



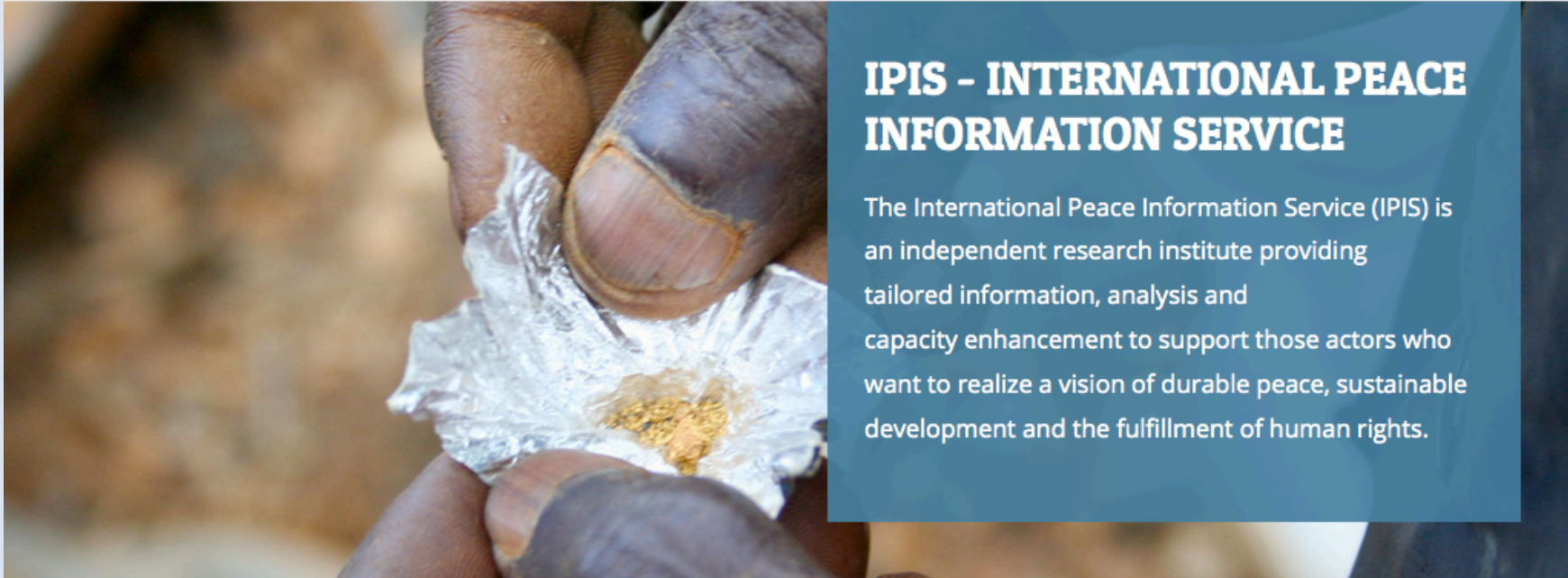
The EU Regulation on Conflict Minerals and its relevance for Africa

Part II
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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?

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

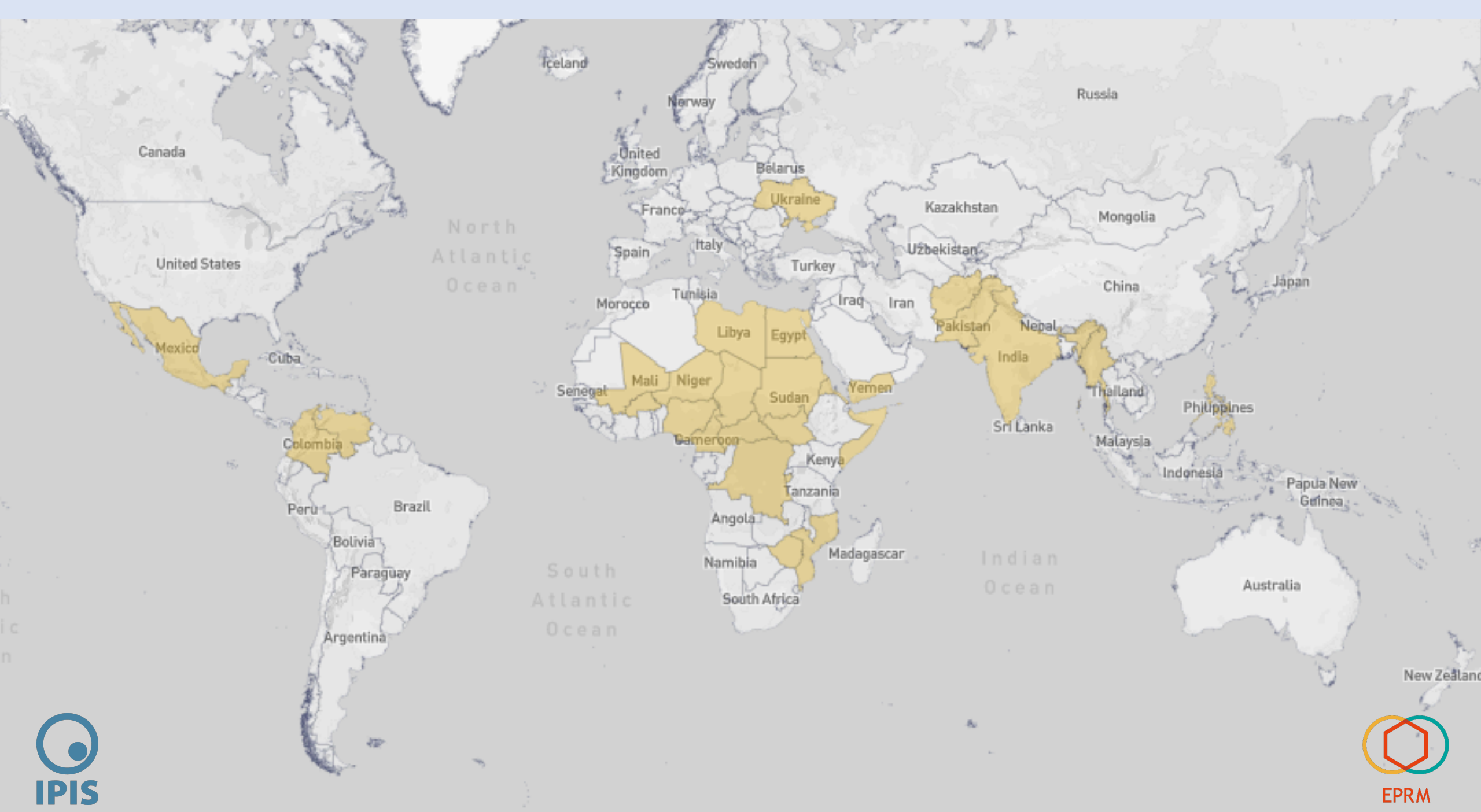
The EU Regulation CAHRA list

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.





The risk of disengagement from CAHRAs

Industry actors might disengage from CAHRAs and/ or stop purchasing artisanally mined minerals.

Mining actors in CAHRAs may increasingly depend on a reduced number of purchasers which can negatively impact their trading position in the market.

Possible responses to avoid disengagement from CAHRAs

- 3TG producing countries, especially CAHRAs, should be aware and prepared for the due diligence requirements this regulation imposes on companies sourcing from their mines
- Effective measures at both ASM and LSM mining operations should be put in place to avoid human rights abuses and conflict financing
- Transparency and accessibility of data is needed to assure potential buyers of the absence of red flags on the ground.
- Africa to create an own, and OECD aligned, mechanism for the management of conflict minerals

No obligations for companies sourcing below the set annual thresholds

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 RISK OF EXCLUDING THE RISKIEST IMPORTS

The thresholds do not guarantee that only lower risk imports will be exempted from the requirements of the EU CMR.

On the contrary, there are good reasons to suspect that many of the highest-risk imports into the EU are transacted in relatively low quantities, some of which may fall below the thresholds and therefore will fall outside the scope of the EU CMR.

THE RISK OF EXCLUDING THE RISKIEST IMPORTS

The EU has not disclosed a dataset with imported volumes and their origin disaggregated by individual EU importers.

Will your country be affected?

It is currently difficult to anticipate whether direct EU imports from specific countries will be affected by the EU CMR.

POTENTIAL RISKS FOR THE ASM SECTOR

- The EU Regulation may encourage companies to withdraw from the small-scale sector
- Limited knowledge and means to ensure transparent production chains at the upstream level
- Uneven distribution of due diligence costs along the supply chain: ASM miners pay the costs. What are the incentives?

POTENTIAL RESPONSES FOR THE ASM SECTOR

FORMALIZATION OF THE ASM SECTOR

For instance, policymakers could focus on:

- Reducing the red tape for miners to access property rights
- Helping governments reform taxes to stop incentivizing smuggling
- Lowering the costs of miner registration
- Working with producer governments to adopt responsible sourcing standards for improving artisanal mining conditions

Recommendations producer country governments

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- Formalize ASM sector
- Reduce red tape on land ownership for ASM
- Ensure alignment between domestic and international regulations
- Use EU CMR as an opportunity to mainstream human rights and gender into national legislation
- Reduce tax incentives for smuggling
- Adopt appropriate measures to incentivise due diligence in domestic gold supply chains

Recommendations to private sector

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- Expand scope of efforts to relevant issues beyond conflict
- Share financial burdens along supply chains in an equitable way
- Risk Management: Stop sourcing from smelters and refiners that fail third-party audits
- Technical support for progressive improvement among producers lest they turn to less demanding importers and further fuel illicit trade
- Facilitate access to finance to free producers from dependence on predatory smugglers

Recommendations to civil society

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- Go beyond “conflict” and work on socio-economic, environmental, health and safety issues
- Scale up monitoring and evaluation of EU CMR and beyond
- Raise awareness about the EU CMR and due diligence
- Enable knowledge sharing between producing countries
- Strengthen local forums for sustainable development in ASM communities
- Encourage CSOs to play an active role in due diligence
- Keep up the pressure

Collective action

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- Speak about responsible sourcing instead of conflict minerals
- Get rid of silos: cooperate & partner across organizations
- Engage in multi-stakeholder initiatives, like the EPRM
- Develop tools to support enforcement of the EU CMR and capacity-building to strengthen enforcement in producer countries
- Conversation should include ASM/LSM interface
- Identify and protect vulnerable groups along the supply chains
- Look beyond Central Africa

Thank you!



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