they did not use the relevant minerals or they were no longer operational. Appendix 1 provides a list of all the companies included in this research.

#### Variables

For each of the companies, information was gathered on a number of variables. First, the sector in which the company operates was identified, as classified in the Bloomberg

database. The second variable was whether a company has a dual listing in the US, and therefore files reports with the SEC under Section 13(a) or 15(d) of the Exchange Act. This information is gathered by running each of the companies through the Edgar database of the SEC.<sup>12</sup>

Thirdly, this research evaluates the companies' due diligence efforts on conflict minerals by the statements made on the company's website through the following targeted search query in Google, conducted between June and August 2013:

*"conflict minerals" OR "Dodd Frank" OR "DRC" OR "Congo" OR "coltan" site:www.[companyname].com*

The statements collected through this search query form the basis of the analysis of the due diligence efforts of the companies. Each of the statements is analysed, and used as the basis to identify the 'front runner' companies, as well as those companies lagging behind in their due diligence efforts.

### 1.4. Assumptions and limitations

There are a number of assumptions that underlie this methodology. Most importantly, it is expected that those companies that take measures on conflict minerals will report this on their website. International due diligence standards such as the OECD Due Diligence Guidance and the UN Guiding Principles include public reporting and external communication as an integral part of the due diligence process. Dodd Frank 1502 also requires companies to file publicly available reports on their website.

It is recognised that selecting companies on the basis of their listing on European stock exchanges does exclude a number of companies that might be affected by Dodd Frank 1502, and that might undertake due diligence efforts. In particular, those companies that are privately owned, or that act as the European division or subsidiary of companies listed elsewhere in the world are not included in this research. However, with 186 European companies included in this research, the findings provide a fair indication of the due diligence efforts of European industry as a whole.

Finally, it should be noted that this research only looks at the efforts of European companies with regards to conflict minerals. It could be argued that their due diligence should include all natural resources that originate from conflict-affected or high-risk areas. Given the fact that most developments and discussions in recent years have centred around conflict minerals originating from the DRC, companies' due diligence efforts have almost exclusively been directed towards addressing this particular issue. The lessons that can be drawn from these recent experiences provide an insight in the manner in which companies can be

expected to respond to legislation in the future, even if the scope of such legislation would be broadened to cover all natural resources from conflict affected or high-risk areas.

### 1.5. Outline of this report

Following this introductory chapter, the remainder of this briefing paper is organised as follows: Chapter 2 describes the quantitative analysis of the 186 selected companies. On the basis of the statements on their websites, companies with dual listings in the US are compared with companies that are only listed in Europe. Furthermore, the ten relevant sectors that use conflict minerals are compared to identify those sectors in which companies are undertaking due diligence efforts and those sectors in which companies are not yet taking any measures. Chapter 3 provides a more qualitative analysis of the companies that are providing statements on their website. Chapter 4 provides the conclusions that can be drawn on the basis of these findings and offers a number of recommendations for the European legislative initiative on this issue.

## 2. Do European companies conduct due diligence on conflict minerals?

Of the 186 companies analysed, only 19 report to the SEC under Section 13(a) or 15(d) of the Exchange Act and are therefore required to disclose information on their use of the four conflict minerals and their due diligence process. Eleven per cent of the companies included in this research are therefore directly affected by Dodd Frank 1502. Table 1 shows the distribution of companies by sector and the number of companies for each sector with a dual listing in the US.

### 2.1. Due diligence efforts by dual listed companies

Looking at the companies with a dual listing in the US that are directly affected by Dodd Frank 1502, we see that the majority of these companies refer to conflict minerals on their website. Table 2 shows the absolute and relative number of companies with dual listings that have conflict minerals statements on their website.

Only five (21%) of the 19 companies with dual listing make no mention of the issue. These companies are required to report to the SEC on conflict minerals by May 2014. It is therefore surprising that these companies do not seem to have taken any steps to address the issue – or at least, lack transparency about these steps. These five companies are: Smith & Nephew (Medical Equipment); Aixtron (Semi-conductors); SAP (Software and computer services); France Telecom (Telecommunications); and Telecom Italia (Telecommunications).

**Table 1: Included companies by sector**

Sector	Number of companies	Companies with dual listings
Aerospace and defence	20	0
Automobiles and parts	20	0
Consumer electronics	14	0
Diversified industrials	20	2
Electronic & electrical equipment	20	0
Medical equipment & healthcare equipment and services	20	1
Semi-conductors	18	5
Software and computer services	20	1
Technology hardware and equipment	14	4
Telecommunications	20	6
<b>Total</b>	<b>186</b>	<b>19</b>

**Table 2: Companies with a dual listing in the US**

Dual listing	Statement	No statement
Yes	14 (79%)	5 (21%)
No	21 (13%)	146 (87%)

Of the companies that are only listed in Europe and are therefore not directly affected by Dodd Frank 1502, 13 per cent of the companies have a statement on their website, whereas 87 per cent do not. This last group includes the large majority of companies analysed in this research (147 companies). This suggests that those companies that are not required to address conflict minerals by law – with the exception of the few companies that are supplying US manufacturers or that have been the target of public campaigns and consumer pressure – are not taking any steps to ensure that their supply chains are free of minerals that contribute to armed conflict and grave human rights abuses. The spin-off effects of Dodd Frank 1502 for EU companies therefore seems limited. It can be assumed that a large flow of minerals that have not been subject to due diligence end up in the products of EU companies.

## 2.2. Which sectors are conducting due diligence?

Of the companies analysed in this research, only 35 (18 per cent) make some reference to conflict minerals on their website, while the other 152 (82 per cent) make no mention of this issue whatsoever. Table 3 shows the distribution of these 35 companies by sector.

**Table 3: Company statements by sector**

Sector	Companies with statement on their website
Aerospace and defence	2 (10%)
Automobiles and parts	4 (20%)
Consumer electronics	1 (7%)
Diversified industrials	2 (10%)
Electronic & electrical equipment	1 (5%)
Medical equipment & healthcare equipment and services	0 (0%)
Semi-conductors	9 (50%)
Software and computer services	1 (5%)
Technology hardware and equipment	7 (50%)
Telecommunications	8 (40%)
<b>Total</b>	<b>35</b>

The semi-conductor sector is the one in which most companies have a statement on their website (50 per cent). Semi-conductor companies that make reference to conflict minerals include AMS, ARM Holdings, ASM International, Dialog Semiconductors, ASML, STMicroelectronics, Infineon, Smartrac and Wolfson. Only four of these nine companies have a dual listing in the US and are therefore required to report to the SEC. It is likely that those semi-conductor companies that do not have dual listings are indirectly affected by Dodd Frank 1502, as they supply parts or components to US-listed electronics companies. This point is further illustrated by the fact that several of these companies have sales offices in the US. The same probably holds true for the four companies in the 'automobiles and parts' sector, none of which have a dual listing but all of which probably supply parts to US-listed car manufacturers.

The 'Technology hardware' and 'Telecommunications' sectors also include several companies with statements on their website. The identified companies in these sectors are Alcatel Lucent, CSR, Ericsson, Pace, Logitech, Nokia, Deutsche Telekom, KPN, BT Group, Portugal Telecom, Tele2, Telefonica, Teliasonera and Vodafone. Around half of these companies have dual listings and are therefore required to file reports, whereas the other half do not have legal requirements to report. Given the nature of their business activities, it is also less likely that 'Telecommunications' companies supply US-listed manufacturers. A possible explanation regarding why these companies still address conflict minerals might lie in the fact that these sectors have traditionally been the target of consumer pressure and civil society campaigns. Many of these companies are also members of the Global e-Sustainability Initiative (GeSI) or the Electronic Industry Citizenship Coalition (EICC), the sector initiatives that have worked extensively on conflict minerals.

At the other end of the spectrum, none of the companies in the 'Medical equipment and healthcare equipment and services', and only one company each in the 'Consumer electronics', 'Electronic and electrical equipment' and 'Software and computer services' sectors refer to conflict minerals on their website. These are also sectors with few companies with dual listings (two in total). Looking at the companies in these sectors included in this research, none of them are the well-known brand name companies that have been the target of consumer demands or civil society campaigns (see Appendix 1), which might explain why they might be less prone to conducting their due diligence.

## 2.3. EICC and GeSI membership

Of the 35 companies with statements on their websites, 14 are members of the EICC or GeSI. EICC and GeSI are the most recognised initiatives for improving the social and environmental sustainability of the electronics and ICT sectors respectively. In 2008, the EICC and GeSI formed a joint working group on extractives to enhance the responsible sourcing of minerals in response to calls from European civil society on the sector to expand its supply chain responsibility to the extractives phase. The EICC/GeSI Joint Extractives Working Group has since been the focal point of the industry's response to the issue of conflict minerals.

The working group has developed a range of different initiatives and tools, including the Conflict Free Smelter Initiative, a conflict minerals reporting template and various trainings and events. It is likely that the active work of the EICC and GeSI has provided incentives for its member companies – and also some non-member companies – to address the issue of conflict minerals, even if these companies are not legally required to do so under Dodd Frank 1502.

### 3. What do European companies say about conflict minerals?

This chapter looks in more detail at the statements made by these 35 companies that refer to conflict minerals on their website. These companies are:

Alcatel-Lucent	Logitech
AMS	Nokia
ARM Holdings	Pace
ASM International	Portugal Telecom
ASML	Rolls-Royce
BAE Systems	Schneider Electric
Barco Electronic	Siemens
BT Group	Smartrac
CSR	STMicroelectronics
Daimler	TELE2
Deutsche Telekom	Telefonica
Dialog Semiconductors	Teliasonera
Ericsson	Tomtom
Fuarecia	Valeo
Finnveden bulten	Vodafone
Infineon Technology	Wincor Nixdorf
Koninklijke Philips	Wolfson
KPN	

The statements made by this group of companies are diverse and reflect the different approaches to due diligence and the responsible sourcing of 'conflict minerals'.

This chapter identifies a number of 'frontrunner' companies that undertake due diligence efforts in a way that comes closest to the approach outlined in the OECD Due Diligence Guidance. This group also includes companies that are taking active measures to continue to source 'non-conflict minerals' from the Great Lakes region in Africa. It is recognised that such efforts can reduce and mitigate the negative local effects of a de facto embargo that was partially caused by the decisions of international companies to halt all sourcing from the region. There are a number of initiatives by end-user companies to source minerals that are not contributing to or linked to armed violence (see box).

Furthermore, there is another group of companies that are addressing the issue in one way or another, without taking the same far-reaching measures to ensure continued sourcing from the region. This group mostly sets requirements for their suppliers, or follows the OECD Guidance for downstream companies – for example, by making use of formats developed by sector initiatives such as GeSI or EICC.

Finally, there is a group of companies that, while referring to the issue of conflict minerals and therefore doing more than the majority of companies, are still lagging behind in

their approach. These companies either merely recognise the issue without taking any concrete steps, or indicate that they support the efforts of other companies or announce plans to take steps in the future.

#### 3.1. In-region sourcing

The first category represents the companies that address the issue of conflict minerals in a manner that comes closest to the approach outlined in the OECD Due Diligence Guidance, and that take active steps to stimulate the trade of non-conflict minerals from the DRC. Companies in this category include Philips, Nokia and Telefonica, all three of which are dual listed companies.

Philips is taking an approach that focuses on multiple tiers in their supply chain. Philips was part of the GeSI/EICC working group that developed a Conflict Minerals Reporting Template that can be used to map a company's supply chain from smelter to end product. It also takes part in the Conflict Free Smelter programme to identify those smelters that do not use conflict minerals. Finally, Philips is one of the industry partners that participates in the Conflict Free Tin Initiative that has initiated a conflict-free sourcing programme in South Kivu. Philips has recognised the negative local effects of a de facto boycott of DRC minerals, and states:

*"In an effort to prevent minerals from financing war, many companies worldwide have [shied] away from purchasing minerals from the DRC, creating a de facto embargo in the region. To overcome this issue and promote cooperation and economic growth in the region outside the control of the rebels, in September 2012, the Conflict Free Tin Initiative was launched, introducing a tightly controlled conflict-free supply chain of tin outside the influence of the rebels."*<sup>13</sup>

In a similar fashion, Nokia combines the requirements it sets for its suppliers and its efforts to trace materials back to the smelters with participation in all the current initiatives that aim to stimulate the responsible trade of minerals from Central Africa. Nokia is a member of the Public-Private Alliance for Responsible Minerals Trade (PPA), the Solutions for Hope project (with a focus on tantalum) and the Conflict Free Tin Initiative. Similar to Philips, Nokia also states that *"while we want to ensure that our products are free of conflict minerals, we wish to avoid an embargo on Central Africa and support legitimate trade"*.<sup>14</sup>

Finally, Telefonica is a participant in the PPA of the US State Department, a multi-stakeholder initiative in the Great Lakes region, and thereby aims to contribute to the responsible trade of minerals from the region. It also states on its website that it joined the ITRI Tin Supply Chain Initiative (iTSCi) programme a few years back. The public

## Conflict minerals initiatives

In order to assess the due diligence efforts of each of these companies, this chapter looks at their participation in a range of different initiatives including:

- **Solutions for Hope:** This initiative was launched in July 2011 to source conflict-free tantalum from DRC. The approach uses a closed-pipe supply line and a defined set of key suppliers – mines (including artisanal cooperatives), smelter/processor, component manufacturer and end-user – identified in advance of initiating the project. It includes the whole supply chain.
- **Conflict Free Tin Initiative:** In September 2012, industry partners and the Dutch government announced the start of a conflict-free tin sourcing programme in South Kivu, an eastern province of DRC. It introduces a tightly controlled conflict-free supply chain outside the control of the armed groups. The industry should introduce a closed-pipe supply system: from mine to smelter to end-user.
- **The OECD Due Diligence downstream implementation pilot:** This one-year pilot, starting in August 2011, focuses on how companies implement due diligence in the supply chains of tin, tantalum and tungsten. The purpose is to assist with the implementation of the OECD 3Ts Supplement by allowing companies to learn from each other's experiences and methodologies and to identify challenges in the implementation of the Guidance. 'Downstream' refers to the mineral supply chain from smelters/refiners to retailers, therefore it cannot be considered as an in-region sourcing initiative.
- **Public-Private Alliance for responsible mineral trade of the US government.** In November 2011, the US Agency for International Development (USAID) and a coalition of private sector partners, civil society and other organisations, launched the PPA. The PPA assists with the development of pilot supply chain systems that will allow businesses to source minerals from mines that have been audited and certified to be conflict-free in the DRC.
- **GeSI/EICC Conflict Free Smelter Program.** This programme, founded in 2010, offers companies and their suppliers an independent, third-party audit tool with a compliance protocol that determines which smelters and refiners can be validated as "conflict-free", in line with current best practices. It offers a reporting template, which helps companies to disclose and communicate about smelters in their supply chains. The programme also provides lists of compliant smelters, many of which are included because they do not source from the Great Lakes region.

position on conflict minerals, which Telefonica only has available in Spanish, refers to the company's supplier requirements and participation in GeSI.

### 3.2. Downstream due diligence through multi-stakeholder or sector initiatives

The majority of companies that are conducting some level of due diligence in order to avoid the use of conflict minerals are not actively sourcing non-conflict minerals from the DRC. This group of companies either makes use of the GeSI/EICC conflict minerals reporting template, are participating in the downstream pilots of the OECD, or are setting clear requirements on their direct suppliers.

Technology hardware and telecommunications companies such as Logitech, Alcatel-Lucent, Pace, Tomtom and Deutsche Telekom are active members of GeSI and EICC and indicate on their website that they support or make use of their work on conflict minerals. Furthermore, these

companies either require or encourage their suppliers to source from conflict-free smelters. A number of the EICC/GeSI member companies – such as British Telecom (BT), Vodafone and Ericsson – also explicitly recognise the potentially negative impacts of the de facto embargo, but are not members of any of the in-region sourcing initiatives.

Companies such as Schneider Electric, Portugal Telecom, Wolfson or ASM, which are not active members of GeSI or EICC, still indicate that they are adopting standards in line with GeSI/EICC or are supporting their work. However, these companies do not provide any further details about how these standards are implemented.

Another group of companies that are not members of the EICC or GeSI, including Rolls-Royce and Siemens, indicate that they use the work of the OECD as the framework for their due diligence efforts. Rolls-Royce indicates that it reviews its supplier code of conduct, conducts risk assess-

ments and contract updates, and does oversight checks and third-party audits, where necessary. In addition to supporting the Conflict Free Smelter Program, Siemens indicates that the company makes use of the experience it gained through its participation in the OECD pilot.

### 3.3. Own procedures and systems

A third group of companies that refer to the issue of conflict minerals on their website have not joined any of the in-region sourcing or downstream due diligence initiatives. However, they do mention that they have developed their own procedures and systems.

Companies such as ams AG, ASML, BAE Systems, Finnveden Bulten, Infineon Technologies, Smartrac, Valeo and Wincor Nixdorf indicate that they have procedures in place to ensure that no conflict minerals are used in their products, and require their suppliers to act in accordance with these policies. Several of these companies specifically mention the SEC regulations as the trigger for the development of their procedures, and a few indicate that it is highly unlikely that conflict minerals are used in their products. No further evidence is provided by any of these companies to validate such statements.

### 3.4. Announcing plans and vague statements

A final group of companies with conflict minerals statements on their website have merely announced plans to address the issue in future, or remain vague in their public information regarding policies, procedures or management systems.

KPN, which is a member of GeSI, indicates on its website that it is still trying to decide how and where to take action on this issue.

Other companies – such as Barco, CSR, Dialog Semiconductor and Faurecia – indicate that they intend to contact their suppliers in future in response to Dodd Frank 1502 requirements. Daimler is still assessing the requirements of Dodd Frank 1502 it will have to meet.

Finally, a few companies – such as Tele2 and Teliasonera – only mention conflict minerals in passing in their CSR report or on their website.

## 4. Conclusions and recommendations

### 4.1. Conclusions

On the basis of the findings described in the chapters above, this report draws the following conclusions:

1. Only a small percentage of EU-listed companies are directly affected by Dodd Frank 1502 and are therefore required to publicly disclose their use of conflict minerals. 89 per cent of the companies in this research

are not legally required to undertake due diligence on their mineral sourcing. While some of the companies might still be affected by this legislation as they supply materials to US-listed companies, and others might undertake due diligence efforts voluntarily as part of their corporate social responsibility (CSR) agenda, it is clear that legislation in other parts of the world will not affect the large majority of European companies.

2. The large majority of companies that are not required to comply with Dodd Frank 1502 do not conduct due diligence on conflict minerals. Most of the companies in this research do not mention conflict minerals, and there is a clear difference between the due diligence efforts of those companies that have a dual listing in the US, and those companies that do not. This finding is significant for two reasons. On the one hand, it shows that it is likely that the majority of European companies continue to make use of minerals that might have benefitted armed groups. As these companies are not undertaking their due diligence in line with international standards, they have no means of ensuring that those minerals linked to armed violence and grave human rights abuses in the DRC or elsewhere are excluded from their supply chain. Secondly, these findings show that legislative requirements are the most important driver for companies to address the issue, albeit not the only one. As only a few companies are undertaking their due diligence voluntarily, any effective initiative by the European Commission would have to include legal due diligence requirements.
3. There are several sectors that use conflict minerals but in which very few European companies are undertaking due diligence efforts. 'Consumer electronics', 'Electronic and electrical equipment', 'Medical equipment and healthcare equipment and services', 'Software and computer services' and 'Aerospace and defence' are sectors in which 10 per cent or less of the companies are addressing the issue at all. At the same time, these sectors do make use of significant quantities of conflict minerals. If companies in these sectors are compelled to source their minerals more responsibly, this could therefore have a significant effect.
4. Of the companies addressing the issue of conflict minerals, only very few are actively sourcing non-conflict minerals from the Great Lakes region. A much larger group of companies are conducting some form of downstream due diligence, either through participation in sector-wide initiatives such as GeSI/EICC's Conflict Free Smelter Program or through the use of the OECD due diligence framework. Other companies merely set requirements for their suppliers or mention the issue in passing.

5. Public scrutiny serves as a driver for more ambitious approaches by companies. The 'front runner' companies that conduct due diligence in a way that is most in line with the UN Guiding Principles and the OECD Due Diligence Guidance and that actively source non-conflict minerals from the Great Lakes region are all members of the EICC or GeSI. The electronics and ICT sectors have been confronted with the most consumer and civil society scrutiny regarding their role in the civil war in the DRC – and other issues in the extractives phase of their supply chains. This explains why the sustainability initiatives of these sectors have been the most active in addressing conflict minerals, and shows that public scrutiny of companies is an important driver.
3. Due diligence requirements should be based on existing international instruments. The UN Guiding Principles and the OECD Due Diligence Guidance function as the internationally accepted standards on how to implement due diligence. The findings of this research show that there are a number of companies that refer to conflict minerals in an effort to comply with Dodd Frank 1502, but are not taking the steps as outlined in these international standards. They merely pass obligations on to their suppliers, or make unsupported claims about the origin of their minerals. The proper due diligence process includes assessing actual and potential impacts throughout all business operations, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.

#### 4.2. Recommendations

On the basis of the conclusions drawn in this paper, the following recommendations can be made. These recommendations are mostly relevant in the light of the upcoming initiative by the European Commission on the responsible sourcing of minerals:

1. The EU should introduce a legally binding obligation on businesses to conduct supply chain due diligence to identify, assess and mitigate the risk of conflict financing and human rights abuse. This research demonstrates that the large majority of EU companies is not subject to such legal requirements and is therefore not addressing the issue at all. While the corporate responsibility to respect human rights, including the responsibility to conduct human rights due diligence, is well defined in international standards, there are no legal obligations to enforce this. This research has shown that, without such legal obligations, companies are significantly less likely to conduct due diligence on issues such as conflict minerals.
2. The EU should ensure that its initiative effectively targets sectors in which very few companies are currently undertaking due diligence on conflict minerals. Sectors such as healthcare equipment or aerospace and defence are clearly lagging behind. If these companies face legal due diligence requirements, it can be assured that a much larger percentage of the minerals used in Europe have undergone due diligence processes. It is unlikely that all the minerals used by these sectors have been smelted in Europe. It is therefore also unlikely that any legislation that exclusively places requirements on European smelters will have the impact needed to ensure the responsible sourcing of minerals by these and other European industries.
4. EU regulation should have a global geographical scope, meaning that due diligence should be conducted on supply chains originating in any conflict-affected and high-risk area. It should also have a broad material scope applicable to all natural resources that might originate from conflict-affected or high-risk areas. The experience of the Dodd Frank 1502 process in the US has shown that a narrow geographical scope can contribute to negative unintended consequences in the form of de facto embargoes. This research has shown that only a very small percentage of European companies are taking active steps to mitigate such effects by sourcing non-conflict minerals from the Great Lakes region.
5. The EU should make public disclosure of due diligence efforts mandatory. This research has shown that only those companies that have been publicly scrutinised by consumers and civil society are taking ambitious steps that go beyond minimal compliance. Public disclosure of due diligence measures increases oversight by the public and this can in turn stimulate companies to undertake proper due diligence, in line with international standards and with benefits for the countries and regions that supply the minerals.

Annex 1: List of companies included in this research

<i>Aerospace and defense</i>	LEXIBOOK	<i>Medical equipment &amp; Healthcare equipment and services</i>	GROUPE STERIA
BAE SYSTEMS PLC	LOEWE AG	AMBU A/S-B	IFS AB-B
CHEMRING GROUP	LYYN AB	BIOMERIEUX	ILIAD SA
COBHAM PLC	NEOTION	COLOPLAST-B	INDRA SISTEMAS
COMROD COMMUNICATION	RCF GROUP SPA	DRAEGERWERK-PREF	INVENSYS PLC
CTT SYSTEMS AB	TC UNTERHALTUNGSELEKTRONIK AG	ELEKTA AB-B	KNOW IT AB
DASSAULT AVIATION		ESSILOR INTL	NYHERJI HF
EADS NV	<i>Diversified industrials</i>	FRESENIUS SE & C	PROACT IT GROUP
FINMECCANICA SPA	ASPO OYJ	GENERALE DE SANTE	SAP AG
LATECOERE	BEKAERT NV	GERRESHEIMER AG	TIETO OYJ
MEGGITT PLC	CFAO	GETINGE AB-B SHS	UNITED INTERNET-RE
MTU AERO ENGINES	CIR SPA	GN STORE NORD	WINCOR NIXDORF
QINETIQ GROUP PL	COFIDE SPA	HARTMANN (PAUL)	
ROLLS-ROYCE HOLD	DAETWYLER HOL-BR	KORIAN	<i>Technology hardware and equipment</i>
SAAB AB-B	HEXAGON COMPOSITES	ORIOLA-KD OYJ B	ALCATEL-LUCENT
SABCA	INDUS HLDG AG	ORPEA	ALSO-ACTEBIS-REG
SAFRAN SA	KONINKLIJKE PHILIPS	RHOEN-KLINIKUM	AXIS COMMUNICATIONS
SENIOR PLC	LOOSER HOLDING AG	SMITH & NEPHEW	CSR PLC
THALES SA	NOLATO AB-B	SONOVA HOLDING A	DORO AB
ULTRA ELECTRONIC	ORKLA ASA	SOUTHERN CROSS	ERICSSON LM-B
ZODIAC AEROSPACE	SCHOUW & CO	WILLIAM DEMANT	ESPRINET SPA
	SIEMENS AG-REG		INGENICO
<i>Automobiles and parts</i>	SMITHS GRP PLC	<i>Semiconductors</i>	LOGITECH INTER-R
AUDI AG	STUDSVIK AB	AIXTRON SE	NEOPOST SA
BAYER MOTOREN WK	TEN CATE	AMS AG	NOKIA OYJ
BURELLE SA	THYSSENKRUPP AG	ARM HOLDINGS	PACE PLC
CIE AUTOMOTIVE	VESUVIUS PLC	ASM INTL NV	TOMTOM
CONTINENTAL AG	VIOHALCO HELLENIC	ASML HOLDING NV	TRANSMODE HOLDIN
DAIMLER AG		BE SEMICONDUCTOR	
FAURECIA	<i>Electronic &amp; electrical equipment</i>	DIALOG SEMICON	<i>Telecommunications</i>
FIAT SPA	ADDTech AB-B SH	DOLPHIN GROUP AS	BELGACOM SA
FINNVEDEN BULTEN	AGFA-GEVAERT NV	ELMOS SEMICON	BT GROUP PLC
GKN PLC	AQ GROUP AB	HPI AG-BR	CABLE & WIRELESS
HALDEX AB	ELTEK ASA	INFINEON TECH	DEUTSCHE TELEKOM
MEKONOMEN AB	GEMALTO	MELEXIS NV	FRANCE TELECOM
MICHELIN	GUNNEBO AB	MICRONAS	FREENET AG
PEUGEOT SA	HEXAGON AB-B	SMARTRAC NV	HELLENIC TELECOM
PIRELLI & C.	INDUTRADE AB	SOITEC	KPN (KONIN) NV
PLASTIC OMNIUM	KITRON ASA	STMICROELECTRONICS	PORTUGAL TEL-REG
RENAULT SA	LAGERCRANTZ-B SH	TOPSIL SEMICOND	SWISSCOM AG-REG
RHEINMETALL AG	LEGRAND SA	WOLFSON MICRO	TALKTALK TEL
VALEO SA	LEONI AG		TDC A/S
VOLKSWAGEN AG	NEXANS SA	<i>Software and computer services</i>	TELE2 AB-B SHS
	NKT HOLDING A/S	ACANDO AB	TELECOM ITALIA S
<i>Consumer electronics</i>	OEM INTL AB-B	ATEA ASA	TELEFONICA
ADVANCED DIGITAL BROADCAST	PARTNERTECH AB	ATOS	TELEFONICA DEUTS
ARCHOS	PRYSMIAN SPA	BECHTLE AG	TELEKOM AUSTRIA
ARMOUR GROUP PLC	REXEL SA	COMPUTACENTER PLC	TELENOR ASA
B&C SPEAKERS SPA	SCHNEIDER ELECTRIC	DASSAULT SYSTEME	TELIASONERA AB
BANG & OLUFSEN	SOLAR A/S-B SHS	ECONOCOM GROUP	VODAFONE GROUP
BARCO ELECTRONIC		EVERY ASA	
DANTAX AS-B			
JSJS DESIGNS PLC			

## Endnotes

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- 11 It is recognized that this methodology excludes potentially relevant companies that are non-listed or that are listed in Eastern Europe. The selection of companies for this research is done for practical reasons, but it is assumed that this will not affect the overall conclusions this research will draw on the state of due diligence of EU companies.
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