

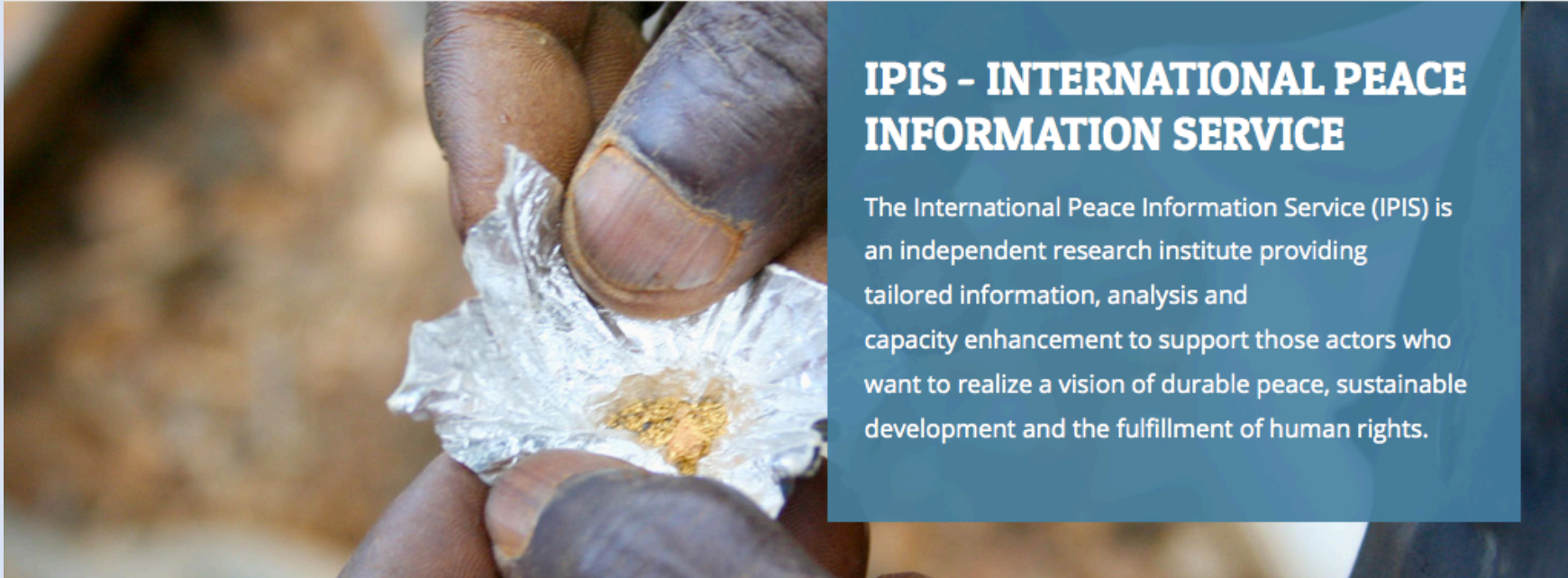


The EU Regulation on Conflict Minerals and its relevance for Africa





Natural Resources Conflict Mapping Business & Human Rights Arms Trade & Security Capacity Building



IPIS - INTERNATIONAL PEACE INFORMATION SERVICE

The International Peace Information Service (IPIS) is an independent research institute providing tailored information, analysis and capacity enhancement to support those actors who want to realize a vision of durable peace, sustainable development and the fulfillment of human rights.

Independent research institute in Antwerp, Belgium

- Focus on Sub-Saharan Africa
- Conflict analysis, arms trade, natural resources, business & human rights



The EU Regulation on Conflict Minerals

Regulation (EU) 2017/821 of the European Parliament and of the Council laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas

AIM OF THE EU REGULATION

Article 1(1) Subject matter and scope

“This Regulation establishes a European Union system for supply chain due diligence ... in order to curtail opportunities for armed groups and security forces to trade in tin, tantalum and tungsten, their ores, and gold. This Regulation is designed to provide transparency and certainty as regards the supply practices of Union importers, and of smelters and refiners sourcing from conflict-affected and high-risk areas.”



WHAT IS DUE DILIGENCE? 1/2

Article 2(d) Definitions

“‘Supply chain due diligence’ means the obligations of Union importers of tin, tantalum and tungsten, their ores, and gold in relation to their management systems, risk management, independent third-party audits and disclosure of information with a view to identifying and addressing actual and potential risks linked to conflict-affected and high-risk areas to prevent or mitigate adverse impacts associated with their sourcing activities.”

WHAT IS DUE DILIGENCE? 2/2

How does the new EU system of due diligence work?



WHAT ARE CAHRAs?

CAHRAs: conflict-affected and high-risk areas

- **Conflict affected areas:** characterised by the presence of armed conflict, widespread violence or other risks of harm to people. E.g.: international conflict, conflict between two or more states, wars of liberation, insurgencies, civil wars, etc.
- **High risk areas:** areas with political instability, repression, institutional weakness, insecurity, collapse of civil infrastructures, widespread violence, widespread human rights violations and abuses, violation of national and international law

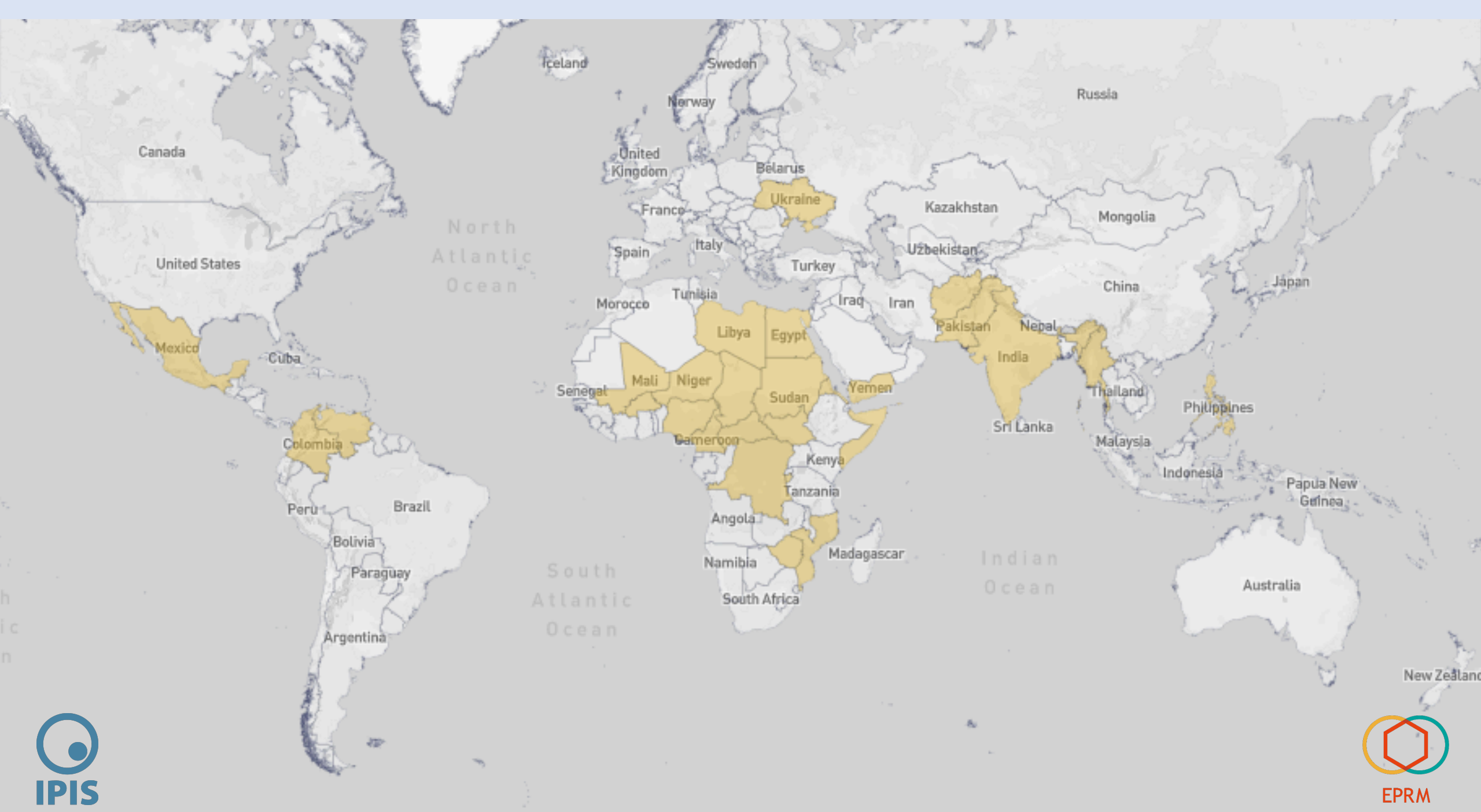
The EU Regulation CAHRA list

To assist companies, a list with CAHRAs was published in December 2020

The list is indicative and not exhaustive

Importers sourcing from areas which are not mentioned on the list remain responsible for complying with the due diligence obligations.





CONCERNS

- Risk of stigmatization and consequently, economic disengagement
- Conflict gold is typically exported by neighbouring countries – not on the list
- Trading centers are not on the list

Which risks are associated with sourcing from CAHRAs?

- Serious human rights abuses
- Support to armed groups
- Security contracting
- Bribery and fraud
- Money laundering
- Non-payment of dues



CAN A COMPANY SOURCE FROM A CAHRA?

Yes, they can!

Companies must make all reasonable efforts to manage risks and provide evidence that there are virtually no risks of financing conflicts or violating human rights.

CSOs from producing countries have an important role to play in this regard:

- by conducting research and publishing information at regional and mine-site level on (the absence of) risks and the political and security context.
- By documenting impacts

SCOPE OF THE EU REGULATION 1/2

The EU Regulation exempts companies using 3TG minerals in manufactured products.

The vast majority of EU companies do use the 3TG minerals, but they are importing them beyond the metal stage and, therefore, fall outside the scope of the EU Regulation.

The EU's own estimate is that the Regulation applies directly to between 600 and 1,000 EU importers, and indirectly to about 500 smelters and refiners of 3TG minerals, whether they are based inside the EU or not.

SCOPE OF THE REGULATION 2/2

The Regulation only applies to EU importers that import above annual thresholds as set out in the EU Regulation

All volume thresholds are set at a level that ensures that no less than 95%, of the total volumes imported into the Union of each mineral and metal is covered

For example: refined gold (CN code 7108) has a 100kg threshold, for gold ores (CN code 26169000) this is 4,000,000kg.

The thresholds do not guarantee that only lower risk imports will be exempted from the requirements of the Regulation. On the contrary, there are good reasons to suspect that many of the highest-risk imports into the EU may fall below the thresholds

POTENTIAL RISKS FOR THE ASM SECTOR

- The EU Regulation may encourage companies to withdraw from the small-scale sector as the latter cannot comply with due diligence standards set by the downstream companies.
- Without the support of the artisanal sector, mining actors may increasingly depend on a reduced number of purchasers which can negatively impact their trading position in the market.

ACCOMPANYING MEASURES

The EU has committed to a series of accompanying measures specifically intended to support responsible mineral sourcing in conflict-affected and high-risk areas

Its efforts are focussed on three main groups of stakeholders, namely the ASM sector, local communities and local authorities. The priority area for support will be the sustainable development of the ASM sector leading progressively to its formalisation

EPRM = accompanying measure to EU Regulation

European Partnership for Responsible Minerals



Main goal of EPRM

Increase demand for and supply of responsibly sourced 3TG minerals from conflict-affected and high-risk areas

Increase the number of mines that adopt responsible mining practices in CAHRAs contributing to local development.

Create better social and economic conditions for mine workers and local mining communities.



Key activities EPRM

UPSTREAM: EPRM Project Fund

- In-region activities to contribute to better conditions in and around mines
- Currently 18 projects funded

7 new in 2021

DOWNSTREAM

- Increase awareness on due diligence
- Exchange knowledge and best practices
- Link up-, mid- and downstream actors
- Through EPRM fora, members meetings, learnings of EPRM projects, Due Diligence Hub, self assessment tool

Overview of EPRM's project locations



Colombia
(Gold)

- **CAPAZ: The Passport to Markets**
- *CAPAZ: Scaling up and Sustaining*
- *Access to Responsible Markets, Good Practices and Territorial Governance*

Burkina Faso & Bolivia
(Tantalum & Gold)
CADD: Consolidated Autonomous Due Diligence

Democratic Republic of Congo
(Gold)

- *Incident Reporting and Monitoring*
- *Women's Empowerment Credit & Savings*

Uganda
(3TG)
Promoting Responsible Mineral Supply Chains

Kenya
(Gold)
Responsible Kenyan Gold

Rwanda
(Tungsten)
SustainBlock

Zimbabwe
(Gold)
Mtandazo Women Miner's Association

Indonesia
(Tin)
Tin Working Group

+ 7 new projects in 2021

Red: Completed project
Green: In progress



REVIEW 2023

By 1 January 2023 and every three years thereafter, the EU should review the functioning and the effectiveness of the Regulation

The review shall include, among other things, an independent assessment of:

- the proportion of total downstream companies which have due diligence schemes in place
- the impact of the Regulation on the ground
- the need for additional mandatory measures in order to ensure sufficient leverage on the responsible global supply chain of minerals.

How is this relevant for producing countries in Africa? 1/3

Role for CSOs

- Ensure transparent production chains at the upstream level by playing an active role in due diligence
- Monitoring role in preparation of the review of the Regulation planned for 2023
- Role in the multi-stakeholder initiative the EPRM
 - Representing voices from mining communities, including ASM miners
 - Bringing challenges and solutions from the upstream side into the EU policy debate
 - Identifying needs for support
- Enable knowledge sharing between countries

How is this relevant for producing countries in Africa? 1/3

Role for Governments

- Ensure transparent production chains at the upstream level, including through the formalization of the ASM Sector
- Role in the multi-stakeholder initiative the EPRM
 - Representing producing countries
 - Bringing challenges and solutions from the upstream side into the EU policy debate
 - Identifying needs for support
- Harmonization of taxes is crucial to reduce tax incentives for smuggling
- Role in ensuring alignment between domestic and international regulations
- Enable knowledge sharing between countries

How is the EU Regulation relevant for producing countries in Africa? 3/3

Role for the mining sector

- Ensure transparent production chains at the upstream level by being aware of and conform to the requirements of the EU Regulation
- Role in the multi-stakeholder initiative the EPRM
 - Representing supply chain actors from the upstream side of the supply chain
 - Bringing challenges and solutions from the upstream side into the EU policy debate
 - Identifying needs for support
- Cost transparency of due diligence efforts to encourage the sharing of financial burdens along supply chains in an equitable way

Thank you!



Lotte.hoex@ipisresearch.be

