

**London 14 May 2015**

**LAMMP Statement on EU regulation for supply chain due diligence on Conflict Minerals**

On behalf of the Latin American Mining Monitoring Programme (LAMMP), we are writing to raise our concerns over the limitations over the proposed regulations on the supply chain of Conflict Minerals. Ahead of the plenary session that is to take place next week in Strasbourg, we wish to draw your attention on the current mining-fuelled conflicts in Latin America.

Over the last decade, LAMMP noted with great alarm the deterioration of the human rights situation, the heightened climate of insecurity and the increased violence targeting rural and indigenous peoples, all in the context of natural resource extraction. The gravity of this situation is mostly visible in the mass forced displacement of land-based communities, the murder and disappearances of activists, the swelling of sexual and gender based violence, rampant organised crime and the erosion of democratic governance.

Whereas we recognise the importance of this trade and of the extraction activities for the economic developments of these countries, we deplore the human rights crisis and conflicts that impact on the most vulnerable peoples of Latin American society.

Ongoing discussions on supply chain due diligence for minerals originating in conflict-affected and high-risk areas are a unique opportunity to strengthen accountability mechanisms in the context of natural resource extraction. It will also provide assurance to both investors and consumers that they are not contributing to human rights violations in mine-affected areas.

The European Union (EU) is a main importer of raw materials and manufactured goods produced from mineral extraction. It therefore plays a critical role in the regulation of global trade of minerals, and in setting an example for responsible business.

In view of this, we urge you to consider the following:

**-Limitation to the voluntary approach of the proposed regulation**

As it is now, the proposed conflict minerals regulation does little to strengthen accountability for corporate human rights violations. Relying on the *OECD Due Diligence Guidance*, the proposal offers EU importers of tin, tantalum and tungsten ores and metals, and gold (3TG) the option of self-certification as responsible importers.

According to a 2014 European Commission Survey, only four percent of 330 companies have voluntarily reported on their mineral sourcing activities<sup>1</sup>. The low turnout of this survey brings to question the effectiveness of the voluntary scheme as it is set out in the Conflict Mineral proposal.

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1 European Commission, Director General on Trade (2013) *Assessment of due diligence compliance cost, benefit and related effects on selected operators in relation to the responsible sourcing of selected minerals- Final Report*

Additionally, we would like to point out to the number pre-existing voluntary initiatives in the context of the extractive industry that are proving ineffective in preventing and mitigating grave human rights violations<sup>2</sup>. In LAMMP's view, the current proposal for Conflict Minerals risks being just another book on the shelf.

### **- Beyond Tin, Tantalum, Tungsten and Gold (3TG)**

In its aim "to help reduce the financing of armed groups and security forces"<sup>3</sup>, the proposed legislation on Conflict Minerals restricts itself to the sourcing and trade of tin, tantalum, tungsten and gold. The recognition of the link between the trade of these minerals and armed conflicts in certain parts of the world<sup>4</sup> is an important step forward. However, in limiting the scope to these four minerals the European Union ultimately turns a blind eye on a majority of mine-fuelled conflicts.

To cite, Mexico is the world's largest producer of silver, and has significant reserves of bismuth, barite, zinc and molybdenum among others. However, it is also well-established that the Central American country is caught up in an endless war on drugs which has killed over 21, 258 people in 2014, most of whom were civilians<sup>5</sup>.

The nexus of organised crime and mining in Mexico is visible as companies increasingly report frequent the theft of ore deposits, drug use among employees and the kidnappings and murders of mine workers. It has also emerged that companies pay directly into the cartels for permission to use the land<sup>6</sup>.

Finally, the allure of mining profits is also linked to the growing presence of illegal miners across South and Central America. This has been seen to fuel organised crime as well as being an important threat to local indigenous and rural communities<sup>7</sup>.

### **-Mining fuelled conflicts and human rights violations**

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- 2 To date, there exist no legally binding treaty for due diligence and accountability for natural resource activities and other business, on the other hand, there is a proliferation of voluntary efforts such as the *UN Guiding Principles on Business and Human Rights* (2011) *Voluntary Principles on Security and Human Rights* (2000), the *Extractive Industry Transparency Initiative* (2013), the *OECD Guidelines for Multinational Enterprises* (updated in 2011) and the ongoing elaboration of the *Initiative for Responsible Mining Assurance* (2014). However, the impact of these efforts remains to be seen.
  - 3 European Commission (2014) *Regulation of the European Parliament and of the Council setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk areas*. p2.
  - 4 i.e. Democratic Republic of the Congo, Central African Republic and Colombia
  - 5 The Southern State of Guerrero which received important media attention in September 2014 for the disappearance of the 43 students is also a key mining operative area for both silver and gold.
  - 6 In April 2015, CEO of Canadian Company McEwen Mining Inc. admitted to having a "good relationship" with the Mexican Cartels operating in the area of influence.
  - 7 A phenomenon that is increasingly seen in the Venezuelan Amazon areas, reported in confidence to LAMMP, November 2014.

Natural resource extraction activities are directly linked to the growing number of grave human rights abuses and violations in Latin America. These include the failure to consult affected indigenous communities (ILO Convention 169), forced evictions<sup>8</sup>, criminalization of community and environmental activists<sup>9</sup>, rape and sexual violence of rural and indigenous women<sup>10</sup>.

Additionally, struggles over land and natural resources have put the lives of community members at significant risk. A recent report revealed the alarming number of environmental defenders who have lost their lives in Central and South America: over 838 deaths between 2002 and 2014<sup>11</sup>.

This situation is all the more alarming when observing the broader context of criminalization and militarization of mining areas: for example, both Guatemala and Peru have called to deploy armed forces at the expense of communities' rights. This has resulted in the death and injury of many protesters and community members, as well as increased gender-based violence<sup>12</sup>.

We hope that, with further knowledge of the impact of the mineral trade on the lives and rights of communities, you will be able to make an informed decision at the plenary on 19-20 May.

Thanking you for your attention, we are at your availability should you need any further information,

Warm regards,



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LAMMP is a UK-based charity dedicated to supporting Latin American women and their communities in their campaign for human rights, sustainable and participatory development, corporate social responsibility and gender main-streaming in the mining industry.

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- 8 UN Habitat (2014) *Forced Eviction and Human Rights, Factsheet 25*. Office of the High Commissioner on Human Rights. [www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf](http://www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf)
  - 9 PBI, et al. (2012) *Position Paper on The criminalization of human rights defenders in Latin America An assessment from international organisations and European networks*
  - 10 Rape is established as "crime against humanity" under Article 7 of the Rome Statute of the International Criminal Court (1998)
  - 11 Global Witness (2015) *How Many More? 2014's deadly environment: the killing and intimidation of environmental and land activists with a spotlight on Honduras*
  - 12 Peru: in June 2012, armed forces used excessive force against activists protesting against a gold mine in Cajamarca, as well as against two human rights lawyers. This case was filed after Public Prosecutor declared the lack of evidence.  
Guatemala: In May 2014, Police and Armed forces were deployed to aggressively remove peaceful protesters at the entrance of the El Tambor gold mine in the province of Guatemala. The forced eviction led to the injuries of many elderly community members and one pregnant woman.