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Responsibly sourcing minerals from conflict-affected and high-risk areas: LESSONS FROM THE EUROPEAN PARTNERSHIP FOR RESPONSIBLE MINERALS

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In 2021, the EU Conflict Minerals Regulation will enter into force. It implies that importers of tin, tantalum, tungsten, their ores and gold from conflict-affected and high-risk areas into the EU will have a legal requirement to ensure supply chain due diligence. Furthermore, to enhance the impact of the regulation, certain ‘accompanying measures’ have been envisaged, including a multi-stakeholder initiative, the European Partnership for Responsible Minerals (EPRM).

This brief provides an overview of the EPRM, which has been created by a select group of governments, companies and civil society organisations. By mapping early experiences, this note provides valuable insights for stakeholders interested in more responsible mineral value chains and the role of multi-stakeholder initiatives.

Based on interviews with members and non-members, we present key drivers for actors to join the EPRM, and what it means for the partnership. Pull factors differ between and within stakeholder groups. For companies, the pull factors are determined by aspects such as the companies’ value chain stage, their size and their level of due diligence maturity. So within the overall mission of the EPRM or other partnerships, value propositions have to be carefully tailored to the different stakeholder groups.

The note also provides insights from the EPRM governance structure. Among other things, it highlights the importance of creating an equal power balance between stakeholder groups in the governance structure.

1. Introduction

In May 2017, the EU adopted a regulation (European Union, 2017) that obliges actors importing tin, tantalum, tungsten, their ores and gold into the EU to ensure supply chain due diligence when importing from conflict-affected and high-risk areas (CAHRAs). This implies that as of January 2021, when it enters into force, they have to identify and address risks to prevent or mitigate adverse impacts associated with their sourcing activities.¹ Beyond these due diligence requirements, the regulation refers to ‘accompanying measures’ to enhance the impact of the regulation. This integrated approach is based on the assumption that the regulation can play an important role, but is not sufficient in itself to improve local circumstances in and around the mines. Multi-stakeholder initiatives are identified as a possible accompanying measure (European Commission, 2014).

Against this background, the European Partnership for Responsible Minerals (EPRM) was created in 2016 by a select group of governments, companies and civil society organisations, as an accompanying measure to the Conflict Minerals Regulation. It focusses on tin, tantalum, tungsten and gold (3TG), in line with the regulation, and aims to create better social and economic conditions for mine workers and local mining communities, by increasing the number of mines that adopt responsible mining practices in CAHRAs. The Netherlands Ministry of Foreign Affairs has been a key driving force. Other founding members are the Foreign and Commonwealth Office of the United Kingdom (FCO), Intel, Apple, Philips, Valcambi, the Conflict-Free Sourcing Initiative (now called the Responsible Minerals Initiative, RMI), and the civil society organisations Diakonia, the International Peace Information Service (IPIS) and Solidaridad. Since then, the EPRM has managed to attract new members from all three pillars (i.e. government agencies and institutions, supply chain actors and civil society organisations), bringing the total at the end of 2018 to 26 members.² Current private sector members are mainly downstream companies in the ICT sector (Lageard, 2019).

In the two years of existence, the EPRM has created a governance structure, developed a Theory of Change and granted funding through a call for proposals to seven projects, primarily in mineral producing regions in Colombia, Kenya, Rwanda, DRC and Indonesia. These projects are currently being implemented, while a second call for proposals in 2018, will add more projects to the portfolio in the course of 2019. The EPRM also seeks to facilitate capacity building for due diligence and cross-sector learning between upstream and downstream actors by raising awareness and providing guidance on responsible sourcing to Small and Medium Sized Enterprises (SMEs). As part of these efforts, it is in the process of setting up a knowledge portal (Levin Sources, 2018).

We have looked into the early experiences of the EPRM to distill interesting insights, particularly for stakeholders interested in more responsible mineral value chains and the role multi-stakeholder initiatives (MSIs) can play, which are presented in this Briefing Note. We pay particular attention to the drivers for stakeholders to join and actively participate in an initiative as the EPRM, as well as insights related to the governance structure of the partnership. The paper draws from a desk review and 23 semi-structured interviews with EPRM members and potential members, from governments, private sector and civil society organisations.³

After this introduction, Section 2 presents the main pull factors that brought EPRM partners together. Section 3 provides insights related to the governance of the EPRM. This is followed by Section 4, which discusses if/how to engage with stakeholders beyond the partnership. The paper finishes with concluding remarks.

¹ In order for importers to address and mitigate risks, the regulation contains specific requirements related to their management systems, risk management, third-party audits and disclosure of information.

² Strategic private sector members: Intel, International Tin Association, NXP, Philips BV, Valcambi and Apple; Regular private sector members: Samsung, Umicore, Fairphone, HP, Radjabu Minerals and Derivatives, CSR Europe; Basic private sector members: Tantalum-Niobium International Study Center (T.I.C.), Responsible Minerals Initiative (RMI); Civil society members: Alliance for Responsible Mining (ARM), Cordaid, Diakonia, Global communities, IMPACT, International Peace Information Service (IPIS), Pact World, Solidaridad, Institute of Sustainable Development (ISD), Terre des Hommes; Government and Institutions: The Netherlands' Ministry of Foreign Affairs (MFA), Foreign And Commonwealth Office, UK (FCO); Observers: OECD, DG Devco, UNEP, German Federal Ministry for Economic Cooperation and Development (BMZ).

³ This Briefing note is based on a more in-depth independent report that feeds into EPRM processes to move the partnership forward.

2. Pull factors

Various pull factors can be distinguished, which provide insights into the potential role of the EPRM and other MSIs.

Pooling resources to contribute to systemic changes in sourcing regions and to inform due diligence practices

One of the primary benefits of an MSI is its ability to bring different stakeholders together to pool resources and tackle issues that one company or organisation cannot solve on its own. In particular engaging directly in CAHRAs requires tackling systemic issues such as poverty, child labour, and governance. MSIs, such as the EPRM, that bring together different stakeholders that have complementary skill sets and roles are particularly valued. **Civil society organisations** are considered valuable partners for their local networks and knowledge, and for providing a certain legitimacy to the partnership, as they can be expected to do a “sanity check” and avoid “greenwashing”. **Governments** can engage with sourcing country governments to support an enabling environment for responsible sourcing, for example through development cooperation and political dialogue. **Companies** along 3TG mineral supply chain have an impact on the ground through their purchasing practices, as well as their due diligence process more broadly. Such multi-stakeholder collaboration, bringing together these different skill sets and roles, provides a platform to coordinate efforts to enhance impact and avoid duplication.

In addition to pooling resources to engage directly in CAHRAs, some companies find it useful to exchange expertise and knowledge on due diligence practices. A knowledge sharing platform is expected to be a valuable resource for companies for which the topic of responsible 3TG sourcing is relatively new. They can learn from the experiences and knowledge of frontrunner companies on due diligence processes. There is also a potential for the EPRM, and MSIs more broadly, to contribute to the harmonisation of due diligence tools. Many downstream companies share suppliers and, vice versa, suppliers generally have various buyers, so harmonising approaches can help the entire supply chain. Larger downstream companies may also find it useful for their numerous suppliers, many of which are SMEs, to learn more about due diligence.

Enhance understanding of each other's expectations, opportunities and bottlenecks

Another reason for members to join the EPRM is engagement between and within stakeholder groups that contributes to a better understanding of each other's expectations, opportunities and bottlenecks. This can help governments to better understand companies, but mostly help companies at different stages of the value chain to understand each other. As such, it can help ensure that requirements and expectations of buyers better match opportunities and challenges of their direct or indirect suppliers. This is of value to downstream, midstream as well as upstream companies, so is considered useful by a variety of private sector actors. This implies that for partnerships such as the EPRM there is value in having private sector actors from different value chain stages on board.

Risk and reputation management

Companies have a direct interest in showcasing their due diligence practices, and the efforts they made to improve the situation in CAHRAs. This is particularly relevant in light of the EU Conflict Minerals Regulation. While downstream companies do not have to directly abide by it, the regulation expects them to comply with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from conflict-affected and high-risk areas on which the regulation is based. After the review in 2023 it may include these companies in the legislation if they are considered not to be complying. So one of the ways in which companies may effectively present their efforts is through participating in MSIs, such as the EPRM.

Companies can also be interested in showcasing their efforts to their consumers. Risk and reputation management seems to particularly be a driver for downstream consumer companies. This applies to the reputation of the individual company member, but also to some extent to the reputation of the whole industry/sector/value chain. Market actors have an interest in preventing the minerals they work with to be associated with financing of armed forces or other unsustainable practices.



Investment and impact

Finally, the decision to join an MSI would be an equation of the value of a multi-stakeholder engagement to the company on the one hand and the human and financial resources that it can invest in the partnership on the other. To some extent, it is inevitable that a multi-stakeholder endeavour moves more slowly than a single stakeholder or a single actor initiative. It takes time to jointly move forward, due to the different interests and sometimes even language. Organisations that can't afford investing directly in initiatives that require this patience, such as many SMEs, may not join. In any case, all potential members will make the equation, so it is important for a partnership to regularly share insights into the progress and the impact achieved, which the EPRM is beginning to do. Companies also need to know the added value of an MSI, as compared to the various others already working on responsible minerals, including Responsible Minerals Initiative (RMI), ITRI Tin Supply Chain Initiative (ITSCI) and the Public-Private Alliance for Responsible Minerals Trade (PPA) to name a few.

In short, various pull factors exist and they differ between private sector actors depending for example on their size, relative position in the value chain, and the level of due diligence maturity/experience. So within the overall mission of the partnership, value propositions and outreach efforts will have to be carefully tailored to different stakeholder groups.

3. Governance

The governance structure of the EPRM is well in place. Key takeaways from the EPRM experience that may also be useful for other MSIs are the following:



Multi-stakeholder character and power balance need to be embedded in the governance structure

The **EPRM governing structure is well in place, in recognition of the multi-stakeholder nature of the partnership.** A Governing Board has been established, which is responsible for the day-to-day decision making, the strategy of the EPRM, the supervision of the Secretariat, communication and outreach. The three pillars are equally represented in the Governing Board, each with three seats, so a total of nine members. The Board members are elected by their respective pillars and change on a rolling basis. The chairmanship rotates annually and is chosen from each of the three pillars in a fixed consecutive order. Two vice-chairs from the other pillars support the chair. The Memorandum of Understanding of the EPRM (2016) stipulates that board members have a duty towards their respective pillars to ensure that their position reflects the overall position of their pillar, which is operationalised among other things by pillar-specific preparatory calls before every six-weekly Governing Board call. These arrangements imply that there is no power imbalance entrenched in the governance structure of the partnership. This seems to have contributed to a remarkable **high level of trust within and between pillars.** This high level of trust can also partly be attributed to the cooperative attitude of the organisations and individuals involved.



Value of a well capacitated secretariat, potentially drawing from in-house capacity of members

The Secretariat facilitates and implements the day-to-day activities of the EPRM and advises the Governing Board where appropriate. It is commissioned to the Netherlands Enterprise Agency (RVO). Members are appreciative of the functioning of the Secretariat. It is lauded for being pragmatic and doing a good job, regardless of the limited capacity. At this stage of the partnership, many members insist that strengthening the capacity of the Secretariat is critical at this stage of the partnership. They think it is particularly useful to bring on board people with specific knowledge and expertise of responsible 3TG value chains. **Potentially, this could be (partly) addressed by making use of in-house capacity of members.** An offer of a member stands in this regard, to provide an engineer to support the process of creating the knowledge portal. Other members could potentially engage on other processes, with different expertise.

At some point it is worth considering if a Governing Board, responsible for the day-to-day decision making, and a supporting secretariat is still the most appropriate governing structure. A large partnership may be better served by a Secretariat with more decision-making power and a Steering Committee for strategic

directions and oversight. However, for the time being, the governing structure is thought to be fit for purpose to move the partnership forward.

Put in place ample mechanisms for interactions between members

Interactions between the pillars are ensured through the Governing Board and a yearly membership meeting. Furthermore, the governing structure of the EPRM provides space for **working groups** to be created, which focus on a specific topic. They can be joined by all members, based on their specific areas of interest and/or expertise. Currently, three working groups exist, focussing on strategic financing, the knowledge portal and, most recently, monitoring and evaluation. Members value the fact that working groups can be, and are, created, as a mechanism for members to engage on (a) topic(s) of their interest. Potentially, the creation of mineral-specific working groups could be considered, to facilitate linkages between members and upstream projects, in particular to facilitate responsible sourcing from supported (and possibly other sustainably-operating) actors.⁴

Members indicate to be interested in more exchanges between the pillars, as **“It is not through membership, but through engaging with each other, that the partnership pays off.”** Besides additional working groups, this could for example also be done through events and webinars on different topics such as lessons learnt from upstream projects or exchanges on due diligence practices. The Secretariat of the EPRM can potentially play a stronger facilitating role in this regard.

4. Engagement with actors beyond the partnership

The benefit of networking with other stakeholders extends to actors beyond the current or potential membership base.

For instance, some MSIs that require significant resource investment (fees and time) from members may not be very appropriate for **SMEs** to join. In the case of the EPRM, the financial costs are limited for SMEs, as a result of the reduced membership fee of €500.⁵ Lack of time seems to be the main reason for SMEs not to join. Engaging with SMEs is still relevant, especially considering that out of the potentially 880,000 EU companies involved in 3TG value chains, the majority are small and medium-sized (European Commission, 2014). These companies can be reached and supported in other ways. They can be provided free access to (part of) the knowledge portal, which the EPRM is considering. Another channel to engage with SMEs is by having business associations that represent relevant SMEs join the partnership. This is also something that the EPRM pursues, even if there are no SME business associations among its members as of yet.⁶ SMEs could also be invited to meetings organised by the EPRM.

Similarly, **advocacy-oriented CSOs** are hesitant to join MSIs that involve private sector actors that the organisation directs its advocacy activities towards. These CSOs however may have built up significant expertise on responsible mineral value chains that can still be of value to companies and other CSOs part of a multi-stakeholder initiative. While these organisations do not want to be closely associated with the EPRM

⁴ This could be a mechanism for member companies to source minerals from actors supported through the projects. The impact of support provided in sourcing countries partly depends on the market access of supported actors. Members can facilitate market access by choosing to source, directly or indirectly, from them. It can be difficult for one company in the supply chain to take this step, but the EPRM can bring companies together along the supply chain to commit as a whole. However, the feasibility of such an endeavour is difficult to ascertain. For one, it may require a broad membership base as different actors along the value chain will need to participate in sourcing the minerals. In particular, midstream actors may not be interested to take part, as they have strong upstream linkages themselves. Moreover, for most companies it would require time and effort to switch suppliers, depending on the complexity of their supply chain.

⁵ Regular members are charged €10.000 annually and strategic members are charged €30.000 annually. Civil society organisations don't pay a fee. Government agencies and institutions provide financial contributions to the EPRM to support its activities.

⁶ The EPRM charges a reduced fee of €500 to trade associations and collaborative partnerships if their core business is responsible minerals or if 75% of their members are SMEs. Other industry associations are expected to pay €10.000 annually. Trade associations that bring along one, two or three members pay a reduced fee of €5000, €4000 or €3000 respectively. To further facilitate business association membership, it could be considered to lower the regular association membership fee.

or other MSIs, some are open to engaging in a looser manner, for example by participating in meetings to share their views and experiences.

National competent authorities, which are tasked with monitoring the implementation of the EU Conflict Minerals Regulation, are also relevant actors for the EPRM to engage with. The EPRM could potentially share with them relevant insights from EPRM members and activities, and facilitate peer-to-peer exchanges between authorities, as also suggested by Levin Sources & LBN strategies (2018). Initial contact has been made by the EPRM with the National Competent Authorities.

5. Concluding remarks

Since its formation in 2016, the EPRM has increased its membership base to 26 SCA, CSO and government actors, and has broken ground on seven upstream projects. In addition, the knowledge portal on due diligence resources is underway. As the partnership grows and continues to make progress, it is now well-placed to think more strategically on ways to expand and diversify its membership base, and to enhance involvement from its members.

There are different drivers for stakeholders to join and actively participate in an initiative as the EPRM. Key drivers – and some implications - that have been distinguished in this note are the following:

- **Pooling resources to contribute to systemic changes in sourcing regions and to inform due diligence practices.** This allows to address issues that a single actor cannot tackle on its own and to exploit the value of a diversity of skill sets, expertise and roles.
- **Enhance understanding of each other's expectations, opportunities and bottlenecks.** It provides an opportunity for governments to better understand companies and helps companies at different stages of the value chain to better understand each other. As such, it can help ensure that requirements and expectations of buyers better match opportunities and challenges of their direct or indirect suppliers.
- **Risk and reputation management.** This applies to the reputation of the individual company member and to the reputation of the whole industry/sector/value chain.
- **Investment and impact.** The decision to join an MSI is guided by an implicit equation of the value of a multi-stakeholder engagement to the company on the one hand and the human and financial resources that it can invest in the partnership on the other.

Pull factors differ between and within stakeholder groups. For companies, this is determined by aspects as the companies' value chain stage, their size and their level of due diligence maturity/experience. So within the overall mission of the EPRM or other partnership, value propositions and outreach efforts will have to be carefully tailored to different stakeholder groups.

Key takeaways from the EPRM governance structure that may also be useful for other MSIs are the following:

- **Multi-stakeholder character and power balance need to be embedded in the governance structure.** In the case of the EPRM, the different stakeholder groups are equally represented in the Governing Board of the EPRM and the chairmanship rotates annually between them in a fixed consecutive order.
- Value of a well capacitated secretariat, potentially drawing from in-house capacity of members. This allows to draw on specific expertise of members.
- **Put in place ample mechanisms for interactions between members**, as it is not through membership, but through engaging with each other, that the partnership pays off.

Furthermore, it is worth engaging meaningfully with actors not interested in joining the partnership as members. In the case of the EPRM, this may relate for example to many SMEs and advocacy-oriented CSOs.

The journey towards more sustainable minerals value chains is long and complicated. The EPRM is not a panacea, but is well-placed to make a positive contribution. To do so, the EPRM, and other MSIs, need to work towards transformational changes and informing companies' core business practices.

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