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## European Businesses' Need for Dirty Minerals – Interview with Santiago Fischer

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**After an alliance of the European People's Party and the Liberals on the European Parliament's INTA Committee voted against the S&D Group's proposal for binding regulation on the control of blood minerals** from conflicts areas, a vote will be held this Wednesday during the Plenary session in Strasbourg on the proposed regulation by the EU Commission.

**In this interview with Afronline, Santiago Fischer from Justice et Paix, a leading group in the campaign against blood minerals, discusses his hopes on the upcoming vote, the importance of companies carrying out due diligence** and how "binding regulation is positive for businesses as it helps create a level-playing field".

### Why is regulating the traffic of minerals and diamonds an important issue?

Since the Dodd-Frank Act has now been in force for two years in the U.S and the Chinese have just published a series of guidelines with regards to supply chains, it is important that Europe takes an ethical position and that at we say we want no more "blood minerals" and that minerals must be "clean". Regulation is something that is positive for businesses as it helps create a level-playing field so that everyone is playing by the same rules.

"Everyone playing by the same rules" means that businesses must carry out due diligence and follow the OCDE's supply chain guidelines in conflict zones. The Dodd-Frank act puts in place a "responsible market" in in Central Africa and the Congo in order to improve traceability. There are mines in Congo to which the Congolese government have given the green light and a system was created which inspects the minerals from the beginning to the end of the process. All this came about simply because an American law was enacted. We want a mandatory European law as well but due to the business lobby, that is not going to happen. Or, at the very least, merely a law such as the one recently passed by the INTA committee which is only obligatory for foundries and refineries.

### What are your hopes for the vote this week in the European parliament?

Although the vote in the INTA Committee was not a positive one, we are hopeful with regards to this week's vote. In order for due diligence to be effective, all aspects of the supply chain must be involved, including those that are "downstream" – i.e. those who sell and distribute products that include minerals in Europe. We welcome that there have been quite a few amendments tabled by the Socialists, Greens as well as the Liberals – including that of Louis Michel from Belgium. These amendments support our position of having due diligence over the entire supply chain.



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Native of Cape Town, Sean Jacobs lives in Brooklyn, New York and teaches in Manhattan. He obsesses about the relationship between politics and popular culture, but the main rationale for his blog is to comment on what passes for media coverage of the African continent.

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## Black Looks

Sokari Ekine is a Nigerian social justice activist living in Spain, with a background in technology, gender issues and human rights. She is

interested in creating a community of grassroots African bloggers as a way for Africans to exchange ideas, share experiences and tell their own stories in our own words.

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## Rosebelle's blog

Rosebelle Kagumire is an experienced Ugandan Journalist. She won the best Journalist blogger English category at the Panos hosted

competition in 2009. Currently she is a student of MA. Media, Conflict and Peace studies at University for Peace (UPEACE), Costa Rica.

[ugandajournalist.wordpress.com](http://ugandajournalist.wordpress.com)

When we met recently with members of the EPP and the Liberals, we found there was a lot of debate, discussion and also criticism to be found in these parties. Justice et Paix is not the only organisation demanding that the legislation be more ambitious than the text voted on by the INTA committee. For example, last Thursday May 13th, a group of leading investment groups released, including BNP Paribas Investment Partners amongst others, released a statement calling for the current text to be strengthened and for due diligence to be applied to all relevant companies.

At a meeting of Committee on Development on May 11th, Dr Denis Mukwege, winner of the Sakharov Prize, called on MEPs to vote for a stronger text and Louis Michel agreed with this position. As for the EPP, some deputies we met felt that the text could not be too ambitious or it will simply be rejected by the INTA Committee and the text will be withdrawn. Others say that as the current text only targets European foundries and refineries, blood minerals will still enter into Europe as businesses will buy through Asian foundries and refineries. They thus claim that while the proposed legislation is not perfect, it's better to do something rather than nothing. However, there is no point in passing a law if it is not effective. We know that despite the pressure coming from their group, some EPP deputies will vote for the amendments that will strengthen the text.

#### How do you view the INTA committee's draft regulation?

By making only foundries and refineries carry out due diligence, a gap in the market is created. There is a risk that these sectors may die out as European businesses which usually buy from European foundries and refineries, may instead buy from Asian ones. This is real danger which the lobbies, businesses, the European People's Party and the Liberals did not consider. If the rules had been applied to all on a European level, we believe the business that have the largest amount of contact with the mines or minerals would have been obliged to carry out due diligence.

Businesses are greatly reluctant to be put under any sort of restraint and they often tell us that if the regulations are voluntary, they will simply not apply them. It is this lack of social responsibility that we are criticising. Carrying out due diligence is about looking out for the risks that may arise in the supply chain and everyone doing everything that they can to reduce the chance of using blood minerals.

If the businesses had been made to put a regulatory system in place, they would be able to say to the regulatory authorities, whether European or national, that they are worried about a certain point in the supply chain. They would then show the regulator that they are making an effort and they would not necessarily have to be fined. Or, if they do get sanctions, the fines could be gradual.

#### Why do European businesses not wish to be regulated more strictly?

Businesses often believe they that are doing carrying out the necessary checks and they do not need to be regulated. However, SOMO (Centre for research on Multinational Companies), a Dutch NGO, recently published a study that showed that European businesses do not carry out due diligence unless they are listed on the New York stock exchange, due to the Dodd-Frank Act, or telecommunications companies that are in the spotlight due to campaigns such as the Spanish company Telefonica.

We researched the Belgian market and found that even the companies that may be at risk of using blood minerals do not want to carry out due diligence and describe it as being too expensive. However, a recent study by the INTA Committee showed that in the first year, due diligence costs \$ 13 500 and it becomes less expensive after that. Although businesses claim that it will be more expensive, it was the businesses' own figures which were used to carry out the study.

#### What does due diligence entail and why is it so cheap?

Due diligence would simply involve examining the two or three suppliers before oneself in the supply chain. These suppliers will then thus check their own suppliers and so on. We are not asking businesses to go examine if the minerals coming out of the mines in the Congo are clean. However, we are asking for external auditing to take place on the foundries to make sure that the minerals are clean. Although these audits are paid for by the businesses, as the INTA Committee shows in its report, the costs are relatively small and once the process is in place it will be cheaper.

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We believe carrying these external audits are an added bonus as it shows that people have done everything they can to use clean minerals. For businesses, it would show clients that although these are conflict areas and we can't know everything, we have done the maximum possible. All we want businesses to do is carry out reports, show where they have made efforts, prevent any possible risks and if there are areas where they do have doubts, you will not necessarily be fined so long as you do the most that you can.

#### **Have you talked with Business Europe?**

No, and they don't really want to meet with us! We had a brief discussion with them last December at the INTA Committee hearing, but there has been no official meeting.

Business Europe are worried about small SMEs. That may not be able to cope and we understand this as regulation may be too expensive for these them. In such case, the Commission could provide accompanying measures and this is what was in fact proposed. In Italy for example, there is a general opinion against putting in place binding legislation due to the large amount of SMEs in Italy which import minerals.

#### **Could you describe some of the lobbying activities surrounding conflict minerals ?**

For businesses the two main lobby groups are Business Europe and Eurometaux. We have been lobbying for two years that a European law be enacted while it is only recently that the business lobby have become involved. Currently, the real battle is with the EPP as they have decided that they wish to place no constraints on European businesses or hurt their competitiveness.

What we are trying to explain is that it is possible for businesses to support human rights as well as growth. We do not want businesses to stop buying minerals from Congo. They should buy them as they are very important to the Congolese economy. However, the minerals ought to be purchased in the correct manner.

#### **What are the links between the mineral trade and the armed groups?**

Twenty years ago, the conflicts were centred around ethnic and territorial issues and the minerals helped finance the conflict. Today, it is becoming more and more common that the mines are becoming an objective in and of themselves in the conflicts and rebels, armed groups and criminals thus take control of the mines. The FARDC, the RDC's army, then says to these groups that they will protect their mines so long as they are paid. One example of this is while on a road towards Bukavu, our car was not taxed yet a car carrying blood minerals was taxed "off-the-books". So there is now a lot less violence as there is a large army which is carrying out this illegal, off-the-books taxation.

One thing we have noticed is that as attention rises on the armies taxing the groups who hold the mines, they will move from taxing the minerals to taxing basic necessities such as soap and water in the local mining communities as this is less dangerous and visible. There is large black economy which is in place which is creating a "disorganised market". All this is being fuelled due to the presence of minerals in the area.

It is highly important that we put in place a mandatory regulatory in order for a "clean market" to come about. This market, currently in development, is stagnating . For example, in South Kivu, there are 929 mining sites yet there are only around 50 or 60 which have been validated. As such, although only clean minerals are meant to be sold to international buyers, we know that dirty minerals are being sold.

*by Joshua Massarenti in collaboration with Kevin Hind*

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