

## European Union Trade Commissioner Hints at Broad Approach of EU Conflict Minerals Strategy

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Speaking at an event hosted by the Federation of German Industries (BDI) in Brussels on September 3, 2013 the EU Trade Commissioner, Karel De Gucht, promised an “effective but reasonable” EU system to encourage responsible sourcing of minerals produced in what he called “conflict areas.” However, Commissioner De Gucht hinted that the geographic scope of any future EU rules on conflict minerals would be wider than that of the US Conflict Minerals Rule, which is limited in scope to the Democratic Republic of the Congo (DRC) and adjoining countries. The US rule refers to this area as “Covered Countries.” In Europe the area is often called “the Great Lakes region.”

In his speech Commissioner De Gucht highlighted the responsibility of businesses that comes with free trade: “There’s no such thing as a free lunch. Everything we do has consequences.” The Commissioner went on to discuss the situation in the DRC and concluded that it is “undeniable” that trade in minerals had played an important role in both the intensity and the length of the conflict.

Commissioner De Gucht did, however, appreciate that trade policy alone cannot provide a solution to the highly complex situation in the DRC and announced that the proposal for an EU strategy on conflict minerals will be made with the participation of Cathy Ashton, the High Representative of the Union for Foreign Affairs and Security Policy., Ms. Ashton is responsible for common foreign policy and security policy in the EU.

In reference to the US Conflict Minerals Rule, Commissioner De Gucht also recognized that many companies already have reporting obligations on conflict minerals in their supply chain and stressed the need for a European initiative that “builds on existing obligations and approaches rather than coming into conflict with them.”

Of particular interest, the Commissioner’s speech strongly indicated that the European Commission will not limit the scope of an EU strategy to the Great Lakes region in Africa. He spoke about the guerrillas of the FARC operating in Colombia and Venezuela who, as the production of cocaine becomes more restricted, are using the production of both gold and tantalum ore to fund their military campaign. He asserted that a broad geographic scope is needed to avoid potential negative consequences such as the stigmatization of certain regions which risks a resulting de facto embargo of those regions.

Commissioner De Gucht also indicated that the Commission would focus their approach on the narrowest point of the supply chain, smelters, with incentives to upstream suppliers to carry out due diligence.

At the event, attended by Members of the European Parliament, the European Commission as well as Business Europe and members of the BDI, the Oeko-Institut presented the findings of its study “Conflict minerals – An evaluation of the Dodd-Frank Act and other resource-related measures,” which was commissioned by the BDI. The study, which looks at the link between minerals and conflict, is intended to contribute to the discussion of a European approach on conflict minerals and explores alternatives to extensive and mandatory downstream due diligence.

During the event, both Business Europe and BDI spoke from an industry perspective and asserted that legislation that is binding in Europe will not benefit the region, but rather will create a de facto embargo that will have a negative effect on the local workers and the local economy. Industry instead

favors building on voluntary measures based on the OECD guidelines and association initiatives. This position was attacked by Member of the European Parliament Judith Sargentini, who asserted that compulsory regulation is needed to encourage and provide security to those who invest in conflict regions.

The Commissioner did not set out a timetable for the development of the European approach on conflict minerals. However, he stated that he hoped that the European Commission would decide on the form of action it will take before the end of the year.

## Take-aways from the event:

- We can expect a clear idea of the EU strategy by the end of the year
- The geographic scope of an EU rule will almost certainly include Latin America
- Minerals to be covered by an EU rule not likely to be expanded beyond the 3TG covered by the US rule

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