

Public consultation on a possible EU initiative on responsible sourcing of minerals originating from conflict-affected and high-risk areas

1. Information on respondents	
1.1 Do you agree that your contribution may be made public? -single choice reply-(compulsory)	Yes
1.2 Please state the name of your business / association/ organisation. -open reply-(compulsory)	Japan Business Council in Europe (JBCE)
1.3 What is your profile? -single choice reply-(compulsory)	Trade organisation representing business
1.4 What is your main area/sector of activities/interest? -multiple choices reply-(compulsory)	Chemicals, rubber and plastics (includes pharmaceuticals) - Instrument engineering (medical equipment, optical equipment) Computers and office equipment - Electrical machinery and equipment - Radio, television and communication equipment - Transport equipment (except railways)
1.5 In which country are your headquarters located? -multiple choices reply-(compulsory)	Belgium
1.6 In which regions do you operate? -multiple choices reply-(compulsory)	Asia - Europe
1.7 Are you listed on a regulated market? -single choice reply-(compulsory)	No
1.8 Do you prepare due diligence reports on a mandatory basis? -single choice reply-(compulsory)	No
1.9 Do you prepare due diligence reports on a voluntary basis? -single choice reply-(compulsory)	No
1.10 Can the European Commission contact you if further details on the information you submitted is required? -single choice reply-(compulsory)	Yes
1.10.1 Contact details, including email address. -open reply-(optional)	JBCE Secretariat, info@jbce.org
2. Rationale and existing frameworks	
2.1 Is the private sector interested in sourcing minerals in a socially responsible manner? -single choice reply-(optional)	Yes
2.2 What would you consider the single most compelling motivation for the private sector to	Corporate Social Responsibility agenda - Other

source minerals in a socially responsible way?

-multiple choices reply-(optional)

2.2.1 If other, please specify. -open reply-(optional)

Human rights Sustainable supply chain Pier pressure Reputation License to operate

2.3 Are you already undertaking efforts to ensure responsible sourcing of minerals? -single choice reply-(optional)

Yes

2.3.1 Please shortly describe your efforts and possible difficulties you encounter. -open reply-(optional)

Member companies, especially in the electronic sector, are working to ensure responsible sourcing of minerals via Electronic Industry Citizenship Coalition (EICC) and the Global e-Sustainability Initiative (GeSI)'s joint "Conflict Free Sourcing Initiative" or the Japan Electronics and Information Technology (JEITA) Responsible Minerals Trade Working Group. Companies communicate with their suppliers and request them to identify the smelters and refiners by using the template of the Conflict Free Smelter Program. As companies downstream in our supply chains, one of our difficulties is being able to obtain credible information on the miners since 1) the information of miners are confidential for smelters/refiners and 2) the supply chain goes beyond Europe and is extremely complex.

2.4 Do you consider it unachievable for the private sector to source minerals in a socially responsible way? -single choice reply-(optional)

Don't know

2.5 Would you consider existing international instruments under the corporate social responsibility and supply chain due diligence agenda such as the *UN Guiding Principles on Business and Human Rights*, *OECD Guidelines for Multinational Enterprises* and *OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas* sufficient as they stand?

-single choice reply-(optional)

Somewhat agree

2.5.1 Companies have already fully integrated those international instruments into corporate risk management systems.

-single choice reply-(optional)

2.5.2 Those instruments appropriately address the issue of responsible sourcing in resource-rich, high-risk developing countries affected by conflicts.

-single choice reply-(optional)

Strongly agree

2.5.3 If in questions 2.5 / 2.5.1 / 2.5.2 you disagree and think there is scope for improving or complementing the existing instruments, how could this be achieved? -open reply-(optional)

2.6 What practical lessons can we draw from existing supply chain due diligence schemes such as the OECD Due Diligence? What are the advantages and downsides for industry and producing countries? -open reply-(optional)

A solution focused approach in the supply chain is the least effective way to address the humanitarian crises. A flexible principle (process) based approach such as UN Guiding Principles or OECD Due Diligence is the right way forward. Without a right process in place, we cannot achieve the right solution. We have to understand that it is still an early stage as regards to the human rights due

diligence, however there are some companies who have already started to work on the due diligence based on the UNGP from regardless of the enactment of Dodd Frank Act in the US. It is also important to understand that implementing the right process takes time.

2.7 What practical lessons can we draw from existing supply chain due diligence schemes adopted by third countries to promote mineral supply chain transparency (e.g. US Dodd - Frank Act section 1502)? What are the advantages and downsides for industry and producing countries? -open reply-(optional)

The Dodd-Frank Act has generated a de facto embargo against minerals from the DRC and adjoining countries. The effect of this regulation is controversial, since it created an important financial burden on industry without effectiveness in solving the fundamental issue. As companies in the downstream, one of our difficulties is to obtain credible information on the miners since 1) the information of miners are often business secret (confidential) for smelters/refiners and 2) the supply chain goes beyond Europe and is extremely complex.

2.8 In some cases, mineral producing developing countries have introduced regulatory schemes to allow trade of minerals to be conducted in a socially responsible way. What is your assessment of such national or regional initiatives and regulatory schemes? -open reply-(optional)

Initiatives such as the iTSCi Bag and Tag Program and the Conflict Free Smelter (CFS) Program are very helpful as they address the minerals early in the supply chain which is much more effective than downstream where there are too many layers of suppliers in between the source and end product manufacturer.

3. Need and scope of a possible EU initiative

3.1 Is there a need for the EU to promote responsible sourcing of minerals through actions focused on transparency of the supply chain, in addition to what already exists in the policy landscape? -single choice reply-(compulsory)

Don't know

3.2 Should the scope of an EU initiative refer to specific end-products or downstream industry sectors? -single choice reply-(optional)

No

3.3 Should an EU initiative target specific segments in the minerals' supply chain? -single choice reply-(optional)

Yes

3.3.1 If yes, which segment(s) should be targeted? -multiple choices reply-(optional)

Mines - Traders - Smelters - Refiners

3.4 Should an EU initiative include exemptions for Small and Medium-sized Enterprises (SMEs)? -single choice reply-(optional)

No

4. Continuation of activity, security of supply and other international actors

4.1 Should an EU initiative explore ways to support security of supply of the identified minerals for EU industry? -single choice reply-(optional)

Don't know

4.2 Would an EU initiative reach the necessary critical mass to motivate other major economies (e.g. China, Brazil, Indonesia, and Malaysia) to engage in similar initiatives? -open reply-(optional)

4.3 To the extent that the response strategies of some businesses to the U.S. Dodd-Frank Act section 1502 provisions is to stop sourcing minerals in Central Africa, what could an EU initiative do to support both market access and due diligence

concerns? -open reply-(optional)

It is necessary to create the positive incentives for companies to invest in the region rather than penalizing companies. EU can encourage and support the existing schemes such as Conflict Free Smelter Programme.

5. Nature of the initiative

5.1 To ensure sufficient private sector participation, the implementation of an EU initiative on supply chain, due diligence should not only be voluntary but should include a degree of obligation on business operators.
-single choice reply-(optional)

Strongly disagree

5.2 How should a scheme be designed to make sure companies keep engaging and sourcing responsibly in conflict-affected and high-risk regions rather than simply move on to different regions to source their products? -open reply-(optional)

6. Lessons learned from the EU Timber Regulation

6.1 The EU has some experience in promoting due diligence along the supply chain of the timber sector. Should the EU consider an initiative for minerals modelled on the 2010 Timber Regulation?
-single choice reply-(optional)

Strongly disagree

6.2 As is the case in the EU Timber Regulation, should an EU initiative promote responsible sourcing of minerals by requiring that the entity first placing a selected mineral (processed or not) on the EU market must provide evidence of due diligence thereby giving reasonable assurance that its supply chain is conflict-free?
-single choice reply-(optional)

No

6.3 Should the EU initiative consider preventing the placing on the market of specific minerals/end products extracted and exported against the laws of producing countries? -single choice reply-(optional)

No

6.4 Are the laws of the mineral producing countries sufficiently developed and implemented? -single choice reply-(optional)

Don't know

6.4.1 If you have examples to back either opinion, please share. -open reply-(optional)

JBCE considers that it is too early to know the effectiveness of the 2010 Timber Regulation, and that the effectiveness of such law heavily depends on the legal enforcement capacity in each country and region where primary products are collected and extracted. The complexity of the supply chain is not comparable between timber and minerals since minerals are less traceable and visible than wood products.

7. Positive incentives to international corporations and businesses

7.1 Should an EU initiative provide positive incentives to businesses to foster clean trade from conflict-affected and high-risk areas (i.e. not contributing to adverse impacts and conflicts)? -single choice reply-(optional)	Yes
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7.1.1 What kind of incentives could be considered? -open reply-(optional)

7.2 Business would benefit in terms of brand image and consumer recognition by complying with an EU initiative on responsible sourcing. -single choice reply-(optional)	Don't know
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7.3 Can existing frameworks such as OECD Due Diligence Guidance or certification initiative by the International Conference on the Great Lakes Region be used to facilitate incentives considered by the EU? -single choice reply-(optional)	Yes
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7.4 Numerous private sector initiatives currently carried out allow to promote responsible sourcing from conflict-affected and high-risk areas. -single choice reply-(optional)	Strongly agree
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7.5 How can governments complement private sector led initiatives? Are there examples of positive incentives provided by governments in non-EU jurisdictions? -open reply-(optional)

JBCE encourages the EU to promote internationally recognized frameworks that take a process based approach, therefore give companies enough flexibility to take meaningful actions without becoming an outcomes based tick-box exercise. Such frameworks include the UN Guiding Principle and OECD Guidance.

8. Economic and Competitiveness impacts

8.1 Would you expect any competitiveness impact (positive or negative) should the EU undertake a supply chain due diligence initiative on minerals originating from conflict-affected and high-risk areas ? -single choice reply-(optional)	Yes
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8.1.1 If yes, what impact do you expect for the upstream industries? -open reply-(optional)

8.1.2 If yes, what impact do you expect for the downstream industries? -open reply-(optional)

If EU promotes an initiative focusing on smelters and refiners, it supports downstream companies to collect credible information and therefore leads to a cost savings.

8.2 What would be the possible impact of non-action? -open reply-(optional)

8.3 In case a due diligence system will be proposed, what would be the expected impacts both in terms of administrative burdens and compliance cost (e.g. cost of collecting relevant information and cost of auditing). If you already apply due diligence please provide exact information on your costs. -open reply-(optional)

9. Environmental impacts

9.1 Would you expect any environmental impact (positive or negative) should the EU undertake a supply chain due diligence initiative on minerals originating from conflict-affected and high-risk areas? -single choice reply-(optional) Don't know

9.2 What would be the possible impact of non-action? -open reply-(optional)

10. Social impacts

10.1 Would you expect any social impact (positive or negative) should the EU undertake a supply chain due diligence initiative on minerals originating from conflict-affected and high-risk areas? -single choice reply-(optional) Yes

10.1.1 If yes, what impact do you expect? -open reply-(optional)

We are doubtful that legislation that obliges downstream users to disclose information on supply chains would improve the situation in conflict affected areas. If EU takes such approach, the high number of low-skilled workers in the mining regions will continue to be heavily impacted.

10.2 What would be the possible impact of non-action? -open reply-(optional)

11. Other issues

11.1 If there are any other issues that are not mentioned in this questionnaire that you would like to address, please use the space below to set them out. -open reply-(optional)

The EU should promote internationally recognized frameworks that take a process based approach such as the UN Guiding Principles on Business and Human Rights and OECD Due Diligence Guidance. JBCE strongly suggests to the EU to adopt a (preferably non-legislative) approach which 1) Ensures flexibility as well as global harmonization, 2)Is compatible and does not conflict with existing initiatives and legal instruments not only in the EU, but also in other regions, 3)Does not create unnecessary administrative burdens and generate supplementary costs for companies which are not effective in solving the fundamental problem, 4)Focuses on Smelters which are the crucial point in the supply chain. In this case, JBCE encourages the EU to 'expand and promote' existing program such as the 'Conflict Free Smelter Program', and 5)Is globally comprehensive to encourage all governments and companies to tackle with the issue and to prevent any other actors from exploiting the situation.