# TESTIMONY OF
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**Before the U.S. House Financial Services Committee, Monetary Policy and Trade Subcommittee**

**“Dodd-Frank Five Years Later: What Have We Learned from Conflict Minerals Reporting?”**

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## INTRODUCTION

Thank you, Chairman Huizenga, Ranking Member Moore, and Members of the Subcommittee for inviting me here today. Thank you for holding this important hearing to discuss what we have learned from implementing Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. I am honored to testify on behalf of the United States' friend and ally, the Republic of Rwanda.

## CURRENT STATE OF AFFAIRS IN RWANDA

I want to first set the stage and talk a little bit about my country today. Rwanda has enjoyed significant political stability since emerging from the 1994 genocide. According to the World Economic Forum's Global Competitiveness Report released in July 2015[1], Rwanda is the most efficiently governed country in Africa and seventh globally. Rwanda is also among the five least corrupt nations in Africa according to Transparency International.[2]

Additionally, Rwanda has one of the fastest growing economies in the world, registering an average growth rate of eight percent[3] for the last 13 years. The World Bank has stated that Government reforms have directly resulted in Rwanda's having the most improved economy worldwide since 2005, and the country is the second easiest place to do business in Africa.[4] The factors used to determine these rankings are: cutting wasteful government spending; relaxing or removing regulatory burdens; and increasing transparency of policy-making.

Rwanda has come a long way, and we are strategically planning for the future to ensure we continue on the path of progress.

Rwanda's long-term development goals are defined in a strategy entitled Vision 2020.[5] This framework's goal is to transform the country from a low-income agriculture-based economy to a knowledge-based, service-oriented, manufacturing economy with a middle-income country status by 2020. The mining sector has been identified as a key priority as we work to achieve this next step in our economic evolution.

## RWANDA'S MINERAL RESOURCES & IMPACT ON ECONOMY

To understand how critical Rwanda's mineral resources could be in Rwanda's continued transformation, it is important to understand a little bit about the resources within our borders and the significant role mining plays in our economy.

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[1] 2014-2015 World Economic Forum's annual Global Competitiveness Report, https://agenda.weforum.org/2015/07/efficient-government/

[2] Transparency International's 2014 Corruption Perception Index (CPI), https://www.transparency.org/cpi2014/results#myAnchor1

[3] Figures from the Ministry of Finance and Economic Planning & National Institute of Statistics of Rwanda

[4] World Bank Doing Business 2014 report, https://openknowledge.worldbank.org/handle/10986/16204

[5] http://edprs.rw/content/vision-2020

Rwanda is located in the geological area known as the Kibaran belt, which has rich deposits of tin, tungsten, and tantalum, also known as the "3T minerals." The Kibaran belt entirely covers Rwanda, as well as large parts of the Kivu region of the Democratic Republic of Congo (DRC), which borders Rwanda to the west. Parts of Burundi, Tanzania, and Uganda are also overlaid by sections of the Kibaran belt.

While tin is abundant around the world, tungsten and tantalum are significantly more rare. Tungsten has a high melting point and is one of the strongest substances known to mankind. It is often alloyed with other metals to strengthen them, and has a wide variety of applications critical to modern economies from circular saws to electrodes.

Rwanda produces an annual average of 1,500 tons of tungsten ore[6], and the African Great Lakes region, of which we are a part, has been responsible for about two percent[7] of the world's tungsten supply in recent years. Nearly 80 percent[8] of the world's tungsten supply is generated by China, followed by Russia and then Canada.

In 2014, the US Geological Survey credited Rwanda, DRC, and Burundi with producing more than 50 percent[9] of the world's tantalum raw ore. Tantalum derivatives are used in a wide variety of products, including medical equipment and prosthetics, global positioning systems, computers, hard drives, cell phones, and most other sophisticated electronics.

Mining accounts for two percent of Rwanda's GDP, 28 percent of national exports, and is the second greatest source of foreign exchange just after tourism.[10] The mining industry employs more than 37,000 people.

A 2014 survey[11] indicates that on average, each miner has another four dependents, meaning that the work of the approximately 37,000 miners in the country supports the livelihood of 170,000 individuals – about 1.5 percent of the population of Rwanda. The monthly income for a miner varies significantly, and can be as high as $600 per month with median incomes of about $85 per month, putting them in what the US would call middle class. For comparison, the average salary for a primary school teacher in public school in Rwanda is about $90 per month, and the salary for a junior staff member in a government agency is about $400 per month.

[6] Statistics from the National Bank of Rwanda and the Ministry of Natural Resources
[7] US Geological Survey – Mineral Commodity Summaries 2015
[8] Ibid.
[9] Ibid.
[10] Annual report of National Institute of Statistics of Rwanda
[11] Statistics from the Ministry of Natural Resources

Currently, the 3Ts still account for more than 90 percent[12] of Rwanda's mineral production. However, we have started to diversify our extraction efforts to other resources, including gemstones like sapphire, tourmaline, and amethyst, as well as gold and iron ore. We are also exploring for additional minerals including copper, cobalt, silver, rare earth elements, lead, and zinc.

Our mining industry is currently led by the Ministry of Natural Resources and the Geology and Mines Department (GMD). The Ministry has responsibility for setting policy and preparing legislation, overseeing the whole industry, and monitoring and evaluation. GMD has responsibility for policy implementation; promoting, regulating, and supervising the industry; and compiling and disseminating data.

Mines are operated by private companies and cooperatives licensed by the Ministry. All the mining operators are grouped under an umbrella organization known as the Rwanda Mining Association.

## IMPLEMENTATION OF BEST PRACTICES

Now I would like to discuss the steps Rwanda has taken to implement best practices in our mining industry, which illustrate our leadership domestically and internationally.

Recognizing the growing problems posed by trafficking and smuggling minerals, nearly a decade ago, Rwanda proactively developed the regulatory and physical infrastructure needed to continue to develop and legitimize our mining industry.

In 2006, four years before the passage of Dodd-Frank, the Government initiated a project to collect an analytical fingerprint of deposits containing 3T minerals. In 2008, two years prior to the enactment of Dodd-Frank, the Ministry of Natural Resources initiated the Certified Trading Chains (CTC) system in collaboration with the German Mineral Resources Agency (BGR).

The CTC system was based on international integrity instruments such as guidance from the Organisation for Economic Cooperation and Development (OECD), and focused on two aspects: supply chain due diligence (origin of minerals and traceability, taxation and transparency), and mining conditions (workers' rights, communities and environment). The CTC was piloted at six mines in Rwanda, but when Dodd-Frank was enacted in 2010, the Government and industry shifted their focus to compliance with Section 1502 of the law, implementing mandatory regulations rather than a voluntary system.

In 2010, the Government signed a memorandum of understanding with the International Tin Resource Institute (ITRI). ITRI is a London-based industry organization funded by tin producers

[12] Statistics from the Ministry of Natural Resources

to represent the interests of the tin industry globally. The agreement was signed with the objective to address issues relating to 3T mining in Rwanda in relation to “conflict minerals” regulations. The aim of the project was to improve due diligence, governance and traceability of 3T in order to reassure metal buyers of the provenance of their minerals by using the ITRI Supply Chain Initiative (iTSCi), the system devised by ITRI.

The iTSCi program was officially started in Rwanda in 2011. The Government works with PACT, a Washington DC based NGO, as an independent verifier to implement the iTSCi traceability mechanism.

PACT plays an important role in building capacity and training small-scale miners, performing field investigations, auditing, and reporting on all due diligence aspects of iTSCi. A national steering committee composed of the Government, PACT, and civil society organizations oversees the program and recommends actions to the Ministry.

In March 2012, Rwanda was the first country in the African Great Lakes region to promulgate regulations on the International Conference for the Great Lakes Region (ICGLR) Mineral Certification Mechanism (RCM). ICGLR Certification is based on the OECD due diligence guidelines. In November 2013, Rwanda was the first country in the region to issue an ICGLR mineral certificate to a shipment of 3Ts destined for export.

In May 2014, the Rwanda Parliament passed a new mining code, codifying revised mining policy aimed at professionalizing and modernizing the Rwandan mining industry. One of the pillars of the policy is the transformation of the sector from artisanal and small-scale operations to semi-industrial and industrial mining operations.

This transformation requires technical knowledge and skills, financial capacity, proper planning, and an enabling environment. In this framework, the Ministry organized small mining cooperatives into a Federation (FECOMIRWA) and developed a revolving fund to enable artisanal miners to access loans. Other entrepreneurs and relatively larger companies were grouped into the Rwanda Mining Association, which serves as a forum for advocacy, building capacity, and sharing experience.

We recognize that there have been past cases of illegal transportation and trade of minerals from neighboring countries to Rwanda. With the above noted policies and practices in place, Rwanda has the capacity for robust enforcement against smuggling and trafficking of minerals, and takes enforcement very seriously. The Government has implemented the Regional Initiative against Illegal exploitation of Natural Resources (RINR), a strong mechanism to curb mineral smuggling.

In April 2015, a regional team was formed to assist in formulating and receiving requests for cooperation and mutual assistance in the fight against mineral fraud and smuggling. Member states of the ICGLR are represented in the team.

Whenever there is evidence of misconduct by any mineral license holder in Rwanda, immediate actions are taken by the Government. For example, in September 2015, a cooperative named Kamico allegedly misused tags dedicated for traceability, and its license was suspended. Upon determining that the allegations could be substantiated, the license was cancelled.

In October 2015, 54 companies that were not complying with legal requirements were excluded from the mineral traceability scheme. Three companies – namely RF & GM, Africa Multi-business Line, and SOMIKA – named in the UN Group of Experts on the DRC report of October 16, 2015, are also among companies excluded from the traceability scheme, and are thus prohibited from participating in extraction, processing, transportation, or selling 3T minerals.[13]

Because of the actions the Government has taken, today there is really a *de minimis* financial benefit in cross-border smuggling in Rwanda. Anyone tempted to smuggle minerals into Rwanda for the purpose of selling them would need to pay 15 percent of the value of minerals as withholding tax, four percent as royalty tax, and transportation costs. If the minerals are illegally introduced in the traceability scheme, they would also need to pay the iTCSi levy and Government fees.

In total, anyone attempting to illegally sell minerals by introducing them into the Rwanda supply chain would be subject to fees and payments ranging between 20 to 24 percent of the value of the smuggled minerals. In a business where profit margins are generally tight, we do not see much incentive for smuggling products through Rwanda at a cost of up to 24 percent.

## IMPACT OF SECTION 1502

As you can see, Rwanda has taken extensive steps and made great strides in improving accountability and transparency in the mineral supply chain. Today, Rwanda is the country with the best mineral traceability system in the region. Currently, 100 percent of 3T minerals mined in Rwanda are traceable from the mine site to the export point, and a modern database exists with information on mining operations, production records, and mineral trading transactions. Despite all that has been accomplished, our efforts to improve are hampered by the fact that Rwanda was lumped together with nine other countries in Section 1502 of Dodd-Frank.

The ten countries covered by this law certainly have some things in common, but they are dissimilar in many significant ways. From economic development to border control, these

[13] United Nations Midterm Report of the Group of Experts on the Democratic Republic of the Congo, October 16, 2015

countries are at all different levels of achievement. Putting them in one group and applying a "one size fits all" regulation is not only an impediment to efficient implementation of the regulations, but further, such an approach fails to recognize efforts made and challenges faced by individual countries.

Today, the Rwandan mining sector bears the direct costs resulting from the conflict mineral due diligence framework. Due diligence costs include an ITRI levy and fees paid to the Government. All levies are collected at the export stage based on export volumes and essentially serve to finance the mineral traceability scheme in Rwanda. There are additional due diligence costs, including the iTSCi joining and membership fees, as well as internal due diligence costs, such as record keeping and internal audits.

Due diligence fees are directly paid either by large-scale mining companies or by Rwandan mineral exporters, and they in turn pass on the levies to small-scale and artisanal miners who supply the minerals.

The cost of due diligence for the three years prior to 2015 were between two and four percent[14] of the export value of 3T minerals. However, because due diligence costs are not contingent upon mineral prices, but depend on produced volumes, the decline in mineral prices has increased due diligence costs to 5.7 percent[15] of the tungsten ore value, 3.7 percent of the tin ore value, and 3.5 percent of the tantalum ore value.

Currently, more money is spent complying with the conflict mineral requirements than money paid for Government taxes. In October 2015, Rwanda tungsten miners paid $12,000 for each container in due diligence costs in comparison to $8,330 paid for royalty tax.[16] Between January and August 2015, $3.2 million[17] was spent on due diligence – four percent of the value of minerals produced.

Despite all these efforts and the costly investments in due diligence, we have noted since 2013 a negative international market bias against Rwandan minerals, and in particular against tungsten, as Dodd-Frank has been fully implemented. This situation worsened in 2014, when companies that process tungsten ore stopped buying from **all** Central African countries – despite the fact that Rwanda was fully implementing both OECD due diligence recommendations related to conflict minerals and the ITRI minerals traceability mechanism.

The region is now suffering from an "Africa-free" and not a "conflict-free" minerals situation. Section 1502 has caused a de-facto boycott by companies in the US and much of Europe on our

[14] Statistics from the Ministry of Natural Resources
[15] Ibid.
[16] Ibid.
[17] Statistics from Rwandan mining companies and the Ministry of Natural Resources

most valuable resources. The result is a very limited customer base, which further drives down mineral prices because these customers know they have no competition for our resources.

The situation has largely impacted the livelihood of thousands of miners and their families, as the costs for due diligence are passed down from mineral exporters to mining companies, and then on to mine workers. Based on our calculation, the revenues for mining companies and wages for mine workers have decreased by 3 to 6 percent in the last year. Coupled with price fluctuation, the situation has become very difficult to miners and to an industry with tight profit margins.

During the fiscal year 2014/2015, the Ministry of Natural Resources – which has several departments beyond mining – had a budget of $19.8 million. Approximately $3.7 million was dedicated to mining sector development, including mineral exploration. Approximately $6.1 million was spent to comply with due diligence requirements, 46 percent more than was used to discover more mineral resources for the people of Rwanda and for modernization of existing mines. And still, because of Section 1502, our minerals are effectively excluded from the world market.

In 2010, when Dodd-Frank was introduced, Rwandan 3Ts mineral production was estimated at $68 million. It grew by 208 percent to reach $210 million in 2014. While this growth is very impressive, it is dwarfed by the 1,260 percent growth registered between 1998 and 2010, before the enactment of Dodd-Frank.[18] While the difference between growth rates cannot be explained solely by the negative impact of the conflict mineral regulations, these regulations have clearly had a significant negative impact.

I must note that a number of positive developments were triggered by the introduction of Dodd-Frank, including: better record-keeping and reporting from mining companies, improvements in mine site inspections, increased monitoring of mining activities by government agents, capacity building of small-scale and artisanal miners, and alignment of national regulations to regional and global best practices.

These positive gains are among the reasons the Ministry in charge of mines decided that regardless of what might happen with Section 1502, Rwanda will continue to encourage robust traceability for tax and regulatory purposes. Moreover, sustainability, certification, and traceability are here to stay, and Rwanda will continue to be a reliable partner because we know that only “well-sourced” materials will attract the highest yield on the world market.

## CHALLENGES AND OPPORTUNITIES

As illustrated above, many of the main challenges to our industry revolve around the limitations the de facto Dodd-Frank boycott has put on our potential for growth and increased revenue.

[18] Figures from annual report of the National Institute of Statistics of Rwanda

A major structural challenge is caused by the fact that 3T minerals are only mined in four of the 10 countries covered by Section 1502, so the engagement and contribution to efforts for a regional solution through the ICGLR on 3Ts would not attract the attention of all members. With less than half of the ICGLR countries affected, why should they expend political capital and professional time and talent in seeking a solution?

A continuing challenge is the cost of the iTSCi system, and the opacity around the use of levies from local miners. While the system has improved the mining sector by ensuring traceability, the system is costly and it is unclear what the levies are used for within ITRI or why they are so high.

Another issue is based on the fact that 10 countries with divergent interests and different needs are all put in the same box under the current enforcement regime. African Great Lakes countries have initiated the ICGLR regional certification mechanism to deal with various issues related to mining development. However, the mechanism faces several challenges, which has resulted in limited achievements compared to expected outcomes.

Some of the challenges are linked to the limited capacity of the ICGLR and its unit in charge of mineral resources, which depends on donations. That being the case, prioritization of projects does not solely depend on the needs of member states, but on wishes of donors.

Plans for auto-financing of the ICGLR have not yet been successful, so the system lacks the financial stability to be effective in the long term. Issues related to mineral resources in the Great Lakes region are most of the time reduced only to “conflict minerals,” which has created confusion among various stakeholders and takes away countries that are not concerned about 3T minerals, further hampering efforts to develop an effective funding mechanism.

We do see many opportunities for growth, and the Ministry in charge of mining will continue to take proactive steps. We are currently missing out on investment from a whole host of socially responsible private US companies. We are not asking for any US government handout, but we would like to create an environment that encourages public-private partnerships with US companies to help us with extraction, surveying and mapping, refining and processing, logistics and transportation, and worker training and professional development.

We feel that encouraging US investment will help us fill gaps in our supply chain, increase end-user consumer confidence in our raw materials, improve our economy, and get the most out of our existing infrastructure. For example, Rwanda has a tin smelter that needs modernization. The smelter has undertaken steps to be certified as conflict-free smelter, and additional foreign investment could greatly improve the smelter's capacity. The Ministry has also received proposals for projects from mining companies to set up tantalum and tungsten refineries.

Today, systems exist that can produce what I will call a geologic finger print of a particular mining site, essentially identifying minerals by their mine of origin. Foreign investment could help us deploy these systems in Rwanda, further adding to the integrity of our traceability systems and increasing confidence in the world market.

## CONCLUSION

Moving forward – we welcome a discussion about ways that we could partner with US industry, academic institutions, and the US Government to identify future growth strategies and improve implementation of Dodd-Frank.

Our Government is open to programs and systems that will encourage US manufacturers to source materials from Rwanda and our neighbors.

I welcome your questions and thank you again for inviting me to participate today.