THE COSTS AND CONSEQUENCES OF DODD-FRANK SECTION 1502: IMPACTS ON AMERICA AND THE CONGO

HEARING

BEFORE THE

SUBCOMMITTEE ON

INTERNATIONAL MONETARY

POLICY AND TRADE

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

MAY 10, 2012

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WITNESSES

THURSDAY, MAY 10, 2012

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

THE COSTS AND CONSEQUENCES OF DODD-FRANK SECTION 1502: IMPACTS ON AMERICA AND THE CONGO

Thursday, May 10, 2012

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL
MONETARY POLICY AND TRADE,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:04 a.m., in room 2128, Rayburn House Office Building, Hon. Gary G. Miller [chairman of the subcommittee] presiding.

Members present: Representatives Miller of California, Dold, Manzullo, Huizenga; McCarthy of New York, Moore, Carson, and Scott.

Also present: Representatives Waters, Miller of North Carolina, and McDermott.

Chairman MILLER OF CALIFORNIA. This hearing will come to order. Without objection, all Members' opening statements will be made a part of the record.

I ask unanimous consent that Mr. Miller of North Carolina, a member of the Financial Services Committee, be permitted to sit as a member today of the Subcommittee on International Policy and Trade for the purpose of delivering a statement, hearing testimony, and questioning the witnesses.

We are limiting the opening statements to 10 minutes. And I believe Mr. McDermott has shown up.

Would you like to be heard today also? Unless the Minority side objects, I think we can agree to that.

Without objection, it is so ordered.

We have agreed the opening statements will be 10 minutes on each side. I will start with my opening statement.

Today's hearing is entitled, "The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo." This hearing will explore the impact Section 1502 will have on American companies and whether or not it will have a desired effect of reducing violence in the eastern region of the Democratic Republic of the Congo (DRC).

The hearing comes a bit late, in my opinion, as a law was passed prior to any congressional hearing on this matter—no legislative hearings were held on the requirement to contain the Section 1502 before it was enacted. In fact, this provision was added in the mid-

dle of the night by the Dodd-Frank conference committee between the House and the Senate.

The House never passed any bill or held any hearings or explored the issue of the policy provisions that were ultimately included in the Dodd-Frank Act. Congress did not have an opportunity to consider the sections implemented and whether it would help in the conflict in the DRC, and what effect it would have on the DRC and the companies and minerals and manufactured goods that come from this area and go to regions and manufacturers in the United States.

Although bills similar to Section 1502 were introduced earlier, they were never heard. So we are going to do the legislative due diligence that should have happened then. This is what the American people expect of us, and is absolutely critical in this very important issue. We owe it to the American companies. We owe it to the people of the Congo to ensure that policies we pass have the intended consequences and don't have unintended consequences, as we are hearing are happening today.

While it is puzzling to me that Section 1502 falls completely outside the scope of the Dodd-Frank Act, that legislation was passed as a result of the financial crisis to add stability to the financial system. Section 1502 does nothing to "provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, or to regulate over-the-counter derivatives markets," which were the stated purpose of the Dodd-Frank Act. Section 1502 does nothing to address the cause of the financial crisis.

Additionally, Section 1502 will cause regulation by the SEC. This is a complex matter beyond the SEC's normal area of expertise. The SEC's mission is to protect investors; maintain fair, orderly, and efficient markets; and to facilitate capital formations. This Section does not protect investors or provide information about the financial health of companies. So development of this well-intended law—and I will say it was a well-intended law—seems quite irregular.

And its impacts on companies are expected to be massive. We have been hearing from a number of companies and trade associations expressing concern about the costs and magnitude of this provision. Now is not the time to be placing additional burden on the American companies.

I am incredulous that Congress would pass a mandate down on businesses that the National Association of Manufacturers estimates to be between $9 billion and $16 billion. While the provision only applies to the SEC-listed companies, the truth is it will affect non-SEC companies and small businesses all over this country.

Companies like Kraft Foods, over 100,000 suppliers and 50,000 products that contain those minerals, not necessarily from the region, but if the those minerals are included, they have to review them as if they were from that region.

And it is a system where you have to prove yourself innocent, not simply prove you are not guilty. You have to prove that none of those minerals came from that region, which is a very expensive process, and it is a process that is going to be difficult to implement.

There are over a million parts in a Boeing plane supplied by almost as many suppliers that include these minerals. These suppliers are small businesses and they are job creators in this country.

I am going to be very clear to my colleagues. This hearing is about denying or downplaying the violence in the eastern Congo because it is massive and it needs to be dealt with. Just because a law is enacted with good intentions and is meant to address human rights abuses does not mean the law is the right approach to fixing the problem. The costs of implementing a law are still relevant even when the law is meant to address human rights issues.

So today's hearing is about the consequences of this law on American companies, which must comply with it. We also want to learn how Section 1502 is having its intended effect of helping to reduce violence in the Congo. And if it is helping to reduce the violence, we want to know that. But if it is not, and it is adding to unemployment and the burden on those people, we also want to know that.

During the NCC roundtable on Section 1502, and based upon reports coming out of the Congo from the United Nations, Section 1502 may have had the unintended consequence of creating a de facto embargo on the conflict material minerals covered in this section: tin; tantalum; tungsten; and gold.

Companies that source these minerals are now sourcing them elsewhere, to the detriment of legitimate mining companies in the rest of the Congo. This de facto embargo not only affects the Congo, but Section 1502 also includes the Congo's neighboring states.

The de facto embargo has apparently spread to much of central Africa. We are also told that the de facto embargo has spawned a growing black market trade in these minerals, which we have heard are going to China.

This hearing is not to say that what is going on there in human rights is not a problem; it is. But our concern is, are we hurting the people that we say in this legislation we are trying to help?

I yield back the balance of my time and recognize the Ranking Member, Mrs. McCarthy.

Mrs. MCCARTHY OF NEW YORK. Thank you, Mr. Chairman. And thank you for having this hearing. It is very important that we discuss what is going on in the Congo.

The conflict that has plagued the eastern divisions of the Democratic Republic of the Congo, or the DRC, began over a decade ago. There are many factors that contribute to the political instability, fueling the conflict in that particular region, such as ongoing human rights abuses, widespread poverty, and constant conflict over control of state agencies and fiscal resources. Armed groups continue to compete for dominance over land rights, agriculture commodities and mineral reserves, and mining and trade.

Conflict minerals in the eastern DRC region are mined under extremely poor and dangerous labor conditions in mines that are controlled by armed groups and state security force elements. The main minerals at issue are referred to as the "3 TGs," as the chairman had mentioned: tin; tantalum; tungsten; and gold. These minerals are used to manufacture products ranging from electronics and cellphones to food containers and jet parts.

The sales of these minerals provide direct and indirect profit to the controlling armed groups and allow them to grow and extend their reach. The Congo conflict and instability has been a constant focus in Congress through hearings and legislation aimed to mitigate the factors fueling the conflict, particularly between trade and the conflict in the DRC.

One such effort is a provision included in the Dodd-Frank Act, Section 1502, that requires SEC-regulated firms that use the "3 TGs" in products to publicly report whether those minerals are from the DRC. And if so, what due diligence standards they exercise to ensure that the purchases do not benefit armed groups.

The SEC issued a proposed rule in December 2010 and the final rule should have followed in April 2011. However, due to the complexity of this issue they have repeatedly extended the commentary period, causing a delay in final adoption. Absent a final rule, there has been progress on conflict mineral migration strategies in several ways.

For example, the creation of the conflicts smelter program, which supports conflict-free mineral processing through a vetting system that evaluates and confirms that they are clean minerals. As well, the Department of State and the USAID launched a public/private alliance for responsible mineral trades made up of nonprofits and industry trades to help establish a credible broad spectrum conflict-free minerals supply chain system.

Industry associates and individual companies have piled the due diligence programs based off of the OECD guidance that provides recommendations for supply chain and a code of conduct for sourcing minerals from these conflicts areas.

I am hopeful that today's hearing will provide a constructive conversation on overall compliance of Section 1502, as well as the benefits the provision has had on the DRC region thus far, absent a final rule.

I thank all the witnesses for being here. And I know some of you have certainly traveled a long distance to be here.

I would also like to commend Representative McDermott, as well as the members of the full Financial Services Committee, for participating in this hearing. The Members joining us today have been leaders on human rights and good governance issues, and I look forward to their participation.

Mr. Chairman, I ask unanimous consent to submit into the record a number of statements and letters from human rights, religious, and civic society groups, and investor interests, as well as a statement from Foreign Affairs Committee Ranking Member Howard Berman. All of these organizations support a strong and quick implementation of Section 1502.

Thank you.

And with that, I yield back my time.

Chairman MILLER OF CALIFORNIA. Without objection, it is so ordered.

Mr. Manzullo is recognized for 2 minutes.

Mr. MANZULLO. Thank you, Mr. Chairman, for holding this hearing. I only wish we would have had a similar legislative hearing on this topic prior to Section 1502 becoming law.

As someone who also serves on the Foreign Affairs Committee, I am well aware of the situation in the eastern region of the Democratic Republic of the Congo, but I also know that oftentimes unilateral trade sanctions backfire on the very people that we try to help.

In addition, Congress passed the buck to the SEC to resolve complex issues through rulemaking. We need the flexibility of this new law so that it becomes practical to implement, but still maintains the goal of the legislation. It is also in the interest of the advocacy groups, because U.S. small businesses have legal standing to challenge the SEC rule if it does not change in court, because the rule currently violates the Regulatory Flexibility Act.

The SEC did not perform an adequate economic analysis on the impact of this proposed rule on small businesses. If the SEC ignores the advice of the SBA's Office of Advocacy to submit a new, more accurate, economic analysis, then the affected small businesses will successfully overturn this rule in Federal court.

I am probably one of the few Members of Congress who spends 60 to 70 percent of his time on manufacturing issues, studying supply chain management sourcing. I actually went to warehousing school to determine how the final product finds its way into the showroom. And I spent my time analyzing extraction of minerals and petroleum and gas feed stocks, which are the basis of most manufacturing, all of which through export controls.

With over 2,000 factories in the congressional district that I represent, many of them using tin, it is absolutely impossible for these companies to fill out a statement showing the source of the minerals that they get. You can't do it, because most are bought from brokers, and oftentimes the brokers buy these on the open market. And so, it is the type of law that has passed, well-intentioned, but nobody thought about the details, and nobody thought about the tremendous impact it is going to have upon our manufacturing sector.

Thank you, Mr. Chairman.

Chairman MILLER OF CALIFORNIA. Thank you.

Ms. Moore, you are recognized for 3 minutes.

Ms. MOORE. Thank you so much, Mr. Chairman.

I do want to thank all of our witnesses for taking the time to come here to share your perspective on conflict minerals and ways to best implement Section 1502. And I hopefully trust that this committee supports disclosure and transparency in U.S. capital markets, and thereby the empowerment of investors to make sound investment decisions.

I also trust that we share the goal to stem the plague of violence that has engulfed eastern Congo. I am so sympathetic to the industries' concerns expressed in their comment letters to the SEC regarding the rulemaking and implementation, and I share their desire to have the SEC issue a final rule. Those folks who are starting to comply with Section 1502 are already seeing successes, and we should reward those companies which are investing and complying with Section 1502.

And a final rule, I think, would serve investors by providing the transparency that they expect when making an investment, to know whether or not and to what extent the companies in which

they are investing rely on minerals sourced from an unstable or unreliable black market, thus making the value of those companies vulnerable to the whims of murderous warlords.

When we talk about the costs of these regulations, I want to make sure that we include in that equation the full parade of horrors that have occurred in the Congo since 1996. Most are too awful to recount. But I do want to make sure we focus on the correct frame when we are discussing the costs of conflict minerals, and not just the dollars and cents and extra paperwork and extra compliance officers among our manufacturers, or the costs of extracting these materials from the ground.

We are talking about some of the most wretched and vile mass abusements of humans documented today. Millions of murders and rapes, rampant instability and de facto slavery, and the loss of generations of hope and productivity.

We are talking about wedding days that end in the calculated execution of the bridal party, the savage rape of the bride, and the beheading of the groom, all as a part of a larger campaign of terror to control mineral resources. This is the life in conflict mineral zones. In fact, the Democratic Republic of the Congo is the most dangerous place in the world to be a woman, we are told.

I utterly reject attempts to say that 6 million lives are not factored into the costs—and the modest costs—of due diligence to outsource the war on women, or to support a notion that this committee's jurisdiction over markets does not include requiring the disclosure to investors of reliance on black market or terrorist activity. I simply reject the concept of see no evil, hear no evil, disclose no evil securities law disclosure regime within the United States.

Some have suggested that conflict minerals are outside the realm of what the SEC should be worried about. They are wrong. Investor protection is absolutely the job of the SEC. The Foreign Corrupt Practices Act was enacted to protect investors and the integrity of markets. Section 1502 was enacted for the same reason and in the same spirit.

The fact is that Section 1502 is working for investors and for the people of the Congo. Businesses have already moved swiftly to secure supply chains and to ensure smelters are taking care to avoid smuggled conflict materials. In fact, I understand the Conflict Smelter Program has completed the certification review process for 23 refiners, and many more are moving in that direction.

Motorola, for example, is creating a closed supply chain. Chemat is also working on a closed supply chain. Kester, who supplies 50 percent of the solder wire, a major source of tin, has completed full traceability of their supply chain. Intel announced that it will have a conflict-free chip in 2013.

Chairman MILLER OF CALIFORNIA. The gentlelady's time has expired.

Ms. MOORE. Models exist.

Thank you so much, Mr. Chairman.

Chairman MILLER OF CALIFORNIA. I yield myself 2 minutes.

I think what the gentlelady has said is honest and appropriate. The problem is the Democratic Republic of the Congo is controlled by warlords and thugs. Women are still being raped when they go

in the fields. You have an incredibly high unemployment rate in this region. And it is not like the United States, where if you lose your job in one town, you move to the next town to get a job. There are no jobs in the next town.

So if you say we are going to shut down business opportunities for people in the Congo, then somehow we need to address whether we are hurting the very people we are trying to help by creating huge unemployment in the regions, and are we hurting the nations around the Democratic Republic of the Congo by this embargo?

The problem we have is, let us take something like an order that goes into tin or gold. When an American company goes to buy something that has tin or something that has gold in it, you don't—you have to go prove in some way that none of the ore in the tin or the gold came from the Democratic Republic of the Congo. And if you can't prove that, you are guilty. That is not reasonable.

Yes, there are atrocities occurring. Nobody is arguing that there aren't. Nobody is downplaying that. But does taxing American companies solve the problem in the Democratic Republic of the Congo? I question that. Do we need to do something there? Are human rights issues paramount? They absolutely are. I applaud the Bishop who is here, who knows the region, and the individuals who know the region.

But to say we are going to make life more difficult for people trying to gain employment by making it more difficult for them to have a job, and then implementing this complex burden on American companies to have to prove something isn't true that they don't know even exists in a product is very difficult, too. So these are issues we need to deal with.

I would be happy to yield 1 minute to Mr. Scott.

Mr. SCOTT. Thank you very much, Mr. Miller.

I am very interested in this. And I visited the Congo. I saw it firsthand. I went to heart of the matter, which is Goma. And if you have ever been to Goma, you know what I am talking about. And on that point, I would like to thank all those volunteers who go in there.

The number one treatment in the hospital of Goma is not for cancer, it is not for heart disease, and it is not for tuberculosis. It is not for any of those things. The number one treatment is for sexual violence. Sexual violence, not sexual attacks, but violence against women.

And this is why it is important for us, in Section 1502 of the Dodd-Frank Act, to require disclosures by all issuers who use conflict minerals in their manufacturing processes or in their products. And according to this section, companies must disclose specific due diligence, measures that they have taken to ensure that minerals that are imported from the Congo did not contribute to conflict.

Chairman MILLER OF CALIFORNIA. The gentleman's time has expired.

Mr. SCOTT. Thank you, Mr. Chairman.

I just urge us to be very mindful that we are still that shining city and that shining light on the hill and the world looks to us to do the right thing. And the right thing is making sure—

Chairman MILLER OF CALIFORNIA. And I am not trying to cut off my good friend. He knows that. We have votes called. I want to let

Mr. McDemott—we will extend your time a little bit to allow him to have 1 minute also. So I am trying to be generous to my friend, sir.

Mr. SCOTT. Sure. You are.

Thank you very much, sir.

Chairman MILLER OF CALIFORNIA. Mr. McDermott for 1 minute.

Mr. MCDERMOTT. Mr. Chairman, I want to thank you for allowing me to participate in this and I will use my time to ask for unanimous consent, first of all, to have the markup of the conflict minerals bill in 2010 from the Foreign Affairs Committee entered into the record.

This bill was heard and was extensively worked. Many companies were heard from and the record exists. And in fact, this bill was written bipartisanly. If you read Ms. Ros-Lehtinen's remarks at the Foreign Affairs markup, it is a very strong endorsement of this bill. So it was not as though there were no markups on this.

Second, I ask unanimous consent to submit for the record the Executive Order from the White House, EO13126, which is a list of the products and countries that business already must look at. They cannot accept carpets from Nepal and Pakistan. They can't take coffee from Cote d'Ivoire, and so forth. It is in the record.

Third, I would ask unanimous consent that a list of colleges, States, and cities that have already enacted this and have begun to implement this in their purchasing agreements be entered into the record.

Chairman MILLER OF CALIFORNIA. The gentleman's time has expired.

Mr. MCDERMOTT. And finally, the companies which are already going conflict-free—we have a partial list and I ask unanimous consent to submit that for the record.

Chairman MILLER OF CALIFORNIA. Without objection, it is so ordered.

Mr. MCDERMOTT. They don't want a conflict-free question to become a boycott.

Chairman MILLER OF CALIFORNIA. Thank you.

I am going to attempt to introduce the witnesses prior to going to vote. If I completely botch these names, I absolutely apologize beforehand. I am going to make an attempt.

Mr. Mvemba Dizolele is a distinguished visiting fellow at Stanford University's Hoover Institute, and is currently an adjunct professor at Johns Hopkins University. He is a native of the Congo, and a veteran of the U.S. Marines, someone who has been abducted and held in prison by Congolese security police. He has a profound understanding of the complex security situations in the Democratic Republic of the Congo today.

Dr. Laura Seay is an assistant professor of political science at Morehouse College in Atlanta, Georgia. Her areas of concentration include African politics, conflict, international affairs, and a particular focus on Sub-Saharan Africa and the Democratic Republic of the Congo. She has been studying central Africa since 1996 and conducting extensive fieldwork in the Kivu province of the Congo.

Mr. Frank Vargo—I think I got that one right—is vice president of international economic affairs for the National Association of Manufacturers. NAM is the Nation's largest industrial trade asso-

ciation representing small and large manufacturers in every industrial sector in all 50 States. NAM is particularly well-suited to assess the cost of regulations passed by Congress, so I am pleased Mr. Vargo is here today to help us understand how in the Dodd-Frank provision, we considered all costs to American businesses are estimated to be between $9 billion and $16 billion.

Mr. Steve Pudles is chief executive officer of Spectral Response, an employee-owned electronic manufacturing service company located in Lawrenceville, Georgia. Mr. Pudles has also served as chairman of the board of IPC, a global trade association representing all facets of the electronic industry. Mr. Pudles, thank you for being here today and sharing how this provision has affected your industry.

Mr. Stephen Lamar is executive vice president of the American Apparel & Footwear Association, a national association of apparel and footwear industries, as well as their suppliers. Mr. Lamar has several years experience working in the Executive Branch in the Commerce Department's International Trade Administration. Members of this panel may be surprised to see him seated here today, because the connection between conflict materials and apparel and footwear is not obvious. We look forward to hearing about how the Dodd-Frank provision is affecting your industry.

The Most Reverend Nicholas Djomo Lola, a Bishop of the Diocese of Tshumbe, is the president of the Catholic Bishops' Conference of the Congo. Bishop Djomo oversees all of the Conference's national pastoral, human developments, and peace and justice activities.

Mr. Bruce Calder is the general manager of Claigan Environmental. He has managed material compliance programs for many companies and is a regular speaker at the U.S. and Canadian Business Forum.

We will now adjourn this hearing to go vote, and we should be back in just a few minutes. If you will be patient with us, we have two votes, and we will be right back.

The committee is temporarily adjourned.

[recess]

Chairman MILLER OF CALIFORNIA. The hearing is reconvened. I would now like to recognize Mr. Dizolele for a 5-minute opening statement.

STATEMENT OF MVEMBA PHEZO DIZOLELE, DISTINGUISHED VISITING FELLOW, HOOVER INSTITUTION ON WAR, REVOLUTION AND PEACE, STANFORD UNIVERSITY

Mr. DIZOLELE. Chairman Miller, Ranking Member McCarthy, and members of the Subcommittee on International Monetary Policy and Trade, thank you for the invitation and honor to testify before your committee today.

This hearing is the most important and pertinent discussion yet on Section 1502 of the Dodd-Frank Act and its consequences for the people of the Democratic Republic of the Congo. Today, I speak before you as a Congolese and a concerned U.S. citizen and consumer. I own two laptops, a smartphone, and several electronic devices, which may or may not contain minerals from the Congo.

I would like also to thank our friends in the many organizations that promoted Section 1502. I know that it galvanized people in the

campaign to raise awareness on the continued conflict in the Congo. Thanks to their work, many more people know about the Congo today.

The views expressed today in this statement are mine and mine alone. The best way to access the costs and consequences of Section 1502 is to look at its premise, claims, and impact on institution-building in the lives of Congolese.

In essence, Section 1502 seeks to bring peace to eastern Congo by regulating mineral trade through U.S. law, cleaning up the supply chain, and reducing malicious to financial through financial means. Such a regulation will de facto curb the violence in human rights abuses.

This approach to conflict resolution, however, is not grounded in the sound fundamentals of political economy and public policy; Section 1502 may work in the short run, but it is not sustainable.

Mineral trade in eastern Congo is part of the wider world economy, which can only be regulated either by the most powerful armed groups working in collusion, the biggest armed group imposing its way on the smaller ones or their backers, seeking to maximize profit and preserve their own interests.

As such, Section 1502 builds on a weak foundation and requires a buy-in of the very negative actors it seeks to tame. This approach prevents basic peace-making models and rewards criminals and would-be spoilers.

Proponents of Section 1502 build their case on the most widely accepted narrative of U.S-Congo policy, which defines the predicament as a humanitarian crisis with a binary prism of social violence and the so-called conflict minerals. Section 1502 oversimplifies the problem, and makes American taxpayers believe that if only the challenges of sexual violence and conflict minerals were solved, then the Congo would get back on track and peace will follow.

But this narrative is wrong and it has led to several ineffective initiatives, which have effectively turned U.S.-Congo policy into a Kivu policy. The Kivu's represent no more than 1/15th of the Congo. Their problems stem from the failure of the state to discharge its duties, and should be treated only as a part of the comprehensive national policy-making

This binary prism also reflected biggest image of the Congo and disenfranchises the Congolese people before the world, casting them as incompetent and incapable to solve their own problems. It then becomes imperative that they be rescued from their hopeless situation by the good people of the world. As a result, the Congolese have been excluded from the policy discussions around Section 1502.

This was evident last October when no Congolese was invited to speak at the SEC's public roundtable on Dodd-Frank Section 1502, which was held here in Washington, D.C. The truth is that no one understands mining in the Congo better than the Congolese.

By failing to engage the Congolese in an honest dialogue on the relationship between conflict and mining, proponents of Section 1502 failed to spur a national ownership of the initiative through a true partnership with the Congolese. The Congo may be a dys-

functional state, but the Congolese are among the world's most resourceful peoples.

Over the past several years, they have quietly and effectively undertaken landmark initiatives that are positively changing the mining landscape in their country. These initiatives include the Ndandula report, which exposed the OPEC exploitation of mineral resources and led to the comprehensive review of mining contracts. As a result, several western companies, including Canada's First Quantum, lost the exploitation title.

Pressured by a local civil society organization, the parliament pushed for the restructuring of the Chinese barter investment deal, reducing its terms and downgrading its value from $9 billion to $6 billion. The Senate recently published a report by the Moussambani Commission, which audited the mining sector and documented millions of dollars of financial loss by the Congolese state incurred due to mismanagement and bad governance.

Today, as we discuss Section 1502, the Parliament, the Federation des Enterprises Congolaise, which is the equivalent of the U.S. Chamber of Commerce and civil society organizations, is supported by international groups such as the Open Society Foundation, are engaged in discussions setting the guidelines for the new mining code that will be enacted in the near future.

The current mining code, which was written over a decade ago as part of a World Bank project, disproportionately favors foreign investors at the expense of the Congolese state and the Congolese people. So far, the proponents of Section 1502 have marched to their own beat, antagonizing corporations, inculpating consumers, and ignoring Congolese initiatives.

If they really want to effect positive change in the Congo's mining sector, there is an opportunity here for them to join the debate on policymaking in Kinshasa to ensure that the new mining code addresses their concerns. This is the best way to empower the Congolese, strengthen the local institutions, and induce national ownership of the transparency they seek.

This conflict, which has indirectly caused the deaths of over 6 million Congolese, has gone on for too long, and is now a scourge on the face of the planet. As we struggle to solve this calamity, we will be better served by looking into the Congo's early history.

Between 1885 and 1908, the Congo, then known as the Congo Free State, was the private estate of Belgian King Leopold II, and was the theatre of yet another holocaust, driven not by mineral exploitation, but by the world's hunger for another commodity. The Industrial Revolution demanded rubber, and more of it. Business' insatiable need for rubber and King Leopold's immeasurable greed pushed the Belgians to design one of the world's most repressive forced labor structures.

The king's agency established a quota system, which required that each village produce a specific amount of rubber over a specific time. Forced public troops were then used to enforce the quota and demand taxes of the population.

Failing to meet the quota or tax requirement led soldiers to chop off limbs of the unlucky Congolese who fell below the mark. Villages were torched, women raped, and the people left to starve to

death or die of disease. By 1924, over 10 million Congolese had perished under the yoke of the Leopoldian regime.

The similarity to the current situation is eerie. Like the conflict minerals, which are primarily exploited in the east, rubber was only exploited in some areas of the Congo Free State. Both problems were symptoms of larger systemic and regime perversions, thus subjugating an entire country.

But there is a big difference between the approach the activists took to expose and denounce King Leopold's crimes, and the way we choose to deal with the calamity today. At a time when there was no computer, no Internet, no fax, and the telephone was still a curious invention, a shipping clerk in Liverpool decided to expose the mighty king and launched a campaign that would not end until Leopold relinquished possession of the colony and the regime and the system changed.

Working under great stress, those activists could have easily chosen the easy route to fundraising on behalf of victims: send them medicine and physicians to mend their wounds. They could have also elected to set a blood-free pre-certification scheme to ensure that the rubber that reached Europe and America was clean.

No. They knew that such a timid campaign would make them Leopold's accomplices' enablers, and prolong the suffering of the Congolese. Instead, they set out to destroy and change the repressive regime, and took the necessary time to accomplish their goal.

Today, at the time of instant satellite imagery, Internet, Instant Messaging, and other technological advances, our activism is lackluster and devoid of moral courage in the face of the unnecessary suffering of the Congolese. We hedge our action and refuse to see the reality before us by covering our faces like little children hoping it will go away.

Instead, we search for enemies where they do not exist. Last month, over 300 Congolese civil society groups and their international counterparts showed great courage and published the report on security sector reform in the Congo. This report calls for an end to the conflict through a comprehensive reform of security institutions, which include the military, law enforcement institutions such as the police and the courts, as well as customs and revenue agencies.

Mr. Chairman, with your permission, I would like to submit a copy of that report for the record.

Chairman MILLER OF CALIFORNIA. Without objection, it is so ordered.

Mr. DIZOLELE. Thank you, sir.

In the Congo, businesses are not the enemies. Armed groups and their international local backers are. If we are serious we should go after them and help restore safe authority, so that the Congolese government can finally meet its obligation towards the people. This means that together we need to end impunity at all levels of the polity. Only then can the Congolese know real peace.

The Congolese people want and deserve peace. We should empower them to that end. The Congolese government's inability to protect its people and control its territory undermines progress on everything else. A competent, professional military, which is organized, resourced, trained, and vetted is essential to solving prob-

lems from displacement, recruitment of child soldiers, gender-based violence, economic growth, and the trade in conflict minerals.

In the absence of a strong Congolese state to protect its interests, Section 1502 will effectively certify the looting of the Congo's minerals, not only by its neighbors, but by everyone else.

Thank you.

[The prepared statement of Mr. Dizolele can be found on page 158 of the appendix.]

Chairman MILLER OF CALIFORNIA. Thank you.

Dr. Laura Seay is recognized for 5 minutes.

STATEMENT OF LAURA E. SEAY, ASSISTANT PROFESSOR OF POLITICAL SCIENCE, MOREHOUSE COLLEGE

Ms. SEAY. Thank you, Mr. Chairman.

Chairman Miller, Ranking Member McCarthy, and members of the subcommittee, thank you for this opportunity and the honor of speaking before you today. I do need to emphasize that I am speaking only as an individual and not for Morehouse College or in any official capacity in that way.

The rules for adopting Section 1502 have yet to be released, but the policy is having unintended consequences and unanticipated consequences that I am not certain could have been foreseen by those who pushed for its passage and worked to make it happened.

Beginning in September of 2010 the Congolese government placed a ban on all mineral exports from the Kivu and Maniema Provinces in eastern Congo. This ban lasted approximately 6 months, through March of 2011. And it actually resulted in increased militarization of the mineral sector in the Congo.

So there were some mines in the eastern Congo that were not militarized prior to the development of this ban, but the Congolese National Army used that as an opportunity to take over these mines, and to begin carrying out human rights abuses against people in those areas. A good example of this is the Kamituga mine in south Kivu.

The Kabila government ended its ban on mining in March of 2011, but it was quickly replaced by what has come to operate as a de facto boycott of the mineral sector in the eastern Congo. Since April of 2011 and continuing until today, many major purchasers of Congolese minerals have declined to purchase those minerals. They have made this choice because they believe that given the circumstances in the Congo, they cannot verify that the minerals they are sourcing are conflict-free.

So, rather than on mitigation strategies or on supply chain tracing, they have chosen instead to just withdraw from the Congo altogether. When Malaysia Smelting Corporation pulled out, they had previously been buying 80 percent of Congolese tin exports. After their decision to stop buying in April of 2011, 10 exports from the Congo dropped by 90 percent.

So what are the consequences of these issues, in that there is little reason to believe that either the ban or the boycott would have happened had it not been for the passage of Section 1502? It provided the impetus to be seen as taking action for good or for bad. It has had devastating effects in mining communities in the east-

ern Congo. People lost their jobs, people who had been working in the mines.

And I do want to emphasize that the conditions in the mines are absolutely horrific. None of us would want to work there. None of us would want our children to have to work there. But there are no other economic alternatives in the eastern Congo. Subsistence level agriculture does not provide a way to earn a living, and the only alternative is to join a militia. So for many Congolese miners, mining is the least worst choice of very limited, bad options.

We don't know exact numbers on how many people have been put out of work. I am actually headed to the Congo next month to do some research on this and try to get some data. But it certainly ranges somewhere from the tens of thousands. Local civil society activists in the Congo have estimated that up to 2 million people were put out of work by the ban and the de facto boycott.

This had devastating consequences. Congolese have large families. Most people have five to six dependents. So we are talking, if those numbers that the civil society activists have come up with are accurate, this could have affected 10 to 12 million people in a negative way.

What else has happened as a consequence of these bans that stem from Dodd-Frank's Section 1502 passage? We have seen many miners move into the gold mining sector, which is completely unregulated, and where traceability is not yet possible. We just don't know how to do it in a way that will prevent smuggling.

And according to the 2011 U.N. Group of Experts Reports, smuggling has increased. Minerals are still getting out. We are still seeing high export numbers from Rwanda, which does not have significant domestic mineral reserves, which is a strong indication that smuggling is still going on.

And contrary to the promises made by those who pushed for the passage of Section 1502, violence in Kivu in the absence of this mining, and where armed groups are not making as much money as they previously were off of the mineral trade, violence is getting worse. And we have seen that most recently over the course of the past 3 weeks with a mutiny within the ranks of the Congolese Army by former members of the CNDP militia who have now rechristened themselves as something called M23.

Quality of life has diminished. People cannot afford to pay their children's school tuition, to pay for health care, to pay for basic necessities. And in many of the most remote mining areas, basic necessities, even if people had money to buy them, are no longer available, as those necessities are not being flown in, because the planes would come in with materials and fly out with minerals and now they are not able to do that.

Chairman MILLER OF CALIFORNIA. Could the lady—

Ms. SEAY. To be fair—

Chairman MILLER OF CALIFORNIA. Could the lady conclude? Her time is—

Ms. SEAY. Yes, yes. To be fair, there has been positive change, though it is not clear that this is a result of what we think it is. The DCA mine was demilitarized. The Congolese Army withdrew from it, but the DCA mine is almost tapped out. They have just

about hit the water table, and it is not clear that the Congolese Army would have left were that not the case.

My written testimony contains several remarks on what I think went wrong. I agree with Mvemba that the gross oversimplification of the story is the major problem here. The mineral trade—the militarized mineral trade—is not the cause of conflict in the eastern Congo. It is a symptom of a much deeper disease. It is a problem that we need to clean up, but treating the symptom will not cure the disease. And instead, we need to focus on governance, security sector reform, and rebuilding the rule of law.

[The prepared statement of Dr. Seay can be found on page 187 of the appendix.]

Chairman MILLER OF CALIFORNIA. Mr. Vargo, you are recognized for 5 minutes.

STATEMENT OF FRANKLIN VARGO, VICE PRESIDENT, INTERNATIONAL ECONOMIC AFFAIRS, NATIONAL ASSOCIATION OF MANUFACTURERS (NAM)

Mr. VARGO. Thank you, Mr. Chairman.

The National Association of Manufacturers (NAM), is the Nation's largest industrial association, and it is America's manufacturers who will be the most affected by Section 1502. Let there be no doubt that the NAM and America's manufacturers support the intent of the law to reduce the atrocities that are being committed. We believe the SEC's regulations can implement the law in a manner consistent with the goals, but without unduly burdening American industry, American competitiveness, or American jobs.

But to do this, we believe modifications are necessary to their draft regulations, and we hope this subcommittee will agree and will communicate that to the SEC. We are pleased with the care with which the SEC has been proceeding, and we hope for rules that are consistent with the reality we face.

First of all, it is vital that there be a phase-in period for the regulations. The currently existing extreme limitation of information about the source of metals and minerals makes it impossible for all but a very few companies to submit meaningful reports. For example, the Electronic Industry Citizenship Coalition, the EICC, has been working at this for years. Their Web site this week says that only 11 smelters have been certified as DRC conflict-free, all of them in Tampulu. An independent audit of the EICC concluded that despite their best efforts, "companies cannot assert 100 percent sourcing certainty."

The draft rules unfortunately currently provide only two choices: you state with certainty that you are DRC conflict-free; or even if you have done a lot of due diligence and you just don't know, you have to say no, they are not DRC conflict-free. That would do terrible damage to company brands and investor relations and would do no good whatsoever to advance the humanitarian objectives in the DRC.

During the phase-in period there must be a temporary category of indeterminate origin, but to utilize it companies would have to meet SEC requirements to demonstrate that they were undertaking a good faith effort, and were not just delaying.

Second, once the rules are in full effect, there must be flexible due diligence provisions recognizing that companies have widely differing supply chains. Companies need, for instance, to be able to use contract flow-down provisions to comply. In particular, the OECD guidelines should be expressly stated by the SEC as a safe harbor for companies that implement those guidelines. But that should not be the only way to comply.

I want to stress, this is an extremely costly requirement on American manufacturers. The NAM has estimated the cost at $9 billion to $16 billion, 100 times larger than estimated by the SEC. The cost is not limited to listed companies subject to the SEC regulation, and hundreds of thousands of small, privately owned companies will be affected because they are in the supply chain.

Our estimate is largely corroborated by the competently done Tulane University study called for by Senator Durbin. We are aware of a further report done by Claigan Environmental, who is testifying today. We have examined their report carefully and believe it is a severe underestimate, for several reasons.

First, it assumes everyone can use the simple spreadsheet developed by the EICC, when most of our large companies say it is much too simple and unusable. The EICC spreadsheet template will hopefully work for companies with simpler supply chains, who are closer upstream to smelters, but it will not work for large diversified manufacturers. With millions of parts, they need a much more sophisticated, and unfortunately, more expensive system.

Second, it seriously underestimates the number of companies in today's global supply chain, saying there are hundreds in the supply chain, when in fact there are thousands. One of our members has 100,000 companies in their supply chain. Mr. Pudles, who is going to testify next, has a $40 million company, not one of America's largest, but he sources from 3,000 different manufacturers.

The report also mistakenly believes smaller companies are legally bound to comply with Section 1502 so that companies don't have to have contractual obligations. Unfortunately, that is not true. They are not bound. The report also believes that once agreements are reached, no further action is necessary—totally overlooking the fact that supply chains are not static; they are dynamic. Suppliers are always being added and dropped as companies seek more efficient supply chains with better prices.

Finally, the report somehow concludes that analysis of the European Union's Restriction of Hazardous Substances directive shows that conflict materials compliance can be done cheaply. That is puzzling, because we use the same report. And we put it into our report to the SEC. That report says it costs an average of $2.5 million for companies to comply. So if we apply that to the number of companies the SEC says will be affected by Section 1502, that is a cost of $16 billion, even higher than our estimate.

So there is no question this is an extremely important program and the SEC needs to get it right.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Vargo can be found on page 193 of the appendix.]

Chairman MILLER OF CALIFORNIA. Thank you.

Mr. Pudles?

STATEMENT OF STEVE PUDLES, CHAIRMAN, BOARD OF DIRECTORS, IPC—ASSOCIATION CONNECTING ELECTRONICS INDUSTRIES; AND CHIEF EXECUTIVE OFFICER, SPECTRAL RESPONSE LLC

Mr. PUDLES. Chairman Miller, Ranking Member McCarthy, and members of the subcommittee, I am pleased to be here today to discuss the SEC's proposed rule on implementation of Section 1502 of the Dodd-Frank Act.

I am Steve Pudles, CEO of Spectral Response, an employee-owned electronics manufacturing services company located in Lawrenceville, Georgia. We employ 135 people, providing services ranging from electronics assembly, to product builds, to third-party logistics. And our customers range from small startups to large publicly traded corporations.

I am here today as well in my capacity as chairman of the board of IPC, the association connecting electronics industries. The IPC represents over 3,000 companies, the majority of which are small businesses like mine. IPC's members include companies that design, manufacture, and assemble printed circuit boards, which are vital to the operation of all electronics products.

The subject of this hearing is critically important to IPC members who collectively manufacture products that incorporate all four of the key metals refined from conflict minerals. At the outset of my testimony, I would definitely like to recognize the good intentions of those Members of Congress who authored Section 1502.

By all accounts, the human rights situation in the Democratic Republic of the Congo is grave. IPC supports the underlying goal of Section 1502, but quite frankly, I am concerned that the SEC's draft regulations will have unintended negative consequences.

I am by no means an expert on the issues that plague the DRC. In my testimony today, I will discuss how the draft rule is likely to impact my business and the electronics industry. Members of the subcommittee, make no mistake, the regulations proposed by the SEC will impose a significant cost on my company and companies like mine.

My company is not an SEC issuer. However, the forthcoming regulations will impact us through the due diligence needs of our customers, over a quarter of which are SEC issuers.

Over the last several months, my customers have asked me about auditing my supply base. My company has over 15,000 part numbers. Determining and verifying the content and origin of minerals in each part is a Herculean task. I will have to hire additional staff, an audit company, lawyers and accountants, and purchase software for data management.

A variety of cost analyses has been conducted on the proposed rule. An independent analysis of the costs conducted at Tulane University estimated total costs of $7.9 billion, which is over 100 times the SEC's estimate.

An IPC survey of our members indicated median compliance costs in excess of $230,000 per year. This is a significant expenditure for companies like mine. As the leader of a small business, I work hard to keep my company profitable in difficult economic times.

I am troubled that the SEC's analysis on the impact of the regulation significantly underestimates the impact and costs to U.S. manufacturers and negatively impacts our global competitiveness. Given a few key regulatory changes and a reasonable implementation period, we would greatly decrease the burdens associated with the regulations without undercutting their effectiveness.

I would like to use the remainder of my time to highlight a few of these key recommendations, which are further detailed in IPC's comments to the SEC. The most valuable change the SEC could make is the inclusion of a reasonable phase-in period. This would give companies a transition period to understand the final regulations and examine the origin of conflict minerals in our supply chains.

According to a United Nations report, the implementation of traceability systems in the DRC is severely lacking. A number of companies have sought to avoid conflict-associated minerals by altogether avoiding procurement from the region. A phased implementation of the regulations will better align regulatory requirements with the developing traceability and transparency systems.

The requirement for each issuer to report on the same schedule as their annual SEC report will require my company to constantly reply to customer inquiries. The SEC can significantly reduce the burden on the supply chain by implementing a single reporting date.

Moreover, many electronics companies use recycled materials in order to reduce the amount of virgin materials required in the manufacturing process. The final rule should include an alternative approach for recycled sources that is practical and does not overburden recycled materials so as to discourage their use.

Additional suggestions which I do not have time to discuss in detail include reporting exemptions for products outside our control, provision of a de minimis level to focus on the significant uses of conflict minerals, and provisions of nonbinding examples of due diligence are detailed in my written testimony and IPC's comments to the SEC.

In conclusion, on behalf of my company and IPC's over 3,000 members, I urge the SEC to implement the requirements of Section 1502 in a manner that supports the goals of the statute without unduly burdening U.S. manufacturing industries or causing unnecessary disruptions of the legitimate minerals trade, which is vital to the livelihood of the people of the DRC.

Thank you for the opportunity to address you today.

[The prepared statement of Mr. Pudles can be found on page 179 of the appendix.]

Chairman MILLER OF CALIFORNIA. Thank you.

Mr. Lamar, you are recognized for 5 minutes.

STATEMENT OF STEPHEN LAMAR, EXECUTIVE VICE PRESIDENT, AMERICAN APPAREL & FOOTWEAR ASSOCIATION

Mr. LAMAR. Thank you providing us a chance to testify, and thank you for holding a hearing on this important issue.

The American Apparel & Footwear Association is the national trade association of the apparel and footwear industries and their suppliers. Our members include publicly traded and private compa-

nies, as well as suppliers to both. Our industry employs about 4 million U.S. workers, about 3 percent of the U.S. workforce.

Our industry is among the most globalized in the world. As a result, even the smallest companies have complicated supply chains that stretch across continents, countries, and factories. They have to manage a diverse array of compliance challenges covering labor, health, environment, product safety, and chemical management. We strongly support the goals of the conflict minerals provisions in the Dodd-Frank Act.

Collectively and individually, our members have participated in similar kinds of initiatives to ensure that our sourcing does not inadvertently support undesirable practices, such as forced child labor toiling in the cotton fields in Uzbekistan, leather from cattle raised on illegally cleared rainforest land in Brazil, or wool from mules sheep in Australia.

While we support the efforts to prevent conflict minerals from entering the global supply chains, we remain deeply concerned over several elements of this provision and their impact on our industry.

Let me explain. First, the impact of Section 1502 on the business community is deceptively large. The fact that I am testifying here today on a bill that was largely intended to focus on the electronics industry is one indicator of that fact. Although the law initially targets about 6,000 publicly traded companies, it also affects those companies' suppliers, in many cases small, privately held businesses, as they are being increasingly notified by their customers that they will have to certify that their own supply chain is conflict free.

Many companies in our industry initially thought they were not covered, but are only now finding out, in some cases in the past few weeks, that they are impacted. Many others still don't even know. Many businesses in our industry probably don't realize that their products may contain one of the four conflict minerals. When you think of a garment or a shoe, you think of the fabric, the fit, the design, or maybe the price. But you usually don't think of wearing tin unless perhaps you are watching the Wizard of Oz.

Companies are now learning that tin, for example, can be a filler in certain PVC used in soles of shoes, or metal components in buttons, zippers, and heel tips. Other examples are the electronic components that you might see in a light-up shoe. Use of tin has actually increased in recent years to replace metals like lead or cadmium which had been targeted by recent product safety initiatives, including the Consumer Product Safety Improvement Act (CPSIA), which Congress passed in 2008.

Second, the provisions have a major effect on those in the business community who are least able to effect change in the conflict zones in Africa. In our industry, the use of these minerals are de minimis, even after accounting for greater uses in recent years. Yet, the smallest apparel or footwear company will be equally liable as a company that is a major consumer of larger quantities of these minerals.

Tin is confined in our industry to very, very small quantities that are encountered inconsistently across a great many styles and brands. Compounding this is the simple fact that fashion changes all the time. In one year, a company may find that four products

out of thousands trigger Section 1502 reporting. The following year may be zero and the year after that may be 20. Compare this to an electronics company that sources millions of the same components over several years with no design or input changes.

Just as important, the electronic or accessory components that we might use in the manufacture included in a footwear item—in many cases, these will have been purchased off the shelf from a supplier which is itself many steps removed from the mines or even the smelters where the minerals originate. The bottom line is that the pressure to create and promote conflict-free mineral supply chains will not come from our industry, even if we could somehow declare ourselves to be 100 percent conflict-free.

While the apparel and footwear industries are leaders in social compliance in many areas, we simply don't have the purchasing power or business relationships to effect change in this area.

Third, the costs associated with Section 1502 are enormous. Here again, we believe the costs are far larger than the authors expected. Some estimates put the costs at $8 billion or $9 billion, respectively. We think they can be far higher as we start including the impact on other industries like ours in those calculations.

Fourth, the lack of tracing technology and infrastructure means that companies don't have a clear or affordable path forward for compliance. The draft regulations do not allow companies to simply declare that they do not know if they have conflict minerals in their supply chain because there are insufficient tools to answer that question properly. Yet, the reality is affecting most companies today.

Our industry is still struggling to create verifiable and effective tracing technologies for materials that make up a central part of our supply chains, like wool or cotton, while learning that even greater challenges exist in the minerals industry, which account for far smaller parts of our sourcing.

A couple of quick recommendations. We need to make sure the infrastructure and technology exists to allow companies to come into compliance. We need to make sure there is a comprehensive cost-benefit analysis that enables policymakers to understand how these regulations work well. We need to make sure these regulations are phased in to those industries where consumption of the minerals will have the biggest impact. We need to include things like a de minimis provision.

And once the regulations are in place, we need to make sure there is flexible enforcement accompanied by education to make sure complicated supply chains have the time and the capability and the capacity to come into compliance.

Thank you very much. I will conclude right here.

[The prepared statement of Mr. Lamar can be found on page 169 of the appendix.]

Chairman MILLER OF CALIFORNIA. Thank you.

The Most Reverend Nicolas Djomo Lola, Bishop of Tshumbe, is recognized for 5 minutes.

STATEMENT OF THE MOST REVEREND NICOLAS DJOMO LOLA, BISHOP, DIOCESE OF TSHUMBE, DEMOCRATIC REPUBLIC OF THE CONGO; AND PRESIDENT, CATHOLIC BISHOPS' CONFERENCE, DEMOCRATIC REPUBLIC OF THE CONGO

Bishop DJOMO. I want to thank Chairman Miller and Ranking Member McCarthy for the opportunity to testify today. I ask that my written testimony be entered into the record.

I do not come as a businessman, nor a financial expert. I am a religious leader, a pastor, who is deeply disturbed by the type of violence and suffering that has dominated life in eastern Congo since 1996. This violence has destroyed families, villages, and communities.

One prominent driver of the violence is the illicit mining committed by the many armed groups in the eastern Congo. To protect our people from the misery of minerals, the Church in the Congo publicly supported the passage of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. I traveled to the United States last year to bring that message to the Congress, the State Department, and the Securities and Exchange Commission.

Our message was simple. First, establish regulations that are robust enough to correctly show the origin of the minerals. Second, finalize the regulations as soon as possible and set specific dates by which companies start reporting. Third, include all companies. And fourth, ensure that key information provided by the companies is made available to the public and to Members of Congress.

Since colonial times, our nation has fallen prey to the "resource curse." Throughout the Congo's long history, the Catholic Church has stood by the Congolese people. The Church is one of the largest and most trusted institutions in the country. Our network of schools, health care, and development centers is the largest, and frequently works where the government cannot.

Our people in eastern Congo blame the insecurity fueled by illicit mining for their poverty. Eighty percent of people are subsistence farmers. The violence has caused massive displacement of people. No future development can occur without an end to the fighting. In addition, the illicit mines operate under deployable and dangerous conditions.

Many international institutions are working to end illicit mining. These include the Organization for Economic Cooperation and Development (OECD), the European Union, USAID, and a Great Religious Region Group. Section 1502 of that plank places the first offload behind this other effort.

In March of this year, the Congolese government passed a law that requires all mine and mineral trading companies in the Congo to carry out due diligence in line with OECD standards. This law is fingering various initiatives to educate traders and miners about due diligence. Now is the time to strengthen these efforts with regulations that will legalize mining operations.

First, the business community can and will join us to protect the life and human dignity of the Congolese people by conducting legal, transparent, and accountable international commerce. We are confident that they do not want to be part of the misery that has plagued eastern Congo for years.

We urge the U.S. business community to account for the gruesome social costs of the illicit mining as they calculate their costs for compliance with Section 1502. These calculations are not just cost estimates on a spreadsheet. There is a social balance sheet that places value on the lives that can be saved.

We have full confidence in the goodwill of the Congress, the SEC, and the business sector to resist watering down SEC regulations through half measures that may save money, but cost lives. What the people of the Congo need and the U.S. Government and the American companies can provide are responsible actions that increase transparency and embody the moral values that made the United States a respected world leader.

Thank you, Mr. Chairman, and Madam Ranking Member, for your kind attention.

[The prepared statement of Bishop Djomo Lola can be found on page 174 of the appendix.]

Chairman MILLER OF CALIFORNIA. Thank you, sir.

And Mr. Calder is recognized for 5 minutes.

STATEMENT OF BRUCE CALDER, GENERAL MANAGER, CLAIGAN ENVIRONMENTAL INC.

Mr. CALDER. Chairman Miller, Ranking Member McCarthy, and members of the subcommittee, I am pleased to be invited here today to discuss the Securities and Exchange Commission's proposed rule on implementation of Section 1502 of the Dodd-Frank Act.

My name is Bruce Calder, and I am the general manager of Claigan Environmental. I am responsible for Claigan's conflict minerals program. We work with companies across industries on conflict minerals program management, cost management, and we provide compliance assistance and information to over 200 small, medium, and large companies on conflict minerals.

I would like to first start off by saying we have never, ever seen such widespread early adoption by industry of a transparency law. In 10 years of working with restricted materials compliance, including global regulations, such as Europe's hazardous substance law, its restricted chemicals law, and California's toxins and safe drinking water law, I have never, ever seen so many companies claim that they are going to be compliant, becoming compliant, and declaring they are committed before the final rule is even published.

If you look at the 100-plus pages of our appendix, it is single pages of public declaration by companies committing themselves to being conflict free, and committing their suppliers to being conflict free. And you can flip from page to page to page and see company after company—U.S. companies, Chinese companies, Japanese, Korean, large, small—all committing themselves and their suppliers.

Their issue right now is that they do not have a single clear rule to implement their desires and what they want to do. Being transparent on mineral sourcing not only can be done, it is being done. One key element to the success is the success of the conflict-free smelter program, a program that is implemented by industry in advance of a final rule making them implement.

The conflict-free smelter program has completed the certification review process, including full country of origin traceability, for 23 refiners, plus there are another 32 in process. Kester, an Itasca-based Illinois company, which provides 60 percent of the solder wire in North America—solder wire being the main source of tin in electronics, and the solder being the main use of tin—has completed full traceability through the smelters which they moved through the certification process all the way back to the mine.

So when we look at a circuit board, and you look at potentially hundreds of different components and many different suppliers who are in scope because of the tin solder they use, it only comes back to a handful of solder suppliers, of which Kester is one of the largest.

We have previously submitted estimates on the costs of Section 1502 on the industry and the supply chain. One of the big elements, of course, always a big difference in the conversation, is why is ours different than other estimates? One of the most significant reasons is our cost estimates are based on actual industry programs, not projections, not extrapolations. This is what they are doing.

It is also based on conversations with the SEC on what they intend. The SEC has done themselves and industry a disservice by not stating anything publicly in terms of rules since way back basically in 2010. The other piece, and it is very, very important, is the use of "intentionally added." "Intentionally added" is a very, very, very important piece of this.

And the reason is over de minimis is steel. Tin exists in most common alloys of steel, but it is not supposed to be there, it is not intended to be there. It is a by-product. It is a part of the process. It is harmless and nobody has cared. If you put a de minimis value in, the actual amount of tin in our most common steels is well over any standard de minimis level, and it would bring almost all major steels in play.

A lot of small suppliers who make products that have washers and screws, etc., suddenly will be in scope, and then we know if they have tin. They would have to set up a test lab. I have a test lab and it is a wonderful business, but I don't think that is fair. Going for "intentionally added" will keep most common alloys of steel, which significantly reduces the cost to industry, and particularly small business.

The SEC's staff has indicated that the conflict-free smelter program would meet a lot of the due diligence required, especially third-party auditing, which would be excellent. We also assume, and in—to the SEC it makes sense, that the auditing will be more based on auditing to ensure that companies have done what they said they have done.

And I think it is extremely important that companies who do good and wonderful things, who can't get all the way through to their smelter, should be allowed to say clearly and truthfully, they have done good and wonderful things.

So, one of the last pieces on this is not if it will be implemented. These industries are implementing it. The biggest burden right now, especially on small companies, is they don't have to comply with the SEC's rules; they have to comply with the rules that each

one of these companies at how they have extrapolated the law. What they really need now for cost containment is a single rule so they can meet one standard and the standard of every customer they have.

Thank you.

[The prepared statement of Mr. Calder can be found on page 52 of the appendix.]

Chairman MILLER OF CALIFORNIA. Thank you. I appreciate your testimony.

I now recognize myself for 5 minutes. Mr. Pudles, you represent business interests and you were very much aboveboard on that. Mr. Calder, you provide consulting services to companies regarding implementation of Section 1502; is that correct? And you are an expert on conflict material minerals?

Mr. CALDER. Yes.

Chairman MILLER OF CALIFORNIA. Just so everybody is clear, you make a profit on implementation of Section 1502? That is your business.

Mr. CALDER. Yes, that is so.

Chairman MILLER OF CALIFORNIA. Okay. I just—because we have business interests, I want everybody to know who is testifying before us today. And I think that is very important.

Mr. Lamar, you talked about buttons in suits, so I am probably wearing a conflict button on my suit.

Mr. LAMAR. I don't know that.

Chairman MILLER OF CALIFORNIA. But if you don't know that, that means I probably am, because you have to say if I can't prove I am not.

Mr. LAMAR. That is the concern we have with the way the regulations are coming forward.

Chairman MILLER OF CALIFORNIA. And that is my concern.

Mr. Vargo, you talked about if you can't certify, like I really can't certify and he can't certify, and Nordstrom's can't certify who sold me the suit. So what do you have to do if you are going to sell me this suit? What do you have to post if you can't certify that these are not conflict-free?

Mr. VARGO. The way the draft SEC rule is written, you would have to say, this is not DRC conflict-free, and you would have to bear that on your Web site and the public would look and say, oh, this company is bad. It is not DRC conflict-free when there is no information and the company does its due diligence. We are not saying that you need an indeterminate origin category forever, just during the period that the infrastructure is being developed.

Chairman MILLER OF CALIFORNIA. That is a concern for me. And I know my good friends talked earlier about the fact that hearings were held, I believe in the Foreign Affairs Committee, but you never did anything. But the problem was legislation was enacted in this committee and we never heard anything. And that is a real problem for me.

Mr. Dizolele, is life better and going to be better next year and the year after for people in the region because of what we are doing here?

Mr. DIZOLELE. Mr. Chairman, my personal view with my extensive experience in the field is that even if this powerful chamber

were to pass this legislation, implement it, give our friends on the other side of the debate a magic wand, the next day when women in Tubembe—this is in south Kivu—go back to the field, nothing would change for them.

They will be raped, and they will be abducted, because we will not have dealt with the real problem, which is the presence of the militias. The militias will not disappear because of Dodd-Frank or Section 1502. We are not going after the source of the problem. We are putting a veneer on it.

So the question really is, what difference does it make for the ladies in Tubembe? In my view, not much. In my view, the Panzi Hospital will stay open, because rape will continue. Maybe the American consumer will assuage his conscience. Maybe the activists will have felt that they have done something, but that is not the slam dunk.

Chairman MILLER OF CALIFORNIA. Ms. Seay, are minerals the only commodity used to fuel this conflict over there?

Ms. SEAY. Absolutely not. And I think that is a key point that goes back to the question you just asked Mr. Dizolele, which is, the armed groups in the eastern Congo have multiple sources of revenue. They tax every trade that there is: bananas; timber; charcoal; and traffic on the road.

Are these sources as lucrative as the mineral trade? No. Do they find ways to make it more lucrative? Yes. They will raise taxes. And what we have seen is that militias don't stop fighting because they lose access to one stream of revenue. What they do instead is turn to preying on the population even more than they already were before.

Chairman MILLER OF CALIFORNIA. And are more people unemployed than they were before this started?

Ms. SEAY. I think we can say that more people are unemployed in the mining sector, for sure, as well as in sectors in mining communities. So for example, if a miner doesn't have money he can no longer afford to pay the grocer for basic goods. And so, that person is also in trouble financially.

Chairman MILLER OF CALIFORNIA. And Mr. Dizolele, when that miner is unemployed, where do they go to get a job?

Mr. DIZOLELE. Sir, in the DRC, we have a lot of statistics. And statistics often do not even reflect the beginning of it. In the DRC, we don't talk about unemployment, we talk about underemployment. The underemployment is about 82 percent. This means people don't have jobs. They leave every morning, because they have to do something to feed their families, but they don't have any jobs. And so, one of the little jobs that is lost is not going to be replaced.

You cannot just move to move from Katutu neighborhoods and say I have lost my job in Katutu and I am going to go to Nguma and find a new job. We are talking about the DRC and we are talking about the eastern Congo. This is not Switzerland or America.

Chairman MILLER OF CALIFORNIA. So their life is worse than it was before this implementation in many cases, because they have no job now. Women are still getting raped in the fields, which is horrible. It is inexcusable.

And maybe the Foreign Affairs Committee should have done something on that, rather than passing the burden onto the busi-

ness sector in this country about what do we do in a region like that that is abusing their people and allowing it to happen.

My time has expired.

I yield 5 minutes to Ranking Member McCarthy.

Mrs. MCCARTHY OF NEW YORK. Thank you, Mr. Chairman.

I want to thank everybody for their testimony. You have to realize that this committee really has a very daunting task in front of us. Obviously, we want to make sure that our businesses are able to continue doing business without added costs. But we also have a situation for the people who are working in these mines, and the children.

Now, the rules for Section 1502 have not really been implemented yet, so we are not exactly sure where we are going to be going on this. I know that when people got together on the blood diamonds, there were a lot of outcries that people wouldn't be able to afford the diamonds, diamonds that are used for other things besides wearing on a ring. And yet, they have come through the years to be able to make sure that those diamonds are certified now and not coming and hurting people.

That is going to be the problem that we are going to be facing here. To come up with a solution, hopefully work with the SEC. Obviously, they are having a difficult time with this, because they have not come out with the final rules.

But Mr. Calder, reading your testimony, your cost analysis on company compliance with Section 1502 varies from some of the other estimates that we have heard and read in the testimonies. Please explain some of the cost differences, such as large versus small companies, and what factors and methodology are being used to compile your cost analysis that are different than the other cost estimates that have been done.

I know a lot of the larger manufacturers are trying to do the right thing. They have started going to the smelters to basically get it certified. They have already started ahead before Section 1502. But it is the small companies that probably will be facing a burden.

So if you could quickly answer that question for me?

Mr. CALDER. One of the big things about having a final rule is it will allow the small companies to comply to one rule instead of many. One of the really big burdens the smaller companies have is they have to try to comply to an interpretation to each company. And it is already out of the barn.

Now these companies know their products could have benefited from slave or child labor, they are not turning back. It is in place. So the best thing to do for small businesses is give them one single rule, then give us the GE they can give to any customer they have, so they can move forward and move effectively.

Mrs. MCCARTHY OF NEW YORK. Bishop, in your testimony, and I know you weren't able to read your whole testimony, when you talk about the people, obviously that is very heartfelt because you are there. You are working with the people who are in the mines.

But the question came up, if we cut back completely and there is no work, you mentioned agriculture, but you also mentioned in your testimony that the areas where the mines are has already killed the land. So agriculture wouldn't be possible there. And we are probably talking about a very long-term solution.

But with that being said, if the rule is put in place, what would the people do as the adjustment comes through to be able to make a living? Are outside groups going to come in and support them? Will those that are the gangs, as we call them, terrorists, if you want to call them, the armed, how are we going to—that is not going to be up to this committee, unfortunately.

But with that being said, how does that change, and how long would it do it? What kind of suffering would come more to your people?

Bishop DJOMO. [The following testimony was delivered through an interpreter.] The majority of the population in the Kivus lives off of agriculture. The majority of the people in the Kivus do not work in the mines and do not live off of their work in the mines. The mines, and the militias that run these mines, block the production of agriculture in these areas.

In the short term, there may be some people who will lose some work and some income, but in the long term, if you close the illegal illicit mines and cut connection between the mines and the violence, the violence stops. People can go back to their lives and back to a better agricultural system.

The studies and the work of the Church institutions in the area show very clearly that the violence follows the same roads as the minerals from the mines. Better laws will protect the legalization and ensure the legalization of these mines, and thus protect agriculture.

A much better legalization of the mines will also permit a better, more legal, taxation of the citizens in the area. It is impossible to understand that illegal, illicit exploitation is a good for the people.

Chairman MILLER OF CALIFORNIA. The gentlelady's time has expired.

Mr. Dold is recognized for 5 minutes.

Mr. DOLD. Thank you, Mr. Chairman.

Mr. Dizolele, if I can just start with you for a moment. You have complimented the activists for drawing attention to the Congo, but have criticized them for oversimplifying the causes of the conflict in the Congo, and the solutions to that conflict.

And after listening to a number of the testimonies here today, I think it is clear that we all have similar objectives: to try to reduce the violence inflicted on the Congolese people and help them achieve better quality of life. But I also think it is clear that the problems here are complex and that there is no simple solution.

With that in mind, how can the following groups better address the problems in the Congo, whether it be western activists, the NGOs, companies affected by Section 1502, and finally, the SEC and the United States Government as a whole? I know that is a big question, but if you can be somewhat brief?

Mr. DIZOLELE. Thank you, Congressman.

I think we need to start by changing our narrative. I said earlier that the narrative that we have has been shaped through a binary prism of sexual violence and conflict minerals. If we do that, then we set our attention on the one sector of the Congo's territory, which is the size of the eastern United States.

I submit to you that life is absolutely worse in some areas of the Congo that don't have conflict. Anybody who has been through

Equateur Province, through the Kasai Province, through Bandundu Province, was apt to be shocked that people were still living almost like it was still 1920 today.

So what do we do? I think we need to have the courage to go after the real problem. And that courage happens in the very response—opportunity, which amazed me. I was an observer, an election observer, last December in Kinshasa. The international community did not stand with the Congolese people during the election. We chose the easy route.

This was the chance for the Congolese people to really be supported by everyone, including the activities here so that the election would be accepted. Today, the elections, because they were botched, has created a legitimacy crisis.

So if we tie what is going on in the east with the chaos in Kinshasa and the lack of legitimacy of the current government, we actually are in a conundrum, meaning we cannot really find a solution, because the people don't have the legitimacy of their—the people in power don't have the legitimacy of the country at large, are not going to solve the crisis, because they draw the raison d'etre in this environment.

So I think we need to revert to what happened, and I referred to King Leopold's days; there is no instant gratification in the Congo. When we approach the Congo, we need to know that as we approach the Congo, it is for a long haul, and the long haul may take 10 years, building one step on top of the other until we get there.

Mr. DOLD. Thank you so much.

Mr. DIZOLELE. Thank you, sir.

Mr. DOLD. Mr. Vargo, a question for you. When a company joins an initiative to buy clean minerals from the DRC region, does that automatically trigger the expensive reporting requirements in Section 1502?

Mr. VARGO. We don't know what the reporting requirements will be. We are looking for a flexible standard that industry can work with that will be parallel to the way that we enforce export controls, we keep slave labor products out of our supply chains, etc.

Companies typically work with what is called a flowdown, where you turn to your suppliers, and there may be thousands of them, and you put into your purchasing contract a requirement that they do due diligence to stay free of conflict minerals, as well as other things.

So that is why we are pressing for a very flexible rule. We have estimated $9 billion to $16 billion. If the SEC were to issue a more restrictive rule, it could be higher than that. But if the SEC had a very workable rule, it could be lower than that, sir.

Mr. DOLD. Sure. I guess my concern is that when a company like, for instance, Motorola, which has a presence in the 10th District of Illinois, when they invest in the DRC by setting up a closed pipeline of conflict-free minerals, I believe they will have to file at least a very expensive due diligence report. However, if the company were to invest, say, in Australia, that is not going to require them to invest in what is going to be a very expensive report.

So the net result is that we are going to have companies making a cost-benefit analysis: Do I want to invest in the Congo, or do I

want to go elsewhere? And I think people are going to take a very calculated approach and say, you know what, we are not going to invest any in the Congo, and therefore, we are going to see the life in the Congo get potentially even worse than what it is now, and we are going to go somewhere else.

So I just wondered if you might be able to comment on that?

Mr. VARGO. Congressman, that is absolutely correct. And companies are looking and saying if I source out of Canada or Australia or Ukraine, I don't even have to file a report. The report is expensive. It certainly is a disincentive for companies to do business in the region; yes, sir.

Mr. DOLD. Thank you, sir.

And my time has expired, Mr. Chairman. I yield back.

Chairman MILLER OF CALIFORNIA. Thank you.

Ms. Moore is recognized for 5 minutes.

Ms. MOORE. Thank you so much.

And I want to thank the witnesses again for appearing. This has been very, very informative.

Let me start out by asking Mr. Dizolele some questions, the distinguished visiting fellow at Stanford University's Hoover Institution on War, Revolution and Peace.

I am very curious about your testimony, and I wanted to know if you could tell me a little bit more about the Lutundula report that the stakeholders in the Congo, some of the many organizations people have put together to stop the exploitation—the mineral exploitation—through the examples you give in your testimony are with Canada and China, where they changed the contracts.

I am thinking also of something Mr. Vargo said just a few moments ago, when he said that they wanted to make sure that there was no slave labor connected with the supply chain.

So I am wondering what can you just tell the committee a little bit—and I don't want to use up all my time—the substance of these Lutundula contract changes that were made?

Mr. DIZOLELE. Thank you very much, Congresswoman.

Lutundula used to be a member of parliament. He was an MP in the transitional period between 2003 and 2006. I met him in 2006, indeed. What happened was with the privatization in 1990, the structural adjustment to the World Bank and the IMF, the government of Zaire at the time was forced to privatize its mining industry, which was the bedrock of the economy.

When they privatized that, it totally collapsed the entire economy. Meaning instead of having strong mining companies, you had smaller, private investors, especially westerners, taking ahold of the situation and totally destroying the system as it was because they needed to maximize their profits.

Ms. MOORE. Okay, thank you. I just wanted a little bit more information about that.

So I guess my question is leading to this observation, that without some sort of regulatory framework, and who knows, maybe Section 1502 is not it, but there is potential for exploitation with Canadian companies, Chinese companies, U.S. companies, exploitation of the "resource curse." Exploitation without some sort of monitoring that the Congolese people are not getting their just due, that there were to be slave labor, as Mr. Vargo would suggest.

And so, I guess I appreciate the information that you have given us that it is not just the mineral rights, that there are needs to reform the police forces, and to have reforms within government. But I was concerned that you were minimizing the potential exploitation that mineral rights inherently bring.

Mr. DIZOLELE. Congresswoman, if I may, the Lutundula report was adopted by the parliament of the DRC. We set out a series of hearings, just like what we are having today, and brought in the law of the DRC to start investigating and reopening all those contracts. So I have been to the mines. I have been to south Kivus. I have seen children in the mine. I have 10-hour footage of this.

There is a problem, but that problem, the reason there are children in the mines is because there is no state strong enough to assert its authority. Dodd-Frank Section 1502 is not building the state. It is a sideshow that is not hooked to the national policymaking.

Ms. MOORE. Right, I understand that. So I guess what I am saying is that if we were to eliminate the exploitive partners on the other end, that would help spawn some changes.

I can see that I am sort of running out of time on this issue.

I see Dr. Seay is dying to say something. No?

Mr. Calder, do you have any comment on this?

Mr. CALDER. One thing we have definitely seen from the data now, it is not the Western countries are pulling out. They pulled out back in 2004, 2005, ever since the U.S. operations at Kabot got a lot of pressure in the media because of a—buy they did through Rwanda.

All the purchases right now you are seeing are from Chinese, Malaysian, and ex-Soviet republics, or that region. In particular, when a Chinese entity, which was a nonentity 5 or 6 years ago had used the fact that he can get cheaper material from that region where the U.S. companies cannot buy, and they are able to take away the market share from the other two big players, which are U.S.-based during this period. So they have been able to use this cheaper price and buy materials that the U.S. companies cannot to increase their market share.

Chairman MILLER OF CALIFORNIA. The gentlelady's time has expired.

Ms. MOORE. I am so sorry, because I wanted to figure out what the difference was between the Bishop's testimony and Mr. Dizolele's.

Chairman MILLER OF CALIFORNIA. I was going to say that was my question exactly.

Ms. MOORE. But I hope that somebody else will ask that, because they just don't seem to coincide.

Chairman MILLER OF CALIFORNIA. Mr. Manzullo is recognized for 5 minutes.

Mr. MANZULLO. Thank you.

A couple of points. If you take a look at the statements put out by a couple of the corporations in the documents furnished by Mr. Calder, you will see language to this effect. And I don't want to name the company, because it wouldn't be fair. But this company "does not knowingly use these minerals and by-products as specified in the Conflict Minerals Trade Act."

That doesn't comply under the SEC on the Form 10K. If you file, there is liability attached to it, as opposed to simply furnishing information to the SEC. And the documents here from several corporations ostensibly are in compliance with Section 1502. Just looking at the face of them, they are not in compliance.

You can't say this company does not knowingly use the materials, and another company says that we will not "knowingly purchase any material from any minefield with social problems." And so, it is not a matter of knowing something; it is a matter of being responsible, even if you don't it. The term "knowingly" does not take you out of compliance with the SEC.

The second thing is in our congressional district, we have lost a couple of circuit board makers, and Mr. Pudles, you and I talked about this. The little guys who have to get in tin for the soldering and others of those, if there is a company overseas that makes the circuit board that has these materials in them and its exported to the United States, and the company in the United States that does not have to register with the SEC, then isn't it a fact that there is no violation of the law?

Mr. Pudles?

Mr. PUDLES. That is correct. Any company outside of the United States that is selling to a non-SEC issuer will have no reporting requirements and therefore can buy their tin and their gold anywhere they want to buy it.

Mr. MANZULLO. And if a completed product is made overseas and exported to the United States, does the company that is doing the importing in the United States have to certify as to every product coming in that it is conflict-free?

Mr. PUDLES. If their customers and their supply chain are all non-SEC issuers, there will be no requirement on any of them to report any content in that product; correct.

Mr. MANZULLO. Okay. And then, as I read the statute, it says—the language says that conflict-free is defined to mean "the products that do not contain minerals that directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo." How is somebody supposed to know that?

Dr. Seay, how many mines are in the Congo?

Ms. SEAY. I don't know the exact number, Congressman, I am sorry, but it is hundreds. And many of them are informal. So I think one of the important things to note is that even if you—I am very skeptical of this idea of a closed pipeline coming out of the DRC. I think you can have a closed pipeline coming out of other countries, but in the DRC, even if you are able to mine outside the influence of minerals, you cannot leave an airstrip, you cannot cross roads without paying off militias.

It is just under the circumstances, with the lack of governance, with the lack of anybody really being in control, it is going to be impossible to verify that those minerals have no association and are not tainted by association with armed groups in the Congo.

Mr. MANZULLO. And that is where the problem starts. If there is no way to verify it at the source of the mines, how could a company certify under a civil if not possible criminal penalty that they are conflict-free?

Ms. SEAY. It is really going to be difficult. There are these programs that we call bag-and-tag, where you tag the minerals at the location and seal them in bags. But even then, the transportation becomes an issue and it is going to be very, very difficult to verify that.

You should never underestimate the entrepreneurial creativity of the Congolese. They will find a way around these regulations, because it is a matter of survival. It is a matter of survival to smuggle out minerals, to find a way. And so, I think focusing on the government issue is a great idea.

Mr. MANZULLO. And then, are there ever products from different mines that are combined?

Ms. SEAY. Oh, sure. Absolutely. There are processing in the Kivus as well. I think we have the idea that all the minerals are flown out as raw, and that is not true. In Bukavu, there is a facility that separates out Kesterite and Coltan, which tend to be found in nature together. And they don't associate what comes from where; they just dump it all into their products and send it out as one product.

Mr. MANZULLO. Okay.

Chairman MILLER OF CALIFORNIA. The gentleman's time has expired.

Mr. MANZULLO. Thank you, Mr. Chairman.

Chairman MILLER OF CALIFORNIA. Mr. Carson returns for 5 minutes.

Mr. CARSON. Thank you, Mr. Chairman. Thank you for convening this hearing.

The eastern portion of the Democratic Republic of the Congo has long been the site of one of the world's worst humanitarian crises. We know this. Since 1998, an estimated 5 million people have died as a result of the conflict.

Several organizations, including GAO in a September 2010 report, and a U.N. group of experts in several reports, documented that illegal armed groups, as well as some corrupt units of the Congolese National Military, are continuing to commit mass killings, rapes, and other severe human rights violations. And these groups profit from illegal exploitation of the minerals trade in eastern DRC.

Recognizing the continuing urgency of the human rights situation, Congress as we all well know, included in the Dodd-Frank Act provisions to reduce violence caused by these groups by targeting their illegal trade in conflict minerals.

Mr. Vargo, do you agree, sir, that cutting the trade in conflict minerals could decrease violence in the eastern DRC by limiting the funding that is fueling the groups and units involved with these human rights violations?

Mr. VARGO. Mr. Carson, frankly I don't know. I have heard testimony on both sides, a lot of press articles that say this is not working. I don't know. I represent America's manufacturers, and the law says that we have to do due diligence to try to reduce—eliminate our purchases from DRC conflict mines and we are going to do our best to do that.

Mr. CARSON. Okay.

Mr. Lamar, do you think, sir, that companies that source conflict material minerals have a responsibility as a part in a real sense of their corporate responsibility to avoid funding these groups and units that commit horrific human rights violations in the eastern DRC?

Mr. LAMAR. I think in the business community, there are a number of compliance professionals who want to make sure that their supply chains are not inadvertently creating or contributing to any problems, whether it is the conflicts in Africa or any of the other problems around the world.

And so, I think what you will see is that companies will do their best to be in compliance with either regulations or efforts, initiatives, to make sure their supply chains are not inadvertently contributing to or creating problems. And I would sort of echo what Mr. Vargo said about the relationship between this and the underlying conflicts.

Mr. CARSON. Bishop Djomo, do you agree, sir, that cutting the trade in conflict minerals could decrease violence in the eastern DRC by limiting the funding that is basically fueling those groups and units involved in human rights violations?

Bishop DJOMO. [The following testimony was delivered though an interpreter.] Certainly that will diminish the violence, because the armed groups persist in their violence because they receive revenue from the minerals. Their largest source of revenue is through this illegal sale of minerals. If they collect taxes through the anarchy of informal taxation, it is because they have first, the financing from the minerals, and the arms to do it.

Mr. CARSON. Thank you, Mr. Chairman, I yield back.

Thank you.

Mr. HUIZENGA [presiding]. The gentleman yields back. Thank you.

I actually get an opportunity to recognize myself for 5 minutes. And that is unusual, being recognized so.

But first, Bishop, to you and Mr. Dizolele, as a person who has been watching this, I want to tell you personally that for myself, many people that I know, we are praying for you and your citizenry. Our hearts go out to you. As a fellow believer, I know the work that the Church does. And I commend you for that. And for being here. And I just wanted to first convey that.

I have also asked that we put up a map of the country. It is a bit of an unknown for many in the Western world, exactly where it is and where it lies. And I was hoping that Mr. Dizolele and Dr. Seay, if you could maybe talk a little bit about where those conflicts are and then, Dr. Seay, I would like you to expand on that a little bit about what the conflict origination is.

We are hearing from the Bishop that he believes that all roads lead to the mines, or those roads to the violence lead to the mines I believe was sort of the phrase that he was talking about. And we can maybe explore a little bit about the differences on that. So if you could maybe point out what part of the world we are talking about?

Mr. DIZOLELE. Thank you, sir, Congressman, for your prayer for the Congolese, and for this opportunity.

So we see to the left—to the right there—above the big lake, which is Lake Tanganyika, which is Bujambura and Bakavu, and then just above that where it says Burungungu, that is the area we are talking about, which is Lake Albert, so it is just that section that we are talking about.

Mr. HUIZENGA. The Mount Stanley area, and that area up there?

Mr. DIZOLELE. That is the area up there.

Mr. HUIZENGA. Yes.

Mr. DIZOLELE. But the challenge is that the conflict in that area is fed by what is not happening in the rest of the country. I think it is very dangerous for us to talk about the Kivus in isolation. This is not an independent sovereign nation. This is a collection of three provinces that are paying the price of a lack of leadership in Kinshasa, to the west, to the capital.

So putting a Band-Aid on the problem in Bukavu is not going to lead us to peace. I am afraid to say so. It might allow for temporary relief of sorts, but it is just not sustainable.

Thank you.

Mr. HUIZENGA. And thank you.

Ms. SEAY. Thank you, Congressman.

Mr. HUIZENGA. And if we could very quickly, because I do want to hear from the Bishop—

Ms. SEAY. Sure.

Mr. HUIZENGA. —as well, and then I actually want to get to my real question. So, quickly?

Ms. SEAY. Sure. So I think it is important to understand, mineral—the militarizing in the mineral trade is a symptom, rather than a cause, rather than the disease itself. So it is definitely something that fuels some of the conflict. It is definitely a problem and I don't want to give the impression that it shouldn't be cleaned up. I just don't think Section 1502 is going to do it.

But the real issue underlying conflict in this part of the country is land rights and citizenship rights. The question of who gets to be Congolese and who has the right to own land? In the area, the north Kivu area that Mr. Dizolele was describing, is some of the most fertile agricultural land in the world. It produces three harvests per year. And it is hotly contested because it is so valuable and has been.

And it is really important to note, these conflicts have been going on since before the DRC war started, and before there was high demand for Congolese minerals. But it is not homogenous. The armed groups are different; they are not all fighting on minerals. They don't depend on minerals to the same extent. It is really complex.

Mr. HUIZENGA. So this isn't just the LRA that we may be seeing in the media? This is local?

Ms. SEAY. They are not even in the area.

Mr. HUIZENGA. Yes, this is local and—

Ms. SEAY. And you also have significant mining areas where there is no conflict, like the Kasai and the Katanga.

Mr. HUIZENGA. Bishop, quickly, if you would maybe respond to that?

Bishop DJOMO. [The following testimony was delivered through an interpreter.] The Church lives everywhere where the population lives as well. We have come to realize that the largest, the most

important part of the instability are the economic reasons. The ethnic rivalries are manipulated, are used as instruments for this conflict. The Church believes that the international and national regulations, if done gradually over time, will solve these problems.

I mentioned in my testimony that the Congolese government is in the process of passing some of these laws. It is certain that stability in the Congo depends on many factors, but the illegal exploitation of resources is a major factor. That is why the Church asked the international community and the national leaders in the Congo to regularize these laws and to implement them.

The tensions, the ethnic tensions that exist are manipulated, are instruments of this conflict and are fueled by the minerals and the mines.

Mr. HUIZENGA. I appreciate that testimony.

And Mr. Lamar, I wanted to briefly get to you, and I don't know that I really have the time. My time has expired. But I am concerned, so I guess to the panel, my concern is whether it is out of the apparel and manufacturing, whether it is out of tier one automotive suppliers that are in the 2nd District of Michigan, who are dealing with requirements in NAFTA that for them to go through a tier one and we see it costs hundreds of thousands of dollars to that process, they are looking at it being millions of dollars if they are having to go down five tiers.

And I think the crux of the question is, will this solve the conflict in the DRC? Will this solve the issues that we are dealing with in that northeastern corner of a very conflicted world?

And obviously, Rwanda and other areas that are in that area have seen violence for so long, and I hope you understand that is what the intent is for me personally and I believe the rest of this panel is to look at how we are making sure that the problem is really truly solved and is not a veneer, I think as Mr. Dizolele talked about.

So with that, my time has expired. I appreciate that.

With that, the Chair recognizes Mr. Scott for 5 minutes.

Mr. SCOTT. Thank you.

As I mentioned in my opening statement, I traveled over there into the Congo and I have seen firsthand and I have witnessed a lot of this. And it was very disturbing. It is just terrible.

Let me start with you, Bishop. Is it true, in your opinion, that this trade in conflict minerals has funded the cycle of conflict in the Congo? You said yes?

Bishop DJOMO. [The following testimony was delivered through an interpreter.] That is exactly what the Bishops of the Congo have been saying.

Mr. SCOTT. All right.

Now, Mr. Dizolele, has this mineral—conflict mineral—spawned this conflict? And I am asking you the same question I asked the Bishop.

Mr. DIZOLELE. To a certain extent, yes, Congressman. I think though the way forward, if we can take the example of Sierra Leone. Everybody here we heard today information on the Kimberly process, black diamonds, and so on and so forth. What helped Sierra Leone and Liberia was a confluence of actions. Black dia-

mond containment was just the topping on the cake. And we don't have that in the Congo. We are putting the cart before the horse.

Mr. SCOTT. Okay. What I want to do here is, because we have a conflict right here with the panel. I want to get at a measure here and in the midst of one myself, who was there, and as an African-American, I can't begin to tell you how much that experience touched me.

And if these minerals are the source of the funding for the conflict, which the end result becomes this dehumanizing mutilation of the sexual reproductive system of the women of Africa, then we must with all deliberate speed take every step. So if you agree, and if there is a consensus that this—that dealing in these minerals is causing this, what more important thing can we do than to, as the United States, the most powerful country on earth, with the riches of our economy, to say to our companies that you cannot do business here.

It is clearly in conflict with what we stand for. That seems to me to right now be the least we could do. It will not solve the problem, but it seems to me that it will be a big step going forward. So if we got that consensus there, on what grounds would you deny and say the United States should not do this?

Mr. DIZOLELE. Congressman, I think it is an important question. It gets to the heart of the matter. This mighty country, for which I served as a Marine, has the power to go after the militias. If we want to help the poor women, I have seen pictures, I have been to Panzi. I have seen pictures of mutilated genitalia. And I have seen these women. If we mean to help them—the question they would ask this chamber if they were here is, why don't you come after these militias? That is the question they would ask you.

Mr. SCOTT. No, but the point to me is what I am trying to get at is that, no, I don't think. I think it is a cultural thing. I think that once they do that act there is something else at work there. But the point of the matter that we have as a country in the United States, should we be contributing to that?

It is not that we could stop it, but cannot—should our companies be allowed to contribute to this, if you agree with the Bishop that these conflict minerals are in effect getting us to the end line of this brutalization of women sexually and violently, physically in that country? And I think that is the core of our pushing forward Section 1502. Do you see my point? I think that that really gets to where we are.

And I see my time is up. Thank you, Mr. Chairman.

Chairman MILLER OF CALIFORNIA. Thank you.

We are probably going to try to do a line of questioning for Members not on the subcommittee, so I will start with myself, then I will go to Mr. Miller next.

Mr. Dizolele, would you say that fewer women are going to be violated after the implementation of Section 1502?

Mr. DIZOLELE. Mr. Chairman, two things. First, I would like to say that sexual violence is not part of the culture. There is no religious edict or any tradition of this. This is just as appalling and new to most Congolese.

Then two, I don't think it is going to reduce the violence on women, because as long as those militias are still there and the

justice system does not work, and there is no military solution to go after them, then, as I said early on, the women have to be the one to go to the field, they will still be raped.

So we are not getting—I think we are tepid and timid in our approach with Section 1502. I think this chamber and this Congress has the power to enact bolder regulation than this, what I again call a veneer. Because this serves to assuage Western consumers, but it doesn't get to really help the victims.

Thank you.

Chairman MILLER OF CALIFORNIA. It appears from testimony that maybe American companies are moving out of the mines, but Chinese companies and others are moving back in. Is that true, Ms. Seay?

Ms. SEAY. Yes, it absolutely is. I mentioned in my testimony that 10 exports have gone down by about 90 percent from the Kivu provinces. That other 10 percent is entirely being bought by China through 2 or 3 of the trading houses in the cities. It is essentially the main consumer now.

Chairman MILLER OF CALIFORNIA. So is there any record we have that Chinese companies are better on human rights issues than American companies?

Ms. SEAY. I don't believe—the evidence of which I am aware does not suggest that they are.

Chairman MILLER OF CALIFORNIA. So if we are saying that we are pulling American companies out of a region that is heavily impacted, it is like many of our trade issues we face. If goods aren't produced here, they are produced in China. And it seems like other countries are going to pick up the shortfall and take advantage of the availability that is going to exist in a region if we pull out. Is that—what is your opinion on that?

Ms. SEAY. I think that is a reasonable opinion. And I think it mirrors the efforts that the Chinese are making on the political side of things. China, as Mvemba mentioned in his testimony, has a multi-billion dollar deal with the Congo. And they don't care about human rights violations. They don't care.

The Chinese do not put any pressure on the government. And losing sources of leverage by our companies pulling out, I think is a challenge for things like democracy, for things like having free and fair elections that accurately reflect the will of the Congolese, which they do not enjoy today.

Chairman MILLER OF CALIFORNIA. Mr. Dizolele, you heard the testimony of the Honorable Bishop. Do you agree with that?

Mr. DIZOLELE. I am sorry, sir?

Chairman MILLER OF CALIFORNIA. You heard the testimony of the Honorable Bishop. Do you agree with his testimony that this is going to have a positive impact on the people in the region, the implementation of this? And it is not really a big jobs issue for them?

Mr. DIZOLELE. I think only partly, because I think in the bigger picture, this will actually not have a positive. If the goal—early in my statement, I said if you are going to assess this, we have to assess this on the claim, the premise of Section 1502. The claim was it is going to extensively reduce the violence. I do not think so.

To buy an AK–47, you don't need to sell minerals. AK–47s are pretty cheap and violence can happen with machetes, as we saw in Rwanda. No AK–47s were used in the genocide. If the conflicts are not addressed, if we don't go after the militia, they are still free agents to do whatever they will.

Again, we don't have an enforcement mechanism on the Congolese side. This law has made the enforcement mechanism on the corporations in the United States. But where is the other side of the coin? Who enforces this in the Congo?

Chairman MILLER OF CALIFORNIA. It seems like we have placed the burden on American businesses. And I am not minimizing the problem over there, but having—we have met with the African Development Bank multilevel development banks who play a significant role in this region.

Wouldn't their involvement be much more beneficial to this issue to increase stability than the way we are trying to create it, Ms. Seay?

Ms. SEAY. I am a bit skeptical about the African Development Bank. Their power is limited. But I think that you do have regional and domestic mechanisms that are aware of the conditions and have a much more sort of pragmatic approach to the problem than the one reflected in Section 1502.

So you have—there are partnerships going on. These are evolving. Some of them are working with the OECD guidelines. But eventually we are going to get a mining code in the DRC maybe. And we are going to have these regional initiatives, and I think providing support to regional actors who know the terrain, who speak the languages, who understand the culture, and who understand the challenges of operating in an environment in which there is absolutely no regulation and absolutely no rule of law is really important.

Chairman MILLER OF CALIFORNIA. So we can feel good that we have probably turned it over to Chinese companies to deal with the mines and the other companies and that is going to probably make their situation better in that part of the world, which I highly doubt.

Ms. SEAY. I don't feel good about that.

Chairman MILLER OF CALIFORNIA. Mr. Miller, you are recognized for 5 minutes.

I am going by the Ranking Member's list. It wasn't my preference, it was—

Mr. MILLER OF NORTH CAROLINA. All right. Thank you, Mr. Chairman.

Mr. Scott said that the conflict, the violence in the Congo was appalling for African-Americans. It is also appalling for White folks, I can tell you. The chairman at the beginning said that the conflict, that the violence in the Congo was the result of warlords and thugs. That lets the developed world off pretty lightly.

It is very clear that the conflict in the Congo is largely motivated by the opportunity to steal from the people of the Congo, to steal the revenue that comes from conflict minerals. And that the revenue from conflict minerals are funding all the sides in the conflict.

When Mobutu was deposed in 1997 by Laurent Kabila, Kabila said Mobutu had $5 billion waiting for him in foreign bank ac-

counts from what he had stolen when he was the head of the Congo.

Kabila said to a local reporter that all it took to put together a rebellion was $10,000 and a satellite thing—$10,000 was enough to hire an army in the Congo, given how extreme the poverty was there.

And the satellite thing meant that he could negotiate with all the buyers of the minerals to further fund his army. And supposedly by the time he reached Kinshasa, he had already contracted—he had half a billion in contracts with the buyers of the minerals in the Congo.

There have now been 5.4 million people who have died since 1998. Rape is a weapon of war there and at least 200,000 women have been raped. But what is going on in the Congo is horrific and all of humanity should take responsibility for it.

The Enough Project's concerns have been kind of dismissed, sneered at even, I think, some today. They say they are not urging a boycott of Congo minerals. They are urging that there be legitimate supply chains with tracing and auditing to make sure that the buyers of those minerals know what they are getting, and they are not conflict minerals. And it is not impossible to do. In fact, there appear to be some supply chains, legitimate supply chains, already.

Mr. Calder, is it going to be impossible to develop legitimate supply chains? And what now exists?

Mr. CALDER. A good part of the data we have now is the Conflict-Free Smelter Program, and a very key part of their data about whether it is possible. One of the also key parts is now it is very clear. We have talked about U.S. companies pulling out. They pulled out a long time ago. They pulled out in 2004, 2005.

It has been mostly purchased—everything has been purchased up to more recently, the status quo before this law came out, it was Chinese, Malaysian, Soviet Republics. I am not talking about the Chinese moving in now. They moved in a long time ago and they have been able to use this cheaper material to actually gain marketshare over the U.S. companies.

This is before this law. This law finally levels the playing field. Is it possible? Now we know this incredible traceability, which companies have been buying, because of these smelter programs. These were done before we have a final rule, that they have done on their own initiative.

Is it possible? We have a number of examples in here of companies that say it is possible. One of them being quoted here is also Nordstrom. So it is very key. These companies are quoted it is possible. And some companies like Kester, which buys most of the solder, or a majority in the United States, have completed it.

Mr. MILLER OF NORTH CAROLINA. All right.

Dr. Seay, you have said that rather than try to trace conflict minerals, you are very skeptical about the practicality of doing that. But do you say instead say there should be government's promotion in security sector reform?

I spent a couple of days in Kinshasa. I don't claim to be a Congo hand as a result of spending a couple of days in Kinshasa. But we met with—our delegation met with the—it was in MINOC. I think

it is now called UNESCO, the United Nations mission in the Congo. And they said they were simply overwhelmed.

They could not begin to govern or to provide security in the Congo. They got just shy of 20,000 uniformed personnel, another 4,000 or 5,000 civilians, and can't begin to touch the problem. They can't begin to get at real governance or rule of law, because they are simply spending all of their resources providing security. And that security is massively resource-intensive and long term.

Dr. Seay, where are you suggesting—how much are you suggesting that it cost to provide the necessary security in this massive ungoverned area? How long are we going to be there, and who is going to provide those resources?

Chairman MILLER OF CALIFORNIA. The gentleman's time has expired.

Dr. Seay, you may give a brief answer.

Ms. SEAY. Thank you, Congressman, for the question. I am not suggesting that all the security be provided by UNESCO. Although I do agree, it is vastly underresourced. It is absolutely ludicrous to think that a peacekeeping force of 17,000 people can protect civilians in a territory the size of the United States east of the Mississippi. That mission was underresourced and underfunded from the beginning. And it has never been properly—

Mr. MILLER OF NORTH CAROLINA. It apparently—

Chairman MILLER OF CALIFORNIA. The gentleman's time—

Mr. MILLER OF NORTH CAROLINA. —has the best resources—

Chairman MILLER OF CALIFORNIA. The gentleman's time has expired.

I will allow the witness to respond, but the gentleman's time has expired.

Mr. MILLER OF NORTH CAROLINA. Okay.

Ms. SEAY. Okay. So on your question regarding how much it is going to cost and how long, I think the key is not getting more peacekeepers in, which is unrealistic by any measure, financial or political. But rather, to strengthen the capacity of the Congolese military, and to turn it away from being a force that is the largest abuser of human rights in the Congo and responsible for more rapes and more looting or institution or armed group.

And instead, to professionalize those soldiers, to punish and remove from the army those who commit human rights abuses, and to pay soldiers a living wage so that they do not have an excuse to go out and loot and cause other problems.

Chairman MILLER OF CALIFORNIA. Thank you.

I ask unanimous consent that the gentlelady from California be recognized for 5 minutes.

Without objection, the gentlelady from California is recognized.

Ms. WATERS. Thank you very much. I know that this time, Mr. Chairman, is reserved for questions. And I want to thank you for this hearing. I don't really have any questions. My mind is made up.

I am a supporter of the continent, the entire continent of Africa. I want you to know that I have spent part of my career working on getting rid of apartheid in South Africa, and helping Nelson Mandela to get out of prison.

I want you to know that I am applauding the fact that Charles Taylor is going to be sentenced to a long time in prison for what he did in Sierra Leone. And in Liberia and the diamonds that were conflict diamonds there. I want you to know that I have been in Angola and I was so glad when we finally got rid of the war that was funded with Savimbi coming out of the bush, using conflict diamonds.

I want you to know that I have been to the Democratic Republic of the Congo long before Laurent Kabila ever became president, and I understand all of this very well. And I want you to know for anybody to say whatever we are doing does not help, we should not do it, and look what China is doing, does not hold water with me.

We have a moral responsibility to deal with these issues, and we have a moral responsibility to provide that leadership. I don't care if it helps but a little, we keep working, we keep building on the idea that the exploitation and the devastation of this wonderful continent has to stop. And some of us are committed to that for the rest of our lives.

And so, I am sorry that there are those who think it is going to interfere with their business, that they won't be able to make as much money. First of all, give the SEC the opportunity, give them the chance. Give them the opportunity to put together the regulations. I worked on Dodd-Frank. I was on the conference committee, and I supported Sections 1502 and 1504, and I will continue to do that.

Now, this hearing is fine, because it gives people an opportunity to respond to the allegation that we didn't have a hearing on these issues prior to Dodd-Frank. So this is the hearing. But we should not reach any conclusions about it being unfair to businesses. It is possible. I want to tell you, I am reading abut a supply pipeline that is closed. Motorola is doing it. They are able to comply. And they lay it all out here. So this business of possible, not able to comply, you can't verify, excuses, excuses, excuses.

And I wanted you to know that for as long as I am an elected official and a Member of Congress who understands what has happened on that continent, not only from those of us in the United States who were part of that exploitation, but from other countries all over the world.

I am not worried that somehow China is going to beat us out. China is all over the world doing what China does. But some of us are even looking at our trade negotiations to see how we can include these kinds of questions in our trade negotiations with China and other places.

So I am very appreciative that you are here. Bishop, I want you to go back and I want you to tell the other Bishops that there are people here who love the continent, who love Africa, who are going to fight for Africa, who understand what is going on with these conflict minerals, and we are not worried about competition, we are not worried about loss of dollars. We can have a closed pipeline where we can monitor this. And there are some of us who are committed to doing it.

So I don't have questions, and perhaps there are some people who can say, well, how is it she can say that she knows so much that she doesn't have to answer any questions?

And again, I am telling you, I am not a stranger to the Democratic Republic of the Congo. I was there. I am not a stranger to Angola, I have been there. I am not a stranger to Liberia and Sierra Leone.

I am not talking from afar. I am not some privileged African-American legislator in this country, or a privileged White person in this country who can sit back and talk about how we are disadvantaged, because when you say that you don't understand the rape and the murder and the killings and the devastation and the loss of lives that has taken place.

It is easy to speculate or to talk about this is uncomfortable for me, this is inconvenient for me, this may interfere with my profits. Shame on us. Shame on us. We are better people than that.

I have one second left? I yield back the balance of my time. I have said all I need to say.

[applause]

Chairman MILLER OF CALIFORNIA. Mr. McDermott, you are recognized for 5 minutes and 1 second.

Personal items are not permitted during a congressional hearing. I am sorry.

Mr. McDermott, you are recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Chairman, I am going to begin with a confession.

I lived in Kinshasa for 9 months. I worked there for the State Department. I have been all over Goma. I know all the people in Kivu who are involved in this. And what is necessary here today is to decide, are you going to repeal it, or are you going to let the SEC go forward and write a rule?

The problem here is most of the argument is about an imaginary rule. We have not seen the rule. People are responding to an imaginary rule. The SEC should move forward. And I will stipulate that this decision will not end all the problems in the Congo. I was recently in Brussels and went to the Leopold museum. And when you realize this kind of conflict has been going on since 1890, that nothing is going to come in and be the silver bullet that fixes it.

This question goes to Mr. Scott's point: Does our continuing to put money into the Congo minerals black market feed the war? Now, every Member of this Congress knows that the Vietnam War ended when Congress cut off the money. And the war in Afghanistan will stop when this Congress cuts off the money. That is what we are talking about here is, "How do you cut off the money?" Now, it won't fix everything, but it is going to fix it for a lot of people.

Let me go to one other point that there has been a lot of confusion here about. And I was pleased to see a map, because most people, if you handed them a map, they couldn't find the Congo on it, first of all. Then they couldn't find Kivu if their life depended on it. But the fact is that those provinces, North and South Kivu, are the area right next to Rwanda, from which the genocide moved right across the border.

And all of the problems created by those people back in Berlin 100 years ago when they drew lines in Central Africa about who lived where and who was who, is going on today as it was 100 years ago. And everyone who talks about that, or who understands the place, knows that. The fact is, there are conflict-free mines

now. In Katanga Province, immediately south and west, which is where all the copper and tin comes from, that is what created all of the business when we sent in our troops in 1960, all of it was about copper in those days.

Now, there are conflict-free mines. There is a place down on 18th and L Streets, I think, called PACT. It is a group of conflict-free mining experts working for the tin and tantalum society, who can give you the name of 146 conflict-free mines in the DRC and 406 conflict-free mines in Rwanda today. They put out 500 tons a month of conflict-free minerals. And it is all sold. There is no shortage. These companies who talk about, "Oh God, we won't know where to get our stuff." That is nonsense. The minerals industry has already moved to clarify this situation, because they realized the justice in it.

It is so clear that they have already moved. And my belief is that the question here is really, is the Congress going to use its power of money to change the situation over there, or are they not? We can throw up our hands and say, it is hopeless, it is impossible, there are all these people, it has been going on forever, and we won't do anything.

Congo has been free for 50 years, since 1960. I was there in 1987 and 1988. And the policemen were not paid. People would stop you in the street and say, give me money. That is how the policemen were paid. That is how the army is paid. There is no civil service. There is no organized government. We all know that.

But the question is, is the Congress going to allow industry, for profit, to continue to buy from this source? It is changing, it has changed dramatically as we already have testimony from Mr. Calder, that because once the companies saw the justice in it, they said no, we are going to find a clean place to buy our minerals.

And I could tell you, I can assure you, Mr. Miller, that Nordstrom, whose name is on this list from my city, will not sell you a suit with a button that is filled with conflict minerals. They don't want that reputation, and they will make sure that they are all clean.

I would like to hear from Mr. Calder a little bit about the—

Chairman MILLER OF CALIFORNIA. The gentleman's time has already expired before he asked a question.

Mr. MCDERMOTT. Time flies when you are having a good time.

Chairman MILLER OF CALIFORNIA. It does.

Without objection, I would like to submit for the record the following: a letter from the U.S. Chamber of Commerce; a letter from the Retail Industry Leaders Association; a statement from Kinnemont-Link based in Latrobe, Pennsylvania; a letter from the SEC, from the SBA Office of Advocacy; and a letter from the Automotive Industry Action Group signed by executives from Chrysler, Ford, GM, Honda, Nissan, and Toyota to their suppliers alerting them that they will need to comply with Section 1502, even though they are not SEC registrants.

Ms. WATERS. Mr. Chairman, may I ask unanimous consent?

Chairman MILLER OF CALIFORNIA. I already did that.

Ms. WATERS. For the supply chain?

Chairman MILLER OF CALIFORNIA. Oh, without objection, the supplychain letter will be submitted also.

Ms. WATERS. Thank you.

Chairman MILLER OF CALIFORNIA. I would like to thank the panel for your time, for your expertise, for your patience, and for the travel many of you have made to be here. And let us hope that the government and the region does something about this problem, deals with the human rights. I hate to see the burden placed on the back of American businesses. It is not Congress paying; it is American businesses paying.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for Members to submit written questions to these witnesses and to place their responses in the record.

And with that, this hearing is adjourned.

[Whereupon, at 12:52 p.m., the hearing was adjourned.]

A P P E N D I X

May 10, 2012

STATEMENT OF THE HONORABLE DONALD A. MANZULLO

BEFORE THE SUBCOMMITTEE ON INTERNATIONAL MONETARY POLICY AND TRADE OF THE HOUSE FINANCIAL SERVICES COMMITTEE

"The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"

May 10, 2012 10:00AM in Room 2128 Rayburn HOB, Washington, DC

Mr. Chairman, thank you for holding this important hearing today. I only wish we had a similar legislative hearing on this topic prior to Section 1502 becoming law.

As a Member who also serves on the House Foreign Affairs Committee, I am well aware that there is no doubt that the situation in eastern region of the Democratic Republic of the Congo (DRC) is horrendous. Human rights abuses are rampant; militias operate with impunity; and the international community seems powerless to affect change.

But I also know that oftentimes, unilateral trade sanctions backfire on the very people we are trying to help. In addition, because legislative language wasn't fully vetted and included at the last minute into an unrelated bill dealing with preventing another 2008 financial crisis, Congress passed the buck to the Securities and Exchange Commission (SEC) to resolve complex issues through rulemaking. This is unlike the Iran sanctions provision we included in the Ex-Im Bank reauthorization bill yesterday in which all interested parties were at the table to develop a set of workable provisions that accomplishes the goal of the sanctions without harming the global competitiveness of U.S. companies.

This reminds me of two previous examples of flawed policy. First, Congress passed comprehensive sanctions against Sudan without realizing that the primary source of the world supply of gum arabic is Sudan. Gum arabic is used in a wide variety of industrial applications, from soda and candy to pharmaceuticals and newspaper print. So, if Congress had done its homework in advance, there could have been some modifications made to the sanctions against Sudan. Instead, Congress had to spend enormous effort after the fact to enact an exemption for gum arabic.

Second, in 1990, Congress passed into law the *Fastener Quality Act* in response a collapsed pedestrian walkway in a Kansas City hotel atrium. The blame was initially incorrectly placed on fasteners that did not bear the load. Nonetheless, this law was quickly passed prior to understanding all the facts about the walkway collapse and required the testing of every fastener greater than ¼ of an inch in diameter used in a "critical application" at labs certified by the National Institutes of Standard and Technology (NIST). When the draft rule came out for public comment, NIST wasn't going to say that that certain applications weren't "critical" (because what would you say

if your child became injured on a playground set because of a flawed fastener?), so NIST required every fastener greater than ¼ of an inch to be tested. This proposed rule would have devastated the U.S. fastener industry, particularly when imported products that included fasteners would not be subject to the same testing requirements. It took several years of work but we finally got the law changed that allowed sample batch testing of fasteners.

Just like the *Fastener Quality Act*, we need flexibility in this new law so that it becomes practical to implement but still maintains the goal of the legislation. It is also in the interest of the advocacy groups who pushed for the adoption of this new law because U.S. small businesses will have legal standing to challenge the SEC rule, if it does not change, in court because the rule violates another U.S. law – the Regulatory Flexibility Act. The independent Office of Advocacy at the Small Business Administration (SBA) informed the SEC last October that their Initial Regulatory Flexibility Analysis (IRFA) was flawed because it "underestimated the number of small businesses that would be impacted by the proposed rule." A properly researched Regulatory Flexibility Analysis is a prerequisite prior to finalizing any proposed rule. The Office of Advocacy recommended that the SEC start again and publish a new IRFA that would more accurately describe the costs and burdens of the proposed rule. With a more accurate IRFA, then the SEC would be able to consider less burdensome alternatives to the proposed rule. But if the SEC does not follow this advice, then affected small businesses in a wide range of industries would be able to come together to challenge this rule in federal court and would most likely prevail.

We all share the same goal of ending the conflict in the eastern region of the DRC and crippling the militias. We all share the goal of the legislation to end the trade in the minerals that benefit the militias. The key is how to do it in the most effective manner possible that does not penalize Congolese and neighboring African miners who are not involved in the conflict. We also must make sure that the rule does not unintentionally benefit our foreign competitors, particularly in China, and harm our small businesses. I look forward to listening to the statements of the witnesses on how to accomplish these important goals.

Remarks of Congressman Jim McDermott
5-10-2012

Subcommittee on International Monetary Policy and Trade

Hearing on "The Costs and Consequences of Dodd-Frank Section 1502:
Impacts on America and the Congo"

I want to thank Mr. Miller and the Subcommittee for allowing me to be here. It's good to have hearings to get the facts and views out there.

I have seen the big progress by so many companies—they're going conflict free, and these companies know it's good for business.

The majority hearing memo says there were no hearings on 1502. In fact we met regularly with dozens of companies and groups in both Ways and Means and Foreign Affairs. This legislation was heavily shaped by business. Some companies didn't get everything they wanted—they have to report, they have to be honest, and there are penalties. This bill was co-written with Republicans and marked up on a bipartisan basis in April 2010.

Mr. Chairman, I ask for unanimous consent to submit the transcript of the committee markup for the record, including the Republican backing of the House bill which is very similar to the final law.

One of the confusing things about the storm over 1502 is that companies already have to follow U.S. law that requires them to know where the inputs for their products come from. For years companies have had to know if the Gold they use comes from Burkina Faso, if the Diamonds they use come from Sierra Leone, if the textiles they use come from Ethiopia, or if the tin or coltan they use comes from the Congo. This is already the law. Companies comply. 1502 is a lesser burden -- companies just have to say what they are doing.

Mr. Chairman, I ask for unanimous consent to submit the text of Executive Order 13126, the description of it from the Department of Labor, and the list of banned substances from specific countries for the record.

Mr. Chairman, I also ask for unanimous consent to submit a partial list of large investment firms who have conflict minerals policies, cities and states that have passed conflict minerals laws, and a list of universities with investment policies based on the federal law for the record.

One set of testimony was particularly troubling. Laura Seay's testimony purports to understand our motivations in writing Section 1502. Yet her assertions are not true. Her views about the impact of the law are out of step with the most respected analysts in the field. The recommendations she makes are already what the State Department is doing.

The businesses and associations we have talked to, including the panelists today, wants a rule from the SEC. The law has worked—transparency is happening. Conflict Free Mining is happening. Over 400 mines in Rwanda are conflict free, over 146 sectors (mines) in Congo are conflict free, and they are producing over 500 tons of conflict free minerals right now.

Now the SEC has to stop doing damage with delay and act.

Many of the things industry and companies want are clear and, I think, smart. If the SEC adopted them they would simplify the reporting and reduce its costs without undermining the policy. On recycled materials, exempting current inventories, only reporting on products that have conflict minerals intentionally added, and having due-diligence standards that are models but keeping flexibility—we agree on all of these.

There are some issues we will not agree on. They would undermine the law and allow for the misleading of investors. A de minimis provision will not work. Trace amounts are exactly what's in a cellphone and other products. What's important is whether it was intentionally added and came from Central Africa's black market. Exempting businesses is not acceptable. Companies cannot keep funding the black market.

The biggest cost-driver to businesses on this issue is not the law, but the SEC's un-ending delay. The SEC is so immobilized by being sued that they have forgotten their legal charter--to protect investors, keep markets fair and help them grow.

International Monetary Policy Subcommittee

Hearing on "The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"

Statement by Rep. Maxine Waters
Submitted for the Record

May 10, 2012

I would like to thank Chairman Gary Miller and Ranking Member Carolyn McCarthy for allowing me to participate in this hearing on, "The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo."

The Democratic Republic of Congo (DRC) is one of several countries in Africa that have been affected by the so-called "resource curse." The resource curse describes the tendency for countries that are rich in oil, gas, and mineral resources to experience slower growth, higher levels of poverty, and more civil strife than countries that are not resource-rich.

Armed conflict in the eastern region of the Democratic Republic of Congo (DRC) continues to cause countless deaths and untold suffering among the civilian population. Armed groups finance their activities through the exploitation of the DRC's natural resources, specifically tin, tantalum, tungsten, and gold. The conflict has given rise to widespread rape, sexual violence, and human trafficking, and the parties to the conflict often use these crimes deliberately to terrorize and humiliate communities.

Other countries affected by the resource curse include Sudan, which is rich in oil, yet is cursed with a government that has committed genocide against its own people. Liberia is endowed with a wealth of diamonds, which came to be known as conflict diamonds because they fueled a civil war that lasted fourteen years, took the lives of 270,000 Liberians, and displaced almost one million more. Angola is rich in oil, and Sierra Leone is rich in diamonds, and both are recovering from civil wars. South Africa is rich in gold, platinum, and coal, and it is recovering from decades of oppression under the brutal system of apartheid.

Section 1502 was included in the Dodd-Frank legislation to address the concerns about conflict minerals in the DRC. Section 1502 requires companies registered with the Securities and Exchange Commission (SEC) that use tin, tantalum, tungsten, or gold to report publicly whether they obtained their supplies from Congo, and if so, what due diligence they exercised to ensure that their supply chains did not benefit armed groups. Section 1502 will grant investors and members of the public the right to know if and when imports of resources from the DRC contributed to armed conflict in that country.

I strongly support Section 1502, and I am deeply concerned about the SEC's delay in adopting a final rule. I am also concerned by the apparent efforts of some companies to convince the SEC to adopt a weak or unenforceable rule. Section 1502 is not an onerous or burdensome regulation. It is a simple reporting requirement, designed to ensure transparency. American investors have a right to know if their money is being used to support rape, murder, human trafficking, or other gross violations of basic human rights.

I am also a strong supporter of Dodd-Frank Section 1504, which is known as the extractive industries transparency requirement. Section 1504 requires companies registered with the SEC to disclose what they pay to foreign governments for extracting oil, natural gas, and minerals, not just in the Congo, but in countries throughout the world. The data would have to be disclosed on a project-by-project basis and a country-by-country basis so that payments can be tracked in a transparent manner. Disclosure of payments to developing country governments will allow members of civil society in developing countries to identify government officials who receive payments for resource extraction, and hold them accountable for the use of the money.

Together, Section 1502 and Section 1504 will help American investors make certain that their investments are not being used to support corruption, violence, and violations of human rights in Congo and elsewhere around the world. I strongly urge the SEC to adopt strong and effective rules on both of these sections as soon as possible.

Claigan

Claigan Environmental

Before the Subcommittee on International Monetary Policy and Trade U.S. House of Representatives
Hearing on "The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"

Statement of
Bruce Calder
General Manager - Claigan Environmental

May 10, 2012

Chairman Miller, Ranking Member McCarthy and Members of the Subcommittee, I am pleased to be have been invited here today to discuss the Security and Exchange Commission's proposed rule on implementation of Section 1502 of the Dodd-Frank Act.

My name is Bruce Calder. I am the General Manager for Claigan Environmental and I am responsible for Claigan's conflict minerals program. We work with companies across industries on Conflict Minerals program management, cost management, and compliance assistance for over two hundred small, medium and large companies.

I would like to start by saying we have never seen such widespread early adoption of a transparency law. In ten years of working in restricted material compliance, including global regulations such as Europe's hazardous substance law, its restricted chemicals law, and California's toxins and safe drinking water law, I have never seen so many companies becoming compliant before the final rules have come out. I think in many ways we are far past the issue of can it be done and is it costly – it can be done and at lower-than-publicized cost.

The hundred plus pages of our appendix are a listing of public declarations by companies committing themselves and their suppliers to being conflict free. The committment by industry has been made. What we do not have is a clear rule from the SEC allowing companies to achieve their goals in the least constly manner.

Being transparent on mineral sourcing not only can be done, it is being done. One key element to this is the success of the conflict free smelter program. The conflict free smelter program has completed the certification review process (including full country of origin traceability) for twenty-three refiners, with another thirty-two in process. Kester, a Chicago-based company supplying 60% of the solder wire in North America (solder being one of the principal sources of tin in electronics) has completed full traceability of their supply chain and certified their respective refineries (see Appendix B of my written submission).

We have previously estimated that compliance to Dodd-Frank 1502 will cost companies an average of 0.03% of revenue in the first year (reducing by 50% in each of the following two subsequent years) with the highest possibleindustry cost of $800M. Since that estimate, we have seen more efficiency from industry and our previous numbers are now a substantial overestimate.

The key reasons for differences between Claigan's projections and other projections provided to the SEC are:

a) Claigan's cost estimates are based on real programs being implemented

b) Contrary to other cost models submitted to the SEC, we assume that only those products that have conflict minerals 'intentionally added' will be reported on . This will exclude common materials where conflict minerals naturally occur, like steel.

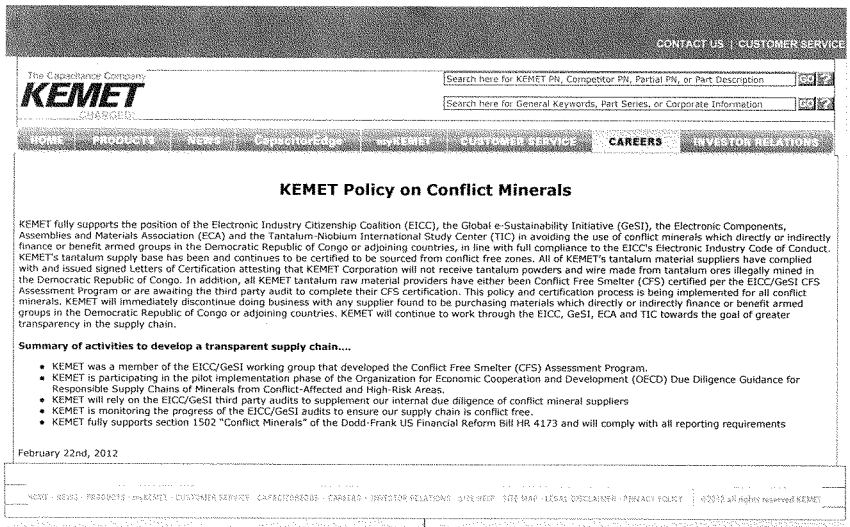
c) SEC staff has indicated the conflict free smelter program would meet the due diligence requirements of Dodd-Frank 1502, and Claigan assumes that also.

d) Claigan assumes the third-party audit requirements in the SEC rule will not require companies to send third party auditors to their suppliers or to the DRC – this was Congress's intent.

So how is 1502 affecting US industry, and in particular, small businesses? It will go a long way towards leveling the playing field for all companies.

The most costly issue for small business in the US is not the implementation of 1502 but the lack of consistent rules. Without a final rule from the SEC US businesses need to comply to each conflict free standard as interpreted by each of their customers. With a final rule from the SEC businesses will be able to provide one set of information to all of their customers and a uniform report to the SEC - vastly reducing their costs.

The key thing to understand now, is not 'if' conflict free is going to be implemented by industry, but 'how.' The horse is out of the barn. Hundreds of manufacturers are going conflict free because of the law. I think Congress and industry agree on the important simplifications that will drive down costs. Companies need the SEC to issue the rule as soon as possible—the SEC's delay in getting a rule out is the big problem and now the biggest cost driver.



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KEMET Policy on Conflict Minerals

KEMET fully supports the position of the Electronic Industry Citizenship Coalition (EICC), the Global e-Sustainability Initiative (GeSI), the Electronic Components, Assemblies and Materials Association (ECA) and the Tantalum-Niobium International Study Center (TIC) in avoiding the use of conflict minerals which directly or indirectly finance or benefit armed groups in the Democratic Republic of Congo or adjoining countries, in line with full compliance to the EICC's Electronic Industry Code of Conduct. KEMET's tantalum supply base has been and continues to be certified to be sourced from conflict free zones. All of KEMET's tantalum material suppliers have complied with and issued signed Letters of Certification attesting that KEMET Corporation will not receive tantalum powders and wire made from tantalum ores illegally mined in the Democratic Republic of Congo. In addition, all KEMET tantalum raw material providers have either been Conflict Free Smelter (CFS) certified per the EICC/GeSI CFS Assessment Program or are awaiting the third party audit to complete their CFS certification. This policy and certification process is being implemented for all conflict minerals. KEMET will immediately discontinue doing business with any supplier found to be purchasing materials which directly or indirectly finance or benefit armed groups in the Democratic Republic of Congo or adjoining countries. KEMET will continue to work through the EICC, GeSI, ECA and TIC towards the goal of greater transparency in the supply chain.

Summary of activities to develop a transparent supply chain....

- KEMET was a member of the EICC/GeSI working group that developed the Conflict Free Smelter (CFS) Assessment Program.
- KEMET is participating in the pilot implementation phase of the Organization for Economic Cooperation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.
- KEMET will rely on the EICC/GeSI third party audits to supplement our internal due diligence of conflict mineral suppliers
- KEMET is monitoring the progress of the EICC/GeSI audits to ensure our supply chain is conflict free.
- KEMET fully supports section 1502 "Conflict Minerals" of the Dodd-Frank US Financial Reform Bill HR 4173 and will comply with all reporting requirements

February 22nd, 2012

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Calumet
Electronics Corporation

USA

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Monday, August 29, 2011

For immediate release: Calumet Electronics to begin Conflict Minerals Initiative

CALUMET, MI: PCB Manufacturer - Calumet Electronics Corp. (CEC) announces new initiative to address pending "due diligence" requirements for Conflict Minerals.

Consistent with Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Calumet is undertaking a number of actions to address the problem of conflict minerals –or the exploitation and trade of gold, columbite-tantalite (coltan), cassiterite (tin), wolframite (tungsten), or their derivatives –sourced from the eastern Democratic Republic of the Congo, or DRC, that have helped to fuel conflict in the eastern DRC.

Section 1502 of the Dodd-Frank Act instructs the SEC, in consultation with the Department of State, to promulgate regulations requiring, in part, companies required to file reports with the SEC, to submit annually a description of the measures taken to exercise due diligence on the source and chain of custody of the four "conflict minerals." "This statement has been interpreted by some privately held companies as an exemption from reporting requirements, states Stephen J. Marshall, Calumet's Materials Declaration Administrator, the reality is that OEM's must exercise due diligence on and formalize the origin and chain of custody of conflict minerals used in their products and on their suppliers to ensure that conflict minerals used in the products of such suppliers do not directly or indirectly finance armed conflict or result in labor or human rights violations."

Calumet believes that it is critical to begin now to perform meaningful due diligence with respect to conflict minerals. Calumet's Conflict Mineral Initiative will facilitate useful disclosures to customers and suppliers to meet Section 1502 of the Dodd-Frank Act. The initiative features;

- Establish strong company management systems based on industry standards;
- Identify and assess risk in the interconnect industry supply chain;
- Design and implement a strategy to respond to and report identified risks;
- Report on supply chain due diligence.

For more information on RoHS, REACH, and Conflict Minerals Material Declarations for printed electronic circuit boards contact;

sourcecompliance@calumetelectronics.com and visit http://www.cec-up.com/program.htm

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www.avagotech.com

May 6, 2012

Conflict Free Minerals Self Audit Checklist

Avago Technologies is committed to eradicate atrocities in the Eastern Region of the Democratic Republic of the Congo (DRC) and to eliminate conflict minerals from our supply chains.

The coverage on human rights violations in the Democratic Republic Congo (DRC) and environmental issues resulted from the mining of minerals, including Tantalum (Ta), Tungsten (W), Tin (Sn) and Gold (Au) has caused wide public concerns. In July 2010, the United States Congress signed into law the <Dodd-Frank Wall Street Regulation and Consumer Protection Act> containing a section that regulates "conflict minerals". The legislation requires companies listed on the U.S stock exchange to disclose annually to the Securities and Exchange Commission (SEC) whether products were produced with conflict minerals sourced from the Democratic Republic of the Congo (DRC) or adjoining countries.

Avago Technologies is taking measures on the sources and origins of the mentioned minerals to ensure a conflict-free supply chain. Avago Technologies Statement on Conflict Free Minerals can be found in our website http:// www.avagotech.com/pages/corporate/quality/environment/

We expect our suppliers to comply with the Electronic Industry Code of Conduct and to only source materials from environmentally and socially responsible suppliers.

We ask our suppliers to

1. Comply with all national and other applicable laws and regulations concerning the sourcing of minerals from conflict areas
2. Not use the conflict minerals originating in the Democratic Republic Congo (DRC) and its adjoining countries
3. Trace the origins of the specific metals used, fill in this self audit checklist and submit back to Avago Technologies
4. Make the same requirement to your upstream suppliers

We seek your cooperation to complete the self audit on time. Thank you for your great support in this activity!

For more information, please visit the following links:

- www.eicc.info
- www.gesi.org
- www.enoughproject.org

BC Ooi

Senior Vice President
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SiTime Declaration of Conflict Metals/Supplies from Conflict-Free Mines

SiTime is familiar with and fully supports the conflict free metal/mineral regulation.

SiTime products contain gold, which is considered a conflict metal. Gold wire is used for the wire bonding in SiTime products. SiTime has completed due diligence to verify the source of the gold used in our products is not a conflict metal. SiTime depends on our gold wire suppliers to take commercially reasonable measures to lawfully supply metals from "conflict-free" mines.

To that effect, SiTime has assurance from our gold wire supplier, Tanaka Electronics (Malaysia) SDN. BHD, that all the raw material that the parent company of the supplier (Tanaka Kikinzoku Kogyo) purchases for the bonding wire production are all from legitimate sources; which are 'Good Delivery Gold Bars' certified, or accredited by the 'London Bullion Market Association'. Our supplier certifies the following:

1) Tanaka Electronics Malaysia Sdn Bhd DO NOT and WILL NOT directly mine material from any minefield with social problems.
2) Tanaka Electronics Malaysia Sdn Bhd DO NOT and WILL NOT knowingly purchase any material from any minefield with social problems.

Additionally, SiTime has reviewed the London Bullion Market Association list of mining suppliers to confirm mines in conflict countries are not accepted. We have reviewed the LBMA policies and are satisfied the LBMA has appropriate screening measures for accepting new mining suppliers.

Yours sincerely,

Mark Hobaugh

Director of Operations and Quality

SiTime Corporation

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E-Mail rolf.nussbaumer@schurter.ch Fax +41 41 369 33 33 Cust. No. Date October 11, 2011

Declaration on the Use of Conflict Minerals

The coverage on human rights violations in the Democratic Republic Congo (DRC) and environmental issues resulting from the mining of minerals, including Tantalum (Ta), Tungsten (W), Tin (Sn) and Gold (Au) has caused wide public concerns. In July 2010, the United States Congress signed into law the Dodd-Frank Wall Street Regulation and Consumer Protection Act containing a section that regulates conflict minerals. The legislation requires companies listed on the U.S stock exchange to disclose annually to the Securities and Exchange Commission (SEC) whether products were produced with conflict minerals sourced from the Democratic Republic of the Congo (DRC) or adjoining countries.

SCHURTER complies with all national and other applicable laws and regulations. As a consequence, we are committed to keeping our supply chain free from conflict minerals which are covered by laws and regulations concerning the sourcing of minerals from conflict areas.

Based on currently available information, SCHURTER does not use conflict minerals originating in the Democratic Republic Congo (DRC) and its adjoining countries.

SCHURTER AG is renowned for its commitment to environmental protection – as early as in 1996, we were among the first companies to receive the certification for our environmental management system according to ISO 14001. We have issued two SCHURTER Sustainability Reports, which summarize what we have done and how we have shaped up in the field of economic, social and environmental corporate management. The latest report is available on our web site www.schurter.com

Yours sincerely

SCHURTER AG

Rolf Nussbaumer
Group Quality Management

EFQM

HP Global Citizenship 2010: Custom Report

Conflict minerals

The issue

HP requires its suppliers to conduct their worldwide operations in a manner that respects labor and human rights, including sourcing minerals that do not directly or indirectly finance armed groups. (See the HP Supplier Code of Conduct .) We have, therefore, been deeply concerned by human rights violations related to the trade in minerals from conflict zones in the Democratic Republic of Congo (DRC).

The "conflict minerals" of concern are those used to produce tantalum, tin, tungsten, and gold. Global supplies of these metals come from many sources, including mines in the DRC, which are estimated to provide approximately 18% of global tantalum production, 4% of tin, 3% of tungsten, and 2% of gold.[1] Some of the mines in the DRC are controlled by militias responsible for atrocities that have been committed in that country's decades-long civil war. The background of the Congolese conflict is complicated and its resolution requires action on multiple fronts—but it's clear that promoting legitimate trade in minerals in the region can help.

HP's engagement with

nongovernmental organizations

HP collaborates with stakeholder and nongovernmental organizations (NGOs) to understand their perspectives and to work towards ending the link between minerals trade and the funding of armed conflict. For example, HP was one of a select group of corporations to join socially responsible investment (SRI) organizations and NGOs in providing recommendations to the U.S. Securities and Exchange Commission (SEC) regarding rulemaking in this area. (See Influencing policy and legislation below.)

"As one of the key organizers of the multi-stakeholder comments on conflict minerals submitted to the SEC, I can say that it was valuable having HP involved in the process. HP was genuine and pragmatic in our consensus negotiations, and was realistic about what can actually be implemented by electronics companies while striving to do the most possible to ensure armed groups are not benefiting from mineral sales."

Patricia Jurewicz
director, Responsible Sourcing Network (RSN)

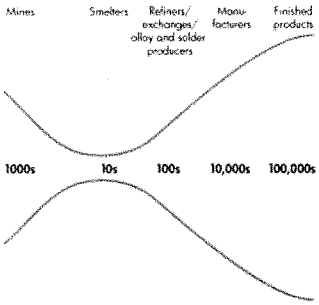
HP also received recognition for its efforts within the industry to address the DRC conflict minerals issue from Enough, a campaign project of the NGO, Center for American Progress, to end genocide and crimes against humanity. Founded in 2007, Enough focuses on crises in Sudan, eastern Congo, and areas of Africa affected by the Lord's Resistance Army. In its 2010 report, Getting to Conflict-Free: Assessing Corporate Action on Conflict Minerals, Enough credits HP with being the leader in the electronics sector.

Why HP is involved

Tantalum, tin, tungsten, and gold are used to varying degrees in components commonly found in electronic products,[2] although all are used extensively by other industries as well. Perhaps the most significant is tantalum, as more than half of its consumption relates to capacitors for electrical equipment. Tin is also used extensively, primarily in solder (which represents about a third of total tin use across all industries).

The minerals supply chain is long, complex, and involves several layers: from mining, through in-country traders and exporters, to smelters, refiners/metal exchanges/alloy producers, and finally to component and other manufacturers (see graphic). The smelter is a critical control point, because it is the stage where minerals from many sources are processed to produce a refined metal.

Illustration of global tin supply chain*



- * The supply chain varies significantly for each of the minerals/metals discussed in this section. This graphic is designed to illustrate the complexity of the tin supply chain and the relative number of the types of organizations involved, but not to provide precise information. Approximately 20% of the world's production of tin comes from recycled and scrap sources. This is not represented in this graphic.

The vast majority of refined metals used in HP products are sourced by companies within our multi-tier supply chain, typically several stages removed from HP. We are setting clear expectations with our suppliers regarding DRC conflict-free mineral sourcing, as described in our Supply Chain Social and Environmental Responsibility Policy.

HP's leadership

Our approach to establishing validated DRC conflict-free sources of these metals has four components:

- Tracing the metal to the source
- Developing a conflict-free smelter validation program

- Establishing an in-region mineral certification system
- Influencing policy and legislation

Tracing the metal to the source

HP was instrumental in establishing the Electronic Industry Citizenship Coalition (EICC) -Global e-Sustainability Initiative (GeSI) Extractives Work Group in 2007 and has helped to develop the common industry supplier survey tool supplier survey tool as a part of a sub-team of the work group. HP and the industry are using the tool to obtain the names of smelters used and information about how this requirement is communicated to sub-tier suppliers. We have made progress in identifying smelters in our supply chain and are working to pinpoint the mines that supply each smelter.

Developing a conflict-free smelter validation program

Through the EICC-GeSI Extractives Work Group, we have helped to develop stakeholder-approved audit protocols for smelters, and have visited smelters to gain a better understanding of their operations. HP was one of four companies on the Extractives Work Group Executive Audit Review Committee charged with reviewing audit results. Through March 2011, the audit team has audited 14 facilities for tantalum and is currently facilitating an external review of the tin audit protocol. (See www.eicc.info/extractives.htm .) As DRC conflict-free smelters are validated through this program, HP plans to direct our suppliers to use these smelters.

Establishing an in-region mineral certification system

Conflict-free smelters require access to DRC conflict-free minerals. HP has provided leadership in three distinct efforts to advance responsible sourcing of minerals from the DRC region.

- Contributing financial and in-kind support to ITRI, formerly the International Tin Research Institute, and the Tin Supply Chain Initiative (iTSCi), aimed at developing a system to trace minerals between the mine and smelter.
- Participating in the EICC-GeSI In-Region Sourcing panel which engages government, NGOs, and industry to advance due-diligence, transparency, and certification initiatives in the DRC. In 2010, this body communicated the urgent need for an in-region mineral certification system to the International Conference on the Great Lakes Region (ICGLR).
- Developing a concept paper for a public-private partnership convening relevant stakeholders to advance a credible, market-driven, locally and internationally supported mineral development program in the African Great Lakes region. The mineral development operation would respect human rights and adhere to environmental principles, operate legally, and benefit people and communities as a path to peaceful economic development.

Dodd-Frank Wall Street Reform

and Consumer Protection Act

In the United States, new legislation is calling attention to the issue of DRC conflict minerals and requiring action by corporations to conduct and disclose due diligence on the source of these minerals used in products.

The SEC has responsibility for administering Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The law requires due diligence with respect to the sourcing of columbite-tantalite, cassiterite, wolframite, gold, or their derivatives, including a determination as to whether trade in these minerals directly or indirectly finances or benefits armed groups in the DRC or adjoining countries. Publicly traded companies must conduct due-diligence measures to determine the source of these minerals in their products, and must disclose a description of their due-diligence measures and findings if they source conflict minerals from the DRC or an adjoining country (or if they are unable to determine the source of the minerals they use). HP fully supports this legislation.

Influencing Policy and Legislation

Progress on addressing the DRC conflict minerals issue also requires appropriate regulatory frameworks, and HP has been a leader in this area. We supported the objectives and passing of recent U.S. legislation, the Dodd-Frank Wall Street Reform and Consumer Protection Act (see sidebar). We also contributed to the Organisation for Economic Co-operation Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, endorsed by the United Nations and ICGLR, and referenced by the SEC's proposed rule.

1. [1] Gold usage from http://minerals.usgs.gov/minerals/pubs/commodity/gold/myb1-2008-gold.pdf , tin usage from http://minerals.usgs.gov/minerals/pubs/commodity/tin/myb1-2008-tin.pdf , tantalum usage from http://minerals.usgs.gov/minerals/pubs/commodity/niobium/mcs-2010-tanta.pdf , and tungsten usage from table 5 in http://minerals.usgs.gov/minerals/pubs/commodity/tungsten/myb1-2008-tungs.pdf .
2. [2] HP has taken steps to research and better understand the locations and quantities of these metals used in our products. We estimate that the average HP 2 kg notebook contains approximately 0.6g of tantalum, 10g of tin, 0.00009g tungsten, and 0.3g of gold.

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freescale

06 January 2012

Dear Customer:

Thank you for your recent communication regarding conflict minerals. We are aware of the conflict minerals reporting obligations legislated by Section 1501 of the U.S. Dodd-Frank Wall Street Reform Act. We are diligently working to obtain information regarding the source and origin of any conflict minerals that may be present in the product which we provide to you, but due to the breadth of this task, it will take time.

The Securities and Exchange Commission (SEC) has not yet published the regulation and as a result, we believe parts of your inquiry may be premature. Our trade association IPC – Association Connecting Electronics Industries anticipates the SEC will publish the conflict minerals regulation by June 2012.

While the Dodd-Frank legislation has defined the basic reporting requirements for conflict minerals, we believe the forthcoming regulation will provide many important details that may affect the reporting of conflict minerals. Based on the proposed rule published in December, 2010 and the October 18, 2011 SEC roundtable, we expect the SEC regulation to address a number of significant issues including minerals whose origin is undeterminable, minerals mined before the regulation is implemented, and minerals from recycled sources. It is prudent then to wait for the publication of the final regulation prior to providing a declaration regarding the sourcing of conflict minerals in our products.

We are, in addition, working with IPC to develop tools to support efficient data sharing and compliance for the entire supply chain. Some of these tools will include due diligence guidance, a data exchange standard, template communications, and model supplier policies. For more information about these projects, please visit IPC's website at www.ipc.org/conflict-minerals-resources.

To prepare for these requirements we have already begun work to determine parts/assemblies that incorporate one or more of the identified conflict minerals, communicate the information about the forthcoming SEC requirements to our suppliers, and develop our company policy on conflict minerals and management systems.

Please be assured that we understand the importance of this issue to you, our customer, and that we will continue our efforts to gather the necessary information from our supply chain in preparation for declaring the sourcing of conflict minerals in our products.

Sincerely,

Griffin Teggeman
Manager, Environmentally Preferred Products Program
Freescale Semiconductor, Inc.

Molex and Conflict Mining / Conflict Metals

As an electronics manufacturer, Molex uses certain metals in the products we produce. While Molex requires all our suppliers to comply with our Supplier Code of Conduct, we recognize the complex supply chain involved with certain metals and have taken steps to ensure that virgin metals we purchase do not originate in conflict mines.

'Conflict Mining' and 'Conflict Metals' refers to the illegal control of some mines in the eastern region of the Democratic Republic of Congo in Africa. The electronics industry uses certain types of metals, some of which are potentially refined from minerals obtained from these mines.

The primary minerals and metals that could potentially come from conflict mines are:

- Cassiterite (tin)
- Gold
- Cobalt
- Coltan (niobium and tantalum)
- Wolframite (tungsten)
- Pyrochlore (niobium)

The metals Molex uses in large quantities are tin and gold. Tin is used in certain copper-alloy terminals, some platings, and solder, while gold is used in platings of some terminals. Molex does not directly purchase any of the other minerals and metals listed (cobalt, niobium, tantalum, and tungsten), so we are focusing our efforts on tin and gold suppliers.

Molex requires all our suppliers to conform to our Supplier Code of Conduct (found at www.molex.com), and requires immediate corrective action from suppliers who operate in violation of this requirement. Because the supply chain for these metals is complex, Molex has taken the initiative to educate our tin and gold suppliers, trace these metals to their source, and will take corrective actions if any conflict mines are used.

Molex and its suppliers do not knowingly use any virgin tin or gold obtained from conflict mines and will regularly query suppliers to verify our requirements are being met to help ensure the health and safety of all workers in our supply chain.

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TriQuint Policy on Conflict Minerals

Thank you for your request concerning Conflict Minerals in TriQuint products. TriQuint shares your concerns about the use of natural resources to fund armed conflict in the Democratic Republic of the Congo, and is working to ensure that its activities are not funding armed conflict. TriQuint has been working with its supply chain for over a year, tracing the origins of the Conflict Minerals derivatives in its products.

Dodd-Frank Wall Street Regulation and Consumer Protection Act

It is important to understand the requirements of the Dodd-Frank Wall Street Regulation and Consumer Protection Act signed on July 21, 2010. Sec. 1502 of this bill requires companies whose manufactured goods contain metals derived from Conflict Minerals or any other mineral or its derivatives determined by the Secretary of State to be directly or indirectly financing conflict in the Democratic Republic of the Congo (DRC) or an adjoining country to:

a. Report annually to the Securities and Exchange Commission (SEC) if the minerals did originate from the DRC or adjoining countries.
b. Submit a due diligence plan (audited and certified by an independent 3rd party) with the company's annual SEC report that includes:
   i. A description of the measures taken by the company to prevent sourcing from the DRC; and
   ii. A description of the products manufactured or contracted to be manufactured that are not conflict free, the facilities used to process the conflict minerals, the country of origin of the conflict minerals, and the efforts to determine the mine or location of origin.

In the original Dodd-Frank Law, the SEC had until April 17, 2011 to promulgate regulations to put this law into practice. Although reporting requirements only apply to companies required to report to the SEC, it is expected that these requirements will filter through the entire supply chain. However, the SEC recently announced that it will take longer than expected to develop these regulations, and has postponed promulgation of any regulations until the fall of 2011. Companies must issue their first report beginning with the companies' first fiscal year that begins after the promulgation of the regulations.

In the original Dodd-Frank Law, by January 17, 2011, the Secretary of State must develop a strategy that includes:

a. A plan to promote peace and security in the DRC by supporting efforts of the Government of the DCR, to—
   i. monitor and stop commercial activities involving the natural resources of the Democratic Republic of the Congo that contribute to the activities of armed groups and human rights violations in the Democratic Republic of the Congo; and

FLEXTRONICS Policy

Flextronics Conflict Minerals Policy

"Conflict Minerals" refers to minerals or other derivatives mined in the eastern provinces of the Democratic Republic of the Congo (DRC) and in the adjoining countries where revenues may be directly or indirectly financing armed groups engaged in civil war resulting in serious social and environmental abuses. In July 2010, the United States passes HR4173, the Dodd-Frank Financial Reform Bill section 1502(b) requiring all US stock listed companies and their suppliers to disclose the chain of custody usage of conflict minerals (Tin, Tantalum, Tungsten, and Gold . . . 3TG).

Flextronics fully supports this legislation and the Electronic Industry Citizenship Coalition (EICC)/Global e-Sustainability Initiative (GeSI) position to avoid the usage of conflict minerals mined from the DRC and adjoining countries. Furthermore, Flextronics intends to adopt the EICC Due Diligence reporting process and obtain chain of custody declarations from all Flextronics sourced and managed suppliers ensuring transparency in our supply chain.

- Flextronics expects our suppliers to source materials from socially responsible suppliers.
- Flextronics expects all its suppliers to comply with the Dodd-Frank regulation and provide all necessary declarations.
- Suppliers must pass this requirement up the supply chain and determine the source of specified minerals.
- Suppliers who are non-compliant to these requirements shall be reviewed by Global Commodity Management for future business.

This Conflict Minerals policy is in line with the Global Business Initiatives on Human Rights, of which Flextronics is a member, and the framework of the United Nations Principles of Human Rights encouraging governments and businesses to respect, protect and remedy human rights.

Sourcing of Metals

Motorola is extremely concerned about the social and environmental conditions in some mines that supply metals to the electronics industry. Mining activities that fuel conflict are unacceptable. Together with our peers, we are working to support the development and implementation of a tracking and validation system to ensure these raw materials come from responsible sources.

We require high labor and environmental standards in our own operations, and make concerted efforts to drive improvements. We expect our suppliers to do the same, as reflected in our supplier code of conduct.

Our products contain various metals, including tantalum, tin, tungsten and gold, which originate in mines around the world. Some mining operations have been linked to poor labor and environmental practices, and there is evidence that some mining and transportation of minerals in the Eastern provinces of the Democratic Republic of Congo (DRC) are fueling conflict in the country by funding illegally armed groups.

We do not procure these materials directly; however, we are working to effect positive change. For more than five years we have asked our tantalum capacitor suppliers to identify which smelters their raw materials come from and have required these suppliers to certify that they are not sourcing conflict materials from the DRC.

Motorola supports the development of regulations and standards that help companies determine whether the sources of the materials they use are associated with conflict. We are very concerned that currently a credible, independent system that enables companies to verify the source of the metals in their products does not exist.

Motorola is collaborating with others in the industry to tackle the challenges of traceability/tracking and other issues through the Global e-Sustainability Initiative (GeSI) and Electronic Industry Citizenship Coalition (EICC) extractives workgroup. We believe this effort will drive greater transparency in the electronics industry supply chain and provide opportunities for individual companies to make greater impacts.

RECENT PROGRESS

Independent efforts

Motorola has been working to identify where potential conflict-related minerals are used in the products we produce. Our rigorous material declaration process has enabled us to better understand the applications of many different types of metals, including metals associated with the conflict in the DRC and included in the recent legislation.

Motorola is working to increase awareness of the conflict minerals issue among the electronics and other industries. We have updated our supplier training and communication materials and have accepted several opportunities to engage through industry groups and supply chain meetings. We have sponsored several conflict minerals meetings to raise awareness in other industries and have participated on several panels at conferences, such as the SRI in the Rockies conference.

In addition, we have further defined our requirement for conflict-free sourcing in our supplier agreements.

Supporting industry efforts

In addition to our independent activities, we are an active contributor to industry efforts to the tackle conflict minerals problem. We believe working together will improve our capability at a faster pace than if we tackled these challenges alone. With that in mind, we are preparing our supply chain management processes to best leverage the industry-wide approach.

We are working with other companies in our industry to develop a tracking and assurance system to enable our suppliers to validate that the materials they buy are from responsible sources. The

legitimate mining industry in the DRC is vital to the economic stability of the region, and a tracking system is essential if sourcing of metals from the region is to continue.

Motorola co-leads the GeSI and EICC extractives workgroup, which has made progress in driving greater transparency in the electronics industry supply chain. In 2009, the extractives workgroup conducted a project to improve visibility in the minerals supply chain, with particular focus on identifying sources of specific minerals and understanding how these minerals move through their lifecycles — from mine to electronics manufacturing.

Using the results of this project, the workgroup initiated a conflict-free smelter process in 2010 to identify tantalum mineral smelters/processors that can demonstrate through third-party validation that they source only conflict-free material. The smelters were asked to demonstrate the sources of their materials and seven sites were visited to increase understanding of how smelters trace the source of the materials used in their refining process. Motorola participated in three of these visits, two in China and one in the U.S.

The information gained through the site visits was used to develop the scope of work for an audit program to validate the claims made by the tantalum smelters that they source only conflict-free material. The audits of tantalum smelters are in progress. The process is now being repeated with tin smelters, with plans to expand to gold and tungsten.

Motorola supports the ITRI Tin Supply Chain Initiative (iTSCi) process that allows for tracking/tracing of materials from the mine to the point of export. The Motorola Foundation provided a $30,000 grant to support ITRI's traceability work. The iTSCi process represents an important first step toward establishing a program to enable the responsible sourcing of materials from the region. Motorola participated in an iTSCi fact-finding mission to the DRC and Rwanda to better understand the conditions on the ground. The delegation met with numerous provincial governmental officials, visited multiple mineral trading houses, a tin and gold mine and met with local non-governmental organizations in North and South Kivu.

ENGAGING WITH STAKEHOLDERS

The problem of mining and conflict minerals cannot be solved by one company or a single industry. To succeed, other industries, governments and civil society also must do their part. We are engaging widely to inform regulation, to gain consensus around an approach to the problem and to encourage all stakeholders to play their part. In 2010 we:

- Convened workshops to gain consensus around the tantalum and tin smelter validation processes
- Participated with the Organization of Economic Co-operation and Development (OECD) in the development of its guidelines on due diligence relating to conflict minerals
- Demonstrated our support for conflict mineral regulations in the U.S. and worked with other regional and international governmental bodies on this issue
- Co-sponsored multi-industry sessions to bring awareness of this issue to other industries that use metals, such as the jewelry and automotive sector
- Engaged a coalition of NGOs working on this issue

PLANS AND GOALS

We will continue to champion more responsible metal sourcing by engaging our suppliers and by participating in collaborative efforts with other stakeholders including, mining companies, non-governmental organizations, labor organizations involved in mining, other industrial sectors that purchase and use metals, the governments and multi-government organizations with jurisdiction over these issues, and end users.
We are working to support the following goals:

- Continue to participate in industry conflict-free smelter program
- Continue to support the implementation of the In-Region Sourcing program being implemented by iTSCi
- Develop a due diligence process for sourcing of metals in collaboration with our industry partners, by the end of 2011
- Implement the due diligence process for sourcing of metals, by the first quarter of 2012
- Include questions on conflict minerals in our supplier self-assessment questionnaire by the end of 2011

U.S. LEGISLATION ON CONFLICT MINERALS

In 2010, a U.S. law was passed that requires companies to report to the Securities and Exchange Commission (SEC) and disclose on their websites whether any materials in their products originate in the Democratic Republic of Congo or its adjoining countries. The law applies to publicly traded U.S. manufacturing companies that use certain metals in their products.

If companies are using materials from the identified countries, they are required to describe the steps they have taken to ensure the metals are from responsible sources and to give details about the location of the mine from where they originated.

Motorola supports the development of legislation that helps companies determine whether or not the sources of the materials they use are associated with conflict. Together with our industry partners, we are working to develop the systems to enable companies to verify the sources of the metals in their products.

FREQUENTLY ASKED QUESTIONS

Given the severity of the situation in the Democratic Republic of Congo, why doesn't Motorola cease buying from suppliers that source from the country?
We believe that a total embargo would make things worse, not better. Tens of thousands of people in the region depend on legitimate artisanal mining and their livelihoods and the economic stability of the region would be threatened if the ICT industry stopped buying components that contain minerals from the region. Motorola and our industry partners believe that the best way to improve standards is by working with the mining industry and minerals supply chain to raise standards and bring lasting improvements.

What steps have you taken to trace the origins of the metals in your products?
We have been working with our tantalum capacitor suppliers for more than five years to identify which smelters their raw materials come from. During this same time, we have required these suppliers to certify in writing that they are not sourcing materials from conflict areas of the DRC. Together with our industry partners, we are developing a validation process to identify tantalum smelters that can demonstrate through third-party validation that they only source conflict-free materials. The process is being replicated with tin smelters, coordinated by the ITRI industry group.

Does Motorola produce any verified conflict-free products?
Presently a system does not exist that enables companies to ensure responsible sourcing of conflict-free metals. Due to the complexity of the minerals supply chain and the number of layers and companies involved, implementing a credible tracking and assurance system takes time and requires the commitment of governments and multiple industries. Significant progress is being made toward the goal of full traceability of the source of metals.

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ii. develop stronger governance and economic institutions that can facilitate and improve transparency in the cross-border trade involving the natural resources of the DRC to reduce exploitation by armed groups and promote local and regional development.

b. A plan to provide guidance to commercial entities seeking to exercise due diligence on and formalize the origin and chain of custody of conflict minerals used in their products and on their suppliers to ensure that conflict minerals used in the products of such suppliers do not directly or indirectly finance armed conflict or result in labor or human rights violations.
c. A description of punitive measures that could be taken against individuals or entities whose commercial activities are supporting armed groups and human rights violations in the DRC.

Also by January 17, 2011, the Secretary of State was to produce a map of areas under the control of armed groups in the DRC and adjoining countries and make this map available to the public. This map must be updated at least every 6 months. TriQuint has pursued a copy of this map, and was directed by the US Dept of Commerce to the following webpage for a copy:

https://hiu.state.gov/Products/DRC_MineralsArmedGroups_(June_2010).pdf

This map pre-dates passage of the Dodd-Frank Law, and has not been updated every 6 months as required.

What are Conflict Minerals and their derivatives?

The Dodd-Frank Wall Street Regulation and Consumer Protection Act defines "Conflict Minerals" as:

a. Columbite-tantalum (coltan), cassiterite, gold, wolframite, or their derivatives; or
b. Any other mineral or its derivatives determined by the Secretary of State to be financing conflict in the DRC or an adjoining country.

It is important to note that this definition of Conflict Minerals means that all coltan, cassiterite, gold, and wolframite are Conflict Minerals, regardless of the source of the minerals. If the source was determined to be located in the DRC or adjoining countries (Angola, Congo, Central African Republic, Sudan, Uganda, Rwanda, Burundi, Tanzania, and Zambia), then reporting to the SEC is required, along with the audited and certified due diligence report.

The common derivatives from these minerals are:

a. Coltan – columbium (niobium) and tantalum
b. Cassiterite – tin
c. Gold
d. Wolframite – tungsten

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It is possible that cobalt might be considered as a derivative of a Conflict Mineral in the future, as most cobalt is produced as a byproduct of the mining of laterite ores, containing copper and nickel. In 2009, the copper deposits in the Katanga Province of the DRC that stretch into Zambia were over 44% of the world cobalt production with over half the world's reserves of cobalt.[1] As these deposits meet the criteria for Conflict Minerals that require reporting to the SEC, TriQuint believes it is probable that cobalt will become another metal that requires reporting.

TriQuint uses all six of these metals in its products. Not every product contains every metal, but almost every product contains at least one of these metals.

What has TriQuint done so far?

TriQuint has modified its Banned and Restricted Substances Specification to ban metals derived from the Conflict Region, and have been working with its Suppliers to help them begin to understand the issues around Conflict Metals. As mentioned above, TriQuint has been surveying its supply chain for the origin of the metals in components and materials purchased for over a year. Due to recent industry focus on this issue, TriQuint has begun to receive more detailed responses from suppliers regarding the origins of the Conflict Minerals supplied. It is estimated that approximately 75% of the Conflict Minerals origins have been traced either to the smelter or mines, and sometimes both.

If there are any questions regarding Conflict Metals or other Product Compliance issues, please contact TriQuint at rohs_info@tqs.com.

John Sharp

John Sharp
Corporate Product Compliance Manager

Date: 19-May-2011

USGS Links for More Information:

Cobalt - http://minerals.usgs.gov/minerals/pubs/commodity/cobalt/
Gold - http://minerals.usgs.gov/minerals/pubs/commodity/gold/
Niobium (Columbium) - http://minerals.usgs.gov/minerals/pubs/commodity/niobium/
Tantalum (included with Niobium information) -
http://minerals.usgs.gov/minerals/pubs/commodity/niobium/
Tin – http://minerals.usgs.gov/minerals/pubs/commodity/tin/
Tungsten - http://minerals.usgs.gov/minerals/pubs/commodity/tungsten/

[1] See http://minerals.usgs.gov/minerals/pubs/commodity/cobalt/mcs-2010-cobal.pdf.

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Rev. B

衝突礦物採購政策

EICC指出，部份金屬礦產已成為非洲剛果民主共和國武裝叛亂團體的主要財源，用來交易軍火、延續其與政府間的血腥衝突、蹂躪當地平民，因此引發國際爭議。建興電子身為世界公民，我們宣示並承諾不接受使用來自衝突礦區的金屬；同時，亦要求建興的供應商：

(1) 必須履行社會環境責任；

(2) 確保產品不使用來自剛果金及其周圍的國家和地區的"衝突礦產"；

(3) 追溯所有產品中所含的金(Au)、鉭(Ta)、錫(Sn)和鎢(W)來源，所有供應商均應完成填寫調查表（請下載無衝突金屬調調查模版Conflict Minerals Reporting Template，已回覆過最新版調查表的廠商不須再填寫）；

(4) 將此要求傳達給貴司的上游供應商。

衝突金屬: 係指來自剛果民主共和國衝突礦區之礦物，類別有鈮鉭鐵礦，錫石，黑鎢礦與黃金等。這些礦物提煉成鉭(Ta)、錫(Sn)、鎢 (W)（簡稱三T礦物）、鈷(Co)和金(Au)等，分別用於電子和其他產品。

在不久的將來，將會禁止使用某些冶煉廠所生產的金屬，因此所有關鍵供應商皆必須追溯其零件所使用到的金屬的來源及冶煉廠。

Sourcing Policy for Conflict Mineral

Reported by EICC, that the origin of these minerals has become the Democratic Republic of Congo's main revenue sources of armed rebel groups, to deal in arms, continued its bloody conflict between government forces, devastated the local civilian population, thus triggering international disputes. LITE-ON IT, as the global citizen, we declare and commit to refusing the application of metals from fighting region; meanwhile, we request LITE-ON IT's supply chain:

(1) Conduct your operations in a way of social and environmental responsibility;

(2) Not use the conflict minerals originated from the Democratic Republic of the Congo (DRC) and its adjoining countries ;

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Rev. B

(3) Trace the origins of the metals used, e.g. Au, Ta, Sn and W, and fill in the investigation form /sign declaration (Please download Conflict Minerals Reporting Template, and no need to reply again if you have completed the latest survey form before)

(4) Make the same requirements to your upstream suppliers.

Conflict metal: The minerals composed of columbite-tantalite, cassiterite, wolframite and gold from the fighting region of Democratic Republic of the Congo (DRC). These minerals are refined into tantalum (Ta), tin (Sn), tungsten (W) (referred to as the 3 T's), cobalt (Co) and gold (Au), respectively, and are used in electronics and other products.
In the near future, the metals produced by some smelters may be banned, therefore all of our key suppliers are required to map their supply chains for the metals in their components back down to smelter and then to source.

required to lodge "deposits" or identity papers upon commencing employment with the company.

Child Labor

Suppliers will not employ anyone under the age of 15, and/or younger than the age of completing compulsory education, or under the minimum ages established by applicable law in the country of manufacture, if higher than the age of 15. Furthermore, Suppliers of any kind will not expose anyone under the age of 18 to situations in or outside of the workplace that are hazardous, unsafe or unhealthy, and will provide adequate protection from exposure to hazardous conditions or materials.

Harassment and Abuse

Nordstrom expects our Suppliers to treat every employee with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment or abuse. Suppliers will not use monetary fines as a disciplinary practice. Furthermore, workers must be free to voice their concerns to Nordstrom or Nordstrom-appointed staff without fear of retaliation by factory management.

U.S. Customs

Suppliers will comply with applicable U.S. Customs importing laws and, in particular, will establish and maintain programs and documentation to support country of origin production verification, to avoid illegal transshipping.

Suppliers shall seek ongoing education regarding Customs-Trade Partnership Against Terrorism (C-TPAT) supply chain security requirements, establish an action plan for compliance, be prepared for supply chain security audits by Nordstrom and/or third party auditor, and maintain standards set therein.

Environment

Suppliers must demonstrate a regard for the environment, as well as compliance with applicable environmental laws. Further, Nordstrom actively seeks Suppliers who demonstrate a commitment to progressive environmental practices and to preserving the earth's resources.

animal welfare. We strive to do business with Suppliers who source leathers, furs and any other animal by-product from entities who use fair and humane animal-welfare practices.

The Kimberly Process and Conflict Minerals

Nordstrom expects all of its Suppliers to purchase all diamonds from legitimate sources not involved in funding conflict, and in compliance with United Nations Kimberly Process resolutions. This shall also be stated as such on all invoices, wherein the seller guarantees that all diamonds are conflict-free, based on personal knowledge and / or written guarantees provided by the supplier of the diamonds. Nordstrom expects all of its Suppliers to avoid use of "conflict minerals" which may directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo or adjoining countries, in full compliance with Dodd-Frank Conflict Minerals Provisions.

Anti-Bribery

Nordstrom expects all its business suppliers to have programs, policies and training in place to comply with its local and/or applicable anti-bribery regulations, including without limitation the Foreign Corruption Practices Act (FCPA) and the U.K. Bribery Act, and to prevent payments made for the purpose of obtaining or retaining business.

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CONFLICT MINERALS POLICY FOR CUSTOMERS OF K&L MICROWAVE, INC.

In July 2010, the United States enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") which contained a section that regulated "Conflict Minerals"[1] for the first time. The Act includes provisions that require manufacturers to perform due diligence in their supply chains to identify and disclosure the use of any Conflict Minerals and whether those Conflict Minerals originated in the "DRC Countries"[2] The Act is new and regulations related to the requirements of the due diligence process have not yet been issued by the US Securities and Exchange Commission, which oversees compliance with the Conflict Minerals section of the Act.

K&L Microwave, Inc., as an operating company of Dover Corporation, a NYSE listed company, will be compliant with the Act and other regulations concerning the sourcing of our raw materials and the requirements for supply chain due diligence. We expect that our suppliers will also comply with our requests to provide statements and perform due diligence about the source of any Conflict Minerals in their products which are provided to us.

K&L Microwave, Inc., and Dover Corporation are currently implementing system processes and procedures to help us achieve compliance with the Act. We are communicating our requirements to our suppliers and vendors. Due to the complexities of the mineral supply chain, K&L Microwave, Inc. is currently unable to verify the origin for the minerals used in our products. We are working closely with our suppliers and vendors to understand the source countries of the metals contained in our products and manufacturing processes.

We do not knowingly source any product containing Conflict Minerals from the DRC Countries currently; however we are unable to provide clear supply chain verification at this time. We will continue our work on this due diligence process and advise our customers on the status of our process.

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[1] "Conflict Minerals" include Columbite-Tantalite (Tantalum), Cassiterite (Tin), Gold, Wolframite (Tungsten) and any derivatives from these minerals.

[2] "DRC Countries" include the Democratic Republic of the Congo, Angola, Burundi, the Central African Republic, The Republic of Congo, Uganda, Rwanda, Sudan (South Sudan), Tanzania and Zambia.

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2 March 2011

STMicroelectronics Statement on Conflict Minerals

STMicroelectronics has a high level of concern for the issue of 'Conflict Minerals', which involves the trade of minerals (and the associated refined metals) originating in the region of the eastern provinces of Democratic Republic of the Congo (DRC) and surrounding regions where armed conflict results in human rights violations and environmental damage.

STMicroelectronics is committed to take all the appropriate actions to avoid illegal and unethical metal sourcing coming from these areas in its products. The metals in question are Tantalum (Ta), Tungsten (W), Cobalt (Co), Gold (Au) and Tin (Sn).

As part of this commitment, we have already identified the materials potentially containing at least one of the metals of concern. We require our suppliers to respond in writing to confirm that no metals provided by them for inclusion in ST products originate in the identified conflict zones. We are also leading a deeper investigation with targeted suppliers to map and trace the entire supply chain in order to achieve visibility on the complex sourcing of the relevant materials back to the mine of origin.

As a Full Member of the EICC, ST supports the third-party smelter certification program that will provide assurance that the metals they source are totally conflict-free and that their operations fully integrate the guidelines of the EICC Extractives workgroup.

Further to the actions described above, STMicroelectronics will take the appropriate actions to fully comply with the rules of the SEC (Security and Exchange Commission) and will support its customers' efforts to reach our common goal to build up a socially and environmentally responsible supply chain.Our progress on this topic will be reported in our annual Sustainability Report.

Alain DENIELLE
Group Vice-President
Corporate Sustainable Development

Jérôme ROUX
Group Vice-President
Global Purchasing & Outsourcing

Sustainability Report 2010/11

Conflict Minerals

"Conflict minerals" generally refer to those minerals that may have directly or indirectly contributed to the financing of armed groups. Such armed groups are responsible for violence – often toward women and children – and human rights violations in the Democratic Republic of Congo (DRC). Armed groups may directly manage a given mine or tax the mine and/or the transport routes for the minerals. The minerals then typically change hands eight to 12 times before they are incorporated into end products. See the known supply chain stages associated with conflict minerals.

In the U.S., a new federal law passed by Congress and signed by President Obama in 2010 – the Dodd-Frank Wall Street Reform and Consumer Protection Act – includes a provision relating to conflict minerals. This provision requires many manufacturers to report to the Securities and Exchange Commission (SEC) annually on whether their products contain metals derived from certain conflict minerals if those metals are necessary for the functionality and production of their products. The sourcing region subject to full reporting includes the DRC and the nine surrounding countries.

According to the federal legislation, columbite-tantalite, cassiterite, wolframite and gold – which are refined into tantalum, tin, tungsten and gold, respectively – are considered to be conflict minerals. The metals derived from conflict minerals are used in a variety of automotive applications, including onboard electronics, metal alloys, lubricity coatings, hot-dip coatings, trim components and more.

In the European Union, similar legislation is being considered, with an EU Commission communication on conflict minerals scheduled for the summer of 2011 and reform of the EU's Transparency Directive in the autumn of 2011.

Ford is concerned with the potential connection between the automotive industry and conflict in the DRC region. Initial research and engagement has demonstrated that the underlying causes of conflict in this region are complex. A multilateral approach to solutions will be required, and we believe that companies in the downstream supply chain for these minerals have a role to play. We intend to require suppliers to use only metals that have been procured through a validated supply chain, so as to ensure that they have not, at any point, financed conflict. The processes to support validation are in development by local governments, industry groups, international organizations and NGOs, with support from other governments outside of Central Africa. While these processes are being developed and implemented, Ford is taking action to educate ourselves and our suppliers, initiate automotive industry activity and begin the necessary due diligence.

Policy Engagement

Ford worked with companies such as Microsoft, GE and Hewlett Packard, as well as NGOs and investors such as the Interfaith Center on Corporate Responsibility, to issue multi-stakeholder comments on the SEC rules as they were being developed and finalized. Representatives from Ford also separately met with the SEC and the U.S. State Department to discuss issues relating to procedures and implementation within the automotive supply chain. In March 2011, we submitted a formal comment letter to the SEC stating our position. The intent of this engagement was to inform, to the best of our ability, policy makers and other stakeholders on the current status of information available to Ford while the rules for implementing the conflict minerals legislation were in development.

In addition, through an international forum provided by the Organization for Economic Cooperation and Development (OECD), the United Nations and the governments of the affected African states, Ford has participated in dialogue with multiple stakeholders, including NGOs active in the area of concern. We have also provided input to the development and upcoming implementation phase of the OECD Framework for Due Diligence regarding conflict minerals. This framework provides practical guidance to companies throughout the supply chain on a set of actions that can be taken to ensure responsible due diligence.

Should the Customer dispense with the return of the documents, these must be destroyed on completion of the order with due regard to the requirements of confidentiality.

Material provided by the customer, including tooling, patterns etc. remains the property of the Customer without limitation. Such material must be stored separately from other material and must be accessible to the Customer at all times. The Supplier is fully liable for any damage or loss of such material.

Any processing or transformation of material provided by the Customer may be done only on behalf of the Customer. The Customer is the manufacturer in accordance with § 950 BGB.

9. Spare parts

The Supplier guarantees a continued supply of spare parts at economically reasonable conditions for a period of 15 years after cessation of production by the Customer.

10. Code of conduct

The Supplier undertakes to comply with national environmental and labour legislation, labour contracts and other applicable regulations concerning competition.

The Supplier undertakes to act in accordance with the principles of the UN Global Compact, the ILO Conventions and other international standards. In particular, the Supplier undertakes to observe human rights. His employees have the right to form or join labour unions and other similar organisations. The Supplier does not permit or make use of child labour. In addition, the Supplier does not participate either directly or indirectly in pricing agreements, monopolies, corruption or any other activities which may restrict competition or are otherwise prohibited by law.

The supplier undertakes to act in conformance with the rules of the "Wall Street Reform and Consumer Protection Act", chapter 1502. This means that the supplier will check the usage of so-called "conflict minerals" (e. g. Tantalite, Wolframites, Cassiterites or even Gold) throughout his supply chain.

Detailed specifications of "conflict minerals" can be found under:
http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf

Some of these minerals are mined under conditions that are highly degrading. This is not only limited to the minerals of Eastern Congo. Minerals from other parts of the world can also fulfil the criteria of being "conflict minerals".

Should the supplier use "conflict minerals" in his supply chain he is to inform the customer immediately. In this case the supplier is required to introduce actions to substitute these minerals and to close these actions at the shortest notice.

Risk Assessment

Ford intends to utilize an existing automotive industry database that tracks material content at the part level to analyze the presence of conflict minerals in our vehicles. The database currently tracks material content to monitor for the presence of certain regulated substances; it does not indicate where materials originated. While the presence of the four conflict minerals may, in some cases, be reported to the system by suppliers, reporting of the geographic source of these minerals has not been required to date (as it previously had not been regulated).

In 2011, Ford issued new reporting requirements to suppliers asking for full content reporting of the four conflict minerals so as to achieve a more complete assessment of risk in our supply base of 1,400+ companies. This will give us a starting point for further supply chain inquiries, which should in turn enable the tracing of metals to the point of processing (i.e., the smelter).

Supply Chain Management Systems

Ford is implementing due diligence actions as guided by the OECD and United Nations Frameworks for Due Diligence. Critical to these frameworks is the identification of upstream and downstream portions of the supply chain from the central "pinch point" – the smelter or processor. In this model, Ford and all downstream companies are responsible for identifying the smelters used in the supply chain and ensuring that those smelters are appropriately validated as sourcing minerals that have not financially supported conflict. Ford is monitoring closely the development of these validation systems.

Within our direct control are Company policies and direct supplier relationships. Although Tier 1 suppliers to Ford make independent sourcing decisions – as do most companies within the automotive supply chain between Ford and the mines – we include in all of our contracts with suppliers explicit human rights terms (issues-supply-humanrights-expectations). We also engage with our suppliers on the topic of policy and management systems through our strategic supplier framework, the Aligned Business Framework. Our ongoing work with these suppliers includes the development or enhancement of supply chain sustainability management (issues-supply-relationships). It is important that we fully align with suppliers on the approach to responsible sourcing of raw materials so as to avoid, where possible, unintended consequences, such as absolute bans on sourcing from the 10 countries listed in the U.S. legislation.

Industry Engagement

Industry engagement and a coordinated approach to supply chain requirements will greatly enable success and reduce the duplication of efforts and cost of implementation of due diligence. Ford is pursuing automotive industry collaboration at the AIAG, consistent with our approach to other supply chain sustainability opportunities. Ford chairs the industry workgroup on conflict minerals – a group consisting of six global automakers and several global Tier 1 suppliers. Actions taken by the group thus far include:

- Wide distribution of a Conflict Minerals Awareness letter from the six OEM vice presidents of purchasing to the CEOs of Tier 1 suppliers. The intent of the letter was to demonstrate a unified face to the supply chain on the issue, as well as to increase awareness to ensure timely action.
- Participation in a January 2011 industry conference on corporate responsibility, with a heavy emphasis on raw materials transparency in purchasing.
- Planning of a May 2011 webinar and a September/October 2011 industry event to keep the supply base well informed of evolving activity related to regulation, validation programs and customer requirements.

Future activity for the industry group may include collective action for information management, actual data requests and data management. The AIAG conflict minerals workgroup has been actively pursuing collaborative action with the electronics sector as well, given that industry's experience with this issue and possible solutions.

As this complex process unfolds – from mine certification to smelter validation programs to the publication of the SEC rules for federal regulatory compliance – Ford will strive to meet all expectations and require compliance and commitment to due diligence from our suppliers.

Conflict Minerals: Known Supply Chain Stages

- Mine
- Negociant
- Comptoir
- Trader(s)
- Smelter
- Refiner/processor
- Product/component manufacturer(s)
- End product manufacturer

In addition, illegal channels operate in parallel to this known supply chain, either leveraging these actors, or via smuggling and other means.

Related Links

- This Report:
  - Human Rights in the Supply Chain: Ford's Global Working Conditions Program (issues-supply-humanrights)
- External Websites:
  - AIAG (http://www.aiag.org/)
  - U.S. State Department (http://www.state.gov/)
  - International Labor Organization (http://www.ilo.org/)
  - United Nations Global Compact (http://www.unglobalcompact.org/)
  - Organization for Economic Cooperation and Development (http://www.oecd.org)
  - Interfaith Center for Corporate Responsibility (http://www.iccr.org)

Fairview Microwave Inc.®

Website Last Updated: 5/4/2012
tech_support@fairviewmicrowave.com

View Cart 1-800-715-4396 sales@fairviewmicrowave.com

Links; ROHS; Reach; Conflict; ISO

ROHS COMPLIANCE:

All of our parts are ROHS compliant except for cables which sometimes are & sometimes aren't depending upon the cable and the application. Some cables are compliant for some applications such as many telecommunication applications but not for others. Our cable assemblies use lead based solder, but we can often build 100% compliant cables upon request. See Annex 1A of WEEE/2002/96/EC, & 2005/747/EC for specific information about your application; an exemption in part says: "7. - Lead in high melting temperature type solders (i.e. lead-based alloys containing 85 % by weight or more lead),- lead in solders for servers, storage and storage array systems, network infrastructure equipment for switching, signaling, transmission as well as network management for telecommunications,"

REACH:

Re EC1907/2006, We do not use any SHVC's in our manufacturing processes as identified in the June 2011 update. We require on our Purchase Orders to our vendors that we be notified if any SHVC content is present and as of yet no SHVC's have been identified. We are not registered as we sell articles.

Fairview Microwave Reach Statement

Conflict minerals: We do not purchase minerals from Conflict areas & require our suppliers to notify us if their content includes minerals from conflict areas, to date no such materials have been identified.

ISO 9001:2008 Certification

International Certification Network Certificate

OTHER INFORMATION:

CABLE SPECIFICATIONS	INSERTION LOSS, POWER, Z0, DIA, & ETC	cablespecs.pdf
CONNECTOR COMPATIBILITY	2.92/3.5/SMA ETC	RF CONNECTORS
MATING SMA/2.92/3.5/2.4	VARIOUS CONNECTOR DIMENSIONS & PROPERTIES	MATING RULES
GPO™ Vs. SMP	ARE THE GPO™ & SMP COMPATIBLE?	GPO™ vs SMP
TORQUE WRENCHES	HOW MUCH TORQUE IS ENOUGH?	TORQUE WRENCHES

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October 2011

Advanced Interconnections Corp.
Conflict Minerals/Metals Statement

In response to customer inquiries regarding compliance with Section 1502 of the Dodd-Frank Act, relating to conflict minerals (also referred to in the marketplace as "conflict metals") originating from the Democratic Republic of Congo (DRC) and neighboring countries, Advanced Interconnections Corp. has prepared this statement. The scope of this statement is limited to the Conflict minerals currently defined as Tin, Tantalum, Tungsten, and Gold; also referred to as "3TG minerals."

Advanced Interconnections Corp. has contacted our direct suppliers of Gold and Tin, and certifies to the best of our knowledge that our supply chain does not contain any minerals or materials originating from or processed (smeltered) within the Democratic Republic of Congo or adjoining countries. Tantalum and Tungsten are not currently used in the manufacture of our products.

As a privately held company, we are not subject to the SEC disclosure requirement of the Dodd-Frank Act, however to support our customers worldwide and our corporate commitment to environmental compliance, we are committed to ensuring that our metals suppliers are DRC conflict-free.

John Ross
Operations Manager & Quality Liaison

ISO 9001

Advanced Interconnections Corp. ▪ 5 Energy Way ▪ West Warwick, Rhode Island 02893 USA
Tel: (800) 424-9850 ▪ (401) 823-5200 ▪ FAX: (401) 823-8723
E-mail: info@advanced.com ▪ Web Site: http://www.advanced.com

GRI Index

We have declared our reporting to be Application Level "A," (Self-declared).

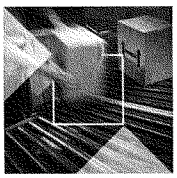
↗ Read Our GRI Table

Contact AMD Corporate Responsibility

We welcome your input and comments about AMD's Corporate Responsibility program.

↗ Contact Us

Supplier Responsibility



AMD's is committed to the highest standards of social, ethical, and environmental conduct, and we apply that commitment to the companies with which we do business. Our approach to supplier responsibility ensures alignment with our corporate strategy to deliver high-quality products and services while maintaining and enhancing long-term, mutually beneficial, and ethical supplier relationships. We believe that well-managed businesses also have strong social and environmental performance. We also believe that the most effective and efficient way to achieve good performance is by placing responsibility with the entities that have authority to institute and manage robust programs—our suppliers. This approach is evident in how AMD has integrated supplier performance into our business processes, rather than treating it as an isolated program.

Our goal is to ensure that working conditions in our supply chain are safe, that workers are treated with respect and dignity, and that manufacturing processes are environmentally responsible.

In addition to the work we are doing with our own supply chain, AMD is actively engaged in industry-wide efforts to embed excellent social, environmental, and ethical performance into the electronics industry's supply chain practices.

Review our supplier responsibility policies and practices in the 2010 Annual CR Report.

Conflict Minerals

The Democratic Republic of Congo (DRC) has been the site of one of the world's worst humanitarian crises during the last decade. An estimated 5 million people have died as a result of violent armed conflict[1]. Illegal armed groups and some Congolese national military units commit human rights abuses and are supported by the trade in minerals.

In 2010, the United States Congress passed a new law requiring US-based public companies to disclose the measures they have taken to eliminate so-called "conflict minerals" from their supply chains. This new law—part of the Dodd-Frank Wall Street Reform Act signed by President Obama in July 2010—requires the Securities and Exchange Commission to draft a rule setting out new reporting requirements. Under the new rule, any U.S.-based publicly traded company will be required to report the measures it has taken to identify the source of conflict minerals—tin, tungsten, tantalum, and gold—as well as disclose any products that are not "conflict-free."

While the mining of mineral ore in Africa is several steps removed from the manufacture of high-tech electronics, our industry has responded. Even before the passage of this new law, members along the electronics industry value chain had been developing a responsible approach to enable conflict-free mineral sourcing from the region. This involves three fundamental elements:

1. An "in-region" mineral certification system that enables the traceability and certification of minerals mined in the DRC region.
2. A conflict-free smelter program that enables third-party validation of a smelter's sourcing practices and a determination of whether its sources are conflict-free.
3. Due diligence verify that the smelters that produced the metals in finished products are certified conflict-free.

AMD is appalled by the stories of conflict, human rights violations, labor, and environmental abuses in the DRC. We are rising to the challenge to do our part through the support and leadership of several key initiatives.

- AMD co-chairs a multi-stakeholder policy and diplomacy working group with the Enough Project—a U.S. based non-government organization (NGO). This working group includes representatives of NGOs, socially responsible investment groups, and companies from multiple industrial sectors. The aim of this working group is to create a workable consensus policy for both implementation of the U.S. law and the diplomacy aimed at eliminating mineral sourcing that contributes to the human suffering in the DRC region. To date, this working group has delivered two sets of consensus policy positions to the U.S. Securities and Exchange Commission (SEC). To our knowledge, these submissions are the only multi-stakeholder consensus positions received by the SEC for the development of this ground-breaking rule.
- Through the Electronics Industry Citizenship Coalition (EICC), AMD is actively engaged in the conflict-free smelter program to ensure responsible sourcing. Smelters are the natural choke point in the supply chain—meaning that there are numerous sources of raw materials (ore) that flow into a smelter and numerous uses of the refined metal that leave the smelter. The objective of this effort is to audit smelters of tin, tantalum, tungsten and gold, and identify "conflict-free smelters."
- AMD is also working closely with an EICC working group to develop a standardized process for tracking these minerals from the smelter through the electronics industry's supply chain. While the effort is still very new, the intent is to build a streamlined system that is efficient and effective for the entire supply chain.
- To support the development of a reliable "in-region" sourcing process, AMD is actively working with stakeholders from civil society, government, and the social investment community. Partnering with the Enough Project, AMD met with senior officials in the U.S. State Department to emphasize the need for government leadership of the "in-region" sourcing process. "In-region" sourcing aims to continue economic development of the region through mineral sales, while eliminating those sales that support armed militias, conflict, and human rights abuses.

- Within our own supply chain, we are developing appropriate processes to identify any conflict minerals. The first step is to understand if and where these minerals exist in our products. Once identified, we will employ the standardized industry processes (currently being developed) to track the minerals back to the smelters of origin, and push for these smelters to become "conflict-free." While mapping our supply chain back to the smelter is very complex, we are committed to the process and will continue to work with our business partners—both customers and suppliers—to develop a workable and efficient tracking system.

As we look at the potential outcomes of this new policy, we are mindful that tracking metals through the supply chain is only just a start to a solution; a sustainable end to the suffering in the DRC will take much more. Deeply rooted socio-economic factors must be addressed by governments, civil society, private sector interests, and others.

Also, if the implementation of the new law is not handled carefully, it may have the unintended consequence of banning or significantly reducing mineral exports from the DRC region, which could lead to more suffering. AMD will continue to work with all stakeholders to help ensure this policy results in tangible improvements in the DRC. While the electronics industry and the private sector in general have a role in this discussion by providing jobs, fair wages, ethical business practices, and good working conditions, true success must involve all stakeholders.

California Transparency in Supply Chains Act of 2010

The California Transparency in Supply Chains Act of 2010 (SB 657) (the "Act") requires manufacturers and retailers doing business in the State of California to disclose information regarding their efforts to address the issues of slavery and human trafficking in their supply chains. In accordance with the requirements of the Act, AMD offers the summary below of our activities to identify and prevent human trafficking and slavery activities by our vendors.

AMD Policies and Actions

AMD strongly opposes the practice of slavery or human trafficking. AMD utilizes several approaches detailed below designed to ensure and verify the absence of such practices in our supply chain.

AMD is an active member of the Electronic Industry Citizenship Coalition (EICC) and has adopted the Electronics Industry Code of Conduct (the EICC Code of Conduct). AMD generally requires conformance with this code from its suppliers. The EICC Code of Conduct is based on international labor, environmental and human rights standards that clearly prohibit slavery and human trafficking.

Risk-based supplier assessments: As a part of AMD's supplier management process, we assess our suppliers to evaluate their conformance to the EICC Code of Conduct. This approach includes preliminary risk assessments as well as more detailed supplier self-assessment questionnaires. The results of each method are scored utilizing the EICC scoring system to verify the suppliers' risk of non-conformance.

Supplier audits: Based on the results of the risk assessment, AMD may require a third-party on-site audit of supplier practices and management systems to evaluate supplier compliance with the EICC standards including avoiding human trafficking and slavery in our supply chain and with applicable laws and regulations. These audits may be announced or unannounced depending on the circumstances.

Supplier assurance: Each year, AMD communicates with suppliers in writing to ensure that our expectations are clear and up to date with regard to responsible social, ethical and environmental conduct. This letter requires suppliers to comply with international standards, applicable laws and regulations as well as the EICC Code of Conduct. Additionally, AMD's standard terms and conditions for the procurement of goods and services require conformance to applicable laws and regulations, and reinforce our expectations regarding responsible social, ethical and environmental conduct.

Accountability: In addition to risk assessments and audits, AMD discusses conformance to the EICC Code of Conduct as well as related management systems with our suppliers during regular business reviews. AMD's supplier business reviews are the optimal venue for accountability with regard to responsible social, ethical and environmental conduct because senior management participates in these meetings and future business awards are at stake.

Training: AMD suppliers have access to information and training regarding conformance expectations through the Electronic Industry Citizenship Coalition learning and capability activities.

AMD Standards of Business Conduct: AMD's Worldwide Standards of Business Conduct establish mandatory rules and guidelines for AMD's employees. These standards are substantially equivalent to the EICC Code of Conduct and specifically prohibit forced and compulsory labor practices. These standards apply to all AMD employees. Every AMD employee receives a copy and mandatory training on these standards. In the event an employee violates these standards, AMD will take immediate and appropriate action, which may include termination of employment.

Conflict Minerals: AMD's commitment to uphold human rights throughout our supply chain is reflected in the policies and procedures outlined above as well as in our actions addressing the issue of conflict minerals. AMD is leading policy and implementation discussions aimed at eliminating human rights abuses stemming from minerals mining in the conflict zones of the Democratic Republic of Congo (DRC) and adjoining nations.

To learn more about AMD's corporate responsibility programs, please review our latest Corporate Responsibility Report.

1. General Accounting Office. The Democratic Republic of the Congo: US agencies should take further actions to contribute to the effective regulation and control of the mineral trade in the Eastern Democratic Republic of the Congo. GAO 10-1030 report (September 2010).

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- Supplier Performance Expectations
- Production Part Approval Process
- Supplier Initiated Change
- WFP Supplier Quality Day

DOCUMENTATION
- Worldwide Documentation Mgmt

REGIONS
- Japan

ENVIRONMENTAL
- Collected Chemicals and Materials
- TI ESH Requirements

SUPPLY CHAIN CSR
- Conflict Minerals Due Diligence Tool

TOOLS
- Barcode Generator

CONFLICT MINERALS DUE DILIGENCE TOOL

EICC ELECTRONIC INDUSTRY CITIZENSHIP COALITION

GeSI GLOBAL e-SUSTAINABILITY INITIATIVE

Dear Valued Supplier,

Over the past few months, many of you have received written and/or verbal communications from Texas Instruments (TI) with regards to the Conflict Minerals issue addressed in the Dodd-Frank Wall Street Reform and Consumer Protection Act that was passed by the US Congress in July 2010. Section 1502 of the Dodd-Frank Act requires all US publicly traded companies to file disclosures and reports with the U.S. Securities and Exchange Commission (SEC) related to the use of Conflict Minerals (tin, tantalum, tungsten and gold) in their products.

TI has been working diligently with the Electronic Industry Citizenship Coalition (EICC) and the Global e-Sustainability Initiative (GeSI) Extractives Working Group to create industry agreed upon due diligence methods to use with our suppliers to ensure proper control of the sources of these metals and the ore from which they are extracted.

The EICC/GeSI Extractives Working Group has now released a common template and dashboard for the collection of sourcing company due diligence information related to Conflict Minerals. In an effort to better understand our supply chain and comply with the requirements of the new legislation, TI will use this template and we strongly encourage our supplier's use of it as well. We believe it will be the standard used by the electronics industry to communicate Conflict Mineral supply chain information. Upon completion of the document, it can be sent out to all customers needing this information, not just TI. This approach will reduce redundant efforts and streamline the process to provide the Conflict Minerals information up and down the supply chain.

The EICC/GeSI Conflict Minerals Reporting Template is available in multiple languages and contains written instructions (also available in multiple languages) to help you use the template efficiently. The template dashboard is available in English only.

The template, dashboard and instructions are available free of charge on the GeSI-EICC Conflict Free Smelter website.

We need to receive your information in a timely manner in order to provide a timely response to our customers. Please review the schedule below, so that you are fully aware of TI's requirements.

Actions	Due Date
Fill in the template with accurate, auditable information and return via attachment in TI external SharePoint site (instructions to be provided later)	October 5, 2011

For audit purposes, we request submission of your completed Conflict Minerals Due Diligence Report Template to our external SharePoint site. To submit your template, please click on the link below and look next to Supply Chain CSR and click the **Conflict Minerals Due Diligence** link. You will then be asked to provide information as the person submitting the template for your company and attach your template.

Click **here** to submit your template.

For assistance with any questions or concerns, please contact the Conflict Minerals Compliance Team at TI: conflictmineralsti@list.ti.com .

Thank you for your prompt attention to this matter. We look forward to our continued partnership.

Best regards,

Conflict Minerals Compliance Team
Texas Instruments Incorporated

Honeywell

Honeywell Electronic Materials
6760 W. Chicago St.
Chandler, AZ 85226

Honeywell Electronic Materials Conflict Minerals Statement

On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 1502 of that Act relates to certain requirements on SEC regulated companies concerning Conflict Mineral procurement practices (the "Conflict Minerals Law"). Honeywell takes very seriously the allegations that metals mined in the Democratic Republic of the Congo ("DRC") may be fueling human rights violations and environmental degradation.

Honeywell Electronic Materials ("HEM") will comply with the Conflict Minerals Law and related government regulations.

In support of this, HEM actively works with its suppliers to identify the source of the minerals defined in the Conflict Minerals Act. If it is determined that a supplier provides products that include metal made from ore extracted from a Conflict Zone Mine, HEM will review this situation carefully and take all actions required by law.

TE Statement on Conflict Minerals

At TE, we take very seriously the possibility that "conflict minerals" may find their way into our supply chain. "Conflict minerals" or "conflict metals" are defined as gold (Au), tantalum (Ta), tungsten (W), and tin (SN) sourced from mines in conflict areas controlled by either nongovernment military groups or armed groups, including but not limited to the Eastern region of Democratic Republic of Congo (DRC). Accordingly, we support the goal of Sec. 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act to discourage companies from using "conflict minerals." We understand that those responsible for human rights abuses in this region are obtaining funding from the minerals trade. By identifying the mines funding these activities, companies can help stop a devastating humanitarian crisis by sourcing elsewhere.

Avoidance of sourcing from "conflict mines" is a very serious issue, and we have been actively working with industry groups and our suppliers to increase supply chain transparency toward that goal. However, supply chains in the electronics Industry are extremely complex. Metals are procured in many different ways, through a number of suppliers, and are often mixed with recycled materials of indiscernible origin. Currently, there is also no way to know with certainty if a mine in the DRC is considered a "conflict mine." As a result, the pressure on smelters and suppliers to certify minerals as DRC conflict free is creating a de facto embargo on all minerals exported from Africa. Some companies see it is as a necessity, due to fear of non-compliance with future Securities & Exchange Commission (SEC) rules, that their suppliers avoid minerals sourced from Central Africa entirely. Such unintended consequences can serve to escalate violence in the DRC region, having the exact opposite effect that Sec. 1502 was meant to have.

In order to avoid an adverse impact to African economies, we are encouraging the SEC to adopt transition rules that will allow for construction of the proper infrastructure within the DRC region to trace "conflict minerals" back to the mines. We are also asking U.S. government officials to help identify the "conflict mines," which would then allow certain mines to be certified as conflict free. Such visibility will help achieve the objectives of Sec.1502 by enabling companies to comply with requirements in a meaningful way.

We are in active dialog with our suppliers on what can reasonably be done to increase supply chain transparency despite these challenges. As information in the industry becomes more freely available, and mine origin more discernable, we will expand our due diligence and tighten our compliance requirements accordingly. As with all products we source, TE holds its suppliers to the company's high standards of integrity and responsibility.

For additional details on these requirements, and for copies of the TE Guide to Supplier Social Responsibility, please visit https://supplierportal.tycoelectronics.com/portal/server.pt?sLocale=en-us.

Sincerely

Michael K. Stockton
Global Commodity Director, Metals

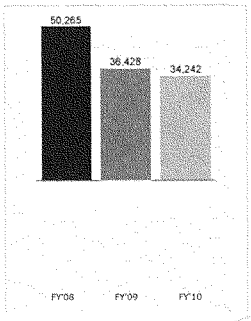
Kenzie Ferguson
Director, Corporate Responsibility

Resources

- » **Supplier Portal**
- » **TE Guide to Supplier Social Responsibility**
- » **TE SSR Guide Survey**
- **TE Corporate Responsibility Report**

Key Data & Performance Indicators

During the next three years, we will significantly consolidate our global supplier portfolio. This will give us the opportunity to migrate our spending to our strongest suppliers, as well as to those suppliers that align with our goals of localization, diversity, and social responsibility. We will also continue our social responsibility audits to help assure compliance with our values and expectations.



The EICC has also established a framework for third-party supplier audits based on the EICC Code of Conduct. This framework encompasses the certification of third-party auditors, as well as the provision of necessary auditing tools, including manuals and audit checklists. Up to and including 2010, these audits focused on suppliers in regions where member companies consider the risk of violation to be high.
Sony's suppliers have also undergone audits based on EICC standards through the EICC's shared audit program.
The results of these audits identified a comparatively substantial number of non-conformance issues in the categories of labor and ethical management systems, health and safety, and labor.

*Corporate group unit(as of June 2011)

Stakeholder Engagement

(Updated on September 15, 2011)

With the aim of developing a framework for promoting effective supply chain management, the EICC holds discussions periodically with NGOs, socially responsible investors and other stakeholders, in which Sony is also participating. Such discussions were held, in Mexico, the United States, Switzerland, Mainland China and the Netherlands.

Addressing Issues Related to the Environment, Labor, Human Rights and Conflicts in the Procurement of Raw Materials

(Updated on September 15, 2011)

There has been increasing stakeholders' concern on such issues as environmental degradation, human rights violation and labors issue related to the extraction of metals essential in the manufacture of electronics products. Also, there has been raising concern of those metals relating to financing armed group and which is potentially seen as relating to conflict in the Democratic Republic of the Congo and its adjoining countries. To address these concerns, in July 2010, the United States passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, one section of which required the certain companies to report the status of their use of "conflict minerals," that is, minerals sourced from those countries, to the U.S. Securities and Exchange Commission.

In 2008, the EICC and the GeSI (Global e-Sustainability Initiative) established a working group to address such issues and are exploring options for action by the electronics industry. As of the end of 2010, the working group had completed a study for the current status of use of metals in the electronics industry and measures to be taken by the industry to support these issues effectively. Through this study, the working group succeeded in identifying certain metals used in significant quantities in electronics products. The working group also conducted a study aimed at tracing procurement routes for these particular metals up to and including the mining process. As a member company of EICC, Sony will continue participating the working group and support establishing industry framework.

Sony is taking steps in response to the issue of conflict minerals, working first to identify certain minerals used in Sony products, as well as the respective supply chains thereof. Utilizing this information, Sony will review a framework and measures to be included in its fundamental policy to establish systems and implement measures necessary to eliminate such conflict minerals - to the greatest possible - from its supply chain. Recognizing that such issues are common across the electronics industry, Sony is utilizing an industry-wide framework, spearheaded by the EICC/GeSI, in this process. Under its conflict free smelter program, EICC/GeSI has issued the conflict minerals reporting template for the industry-wide supplier survey and several smelters are certified for conflict free smelters. Please refer to below EICC/GeSI press release for the details of the conflict free smelters program.

- EICC/GeSI launched Conflict Mineral Reporting Template (Press release)
- EICC/GeSI Conflict Free Smelter Program Complaint Smelter List

In August 2011, Sony has started supply chain survey to suppliers for selected categories using EICC/GeSI's "Conflict Mineral Reporting Template."

As tin has been identified as one of the metals under the scope of the US Dodd-Frank Act, in March 2010, the ITRI, a tin industry

1630 McCarthy Boulevard
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ETHICAL SUPPLY CHAIN / CONFLICT RAW MATERIALS AND SOURCING POLICY FOR PRECIOUS METALS PURCHASE AND/OR PROCUREMENT CERTIFICATE

The Dodd-Frank Wall Street Reform and Consumer Protection Act (H.R. 4173) signed into U.S. law on 21 July 2010, requires the Securities and Exchange Commission to establish rules requiring disclosure and reporting procedures on the purchase and use of materials from conflict regions. Linear Technology Corporation has taken steps to back track the supply chain and has attained written confirmation from suppliers that products supplied are not raw materials from conflict regions.

Linear Technology Corporation is supportive of the efforts by the EICC of not utilizing raw materials from the Democratic Republic of the Congo and the adjoining countries.
Linear Technology Corporation also confirms that it has not, and will not knowingly supply any customers with products that are manufactured with raw materials which have been sourced from conflict zones or regions where serious ethical and /or environmental concerns have been legitimately raised.

EICC's Conflict Minerals Reporting Template is available upon request.

Metals of concern are:
- **Cassiterite (tin)**
- **Gold**
- **Cobalt**
- **Coltan (niobium and tantalum)**
- **Wolframite (tungsten)**
- **Pyrochlore (niobium)**

Paul Chantalat
Vice President, Quality and Reliability

LINEAR TECHNOLOGY CORPORATION ACCEPTS NO DUTY TO NOTIFY USERS OF THIS DECLARATION OF UPDATES OR CHANGES TO THIS DECLARATION.

LTC Revision 7 February 3, 2012

CONTACT INFORMATION:

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Philips' position on responsible sourcing in relation to Conflict Minerals

As a leading global company in health and well-being, Philips is committed to ensuring the safety, health and protection of people and the environment worldwide. We promote these principles in our global business practices and our code of conduct – Philips General Business Principles.

Philips expects its suppliers, as partners in our sustainability ambitions, to share this commitment. Since 2003, we have required our suppliers to sign up to our Supplier Sustainability Declaration, which promotes social, health & safety and environmental standards, followed by extensive training and auditing. Our supplier sustainability program and its results are published each year in our annual report (see www.philips.com/annualreport).

Conflict minerals

The proceeds from harmful social and environmental practices in mines, especially in the eastern provinces of the Democratic Republic of Congo (DRC), have been used to fuel armed conflict in the region. This is a major concern to the electronics industry, among others. The recently enacted Dodd Frank law in the United States defines conflict minerals as Tin, Tungsten, Tantalum and Gold (3TG) and any derivatives thereof[1].

Our commitment to sustainable development compels us to address this concern, even though Philips does not directly source minerals from the DRC and the mines are typically seven or more tiers removed from our direct suppliers[2]. Philips has committed not to purchase raw materials, subassemblies, or supplies which we know contain conflict minerals that directly or indirectly finance or benefit armed groups in the DRC or an adjoining country.

We have requested our relevant suppliers to confirm that they provide only conflict-free minerals to Philips. While those suppliers have stated that indeed, to their knowledge, they have provided us with conflict-free minerals, we nevertheless recognize that our suppliers may have too limited insight into their supply chains to fully understand the origin of the minerals. Due to the size of our supply chain as well as the complexity of the routes by which these conflict minerals are traded, smelted, recycled, and sold (including the common practice of mixing ores and recycled scrap from many different sources), Philips and its suppliers face a huge challenge to obtain – for all minerals – full traceability to exact origin with a high degree of certainty.

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[1] Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act requires certain manufacturers to conduct due diligence on the use of conflict minerals in their supply chain and to make annual disclosures to the SEC.

[2] The Electronics Industry Citizenship Coalition (EICC), the Global e-Sustainability Initiative (GeSI) and RESOLVE jointly conducted a supply chain study in 2010, "Tracing a Path Forward: A Study of the Challenges of the Supply Chain for Target Metals Used in Electronics," (See www.eicc-gesi.resolv.wikispaces.net). The study found that tin, tungsten and tantalum make up a small percentage of the components and subcomponents in electronic products and the supply chain for these minerals generally contains seven or more layers.

To further our commitment to sustainability, Philips joined the Electronics Industry Citizenship Coalition (EICC) in 2006, and has been an active member of the EICC working group on extractives, which seeks to prevent conflict minerals from entering the electronics supply chain. The working group has developed tools to increase transparency of the origin of conflict minerals, including an electronic due-diligence tool for companies and the Conflict-Free Smelter program to audit smelters, which are a key element in the supply chain for determining the origin of the relevant minerals.

Through a combination of these efforts, and in close cooperation with governments and NGOs, Philips works towards achievement of two goals:

1. Minimizing the trade in conflict minerals from mines that directly or indirectly finance or benefit armed groups in the DRC or an adjoining country.
2. Enabling legitimate minerals from the region to enter global supply chains, thereby supporting the Congolese economy and the local communities that depend on these exports.

Proof points

Philips participates in the EICC-GeSI Extractives Work Group. The EICC and GeSI represent over 80 companies in the Electronics and Information and Communications Technology industries who have come together in the EICC-GeSI Extractives Work Group to positively influence the social and environmental conditions in the metals extractives supply chain. Philips is an active member of the EICC-GeSI Extractives Work Group.

Philips, together with several other EICC-GeSI member companies, convened a multi-stakeholder workshop in San Francisco in October 2009 to engage other sectors and interested stakeholders. We also participate in the organization committee of the first European Extractives workshop planned for September 2011.

In 2010, the research commissioned by the Extractives Work Group to map the supply chain for tin, tantalum, and cobalt used in electronics was completed and the report Tracing a Path Forward: A Study of the Challenges of the Supply Chain for Target Metals Used in Electronics was published. The research used a tracing method, starting with suppliers from electronics companies, including Philips, and working up the supply chain toward the mine. Companies at each step in the supply chain were contacted (e.g. component manufacturers, refiners, smelters) and were requested to provide contact information of their suppliers and their codes of conduct. In a limited number of instances it was possible to identify a pathway from an electronics product to the mine; however none of the mapped supply chains were traced back to the conflict zones in the Democratic Republic of Congo (DRC).

Philips financially sponsored the pilot of the tin organization ITRI to improve supply chain transparency by tracking minerals and providing verifiable provenance information from individual mine sites in eastern DRC. The pilot is called the ITRI Tin Supply Chain Initiative (iTSCi).

In 2011, Philips contributed to the development of a standardized tool by EICC-GeSI to collect due diligence information in the supply chain, and piloted the tool with our suppliers.

See for more info: http://www.eicc.info/extractives.htm.

We requested our relevant suppliers to state that they provide conflict-free minerals to Philips. While all suppliers stated that indeed, to their knowledge, they provided us conflict-free minerals, we continue our efforts to increase transparency and investigate additional ways to determine the origin of the minerals used in cooperation with Electronic Industry Citizenship Coalition (EICC) and the Global eSustainability Initiative (GeSI) members.

Philips further is in dialogue with civil society organizations and Dutch and European policymakers to discuss the role government and other institutions can play to effectively address the issue of conflict minerals.

Philips participates in a multi-stakeholder OECD-hosted working group on implementation of supply chain due diligence. The OECD pilot is intended to test and assist with the implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk

Areas. In this pilot we aim to identify, discuss and find ways to overcome possible challenges to implementing due diligence, to ensure that the OECD Guidance and other related due diligence initiatives are implemented effectively.

About EICC (Electronic Industry Citizenship Coalition)
The EICC was established in 2004 to improve social, economic, and environmental conditions in the global electronic supply chain through use of a standardized code of conduct. The EICC was incorporated in 2007 as an association to ensure greater awareness of the Code, and to expand its adoption across the industry. The EICC includes over 50 global electronics companies. For more information or to view the EICC Code of Conduct, see www.eicc.info or the latest EICC annual report .

About GeSI (Global e-Sustainability Initiative)
The Global e-Sustainability Initiative (GeSI) is uniquely dedicated to information and communication technologies (ICT) sustainability through innovation.GeSI brings together leading ICT companies – including telecommunications service providers and manufacturers as well as industry associations –and non-governmental organisationscommitted to achieving sustainability objectives through innovative technology.In June 2008, GeSI became a legal independent entity, an international non-profit association (AISBL) with an office near the EU institutions in Brussels, Belgium. For more information, see www.gesi.org .

Nokia Policy against Illegal Trade of Natural Resources

Introduction

Nokia's *Code of Conduct* defines the company's overall principles and commitment towards legal compliance, ethical conduct, human rights, anti-corruption work and environmental protection. These high expectations extend to Nokia partners, subcontractors and suppliers, whom we encourage to strive beyond merely fulfilling legal compliance. This Policy provides further clarification to the principles of the Code of Conduct and Nokia Human Rights Approach regarding illegal trade of natural resources. This policy has been approved by Nokia Corporate Responsibility Steering Group, chaired by Nokia's Executive Vice President of Corporate Relations and Responsibility.

We are concerned about the link between the illegal extraction and trade of natural resources, and associated human rights violations, conflict and environmental degradation. Currently these issues are acute in the Eastern provinces of Democratic Republic of Congo (DRC) in the extraction and trade of ores of tantalum, tin, tungsten and gold, which flow to world markets through the DRC and adjoining countries. Once refined, these metals are commonly used within electronic products and by many other industries. Nokia does not procure metals directly and only a fraction of the world's minerals produce originates from the DRC, but we are taking action to increase transparency, ensure responsible procurement by our suppliers and sub-suppliers, and drive positive change.

Our commitment

Nokia is committed to respect human rights and the environment in accordance with accepted international conventions and practices, such as those of the United Nations' Universal Declaration of Human Rights, ILO Core Conventions on Labor Standards, UN Global Compact, and OECD Guidelines for Multinational Enterprises. We want to ensure that all materials used in our products come from socially and environmentally responsible sources. We do not tolerate nor by any means profit from, contribute to, assist with or facilitate any activity that fuels conflict, leads to serious environmental degradation or violates human rights, as set forth by above mentioned international conventions and Nokia policies.

Implementation of the Policy with Regards to Conflict Minerals

We prohibit human rights abuses associated with the extraction, transport or trade of minerals. We also prohibit any direct or indirect support to non-state armed groups or security forces that illegally control or tax mine sites, transport routes, trade points, or any upstream actors in the supply chain. Similarly, Nokia has a no tolerance policy with respect to corruption, money-laundering and bribery. We require the parties in our supply chain to agree to follow the same principles.

Nokia activities

Nokia complies with applicable laws and commits to drive best industry practice. We are participating in the Pilot Implementation of the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, and working with our industry peers through the EICC-GeSI Extractives work group to improve traceability of minerals and ensure responsible sourcing.

We have for several years been working with suppliers to trace back mineral flows and ensure commitment to sustainable procurement. From 2012 we will take into use the standardized EICC-GeSI Conflict Minerals Reporting Template to continue mapping and to monitor our suppliers' commitment and activities. More details are requested from suppliers as needed.

We have incorporated the principles of this policy into our contractually binding Nokia Supplier Requirements (NSR) and we work with our suppliers to increase transparency in the supply chain. We aim to create awareness and build capacity within our supplier base through training and regular supplier meetings. We will communicate our policy to our suppliers and request them to set similar policies for their supply chain.

Nokia supports, contributes to and will rely on industry initiatives, such as the Conflict Free Smelter Program (CFS), to validate that the metals used in our products are not contributing to conflict and come from sustainable sources. Once smelter lists are available, suppliers will be requested to procure materials only through validated smelters. Nokia supports in-region sourcing schemes (e.g. iTSCi), which are essential for the success of CFS, through industry initiatives and related partnerships.

Nokia is participating in the Public-Private Alliance for Responsible Minerals Trade (PPA), a joint effort by the U.S. State Department, the U.S. Agency for International Development, non-governmental organizations, industry associations and companies to support responsible minerals trade from the Great Lakes Region of Central Africa.

Nokia supplier requirements

Nokia policy requires that our suppliers who manufacture components, parts, or products containing tin, tantalum, tungsten, and/or gold must commit to sourcing those materials from environmentally and socially responsible sources only. Materials, which either directly or indirectly contribute to conflict, are unacceptable. Suppliers shall define, implement and communicate to sub-suppliers their own policy, outlining their commitment to responsible sourcing of these materials, legal compliance and measures for implementation. Suppliers shall work with sub-suppliers to ensure traceability of these materials at least to smelter level, e.g. by using the EICC-GeSI Minerals Reporting Template. Nokia reserves the right to request further evidence of the chain down to mine level when necessary. Once mechanisms are

available, suppliers shall ensure that purchased metals originate from smelters validated as being conflict mineral free. Traceability data shall be maintained and recorded for 5 years and provided to Nokia upon request.

Suppliers are encouraged to support industry efforts to enhance traceability and responsible practices in global minerals supply chains.

Assessing and responding to the identified risks

Nokia collects material composition information for all our products which allows us to identify suppliers that use tin, tantalum, tungsten and/or gold in their products. Material composition data along with information gathered from suppliers (e.g. with the EICC-GeSI Conflict Minerals Reporting Template), industry initiatives (e.g. CFS), and other available sources is used to assess risks of non-compliance to this Policy.

Nokia's approach is to establish long-term relationships with suppliers, always seek sustainable solutions, and work with suppliers to drive improvements. If we identify a reasonable risk that a supplier is violating our commitments set forth in this policy, we require them to commit to and implement a corrective action plan within a reasonable timeline. Nokia follows up effectiveness of corrective actions and conducts on-site assessments as necessary. Continued non-conformance and refusal to address issues of concern will lead to termination of business relationship.

Grievance mechanism & Reporting

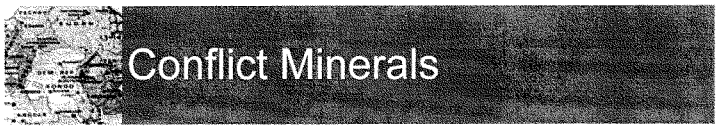
This Policy will be reviewed regularly and updated as needed. Nokia commits to disclosing the progress of the implementation of this Policy as part of its annual sustainability reporting and in accordance with legal requirements.

Concerns and violations of this policy can be reported to Nokia's Board of Directors, its non-executive members, or its subcommittees through our official grievance channels:

- Online via http://www.nokia.com/global/contact/board/
- By mail to the following address:
  Nokia Board of Directors / Complaint
  Nokia Corporation
  P O Box 226 00045 Nokia Group Finland

Suppliers and other external parties are encouraged to contact their regular sourcing channel if they wish to seek guidance on the application of this approach, or if they wish to report suspected abuse. They, and other external stakeholders, may also report problems or concerns to the above Nokia's Contact the Board channel.

Toshiba Social Responsibility



"Conflict minerals" generally refer to tantalum, tin, tungsten, and gold from mines and smelters that have directly or indirectly contributed to the financing of armed groups. Many of these armed groups are responsible for human rights violations. Specifically, some of the mines in the Democratic Republic of the Congo (DRC) are controlled by militias responsible for atrocities that have been committed in that country's decades-long civil war, including acts of violence toward women and children.

For humanitarian reasons, Toshiba supports the use of conflict-free minerals in its products. We have taken due diligence steps such as the development of a conflict minerals policy as well as surveying our suppliers to ensure sourcing of conflict-free minerals in the region.

Toshiba Group Conflict Mineral Policy

We are taking steps to develop and implement a policy prohibiting use of cassiterite (tin ore), wolframite (tungsten ore), coltan (tantalum ore) and gold, or their derivatives, whose extraction or trade supports conflict in the Democratic Republic of Congo or adjoining countries, and/or contributes to inhumane treatment, including human trafficking, slavery, forced labor, child labor, torture and war crimes in the region.

- In this regard, we will carry out supply chain due diligence with reference to the OECD guidance. We will use the EICC- GeSI due diligence tool to communicate up and down our supply chain.
- Once a validated supply chain is established through initiatives such as full-fledged smelter verification under EICC- GeSI's Conflict-Free Smelter Program or development of a mineral tracing program, we will require our suppliers to procure the minerals through that validated supply chain.
- Our efforts are not intended at altogether banning procurement of minerals from the DRC and adjoining countries but to assure sourcing from responsible sources in the region.
- We ask our suppliers to cooperate with us in our efforts to assure procurement of non-conflict minerals.

Please visit the following website to review the Toshiba Group policy on conflict minerals and supply chain management http://www.toshiba.co.jp/csr/en/human_rights/index.htm

Toshiba Corporation's Actions Regarding Conflict-Free Minerals

Toshiba has actively engaged in the following internal and external activities to ensure that its products do not contain conflict minerals:

- In June 2011, Toshiba joined the EICC (Electronic Industry Citizenship Coalition) and attends meetings throughout the year.
- In November 2011, Toshiba developed a Conflict Minerals Policy for all Toshiba Group companies.
- Toshiba Group companies in Japan and North America have formed teams to address conflict minerals.
- In FY 2010, training about conflict minerals was provided to Toshiba Group companies.
- In November 2011, Toshiba began to survey the supply chains of its business units that produce semiconductors, hard disk drives and liquid crystal displays to determine whether conflict minerals are used in these product components. Toshiba plans to survey the supply chains of its other business units in 2012.
- Toshiba is participating in the Public-Private Alliance for Responsible Minerals Trade (PPA), a joint effort by the U.S. State Department, U.S. Agency for International Development, non-governmental organizations, industry associations and companies to support responsible minerals trade from the Great Lakes Region of Central Africa. http://www.resolv.org/site-ppa/
- To ensure that our suppliers do not engage in inhumane treatment or acts that abuse human rights, we ask our first-tier suppliers (and their downstream suppliers) to abide by a code of conduct referred to as Supplier

Expectations . We also conduct supplier audits to ensure that this policy is being followed. If any human rights violations are brought to our attention, we ask our suppliers to investigate the matter and take necessary steps to correct the violations.

FAIRCHILD
SEMICONDUCTOR

Fairchild Semiconductor Conflict Minerals Policy

This document contains Fairchild Semiconductor's statement regarding the content of Conflict Minerals in our products. This statement is based upon information collected from Fairchild Semiconductor's supply chain, manufacturing facilities and affiliates worldwide.

There has been increased awareness of violence and human rights violations in the mining of certain minerals from a location described as the "Conflict Region", which is situated in the eastern portion of the Democratic Republic of Congo (DRC) and surrounding countries. The Electronic Industry Citizenship Coalition (EICC) and the Global e-Sustainability Initiative (GeSI) have requested that companies undertake reasonable due diligence with their supply chain to assure that specified metals are not being sourced from mines in the Conflict Region, which is controlled by non-government military groups, or unlawful military factions.

Fairchild Semiconductor supports the action of the EICC and GeSI and has either obtained, or is in the process of obtaining, information from our current metal suppliers concerning the origin of the metals that are used in the manufacture of Fairchild Semiconductor products. Based upon information provided by our suppliers, Fairchild does not knowingly use metals derived from the Conflict Region in our products.

Suppliers of metals used in the manufacture of Fairchild products (specifically gold, tin, tantalum, tungsten and cobalt) shall demonstrate that they understand and support The Electronic Industry Citizenship Coalition (EICC) and the Global e-Sustainability Initiative (GeSI) and will not knowingly procure specified metals that originate from the Conflict Region of Democratic Republic of Congo (DCR) or the surrounding area.

Suppliers shall provide written evidence of due diligence that raw materials used to produce gold, tin, tantalum, tungsten and cobalt supplied to Fairchild Semiconductor do not originate from the Conflict Region from either mining or smelting operations. Evidence of due diligence from each supplier shall include, but not be limited to, the following:

- Evidence of a Corporate Policy supporting EICC and GeSI Initiatives, publicly available (such as a link on their public website);
- Annual letter stating activities completed and underway that support these initiatives;
- The name and location of the source of the ore and/or the smelter(s) from which the metal(s) was obtained or a statement explaining why this information cannot be provided.

David Lancaster
Product Ecology Manager
Fairchild Semiconductor Corporation
3333 West 9000 South, West Jordan, Utah 84088
Office Tel: 1-801-562-7455
Email: David.Lancaster@fairchildsemi.com

Date: April 15, 2011

Environmental Declaration

Providing for limitations below, Fairchild Semiconductor certifies that the information provided in this document is correct as of the date indicated on this page.

Fairchild has implemented systems to ensure our products are compliant with environmental regulations and laws worldwide. However, not all materials in Fairchild's products may have been independently verified regarding substance content. In the event of any issues arising from information in this document, the warranty section of Fairchild's standard terms and conditions of sale shall apply, unless alternate contracts have been agreed upon in writing by both parties.

intersil

Intersil's Conflict Minerals Policy

The Dodd-Frank Wall Street Regulation and Consumer Protection Act defines "Conflict Minerals" as:

a. Columbite-tantalum (coltan), cassiterite, gold, wolframite, or their derivatives; or
b. Any other mineral or its derivatives determined by the Secretary of State to be financing conflict in the DRC or an adjoining country.

If the source of the Conflict Mineral is determined to be located in the Democratic Republic of the Congo ("DRC") or adjoining countries, including Angola, Congo, Central African Republic, Sudan, Uganda, Rwanda, Burundi, Tanzania, and Zambia (collectively, the "Conflict Region"), then reporting to the SEC is required.

The common derivatives from these Conflict Minerals are:

a. Tantalum (symbol "Ta") from Coltan
b. Tin (symbol "Sn") from Cassiterite
c. Gold (symbol "Au") from gold ore
d. Tungsten (symbol "W") from Wolframite

Intersil supports the position of the Electronic Industry Citizenship Coalition (EICC) and Global e-Sustainability Initiative (GeSI) to avoid the use of Conflict Minerals which directly or indirectly finance or benefit armed groups in the Conflict Region, in line with full compliance to the EICC's Electronic Industry Code of Conduct. Intersil has been working with its suppliers to help them begin to understand the issues around Conflict Metals, and has been surveying its supply chain for the origin of the metals used in purchased components and materials.

Intersil has either obtained, or is in the process of obtaining, information from our current suppliers concerning the origin of the metals that are used in the manufacture of Intersil's products. Based upon information provided by our suppliers, Intersil does not knowingly use metals derived from the Conflict Region in our products.

Intersil has implemented systems to ensure our products are compliant with environmental regulations and laws worldwide. However, not all materials in Intersil's products may have been independently verified regarding substance content. In the event of any issues arising from information in this document, the warranty section of Intersil's standard terms and conditions of sale shall apply, unless a purchase agreement has been agreed upon in writing by both parties.

Intersil Corporation

By: Douglas A. Balog

Douglas A. Balog
Asst. Corporate Secretary

Declaration Concerning Conflict Metals

PMC-Sierra Incorporated
1380 Bordeaux Drive
Sunnyvale, CA 94089
USA

PMC-Sierra strives to be in compliance with all legal, environmental and ethical standards globally.

Regarding the use of metals sourced from the Democratic Republic of Congo (DRC), PMC-Sierra has conducted a series of surveys confirming sourcing policies and conflict free status. As a result PMC-Sierra has found no evidence that these metals are used in our Integrated Circuit or Printed Circuit Board Assembly product lines. We base that statement on reports from our suppliers, some of whom are EICC members, in response to our requests and surveys regarding conflict metals.

PMC-Sierra does not purchase or source the raw metals used in our product and as the supply chain is complex we do not have direct visibility into the original sources of those metals.

As PMC-Sierra is a company registered in the United States of America, the 2010 Financial Reform Bill (Dodd–Frank Wall Street Reform and Consumer Protection Act) legislation enacted in the USA has a direct effect on us. This legislation requires the Securities and Exchange Commission (SEC) to provide reporting requirements in order to develop the appropriate due diligence methods needed to identify and confirm all sources of the metals throughout the supply chain. PMC-Sierra's efforts with regards to any additional survey requirements are still pending as the reporting structure requirement from the SEC is in draft at this time.

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CONFLICT MINERALS POLICY FOR CUSTOMERS OF SYFER TECHNOLOGY LTD

In July 2010, the United States enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") which contained a section that regulated "Conflict Minerals"[1] for the first time. The Act includes provisions that require manufacturers to perform due diligence in their supply chains to identify and disclosure the use of any Conflict Minerals and whether those Conflict Minerals originated in the "DRC Countries"[2] The Act is new and regulations related to the requirements of the due diligence process have not yet been issued by the US Securities and Exchange Commission, which oversees compliance with the Conflict Minerals section of the Act.

Syfer Technology Ltd, as an operating company of Dover Corporation, a NYSE listed company, will be compliant with the Act and other regulations concerning the sourcing of our raw materials and the requirements for supply chain due diligence. We expect that our suppliers will also comply with our requests to provide statements and perform due diligence about the source of any Conflict Minerals in their products which are provided to us.

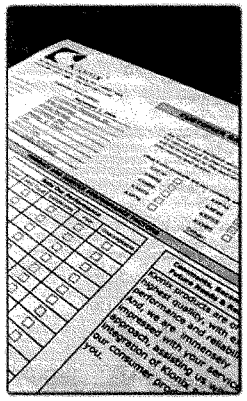
Syfer Technology Ltd and Dover Corporation are currently implementing system processes and procedures to help us achieve compliance with the Act. We are communicating our requirements to our suppliers and vendors. Due to the complexities of the mineral supply chain, Syfer Technology Ltd is currently unable to verify the origin for the minerals used in our products. We are working closely with our suppliers and vendors to understand the source countries of the metals contained in our products and manufacturing processes.

We do not knowingly source any product containing Conflict Minerals from the DRC Countries currently; however we are unable to provide clear supply chain verification at this time. We will continue our work on this due diligence process and advise our customers on the status of our process.

[1] "Conflict Minerals" include Columbite-Tantalite (Tantalum), Cassiterite (Tin), Gold, Wolframite (Tungsten) and any derivatives from these minerals.

[2] "DRC Countries" include the Democratic Republic of the Congo, Angola, Burundi, the Central African Republic, The Republic of Congo, Uganda, Rwanda, Sudan (South Sudan), Tanzania and Zambia.

Kionix®
Sensing the Future



KIONIX CONFLICT MINERALS POLICY

"Conflict Minerals" refers to minerals mined in conditions of armed conflict and human rights abuses, notably in the eastern provinces of the Democratic Republic of the Congo, by the Congolese National Army and various armed rebel groups, including the Democratic Forces for the Liberation of Rwanda. The profits from the sale of these minerals finance continued fighting in the Second Congo War and control of lucrative mines becomes a focus of the fighting as well.

Kionix expects our suppliers to source materials only from environmentally and socially responsible suppliers. Our suppliers must pass this requirement up the supply chain and determine the source of specified minerals.

on-the-job instruction / training is held to meet various needs.

- The internal control system and audits are conducted in accordance with laws and regulations.

V. Respecting Stakeholder Rights and Fulfillment of Social Responsibility

To display our commitment to social responsibility and deep concern on green energy and environmental protection, our Company has always made a goal to set a good example as a corporate citizen and give back to society. On September 17, the Company was awarded the 2009 Outstanding Green Adoption Company from the Taoyuan-Hsinchu Industrial Park Team. The Company also received a Golden Torch Award in the top ten company potential category.

Environment Safety and Health

In order to conform to international trends, the Company has worked to receive green product certifications. We have received Green Partner (GP) certification from Sony and QC080000 certification in 2008. To save energy and reduce carbon emissions, the Company no longer used paper cups and vending machines do not sell beverages in plastic containers. The containers used for beverages sold by the canteen are all made of environmentally friendly, biodegradable materials so personnel can adopt environmentally sound practives in their daily life. To strengthen our safety and health organization, TXC continues to perform internal announcements / instruction / training and strives to reach zero accident / injury targets. In 2009, the Company passed occupational safety and health management performance standards in order to make work safer and provide extra assurance to personnel. Greenhouse Gas Verification (ISO14064-1), Carbon Footprint Verification (PAS2050) and Occupational Health and Safety Management System (OHSAS) certification was received in 2010. Moreover, Corporate Social Responsibility Report certification is scheduled for the end of the year to fully disclose company information and do our part to contribute back society, our country and the Earth. For information on environmental safety and health at the Company, see:http://www.txccorp.com/en/i_esh/01.html

TXC published our first Corporate Social Responsibility Report in 2008. In the 2009 issue, an English version of the Corporate Social Responsibility Report was provided to improve report credibility and company performance information transparency. In 2010, the Company plans to obtain verification from an outside third party certification agency.

Conflict Minerals Management

1. Legal basis

Legislation of the term Conflict Minerals was first presented by the US Kansas republican senator Sam Brownback in April 2009 as Congo Conflict.

As proposed in the Minerals Act of 2009 but it was not passed by the House of Representatives. Later, the Democratic Party congressman James McDermott of the Washington State and 56 other congressmen jointly signed the Act and again proposed the draft of the Conflict Minerals Trade Act in November 2009. But it was again shelved by the House of Representatives.

In December 2009, Congressman Barney Frank of the Democratic Party and senator Chris Dodd thereby proposed the draft of the Dodd-Frank Wall Street Reform and Consumer Protection Act in view of relevant shortcomings of the financial system as exposed in the financial crisis (hereinafter referred to as the D.F. Act). The Act was reviewed by the House of Representatives and upon passing of the official report, US President Barack Obama signed on July 21, 2010 and became law. The section on Conflict Minerals was added to section 1502 in Chapter 15 on Miscellaneous Provisions set forth unequivocal regulations and requirements on so-called Conflict Minerals.

2. Relevant definitions of Conflict Minerals

In the D.F. Act, the US Administration has expressed solemn concern on violence and persecution of human rights in Congo Democratic Republic and its neighboring countries related to the mining and trading of Conflict Minerals. Therefore, it required relevant personnel to expose and audit the Conflict Minerals coming from Congo and its neighboring nations.

To clarify the relevant terms related to Conflict Minerals, section 1502 has set forth five definitions of which four are explained below:

- Neighboring nations:

  The Republic of Congo in Africa and its neighboring nations.

- Armed groups:

  Refer to the US Foreign Aid Act defining groups which seriously infringed upon human rights using force

Refer to the US Foreign Aid Act defining groups which seriously infringed upon human rights using force.

The Republic of Congo and its neighboring nations having such conduct are referred to this category.

- Conflict Minerals:

  They refer to minerals as follows: Tantalite, cassiterite, gold, wolframite or others as defined by the US Administration.

- Areas controlled by armed groups:

  Refer to mineral areas actually controlled by the armed groups in the Republic of Congo and its neighboring nations, or those areas under taxation or extortion by operators of mining, transportation and sale of conflict minerals, as well as the selling channels and production facilities for control of conflict minerals.

As explained above, aforementioned minerals mined and sold for military purpose by people under armed forces within the territory of Congo or its neighboring areas belonging to the scope of conflict minerals (refer to the D.F. Act for relevant information).

3. EICC and GeSI

The two civic groups EICC (Electronic Industry Citizenship Coalition) and GeSI (Global e-Sustainability Initiative) are extremely concerned about the conflict minerals and the related issues. Consequently, starting from 2009, the related companies of the industrial chain have reminded manufacturers on performing corporate social responsibility through group discussions and press release to avoid using aforementioned conflict minerals (refer to the EICC and GeSI websites for relevant information). In February 2011, EICC and GeSI again jointly provided the Conflict Minerals Due Diligence Tool for self-inspection of parts used by manufacturers to avoid using Conflict Minerals as defined by the D.F. Act.

4. TXC Policy and Commitment

As a member of the electronic industry supply chain, TXC will perform its corporate social responsibility. Aside from abiding by the code of conduct as set forth by EICC and GeSI and related requirements, TXC has carried out supply chain survey and formulated its policy and commitment for not using any conflict minerals from the Republic of Congo and its neighboring nations. Our No Conflict Minerals Policy is as follows:

Conflict minerals refer to gold, tantalite, wolframite and cassiterite mined and sold by the armed groups in the mining areas of the Republic of Congo and its neighboring nations. Since mining or control of aforementioned minerals involved serious issues of human rights, races and illegal benefits, TXC thereby makes the following commitment as a member of the global village:

- Not to purchase conflict minerals produced in the conflicts areas.
- Strive to require the upstream and various raw materials suppliers to refuse to use conflict minerals from the conflict areas and require to produce a letter of commitment.

To ensure the supply chain manufacturers also comply with this policy, TXC has required all material suppliers to fill out the Commitment on Prohibiting Use of Conflict Minerals for products containing any of the following items of conflict minerals, and concomitantly provide a namelist of the minerals processing manufacturers as approved by EICC and GeSI to ensure that their products do not use any conflict minerals from aforementioned areas.

TXC suppliers whose parts containing tantalite, cassiterite, gold and wolframite have all signed the Commitment on Prohibiting Use of Conflict Minerals as follows.

Statistical Chart of TXC Materials Containing Conflict Minerals (03/01/2012)				
	Vendor Code	Source	Commitment	Countersign Rate
Gold	594	Japan	V	100%
	1119	Japan	V	
	3125	Japan	V	
	4837	Japan	V	
	2179	Japan	V	
	2454	USA	V	
	1761	Japan	V	

	1383	Taiwan	V	
Tantalite	0	0	0	N/A
Wolframite	594	Japan	V	100%
	1119	Japan	V	
	3125	Japan	V	
	1709	Taiwan	V	
	3226	Japan	V	
	3366	Japan	V	
	1797	Japan	V	
Cassiterite	4837	Japan	V	100%
	2179	Japan	V	

5. Related Links

Dodd-Frank Wall Street Reform and Consumer Protection Act

Self-declaration of DRC conflict free (Commitment on Prohibiting Use of Conflict Minerals)

EICC & GeSI Conflict-Free Smelter (CFS) Program Compliant Smelter List (Mineral Processing Manufacturers namelist)

Statement on Use of Minerals in Electronics Products

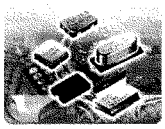
GeSI and EICC Complete First Tantalum Assessment Focused on Responsible Sourcing of Minerals

www.eicc.info

http://www.eicc.info/PDF/EICC Code of Conduct English.pdf

www.gesi.org

http://www.gesi.org/Initiatives/SupplyChain/tabid/75/Default.aspx



TOP

TXC Corporation TEL: 886-2-2894-1202 FAX: 886-2-2894-1206 4F, No.16, Sec.2, Chung Yang S. Rd. Peitou 112, Taipei, Taiwan (HQ)
TEL: 886-3-469-8121 FAX: 886-3-469-6954 No.4, Kung Yeh 6th Rd., Ping Cheng Industrial District, Tao Yuan, Taiwan (Factory)

NVE CORPORATION
11409 Valley View Road
Eden Prairie, MN 55344

Conflict Minerals Position

Conflict Minerals Declaration to NVE Customers

Notwithstanding any information provided by NVE Corporation on its Website or in this or other communications concerning the substance content of its products, this document represents our knowledge and belief as of the date that it is provided.

NVE is committed to ensuring the safety, health, and protection of people and the environment. As required by the Conflict Minerals provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, HR 4173, Section 1502 ("Conflict Minerals Act"), NVE will not knowingly purchase raw material supplies that contain conflict minerals that directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo (DRC) or an adjoining country.

NVE is working with our suppliers to ensure our suppliers of minerals are aware of our policy and have urged our suppliers to support this policy. Many of our suppliers have similar policies.

We will take continuous practical action to seek to ensure that materials from the conflict region do not enter our supply chain or products by obtaining certification of origin for materials covered by this governance.

Due to the complexity of the routes by which metals, and in particular precious metals, are smelted, recycled and sold, including the common practice of commingling ores and scrap from many different sources, it is often impossible for any company to obtain full traceability to an exact origin of all of these materials.

If you have specific questions or would like additional information, please contact me at NVE Corporation at +1 952-996-1635 or by email at dexter@nve.com.

Name: Dexter Hansen
Title: Quality Manager
Date: April 28, 2011

Company: Communication to our suppliers

Communication to our suppliers

At Miranda Technologies, product stewardship is an important aspect of our supply chain relationships. We maintain an unwavering commitment to the safety of our customers, employees and suppliers. Miranda is committed to compliance with applicable environmental laws and regulations, namely the EU RoHS Directive, and in doing so; we have been working with our suppliers to reduce the number and quantity of hazardous substances in our products.

In order to address the numerous environmental compliance requirements which may apply to our suppliers, our customers or our own operations, and in accordance with our environmental, health and safety policy, Miranda is collecting from all suppliers:

Full material disclosure/content data.
Material origins data (with conflict minerals and human trafficking/slavery reporting).

1. **Full material disclosure**
   The aim of this practice is to ensure that each of our suppliers report to Miranda a full material composition declaration (FMD) for each part they supply to us. Those FMD must meet the requirements of the Consumer Electronics Association (CEA) and the Association Connecting Electronic Industries (IPC). All CAS (Chemical Abstracts Service) numbers for substances should be provided.

   Receiving full substance content data from our suppliers will greatly reduce the need for repeated requests. RoHS declarations and laboratory test reports will not meet requirements because they do not provide us with information for all reportable substances. Indeed, about every six months, the CEA introduces a new controlled substances list in its joint Industry Guide (JIG).

2. **Conflict Minerals reporting**
   To answer section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, we are seeking confirmation from our suppliers that the 3TG's (Tantalum (coltan), Tin, Tungsten and Gold) do not originate from zones of conflicts (such as the Democratic Republic of Congo and adjoining countries) for all of the components we purchase.

3. **Human trafficking/slavery reporting**
   We are requiring that all our direct suppliers certify that materials incorporated into their product comply with the laws regarding slavery and human trafficking, including the California Transparency in Supply Chains Act of 2010 (S.B. 657), in the country or countries in which they are doing business.

Your declaration in 5 steps

1. If you have joined BOMcheck.net and uploaded your substances declarations for parts you provide to Miranda, please authorize Miranda to access those declarations. Please also advise us by signing the attached letter stating if your company has planned to join BOMcheck.

2. Full material disclosure: for each product that Miranda purchases from you, please use Miranda's XML ICP 1752 blank form. For full material disclosure, we need the IPC1752 classes A & D to be filled in. If you do not already have an updated XML IPC 1752 statement, you can use PTC IPC 1752 builder to prepare it.

3. Conflict Minerals reporting: you can use the EICC GeSI Conflict Minerals Reporting Template to make your declaration.

4. Human trafficking/slavery statement: please make a declaration stating whether materials incorporated into the product that Miranda purchases from you comply with the laws regarding slavery and human trafficking on the country or countries in which you are doing business.

5. Then please send all your forms in attachment in one single email to Jeff.Rucco-Brown@miranda.com with YourCompanyName_EnvironmentalDisclosure_DateDDMMYY as a subject.

Note: The mass unity of measure for all declarations must be in mg only.

Please contact your Miranda account manager if you have any disclosure-related questions.

Material content and origin of our products is an integral part of our compliance process and requires cooperative effort from our suppliers. Miranda bases its knowledge of the material content of its products on information supplied by third parties. Therefore, it is supplier's responsibility to inform Miranda when an updated declaration is available.

Miranda expects amendments to applicable environmental laws and regulations, and therefore, will aim to update and maintain its environmental compliance process accordingly and continue to promote environmental sustainability.

of Hazardous Substances in Products and Packaging (NX3-00119) in excess of the applicable quantity limits unless the use of the substance is an exempted application according to the same List.

- ❑ Supplier certifies that one or more raw materials, parts or products supplied to NXP do contain, on a homogeneous material level, one or more substances of the NXP Semiconductors List of Hazardous Substances in Products and Packaging (NX3-00119) in excess of the applicable quantity limits. Supplier shall inform NXP, on its own initiative, of the non compliances through a full material content declaration using the NXP Material Declaration Form (NX3-00124).

3. Conflict Minerals

As of January 1, 2011 NXP prohibits the use of metals derived from Conflict Minerals in goods (any material, part, sub-component, component, or product, which is to be incorporated into an NXP product). NXP defines a Conflict Mineral as an ore [columbite-tantalite (coltan), cassiterite, gold, wolframite or their derivatives] originating from a Conflict Region that is processed to create the following metals: Tantalum, Tungsten, Tin, Gold or Cobalt.
A Conflict Region being a geographical region involved in armed conflict where mining operations and proceeds may contribute to serious human rights violations. Currently, the Democratic Republic of Congo and adjoining countries is considered a Conflict Region.

- ❑ Supplier declares that any material, part, sub-component, component, semi-finished or finished product supplied to NXP Semiconductors either directly or via third parties do not, to the best of its knowledge, contain any metals (Tantalum, Tungsten, Tin, Gold or Cobalt) derived from columbite-tantalite (coltan), cassiterite, gold, wolframite or their derivatives originating from the Democratic Republic of Congo and its adjoining countries as defined in the Section 1502 of the "Dodd-Frank Wall Street Reform and Consumer Protection Act" and its affiliated laws or regulations.

- ❑ Supplier will proactively undertake due diligence and continuous monitoring of our supply chain to avoid direct or indirect procurement of Conflict Metals.

- ❑ If Supplier becomes aware of the use of metals that have been derived from Conflict Minerals in any Goods supplied to NXP, it shall immediately notify NXP. Such notification shall include any tracking information to specify which goods may contain these metals.

Supplier Name	
Name Supplier Representative	
Title Supplier Representative	
Contact Phone	
Contact Email	
Signature	

Sustainability	**Supplier Statement of Conformity**	2012-02-13
Sustainability		Sheet 3 of 3

Revision sheet

Document Author	Date	Description of Change	Document Owner
Eric-Paul Schat	2008-12-03	First issue	Eric-Paul Schat
Eric-Paul Schat	2012-02-13	Added Chapter Conflict Minerals; small adjustments in text.	Eric-Paul Schat
In case of questions or change proposals please contact the latest document author and owner.			

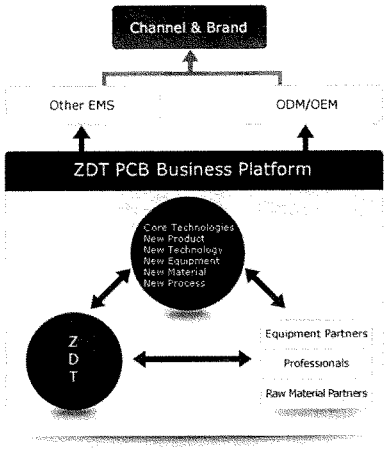
Since 2006, ZDT has rooted in China and envisioned a global layout for its rapid development strategy of working closely with its partners and realizing the objective. With just more than five years, ZDT has established five manufacturing sites in Shenzhen, Huai'an, Yantai, Qinhuangdao and Yingkou. The strategic partners play an important role in ZDT development.

ZDT always love to share experiences with its strategic partners, learn from each other, do joint research and innovation. ZDT PCB business platform is a stage where ZDT and its suppliers, professional agency and other strategic partners to share the gains. We look forward to working with strategic partners with mutual-beneficial development strategy through mutual development, innovation, research of the core technology (new products, new technology, new equipments, new materials and new process) and share the results, and also hope that our high quality circuit board can be widely used in end-user products, benefiting the majority of consumers and general public. This is an implementation for one of ZDT mission: continuous technology development for better human life.

Environment and Conservation
Safety & environment management
Social Contribution
Strategic partners

Contact us

If you have comments or questions about ZDT, please feel free to email us at zdt-contact@zdtco.com. Thank you!



Conflict Mineral Declaration:

ZDT promises not to accept and use the "Conflict Minerals" or material made by them from areas under the control of armed groups in the Democratic Republic of

the Congo or an adjoining country. Suppliers of ZDT must establish Conflict Mineral Management system, to ensure that gold, tantalum, tin, tungsten and their derivatives contained in their products are not from the conflict mines areas. Suppliers of ZDT shall give the same conflict mineral management requirement to their upstream suppliers.

Benchmark electronics

design develop deliver **advanced technology**

Conflict Minerals

"**Conflict Minerals**" refers to minerals or other derivatives mined in the eastern provinces of the Democratic Republic of the Congo ("**DRC**") and in the adjoining countries where revenues may be directly or indirectly financing armed groups engaged in civil war resulting in serious social and environmental abuses. In July 2010, the United States enacted the Dodd-Frank Financial Reform Bill and Consumer Protection Act § 1502(b) (the "**Conflict Minerals Law**"), which requires all US stock listed companies and their suppliers to disclose information concerning chain of custody and usage of conflict minerals (Tin, Tantalum, Tungsten, and Gold . . . "**3TG**").

It is Benchmark's policy to comply with any applicable obligations under the Conflict Minerals Law and the regulations promulgated thereunder, as amended from time to time, relating to Conflict Minerals. Benchmark believes the Conflict Minerals Law and related efforts to avoid using Conflict Minerals aligns with Benchmark's corporate policy on sustainability. As may be required by the Conflict Minerals Law, Benchmark intends to adopt the EICC-GeSI Due Diligence reporting process or similar methodologies and obtain chain of custody declarations from all Benchmark sourced and managed suppliers, ensuring transparency in our supply chain.

- Benchmark expects our suppliers to source materials from socially responsible suppliers.
- Benchmark expects its suppliers to fully comply with the Conflict Minerals Law and provide all necessary declarations.
- Suppliers must pass these requirements through their supply chain and determine the source of specified minerals, including 3TG.
- Suppliers that are non-compliant to these requirements shall be reviewed by global procurement for future business.

This Conflict Minerals Policy encourages businesses to respect, protect and remedy human rights throughout the world.

Sustainability Policy BE-00201A.pdf

Quality Policy BE-20001C.pdf

Environmental Policy BE-07001A.pdf

For more information about Conflict Minerals see this page from IPC

LG Electronics' Statement on Conflict Mi

Overview of the Conflict Minerals Issue

The Democratic Republic of the Congo ("DRC") is a Central African country with vast mine cassiterite (tin), columbite-tantalite (aka coltan - source of tantalum), wolframite (tungst groups have fought to control mines within the DRC; those armed groups have been cited locals, including murder, rape and forced labor. Armed groups controlling mines smuggle are used to further finance conflict and perpetuate criminal behavior; hence, cassiterite, considered conflict minerals.

The elements tantalum, tin, tungsten and gold are metals used in many manufactured goo aerospace, appliances, automotive, electronics, jewelry, medical and tool & die industrie 8% of the gold supply[2] is used in electronic and electrical products. Similarly, about 36% o electronic solders[3]. A small portion of the world's tungsten supply is used in electronic pr vibrator bobs and in the manufacture of integrated circuits.

The Dodd-Frank Wall Street Reform and Consumer Protection Act, passed into law in July companies report to the Securities and Exchange Commission ("SEC") on the origin of con show due diligence if conflict minerals are sourced from the DRC or an adjoining country. regulations implementing Dodd-Frank Section 1502 by April 2011, but regulations have be timeframe. The goal of the act is to cut direct and indirect funding of armed groups enga

Definitions Related to Conflict Minerals Adopted by LG Electron

Conflict Mineral

(A) columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives; or (B) determined by the Secretary of State to be financing conflict in the Democratic Republic

DRC Conflict Mineral Free

DRC Conflict Mineral Free does not contain conflict minerals that directly or indirectly fin Democratic Republic of the Congo or an adjoining country[5].

Armed Group

Armed Group means an armed group that is identified as perpetrators of serious human ri on Human Rights Practices under sections 116(d) and 502B(b) of the Foreign Assistance Ac 2304(b)) relating to the Democratic Republic of the Congo or an adjoining country[6]

LG Electronics' Approach on Conflict Minerals

Suppliers to LG Electronics must develop policies toward preventing the use of conflict m mines controlled by armed groups in all items to be supplied to LG Electronics. In additio document their efforts to determine the source of any conflict minerals or derivatives an the origin of the metals tantalum, tin, tungsten and gold in products to be supplied to LG tantalum, tin, tungsten or gold metals subsequently used in LG Electronics' products are through the EICC/GeSI Conflict Free Smelter (CFS) program.

LG Electronics encourages its suppliers to responsibly source conflict minerals and derivat of Congo (DRC) and neighboring countries in order to prevent an embargo and associated human suffering.

Status of LG Electronics' Due Diligence to Prevent Use of Confli

(Date of last revision: Feb. 27st, 2012)

LGE entered into simple contracts with major contractors[7] to not supply illegally mined m (March 2010), the coverage was just focused on tantalum and we have to extend the scop place a Global Procurement Policy internally distributed to all procurement members. Th the origin/source information of materials to confirm that they are not obtained through tantalum capacitor suppliers in 2010 showed that the origin of minerals was China or Aust

Join EICC and Extractives Work Group

In August 2010, LGE joined the Electronic Industry Citizenship Coalition (EICC) in an effort policy and improve the company's compliance in this area. Also, LGE actively has been pa to adopt the industry consensus approach throughout our supply chain.

Declare Supplier Code of Conduct

Based on EICC Code, LGE established and declared its Supplier Code of Conduct published of 'Suppliers shall evaluate the origin or source of their materials throughout their supply obtained through any illegal form of mining (e.g., materials obtained from the Democrati distribution will bind suppliers for not using conflict minerals.

* LGE's Supplier Code of Conduct - Download PDF

Feed into standard contract

Our standard contract contains a "Seller's Social Responsibility" provision. This provision Electronics' requirements for corporate social responsibility and we have applied these p

Identify materials in supply chain

In October 2011, LGE conducted an analysis of all manufacturing parts using our internal s
According to the results, about 25,000 parts contain 3TG (Tantalum, Tin, Tungsten, and g
by over 800 suppliers globally. A due diligence survey to identify smelters used by supplie
in progress, using EICC Conflict Minerals Reporting Template.

1) http://www.webcitation.org/5v1BooEpq
2) World Gold Council; Gold Demand Trends, First Quarter 2011 (2010 data)
3) GHGm; Social and Environmental Responsibility in Metals Supply to the Electronic Indus
4) Dodd-Frank Wall Street Reform and Consumer Protection Act, Section 1502
5) Ibid.
6) Ibid.
7) LGE's procurement team received letters from 8 companies, mainly tantalum capacitor
electro-mechanics, AK information communication, Matsuo Shoji Corp., ROHM semiconduc

CONFLICT MINERALS POLICY

Much of the equipment produced by the electronics and telecommunications industry relies on components and/or parts containing minerals such as tin, tantalum, tungsten and gold. The mining and trading of these minerals in eastern Democratic Republic of the Congo and neighbouring countries is crucial to the region's economy, but in some instances, is helping to finance armed groups causing serious social and environmental issues. The term 'conflict minerals' refers to minerals mined and traded in conditions of human rights abuses, environmental degradation and that are directly or indirectly financing or benefiting these armed groups.

Alcatel-Lucent endorses the United Nations and the Organization for Economic Co-operation and Development definitions and views on conflict minerals. We acknowledge the existence and importance of human and environmental issues related to conflict minerals. As a downstream user of products that may contain conflict minerals, Alcatel-Lucent recognises its role to protect human rights and to take steps to avoid contributing to issues connected to conflict minerals.

Alcatel-Lucent is implementing due diligence practices to eliminate conflict minerals from its supply chain. As it is frequently virtually impossible to determine the actual origin of minerals used in the manufacture of products, many stakeholders must be engaged to develop the processes required to improve the ability to trace the origin of products, and thus the minerals, throughout the supply chain. Alcatel-Lucent expects the support of its suppliers to determine the origin of the minerals used and to not use those identified as conflict minerals.

To this extent, Alcatel-Lucent is:

- Involved in the Global e Sustainability Initiative (GeSI) effort to eliminate the market for conflict minerals through the development of tools to improve the traceability of product/minerals in the upstream supply chain and to detect the presence of conflict minerals; and

Alcatel·Lucent

Corporate Communications
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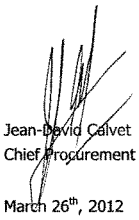
- Focused on its sphere of direct influence, the supply chain downstream from the minerals smelter, by leveraging existing collaborative initiatives to address the conflict minerals issue through:
  - o Raising suppliers awareness of conflict minerals and having them identify the smelters that process the minerals they purchase;
  - o Determining if identified smelters are 'conflict-free' by using reliable information from industry associations; and
  - o Engaging in dialogue and requiring mitigation actions with suppliers inadvertently using conflict minerals or not knowing their origin.

Alcatel-Lucent will, with the availability and evolution of industry tools, strengthen its due diligence program and processes to identify the source of the minerals used in company products.

This policy will be regularly reviewed, updated as necessary, and will be applicable and communicated to all impacted stakeholders.



Jean-David Calvet
Chief Procurement Officer

March 26th, 2012

Alcatel·Lucent

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Silicon Labs Statement Regarding the Use of Conflict Minerals

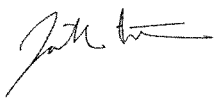
In July of 2010, the United States Congress passed legislation requiring corporations to report the use of "Conflict Minerals" in the manufacture of their products.

"Conflict Minerals" in this context refers to specific minerals originating from mines controlled by armed groups in the Democratic Republic of the Congo or adjoining countries. The specific metals in question are: Gold, Tantalum, Niobium, Tin, Iron, Manganese, and Tungsten.

The details of the legislation can be found in Section 1502 of HR 4173, signed into law on July 21, 2010. The United States State Department is required to provide a "Conflict Minerals Map" by the end of January 2011. In addition, the US Securities and Exchange Commission will issue regulations in April 2011 detailing the audit requirements necessary to ensure a product is "DRC Conflict Free".

Silicon Labs is committed to complying with this legislation and plans to comply with forthcoming regulations to enable designation of all Silicon Labs products as "DRC Conflict Free". We are currently working with our suppliers to understand or establish their systems for sourcing of raw materials, including any listed metals which may be used in Silicon Labs' products.

At this time, Silicon Labs is not aware of the use of any Conflict Minerals in Silicon Labs' products. Should you have additional questions, please contact your Silicon Labs sales support team.



Jon Ivester
Senior Vice President of Worldwide Operations
Silicon Laboratories Inc.

BOURNS®

Bourns, Inc. Conflict Minerals Statement

June 7, 2011

To whom it may concern:

During the past few years, worldwide concern regarding the use of certain metals derived from certain minerals obtained from the Democratic Republic of the Congo has been increasing (hereinafter referred to as "Conflict Minerals").

"Conflict Minerals" generally refers to coltan, niobium, tantalum, tin, gold and tungsten, and their derivatives, which are mined in areas of armed conflict and human rights abuses, notably in the eastern provinces of the Democratic Republic of the Congo. Additional information regarding Conflict Minerals is available on the worldwide web.

Bourns, Inc. ("Bourns") has a corporate policy which states that neither Bourns nor any of its subsidiaries will obtain or use Conflict Minerals in its products. Additionally, Bourns has researched its supply chain and is pleased to advise that Bourns' suppliers currently do not supply any goods to Bourns which either contain or are themselves Conflict Minerals.

If you have additional questions, please contact your local Bourns customer service or inside sales representative.

Bourns, Inc.

Mario Zuchovicki
Vice President
Global Purchasing and Lean Initiatives

267 Lowell Rd. Hudson, NH 03051 USA Tel: 603-598-0070 Fax: 603-598-0075 email: vectron@vectron.com
http:\\www.vectron.com

CONFLICT MINERALS STATEMENT FOR CUSTOMERS OF VECTRON INTERNATIONAL

In July 2010, the United States enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") which contained a section (Sec. 1502) that regulated "Conflict Minerals"[1] for the first time. The Act includes provisions that require manufacturers to perform due diligence in their supply chains to identify and disclosure the use of any Conflict Minerals and whether those Conflict Minerals originated in the "DRC Countries"[2] The Act is new and regulations related to the requirements of the due diligence process have not yet been issued by the US Securities and Exchange Commission, which oversees compliance with the Conflict Minerals section of the Act.

Vectron International, as an operating company of Dover Corporation, a NYSE listed company, will be compliant with the Act and other regulations concerning the sourcing of our raw materials and the requirements for supply chain due diligence. We expect that our suppliers will also comply with our requests to provide statements and perform due diligence about the source of any Conflict Minerals in their products which are provided to us.

Vectron International and Dover Corporation are currently implementing system processes and procedures to help us achieve compliance with the Act. We are communicating our requirements to our suppliers and vendors. Due to the complexities of the mineral supply chain, Vectron International is currently unable to verify the origin for the minerals used in our products. We are working closely with our suppliers and vendors to understand the source countries of the metals contained in our products and manufacturing processes.

We do not knowingly source any product containing Conflict Minerals from the DRC Countries currently; however we are unable to provide clear supply chain verification at this time. We will continue our work on this due diligence process and advise our customers on the status of our process.

Ram J. Arvikar
Dir. Global Quality & Compliance
Vectron International
rarvikar@vectron.com Tel.: 603-577-6860
November 18, 2011

[1] "Conflict Minerals" include Columbite-Tantalite (Tantalum), Cassiterite (Tin), Gold, Wolframite (Tungsten) and any derivatives from these minerals.

[2] "DRC Countries" include the Democratic Republic of the Congo, Angola, Burundi, the Central African Republic, The Republic of Congo, Uganda, Rwanda, Sudan (South Sudan), Tanzania and Zambia.

Fair-Rite Products Corp.
Ferrite Components for the Electronics Industry

One Commercial Row
Wallkill, NY 12589
Phone: 845-895-2055
Fax: 845-895-2629
www.fair-rite.com

March 10, 2011

Conflict Minerals Statement

As an electronic passive component manufacturer, we have required our suppliers to ensure that their supplies of metal do not come from the Conflict Regions.

Our raw materials vendors have established specific supply chain steps and provide certifications that their metals are not knowingly sourced from Democratic Republic of the Congo Conflict Regions. These metals include:

- Gold (Au)
- Tantalum (Ta)
- Tungsten (W)
- Tin (Sn)
- Cobalt (Co)

Fair-Rite conducts periodic reviews with our vendors to ensure that they are in compliance with this policy and we obtain certifications from these vendors that their metal supplies do not come from these Conflict Regions.

Fair-Rite's metal raw materials are sourced from all over the world, including reputable global financial institutions. Based on our knowledge, we are confident that the materials used in our manufacturing do not contain the metals listed above that originate from these Conflict Regions.

In our vigilant environment, we work meticulously to insure that the metals do not come from unknown sources. We continually monitor our supply chain to insure that this policy is strictly adhered.

Rich Eckmann
Director of Quality

MAXIM
INNOVATION DELIVERED

TO: Maxim's Valued Customers

DATE: January 16, 2012

SUBJECT: "Conflict Free" Minerals

The issue of conflict minerals used in the semiconductor, as well as other industries, is complex.

On July 21, 2010 President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (Wall Street Reform Act). Section 1502 of the Wall Street Reform Act requires publicly traded companies to disclose the extent to which their products contain so-called conflict minerals sourced from mines in the Democratic Republic of the Congo (DRC) or adjoining countries, in order to prevent the sale and profit of such minerals from fueling human right atrocities in the DRC region. Conflict minerals include tantalum, tin, tungsten, gold which are integral to the manufacture of semiconductor products.

Certain products manufactured and sold by Maxim do contain metals listed in the legislation as conflict minerals. The minerals listed in the legislation have common uses including:

- Wafer fabrication processes commonly use tantalum, tungsten and gold in the metal interconnect.
- Gold is also commonly used in assembly manufacturing (i.e. wire bonding).
- Tin is commonly used in assembly manufacturing for solder bumps and external lead finish to comply with ROHS requirements.

Maxim is committed to ensuring materials used throughout our supply chain are procured in a responsible and ethical manner. However, the lack of global mechanisms to support the legislation have not been fully developed and deployed. Issues include, but are not limited to:

- Finalization of the SEC regulations, due diligence process and reporting requirements.
- Identification by the US State Department of legitimate mining sources as required by the legislation. The US Dept of State was to provide a map of conflicted mines in the DRC. This has not been done. Furthermore, the Dept of State and the DRC government(s) acknowledge the problems and difficulties in completing this task. In the absence of this task being done, it is not possible to determine if minerals procured by any company originate from conflict mines or not.
- Traceability and certification schemes to track ore to legitimate mining sources in the DRC.

Maxim is closely monitoring the status of conflict minerals with the full intent of complying with the legislation and supporting our customers when it becomes feasible to do so. Governmental and non-governmental agencies are working in cooperation to address the above and other concerns which have prevented companies for achieving the intent of the Conflict Minerals initiative. Maxim believes direction and solutions to the various conflict mineral issues will be forthcoming through the involvement and participation of industry, governmental and non-governmental agencies. We will continue to monitor these developments, and implement due diligence and compliant processes once the required infrastructure and regulations become available.

Regards,

Bryan Preeshl
Vice President,
Quality and
Environmental Management

RFMD™

RFMD Statement on Conflict Minerals

February 27th, 2012

Background

In recent years, the United States Congress and lawmakers around the world have increasingly focused on regulation of the mining and trade of minerals originating in the Democratic Republic of the Congo and surrounding countries (collectively, the "DRC Countries"), as it is believed that the illicit mining and trade of these "conflict minerals" are helping to finance extreme levels of violence, particularly sexual- and gender-based violence, in the eastern Democratic Republic of the Congo and are contributing to an emergency humanitarian situation in the region. Section 1502 (the "Conflict Minerals Provision") of The Dodd-Frank Wall Street Reform and Consumer Protection Act, which was adopted on July 21, 2010, requires new annual disclosures from any company for which the use of conflict minerals is necessary to the functionality or production of a product manufactured by that company.

In December 2010, the United States Securities and Exchange Commission (the "SEC") proposed rules to implement the Conflict Minerals Provision. Under the SEC's proposed rules, any company that is subject to SEC reporting requirements and for which conflict minerals are necessary to the functionality or production of a product manufactured, or contracted to be manufactured, by that company must disclose in its annual report whether its conflict minerals originated in a DRC Country. If so, the company would be required to furnish a separate report as an exhibit to its annual report that would include, among other things, a description of the measures taken by the company to exercise due diligence on the source and chain of custody of its conflict minerals and an independent private sector audit of the company's report. Under the proposed rules, "conflict minerals" are defined as cassiterite (ore used to produce tin), columbite-tantalite (ore from which tantalum is extracted), gold, wolframite (ore used to produce tungsten), or their derivatives, or any other minerals or their derivatives determined by the U.S. Secretary of State to be financing conflict in the DRC Countries, regardless of the source of the minerals. The SEC has not yet issued final rules to implement the Conflict Minerals Provision (as was expected to occur during 2011), although it is currently anticipated that such rules will be adopted in the first half of 2012. Companies must provide their initial conflict minerals disclosure and, if necessary, their initial conflict minerals reports after their first full fiscal year following adoption of the SEC's final rules.

See the following link for additional details: http://www.sec.gov/rules/proposed/2010/34-63547.pdf

RFMD and Conflict Minerals

RFMD supports the goal of ensuring that all minerals used in RFMD products are DRC conflict free. As a publicly traded company, RFMD is subject to SEC reporting requirements and will provide disclosure regarding the source of its conflict minerals in accordance with the U.S. State Department's guidance and the SEC's final rules. RFMD shares in the growing concerns of human rights abuses in the DRC Countries and is actively working with its supply chain to certify that metals found in RFMD products are DRC conflict free. Specifically, RFMD is using the EICC/GeSI Conflict Minerals reporting template to collect data from its upstream suppliers with respect to the geographic sources of conflict minerals in use and the associated smelters involved in its extended supply chain. This information will be collected, consolidated and made available to RFMD's customers in order to assist them with their own supply chain diligence programs. This effort is ongoing, and RFMD will continue to work with its supply chain to update this information and implement other appropriate diligence procedures as necessary to verify the source of its conflict minerals. RFMD is committed to ensuring that metals used in RFMD products are DRC conflict free and will periodically update this statement as new information becomes available from the U.S. State Department, the SEC and RFMD suppliers.

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STATS ChipPAC Ltd. Policy Statement on DRC Conflict-Free Minerals

STATS ChipPAC is committed to support and subscribe to the use of Democratic Republic of Congo (DRC) Conflict-Free Minerals which include gold (Au), tantalum (Ta), tungsten (W) and tin (Sn). "DRC Conflict-Free" is defined to mean products that do not contain conflict minerals or their derivatives determined to be directly or indirectly financing or benefiting armed groups in the DRC or adjoining country (Sudan, Uganda, Rwanda, Burundi, United Republic of Tanzania, Zambia, Angola, Congo, Central African Republic).

STATS ChipPAC has established and implemented procedures to comply with this policy. STATS ChipPAC requires all suppliers to undertake reasonable due diligence within their supply chain to ensure that the minerals are not being sourced from mines in conflict areas. Suppliers are required to source minerals from any current published list of Electronic Industry Citizenship Coalition-Global e-Sustainability Initiative (EICC-GeSI) audited smelters.

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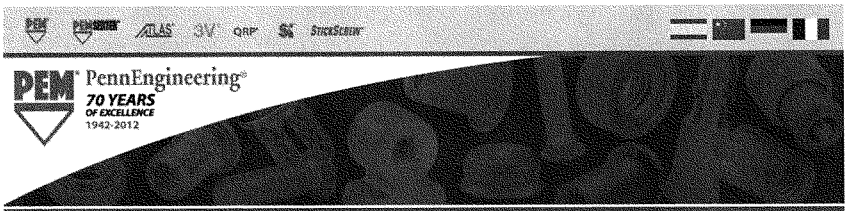

PennEngineering Conflict Minerals Statement

Conflict Minerals Statement

May 2011

PennEngineering takes seriously the allegations that metals mined in conflict regions around the world may be making their way into the electronic component and/or other channels of supply. Of particular concern are the metals Tantalum, Tin, Tungsten and Gold coming from the Democratic Republic of the Congo (DRC). The Conflict Minerals Law (1) mandates supply chain due diligence and public disclosure related to the source of these minerals. With this understanding, we have investigated to the best of our ability our current supplier channels and have determined that while some of these metals may be used in our manufacturing processes, none of the supply originates in the aforementioned DRC.

We will continue to work with our suppliers to verify that they and their suppliers use DRC conflict free minerals.

(1) Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

View Printable Statement

Amkor Technology Conflict Minerals Policy Statement

Amkor Technology, Inc. takes very seriously the worldwide concerns that metals mined in the Democratic Republic of the Congo ("DRC") may be making their way into the electronics supply chain and profits from this mining may be financing human rights violations in the eastern region of the DRC. Amkor is committed to a policy (i) that our supply chain does not knowingly contribute to human rights violations in the DRC and (ii) that the gold, tantalum, tungsten, or tin that we procure from our suppliers is not derived from ore sourced from mines in the conflict areas of the DRC or illegally taxed on trade routes which are controlled by non-government military groups or unlawful military factions.

In support of this effort, Amkor:

- Has developed and implemented procedures that are designed to demonstrate that the metals we procure and sourced in accordance with this policy;
- Requires that our suppliers verify in writing that they have procedures in place to demonstrate that the metals they procure are sourced in accordance with this policy; and
- Requires that our suppliers, to the extent reasonably practicable, document the routes taken and the intermediaries involved from mind of origin to final product.

Contact:

Greg Johnson, Sr. Director, Corporate Communications
Amkor Technology, Inc.
480-786-7594
greg.johnson@amkor.com

IC-HAUS STATEMENT ON CONFLICT MINERALS

In the electrical industry, "conflict minerals" such as gold (Au), tantalum (Ta), tungsten (W), tin (Sn) and cobalt (Co) are required. The mining of these materials also takes place in certain states where rebel groups, militias and army units are controling the mining and trade while the the civilian population are victims of massacres, forced labour, and recruitment of child soldiers. These materials can find their way into the supply chain of the electronics industry.

It is the ambition of iC-Haus GmbH not to contribute knowingly to human rights violations. We will therefore give priority to suppliers who support either as a member of the Electronic Industry Citizenship Coalition (EICC) the Code of Conduct (CoC), or bring transparency into the supply chain (according to CoC) to reproduce the origin of the minerals.

Code of Conduct (codeofconduct)

Statement on Conflict Materials

Air Products takes very seriously concerns that profits from metals mining ("conflict materials") may be fueling human rights atrocities in the Eastern Region of the Democratic Republic of the Congo (DRC).

In July 2010 in the United States, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (Wall Street Reform Act) containing a section that regulates "conflict minerals" for the first time. The legislation requires companies like Air Products to disclose annually to the Securities and Exchange Commission (SEC) whether products were produced with conflict minerals sourced from the Democratic Republic of the Congo (DRC) or adjoining countries. This legislation is new and implementing regulations have not yet been issued by the SEC, but it will initially apply to tin, tantalum, tungsten and gold. These regulations become effective April 17, 2011, and the reporting requirement starts in the first full fiscal year after the regulations are issued. The yet-to-be issued regulations may alter the reporting requirements.

Air Products will be compliant with this act and other regulations concerning the sourcing of our raw materials from conflict areas. We expect our suppliers to comply with our Code of Conduct and have obtained statements from them that there are no conflict minerals sourced from the DRC or adjoining countries in our supply chain.

We also understand this is an important concern worldwide, although formal guidelines may vary between countries. The Electronics industry has been proactive via the Electronic Industry Citizenship Coalition (EICC), and we will continue to follow EICC's actions and recommendations as they apply to this issue. We also will continue to work with our suppliers, other industry trade groups and government regulators to verify that our suppliers and sub-suppliers use DRC conflict free minerals.

Statement on Conflict Minerals

Spansion is committed to ensuring that "conflict minerals" are not utilized in our products. We have conducted preliminary surveys of our direct material suppliers and all have reported they do not utilize conflict minerals originating from the Democratic Republic of Congo (DRC) or its adjoining countries. We are now evaluating and validating the responses.

Spansion is a full member of the Electronics Industry Citizenship Coalition (EICC) and we are aligning efforts with those of the EICC-GeSI Extractives Work Group. This work group, representing over 80 companies in the electronics and information and communications technology industries, has come together to improve the transparency and traceability of metals in our collective supply chain.

The Extractives Work Group has developed: (1) a standardized supplier survey and reporting tool, (2) a Conflict-Free Smelter third-party assessment program, and (3) a regional sourcing program intended to improve the traceability of materials from mine to smelter, and Spansion is utilizing all of them. We are confident that these EICC-GeSI initiatives will help ensure that conflict minerals are not incorporated into Spansion products.

We will comply with the requirements of Title XV of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, and we will continue to pursue supply chain partnership evaluations to ensure that materials incorporated into Spansion products are sourced from socially responsible companies.

Spansion

February 23, 2012

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FTDI Document No.: FT_000541
14th November, 2011

FTDI 'Conflict Minerals' Statement

FTDI has a high level of concern for the issue of 'Conflict Minerals', which involves the trade of minerals and associated metals - Gold(Au), Tantalum(Ta), Cobalt(Co), Tungsten(W) and Tin(Sn) originating in the region of the Democratic Republic of the Congo (DRC) and surrounding regions where armed conflict results in human rights violations and environmental damage.

FTDI have contacted all their supplies with respect to this issue and their suppliers have confirmed that they do not, and will not, knowing purchase any material from the conflict region.

At this time FTDI is not aware of the use of any 'Conflict Minerals' in FTDI products.

On behalf of Future Technology Devices International Ltd,

Fred Dart.

Fred Dart, Managing Director
Future Technology Devices International Ltd.
Unit 1, 2 Seaward Place, Glasgow G41 1HH, Scotland, United Kingdom
Tel.: +44(0)1414292777 Fax:+44(0)1414292458

Conflict Minerals Sourcing Statement

Commitment to Ethical Practices

Ecliptek Corporation is concerned that minerals mined in the Democratic Republic of Congo (DRC) and adjoining countries may be making their way into the electronic industry supply chain. Profits from the mining of these minerals have resulted in increased hostilities and human rights violations in the region. These minerals include tin, tungsten, tantalum and gold.

While Ecliptek Corporation does not directly purchase any of the aforementioned minerals, we are committed to ethical practices and full compliance with all applicable laws and regulations.

Ecliptek Corporation is currently implementing system processes and procedures to help ensure that our suppliers comply with our expectations. We are communicating our requirements to our supply base to determine the sources of any Conflict Minerals contained in our products.

Ecliptek Corporation supports the development of independently verifiable supply chain transactions, when available and credible, to document the routes taken and intermediaries involved from mine of origin to final product.

Due to the complexities of the mineral supply chain, Ecliptek Corporation is currently unable to verify the origin for the minerals which are used in our products. We are working closely with our supply base to understand the sources of the metals contained in the product to assure that there are no Conflict Minerals in our supply chain.

Ecliptek Corporation is diligently working to ensure that our supply chain is free of Conflict Minerals and we will continue to provide regular updates regarding our progress on this important objective. Ecliptek has established a Conflict Minerals team that meets regularly to coordinate all company activities and establish company policy. Please contact our Global Customer Support team if you have any questions about our program.

January 9, 2012

Conflict Minerals FAQs

RoHS Compliance Tools and Resources

REACH Compliance Tools and Resources

Environmental Stewardship

SMIC
Senju Metal Industry Co., Ltd.

SENJU METAL INDUSTRY CO., LTD.

Eliminating Conflict Minerals (Conflict Metal)

EICC (Electronic Industry Citizenship Coalition) Commitment and the Elimination of Ores Originated in the Democratic Republic of the Congo (DRC) and Neighboring Regions

Senju Metal Industry Co., Ltd. and its related companies (Senju Metal Group) fully support the vision and goals of the EICC (*1) and are committed to fulfilling the following responsibilities:

1. Senju Metal Group recognizes and respects the standards outlined by the EICC code of conducts.

2. To comply with the EICC statement (*2) and completely eliminate the use of conflict minerals, Senju Metal Group confirmed with all of its tin (Sn) base metal sourcing companies and its smelters in writing that their minerals are conflict-free.

3. In addition to obtaining a written certification, Senju Metal Group conducted on-site audits of tin (Sn) sourcing companies and smelters.

4. As a result, it was verified that none of raw materials used by Senju Metal Group for its products have originated in the DRC and its surrounding conflict regions.

5. If raw materials were ever found to be originated in the DRC or its surrounding conflict regions, Senju Metal Group will immediately discontinue the purchase.

6. Senju Metal Group accepts the independent third-party audit designated by EICC.

7. Senju Metal Group will provide the names of the above tin (Sn) base metal smelters to EICC.

8. Senju Metal Group will provide information on the traceability of tin (Sn) base metal to EICC.

January, 2011
Senju Metal Industry Co., Ltd.
CSR Office General Manager
Kazuhisa Ishida

(*1) About EICC

http://www.eicc.info/

(*2) EICC Statement

Quartzdyne, Inc.
4334 West Links Drive
Salt Lake City, UT 84120
USA

Quartzdyne's Statement on Conflict Minerals

In July 2010, the United States passed for the first time the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which contains a section that regulates "conflict minerals." The legislation requires companies such as Quartzdyne to disclose annually to the Securities and Exchange Commission (SEC) whether manufactured products were produced with conflict minerals sourced from the Democratic Republic of the Congo (DRC) or adjoining countries. Implementing regulations for this new piece of legislation have not yet been issued by the SEC, but will initially apply to tin, tantalum, tungsten, and gold. These regulations became effective April 17, 2011, and the reporting requirement starts the first full fiscal year after the regulations are issued. The yet-to-be issued regulations could alter the reporting requirements.

Quartzdyne, as an operating company of Dover Corporation, a NYSE listed company, complies with this act and other regulations concerning the sourcing of our raw materials from conflict areas. We expect that our suppliers will also comply with our requests to provide statements and perform due diligence regarding the sources of any conflict minerals in the products they provided to us.

As more information becomes available regarding due diligence criteria, Quartzdyne will contact our vendors and manufacturers to provide documentation stating that the raw materials do not originate from the DRC or its neighboring countries, thus ensuring Quartzdyne's compliance with the Dodd-Frank Act.

If you have additional questions, please contact your Quartzdyne sales representative for additional information.

Quartzdyne, Inc.

2 Tech Drive, Suite 201
Andover
MA 01810

main: 978.645.5500
fax: 978.557.5100
www.mksinst.com

MKS "Conflict Minerals" Position Statement Revision B - February 2012

Background on U.S. Conflict Minerals Legislation:

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act was signed into law (the **Act**). Though the vast majority of the Act is dedicated to improving accountability and transparency in the financial system, Section 1502 of the Act imposes new audit and disclosure requirements on companies required to report to the U.S. Securities and Exchange Commission (**SEC**) regarding their use of "conflict minerals" in products they manufacture. The "conflict minerals" designation was established in response to violence in the Democratic Republic of the Congo (**DRC**) perpetrated by armed groups thought to be financed in part by the exploitation and trade of these minerals.

The SEC is still in the process of finalizing rules implementing Section 1502's reporting requirements, but the basic framework is known. Under the Act "conflict minerals" are columbite-tantalite (coltan), cassiterite, gold, wolframite and any of their respective derivatives as well as any other mineral determined by the Secretary of State to be financing conflict and procured from the following countries: the DRC, Angola, Burundi, the Central African Republic, the Republic of the Congo, Rwanda, Sudan, Tanzania, Uganda, and Zambia.

Section 1502 applies to all SEC reporting companies (both domestic and foreign private issuers) for whom conflict minerals "are necessary to the functionality or production" of a product manufactured or contracted to be manufactured by such entities. Determining whether and how much disclosure is required under Section 1502 is a three-step analysis:

- First, an SEC reporting company must make annual disclosures as to whether conflict minerals are necessary for the functionality or production of a product that it manufactures or contracts to manufacture.
- Second, if conflict minerals are used, the company must then make a reasonable inquiry as to whether the necessary conflict mineral originated in the covered countries. Companies marking a determination that no such minerals are used would need to state this conclusion, briefly describe the reasonable inquiry they undertook and maintain reasonable business records to support their conclusions.
- Finally, if the company cannot verify that the minerals did not originate in a conflict country, the company must then disclose additional information to the SEC in a Conflict Minerals Report—including measures taken to exercise due diligence about the source and chain of custody of the minerals; a description of the products that are not conflict-free or cannot be so verified; and a description of the facilities used to process the conflict minerals, the country of origin of the conflict minerals, and efforts taken to determine the mine or location of origin with greatest possible specificity.

MKS Compliance Position:

With the SEC rules not yet finalized, there is no compliance obligation currently in effect for MKS. Reporting will not be required until a company's first full fiscal year after enactment. Assuming the SEC promulgates final rules in 2012, MKS would need to make any necessary disclosures in early 2014 for our fiscal year ending December 31, 2013. If we become subject to the requirements, our disclosures may have to be verified by an independent auditor in accordance with a standard to be established by the U.S. Comptroller General.

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Risks Beyond MKS' Control:

1. Even where MKS or its products are not subject to direct obligations pursuant to Section 1502, certain of its customers or business partners may be, depending on their specific operations and products. This position statement is not intended to be an exhaustive discussion of Section 1502, does not address all of the Section 1502 considerations that may be relevant to MKS's customers or business partners in light of their particular circumstances, and is not intended as compliance advice.

2. This position statement is based on current provisions of Section 1502 and the SEC's implementing rules proposed in December 2010, all of which are subject to change. The SEC or any other regulatory or enforcement authority may disagree with our assessments. Because Section 1502's disclosure rules are still in the process of being finalized and are subject to revision, it is impossible to predict with certainty all requirements under Section 1502.

3. It is possible that certain process materials, parts or components may become unavailable or more difficult to procure due to Section 1502. If MKS needs to make process or design changes due to such unavailability, then there may be an impact on our products and/or delays in shipment. We intend to continue to bring our products to market in full compliance with applicable laws and expect our suppliers and customers to be partners in that effort.

Disclaimer:

THIS POSITION STATEMENT IS FOR INFORMATIONAL PURPOSES ONLY, DOES NOT CONSTITUTE A LEGAL REPRESENTATION AND DOES NOT CREATE OR CONFIRM THE EXISTENCE OF ANY RIGHTS, LIABILITIES OR OBLIGATIONS OF MKS, ITS AFFILIATES, ANY OF THEIR RESPECTIVE CUSTOMERS OR ANY OTHER PERSON. THE SALE OF MKS PRODUCTS SHALL BE GOVERNED EXCLUSIVELY BY THE TERMS AND CONDITIONS SET FORTH IN THE APPLICABLE MKS SALE AGREEMENT.

MKS' assessments contained in this position statement are solely MKS' opinion. MKS does not guarantee the accuracy or completeness of its evaluation and neither MKS' customers nor any other party may rely on this position statement. The information contained herein is based on information MKS has obtained as of the date indicated at the top of this position statement. MKS does not have any obligation to update this position statement. Any MKS customer or other person needing information or guidance about Section 1502 should seek advice of legal counsel.

VENKEL LTD.

"Conflict Minerals" and "Conflict Mining" Statement

"Conflict Minerals" and "Conflict Mining" refer to the illegal extraction and control of minerals from within the DRC (Democratic Republic of Congo). Venkel Ltd. uses particular minerals in our products and we require all of our suppliers to conform to our position regarding "Conflict Minerals" and "Conflict Mining." Venkel Ltd. understands the complexity of the supply chain of our materials and ensures that the products we sell do not contain "Conflict Minerals."

Based on our own investigations and information obtained from our suppliers, we are confident that the materials used in the manufacturing of our SMT passive components, do not contain these minerals. Venkel's raw materials suppliers assure that their products comply with our policy regarding "Conflict Minerals" and "Conflict Mining." These minerals include:

- Cobalt (Co)
- Gold (Au)
- Tin (Sn)
- Tungsten (W)
- Tantalum (Ta)

The minerals of concern used in the SMT passive components that Venkel Ltd. provides, are limited to Tantalum (Ta), Tin (Sn), and in rare cases, Gold (Au). Gold is occasionally used in the termination for special applications like wire bonding.

These raw materials listed above are not sourced from within the DRC and Venkel Ltd. conducts periodic reviews with our suppliers to ensure that the supply chain remains free of "Conflict Minerals." We continually monitor our supply chain to ensure that this policy is adhered to and that no changes are made without written notification. Venkel Ltd. is committed to supplying our customers with products that are of the highest quality while maintaining awareness of these "Conflict Minerals."

Nelson Johnson

Materials Manager

VENKEL LTD. • 5900 SHEPHERD MOUNTAIN COVE • AUSTIN, TEXAS 78730

PHONE: 512-794-0081 • FAX: 512-794-0087

www.venkel.com

Conflict Minerals Policy Statement.

Many industries utilize the metals derived from minerals that are mined throughout the world, including The Democratic Republic of Congo (DRC). Known to operate in the DRC are mines under the rule of non-government military groups or unlawful military factions.

"Conflict minerals," as defined in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, are *Columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives; or any other mineral or its derivatives determined by the Secretary of State to be financing conflict in the Democratic Republic of the Congo or an adjoining country.* Metals derived from these minerals are tin, tantalum, tungsten, and gold.

It is Selective Plating's policy to be in full compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act and explicitly prohibits purchasing anode products or other chemicals and substances from suppliers sourcing metals either known to be derived from conflict regions or designated as NOT *DRC Conflict-Free*.

Brian Snodgrass
President

IR's Policy Statement on Conflict Minerals

International Rectifier ("IR") uses various metals in our products including tin, tantalum, tungsten and gold. Many of these metals are derived from minerals including columbite-tantalite ("coltan"), cassiterite, gold, wolframite, and their derivatives, which are mined in global locations, including the eastern portion of the Democratic Republic of Congo and surrounding countries (the "Conflict Region").

In compliance with applicable US law, and in concert with the efforts of Electronic Industry Citizenship Coalition ("EICC"), IR is committed to responsible sourcing of metals. IR does and will continue to conduct reasonable diligence within our supply chain and will take appropriate steps to ensure that metals are not sourced from mines in the Conflict Region. IR's suppliers are requested to provide written evidence that minerals used to produce gold, tin, tantalum, and tungsten supplied to IR are not from mines or smelters in the Conflict Region.

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CORPORATE SOCIAL RESPONSIBILITY
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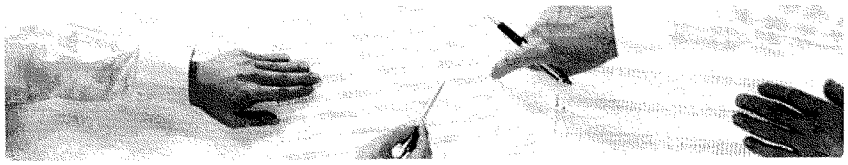
IR Code of Ethics
California Transparency in Supply Chains Act
Environmental Health & Safety
Vendor Notification
EICC Committment Letter
IR's CSR FAQs

Nikon

CSR-oriented Procurement



To ensure the soundness of its business activities, the Nikon Group cooperates with its procurement partners to undertake CSR-oriented procurement and green procurement.

Global Implementation of CSR-Oriented Procurement

Promoting CSR-oriented Procurement

In the year ended March 2011, the Nikon Group began holding discussions with its procurement partners in Japan for the purpose of understanding our CSR-oriented approach to them. In the first year, our personnel visited 37 partners and successfully learned the details of each company's CSR initiatives. In addition, we participated in the Supply Chain Subcommittee of the UN Global Compact to discuss optimal methods of CSR-oriented procurement with participating companies.
In the year ending March 2012, we will update the Nikon Procurement Partners'CSR Guidelines and undertake additional CSR-oriented procurement measures such as consideration of creating internal systems for on-site inspections of CSR activities by procurement partners. In addition, a procurement procedures manual that includes CSR perspectives will be prepared and distributed throughout the Group as an operational manual for penetrating CSR-oriented procurement activities. A group-wide basic transaction agreement will be used and Nikon Group companies in Japan are encouraged to have procurement partners sign the agreement. Systems are being put in place to ensure that appropriate transactions are conducted in accordance with signed basic transaction agreements, and prompt reports to management and appropriate responses are made if any instances of non-compliance are discovered.

Handling of the "conflict minerals issues"

Minerals (tantalum, tin, tungsten and gold: hereinafter "conflict minerals") mined in the Democratic Republic of the Congo and neighboring countries are becoming sources of funding for armed groups, creating grave issues such as facilitating conflicts, human rights violations and environmental destruction; and international efforts are being made to resolve this issue. The Nikon Group, with cooperation from our procurement partners, will investigate the status of usage of these conflict minerals, and will make efforts to reduce the use of conflict minerals as much as possible.
Based on the Nikon Basic Procurement Policy and the Nikon Procurement Partners' CSR Guidelines, the Nikon Group aims to fulfill its social responsibilities in the entire supply chain.

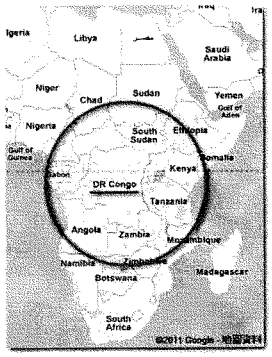
HAMBURG INDUSTRIES CO., LTD.

Declaration of Conflict Minerals Free

Hamburg Corp. and its supply chain shall bear social responsibility and environmental protection.
We do not purchase conflict minerals in the conflict regions.
Request our suppliers to refuse to use Conflict Minerals from conflict regions and present a signed letter of commitment to Hamburg Corp.
Request our suppliers to notify their upstream suppliers of such requirements.

Remark:
The Conflict Minerals are including cobalt (Co), gold(Au),palladium (Pd),tantalum (Ta) ,tin (Sn) and tungsten(W) that are not drifted from the mines of Democratic Republic of Congo (DRC) and its neighboring countries controlled by armed groups.

- DRC (剛果民主共和國)
- Central Africa Republic (中非共和國)
- Sudan (蘇丹)
- Zambia (尚比亞)
- Angola (安哥拉)
- Congo Republic (剛果共和國)
- Tanzania (坦尚尼亞)
- Burundi (蒲隆地)
- Rwanda (盧安達)
- Uganda (烏干達)



DYMAX® Oligomers • Adhesives • Coatings • Dispensing • Light-Curing Systems

April 16, 2012

RE: Conflict Minerals

To whom it may concern:

This letter is to assure you that Dymax Corporation does not intentionally add any conflict minerals (tin, gold, tantalum (coltan) and tungsten), to its ultraviolet (UV) and visible light curing products, oligomers or coatings and activator curing metal bonding adhesives. Furthermore, we have asked our suppliers not to ship products that contain conflict minerals/metals that come from the Democratic Republic of Congo (DRC).

If you have any questions, please feel free to contact me at 860-626-6341 or e-mail me at sthompson@dymax.com.

Sincerely,

DYMAX CORPORATION

Susan R. Thompson
EHS Manager

Dymax Corporation
860.482.1010
info@dymax.com
www.dymax.com

Dymax Oligomers & Coatings
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oligomers&coatings@dymax.com
www.dymax-oc.com

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+49 (0) 611.962.7900
info_de@dymax.com
www.dymax.de

Dymax UV Adhesives & Equipment (Shenzhen) Co Ltd
+86.755.83485759
dymaxasia@dymax.com
www.dymax.com.cn

Dymax Asia (Hong Kong) Ltd
+852.2460.7038
dymaxasia@dymax.com
www.dymax.com.cn

Dymax Korea LLC
82.2.784.3434
info@dymax.kr
www.dymax.co.kr

Logitech

June 11th 2011

Subject: Logitech Supplier Communication on "Conflict" Mineral Extraction

Dear Supplier,

Logitech wishes to bring to your attention the issue of mineral extraction and its connection to areas of the globe such as the Eastern region of the Democratic Republic of Congo (DRC). This region has been termed a "conflict region" because illegal mining profits by local military groups in the Eastern DRC are contributing to human rights abuses.

Logitech does not source or buy metals directly, however, we are concerned by the allegations that metals illegally mined in the Democratic Republic of the Congo may be making their way into the electronics supply chain. The minerals of interest are: gold (Au), tantalum (Ta), tungsten (W) and tin (Sn).

There are many challenges in tracking the origins of minerals, not least of which are the lack of a direct contractual relationship with mineral suppliers and no current infrastructure to track minerals through a multi-layered supply chain. However, Logitech is committed to source only materials from environmentally and socially responsible suppliers and in support of this, we will continue to survey our supply chain on an ongoing basis to better understand the source of minerals used in our component supply and attempt to trace the origin of the metals used.

Logitech supports the work of the Electronic Industry Citizenship Coalition (EICC) and the Global e-Sustainability Initiative (GeSI) to understand how prevalent conflict minerals (http://en.wikipedia.org/wiki/Conflict_minerals) are in the electronics supply chain and how members of EICC and GeSI can effectively influence social and environmental issues associated with the mining of metals used in electronic products and establish a certification program for minerals used in our industry.

We believe it is our responsibility to raise awareness on the issue of conflict minerals and encourage accountability in our supply chain until a recognizeed certification program is in place.

Below are links to the EICC and GeSI statement on the issue of conflict minerals:
http://www.eicc.info/PDF/EICC%20Statement%20on%20Minerals.pdf

Logitech is committed to the highest standards of integrity and responsibility and requests our supply chain to share this work ethic. In support of this, we expect your commitment to work in partnership with Logitech to ensure that our respective supply chains do not source conflict minerals.

This is an industry-wide challenge and a collaborative approach is required to yield an effective outcome. We ask that you and your extended sources of supply positively support the process of bringing greater transparency to the supply chain by cooperating with our inquiries and proactively monitoring this issue.

If you have questions or need additional information, please contact the Logitech Social and Environmental Responsibility team on e-mail at ww_compliance@logitech.com.

Jim Van Patten
VP, Worldwide Quality

Joseph Sullivan
Sr. VP, Wordwide Operations

WIMA QUALITY ASSURANCE

DECLARATION OF COMPLIANCE

Components: **WIMA Capacitors**

WIMA Type: all ranges

Ref: The "Conflict Minerals Law" included as "**Section 1502 of the Dodd-Frank Wallstreet Reform and Customer Protection Act**" of the United States of America, requests to identify products which contain "Conflict Minerals"

Based on our suppliers' information this is to declare that raw and semi-finished materials delivered to us needed for production of capacitors of all WIMA ranges, i. e.

- Plastic Film Capacitors
- Metallized Paper Capacitors (WIMA MP EMI Suppression Capacitors)
- Double Layer Capacitors (WIMA SuperCap)

do not contain any substances referred to as "conflict minerals".

Department: Technical Support Date: October 2011

WIMA Spezialvertrieb elektronischer Bauelemente GmbH & Co. KG
Pfingstweidstr. 13 · D-68199 Mannheim / GERMANY
Tel: + 49 621 86295-0 · Fax: + 49 621 86295-96
E-mail: sales@wima.de · Internet: http://www.wima.com

member of the General Motors Corporation Board of Directors, at the urging of Kofi Annan, former Secretary General of the United Nations. Furthermore, we encourage our suppliers (and their suppliers) to support the Global Sullivan Principles or similar guidelines, such as the European Principles of Social Responsibility and the European Employee Forum.

auto manufacturing initiative in China, Shanghai General Motors has demonstrated a far-reaching commitment to advancing sustainable development across its manufacturing operations. The results have strengthened the performance of GM's suppliers on a variety of indicators. Through this initiative, SGM and its suppliers have saved energy, improved environmental quality and saved large sums of money."

Terry F. Yosie
President and CEO,
World Environment Center

In addition, the U.S. Congress passed in 2010 legislation requiring reporting to the Securities and Exchange Commission on the content and sources of four metals in companies' products: gold, tin, tantalum and tungsten. These raw materials are of concern because certain mines in the Democratic Republic of the Congo (DRC) and certain mines in countries that border DRC are important sources of minerals used to produce these metals. These particular mines are controlled by armed groups that finance their armed conflicts through mining activities. The goal of the legislation is to identify and eliminate any content in companies' products that has been inadvertently derived from these mines. General Motors supports this goal and is preparing for the significant task of identifying and eliminating conflict minerals that may inadvertently have found their way into our supply chain.

Localization

Our policy is to generally build where we sell and buy where we build. This practice makes commercial sense, not only for our company, but also for the markets and communities in which we operate. A localized supply chain provides:

- Commercial benefits -- Localization not only helps make our vehicles competitive, but also enables us to build vehicles that are adapted to suit unique local requirements and conditions that drive customer enthusiasm and brand loyalty, increasing the potential for success in the marketplace.

development work with 40 strategic local automotive suppliers to help develop their businesses in what is an increasingly global market for the auto industry. In the next two years, the team will extend its program scope to include 60 top strategic local suppliers. As a direct result, 14 Australian suppliers have secured increased local manufacturing work worth A$26 million per year in additional revenue from Holden and, in some cases, have secured opportunities to quote for new global supply

ical component of the
and provides jobs for
people who are directly
o industry.

China

In China, we continue to promote the Green Supply Chain Initiative. This initiative is aimed at improving the performance of our joint ventures' suppliers in support of the Chinese government's goals of promoting energy efficiency and sustainable development. It was initiated in 2005 as a collaborative project between the World Environment Center, GM's 50/50 joint venture with Shanghai Automotive Industry Cooperation (SAIC) -- Shanghai General Motors (SGM) -- and eight suppliers.

Since its inception, this initiative has made significant measurable strides in sustainability. Terry F. Yosie, president and CEO, World Environment Center, observes, *"Implementing sustainable development creates value for business and society. Through the Green Supply Chain Initiative, the first undertaken by any joint venture auto manufacturing initiative in China, Shanghai General Motors has demonstrated a far-reaching commitment to advancing sustainable development across its manufacturing operations. The results have strengthened the performance of GM's suppliers on a variety of indicators. Through this initiative, SGM and its suppliers have saved energy, improved environmental quality and saved large sums of money."*

The Green Supply Initiative has since expanded to another GM joint venture in China, and the number of participating suppliers has grown to 195. To date, 750 projects have been implemented, of which 383 addressed cleaner production and 367 addressed energy efficiency. The average payback period for the projects is approximately one year. The suppliers have invested over RMB196,000,000 (equivalent to USD $30,721,000 at an exchange rate of $1 = RMB6.38) and achieved the following annual savings:

- 1,187,000 metric tons/year of water use
- 74,000,000 kW hours/year of energy use
- 2,000,000 cubic meters/year of natural gas use
- 3,600 metric tons/year of coal use
- 3,700 metric tons/year of diesel fuel use

In addition, the suppliers have reduced their annual waste generation by:

Sustainability

EMC Statement on Conflict Minerals

EMC Corporation supports and respects the protection of internationally proclaimed human rights for all, including the basic human rights of our employees and workers within our supply chain. We believe in treating people with respect and dignity. EMC also expects our suppliers to adhere to the same high standards.

As part of our global program for human rights, EMC is committed to the ethical sourcing of minerals used in our products. We are assessing whether our products contain tantalum, tin, tungsten or gold derived from ores mined in the Democratic Republic of Congo (DRC) and adjoining countries. These minerals are commonly used in electronics and other products. Some of the mining operations in the DRC are controlled by warring militias who we believe are financing armed conflict with profits from the sale of these minerals. This on-going conflict has been linked to human rights violations, labor abuses, and environmental degradation.

EMC is working diligently with our suppliers and other stakeholders to improve and systematically address the process for sourcing minerals that are "conflict-free." The global supply chain for these minerals is complex, and tracing the minerals in our products to their source is a challenge.

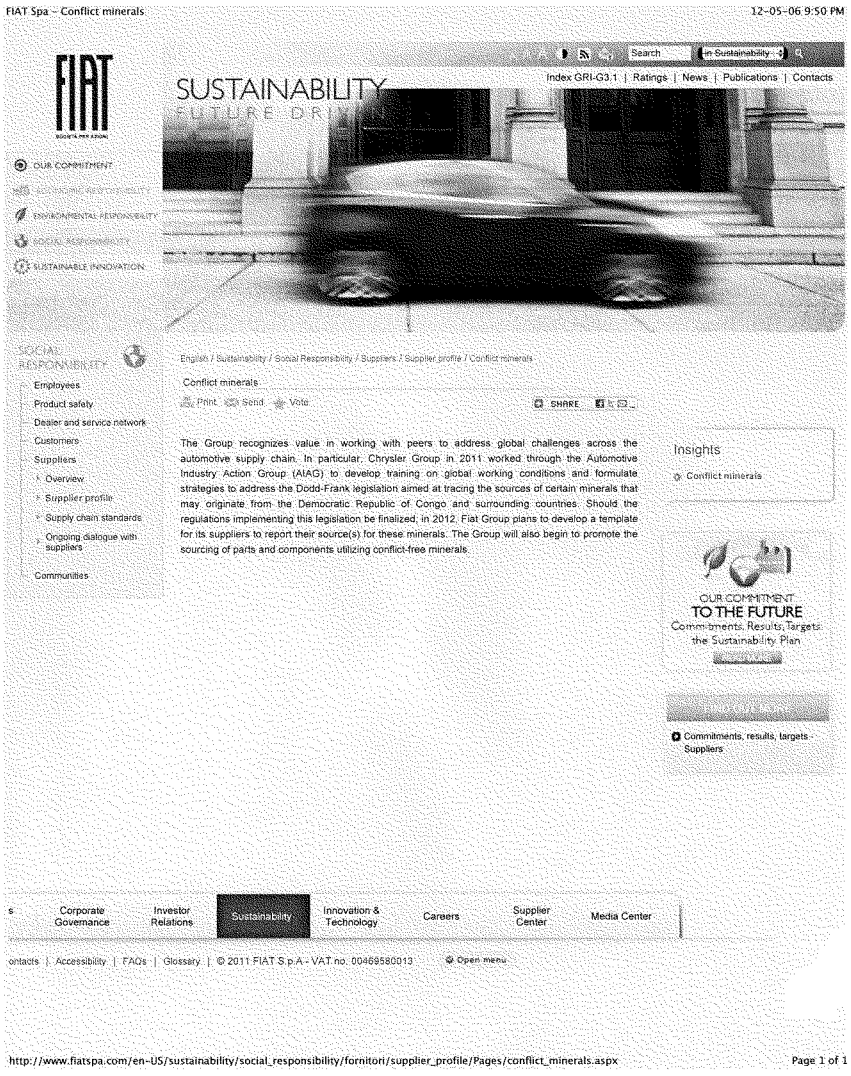
To reach our objectives, we are collaborating with industry peers, NGOs, governments, academics and others. We are members of the EICC-GeSI Extractives workgroup which is developing programs for the responsible sourcing of minerals such as the Conflict-Free Smelter program and mineral traceability schemes.

Facts and Figures
» A Message from Our CEO
» Sustainability Reports
» Priorities for Sustainability
» Global Reporting Initiative (GRI) Index
» 2009 Goals and Performance

Our Sustainability Priorities

Discover how EMC is advancing on its journey of sustainability
Learn more »

Related Materials
- EMC Supplier Code of Conduct
- EMC Human Rights and Global Labor Principles
- EMC Business Conduct Guidelines


FIAT Spa – Conflict minerals
12-05-06 9:50 PM
Search
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SUSTAINABILITY
OUR COMMITMENT
ECONOMIC RESPONSIBILITY
ENVIRONMENTAL RESPONSIBILITY
SOCIAL RESPONSIBILITY
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Ongoing dialogue with suppliers
Communities
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Conflict minerals
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The Group recognizes value in working with peers to address global challenges across the automotive supply chain. In particular, Chrysler Group in 2011 worked through the Automotive Industry Action Group (AIAG) to develop training on global working conditions and formulate strategies to address the Dodd-Frank legislation aimed at tracing the sources of certain minerals that may originate from the Democratic Republic of Congo and surrounding countries. Should the regulations implementing this legislation be finalized, in 2012, Fiat Group plans to develop a template for its suppliers to report their source(s) for these minerals. The Group will also begin to promote the sourcing of parts and components utilizing conflict-free minerals.
Insights
Conflict minerals
OUR COMMITMENT
TO THE FUTURE
Commitments, Results, Targets
the Sustainability Plan
Commitments, results, targets - Suppliers
Corporate Governance
Investor Relations
Sustainability
Innovation & Technology
Careers
Supplier Center
Media Center
ontacts | Accessibility | FAQs | Glossary | © 2011 FIAT S.p.A. - VAT no. 00469580013
Open menu
http://www.fiatspa.com/en-US/sustainability/social_responsibility/fornitori/supplier_profile/Pages/conflict_minerals.aspx
Page 1 of 1

Supply Chain

Addressing Conflict Minerals: Leading Collective Action Across Our Industry

★★★★

Many industries rely on certain minerals that are mined in Africa to produce their products. These minerals include cassiterite, wolframite and coltan, which are ores that contain tin, tantalum and tungsten, respectively. Because such metals are used in many products — electronics, vehicle airbag systems, airplanes, jewelry and X-ray film — the demand for them is great.

The Democratic Republic of Congo (DRC) in Central Africa is one of the places in the world where these natural resources can be found and mined in abundance. The DRC has been mired in a brutal conflict since 1998 and the resulting hostilities and human rights abuses are largely fueled by the trade of these "conflict minerals."

Our Approach to Responsible Sourcing and Supplier Accountability

As a manufacturer of products that contain gold, tantalum, tin and tungsten, Dell is committed to operating in a socially responsible way. It's Dell policy to refrain from purchasing from any known conflict sources, and we expect that our suppliers adhere to the same standards. We have notified all our suppliers of our policy on conflict minerals and have asked each supplier to provide us with a confirmation of their conflict-free status. Dell also works diligently to educate suppliers, investors and customers on this issue through speaking engagements, workshops and stakeholder engagements.

The complexities of the metal supply chain pose many challenges. The mining of these minerals takes place long before a final product is assembled, making it difficult, if not impossible, to trace the minerals' origins. In addition, many of the minerals are smelted together with recycled metals, and at that point it is virtually impossible to trace the minerals to their source. Another challenge is the informal nature of the DRC's minerals economy. Tracing the source of these minerals — from mine through smelter to final product — is a complex challenge that we cannot address alone.

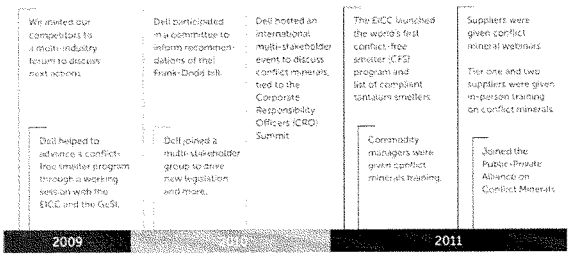
We're engaged with the Electronics Industry Citizenship Coalition (EICC), an organization devoted to improving social and environmental conditions in electronics supply chains, to develop a process that companies can use to track the origin of these minerals regardless of the industry they will be used in. In 2011, the EICC launched the world's first conflict-free smelter (CFS) program, which tracks documentation from the smelter back to the mine of origin.

Dell has been involved in many other efforts to bring us closer to a conflict-free supply chain. We first noted our commitment to act on this issue in our 2010 Corporate Responsibility Report. Our current report continues to report on our commitment and recent efforts. In fall 2009, we reached out to our competitors and invited them to join us in issuing a call to action to other industries that use these minerals in their final products.

In October 2010, we hosted an international multistakeholder event on conflict minerals. The conference, which was tied to the Corporate Responsibility Officers (CRO) Summit in Paris, convened leaders from the IT industry, NGOs and the Organization for Economic Co-operation and Development (OECD) to drive other industries to take action on responsible sourcing.

Dell continues to collaborate within our industry and with others on this important issue. Industry research indicates that the electronics industry is responsible for only about 30 percent of the global usage of these minerals. The more industries that agree changes are needed to address conflict minerals, the greater the potential for marketplace incentives to drive those changes.

Beyond Our Supply Chain: A Timeline of Steady Progress in Promoting Collective Action

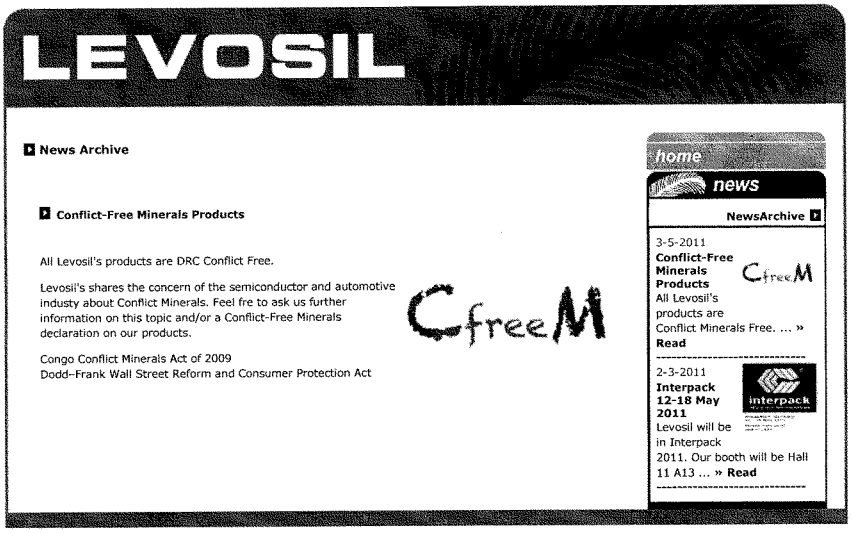


Explore related timeline content

- Learn more about Dell's multi-industry forum.
- Learn more about RESOLVE and their traceability study of the electronics supply chain.
- Learn more about the EICC and Global e-Sustainability Initiative (GeSI)'s two pilot programs in the DRC.
- Learn more about the Frank-Dodd bill and Dell participated in a committee to inform recommendations of the bill.
- Learn more about the Corporate Responsibility Officers (CRO).
- Dell joined a multistakeholder working group to offer input into the rule making process of the new legislation and more.
- Learn more about the EICC and its launch of the world's first conflict-free smelter (CFS) program and list of compliant tantalum smelters.

Dell is working toward the goal of responsible sourcing globally, including from the DRC, through a conflict-free supply chain, confirmed by a robust verification system.

Dell is committed to working with other industries, the government and NGOs to reach an agreement on a solution to purchase conflict-free minerals and to help implement this solution. Dell will continue to participate in the industry conversation, proactively seek solutions and encourage everyone who has a final product that contains these minerals to join us in these efforts. Beyond responsible sourcing, we think about the big picture when it comes to supplier standards and accountability.


LEVOSIL
News Archive
Conflict-Free Minerals Products
All Levosil's products are DRC Conflict Free.
Levosil's shares the concern of the semiconductor and automotive industy about Conflict Minerals. Feel fre to ask us further information on this topic and/or a Conflict-Free Minerals declaration on our products.
Congo Conflict Minerals Act of 2009
Dodd-Frank Wall Street Reform and Consumer Protection Act
CfreeM
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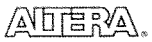
Interpack 12-18 May 2011
Levosil will be in Interpack 2011. Our booth will be Hall 11 A13 ... » Read
interpack



Congo Conflict Minerals

Illegal mining of gold (Au), tantalum (Ta), tungsten (W), cobalt (Co), and tin (Sn) from the Democratic Republic of Congo or adjoining countries ("DRC region") is contributing to war and human rights atrocities in the region. These metals are commonly referred to as "conflict minerals".

Altera supports the effort to end these atrocities, and we have notified our suppliers of the need to make commercially reasonable efforts to ensure that metals derived from the DRC region are properly disclosed to Altera.

On April 8th 2011, the SEC indicated in a posting on its website that the rule for Conflict Minerals is planned for the August to December 2011 timeframe. The National Association of Manufacturers (NAM) reports that the SEC would not meet the April 15 deadline. In an earlier posting to the SEC Website, the SEC stated: Some of the Dodd-Frank Act's provisions are not effective until the SEC adopts regulations; of these, some include dates by which the SEC must act, and others are silent in this regard. In these areas, the SEC considers matters with specified dates as an indication of Congressional priorities and will accordingly propose and adopt rules in these areas first. The SEC expects to adopt all rules with specified dates by July 21, 2011 (one year from enactment). SEC Commissioner Mary Schapiro stated on April 8th at a conference for business editors that she had met with a broad cross section of business (including Apple, HP, and Motorola Solutions) and public interest groups regarding the conflict minerals rule and that the final rule would reflect both "business and humanitarian concerns."

As a result, clarification is still needed regarding when the final conflict minerals rule will be issued, and when companies will have to implement the rule.

Conflict Minerals

Corporate profile
Investor relations
Sustainability
- Sustainable Management
- Talent Management
- Integrity Management
- Environment
- Social Contribution
- Product & Services
- Partner Collaboration
- Sustainability Reports
- Conflict Minerals
- Human Trafficking Policy

Citizenship
Our businesses
Global Procurement
Management
Careers

Eco Vision & Plans
more

Our Sustainability Reports
more

Sourcing Minerals Responsibly

Tin, tantalum/coltan, tungsten (3Ts)and gold are used widely in manufacturing consumer electronic devices. The Democratic Republic of Congo (DRC) has vast reserves of these natural resources. Many of these minerals are illegally sourced and traded by armed groups in the eastern DRC and surrounding areas who are responsible for human rights violations throughout the region. Accordingly, tantalum, tin, tungsten and gold sourced from the DRC have become commonly known as "conflict minerals."

In order to address the issues related to conflict minerals, governments, non-government organizations (NGOs) and the consumer electronics industry are working to develop legitimate trading systems and processes that include more stringent scrutiny over mineral sourcing and the transparency of global supply chains. This effort has become a priority for Samsung Electronics as part of our overall corporate social responsibility initiative. Samsung will continue to closely follow the Securities and Exchange Commission's (SEC) rulemaking and implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1502, July 2010) regarding the use of conflict minerals in the manufacturing of consumer electronics products to ensure responsible mineral sourcing practices.

Overview of Conflict-free Mineral Sourcing Initiatives

In the United States, the electronics industry, through the Electronic Industry Citizenship Coalition (EICC), began working to resolve the conflict minerals issue in 2007. The EICC and the Global e-Sustainability Initiative (GeSI) formed the Extractives Work Group, which is responsible for identifying the sources of the 3Ts and gold, and understanding supply chains from the mineral's source to the final consumer product.

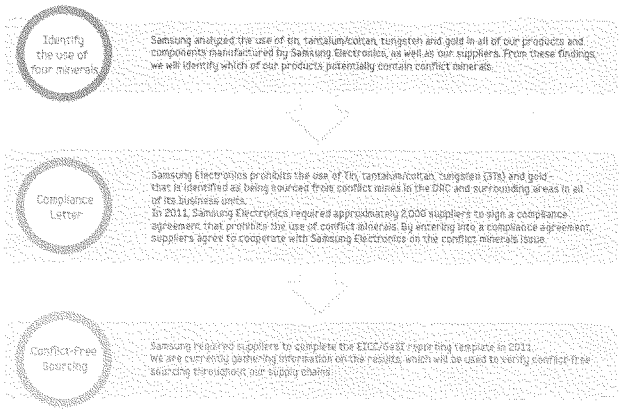
Using the results of this project, the EICC/GeSI Extractives Work Group developed the Conflict-Free Smelter Program (CFS), which debuted in 2010. The Program aims to identify and certify conflict-free minerals sourced from the DRC. CFS certified smelters undergo third-party validation, certifying that they source only conflict-free material. At present, the CFS has published a list of CFS certified tantalum smelters. Similar lists for tin, tungsten and gold are expected in the near future.

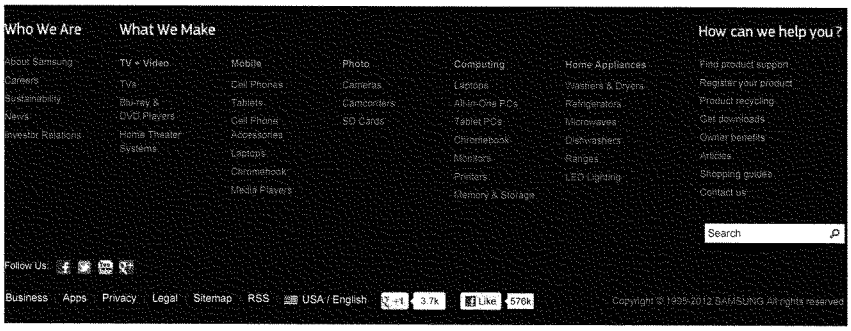
The EICC/GeSI also designed and distributed a due diligence tool, the Conflict Minerals Reporting Template and Dashboard for companies to use when conducting supply chain audits. The tool incorporates the Organization for Economic Co-operation and Development's (OECD) guidelines and may be used to fulfill statutory due diligence requirements.

Samsung's Progress Toward Conflict-free Mineral Sourcing

Samsung Electronics takes the issue of conflict minerals very seriously. We are seeking ways to eliminate the use of conflict minerals, including tin, tantalum/coltan, tungsten, and gold, in all of our products, and have required our approximately 2,000 suppliers to sign a compliance agreement stating they will not use these minerals. In addition, we are working closely with the Electronic Industry Citizenship Coalition (EICC) to evaluate the current status of minerals distribution to ensure best practices are followed. The EICC/GeSI reporting template was distributed to suppliers and Samsung has completed its first investigation. Samsung is committed to upholding the highest standards of corporate responsibility, and we continue to proactively evaluate our sourcing policies to ensure they are addressing existing and emerging issues associated with our industry.

Recent progress


Identify the use of four minerals
Samsung analyzed the use of tin, tantalum/coltan, tungsten and gold in all of our products and components manufactured by Samsung Electronics, as well as our suppliers. From these findings, we will identify which of our products potentially contain conflict minerals.
Compliance Letter
Samsung Electronics prohibits the use of Tin, tantalum/coltan, tungsten (3Ts) and gold - that is identified as being sourced from conflict mines in the DRC and surrounding areas in all of its business units.
In 2011, Samsung Electronics required approximately 2,000 suppliers to sign a compliance agreement that prohibits the use of conflict minerals. By entering into a compliance agreement, suppliers agree to cooperate with Samsung Electronics on the conflict minerals issue.
Conflict-Free Sourcing
Samsung required suppliers to complete the EICC/GeSI reporting template in 2011.
We are currently gathering information on the results, which will be used to verify conflict-free sourcing throughout our supply chains.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About Samsung
Careers
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What We Make
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Blu-ray & DVD Players
Home Theater Systems
Mobile
Cell Phones
Tablets
Cell Phone Accessories
Laptops
Chromebook
Media Players
Photo
Cameras
Camcorders
SD Cards
Computing
Laptops
All-in-One PCs
Tablet PCs
Chromebook
Monitors
Printers
Memory & Storage
Home Appliances
Washers & Dryers
Refrigerators
Microwaves
Dishwashers
Ranges
LED Lighting
How can we help you?
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Register your product
Product recycling
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Empowering High Tech Materials

H.C.Starck

Raw Material Procurement Statement

H.C. Starck is one of the leading global producers of technology metals and advanced ceramics as powder or fabricated product. We are committed to ensuring the safety, health and protection of people who come in contact with our products and the environment. As responsible corporate citizens, we meet and are continually striving to exceed governmental, industry and environmental standards worldwide.

H.C. Starck fully supports the position of the Electronic Industry Citizenship Coalition (EICC) and the Organization for Economic Co-operation and Development (OECD) to avoid the use of metallic ores which finance or benefit armed groups in the Democratic Republic of the Congo (DRC) or adjoining countries. H.C. Starck also is aware of section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act pertaining to "Conflict Minerals". We are committed to actively supporting our customers with their diligence and disclosure requirements as required by the United States Securities and Exchange Commission's final regulations, which are expected to be issued in the first half of 2012. In support of government and private initiatives to develop Conflict-Free supply chain systems, H.C. Starck is a founding member of the Public-Private Alliance for Responsible Minerals Trade (PPA).

H.C. Starck condemns all activities in connection with the illegal or unlawful exploitation of mineral resources, no matter where such activities take place. We only purchase raw materials that are Conflict-Free and that meet the requirements of the OECD Due Diligence Guidance for Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. The EICC has declared H.C. Starck's tantalum supply chain free of conflict materials and lists H.C. Starck as a Conflict-Free Smelter.

We have implemented a certified Responsible Supply Chain Management System (RSCM) as a core control system to guarantee that we purchase only conflict-free raw materials. The RSCM system ensures efficient and competitive purchasing as well as supports sourcing from suppliers that act in accordance with environmental and social sustainability - be it miners, traders, or slag and scrap metal providers such as smelters or manufacturers. With a variety of control mechanisms, we perform thorough due diligence on all raw material offers based on current OECD and EICC guidelines before we sign any contract or accept any material. The RSCM fulfils all requirements of a management system standard required by ISO. The successful implementation of the system within H.C. Starck has been confirmed by the external auditor Bureau Veritas.

Document:

無衝突金屬宣告書
Declaration of Metal Conflict-Free

國巨股份有限公司特此聲明所有提供給客戶之產品皆為無衝突金屬之產品：
Yageo Corporation herein declare the metal Conflict-Free on products supplied to customers

國巨股份有限公司亦正或將致力於詳實調查供應鏈確保金(Au)、鉭(Ta)、鎢(W)、鈷(Co)、錫(Sn)這類金屬並非透過無政府軍團或非法集團，由剛果民主共和國衝突區域之礦區開採或是循非法走私途徑取得。此外，下列國家出口之金屬皆不符合「無衝突規範」：剛果民主共和國(DRC)、盧安達(Rwanda)、烏干達(Uganda)、蒲隆地(Burundi)、坦尚尼亞(Tanzania)、肯亞(Kenya)（聯合國安全理事會認定上述國家皆為剛果礦脈之礦產）。

Yageo Corporation is taking and will take due diligence within our supply chain to assure "DRC Conflict-Free" for the metals of gold (Au), tantalum (Ta), tungsten (W), cobalt(Co) and tin (Sn) are not derived from or sourced from mines in conflict areas of the Democratic Republic of Congo (DRC), or illegally taxed on trade routes, either of which are controlled by non-governmental military groups, or unlawful military factions. Trade routes not confirmed to be "Conflict Free" include direct exports from the DRC, as well as exports through Rwanda, Uganda, Burundi, Tanzania and Kenya (countries of whom the U.N. Security Council note are global export routes for DRC-mined minerals).

本公司保證任何出售於客戶之產品所含金屬皆符合無衝突規範 (DRC Conflict-Free)。
We would like to confirm metals used in Products sold to Yageo Corporation are "DRC Conflict-Free".

Supplier Company (公司名稱): 國巨股份有限公司 **Yageo Corporation**

Authorized Signature (公司負責或授權人簽章): 呂植富 **J.F. Lue**

Title (職稱)： 協理 Director GQM

Date (填寫日期) : October 22, 2010

kester

Conflict-Free Supply Chain Due Diligence

February 2012

Several metals commonly used in the electronics industry: gold (Au), tantalum (Ta), tungsten (W) and tin (Sn) have a variety of sources, including what has been termed as a "Conflict Region". Most recently, the eastern region of the Democratic Republic of Congo (DRC) has been determined to be a "Conflict Region". The following are statements describing our policy on procurement of metals from mines in "Conflict Regions" for all Kester Global Operations.

- Kester only sells tin (Sn) alloy as a component of our soldering paste and soldering bar or wire products.
- Kester will undertake reasonable due diligence within our supply chain to assure that tin (Sn) alloy is not procured as a "Conflict Metal." A "Conflict Metal" is a metal derived from ore sourced from mines in conflict areas of the Democratic Republic of Congo (DRC), or illegally taxed on trade routes, either of which are controlled by non-government military groups, or unlawful military factions. Trade routes not confirmed to be "Conflict Free" include direct exports from the DRC, as well as exports through Rwanda, Uganda, Burundi, Tanzania and Kenya (countries of whom the U.N. Security Council note are global export routes for DRC-mined minerals).
- Since 2009 Kester has participated in the research project conducted by RESOLVE (www.resolv.org) for the Electronics Industry Citizenship Coalition (EICC, www.eicc.info) and Global e-Sustainability Initiative (GeSI, www.gesi.org) to positively influence the social and environmental conditions in the metals supply chain.
- Kester sources tin from smelters validated as DRC Conflict-Free using the EICC-GeSI Conflict-Free Smelter (CFS) list. Kester maintains the EICC-GeSI Conflict Minerals Reporting Template software for sources of tin from smelters validated as DRC Conflict-Free.

EICC-GeSI Conflict Minerals Reporting Template

Metal (*)	Smelter Name (*)	Smelter Facility Location: Street / City / Country (*)	Smelter Facility Contact Name	Smelter Facility Contact Email	Is this smelter on the EICC-GeSI CFS list? (*)	Name of Mine(s) or if recycled or scrap sourced, state recycled or scrap	Location (Country) of Mine(s) or if recycled or scrap sourced, state recycled or scrap
Tin (Sn)	Minsur Registered brand: "Minsur Tin"	Av. San Martin 1371 Pisco Playa Pisco - Ica - Peru	Jose Antonio Ore Rivera (056) 53-3100	[illegible]@minsur.com	Yes	San Rafael Mine	Puno, Peru
Tin (Sn)	PT Tambang Timah Registered brand: "Banka"	Jalan Jenderal Sudirman 51 Pangkalpinang 33121 Bangka, Indonesia	Fakhrizal Abubakar +62 717 431335	[illegible]	Yes	PT Timah Mining Operations	Onshore and Offshore Dredging by PT Timah covering Bangka Belitung and part of Riau Islands, Indonesia
Tin (Sn)	Empresa Metalúrgica Vinto Registered brand: "ENAF"	Empresa Metalúrgica Vinto Casilla 612 Oruro, Bolivia	Job S Yapura 591-2-5278102	www.vinto.gob.bo	Yes	Huanuni Mine	Oruro, Bolivia
Tin (Sn)	Yunnan Chengfeng Registered brand: "Yunheng"	Yunnan Chengfeng Non-Ferrous Metals Company 131 Baita Road, Kunming, Yunnan, China	Yunnan Tin Smelting Branch +86 873 2123377	[illegible]	Yes	Gejiu City of Yunnan Province	Yunnan, China
Tin (Sn)	Thailand Smelting and Refining Co., Ltd. (Thaisarco) Registered brand: "Phuket"	80 Moo 8 Sakdidej Road T.Vichit, A.Muang Phuket 83000 THAILAND	Petcharat Dibhkaew Thaisarco Tel: +66(0) 7637-1111	[illegible]@thaisarco.com	Yes	Thailand Smelting and Refining Co., Ltd. (Thaisarco)	Thailand, Offshore Dredging

Sincerely,

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The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo

The United States House of Representatives

Committee on Financial Services

Subcommittee on International Monetary Policy and Trade

Testimony by Mvemba Phezo Dizolele

Visiting Fellow, Hoover Institution on War, Revolution and Peace

Thursday, May 10, 2012

Chairman Miller, Ranking Member McCarthy and Members of the Subcommittee on International Monetary Policy and Trade:

Thank you for the invitation and honor to testify before your committee today. This hearing is the most important and pertinent discussion yet on Section 1502 of the Dodd-Frank Act and its consequences for the people of the Democratic Republic of Congo.

My name is Mvemba Phezo Dizolele, a writer, foreign policy analyst and visiting fellow at Stanford University's Hoover Institution on War, Revolution and Peace. I am currently an adjunct professor at Johns Hopkins University's School of Advanced International Studies where I teach a course aptly named Conflict and the African Great Lakes. Still, the views expressed in this statement are mine, and mine alone.

Today, I speak before you as a Congolese, and a concerned US citizen and consumer. I own two laptops, a smart phone and several other electronics, which may or may not contain minerals from Congo.

I would like to thank our friends in the many organizations that promoted Section 1502. I know that they galvanized thousands of people in a campaign to raise awareness on the continued conflict in Congo. Thanks to their work, many more people know about Congo today.

The best way to assess the cost and consequences of Section 1502 is to look at its premise, claims and impact on institution-building and the lives of Congolese.

In essence, Section 1502 seeks to bring peace to eastern Congo by regulating mineral trade through US law, cleaning up the supply chain and reducing militias' access to financial means. Such a regulation would *de facto* curb the violence and human rights abuses. This approach to conflict resolution, however, is not grounded in the sound fundamentals of political economy and public policy. Section 1502 may work in the short-run, but it is not sustainable.

Mineral trade in eastern Congo is part of a wider war economy, which can only be regulated either by the most powerful armed groups working in collusion, the biggest armed group imposing its way on the smaller ones or by their backers seeking to maximize profits and preserve their own interests. As such, Section 1502 builds on a weak foundation and requires the buy-in of the very negative actors it seeks to tame. This approach perverts basic peacemaking models and rewards criminals and would-be spoilers.

Proponents of Section 1502 build their case on the most widely accepted narrative of U.S. Congo policy, which defines the predicament as a humanitarian crisis through the binary prism of sexual violence and the so-called conflict minerals. This narrative has now become the standard perspective through which Americans view Congo, and many NGOs, activists, academics and policymakers shape their work around this prism.

Not only is this narrative wrong, it has led to several ineffective initiatives, which have effectively turned U.S. Congo policy into a Kivu policy. The Kivus represent no more than one fifteenth of Congo. Their problems stem from the failure of the state to discharge its duties and should be treated only as a part of a comprehensive national policymaking.

This binary prism also reflects the bleakest image of Congo and disenfranchises the Congolese people before the world, casting them as incompetent and incapable to solve their own problems. It then becomes imperative that they be rescued from their hopeless situation by the good peoples of the world.

As a result, the Congolese have been excluded from the policy discussion around Section 1502. Their exclusion is such an accepted norm that no Congolese was invited to speak at the Securities Exchange Commission Public Roundtable on Dodd-Frank 1502 on October 18, 2011 here in Washington, DC. The Congolese experts who had traveled for the event were confined to their seats in the auditorium, listening to Western activists and corporations debate the fate of Congo's resources. As it was at the Berlin Conference in 1885 when Western powers divided Africa, the primary stakeholders were simply excluded.

This exclusion, however, has a cost. No one understands mining in Congo better than the Congolese. They have managed their country's mining sector for four decades. By failing to engage the Congolese in an honest dialogue on the relationship between conflict and mining, proponents of Section 1502 failed to spur a national ownership of the initiative through a true partnership with the Congolese.

Congo may be a dysfunctional state, but the Congolese are among the world's most resourceful peoples. Over the past several years, they have quietly and effectively undertaken landmark initiatives that are positively changing the mining landscape in their country. These initiatives include the Lutundula Report, which exposed the opaque exploitation of mineral

resources and led to a comprehensive revision of mining contracts. As a result, several companies, including Canada's First Quantum, lost their exploitation titles.

Pressured by local civil society groups, the Parliament pushed for the restructuring of the Chinese barter investment deal, revisiting its terms and downgrading its value from $9 billion to $6 billion. The Senate published a report by the Mutamba Commission, which audited the mining sector and documented millions of dollars of financial loss that the Congolese State incurs due to mismanagement and bad governance.

Today, as we discuss Section 1502, the Parliament, the Fédération des Entreprises Congolaise, which is the equivalent of the US Chamber of Commerce, and civil society organizations supported by international groups, such as the Open Society Foundations, are engaged in discussions setting the guidelines for the new mining code that would be enacted in the near future.

The current mining code, which was written over a decade ago as part of a World Bank project, disproportionately favors foreign investors at the expense of the Congolese State and the Congolese people. So far, proponents of Section 1502 have marched to their own beat, antagonizing corporations, inculpating consumers and ignoring Congolese initiatives.

If they really want to affect positive change in Congo's mining sector, here is an opportunity for them to join the debate and policymaking in Kinshasa to ensure that the new mining code addresses their concerns. This is the best way to empower the Congolese, strengthen local institutions and induce national ownership of the transparency they seek.

The current 1502 narrative oversimplifies the problem and makes American taxpayers believe that if only the challenges of sexual violence and conflict minerals were solved, then Congo will get back on track and peace will follow.

Supporters of 1502 claim that minerals, such as gold, wolframite, coltan and tin, which are extracted from areas under the control of armed groups, drive the conflict, and therefore, curbing the trade would bring peace to the region.

Nothing, however, is farther from the truth. The Congo crisis is first and foremost political and requires political solutions. Sexual violence and the looting of natural resources are ramifications and symptoms, not the causes of the political crisis. The current violence flare-up in North Kivu, which has displaced thousands of civilians, underscores the political nature of the crisis.

Thus, the activists have reversed the cause-to-effect sequence of developments. In the Kivus, the local economy rested primarily on agriculture and commodity trading, which suffered severe setbacks at the onset of the war in the late 90's as the conflict ushered a rapid destruction of farms, fields and road infrastructure. The ensuing proliferation of militias, which exacted (and still do) a heavy toll on the peasants and commodity traders, drove the populations off the fields into the emerging artisanal mining.

In eastern Congo, from Butembo in North Kivu to Nzibira in the hills of South Kivu, thousands of families now live off this informal mineral trade, which generates between $300 million and $1.4 billion a year. The long supply chain ensures that people who would otherwise be unemployed and starve have a minimal income. These people, however, are likely to pay a high price for the legislation and lose their livelihood.

Back in September 2010, they experienced the effects of a mining moratorium for the first time. In an attempt to pre-empt the US legislation and its proponents, Congolese President Joseph Kabila suspended artisanal mining operations in the region. Expectedly, the outcome was devastating for the population, as the thousands of Congolese who depend on this trade could not find work in a country with 8.9 percent and 81.7 percent unemployment and underemployment rates, respectively. Army units

deployed to protect the mining areas turned their assignment into a business opportunity and joined the black market trade. Six months later, unable to enforce his decision, Kabila lifted the ban.

Currently, it is nearly impossible to separate clean ore from bloody minerals imported from the region. Today, while the concerned industries figure out a credible certification process, anticipated compliance with the legislation increases transaction cost in one of the world's most corrupt countries. In order to protect their reputation, the electronics and high technology industries contemplate boycotting minerals from the region. The decision by US companies to either scale back or stop sourcing ore from eastern Congo means that the people of the Kivus are likely to experience the same devastating blow that hurt the local economy when President Kabila imposed the mining moratorium in September 2010.

My first experience with the so-called conflict minerals dates from July 2006. I spent several weeks in Congo as a journalist, covering the conflict in the east and the historic presidential and legislative elections.

In Ituri, I was embedded with Moroccan Blue Helmets keeping the peace between Hemas and Lendus in and around Bunia. On Lake Mobutu, on the border with Uganda, I spent days with Uruguayan naval forces struggling to intercept weapon transfers from Uganda to armed groups. In South Kivu, I went on patrols with Pakistani soldiers seeking out the elusive, but deadly Rwandan FDLR and Interahamwe militiamen.

I visited coltan mine pits in Nzibira in South Kivu, where I witnessed first-hand the substandard work conditions of underage miners. At the Panzi Hospital in Bukavu, I came face-to-face with the ugliness of sexual violence by armed groups.

During that trip it became clear to me that the Kinshasa government's inability to assert state authority is the real cause of the insecurity that set off the emergence of militias and sustains the plunder of natural resources.

With the collapse of the state, old, latent community grievances stemming from land disputes, demographic pressures, ethnic tensions, and control of resources and trading routes has turned eastern Congo into a tinderbox. Ambitious demagogues only need to embrace a cause and find a sponsor — a community, business or political elite or a state — to start a militia. The three main militias, FDLR, CNDP and PARECO, have exploited these dormant grievances and benefitted from either community or state support. The pattern remains the same for the three dozen smaller militias that operate in the area.

Mineral exploitation, however, is but one source of revenue for these armed groups. They literally rule over the territories they control, taxing every economic activity and terrorizing the civilians into submission. Losing access to the mines will marginally affect their capacity to generate funds, considering that weapons and ammunitions are relatively inexpensive. In other words, if there were no minerals, the conflict would still rage on as armed groups would find other sources of revenue. As long as the government is incapable to impose its authority and address the various grievances, the region will not know peace.

The government has failed to build a professional army, perhaps the single most important element in ensuring Congo's territorial integrity and the security of its citizens and coveted natural resources.

Without such a competent professional military, the DRC is unable to stop the proliferation of militias. Instead, the government of DRC has chosen to compromise with militiamen and co-opt them into the national army with no disruption of their ranks and files. The lack of an adequate national integration program has resulted in the establishment of parallel commands and structures within the national army. This means that the militias who join the national army remain in their areas of control and keep their command nearly intact. This arrangement allows the "former" militiamen to perpetrate abuses on the civilian populations and keep their

access to local resources all under the protection of a Congolese military uniform.

The predatory designs of neighboring Rwanda and Uganda also fuel the volatile situation. Both Rwanda and Uganda have invaded Congo twice, with continued incursions into eastern Congo where they still support militias. Several UN reports have linked both countries to Congolese militias and the looting of resources.

Furthermore, Uganda, Rwanda, Burundi and Tanzania benefit from the illicit mineral trade in eastern Congo as they serve as primary export routes. And while Uganda, Rwanda and Burundi have no gold, diamond or tantalum deposits of significance, they have become important exporters of these minerals. In the past, high level government officials and senior army officers were implicated in this trade.

Whether this is still the case today is unclear. Nevertheless, it seems highly unlikely that these countries could export such large amounts of minerals without the collusion of government officials. Whether these leaders are actively sourcing these goods or simply turning a blind eye to the trade matters little to the bottom line: the result is still the same.

Oversimplification of issues often produces inadequate, counterproductive policies. Section 1502 and its proponents who seek to curb US companies penalize the people of eastern Congo, but do little to curtail the militias and their backers. We know the primary supporters of militias, whether in Congo, in neighboring countries or overseas. We also know the primary export routes and which neighbors profit from this trade. It is troubling that the legislation uses a shotgun approach to the illicit mineral trade quandary and inculpates all of Congo's nine neighbors.

For instance, the legislation treats Zambia, a mineral rich country that is not involved with militias in eastern Congo, but borders DRC to the south, with the same suspicion as Rwanda, Uganda, Burundi and Tanzania, which are the primary export routes.

This conflict, which has indirectly caused the death of over 6 million Congolese, has gone on for too long, and is now a scourge on the face of the planet. As we struggle to solve this calamity we would be better served by looking into Congo's early history.

Between 1885 and 1924, Congo, then known as Congo Free State or the private estate of Belgium's King Leopold II, was the theater of yet another holocaust driven not by mineral exploitation, but by the world's hunger for a commodity. The industrial revolution demanded rubber and more of it. Business' insatiable need for rubber and King Leopold's immeasurable greed pushed the Belgians to design one of the world's most repressive forced-labor structures.

The King's agents established a quota system, which required that each village produce a specific amount of rubber over a time period. Force Publique troops were then used to enforce the quota and demand taxes of the population. Failure to meet the quota or tax requirements led soldiers to chop off limbs of the unlucky Congolese who fell below the mark. Villages were torched, women raped and the people left to starve to death or die of diseases. By 1924, nearly 10 million Congolese had perished under the yoke of the Leopoldian regime.

The similarity to the current situation is eerie. Like the conflict minerals, which are primarily exploited in the east, rubber was only exploited in some areas of the Congo Free State. Both problems were symptoms of larger systemic and regime perversions that subjugated an entire country.

But there is a big difference between the approach the activists took to expose and denounce King Leopold's crimes and the way we choose to deal with the calamity today.

At a time when there was no computer, no internet, no fax and the telephone was still a curious invention, a shipping clerk in Liverpool decided to expose the mighty king and launched a campaign that would

not end until Leopold relinquished possession of the colony and the regime and the system changed.

Working under great stress, those activists could have easily chosen the easy route to fundraising on behalf of the victims, and send them medicine and physicians to mend their wounds. They could have also elected to set up a blood-free certification scheme to ensure that the rubber that reached Europe and America was clean.

No. they knew that such a timid campaign would make them Leopold's tacit accomplices and enablers, and prolong the suffering of the Congolese. Instead, they set out to destroy and change the repressive system and took the necessary time to accomplish their goal.

Today, at a time of instant satellite imagery, internet, instant messaging and other technological advances, our activism is lackluster, and devoid of moral courage in the face of the unnecessary suffering of the Congolese. We hedge our action and refuse to see the reality before us by covering our faces like little children, hoping it would go away. Instead, we search for enemies where they do not exist.

Last month, over 300 Congolese civil society organizations and their international counterparts showed great courage and published a report on security sector reform in Congo. This report calls for an end to the conflict through a comprehensive reform of security institutions, which include the military, law enforcement institutions such as the police and the courts, as well as customs and revenue agencies.

Mr. Chairman, with your permission, I would like to submit a copy of that report for the record.

In Congo, businesses are not the enemies; armed groups and their international and local backers are. If we are serious we should go after them and help restore state authority so that the Congolese government

can finally meet its obligations toward the people. This means that together we need to work on ending impunity at all levels of the polity. Only then can the Congolese know real peace.

The Congolese people want and deserve peace. We should empower them to that end. The Congolese government's inability to protect its people or control its territory undermines progress on everything else. A competent, professional military - organized, resourced, trained and vetted - is essential to solving problems from displacement, recruitment of child soldiers and gender-based violence, to economic growth or the trade in conflict minerals.

In the absence of a strong Congolese state to protect its interests, Section 1502 will effectively certify the looting of Congo's minerals.

Thank you.

we wear™ compliance

Statement
of
Stephen Lamar
Executive Vice President
American Apparel & Footwear Association

The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo

Subcommittee on International Monetary Policy and Trade
House Financial Services Committee

Thursday, May 10, 2012

Thank you for providing us a chance to testify before the Subcommittee this morning on the Costs and Consequences of Dodd Frank Section 1502.

The American Apparel & Footwear Association (AAFA) is the national trade association of the apparel and footwear industries, and their suppliers. Our members include companies that design, manufacture, transport, distribute, and sell apparel and footwear in and throughout the United States and globally. AAFA has about 350 member companies who own, produce for, or market more than 900 brands of clothing, footwear, and other fashion products. Nearly all stakeholders in the industry supply chain are represented in our membership, including large, medium, small, and micro businesses; retailers of all sizes; designers; manufacturers; importers; wholesalers; private label; brand owners; and suppliers of inputs and services. Our members include publicly traded and private companies, as well as suppliers to both. Our industry employs about 4 million U.S. workers, about 3 percent of the U.S. workforce.

As you can imagine, our industries are among the most globalized in the world. Our members make and sell product in virtually every country in the world. As a result, even the smallest companies often have complicated supply chains that stretch across continents, countries, and factories. Working with multiple partners in multiple time zones and facing multiple regulatory environments, they have to manage a diverse array of compliance challenges covering labor, health, environment, product safety, intellectual property, chemical management, product quality, security, labeling, and customs. So why am I here? Because the impact of Dodd Frank Section 1502 is reverberating through industries across the spectrum, including ours in a significant way.

It is with this background in mind that we offer these comments.

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We strongly support the goals of the Conflict Minerals provision in the Dodd Frank Act. Collectively and individually, our members have participated in similar kinds of initiatives to ensure that our sourcing does not inadvertently support undesirable practices, such as forced child labor toiling in the cotton fields in Uzbekistan, leather from cattle raised on illegally cleared rainforest land in Brazil, or wool from mulesed sheep in Australia.

While we support efforts to prevent Conflict Minerals from entering into global supply chains, we remain deeply concerned over several elements of this provision on our industry. Let me explain.

First, the impact of Section 1502 on the business community is deceptively large – much larger than we believe was intended. The fact that I am testifying here today – on a bill that was largely intended to focus on the electronics industry – is one indicator of that fact.

Although the law initially targets about 6000 publicly traded companies, it also affects those companies' suppliers – in many cases small privately held businesses – as they are being increasingly notified by their customers that they will have to certify that their own supply chains are conflict free. Many companies in our industry initially thought they were not covered but are only now finding out – in some cases in the past few weeks – that they are impacted. Many others still don't even know. We have yet to locate an apparel or footwear company who can tell us with certainty that they are not affected.

Why? Many businesses in our industry probably do not realize that their products may contain one of the four conflict minerals. When you think of a garment or a shoe, you think of the fabric, the fit, the design, or maybe the price. But you usually don't think of wearing tin unless perhaps you are watching *The Wizard of Oz*. Indeed, initial reviews suggested these minerals could be present only in some accessories and certain electronic components, such as the "light-up" assemblies in certain kids' shoes. But companies are now learning that tin, for example, is a commonly used filler in certain PVC used in soles of shoes or in metal components in buttons, zippers, and heel tips. In fact, several of our member labs suggest that the use of tin has actually increased in recent years to replace metals like lead or cadmium, which have been targeted by recent product safety initiatives, including the Consumer Product Safety Improvement Act (CPSIA) passed by Congress in 2008.

In our industry, but I suspect in many others, there is still an incredible lack of awareness of this provision, much less the breadth of companies this law will affect.

Second, the provision has a major effect on those in the business community who are least able to affect change in the conflict zones in Africa.

In our industry, the uses of these minerals are *de minimis* even after accounting for greater uses in recent years. Yet the smallest apparel or footwear company will be

equally liable as a company that is a major consumer[1] of large quantities of these minerals. Although we are now learning that tin is more commonly used than we thought, its use is confined in our industry to very, very small quantities that are encountered inconsistently across a great many styles and brands.

Compounding this is the simple fact that fashion changes all the time. Except in rare circumstances, design houses are constantly varying component pieces and suppliers to accommodate ever changing styles and consumer demands. In one year, a company may find that four products, or styles, out of thousands trigger Section 1502 reporting. The following year may be zero and the year after that may be 20. Compare this to an electronics company that sources millions of the same components over several years with no design or input changes. Just as important, the electronic or accessory components containing the subject minerals in a garment or shoe are often secondary to the manufacturing of the clothing or footwear item. In most cases they will have been purchased off the shelf from a supplier who is itself many steps removed from the mines, or even the smelters, where these minerals originate.

Moreover, only about four percent of the world's production of tin – which is the mineral that is probably of the biggest concern to our industry – comes from the Congo and surrounding areas. This means that we are expending extraordinary resources to trace the origin of a mineral that sometimes is encountered at *de minimis* levels in a few of our products, depending on the season and style, to make sure they do not originate in mines that are found in a region that accounts for four percent of global production of that mineral.

The bottom line is that pressure to create and promote conflict free mineral supply chains will not come from our industry, even if we could somehow declare ourselves to be 100 percent conflict free. While the apparel and footwear industries are leaders in social compliance in many areas, we simply don't have the purchasing power or the business relationships to affect change in this area. However, if other industries, such as the major users of these minerals, are successful in affecting change, our industries will naturally follow suit and absorb that change as well.

Third, the costs associated with Section 1502 are enormous.

Here again, we believe the costs are far larger than the authors expected. Some estimates by Tulane University and the National Association of Manufacturers (NAM) put the cost at $8 or $9 billion, respectively. The costs could be far higher, especially as the impact on other industries like ours is factored into the equation. In the apparel and footwear industry alone it could be in the hundreds of millions of dollars. Consider this: Unless a company is not publicly traded and sells to non-publicly traded customers, it will have to incur costs to determine if any of the four conflict minerals are found in any quantity in its supply chain in a manner that is necessary to the functionality or production of the product. If such determinations find minerals, conflict free or not,

[1]Unless of course that company is not publicly traded and does not sell to non-publicly traded customers in which case it won't be affected at all.

further regulatory costs are incurred in the form of audits and due diligence. Additional costs on top of that come in the form of supply chain training, compliance and legal reviews, and the like. In our industry, such costs would be incurred each season as the thousands of new styles of product introduced must be scrubbed to determine if they contain these minerals and, if so, the source of those minerals.

Absorbing such costs at this point in our economic recovery would be extraordinarily difficult, especially in our price competitive industry where margins are always tight. Moreover, such cost pressures would come as our supply chains are still working to incorporate other more established regulatory requirements, such as recently enacted product safety laws.

Fourth, the lack of tracing technology and infrastructure means that companies do not have a clear and affordable path for compliance.

The draft regulations do not allow companies to simply declare that they do not know if they have conflict minerals in their supply chain because there are insufficient tools to answer the question properly. Yet this reality is affecting most companies today. Our industry is still struggling to create verifiable and effective tracing technologies for materials that make up a central part of our supply chains, such as wool or cotton. We are learning that even greater challenges exist in the minerals industry, which account for far smaller parts of our sourcing.

Going forward, I'd like to make a few recommendations:

First – The regulations need to put on hold until the infrastructure and technology exist to allow companies to come into compliance. Forcing companies to make public disclosures without the proper tools to verify those disclosures is costly, damaging to the underlying goal, and erodes public confidence in the corporate disclosure requirements.

Second – Likewise, the regulations should be put on hold until there is a comprehensive cost/benefit analysis in place that enables policy makers to understand if the regulations can work as intended. Such an approach is a basic element of good government and is consistent with a recent Executive Order directing agencies to conduct such cost benefit reviews.

Third – Once the tools are in place, the regulations need to be phased-in to focus on those industries whose consumption of these minerals will have a major impact in achieving the underlying goal of 1502.

Fourth – The final regulations need to address several critical threshold issues, in addition to the above point about focusing the application of this rule to the industries, products, and components that have the most impact so that the rule would have most effectively achieve its underlying goal. In our comments to the SEC, we detailed a number of these, including:

- Clear definition of the phrase "necessary to the functionality or production" to permit exemptions where the primary function of the product does not involve conflict minerals.

- The designation of a *de minimis* provision.

- Clarification that recycled material is not treated as originating in the DRC or adjoining countries, and therefore does not trigger further reporting or audit requirements.

- Clarifications that the primary obligations should rest with those in the supply chain who are closest to the manufacturing and component purchases vis-à-vis retailers and licensors.

- Flexible, but not prescriptive, guidance on what constitutes "due diligence" and "reasonable inquiries" to accommodate widely varying supply chains in different industries.

Fifth - Once regulations are in place, there needs to be flexible enforcement accompanied by education. This is particularly since SEC penalties can involve heavy fines and jail time. New regulations take time to understand and absorb, especially given today's complicated global supply chains.

* * * *

Thank you again for providing this opportunity to testify on this important issue. As you can imagine, this rule has caused considerable confusion in our industry and in others, particularly since Section 1502 was included in Dodd Frank legislation during Conference without any hearings or opportunities for prior stakeholder input.

Although we support the goals of the Section 1502 Dodd Frank Act to help ensure that such minerals not be used to fuel African conflicts, we are concerned that the regulation may result in significant compliance costs and burdens to achieve a stated goal that is difficult, if not impossible to meet. We are also concerned that many companies may still be unaware of the potential compliance requirements they may face.

We believe the best approach forward is to first answer key questions about the regulations and then define a clear, predictable, and phased in regulatory and enforcement regime that focuses on those products and processes with the greatest opportunity to make a difference.

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WRITTEN TESTIMONY FOR THE RECORD
TO THE
SUBCOMMITTEE ON INTERNATIONAL MONETARY POLICY AND TRADE
GIVEN BY
BISHOP NICOLAS DJOMO LOLA
PRESIDENT OF THE CATHOLIC BISHOPS' CONFERENCE OF THE CONGO
MAY 10, 2012

I am Bishop Nicolas Djomo Lola, Bishop of the Diocese of Tshumbe in the Democratic Republic of the Congo (DRC) and President of the Catholic Bishops' Conference of the Congo (CENCO in French). I would like to thank the Honorable Representative Gary Miller, Chairman of the Subcommittee, and the Honorable Representative Carolyn McCarthy, Ranking Member, for the opportunity to testify before you today.

I do not come to you as a businessman, nor as a financial expert. I am a religious leader, a pastor, who is deeply disturbed by the terrible violence, misery and suffering that has dominated life in Eastern DRC since 1996.

You have heard the horrific stories of death and destruction. You know of the millions of deaths due to violence and the ghastly number of our women who have been brutally beaten and raped. In addition to the victims who have been maimed, tortured and raped, the violence has led to the loss of health centers to treat common, curable diseases. There has been a disintegration of families, villages and communities. One prominent driver of this violence is the illicit mining and trade in conflict minerals conducted by the many armed groups in Eastern DRC.

In order to protect human life and dignity, the Church in the Democratic Republic of the Congo (DRC) publicly supported the passage of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. In October 2011, I came to the United States to defend the Congolese people and to argue for strong and effective regulations that would respect the intent of Section 1502 of the Dodd-Frank Act. I met with State Department officials, Members of Congress, and Chairman Mary Schapiro of the Securities and Exchange Commission. Today, in the name of our Conference of Bishopsand the thousands of people we serve, I urge Congress to encourage the Securities and Exchange Commission (SEC) to:

- establish regulations that are robust and rigorous enough to accurately show the origin of the minerals that will be used to produce products that we use every day;
- finalize the regulations as soon as possible and to set specific dates by which companies start reporting;
- include all companies as proposed by the SEC; and
- ensure that key information provided by the companies to the SEC ismade available to the public and the Congolese people to verify.

This situation is the largest humanitarian tragedy of our time, but it is only the latest chapter in a long history of armed pillage of our country. Our beloved nation fell prey to what is now called the "resource curse" long before the term was coined. In colonial times our land was devastated for its wood, ivory and precious metals, using slave labor to extract resources. Only a few years after our country's independence, a civil war broke out in the province of Katanga, fueled in large part by the industrial-level exploitation of copper. Today, a year after celebrating our 50th anniversary of independence, our natural resources continue to be a source of misery and suffering, instead of being a resource for peace and prosperity. Even if mining is a major source of national income, this wealth has not significantly benefited the people of the Congo. They live under social and human development conditions that place them near the bottom of the poorest countries of the world. Sadly, this same fate has befallen many other African countries, whether it be the "resource curse" of oil in Nigeria and Chad, or "blood diamonds" in Sierra Leone.

Throughout DRC's long and bitter history, the Catholic Church has stood by the Congolese people. The Church is one of the largest and most trusted institutions in the Congo. The Church's nationwide network of schools and health institutions have educated and cared for millions of Congolese. Our institutional presence reaches the remotest, and often the most dangerous, regions of the country. This network is second only to that of the national government, and frequently works where the government cannot.

The Church also has established many diocesan-level human development institutions that work with international NGOs such as Catholic Relief Services (CRS). We empower people to produce better crops, set up small businesses and give hope to women who are victims of rape used as a weapon of war. One excellent example of a development project addresses a disease that is devastating one of the country's staple crops, cassava. Working with CRS and funding from the Bill and Melinda Gates Foundation, we are producing a new variety of cassava that is resistant to the disease and thus restoring production to a level that can feed whole families and even villages.

To counter the decades of war and bad governance, the Church created a network of Peace and Justice Commissions aimed at empowering civil society to defend the life and dignity of all Congolese and to protect people from the effects of war. For example, during the last national elections, the Church fielded 30,000 electoral monitors, more than any other institution, national or international. The Church monitors brought a degree of transparency and accountability to a new and still struggling democracy. The final Church report on the elections was widely acknowledged and quoted by a number of international observers and institutions. Through funding from the State Department's Bureau of Population, Refugees, and Migration (BPRM) and USAID, communities are forming protection committees and developing community protection plans. These protection plans include the installation of high-frequency (HF) radios that are used as part of an early warning system to send and receive timely information on security threats and incidents, as well as to communicate more efficiently about the evolving humanitarian situation in these remote areas.

Church staff members, with our development partners, work with communities in the mining areas to protect them from violence. Our staff has even met with militia leaders in an attempt to

end the violence and the illicit mining in order to rebuild the communities that have been devastated. We know that most people in Eastern Congo believe that their poverty is linked to the violence and civil war that surround them. They also realize that this violence is directly connected to,and fueled by,illicit mining.

Observers in Eastern Congo have seen a clear geographical overlap between the mining areas and the areas where the incidence of rape is high. Once a militia group gains access to a mine's resources, they use the revenue from the sale of the minerals to buy arms and recruit new militia and mine workers, thereby militarizing the conflict and furthering the cycle of violence.

Illicit mines and minerals also fuel other causes of violence and suffering. Many local and regional sources of conflictstem from questions of identity, who is perceived to be an indigenous Congolese.Indigenous Congolese have the right to own land. Those who are not Congolese, even if they have resided in Congo for years, can be denied ownership of land. The mines and the revenue from the sale of the minerals militarize the conflict over identity and land by injecting deadly firearms that sustain the conflict and make it more intractable. Militias use the firearms purchased from the sale of conflict minerals to extort money in the form of "illicit taxes" from citizens. The Church maintainsthat if the illicit, unregulated and unofficial mines were removed from militia control and transformed to legal, transparent and official operations, these mines would then serve the common good of the Congolese people.

Church staff has gone to mining operations. We have seen the unsafe, dangerous and deplorable conditions under which many people, including children, work.With armed guards standing over them, these people are like slave labor.We have also seen the terrible environmental damage caused by these mines, leeching toxins into the soil and water so that villagers have no safe drinking water and their farmlands are destroyed.

The Church has learned that there is some controversy over the impact of the Dodd-Frank law. We are aware that the *de facto* embargo instituted by some companies is leading to the loss of work in the mines. From our work and extensive network on the ground, we know that most people in Eastern Congo earn their living, meager as it may be, through subsistence agriculture. The mines "employ" a much smaller portion of the population and their working conditions often violate their basic, God-given human dignity. Many more people have been displaced and damaged by the violence than have received"income" from illicit mines.

The Church also knows that in the long term, people's livelihoods and futures cannot truly improve while armed groups control the illegal economy that the mines provide. If we can sever the link between the mines and the militias,we believe that we can curtail the violence and allow people to rebuild their communities and resolve the underlying causes of their conflicts. The hundreds of thousands of people who are currently displaced and dependent on emergency assistance could return to their homes. The women who have been traumatized by rape couldreceive healing care. Health clinics and schools couldbe rebuilt. Development assistance couldbe expanded so people can move from their meager dependence on subsistence agriculture to better crops. Better crops mean families will have more food, can send their surpluses to market, can educate their children and may be able to seek employment off the farm. All of

these gains in the medium and long term will greatly surpass the loss of demeaning work in the mines.

The passage of the Dodd-Frank law has already had a positive impact. In our informal talks,small-scale mineral buyers (comptoirs) tell us that they are willing to work with civil society and international businesses to establish legal and transparent supply chains that would re-establish formal, regulated and safe mines. We hear that international businesses have arrived in Eastern Congo to explore how such legal and transparent supply chains can be built. USAID has started to invest in this effort to facilitate its progress.

Again I am not an expert on the mechanisms needed to implement the legislation; however, I would note, according to an April 2011 International Crisis Group (ICG) report,that since 2009 two Organization for Economic Cooperation and Development (OECD) initiatives by European institutions have attempted to establish traceability and certification initiatives. In addition, four trading centers set up in North and South Kivu work in accordance with the provisions of UN Security Council Resolution 1906 of 2009 that improve transparency. The two OECD efforts had no legal authority,whereas the Dodd-Frank Act has added U.S. Government legal status. The EU is now preparing regulations similar to the Dodd-Frank Act. On March 1, 2011 the Congolese Mining Authorities introduced traceability procedures and began to formalize the informal sector in eastern Congo. The ICG says that these efforts still require improving the administrative capacity of the DRC and surrounding countries, addressing corruption in the DRC, and strengthening security sector reform.

A recent UN Experts Report to the Security Council said that mineral ore production in North and South Kivu fell in 2011 as the number of buyers for untagged minerals from eastern DRC declined. Conflict financing also fell. By contrast, non-conflict areas have seen greater implementation of due diligence and traceability systems, improved governance and rising exports. Although large amounts of conflict minerals still leave the country, if international businesses favor non-conflict mines, they and international donors can partner with the International Conference on the Great Lakes to strengthen its efforts to stopthe remaining illicit trade in minerals. This would complement the efforts in the DRC to do the same in Eastern Congo.

These are still daunting tasks, andthey require the unqualified support of the international business community to do its part.

For too many decades Africa's export of oil, diamonds, precious metals, and minerals hasbeen more of a curse than a blessing, but this situation is beginning to take a turn for the better. The international movement to ban "blood diamonds" that created the Kimberly process was a great global success story. The "Publish What You Pay" initiative is another global movement to empower people in developing countries to hold their governments accountable for the income that they receivefrom natural resource extraction.

Section 1502 of the Dodd-Frank Act opens yet another chapter in the effort to delink conflict, violence and the resultant suffering from the international trade in minerals. It was a bold move that showed United States global leadership at its best. This act was duly noted by other

countries of the world, and by international business and businesses in our own country. It displayed the willingness of the U.S. government to place the moralvalues that Americans hold dear over a blind search for profitable commerce, no matter what the social costs in foreign countries. The people of the Congo saw this legislation as a true expression of solidarity with the women, families and villages who have suffered at the hands of those who destroy our communities to mine our resources. Improvements in transparency of the minerals trade in the Eastern Congo are happening largely because of the legislation that you passed in these hallowed halls. It is our hope that the rules that the SEC will establish will live up to the laudable goals of this provision in the Dodd-Frank Act.

The Church in the Congo trusts that the international business community can and will join us to protect the life and human dignity of the Congolese people by conducting legal, transparent and accountable international commerce. We are confident that theydo not want to be part of the violence and suffering that has plagued Eastern Congo over the last fifteen years. We ask the powerful and resource-rich companies of the United States to consider the heavy and gruesome social costs of the illicit mining sector in Eastern Congo as theycalculate theircosts and actions to comply with Section 1502 of the Dodd-Frank Act. Thesecalculations are notjust simple cost estimates on a spreadsheet. Instead, thiswork must be seen in terms of a global social balance sheet that places greatest priority on the value of the lives that can be saved by the simple act of conducting due diligence to determine whether legitimate business transactions are tainted by the violence and suffering.

We have full confidence in the good will of the Congress, the SEC and business sector to realize that this is not the time to water down SEC regulations to half measures that may save money, but cost lives. What the people of the Congo need and the U.S. Government and American companies can provide aresimple and responsible actions that increase transparency and reflect the moral values that made the United States a respected world leader.

✠ Nicolas DJOMO LOLA
Bishop of the Diocese of Tshumbe and
President of the Catholic Bishops' Conference
of the Congo (CENCO)

Before the Subcommittee on International Monetary Policy and Trade
U.S. House of Representatives

Hearing on
"The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"

Statement of
Steve Pudles
Chief Executive Officer of Spectral Response LLC
Chairman of the Board of IPC – Association Connecting Electronics Industries

May 10, 2011

Chairman Miller, Ranking Member McCarthy and Members of the Subcommittee, I am pleased to be here today to discuss the Security and Exchange Commission's proposed rule on implementation of Section 1502 of the Dodd-Frank Act.

I am Steve Pudles, CEO of Spectral Response LLC, an employee-owned electronics manufacturing services (EMS) company located in Lawrenceville, Georgia. We employ 135 people at our 72,000 square feet facility and I'm proud to say that in 2008 we were Georgia's manufacturer of the year in the medium company category. We provide a wide range of services for our customers from electronics assembly to product build to third party logistics. And our customers range from small start-ups to large publicly traded corporations.

I am here today as well in my capacity as the Chairman of the Board of IPC —Association Connecting Electronics Industries. The IPC is a U.S. headquartered global trade association, representing all facets of the electronic industry, including but not limited to companies that design, manufacture and assemble printed circuit boards. Contrary to common perception of electronics manufacturing, the majority of IPC's members are small businesses. Printed circuit boards and electronic assemblies are vital to the operation of electronics products ranging from computers, cell phones, pacemakers, to sophisticated missile defense systems. IPC has more than 3,000 member companies of which 1,900 are located in the U.S.

The subject of this hearing is critically important to IPC members who collectively manufacture products that incorporate all four of the key metals refined from conflict minerals. Both Original Equipment Manufacturers (OEMs) and electronic manufacturing service (EMS) providers, such as my own company, use tin-based solder to attach components to printed circuit boards through soldering. These components include integrated circuits (chips), connectors, capacitors, batteries, etc., all of which contain one or more conflict minerals. Many printed circuit boards are finished with tin surface finishes. A number of printed circuit boards also contain gold plating for specific electrical connections.

At the outset of my testimony, I would like to recognize the good intentions of those members of Congress who authored Section 1502. By all accounts, the human rights situation in the Democratic Republic of Congo is grave. While Section 1502 has come under very legitimate scrutiny, I am grateful that my government struggles with the complexities of international conflict resolution and human rights crises.

IPC has been engaged in the conflict minerals issue for the last several years. IPC has worked with its members that supply electronic solder to encourage their suppliers --- the smelters --- to engage in conflict free sourcing. IPC is actively participating, along with its members, in the pilot implementation of the OECD due diligence guidance. IPC members are working to develop a due diligence guide for small businesses in the electronics manufacturing sector and are developing supply chain communication standards as well.

IPC supports the underlying goal of Section 1502; but quite frankly, I am concerned that the SEC's draft implementing regulations places great burdens on the private sector without having the intended positive effect on people in the DRC. In fact, there is mounting evidence of unintended negative consequences associated with companies' efforts to prepare for compliance with anticipated regulations.

I do not purport to be a subject matter expert on the issues that plague the DRC, but I can speak to the effects of the proposed regulations on companies like my own. In my testimony today, I would like to share with the Subcommittee how the draft rule is likely to impact my business and the electronics industry. Understanding the true costs and challenges of this regulation is an important aspect of finalizing reasonable requirements on the private sector.

Finally, I would like to encourage the SEC to implement the requirements of Section 1502 in a manner that supports the goals of the statute without unduly burdening U.S. manufacturing industries or causing unnecessary disruptions of the minerals trade, which is vital to the livelihood of the people of the DRC. To this end, I would like to offer my industry's views about sensible changes or additions to the proposed rule that could dramatically mitigate the costs while maintaining the spirit of Section 1502.

I. Costs of Implementation

Members of the committee make no mistake, the regulations proposed by the SEC will impose a significant cost on my company and companies like mine. The irony, of course, is that my company is not an SEC issuer and so, in theory, we are not the subject of the regulations. In practice, however, the forthcoming regulations will impact us through the due diligence needs of our customers, over a quarter of which are SEC issuers.

Briefly, I would like to talk about these costs in the context of my company. Over the last several months my customers have asked me to begin auditing my supply base. Each of my customers has had a different due date for information and when I talk to peers at other companies; they are experiencing the same thing. Audit requests from customers are sweeping through the industry and the regulation has not even been released.

My company has 15,000 part numbers growing to 20,000 by the end of year. Determining the mineral content in all these parts is a herculean task not to mention the extensive auditing of my supply base with the hope they will be able to trace the raw material in their parts to a supplier and then to a smelter and then to the mine.

I expect that I will have to hire an audit company to perform the audit and I will have to hire additional staff to manage the audits. I will also have to buy a software program to collect the data ensuring that the data is compatible with both my suppliers and my customers.

A variety of cost analyses have been conducted on the proposed rule[1,2,3,4]. An independent analysis of the costs, conducted at the Payson Center for International Development at Tulane University Law School[5] at the request of Senator Durbin, estimated total costs of $7.9 billion, over 100 times the estimate by the SEC.

More specifically, in the electronics industry, an IPC survey[6] of our members in the electronic interconnection portion of the electronics supply chain indicated median costs in excess of $230,000 per year to comply with Dodd-Frank. This is a significant expenditure for companies in my industry which operate on very slim profit margins – industry average of 6.6% in 2011[7].

PCB and EMS companies and their direct suppliers make up a small part of the entire electronics industry. In this group of industry segments alone, the estimated cost impact of due diligence is estimated at roughly 279 million dollars in the first year, with ongoing annual costs expected to be around 165 million dollars.

As a chief executive working hard to keep my company profitable in difficult economic times, I am troubled that the SEC's analysis on the impact of the regulation significantly underestimates the impact and cost to U.S. manufacturers. The SEC has underestimated the cost number of issuers affected by the rule, failed to account for all of the derivatives regulated under the proposed rule, underestimated the cost of compliance for affected issuers, and failed to consider the enormous burden on the supply chain. Just as we should not ignore the human rights violations in the DRC, we should not remain blind to the real costs of these regulations. By appreciating the burden to companies like mine, sensible changes can be made to the draft regulation.

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[1] Chris Bayer, Tulane University, "A Critical Analysis of the SEC and NAM Economic Impact Models and the Proposal of a 3rd Model in view of the Implementation of Section 1502of the Dodd-Frank Wall Street Reform and Consumer Protection Act, October 17, 2011.
[2] IPC. "Results of an IPC Survey on the Impact of U.S. Conflict Minerals Reporting Requirements." February 2011.
[3] 75 Ref. Reg. 80966.
[4] National Association of Manufacturers (NAM). Comments submitted to the SEC. March 2, 2011.
[5] Chris Bayer, Tulane University, "A Critical Analysis of the SEC and NAM Economic Impact Models and the Proposal of a 3rd Model in view of the Implementation of Section 1502of the Dodd-Frank Wall Street Reform and Consumer Protection Act, October 17, 2011.
[6] IPC. "Results of an IPC Survey on the Impact of U.S. Conflict Minerals Reporting Requirements." February 2011.
[7] IPC Global Quarterly EMS Statistical Program.

II. Comments on the Proposed Regulations

The SEC has faced a challenging task in drafting regulations to implement Section 1502 of Dodd-Frank. At IPC, we do appreciate the extra time the SEC has taken to finalize a rule, and we are hopeful that this final rule will take into account the concerns the electronics industry has articulated since passage of Dodd-Frank.

The anticipated compliance burdens stemming from the draft regulations are, in a large part, related to a small number of provisions exacerbated by very short deadlines on the private sector. Accordingly, a few key regulatory provisions, when paired with sufficient implementation time, could greatly decrease the burdens associated with the regulations, while still meeting the underlying goals of Section 1502 of the Dodd-Frank legislation.

I'd like to use the remainder of my time to highlight a few of these key recommendations, which are further detailed in IPC's comments to the SEC.[8]

A. Phase-in Implementation

The anticipation of the regulations has already resulted in a de-facto embargo on minerals from the DRC. Due to the absence of broad-scale tracking and traceability for minerals from the DRC, a number of companies have sought to avoid conflict associated minerals by altogether avoiding procurement of minerals from the region.

Congo's share of world tin sales dropped to 2 percent last year from about 4 percent in 2008, when it was the fifth-largest supplier, according to an article[9]. In North Kivu, home to the country's biggest tin mines, mineral sales have fallen more than 80 percent in the past three years, according to the mines' ministry statistics.[10] This has caused disruption in the minerals trade and is causing significant financial hardship to thousands that depend on the legitimate minerals trade for their livelihoods.

The most valuable change the SEC could make to its draft rule is the inclusion of a reasonable phase-in provision giving companies, like my own, a transition period to understand the final regulations and query our supply chains accordingly. Doing so would ensure that compliance with regulatory and customer requirements would be done effectively and efficiently. Additionally, a phased implementation of conflict minerals regulations will also better align regulatory requirements with developing traceability and transparency systems, thus reducing the unintended negative consequences of the regulations.

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[8] IPC Comments on SEC Proposed Rule on Conflict Minerals, 17 CFR Parts 229 and 249, [Release no. 34-63547; File No. S7-40-10], RIN 3235-AK48, IPC-Association Connecting Electronics Industries, March 2, 2011

[9] Bloomberg News. Congo Clashes Thwart Plans to Export Conflict-Free Minerals. May 2, 2012.

[10] Congo Clashes Thwart Plans to Export Conflict-Free Minerals, By Michael J. Kavanagh, Bloomberg, May 2, 2012

According to a United Nations report[11] the implementation of due diligence programs, specifically traceability systems in the DRC is severely lacking. For many mines and smelters the desire to implement due diligence measures is present but the necessary infrastructure to do so is non-existent. Certain non-conflict areas have been able to implement due diligence programs and as a result, these areas have seen improved governance, mineral production, and export of minerals. In addition, buyers for minerals that are not "bagged and tagged" have decreased, except for three smelters in China. According to a recent OECD report[12], areas that have yet to implement due diligence measures continue to struggle. The UN report states:

> "In areas where no traceability systems have been introduced, particularly the Kivus and Maniema, mineral production and exports have fallen. This has not only decreased conflict financing, but also weakened mining sector governance, with a greater proportion of trade becoming criminalized and with continued strong involvement by military and/or armed groups."

IPC members are actively working to improve transparency and accountability within their supply chains. I want to commend our sister trade associations, ITRI, Electronic Industry Citizenship Coalition (EICC), Global e-Sustainability Initiative (GeSI) for their tireless efforts over the past several years in the DRC to certify legitimate minerals trade and establish smelter audit programs. At best, these programs could take another 1-2 years to be fully functional. Failure to establish a realistic, implementable time-line for required supply chain transparency will result in continuing significant, negative unintended consequences for those engaged in legitimate minerals trade. It is highly unlikely that a full scale-up of these programs will be possible in time to allow issuers to rely upon them in the year immediately following implementation of the regulations.

A phase-in of the regulations will allow industry and local governments to continue to make progress on due diligence measures that will benefit the region. During the phase-in period, IPC recommends that issuers be required to disclose to the SEC: 1) that specific conflict minerals are necessary to the functionality of a product manufactured by the issuer; 2) the company's conflict minerals policy; 3) the company's efforts to exercise due diligence on the conflict minerals used in their product. IPC recommends that during this phase-in period, companies that are unable to determine the source of their conflict minerals would not be required to complete a CMR, as the legislation requires such a measure only for companies whose conflict minerals did originate in the DRC or adjacent countries.

Implementation of this phase-in would provide for an orderly, cost-efficient transition that promotes the goals of the legislation without inflicting undue burdens and harm upon U.S.

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[11] United Nations Security Council. Letter dated 29 November 2011 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council. December 2, 2011. http://www.un.org/ga/search/view_doc.asp?symbol=S/2011/738.

[12] Upstream Implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. May 2012.

issuers, their suppliers, and those engaged in the legitimate trade of conflict minerals from the DRC.

B. Indeterminate Category

The SEC can also help mitigate the unintended consequence of a de facto ban by establishing a transitional category of conflict minerals of indeterminate source. This third category is envisioned to be of a short and temporary nature according to a schedule that will allow enough time for implementation of supply chain traceability in the DRC and adjacent countries. By providing a third category of conflict minerals for a transitional period approach, companies will not be encouraged to impose a de-facto ban on legitimate trade from the DRC in order to avoid identifying their products as supporting conflict in the DRC.

C. De-Minimis

Manufacturers, including myself, will find it difficult to determine not only the presence of each mineral but the specific amount contained in each product. In my opinion, an effective regulation would focus on economically significant uses of conflict minerals. The SEC can accomplish this by instituting a de-minimis threshold. Establishing a de-minimis threshold would allow the SEC to focus on products containing a significant amount of conflict minerals in a manner that will change supply chain behavior. Should the SEC not wish to implement permanent de minimis standards, IPC recommends the use of de minimis standards for phasing-in the regulation. By focusing only on significant uses of conflict minerals first, the SEC would improve the efficiency of implementation and ease the compliance burden on some of the less significant users of conflict minerals, while maintaining consistency with the intent and goals of the rules.

D. Synchronized Reporting Schedule

Although my company is not a SEC filer, many of my customers are. Therefore, in order to keep their business, I must comply with customer requests to provide the necessary information on the presence and source of conflict minerals in the products. I am not alone. Many electronics manufacturing companies are not SEC filers, leaving them in the same situation as me. The SEC can significantly reduce the substantial burden on the supply chain by implementing a single reporting date for all issuers. Requiring reports throughout the year, in concert with each issuer's annual report will require my company to constantly be replying to conflict minerals inquiries, posing a significant burden. Because my customers are likely to be on different reporting schedules, I will likely have to conduct due diligence and support third party audits repeatedly throughout the year. A single reporting date will allow for increased efficiency and thus lower costs, without reducing the effectiveness of the regulations.

E. Exemption for Recycled and Scrap Materials

The electronics industry is committed to environmentally sensible practices and has been involved in a variety of efforts to further that objective. Many companies, including my suppliers, use recycled metals in order to reduce the amount of virgin materials required in the manufacturing process. It is imperative that the SEC does not diminish these efforts by adding significant regulatory burdens to the use of recycled or reclaimed conflict minerals. The final rule should include an alternative approach for recycled or scrap sources that is practical and does not overly burden recycled materials so as to discourage their use.

An issuer, or the supplier of an issuer, using a recycled material containing conflict minerals will not be able to provide any of the details required in a CMR. The traceability of the reclaimed metals is impossible to track due to the various forms of recycling and thousands of consolidators, reclaimers, and scrap dealers both foreign and domestic. Instead, issuers should have a reasonable basis for believing the material is recycled and maintain auditable records to support the determination. IPC believes that due diligence is the appropriate requirement for verifying recycled or reclaimed conflict minerals.

Use of recycled materials is a significant part of the metals trade and needed to decrease the demand for minerals from the conflict regions in the DRC or adjoining countries.

F. The SEC Should Provide Non-Binding Examples of Appropriate Due Diligence

Given the varying circumstances affecting the broad range of companies impacted by this rule, the SEC should not prescribe specific due diligence requirements as it would impose significant burdens, especially to companies that are small businesses. The SEC should, however, provide assistance to companies by identifying examples of acceptable due diligence such as industry developed smelter validation audits, the bag and tag scheme being developed by ITRI, information or standards provided by the Department of State or other federal agencies, the OECD standards, and others. Provision of a list of acceptable standards and guidance will provide important assistance to companies without hampering their ability to comply in a manner that is both efficient and appropriate for their circumstances.

G. The SEC Should Clearly Define Covered Products.

The electronics sector I represent typically assembles electronics for Original Equipment Manufacturers (OEMs) or name brands. Although many of these items contain conflict minerals, my company typically does not control selection of suppliers or material sources for the majority of products we manufacture. Further, this may put my company in the position where I do not have sufficient leverage over a supplier selected by an OEM, placing an excessive burden on my company. Issuers who purchase or assemble products from an approved supplier list controlled by their customers should be exempted from the proposed reporting requirements for those items they do not specify.

The SEC should not consider conflict minerals necessary to the production of a product if they are not contained in the product. The SEC should not consider conflict minerals necessary to the production of a product even if the tool or machine containing conflict minerals was manufactured for the purpose of producing the product. Such an approach would be much broader than intended by the legislation. Additionally, such an approach would be very difficult for the SEC to implement or enforce, given the difficulty of determining and verifying which equipment is designed for what production process. Finally, this reporting may be unnecessarily duplicative, as any issuer manufacturing tools or machinery would be required to comply with the proposal if conflict minerals are necessary for the functionality of the tool or machine.

III. Conclusion

In conclusion, on behalf of my company and IPC's over 3,000 members, I urge the SEC to implement the requirements of Section 1502 in a manner that supports the goals of the statute without unduly burdening U.S. manufacturing industries or causing unnecessary disruptions of the legitimate minerals trade, which is vital to the livelihood of the people of the DRC.

Thank you for the opportunity to address you today.

Laura E. Seay
May 10, 2012

United States House of Representatives Committee on Financial Services
Subcommittee on International Monetary Policy & Trade

Hearing on "The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo."

Chairman Miller, Ranking Member McCarthy, and members of the subcommittee, thank-you for the opportunity to appear before you today. My name is Laura Seay, of Atlanta, Georgia. I am an assistant professor of political science at Morehouse College, where I research community and international responses to state fragility and conflict in central and eastern Africa. My testimony does not reflect any official views or policies of Morehouse College; they are my personal opinions as a scholar who studies the Democratic Republic of Congo. I appreciate this opportunity and will focus my remarks on the effects of Dodd-Frank Section 1502 in the eastern Democratic Republic of Congo.

Background

The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act contained a provision intended to help mitigate the effects of armed conflict in the eastern Democratic Republic of Congo (DRC). Section 1502 of the Dodd-Frank Act requires corporations registered with the U.S. Securities and Exchange Commission (SEC) to disclose whether any materials in their products contain "conflict minerals" from the DRC. Conflict minerals are defined as mineral resources that are mined by, sold by, or otherwise associated with armed groups operating in the DRC. The DRC is mineral-rich; in the conflict-affected areas, gold, tin, tungsten, and tantalum are particularly abundant, and approximately 80% of the DRC's overall exports are in the mineral sector. Not all minerals sourced in the DRC's conflict-affected provinces are conflict minerals, and not all Congolese conflicts involve the mineral trade.

There are well-documented links between some Congolese armed groups (including rebel militias and some members of the DRC national army, the FARDC) and the mineral trade in the region; some mines are or have been controlled by armed groups, who use the profits they earn from mining for a wide variety of purposes, including paying soldiers' salaries, purchasing weapons and ammunition, and general expenses. Many of these groups have also engaged in serious human rights abuses, ranging from rape and torture to enslavement and conscription of child soldiers. However, it is important to note that not all armed groups in the DRC are involved in the mineral trade, nor are most of the region's conflicts related to fights for control of mining sites. The causes of the DRC's conflicts range widely, but most involve longstanding disputes over property and citizenship rights.

Section 1502 was included in the Dodd-Frank Act after a concerted effort by a coalition of advocacy organizations to push for greater transparency in the conflict minerals section. These advocates conceived of the conflict minerals trade as a root cause of conflict in the DRC, and view a demand-side approach to stemming the conflict mineral trade as the most realistic means

of reducing armed groups' ability to profit from the DRC mineral trade. Implicit in this understanding was the idea that Congolese armed groups would be less likely to engage in violence if they no longer had access to revenue earned from the conflict minerals trade.

Consequences

Dodd-Frank Section 1502 requires the SEC to promulgate a series of rules for implementation of the act's requirements. The legislation required that these rules be released no later than 270 days following the act's passage in July 2010. However, as of May 2012, the regulations have yet to be released, meaning that Section 1502 has yet to be implemented in any meaningful way. Regardless, the Act has had significant and serious unintended consequences in the Democratic Republic of Congo. The first of these was a six-month ban on all mining and mineral exports in the North Kivu, South Kivu, and Maniema provinces implemented by the Congolese government from September 2010 to March 2011. Ostensibly enacted for the purpose of disarming militias and removing them from control of the mines, the ban instead provided an opportunity for the FARDC to take control of some previously non-militarized mines, such as the one at Kamituga, South Kivu. There is also evidence that human rights abuses increased as a result of the ban.

There is little question that this ban would not have been enacted were it not for Dodd-Frank Section 1502; there was little to no incentive for the Congolese government to act on the issue prior to mid-2010. Likewise, industry began responding to the perceived impact that Section 1502 would have shortly thereafter. In April 2011, a *de facto* boycott of minerals from the Congo's conflict-affected provinces developed as smelters and other buyers began refusing to buy any Congolese minerals because proving whether those minerals are conflict-free or not is virtually impossible in most cases. Most significantly, the Malaysia Smelting Corporation (MSC), which had previously purchased up to 80% of eastern Congolese tin, stopped buying from the Congo. Mineral exports from the eastern Congo have plummeted; tin exports, for example, are down by 90%.

The effects of the government ban and the subsequent *de facto* boycott on eastern Congolese minerals have been devastating in mining communities and for the regional economy. A large, but unknown, number of miners are out of work; some estimates place that number as high as 1-2 million, while others count tens of thousands, which is probably more realistic. Not counted in those numbers are the traders, market sellers, and transporters whose ability to earn money depends on miners' ability to spend money. Many miners have moved to gold mines in Ituri and other areas, from which it is easy to smuggle the product for which global demand is currently very high. The 2011 Report of the United Nations Group of Experts on the Democratic Republic of Congo noted that smuggling increased in 2011.

Meanwhile, the Congolese people have experienced very few of the promised benefits of a reduction in the conflict minerals trade. While the Congolese army did withdraw from the Bisie cassiterite mine in Walikale, North Kivu, most of the mines that were previously under control of armed groups are still under the control of one armed group or another. Violence in the region is getting worse, not better; over the course of the last three weeks, the United Nations High Commissioner for Refugees fighting between dissident FARDC mutineers and the army has displaced at least 500,000 people in North Kivu alone. While dissident Congolese army officer Bosco Ntaganda has clearly benefitted from the conflict mineral trade to the tune of millions of

dollars, there is little evidence that the *de facto* boycott on export of those minerals has negatively impacted his ability to fight.

Quality of life for many Congolese mining communities, however, has significantly declined. To be clear, to be a Congolese miner or living in a Congolese mining community in conflict-affected areas is to live a terrible and dangerous life. The United States government should absolutely support efforts to address real issues in the mines such as enslavement, rape, dangerous conditions, and other abuses of miners and their families. But for many Congolese citizens, mining represents the least worst of very limited and terrible opportunities for economic gain. In most mining communities, mining is the only paid employment available. The alternatives are to engage in subsistence-level agriculture or to join a militia. The latter option is obviously problematic; the former leaves parents with no way to pay their children's school fees, doctor bills, or to provide other necessities. Tens of thousands of Congolese thus choose mining despite its many risks and horrors. Without being able to sell minerals under the *de facto* ban, mining families who were once able to scrape by on next-to-nothing are now unable to pay for even the most basic goods. Their children are out of school and they are suffering terribly with little assistance.

What Went Wrong

The unintended consequences of Dodd-Frank Section 1502 are real and significant. Where did lawmakers – and the advocates who pushed for the provision – go wrong?

The first mistake was in the understanding of the militarization of the mineral trade as a root cause of conflict in the Congo. Virtually no academic experts on the DRC identify the mineral trade as a cause of any of the country's recent wars. Rather, we understand the militarized mineral trade as a symptom of the country's more basic problem: a lack of governance. There is no rule of law in most of DRC; justice in most courts is for sale to the highest bidder, criminals go unpunished or can bribe their way out of jail, and the central state in Kinshasa is not capable of maintaining the DRC's territorial integrity. Given this context, there is no question that anyone who can engage in human rights abuses, illicit mineral exploitation, and other bad behavior will almost certainly do so – including armed groups. The militarized mineral trade is one of many manifestations and consequences of a lack of governance, rule of law, and the DRC government's ability to impose basic law and order throughout its territory.

We know that minerals themselves are not a cause of violence in the Congo; by such logic, the diamond-rich areas of Kasai in central Congo and the southeastern Katanga province should be at all-out war. Yet they are not. Minerals play a role in fueling Congolese conflicts, but they did not cause them. Other dynamics – namely fights over land and citizenship rights – are the causes of eastern Congo's violence. Just as attacking the symptoms of a disease will not lead to a cure, going after the conflict mineral trade in the DRC is unlikely to work so long as the underlying problem persists.

Another mistake underlying the rationale for passing Dodd-Frank Section 1502 is the idea that attacking the mineral trade is a means of mitigating violence in the DRC. As previously noted, advocates and policy makers involved in Section 1502's passage believe that Congolese armed

groups will be less likely to engage violence if they lack access to revenue earned from the conflict minerals trade.

This sounds like a reasonable claim, but there is little evidence to show that it is true. There has never been a time when a targeted effort to reduce access to revenue from one sector for a group engaged in human rights violations slowed or ended violence. The divestment movement towards apartheid-era South Africa was largely successful, but that targeted an entire economy, not just one sector. Congolese armed groups are not entirely dependent on the conflict mineral trade; some rely quite heavily on it while others have diverse revenue streams. These armed groups have access to – and use – a wide range of other, lucrative income-generating strategies, including extorting the populations in territories under their command, taxing road traffic, the timber and charcoal trade, the banana trade, and, increasingly, trade in cannabis. While there are anecdotal accounts to the contrary here and there, most fighters are highly unlikely to stop fighting simply because they lose access to one revenue stream, a fact that is evidence in the continuing violence in North Kivu today. Thugs do not stop fighting simply because they lose access to one revenue stream. Indeed, many analysts fear that if Dodd-Frank Section 1502 does make it more difficult to trade in conflict minerals, some armed groups will prey on local populations even more than they already do.

Some advocates point to the efforts to end the blood diamond trade in Sierra Leone, Liberia, and Angola as examples that focusing on a particular commodity can end conflict. This is misleading; the Kimberley Process did not go into effect until after peace was restored in Sierra Leone, and the conflict ended after a UN-managed security restoration process. In Liberia, civil war ended because the LURD rebels attained battlefield victories over the national army, and international diplomatic pressure forced President Charles Taylor to leave the country. In Angola, war also ended after a battlefield victory in which rebel leader Jonas Savimbi was killed. The Kimberley Process was far less important in consolidating peace in any of these cases than were efforts at grassroots peace building, infrastructure reconstruction, and re-establishing state authority.

A third mistake leading to the passage of Dodd-Frank Section 1502 was the assumption that traceability schemes can be successfully or partially successfully implemented in a state that lacks effective governance mechanisms. This is a naïve claim that does not reflect the reality of the situation on the ground in the eastern Congo. While developing traceability schemes to clean up the Congolese mineral trade are important – and while there are several simultaneous efforts to do so are underway using the OECD due diligence guidance, the World Bank's PROMINES project, and the ITRI Tin Supply Chain Initiative (iTSCI) and Conflict Free Smelter programs – it will still be exceptionally difficult to verify that all Congolese minerals labeled as "conflict-free" actually are free from association with armed groups. This is due to the DRC's governance issue. It is not an exaggeration to say that almost every public official in the Congo can be bribed. While accurate tagging at mineral extraction sites by non-corrupt watchdogs or community representatives may be possible – and should be encouraged – the length and complexity of the Congo's mineral supply chains mean that there are ample opportunities to falsely label minerals as conflict-free, to pay off officials charged with ensuring clean supply chains, and to otherwise interfere with the traceability process. The idea that a corporation can completely verify that its DRC-sourced minerals are entirely conflict-free is, for the moment, a

pipe dream. This is, not coincidentally, the reason MSC and other buyers stopped purchasing from Congo.

Recommendations

Since the passage of the Dodd-Frank Act, several pieces of peer-reviewed academic research have concluded that Section 1502 is highly problematic for a number of reasons. Writing in *African Affairs*, Barnard College professor Séverine Autesserre argues that the overwhelming Western focus on conflict minerals actually allowed more human rights abuses to occur by drawing attention away from the real causes of Congolese conflict. In *Resources Policy*, Sara Geenen agrees, finding that the 2010 DRC government ban on mining "compound[ed] but does not address different problems associated with ASM [artisanal and small-scale mining]: conflict, informality, poverty, illegality, [and] state control."

Celia Taylor argues in the *Harvard Business Law Review* that, while disclosure regulations can be useful for improving responsible supply chain sourcing, Section 1502's requirements "go far beyond disclosure and may impede issuers' ability to conduct business in the DRC region." Carol Jean Gallo argues in *St. Antony's International Review* that poor specification of what constitutes legal and illicit in the Congolese context makes the implementation of Section 1502 difficult when considering "elements of the militias who…now have access to official channels of exploitation." In a working paper for the Center on Global Development, I have argued that Section 1502 was based on a poor understanding of the complexities of the Congolese situation on the part of some advocates heavily involved in its passage.

Thus far, there is a strong consensus in the scholarly community that Dodd-Frank Section 1502 is a misguided policy that has had negative unintended consequences for the people of the eastern Democratic Republic of Congo. While there is certainly need for more study and the systematic collection of data, it is important to note that there is not a single peer-reviewed article of which I am aware arguing the opposite. Instead, scholars who work on the DRC emphasize the need to take a more comprehensive, community-based approach to peace building, economic development, and infrastructure reconstruction in order to mitigate the effects of the conflict mineral trade.

What should Congress and the Executive Branch do in order to support those who suffer from violence in the eastern Democratic Republic of Congo? Using diplomatic leverage to push the Congolese government to reform its security sector, prosecute and punish those who commit rape and other heinous crimes, and to provide real security that protects civilian populations is an essential step to eliminating the conditions under which the conflict mineral trade thrives. The Department of Defense should continue and expand its efforts to train and professionalize FARDC soldiers through AFRICOM. The US should also work in conjunction with our donor partners to more closely tie requirements for respect for human rights and democracy to the budgetary assistance we provide to the Congolese government each year.

Second, the US should support efforts to build respect for the rule of law and to re-establish the Congolese criminal justice and legal systems into reliable, legitimate institutions that act in the interest of the Congolese people and under the country's laws. Expanding initiatives such as the Mobile Courts program, which currently serves victims of sexual and gender-based violence,

would help considerably in this regard. The Congolese people need legitimate, peaceful institutions through which they can resolve disputes and grievances over property, contract enforcement, and criminal activities.

Finally, the US government should engage more deeply in support for assisting mining communities and other Congolese with developing viable economic livelihoods. Cleaning up and professionalizing the mineral trade is a necessary task that will produce positive benefits, but it will also put tens of thousands of Congolese miners out of work as mechanization requires fewer laborers. Miners and other Congolese workers need to have opportunities for meaningful work beyond subsistence-level agriculture – or joining a militia – that enable parents to provide for and raise children in healthy and safe environments. Providing training and educational opportunities and access to small business loans are two ways that USAID and other US government agencies could help to improve the Congolese economy in a sustainable way that rewards work and supports those who want nothing more than an opportunity to improve their lives. Economic development is intimately tied to improved security in the eastern Congo; as Koen Vlassenroot and Hans Romkema noted a decade ago, peace deals in the Congo will not be sustainable if they do not involve provisions for economic security.

There are no easy answers to solving the DRC crisis, and doing so will take a sustained effort working in partnership with local leaders over the course of several decades and working simultaneously in multiple sectors. While Dodd-Frank Section 1502 was designed to be a partial effort to bring about peace, its consequences for the people of the Congo have instead been largely devastating thus far, and its full implementation is unlikely to significantly improve their lives so long as they do not have the privilege of living under basic, effective governance and the rule of law. The Congolese mineral trade needs to be professionalized and demilitarized, but the method proposed by Section 1502 is unlikely to have such results so long as smuggling is easy and global demand for Congolese minerals is high. For the reasons outlined above, Section 1502 is unlikely to significantly reduce violence in the region or to improve quality of life for most Congolese. Instead, our time and efforts would be better spent working in conjunction with Congolese partners from a wide variety of perspectives to improve security, build the rule of law, and provide viable employment alternatives to mining and armed violence.

NATIONAL ASSOCIATION OF
Manufacturers

Leading Innovation. Creating Opportunity. Pursuing Progress.

Testimony

of Franklin Vargo
Vice President
International Economic Affairs
National Association of Manufacturers

before the House Committee on Financial Services
Subcommittee on International Monetary Policy and Trade

on "The Costs and Consequences of Dodd-Frank Section 1502:
Impacts on America and the Congo"

May 10, 2012

COMMENTS OF FRANKLIN VARGO

BEFORE THE

House Committee on Financial Services
Subcommittee on International Monetary Policy and Trade

MAY 10, 2012

Mr. Chairman, Members of the Committee: Good morning. I am Frank Vargo, Vice President for International Economic Affairs at the National Association of Manufacturers (NAM). I am pleased to appear before this subcommittee to discuss the Securities and Exchange Commission's (SEC) implementation of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), and its implications for America's manufacturers.

The NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. Its membership includes both large multinational corporations and small and medium-sized manufacturers. Our members depend heavily on the global supply chain to compete within the U.S. marketplace and abroad. NAM members have a strong track record of working with the U.S. government to improve supply chain transparency and compliance practices.

Let me emphasize that the NAM supports the underlying goal of Sec. 1502 to address the atrocities occurring in the Democratic Republic of Congo (DRC) and adjoining countries and is working with other stakeholders to address the problem. We need, however, practical implementation rules that will achieve the objectives of the act while not unduly burdening the manufacturing process in the United States.

Generally speaking, Section 1502 requires companies subject to SEC reporting whose manufactured goods contain any gold, tantalum, tin, or tungsten to report annually to the SEC as to whether those minerals "did originate" from the DRC or adjoining countries. In cases in which such conflict minerals did originate in those countries, SEC registrants must submit a report that includes a description of the measures they took to exercise due diligence on the source and "chain of custody" of such minerals. Such a report must include an independent private-sector audit. In addition, the report must include a description of the products manufactured or contracted to be manufactured that are not DRC-conflict free, the facilities used to process the conflict minerals, the country of origin of the conflict minerals, and the efforts to determine the mine or location of origin with the greatest possible specificity.

These requirements pose a potentially huge financial and reporting burden on America's manufacturers, given the breadth of use of these four metals throughout the manufacturing process and the depth, complexity, and constantly evolving nature of modern supply chains. The requirements also potentially affect many tens of thousands of small and medium-sized companies not subject to SEC reporting because they will, in turn, be asked by their large customers to provide the due diligence that will be required by the rule.

The NAM and our members recognize the importance of preventing the use of conflict minerals from the DRC and adjoining countries. We believe, though, that the SEC's regulations can implement the law in a manner consistent with the goals of the legislation without unduly burdening industry and harming American competitiveness.

The final SEC rule that would implement Sec. 1502 needs to be consistent with the realities of global supply chains, and acknowledge the practical limitations that issuers face in attempting to influence the behavior of other parties in supply chains that stretch from downstream users across multiple tiers of suppliers to refiners/smelters and mines.

We believe that modifications to the Proposed Rule are needed to accomplish that end. I would like to note that we appreciate the care with which the SEC has been proceeding, evincing an understanding of the consequences of getting the rule wrong. We have availed ourselves of the various opportunities for input that the SEC has provided the NAM and individual member companies, and deeply hope the final rule is one that provides the practical flexibility we believe is necessary.

In my statement today, I would like to call the Subcommittee's attention to three key points: (1) the need for a phase-in period that includes a category of "indeterminate origin," (2) the need for flexibility in determining due diligence, and (3) the huge cost of complying with this rule, particularly if sufficient flexibility is not provided.

1. The Need for A Phase-in Period with an "Indeterminate Category"

The SEC acknowledged in its draft proposal that standards of reasonableness for origin inquiries and due diligence will evolve over time as reporting and monitoring infrastructure becomes more robust. However, the Proposed Rule does not take adequate account of the extreme limitations that currently exist on the ability to submit meaningful reports and to exercise effective due diligence.

The reporting requirements in the Proposed Rule would become effective immediately, though such important elements of due diligence as the conflict-free smelter program are still evolving, and available information about each of the four metals varies widely. These limitations make it impossible for most manufacturers – especially large companies with diversified product lines – to file meaningful and informative information with the SEC. This disconnect between the proposed effective date of the new requirements and creation of the necessary infrastructure to facilitate compliance with the requirements necessitates a phase-in period.

The NAM and our member companies are grateful that Chairman Schapiro's most recent testimony expressly acknowledged the need for a transition period to allow the many industry, national, and international compliance initiatives that are getting under way to mature to the point where they can assist companies to make meaningful disclosure and to have a real and positive impact on the humanitarian crisis in Central Africa.

Industry and company efforts are underway to attempt to identify and reduce or eliminate DRC conflict minerals in their products. Some companies with very short supply chains are having some success, but they are few in number. Industry groups also have efforts underway. NAM members are participating in numerous international, public-private, and industry-led initiatives to drive change abroad and stop the trade in conflict minerals from the DRC and adjoining countries, including industry-wide smelter certification programs and working to create the needed infrastructure on the ground and around the world to facilitate compliance with the Proposed Rule.

The NAM is working closely with our member companies to increase pressure on conflicted-affected suppliers. In addition, NAM staff have participated in many forums sponsored by sector-specific efforts and international organizations in order to support efforts designed to influence a positive outcome for the region.

Determined efforts are underway, but they have not yet matured. Perhaps furthest along is the Electronic Industry Citizenship Coalition – Global e-Sustainability Initiative (EICC-GeSI). Considerable effort is going into the initiative, with many companies and industries looking it to see if its methodologies can be adapted to their needs. A major part of the EICC-GeSI effort is the smelter certification program to identify smelters that are free of DRC conflict minerals. However, to date, it appears they have been able to certify only 11 of the hundreds of smelters and gold refiners in the world supply chain – all of them tantalum smelters.

EICC-GeSI asked Resolve, an independent non-profit organization, to attempt to "trace" a small sample of electronics supply chains back to the mine and, in a smaller number of cases, to conduct a parallel effort to "track" a subset of these supply chains from the mine downstream. The results of their research – less than a 25 percent response rate from suppliers after six months of intensive effort, despite a limited number of supply chains in a single industry with many common suppliers – attests to the challenges confronting registrants attempting to establish a full map of their supply chain. In its report, Resolve concluded, "This means that today, while end-use companies have the potential to establish and have confidence in sources for some percentage of the metals in their products, they cannot assert 100 percent sourcing certainty about individual metals.... Movement is likely to come in a step-wise manner."

Similarly, the State Department conflict minerals map called for by Section 1502 was so heavily conditioned by its authors as to be virtually useless for due diligence. In its report, the State Department said, "Given the... limitations on the data available, this map does not provide sufficient information to serve as a substitute for information gathered by companies in order to exercise effective due diligence on their supply chains."

The Public-Private Alliance for Responsible Minerals Trade (PPA) is a new, joint initiative with U.S. State Department, the Agency for International Development, non-governmental organizations, and companies and industry organizations to support supply chain solutions to conflict minerals challenges in the DRC. However, it is just getting started, and has not yet let contracts seeking efforts to develop validated, certified, and traceable mines and supply chain routes in the DRC and adjoining countries in order to encourage legitimate mining in the region.

The Organization for Economic Cooperation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas (the "OECD Guidelines") published last year is being tested for feasibility in two pilot projects (which include the participation of NAM members from diverse industry sectors), one of which is just being completed and one of which is just getting underway.

All these efforts are laudable and to be encouraged, but their lack of results so far should not be a reason to penalize companies that, despite their best efforts with what information exists, cannot know the origin of the metals in their products. Moreover, it must be emphasized that even when fully mature these various compliance resources will not enable large manufacturers of complex end products to trace or track the conflict minerals in their supply chains back to the smelter or refiner of origin, much less back to the mine. Modern supply chains are simply too deep, complex, and variable to permit such an exercise in the vast majority of cases. What they can do, when mature, is to enable companies to develop reasonable confidence that they are not sourcing from conflict-affected mines, and collectively to mobilize sufficient pressure across multiple industry segments to dramatically constrict conflict funding.

Accordingly, a phased-in approach is needed. The phased-in approach does not exempt or delay an issuer's requirements to report under the statute. In our proposal to the SEC, every issuer subject to the regulation would undertake, within the imperfect information infrastructure, to disclose to the SEC what information they have been able to develop regarding the use of conflict minerals and the efforts each is taking to increase transparency and stop the use of conflict minerals from the region for the first full fiscal year the regulation is in effect.

During the phase-in period, companies would adopt and clearly communicate to first-tier suppliers the company policy or similar corporate statement for the supply chain of the minerals originating from conflict-affected and high-risk areas. The policy or similar corporate statement should incorporate the standards against which due diligence is to be conducted, consistent with appropriate standards and/or common industry approaches, adapted to company and industry sector circumstances.

Where practicable, companies would begin a process to develop reasonable assurance that they are not sourcing tin, tantalum, tungsten and gold from conflict mines by contacting first-tier suppliers. This process may be implemented through participation in industry-driven programs, national or international standards organizations, and/or through contract flow-down provisions or other written commitments.

As part of this, companies would ask first-tier suppliers to 1) push the new policies upstream to their suppliers, and 2) adopt contract provisions, purchase orders, specifications or use other means to encourage their suppliers to transmit information downstream from smelters/refiners. Thus even within the phase-in period the objectives of the Act would be substantially advanced, without penalizing companies.

For the phase-in period, the SEC should create a temporary third category, "indeterminate origin," for products manufactured or produced with minerals for which issuers, despite their best efforts, are unable in the first years of their programs to determine origin. At least for the first years, issuers should not be required to file a Conflict Minerals Report (CMR) for such minerals. Requiring issuers to submit a CMR and/or identify their products as "not DRC conflict free" when the issuer has not been able to determine the origin after making reasonable inquiry would significantly harm global brands, place U.S. companies at a competitive disadvantage, and damage investor relations even though the issuer has in a place a policy prohibiting the use of conflict minerals from the DRC or adjoining countries in its supply chain that are not otherwise validated as conflict-free. Users of the indeterminate origin category would have to follow SEC-mandated steps in the phase-in period along the lines discussed above.

We recognize there is a concern that an indeterminate category could provide an excuse to ignore obligations under the law. However, the vast majority of issuers subject to the new requirements place a high value on corporate compliance, and will not be "bad actors." Providing false information and knowingly misleading the SEC will have significant negative repercussions for issuers and subject them to penalties under the law. Plenty of checks exist to prevent a company from making reckless inquiries to determine if conflict minerals originated in the DRC or adjoining countries. Given today's regulatory environment, the threat of an SEC enforcement action is a strong deterrent to companies that do not comply with the requirements.

2. The Need for Flexible Due Diligence

The SEC's Final Rule needs to create a flexible due diligence standard that recognizes no two supply chains are identical. The SEC should provide guidance to issuers on what would constitute reliable due diligence, but not mandate a specific set of requirements. Given the diversity of issuers and products affected, issuers should be permitted to develop due diligence plans that are consistent with their supply chains and information available from recognized government sources.

This is consistent with work with the international community to develop global supply chain solutions. Such flexibility is also consistent with other areas of law regarding supply chains and human rights issues. An issuer should be able to create a due diligence program aligned with reliance on reasonable representations from suppliers or a supplier declaration approach and smelter compliance to determine the origin of conflict minerals.

The Commission's Final Rule needs to have a "reasonable country of origin" threshold determination. It is important to understand that perfect certainty with respect to the origin of all conflict minerals in a modern supply chain is unattainable at virtually any price. Rather, the rule needs to reflect the understanding that registrants can comply with the letter and spirit of the Act by making a reasonable, risk-based, good-faith determination based on the totality of their circumstances. Such a determination could rest on such factors as the existence of flow-down clauses in the company's supplier contracts, company policies and use of consensus best practices, and participation in industry-wide, public-private, or international initiatives.

Such approaches are routinely used to achieve other vital government and social objectives, including protection of customer safety and health, quality assurance, environmental protection, and protection of national security and classified technology.

Equally important, due diligence over the source and chain of custody should not be defined to require: (1) that an issuer identify all parties between the mine (or even the smelter or refiner) and its 1st tier suppliers, or (2) that the issuer determine all the materials used in every manufactured item. While some manufacturers with short supply chains, small numbers of product types, and comparatively simple products may ultimately be able to trace metals in their products back to the smelter/refiner or perhaps even the mine of origin, the reality is that no manufacturer of complex end-products can map conflict minerals through the thousands of suppliers in its supply chain back to the smelter/refiner, much less the mine, or achieve a "chain of custody" that would enable it to know with certainty the origin of the conflict minerals in each of the millions of piece parts in its end-products.

Such companies have many tiers of suppliers, with thousands of companies in their supply chains. The Global Research Center for Strategic Supply Management at Arizona State University reports that the average large company has 7,000 suppliers. Many NAM members have 15,000 or more companies in their supply chains, and one company reported that through all its tiers its supply chain has 100,000 companies.

Moreover, NAM member companies' supply chains are not static. They are constantly changing as companies continuously seek new suppliers with better products or more competitive prices or delivery terms. Companies also seek multiple suppliers so as to avoid a situation in which a supply interruption from a single supplier can force a plant shut-down.

The OECD Guidelines recognize the complexity and fluidity of supply chains and the limited leverage end-product manufacturers have on remote tiers of their supply chains. The Guidelines state, "Control mechanisms based on tracing minerals in a company's possession are generally unfeasible after smelting, with refined metals entering the consumer market as small parts of various components in end products. By virtue of these practical difficulties, downstream companies should establish internal controls *over their immediate suppliers* and may coordinate efforts through industry-wide initiatives to build leverage over sub-suppliers, overcome practical challenges and effectively discharge the due diligence recommendations contained in this Guidance."

As noted, some manufacturers may be able to achieve such visibility due to the nature of their supply chains and products, but requiring such tracing or tracking for all manufacturers is not necessary to accomplish the humanitarian purposes of the Act and would impose needless and extraordinary costs on many industry segments. Issuers should have the flexibility to work with direct suppliers to push requirements to use conflict free minerals/metals upstream. The SEC should acknowledge that a risk-based program or use of a risk-based supply chain approach for entities in the supply chain is acceptable in place of a product-based or materials declaration approach.

Compliance with internationally recognized standards or guidance should be considered as a key factor in determining whether an issuer has exercised reasonable due diligence. In particular, compliance with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-affected and High-Risk Areas (the "OECD Guidelines") should be stipulated as a "safe harbor," and be sufficient to meet the requirements of Section 1502.

It is important that the Commission ensure its compliance regime is consistent with the OECD Guidelines. Nothing in the Guidelines is inconsistent with any requirement of Section 1502. The Department of State in seeking to provide guidance to commercial entities seeking to exercise due diligence has endorsed the Guidelines, as have the affected governments in the region and dozens of other countries. Although important aspects of their implementation are a work in progress, they clearly now represent and will continue to represent consensus best practices agreed by the stakeholders.

However, although we believe that adherence to the OECD Guidelines should be evidence of reliability, this framework is newly entering an implementation phase and subject to changes based upon initial implementation efforts. Moreover, the Guidelines may not be appropriate for all issuers. Accordingly, the SEC should treat all accepted international, national, or industry compliance schemes as acceptable means of complying with Section 1502.and should not be the only international standard that is acceptable. Moreover, the Guidelines may not be appropriate for all issuers.

Audits of conflict mineral reports could be the single largest component of ongoing compliance expenses under the Proposed Rule. Clarity and flexibility are both needed as to the appropriate standard and the type of audit required. Any required audit (after the initial phase-in period) should examine a company's due diligence compliance program and procedures, rather than a materials-based outcome approach verifying whether the company was able to trace the minerals in its products back to the smelter.

3. The rule is expected to cost the U.S. industry $9-16 Billion to Implement

The NAM believes that the Proposed Rule is a significant rulemaking and will cost U.S. industry between $9-16 billion to implement. This is a far higher cost than the SEC's estimate of $71 million – more than 100 times higher. As such, we believe the SEC's analysis of the impact of the regulation greatly underestimates the impact on and cost to U.S. manufacturers.

The NAM's detailed estimate is available on our website and on the SEC's as well. Without going into too much detail in my statement today, some of the difficulties with the SEC estimate are that it estimated only 20 percent of the 5,994 issuers would be affected (evidently because the DRC supplies only 20 percent of global tantalum), underestimated the cost of CMR audits by a factor of four, and applied its estimates only to issuers, making no estimate of the cost of compliance for the thousands of companies in the supply chain -- most of whom are not issuers.

The NAM estimated that the average large company has 2,000 companies in its supply chain – a conservative estimate, given that the Global Research Center for Strategic Supply Management at Arizona State University concluded the average large company has 7,000 suppliers.

While the new reporting mandate only applies to companies required to report to the SEC, we expect these requirements will flow through the entire supply chain. The regulation, if insufficiently flexible, could effectively force suppliers not subject to SEC reporting to maintain extensive records of their source materials, costing them thousands of dollars to establish and maintain these records. In its October 25, 2011, letter to the SEC, the Small Business Administration's Office of Advocacy said, "Because the SEC does not take into account the complexity of supply chains and the number of small businesses that are part of those supply chains, the SEC has underestimated the number of small businesses that would be impacted by the Proposed Rule."

The NAM's estimate is corroborated by an October 2011 Tulane University study, which using an independent model in conjunction with the consulting, IT and auditing communities, concluded the cost would be $7.9 billion.

A further report, done by Claigan Environmental, estimated the cost at $800 million. However, as related to the SEC by the NAM's and IPC's analysis of that report, it appears seriously understated. The principal reason for the underestimate is their belief that virtually all companies can use the EICC-GeSI template to comply with the Final Rule. The template is being developed by and for electronics firms that have simpler supply chains and are closer to the smelters than diversified manufacturers. In discussion with NAM member companies, most large companies say they would be unable to use the simple EICC-GeSI template, which is based on an Excel spreadsheet. Companies with thousands of suppliers through many tiers, and hundreds of thousands, if not millions, of parts would need a much more robust system to trace and track minerals, should the SEC require them to do so. Anecdotal evidence supplied by NAM member companies based on their own discussions with external auditors and consultants suggest that audit costs alone for a large company could exceed Claigan's estimates by orders of magnitude.

This, according to Claigan, is the biggest difference between its estimate and the much larger estimates of the NAM and Tulane University. Claigan has not discussed with a range of NAM members whether they can use the EICC-GeSI template. Had they done so they would have found that most large companies would have told them no.

Second, the Claigan estimates are based on an assumption of an average supply chain of hundreds of companies (apparently based on discussions with two companies). As noted in my statement above, the actual number appears to be 7,000, and the NAM's economic estimate was conservatively based on an estimate of 2,000. The costs and complexities of compliance with such larger supply chains are much more formidable than estimated by Claigan.

Additionally, much of Claigan's cost estimate is based on estimates of the cost of complying with the European Union's Reduction of Hazardous Substances (RoHS) regulations. RoHS, prohibits the uses of lead, mercury, cadmium, and three other substances, and it is not an overwhelming problem to conduct physical or chemical tests to determine whether those substances are present. Determining not only what is in the product, but also where the metals and ores came from is hugely more expensive – metals don't have a fingerprint identifying their origin.

Nevertheless, the NAM also cited the RoHS costs in our submission to the SEC, noting an average cost per company for initial compliance being $2,640,000. Were that to be the cost for complying with the Final Rule, that implies $16 billion for all nearly 6000 affected issuers.

The Claigan report also assumes static supply chains, claiming that once a supplier chain is validated, that validation is good forever. In truth, NAM member company supply chains are dynamic, always changing as companies seek more efficient suppliers or suppliers with better components.

Another difficulty with the Claigan report is that it states that contractual changes will not be needed as companies ask their suppliers to comport with the SEC's Final Rule, since most supply contracts already state that the supplier must be in conformity with all its legal obligations. The problem here is that since most suppliers are not listed companies, they have no obligation to the Final Rule, and contracts will have to be renegotiated. As contracts tend to be multi-year, and come up for renewal at different periods, this is a major problem.

Additional comments appear in the attachments to my statement. But the bottom line, is that based on discussions with actual manufacturers, the Claigan report severely underestimates the likely cost.

Conclusion

My testimony today has highlighted three aspects of the SEC's Proposed Rule that are of compelling importance, but there are additional issues as well. These include:

Recycled Material -- Recycled material, both industrial as well as post-consumer scrap, should not be treated as if it originated from the DRC or adjoining countries. Doing so would ignore the very nature of recycled materials and undermine a growing trend to use recycled materials to reduce manufacturers' footprint on the environment. Information available to us indicates that recycling accounts for 30-40 percent of U.S. demand for the four metals at issue when including industrial and post-consumer sources.

We believe use of recycled metals should be encouraged, to reduce the demand for minerals that would support armed groups in the DRC and adjoining countries. This could be accomplished by providing that after a manufacturer conducts a reasonable inquiry into the source of its conflict minerals no further action is required if the metals originated from a scrap or recycled source. The burdens of carrying out extensive due diligence to determine that the materials are indeed recycled, the burden of filing a "Conflict Minerals Report," and the burden of providing for expensive third party audits should not be imposed on recycled materials because there is no discernible benefit from doing so. To encourage recycling, it is imperative that products produced from recycled materials be classified as "DRC Conflict Free" in the same manner as products produced from newly mined minerals known to be from areas other than the DRC and surrounding countries.

De Minimis – A *de minimis* standard is important to balance the costs and benefits of the rule and to prevent manufacturers from having the impossible task of tracking trace amounts of minerals. For most products, a quantity of a material must reach a certain threshold before it is possible to identify its actual presence in a part or component.

10-K – The legislation does not specify that issuers should disclose their use of conflict minerals in their annual reports filed on Form 10-K. Rather the legislation only requires that issuers "to disclose annually whether the conflict minerals did originate in the DRC or adjoining countries." Issuers whose conflict minerals did originate from the DRC or adjoining countries must "submit to the Commission a report." Given the already-formidable time requirements and size of most companies' 10-K forms, issuers should be allowed to disclose to the SEC by furnishing a separate disclosure to the SEC.

Thus, in conclusion, we believe that the impact and cost of the regulation necessitate narrowly tailoring the requirements, acknowledging the current lack of infrastructure, taking a practical and rational approach to the requirements, differentiating between issuers who "don't know" the origin after reasonable inquiry from those that do nothing to establish origin, and supporting a phased-in approach to the disclosure requirements that requires increasingly more detailed disclosure as infrastructure comes online and supply chains become more transparent.

Thank you, Mr. Chairman.

Attachments

NATIONAL ASSOCIATION OF Manufacturers

Stephen Jacobs
Senior Director
International Economic Affairs

February 10, 2012

The Honorable Mary L. Schapiro
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: Cost Estimates for Section 1502 of the Dodd-Frank Act (Conflict Minerals)

Dear Chairman Shapiro:

I am writing in response to the January 17, 2012 and other submissions made by an environmental consulting company, Claigan Environmental of Ontario, Canada, concerning the expected costs of implementation of the "Conflict Minerals" rule pursuant to section 1502 of the Dodd-Frank Act. The National Association of Manufacturers' (NAM) member companies with experience in many different markets believe the Claigan submission is misleading on several levels. Since it suggests that the cost estimates provided by the NAM and Tulane University "should be disregarded," we offer our views on some of those criticisms.

To support its assertions, Claigan cites eight conflict minerals policy statements issued by leading electronics or information technology firms. Claigan extrapolates from those limited statements to conclude the "vast majority" of reporting issuers are following the Electronics Industry Citizenship Coalition/Global e-Sustainability Initiative (EICC/GeSI) process. That is simply not correct, as the vast majority of NAM members are awaiting the final SEC regulation before developing full compliance programs – as one would expect when the SEC requirements remain unknown. NAM members have pointed out that:

1. The EICC/GeSI format was designed by and for *electronic industry* supply chains. While we admire and appreciate the leadership shown by EICC/GeSI, electronics industry supply chains – as opposed to other industries - generally have fewer suppliers and tiers. Electronic industry product lines also tend to be more focused, making it somewhat easier to identify relevant suppliers and ultimately product origin. The same cannot be said of other industrial and consumer markets, many of which have complex supply chains with more suppliers and numerous tiers. Many NAM members have parts numbers that are counted in the *millions*. The EICC/GeSI approach can be cumbersome and difficult to apply outside relatively concentrated electronic industry supply chains.

   For that reason firms in other sectors have not yet endorsed the EICC/GeSI protocol and process. In some cases, those firms require different industry-specific supply chain verification. Accordingly some NAM member firms will follow the EICC/GeSI protocol for their electronics industry customers but will be developing different protocols for other sectors based on the unique conditions of those supply chains.

2. The EICC/GeSI conflict-free smelter certification program is still very much a work in progress. Only 11 tantalum smelters are listed in the EICC database; no other conflict minerals smelters have been certified as conflict-free to our knowledge.

3. Further, the NAM estimate was driven by information provided by its membership and therefore does indeed reflect "actual processes implemented by companies" from industries as varied as aircraft, machine tools, and chemicals. Conflict mineral due diligence costs incurred by some member firms are already substantial, even prior to full implementation of a due diligence program that takes into account the final SEC rule once issued. One NAM member firm reported it faces a significant IT investment for supplier communication and record keeping and annual due diligence costs in over 40 business units and 65 countries.

4. The argument that the Tulane Study does not mention "country of origin" is circular. What constitutes a "reasonable country of origin" inquiry is central to the underlying cost/benefit analysis. The Tulane Study pointed out that previous SEC and NGO cost estimates failed to consider the expensive steps many firms – especially those outside the electronics industry – face in trying to satisfy such a standard. Moreover, Claigan does not address costs that may occur if the SEC does not provide an exception for trace levels of these minerals – or at least an intentionally added standard – in the final rule. The cost of tracking and reporting trace levels of these minerals for many thousands of products could be considerable.

5. NAM believes Claigan is understating the compliance cost burden for small businesses in reporting issuer supply chains. Claigan states it has quoted small business compliance cost programs "at ~ 3% of the cost...they have publicly reported". That raises several questions: (a) Are those firms exclusively or primarily in the electronics industry with its more focused supply chains? (b) Is this based on a representative sampling of all small businesses potentially affected by the rule? (c) How could these quotes meet all compliance requirements in the absence of a final SEC rule? Where supply chains include millions of parts and numerous supply tiers, small businesses in tiers closer to the finished product will incur considerable cost tracking the origin of 3T or gold used in their components through numerous upstream tiers. As the Small Business Administration Office of Advocacy noted in its October 25, 2011 letter to the SEC, "*Because the SEC does not take into account the complexity of supply chains and the number of small businesses that are part of those supply chains, the SEC has underestimated the number of small businesses that would be impacted by the proposed rule.*"

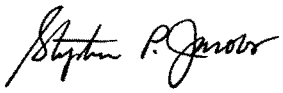
6. Claigan's seven-step process is unrealistic for many manufacturers, especially large manufacturers with complex supply chains. The seven-step process overlooks a number of issues and necessary tasks, and consequently Claigan's quotes are unrealistically low (at least for larger manufacturers). An Excel spreadsheet (such as the EICC-GeSI Conflict Free Reporting Template) to collect information for a supply chain with millions of part numbers is unrealistic. Nor has the spreadsheet offered by EICC-GeSI been proved or validated for conflict minerals data collection in other than the electronics industry.

7. No standard audit protocol is currently available for validating supplier information in terms of conflict minerals (this internal "audit" appears to be required under the OECD Guidelines, which are not even mentioned in Claigan's process). It is unrealistic to believe that corporate officers would provide the SEC with a report based merely on suppliers information derived from a software template like the EICC/GeSI template.

8. Employee training costs, outside legal counsel, and contract modification also seem not to have been considered by Claigan. Elsewhere, Claigan states, "[T]he legal notices that go out in year one will not need to be sent in successive years," but fails to account for the frequent changes in suppliers and product composition that many companies implement to remain competitive. Supplier contracts do not all begin and end at once, and may extend for three to five years or more.

Thank you for the opportunity to provide these additional views.

Sincerely,



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February 14, 2012

The Honorable Mary L. Schapiro
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: Cost Estimates for Section 1502 of the Dodd-Frank Act (conflict minerals)

Dear Chairman Shapiro:

IPC – Association Connecting Electronics Industries is writing in response to the January 17, 2012 and previous submissions made by Claigan Environmental of Ontario, Canada (Claigan), concerning the expected costs of implementation of the "Conflict Minerals" rule pursuant to section 1502 of the Dodd-Frank Act. IPC believes Claigan's submission is misleading and inaccurate. We believe Claigan's cost estimates are based on a number of erroneous assumptions and are not representative of costs likely to be experienced by companies affected by the aforementioned regulations.

IPC apologizes for the late nature of this letter but is nevertheless providing these comments in the hopes that you will not base any part of your rulemaking decisions on the misleading and inaccurate Claigan submissions.

October 28, 2011 Claigan Report

This initial submission is the basis for all future Claigan submissions. The number of errors in this initial submission cast doubt on the usefulness of this and future Claigan submissions.

Claigan wrongly assumes a direct cost comparison between electronics companies' burden in complying with the European Union Restriction on Hazardous Substances (RoHS) Directive and affected industries' burden in complying with the proposed conflict minerals regulations. Although conflict minerals regulations do not include the technical challenges of materials-substitutions, the challenges related to compliance with the proposed conflict minerals regulations will likely exceed those of compliance with the EU RoHS Directive. While the EU RoHS Directive compliance requires knowledge about the presence/absence of substances in products, conflict minerals legislation requires companies to trace the source of the minerals in their products all the way back to the smelter. Many of the easiest and simplest ways of assuring compliance with the EU RoHS Directive involve non-invasive scanning of a product by X-ray

fluorescence (XRF).[1] There is no corresponding simple "check" for conflict minerals compliance – thus necessitating supplier audits which Claigan Environmental has omitted from their estimate. Although supplier audits are not required by the SEC, they would likely be conducted by any company required to report to the SEC due to the penalties associated with incorrect statements on SEC filings. It is highly unlikely that a CEO/President of a company would sign off on an SEC filing where the information was taken from a supplier letter or form without any verification of its completeness.

Further Claigan's citation of RoHS compliance costs of 0.8% of revenue is factually incorrect and misleading. The EU study referenced by Claigan estimates compliance costs to be between 1 and 2% of "turnover."[2] A second study, conducted by the Consumer Electronics Association (CEA), which was also referenced by Claigan, cites RoHS compliance cost of 1.1% of industry revenue.[3] This average also neglects the significantly higher impact on Small and Medium Enterprises (SMEs), estimated at 5.2% of turnover[4] in the EU study and approximately 5.5% by CEA for $5M-$10M companies.

Claigan makes several additional incorrect assumptions in this study that are carried over to future studies, tainting all subsequent conclusions:

1. Claigan grossly understates the breadth of industry sectors impacted. The statement, "an argument can be put forward that 3TG reporting will be required by more than just the electronics supply chain" is an understatement. Also, they cite the CEA study on RoHS for an estimate of 90,000 electronic OEM, component suppliers and EMS. This estimate is an incomplete assessment of the impacts of the RoHS Directive as it omits PCBs, wire and cable, raw materials, and a number of other sectors that were affected by RoHS.

2. Claigan goes on to reduce its erroneous estimate of impacted companies by an additional 50 percent. This reduction is based on the completely unsupported assumption about the number of suppliers impacted by the regulations. In their estimate Claigan states, "But for conservative purposes it seems fair to reduce this number by at least 50%." It is entirely unclear what is fair or conservative and why or how they chose to reduce the estimate of affected companies by 50 percent.

3. The proposed rules would require issuers to file and have audited a conflict minerals report for all recycled materials in their supply chain, yet Claigan assumes this is not the case by stating, "The [cost estimates] would also change drastically if the final rules issued by the SEC....brings 3TGs in recycled material into scope."

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[1]European Commission, Study on RoHS and WEEE Directives N° 30-CE-0095296/00-09. March 2008, p. 107.
[2]Consumer Electronics Industry, Economic Impact of the European Union RoHS Directive on the Electronics Industry, 21 January 2008, Executive summary p. III.
[3]Study on RoHS and WEEE Directives N° 30-CE-0095296/00-09. March 2008.
[4]Consumer Electronics Industry, Economic Impact of the European Union RoHS Directive on the Electronics Industry. 21 January 2008 p. 123.

4. Claigan makes the erroneous assumption that no legal changes are needed as existing, standard supplier contracts contain standard provisions requiring suppliers to comply with relevant laws. Claigan overlooks the fact that these provisions would not cover conflict minerals as the suppliers (unless they are also SEC issuers) have no legal compliance obligation. Supplying their customers (the issuers) with information may be necessary to the issuer's compliance, but the law places no legal obligation on the supplier and therefore would not be covered by existing contract clauses.

5. Claigan states, "There is no reasonable basis for the cost of the software for conflict minerals to be more expensive." Tracing the source of minerals as opposed to presence/absence of a metal (as in the EU RoHS Directive) may indeed require more sophisticated software, especially as this virtual supply chain must be auditable, another requirement that RoHS does not have.

6. Claigan's faulty assumption that, "the legal notices that go out in year one will not need to be sent in successive years," fails to account for the frequent changes in suppliers that many companies experience in order to maintain competitive pricing. Supplier contracts do not all begin and end at once, and may extend for three to five years or more. Employee training costs, outside legal counsel, and contract modification also appear to not be considered by Claigan.

7. Claigan's assumption that training will be minimal fails to account for employee turnover.

December 1, 2011 Claigan Report

This submission is vague and entirely non-transparent regarding its information sources. Claigan states that the basis for their reduced cost estimates was derived, "during budgeting discussions with affected corporations." Claigan does not specify what types of companies (what industry, size, etc.) were queried, how many companies were queried or what size the companies were. Additionally, indication of the size, representativeness or a statistical significance of the sample population is not provided, raising significant doubts regarding the validity of the submission.

Significant errors in this submission include the following:

1. Regarding estimated audit costs, Claigan states, "This section is not our area of primary expertise and we welcome costing input from 3rd party auditors," and then reduces previous third party audit costs by 1/3.

2. Claigan reduces the ridiculously low $100 per supplier data gathering costs even further to $40 based on "entry into the market of professional data providers." No providers are identified or referenced, nor is IPC aware of any. Again, Claigan fails to mention supplier audit needs.

3. Claigan again naively claims that companies have only hundreds, not thousands of affected suppliers. This assessment is based on supplier lists from a mere 2 companies – a statistically insignificant number which cannot begin to represent the breadth of affected companies.

December 16, 2011 Claigan Report

Significant errors in this submission include the following:

1. Claigan states that their cost to quote of $228,000 is worst case, stating, "228K is higher than most service quotations being issued for complete conflict minerals program." No further information on these quotes is provided (i.e. who made them or what they include). Furthermore, since final regulations have yet to be issued, one must regard skeptically any service quotes for a "complete program."

2. Claigan further reduces the estimate of affected suppliers again, stating that companies have overestimated the number of affected suppliers by a factor of 5 to 10. They base this reduction on, "Careful inspection of actual bills of materials from a cross sample of companies." No information about the number, size or type of this "cross sample" is provided. Furthermore, bills of material are usually for individual products, not all the products a company may make.

3. Claigan incorrectly states that the Tulane Study[5] heavily references the NAM Study[6] when in actuality; the Tulane Study cites IPC numbers, uses their own cost model, and compares their costs to NAM.

January 17, 2012 Claigan Report/ NAM's Recent Comments

1. Claigan makes the outlandish and unsupported claim that their previous estimate of supply chain costs should be reduced because, "vast majority" of reporting issuers are using the EICC/GeSI template. This claim of "vast majority" of reporting issuers appears to be based on examination of conflict minerals policy statements issued by eight electronics firms. This assumption is simply not correct, as the vast majority of affected companies are awaiting the final SEC regulations before developing full compliance programs. Claigan's submission further misrepresents the EICC/GeSI template by calling it a "standard," when in fact it was created, reviewed, and approved by a small group of consumer electronics companies and their suppliers and in no way represents an industry standard. While some companies have chosen to use the EICC/GeSI template,

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[5]Tulane University Law School Payson Center for International Studies, A Critical Analysis of the SEC and NAM Economic Impact Models and the Proposal of a 3rd Model in view of the Implementation of Section 1502 of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act

[6]National Association of Manufacturers (NAM). *Comments submitted to the SEC.* March 2, 2011. http://www.sec.gov/comments/s7-40-10/s74010-212.pdf

the majority of companies are displeased with the format and have not committed to using it.

2. The EICC/GeSI conflict free smelter (CFS) certification program does not yet constitute a reliable source of conflict-free conflict minerals. Only 11 smelters - all tantalum smelters have been certified as conflict free smelters - no smelters of the other three conflict minerals have been certified as conflict free to our knowledge. Furthermore, the 11 smelters identified as conflict-free are outside the DRC region, thus forcing those relying on the CFS program to enforce a "de-facto" embargo on the DRC.

3. The argument that the Tulane Study does not mention "country of origin" is circular. What constitutes a "reasonable country of origin" inquiry is central to the underlying cost/benefit analysis. The Tulane Study pointed out that previous SEC and NGO cost estimates failed to consider the expensive steps many firms - especially those outside the electronics industry - face in trying to satisfy such a standard. Moreover, Claigan does not address costs that may occur if SEC does not provide an exception for trace levels of these minerals - or at least an intentionally added standard - in the final rules. The cost of tracking and reporting trace levels of these minerals for many thousands of products could be considerable.

4. By focusing on statements from large electronics industry firms, Claigan completely ignored the burden and compliance costs that small businesses in reporting issuer supply chains will incur.

5. Claigan's seven-step process is unrealistic for many manufacturers, especially large manufacturers with complex supply chains. The seven-step process overlooks a number of issues and necessary tasks, and consequently Claigan's quotes are unrealistically low (at least for larger manufacturers). As noted above, the idea that large manufacturers of complex parts with millions of part numbers, could rely upon an excel spreadsheet (such as the EICC-GeSI Conflict Free Reporting Template) to collect, organize, and store information for a large supply chain of is unrealistic. Nor has the spreadsheet offered by EICC-GeSI been proven or validated for conflict minerals data collection except by a small subset of electronics manufacturers.

6. There is no standard audit protocol currently available for validating supplier information in terms of conflict minerals (this internal "audit" appears to be required under the OECD Guidelines, which are not even mentioned in Claigan's process). It is unrealistic to believe that corporate officers would provide the SEC with a report based merely on suppliers information from a form derived from a software template like EICC/GeSI.

Finally, it would be instructive to know who or what organization "asked [Claigan] to make a further detailed submission...." While of course the IPC is not a disinterested party in this matter as it will affect the vast majority of IPC members, neither is Claigan. It stands to receive business

as a result of SEC regulations through its consulting services designing company compliance programs.

If you have any questions or wish to discuss this further please do not hesitate to contact me.

Sincerely,

Fern Abrams

Fern Abrams
Director, Government Relations and Environmental Policy

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CHRYSLER

April 19, 2011

Dear Supplier,

The intent of this letter is to inform you of recent federal legislation impacting the automotive industry and other industries to which you may supply product.

Ford

In July 2010, President Obama signed into law H.R. 4173, the Wall Street Reform and Consumer Protection Act. In addition to the financial market regulatory reforms that constitute the primary focus of the legislation, the new law imposes requirements relating to "Conflict Minerals." Specifically, Section 1502 imposes Securities and Exchange Commission (SEC) reporting requirements upon manufacturers if their products contain metals derived from minerals defined as "Conflict Minerals" which include columbite-tantalite (coltan, niobium, tantalum), cassiterite (tin), gold, and wolframite (tungsten),their derivatives, or other minerals designated by the Secretary of State.

These new reporting requirements reflect heightened concerns regarding the role that revenues obtained from the mining and transport of certain minerals play in financing the ongoing conflict in the Democratic Republic of Congo (DRC). As stated in the Act, "It is the sense of Congress that the exploitation and trade of conflict minerals originating in the DRC is helping to finance conflict characterized by extreme levels of violence in the eastern Democratic Republic of the Congo, particularly sexual- and gender-based violence, and contributing to an emergency humanitarian situation therein." The law aims to use the market power of "downstream" manufacturers (i.e., the post-smelting supply chain) to begin to help address some of these longstanding issues.

GM

The new legislation will require all publically traded manufacturing companies to report annually to the Securities and Exchange Commission whether they use "conflict minerals" that are "necessary to the functionality or production" of a product that they either manufacture, or contract to be manufactured, that originate from the DRC or an adjoining country. Publically traded companies will likely be required to conduct due diligence inquiries of their supply chains. This will necessitate supplier cooperation to determine whether products contain Conflict Minerals from the DRC or an adjoining country. Requirements would apply equally to domestic and foreign manufacturers.

HONDA

You are receiving this letter because your company has been identified as a supplier to an OEM that is likely to be subject to the new requirements. After the final rule is issued in August 2011, the OEMs will likely require information from each of their identified suppliers regardless of whether those suppliers are subject to the SEC requirements directly. Your company may also be subject to the requirements directly. Annual submissions to the SEC may require an independent, third party audit, and thus proper documentation of information related to your supply chain is critical.

NISSAN

To prepare for requests from your customers there are some activities that ALL suppliers can undertake now, including:

- Determine which of your parts/assemblies incorporate one or more of the identified Conflict Minerals or their derivatives.
- Map your supply chains associated with those parts/assemblies.
- Engage with your suppliers to identify the smelters used in your supply chain to process the Conflict Minerals OR validate the origin of Conflict Minerals as recycled/scrap.

TOYOTA

It may be required that smelters determine the origin of the Conflict Minerals and obtain validation that any of the identified Conflict Minerals coming in to their facilities are not financing conflict in their original extraction or via illegal taxation on mines and transportation routes. It is hoped that this

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validation process can be achieved through cross-industry collaboration. We are monitoring & benchmarking some smelter validation pilot programs already in progress.

In closing, we recognize that it may be difficult for your company to identify the country or mine of origin for the minerals that you use. For this reason, we want to make you aware of this issue in advance of the effective date of the requirements and reporting. It is our intention to do what we can to ensure that the parts and assemblies in our vehicles and products, regardless of where they are assembled or sold, do not contain Conflict Minerals which have contributed to the armed conflict in the DRC.

In order to learn more about the new US legislation and about the subject of conflict minerals, please consult the SEC website: http://www.sec.gov/news/press/2010/2010-245.htm. You may also want to visit AIAG's Corporate Responsibility webpage www.aiag.org for additional information and updates regarding industry collaboration in this space.

Sincerely,

Dan Knott
Head of Purchasing & Interim Global Sourcing
Chrysler Group LLC

Tony Brown
Senior Vice President Global Purchasing
Ford Motor Company

Robert Socia
Vice President Global Purchasing &Supply Chain
General Motors Company

Robert D. Nelson
Vice President
North America Purchasing
Honda of America Mfg. Inc.

Rebecca Barker Vest
Vice President Purchasing
Renault Nissan Purchasing Organization
Nissan North America

Robert Young
Vice President Purchasing
Vehicle Parts and Materials
Toyota Motor Engineering & Manufacturing North America, Inc

House Committee on Financial Services
Subcommittee on International Monetary Policy & Trade

The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo

Hearing - May 10, 2012 10:00 AM
2128 Rayburn HOB

Kennametal Inc. - Statement for the Record

Dodd-Frank's audit and reporting requirements for the DRC's "conflict minerals" are well meaning, but have dramatic unintended consequences.

For a majority of the country's manufacturing base, Dodd-Frank's section 1502 increases costs, limits productivity and discourages environmentally friendly recycling practices while not meeting the intention of the law.

The DRC yields scant amounts of manufacturing's critical raw material – tungsten. Most of the largest tungsten consumers do not consider the DRC as a viable source. Exempting the recycled materials from the audit partially mitigates the onerous reporting requirements.

Kennametal Inc. ("Kennametal"), based in Latrobe, Pennsylvania, is a global company employing more than 13,000 people. It is the nation's last large publicly traded company in its industry still headquartered in the United States. Kennametal's products are used in the manufacturing process of countless metal products, affecting any industry that uses metals or products made of metal. Direct customers include companies in the aerospace, defense, agriculture, automotive, construction, forestry, machining, tooling, mining, energy and transportation industries.

Nearly all of Kennametal's products begin as powders, and through material science processing, surface modification and application and engineering the powders are transformed into customer solutions. The critical raw material for Kennametal is the mineral tungsten. Although tungsten is not classified as a rare earth mineral, it has similar qualities. Additionally, China is home to nearly 70% - 80% of the world's tungsten supply. The price of tungsten has

nearly doubled in price since a year ago, making the price and access to this critical manufacturing material a challenge.

The larger tungsten deposits outside of China are South American and Canadian, but both pale in comparison to China's resource. Therefore, it is important to assure a diverse supply base which should include the use of scrap material. Also, there is a scant amount of tungsten in the Democratic Republic of Congo (DRC) and it is not considered a viable tungsten source for Kennametal. Kennametal does not purchase tungsten from the DRC, and we have no intention to purchase from the DRC, especially as it is now listed as a conflict mineral.

China's dominance in the market forces Kennametal to find other sources of tungsten. One productive source is scrap metal. Although purchasing, smelting and extracting tungsten from random scrap metal shipments is expensive, it is quickly becoming a more reliable option as it can be less expensive than purchasing virgin materials. More importantly, by embracing a materials recycling process, it is possible to reduce the need to rely on countries with unethical market practices.

The Dodd-Frank Act adds a costly administrative burden to externally sourced scrap material without significantly improving compliance to meet the true intent of the Dodd-Frank Act. Dodd-Frank's audit and reporting requirements for the DRC's "conflict minerals" are well meaning, but have dramatic unintended consequences. Furthermore, the Securities and Exchange Commission's (SEC) pending regulations exacerbate the law's unanticipated impacts, specifically as they pertain to recycled materials.

The law never considers recycled materials. Therefore, the SEC's promulgation of regulations addressing recycled materials would be considered administrative over-reach. However, beyond that possibility, the real concern is enforcement. Recycled materials' nature

(i.e. collected scrap from numerous and scattered sources) makes it impossible to determine if any of it, let alone the diminimis possibly derived from the DRC, actually came from the DRC.

Proposed regulations allow (tungsten) importers to immediately consider their recycled shipments "conflict free" in reports to the SEC. However, the proposed regulations go on to require detailed information about the recycled shipments without defining key provisions such as what an importer would have to do (what due diligence) to demonstrate that its (tungsten) was recycled or scrap.

The SEC should not be in the position of addressing recycled/scrap materials and processing. These types of regulatory issues are not within its traditional purview. Nevertheless, its proposal is confusing at best (allowing "conflict free" designations, then requiring due diligence without defining the due diligence measures) and debilitating at worst, not taking into account the numerous and complicated supply chains of manufacturers such as Kennametal. Unknown liabilities in the face of this law and its regulations put U.S. manufacturers at a disadvantage in the global economy by increasing costs, limiting productivity and possibly sending jobs overseas as end users may be forced to consider suppliers not in the U.S. to meet their supply chain needs due to cost increases from audit implementation.

To go beyond the law and regulate recycled tungsten assures continued confusion and extended unintended consequences by forcing manufacturers to comply with requirements that do not meet the true intent of the law. Manufacturers or businesses that use recycled materials classified as "conflict free" should be exempt from the proposed audit materials as it is an onerous burden which does not materially affect the DRC.

Tulane University

Tulane University Law School's PAYSON CENTER FOR INTERNATIONAL DEVELOPMENT

A Critical Analysis of the SEC and NAM Economic Impact Models and the Proposal of a 3rd Model

in view of the Implementation of Section 1502 of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act

Prepared by Chris Bayer with contributions from Dr. Elke de Buhr (Payson Center/Tulane University), in consultation with experts from the consulting, IT and auditing community.

October 17, 2011

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I. Executive Summary

The Democratic Republic of Congo (DRC) holds vast resources of minerals, and many of the mines are controlled by parties that have perpetrated severe human rights abuses in the region. In an effort to enhance transparency in the minerals supply chain, Section 1502 of the 2010 *Dodd-Frank Wall Street Reform and Consumer Protection Act* mandates company disclosure of the mineral origin contained in their products. Pursuant to the charge of formulating specific regulation, the Securities and Exchange Commission (SEC) is in the process of drafting rules for this provision. A realistic economic impact estimate is important as the careful consideration of the most salient cost drivers informs the precise formulation of rules, which in turn enables implementation.

Our analysis shows that the published figure of $71.2 million by the SEC underestimates the implementation cost, in part because it does not take into account the range of actors affected by the statutory law. In light of Section 1502, substantial traceability reforms would need to be implemented throughout the supply chain – from the mine to final product manufacturing – in order for disclosure to work.

On the other hand, the NAM estimate of $9-16 billion overstates these costs by inflating the supplier number and not taking into account significant overlap in supplier/customer relationships, as well as cost efficiencies from existing (and developing) information exchange platforms.

We present a third model focusing on the burden to the affected issuers and their 1st tier suppliers estimating that the actual cost to and of implementing the law is $7.93 billion. Almost half of the total cost – $3.4 billion – would be met with in-house company personnel time, and the rest – $4.5 billion – would comprise outflows to 3rd parties for consulting, IT systems and audits. Comparing the costs to the issuers vs. the suppliers, the bulk of the total costs – $5.1 billion or 65% – would be incurred by the suppliers (the group not included in SEC's analysis), while the smaller portion of the total – $2.8 billion or 35% – would be carried by the issuers.

The implementation costs would however be borne by thousands of individual firms in lucrative industries such as the industrial, aerospace, healthcare, automotive, chemicals, electronics/high tech, retail and jewelry industries. Nevertheless, we regard Section 1502 as a "major" rule as its effect on the economy will exceed $100 million per year.

II. Background

Due to the linkages between mineral extraction and the Second Congo War which has thus far directly and indirectly lead to the deaths of 5.4 million Congolese since 1998,[1] a

[1] Robinson, Simon. *The Deadliest War In The World.* Time Magazine. May 28, 2006.

groundswell of support for conflict-free minerals originating from central Africa emerged in recent years, largely led by civil society organizations such as the Enough Project, Global Witness, Raise Hope for Congo, Conflictminerals.org and Congo Siasa. For years, the mineral extraction sector in eastern Congo has been controlled by militia groups and foreign and domestic military forces, proceeds flowing into the informal market or benefiting neighboring countries rather than effectively translating into revenue which could strengthening the Congolese state and allowing it to assert control over its rich natural resources and the eastern regions of the country. A catch 22.

The US Conflict Minerals Act (Section 1502) in the 2010 *Dodd-Frank Wall Street Reform and Consumer Protection Act* is intended to help put an end to abusive labor practices and conflict in the DRC by requiring US registered companies to disclose whether the minerals they source originate from the DRC or its neighboring countries. In short, the goal of the law is to provide transparency of material origin and allow customers to make purchasing decisions based on that information. Moreover, companies in the mineral and metal sectors are collectively charged with taking responsible measures that identify and respond to risks – and in doing so help mitigate conflict and systemic human rights violations in Central Africa.

The four minerals from DRC mines or adjoining countries defined as "conflict minerals" in Section 1502(e)(4) of the Act are cassiterite (tin), columbite-tantalite[2] (tantalum) and wolframite (tungsten)[3] – also referred to as the "3Ts" and gold. The act furthermore enables the U.S. Secretary of State to designate any other mineral or its derivatives as "conflict minerals" to be financing conflict in the DRC and neighboring countries.

According to figures and estimations compiled by the Enough Project based on sources including the DRC government and the U.S. Geology Survey, the DRC accounts for approximately 15-20% of global tantalum ore production, 6-8% of global tin ore production, 2-4% of global tungsten ore production, and less than 1% of global gold production.[4] Thousands of manufacturers – ranging from Fortune 500 companies to companies with $10 million in annual sales – in the industrial, aerospace, healthcare, automotive, chemicals, electronics/high tech, retail and jewelry industries are consumers of these metals, and thus affected by the new law.

Sponsored by Senators Sam Brownback, Russ Feingold, and Dick Durbin as well as Representative McDermott, the intended effect of the legislation is that the public disclosure of mineral chain of custody from extraction to production – and the prospect of steep fines for noncompliance – would discourage companies from supporting the production of "conflict minerals" but rather encourage ethical sourcing. The law however

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http://www.time.com/time/magazine/article/0,9171,1198921,00.html

[2] Commonly referred to as "coltan," a colloquial shorthand for columbite-tantalite, refers to the ore itself rather than a refined product.

[3] Tungsten is also produced from another mineral (scheelite), but that ore and the tungsten derived therefrom is not within the scope of the law.

[4] Enough Project. *A Comprehensive Approach to Congo's Conflict Minerals*. April 2009. http://www.enoughproject.org/files/publications/Comprehensive%20Approach%20to%20Congo's%20Conflict%20Minerals.pdf

does not ban or prohibit the purchase/use of conflict minerals, nor are there any legal penalties for purchasing/using conflict minerals.[5] There is also no mandate to find or evaluate alternative materials, suppliers or sources.

Recognition for urgently needed action also is expressed by the nation's largest trade association, the National Association of Manufacturers (NAM). In the introduction of the comments submitted to the SEC, NAM states: "We support the underlying goal of Sec. 1502 to address the atrocities occurring in the Democratic Republic of Congo (DRC) and adjoining countries and are actively working with other stakeholders to help address the problem."[6] General Electric (GE) for example, the diversified industrial conglomerate ranked by Fortune as the 6th largest company in the U.S., is cognizant of the issue: "Recognition of this link between the minerals trade and the financing of armed groups in the DRC has moved companies like GE to identify their use of potential conflict minerals and find ways to sever the link between these minerals and the armed groups."[7] Many corporations are consequently in the process of devising – some with the help of experts – compliance strategies based on the new law.

Companies however recognize that individual corporate action – in the absence of collective action – will not suffice. As Motorola, the co-chair of the Electronics Industry Citizenship Coalition (EICC) - Global e-Sustainability Initiative (GeSI), stated: "If the goal is to stop the flow of money to illegal armed groups then, like stopping the flow of water in a river, the dam must be built all the way across."[8] GE agrees, positing that "companies with overlapping supply chains have greater influence over their suppliers when acting together, enabling them to encourage greater transparency and action."[9]

Even the DRC, arguably the biggest stakeholder in the matter, has appealed to the SEC to craft regulation that follows due-diligence guidance developed by the United Nations and the OECD, and to prevent the rules from causing a "*de-facto* embargo" on trade from the Central African nation.[10]

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[5] Section 1502(c) requires the Secretary of State, in conjunction with USAID, to develop "a strategy to address the linkages between human rights abuses, armed groups, mining of conflict minerals, and commercial products," which includes "A description of punitive measures that could be taken against individuals or entities whose commercial activities are supporting armed groups and human rights violations in the Democratic Republic of the Congo." As yet, no information has been made available concerning the punitive measures.

[6] National Association of Manufacturers (NAM). *Comments submitted to the SEC.* March 2, 2011. http://www.sec.gov/comments/s7-40-10/s74010-212.pdf

[7] General Electric. *Conflict Minerals and the Democratic Republic of Congo: Expanding Supply Chain Efforts.* August 24, 2011. http://www.gecitizenship.com/conflict-minerals-and-the-democratic-republic-of-congo/

[8] Enough Project. *Getting to Conflict Free.* December 2010. http://www.enoughproject.org/files/publications/corporate_action-1.pdf

[9] Ibid.

[10] Kavanagh, Michael. *Congo Government Asks U.S. to Use OECD Guidance for Conflict-Mineral Rules.* Bloomberg. July 28, 2011. http://www.bloomberg.com/news/2011-07-28/congo-government-asks-u-s-to-use-oecd-guidance-for-conflict-mineral-rules.html

At the heart of the debate is the extent of the economic cost impact and how best to structure the regulations such that objectives are met without placing undue burden on actors who seek to conform to the law. While the SEC estimates that the cost to the affected companies would come to $71.2 million, the National Association of Manufacturers (NAM) "believes that the proposed rule is a significant rulemaking and will cost U.S. industry between $9-16 billion to implement."[11] Part of the reason for this discrepancy is the general ambiguity in the current language of Section 1502 – which lends itself to a host of interpretations. Perhaps the biggest reason for the discrepancy between models is the question how many actors are affected by the new rules. While the SEC considers 20% of the 5,994 publicly traded companies will be required to implement all aspects of the law – an estimated 1,199 actors – it has not taken into consideration the number of privately held and supplier companies affected. NAM on the other hand claims that on average there are 2,000 suppliers to each issuer – theoretically 5,994 companies – and therefore close to 12 million companies could be affected.[12] As another example, the SEC and NAM are applying differing operational definitions of what constitutes relevant due diligence and what constitutes "audits."

Currently, the SEC is drafting the "rules" for this provision which will clarify how companies should concretely implement the law. The challenge is how to mandate in favor of principles of transparency and accountability in the value chains that source minerals from the Congo and surrounding countries, however without excessively burdening the private sector actors and driving smaller enterprises out of business.

III. Objective of White Paper

On September 26, 2011, faculty members Dr. Elke de Buhr and Dr. Laura Haas at Tulane University's Payson Center for International Development were contacted by Jessica Simon of Senator Durbin's office with a specific request for help in providing a detailed estimate of what it would cost companies to implement the Congo Conflict Mineral Act. This request was met by a Tulane team agreeing to prepare this paper.

At the heart of the debate is how the SEC should calibrate regulation that implements the law in a manner consistent with the goals of the legislation without needlessly burdening industry and undermining American competitiveness.

The various possible regulation formulations function as parameters to determine the act's economic impact. This paper analyzes and critiques both the SEC and NAM economic impact models – as both models contain significant shortcomings – and proposes a more accurate 3rd model. By honing in on the main deliverables under Dodd-Frank, focusing on actual costs, assigning fair valuations, and basing the extrapolation to

[11] National Association of Manufacturers (NAM). *Comments submitted to the SEC.* March 2, 2011. http://www.sec.gov/comments/s7-40-10/s74010-212.pdf

[12] as for example per NAM's calculation on page 24 of their March 2011 comments to the SEC.

the macro-level on the best available figures, this model may help shed light on central issues at the heart of the discussion and inform the crafting of practicable regulation.

IV. Analysis of the SEC Economic Impact Model

A. Issue #1: Affected companies

SEC estimated that 1,199 companies will require a full Conflict Minerals Report (CMR). The method the SEC employed to derive this figure, as explained in its proposed rules,[13] was to find the amount of tantalum produced by the DRC in comparison to global production (15% – 20%), then select the higher figure, 20%, and multiply that by the total number of affected issuers, which they stated is 5,994.[14] By reasoning that since an estimated 20% of all minerals in question originate from the DRC, therefore only 20% of companies – 1,199 – would be affected by the new rules, the SEC committed a *non-sequitur*. For two principal reasons:

1) Conflict minerals are as omnipresent as the ballpoint pen – and that is not just a metaphor. Tungsten, particularly resistant to deforming, is used to manufacture the ball in the ballpoint pen. Metals such as tin and tantalum are ubiquitous in products such as electronics, medical devices, tools, canned goods, automobiles and jet engines/turbines, and many alloys contain only small percentages of minerals in their total composition. Specific recipes of various metal powders are turned into an array of products used in such things as computer motherboards, capacitors and carbides for example. It is therefore much more plausible, as the NAM has stated, that in fact the bulk of the 5,994 publicly-traded companies will be affected. IPC,[15] agreeing with NAM, characterizes the SEC figure as based on "a flawed assumption because 1) the minerals supplied by the DRC may be distributed such that they account for 20% of the supply for 100% of users, and 2) the vast majority of users will be unable to identify the origin of their conflict minerals, especially until more viable audit and tracking systems are in place, and therefore will need to complete a CMR." IPC concludes that it expects "that nearly 100% of affected issuers will need to complete a CMR, especially in the initial years of the regulation."[16] This is supported by NAM as they pointed out that the proposed regulation requires a CMR even for issuers who – after reasonable inquiry – are unable to determine the origin of their materials.[17] In short, a more realistic assessment yields that the bulk of U.S. based issuers, 5,994 would be required to complete the full CMR – a figure which becomes important as it comprises the denominator of affected companies with which to calculate the full cost implications.

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[13] Fed. Reg. 80948 et. seq. (Dec. 23, 2010)
[14] 75 Fed. Reg. 80966
[15] IPC is an industry association within the electronics industry. IPC also conducted research into the economic impact of the proposal on its membership and submitted comments to SEC.
[16] SEC also recognizes that first year implementation costs will be higher. 75. Fed. Reg 80966.
[17] See NAM comments, p. 25 and 75 Fed. Reg. 80958.

2) SEC made no estimate of the impact of the rule on suppliers or privately-held companies in issuers' supply chains. Even while privately-held companies are not subject to SEC's filing requirements or the focus of the current law, they will however be requested by their customers – the issuers – to undertake due diligence in order for the issuers to provide the information necessary to meet their SEC obligations under the conflict minerals law. According to the law firm Dykema Gossett, the CM requirements "will have a significant impact on countless U.S. suppliers of automotive, consumer and other products that use certain common minerals in their products, including suppliers who themselves are not publicly traded companies."[18] NAM put it like this in comments submitted to the SEC: "While the new reporting mandate only applies to companies required to report to the SEC, we expect these requirements will rapidly be passed through the entire supply chain. The requirements will effectively force suppliers not subject to SEC reporting to maintain extensive records of their source materials..." On a similar note, IPC's study stated: "privately held companies, which represented two thirds of respondents, anticipated being impacted by the requirements of the rule despite not being directly regulated."[19] This paper estimates the number of affected suppliers in Section *V.B. Issue #2.*

B. Issue #2: Lack of materiality threshold clause

In its proposed rules for conflict minerals, the SEC states that it does not propose "to include a materiality threshold for the disclosure or reporting requirements in our proposed rules." NAM, in its corresponding comments, however argues that a "*de minimis* standard is not a loophole or exemption, and, if properly designed, it will not materially decrease efforts to increase supply chain transparency. Rather, it would allow the SEC and issuers to focus on the products containing a significant amount of the conflict minerals in a manner that will change supply chain behavior. It thus avoids a very high cost and burden associated with tracing miniscule amounts of materials with little corresponding effect on ameliorating the DRC-region atrocities."[20] We agree. A materiality threshold would reduce the number of companies who would unduly be burdened to implement programs and incur undue costs, and more appropriately place the burden on companies with the largest consumption and so provide an opportunity for the biggest cost/benefit. Although such a threshold is not reflected in the language of the law, it would be appropriate and beneficial for SEC to establish one, eliminating costs and efforts where they are not truly justified.

Setting a very low *de minimus* threshold would effectively rule out free-riding – a situation which would undermine the efforts of all other companies complying with the law. We therefore agree with NAM's fairly reasonable suggestion, "that the conflict minerals must trigger a threshold content value of 0.1 percent or greater of the part or component."

[18] Paul M. Laurenza, Sheryl L. Toby and Ronald L. Rose. Conflict Minerals Act will have widespread impact on global supply chain. Dykema Gossett PLLC. April 27, 2011. http://www.lexology.com/library/detail.aspx?g=688bf426-82b4-43a9-b45e-292de61d554a

[19] IPC Comments on SEC Proposed Rule on Conflict Minerals, March 2, 2011, p. 20 http://www.sec.gov/comments/s7-40-10/s74010-131.pdf

[20] NAM Comments. p. 20

However, we do suggest that the term "part or component" be clearly defined, as well as whether the 0.1 percent refers to "percent by weight" or "percent by volume."

C. Issue #3: Recycled/scrap materials

The SEC proposal formulated amendments such that recycled or scrap minerals would be partially exempted from the due diligence and CMR requirements. It reasons that if a "conflict mineral was obtained from recycled or scrap minerals, that mineral would be considered DRC conflict free. This approach for recycled or scrap minerals is not included in the Conflict Minerals Provision, but we believe it is appropriate because such conflict minerals would not be implicating the concerns that prompted the enactment of this statutory provision."[21]

We agree with the SEC. In its comments to the SEC, NAM also emphasized that "treating recycled materials as 'conflict full' intrinsically does not make sense."[22] This is truly justified as recycled materials are fundamentally not equivalent to newly mined ore in the context of the law or as a conflict funding source. Many companies impacted by this are scrap companies which are overwhelmingly small, privately-held companies in a highly fragmented industry. Industry anticipates that SEC's final regulations will provide a substantive exclusion for scrap materials. Although such an exemption is not reflected in the language of the statutory law, it would be reasonable and beneficial for SEC to establish such an amendment, appropriately eliminating extraneous cost and effort. However, we point out that a specific and consistently-applied definition of the term "recycled" and "scrap material" is necessary.

D. Issue #4: Indeterminate origin

NAM's request for allowing an "indeterminate origin" exception to be in effect over a transition period is valid as the necessary documentation with which to determine origin may just not exist, especially in the first year of the rule's implementation. The IPC survey of companies within the electronics industry found that on average 18% of their companies could not determine the origin of their minerals / metals.[23] In the absence of operational rules for Section 1502, and such rules having yet to be implemented, gaps do exist in traceability documentation or chain-of-custody documentation for pertinent minerals and metals. Such concerns are furthermore valid in the case of recycled (or scrap) material, where oftentimes there is no paper trail.

While it therefore may be most appropriate to allow such a "indeterminate origin" status over an initial transition period, it should however be backed up with a 3rd party audit to

[21] 75 Fed. Reg. 80963.
[22] NAM Comments. p. 22
[23] Results of an IPC Survey on the Impact of U.S. Conflict Minerals Reporting Requirements, February 2011

verify the veracity of the management system the company relied on to come to the determination. A robust oversight mechanism, heavily policed through audits, would comprise a disincentive to use it. A $25,000 to $100,000 charge to have an audit performed – with the uncertainty of what the audit determination would be – is not a prospect any company would take lightly. In short, an "indeterminate origin" provision in effect only for a transitional period which, if invoked by a company would incur an audit, would not constitute a loophole.

E. Issue #5: Phase-in

The provision of a phase-in period for the rules, to be finalized by the SEC within 2011, makes sense for multiple reasons. From a management and disclosure perspective, considerable time and effort will be required to establish, on a company level, the management systems, render them operational, and commission the audits and prepare the related reports and SEC forms. NAM argues that transition rules apply for an implementation period which "is needed for the disclosure requirements, for inventory already at smelters, for products made from existing inventories, and for acquisitions."[24] We agree with NAM that at least a year would be needed before issuers may be able to provide conflict minerals disclosures. Conversely, if the entire industry was jolted by the rules going into effect immediately without a transition phase, and the required time to build systems and align procedures was not permitted, the *de facto* embargo against the minerals of the Central African region, against which NAM cautions, could become entrenched. Since April 2011, owing to the decision of EICC companies to stop sourcing from the DRC if the material is not fully traceable, a *de facto* embargo on Congolese-sources minerals is currently in effect.

F. Issue #6: USDS endorsement of the OECD Guidelines

Section 1502 instructs the SEC, in consultation with the Department of State (USDS), to promulgate regulations requiring, in part, certain companies to submit annually a description of the measures taken to exercise due diligence on the source and chain of custody of the four "conflict minerals." As of July 2011, the U.S. State Department endorsed *The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* – a guide which provides recommendations for global responsible supply chains of minerals and helps companies to respect human rights and avoid contributing to conflict through their mineral or metal purchasing decisions and practices. *"The Department specifically endorses the guidance issued by the Organization for Economic Cooperation and Development (OECD) and encourages companies to draw upon this guidance as they establish their due diligence practices. We encourage companies, whether or not they are subject to the Section 1502 disclosure requirement, that are within the supply chain of these minerals to exercise due diligence based on the OECD guidance and framework as a means of responding to*

[24] NAM Comments. p. 15

requests from subject suppliers and customers." [25] Furthermore, according to IPC, "it is anticipated that the U.S. Securities and Exchange Commission (SEC) may base regulatory compliance with the Dodd-Frank conflict minerals laws on the OECD guidance."

While the OECD guidelines advance the concept of progressive due diligence principles and improvement of mining circumstances in the central African region, some aspects of the scope of the due diligence process and audits have been critiqued as presenting significant issues and potential inconsistencies with SEC auditor standards.[26] The "final" OECD guidelines (issued by the Organization as *Final* in May 2011), are now being tested by 50 companies globally in a real world setting, in participation with the IPC and six IPC-member companies, through a "pilot evaluation program to review and refine the (OECD) due diligence guidance for conflict minerals."[27] This pilot, sponsored by the OECD itself, is considered by some to be an acknowledgement by the Organization that the framework at this stage remains more theoretical than pragmatic.[28] This pilot study is therefore vitally important for all industries impacted by CM rules: having streamlined and actionable due diligence rules is vital for the prospect of their being implemented.

However, the timing of OECD's guidelines testing – scheduled to be completed in June 2012 (which arguably should have been completed *prior to* the Organization's issuance of their "final" version) – is not aligned with the SEC's final rulemaking schedule.[29] Precisely because the SEC and USDS have both directly stated their support for, and clear intention to rely upon, the OECD Guidelines, we caution that without careful consideration of consistency with US standards, liabilities and deadlines, compliance risks and additional latent penalties/costs may be created for industry.

V. Analysis of the NAM Economic Impact Model

As stated in its comments to the SEC, "NAM believes that the proposed rule is a significant rulemaking and will cost U.S. industry between $9-16 billion to implement."[30]

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[25] USDS. *Statement Concerning Implementation of Section 1502 of the Dodd-Frank Legislation Concerning Conflict Minerals Due Diligence.* July 15, 2011. http://www.state.gov/e/eeb/diamonds/docs/168632.htm

[26] NAM Comments, p. 14; The Elm Consulting Group International LLC, *OECD to SEC: Make us the Conflict Minerals Due Diligence/Audit Standard for the US.* July 7, 2011. http://elmconsultinggroup.wordpress.com/2011/07/07/oecd-to-sec-make-us-the-conflict-minerals-due-diligenceaudit-standard-for-the-us/

[27] IPC. *IPC Invited to Participate in Pilot Evaluation of OECD Conflict Minerals Due Diligence Guide - Six Member Companies Join Pilot Implementation.* September 2, 2011. http://www.ipc.org/ContentPage.aspx?pageid=IPC-Invited-to-Participate-in-Pilot-Evaluation-of-OECD-Conflict-Minerals-Due-Diligence-Guide

[28] The Elm Consulting Group International LLC, *OECD Backs Up A Step on Conflict Minerals Guidance.* September 8, 2011. http://elmconsultinggroup.wordpress.com/2011/09/08/oecd-backs-up-a-step/

[29] The first meeting by OECD to discuss the status of the pilot is scheduled for late November 2011.

[30] NAM Comments, p. 2

To determine whether this figure comprises a fair estimate, this paper will itemize the primary cost drivers and establish whether the cost per unit estimate is reasonable.

A. Issue #1: Not all issuers are created equal

While NAM acknowledges throughout their comments that companies of different sizes will be impacted by the rule, their economic impact analysis did little to identify the differences. To be fair, neither did SEC. As neither SEC nor NAM provided information or guidance on important statistics related to the 5,994 issuers, we refer to the 2011 IPC survey of the impact of the rule on their membership, which was reportedly "balanced in terms of representation by companies of various sizes based on annual sales." The survey sample was comprised of 32% small companies (under $10 million in sales), 40% medium-sized companies (in the $10 million to $99 million range), and 28% large companies (more than $100 million in sales). Therefore, the following assumptions and estimates are used throughout this paper relative to the 5,994 potentially impacted issuers:

- We consider annual revenues of $100 million as the threshold value between "small" and "large" companies.
- Using that revenue threshold – and in the absence of any other authoritative, relevant and credible information – we accept the IPC study benchmarks of 72% small/medium companies and 28% large companies.[31]

B. Issue #2: Number of 1st tier suppliers

A central issue in the discussion of economic impact is the number of suppliers to every issuer. Using NAM's estimate of an average 2,000 direct (or "1st tier") suppliers to each issuer, of which there are 5,994, the total number of suppliers comes to 12,000,000. The question that arises at this point: is 12 million a realistic estimate of the number of 1st tier suppliers furnishing 5,994 issuers with 3T and gold?

NAM's attempt at developing 1st tier supplier estimates is laudable, but misses three critical factors:

1. *Suppler overlap/mutuality:* A supplier is almost certain to have multiple customers that are issuers, therefore the issuer/supplier connectivity is more complex than a simple 1-to-1 relationship. The 12 million figured implied by the NAM calculation may be reflective of the total number of *business relationships* (i.e., material supply contracts), but we argue that is different from the number of *unique businesses* that must deploy conflict minerals programs. A supplier with multiple customers will not have to expend 100% of CM program development costs

[31] Results of an IPC Survey on the Impact of U.S. Conflict Minerals Reporting Requirements, February 2011 p. 3

repetitively for each of its customers as implied by NAM's straightforward multiplication calculation. This concept is explained below in detail.

2. *Exclusion of suppliers that do not provide CM materials, parts or components:* NAM's estimates assume that 100% of an issuer's 1st tier suppliers will be required to "make substantial changes to their corporate compliance policies and supply chain operating procedures."[32] However, such changes are, in reality, only required for suppliers who provide materials, parts or components that are identified as having 3T and gold.[33] Suppliers of such things as services, paper/wood products, fossil fuels, many polymers/plastics/gasses/chemicals and raw textiles (to name but a few) will not need to change their corporate management systems to address the CM requirements.

3. *Smaller companies have fewer suppliers:* NAM's estimate of 2,000 1st tier suppliers is not likely to be representative of small companies. We believe that a better estimation of the supplier-customer ratio for small companies is the IPC 2011 survey of its members in the electronics supply chain. This is explained in more detail below.

C. Issue #3: Cost of performing internal due diligence reform

In order to evaluate NAM's analysis on due diligence efforts, a framework is necessary. In its 2011 Guidelines, OECD defines due diligence as "as the process through which enterprises can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management systems."[34] OECD's framework for risk-based due diligence in the conflict mineral supply chain involves five principal steps:[35]

- Establish strong company management systems
- Identify and assess risks in the supply chain
- Design and implement a strategy to respond to identified risks
- Carry out independent third-party audit
- Report on supply chain due diligence

The discussion in this section addresses the first three steps within the full due diligence process concerning company-specific policies and procedures that are carried out

[32] NAM Comments, p. 24

[33] Non CM suppliers may have to undertake some level of minimal effort to affirmatively prove the absence of CM in the items they manufacture/sell. However, once this is proven, those suppliers will not have to implement internal management systems specific to non-existent CM.

[34] OECD. *OECD Guidelines for Multinational Enterprises.* 25 May 2011. http://www.oecd.org/dataoecd/43/29/48004323.pdf

[35] OECD. *Recommendation of the Council on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.* 25 May 2011. C/MIN(2011)12/FINAL. http://acts.oecd.org/Instruments/ShowInstrumentView.aspx?InstrumentID=268&InstrumentPID=272&Lang=en&Book=False

internally within a company. The audit and reporting steps are discussed in a separate section within this analysis.

NAM estimates the cost of changing the corporate compliance policies and supply chain operating procedures to be $1.2 billion, which was calculated as "2 hours x $50 per hour x 2,000 suppliers x 5,994 companies." NAM affirms that within a CM due diligence process, "reliable due diligence" must go hand-in-hand with a "commercially practicable effort" with regard to the expected and actual level of effort to be undertaken.[36] Yet NAM's estimate for the issuing companies' that "at a minimum that two hours of employee time at $50 per hour will be required to change legal obligations to reflect a company's new due diligence" is, in our estimation, understated for the following reasons:

1. Incorrect level of effort: two hours to review and revise of wide range of internal policies – from the supplier code of conduct to business practices, from contingency planning to quality assurance – is not enough time. Based on information available from various experts in the industry (as well as our own experiences in other sectors/studies), we believe that if the matter were approached from a management system perspective, this activity involves multiple tasks, including:

- initial reviews of the current policies/procedures/controls (to locate where/which policies, departments and functions will be impacted);[37]
- developing a gap analysis and compliance plan (identifying what specific modifications are needed for the affected policies/procedures/controls);
- developing draft revised policies/procedures/controls;
- conducting initial testing on those revised policies/procedures/controls to determine if they function correctly in a desktop test setting; and
- implementing them as final, including training of personnel as well as communication to suppliers.

The effort we envision may take multiple people several weeks for a large company with complex business management systems and controls. For small companies it may take one person a full week (40 hours). For large companies affected, we estimate an average of 100 man-hours would be required. In addition, this process may be facilitated by 3rd party, which would entail consultancy fees. We estimate consultancy fees at $200 per hour[38] and expect that large companies will employ consultants less than small companies will. We estimate that approximately one-quarter of the total man-hours for small companies will involve consultants, while that number may be 10% for large

[36] NAM Comments, p. 13-14

[37] In our view, this step includes the identification, review and analysis of internal risk assessment programs for vendors and related information. We believe it is appropriate to include that element within an overall management system review rather than breaking it out as a separate step as NAM suggests.

[38] SEC used a cost of $400 per hour which generally reflects the rates for Big 4 accounting firms. Although we anticipate that some of this work will be performed by the Big 4 accounting firms, a substantial portion of required consulting work will also be carried out by lower cost environmental and sustainability consulting firms hired for these projects. We thus estimate that the average consultancy charge would be $200.

companies. These estimates are aligned with SEC's estimates for consultancy support for the 10-K, 20-F and 40-F forms.[39]

2. *Supplier overlap / mutuality*: NAM did not address the concept of *supplier overlap / mutuality*, accounting for the fact that issuers have some (and sometimes many) suppliers in common. We believe there is substantial overlap/mutuality in the relevant business relationships; therefore, once a supplier modifies their management systems to satisfy the CM requirements for one customer, that supplier will not need to wholly replicate those CM program development efforts/costs again for other customers (see *Figure 1* below). Changes to the management system will most likely be addressed at the supplier's corporate or divisional level. Once established, that management system framework functions the same to serve the needs of all issuers who are that supplier's customer.[40] This creates "overlap" or "mutuality" cost efficiencies not recognized in the NAM model. NAM's methodology multiplying 5,994 by 2,000 incorrectly assumes that separate/unique policy/procedure changes will be required on the part of each supplier to support each individual issuer. That calculus is more determinative of the number of contractual supplier relationships, a concept that is different from the number of unique businesses within the supply chain. We recognize there may be slight differences in information demands on suppliers by various issuers, but we believe those differences will be minor and 100% cost redundancy is not justified.

Figure 1:

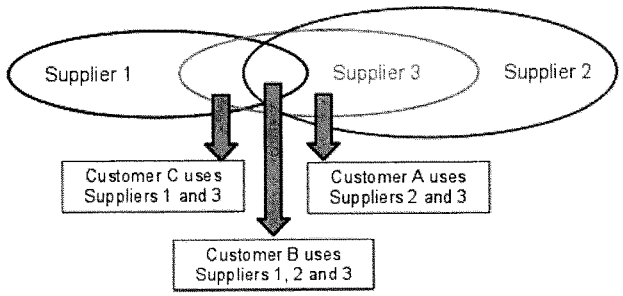

FIGURE 1: Areas of shape overlap illustrate where customers have relationships with multiple suppliers, therefore creating *supplier overlap/mutuality*.

The mineral smelters for example represent obvious choke points at which to differentiate chain of custody tracking and internal controls over the mineral supply chain. CM users can take advantage of the smelters' position in the supply chain. If smelters

[39] 75 Ref. Reg. 80966.

[40] This has been proven over the past 20 years for management systems developed by companies under international standards (ISO) for quality programs (ISO9001), environmental management (ISO14001), occupational health and safety (OHSAS18001) and more recently by the management systems implemented for the EU RoHS compliance.

are verified as not having or purchasing DRC-sourced materials that contribute to conflict, that information can be distributed up the smelter's supply chain, which is the intent and theory of the EICC Conflict Free Smelter (CFS) program.[41] Furthermore, the CFS information is made available to other companies and the general public for free, which eliminates costs at other points in the supply chain. There are currently 19 tantalum smelters, 45 Tin smelters, 13 Tungsten smelters and 61 Gold smelters that have enrolled to participate in the CFS program.[42]

3. Not all 1st tier suppliers require CM management systems: CM management programs are only required for suppliers dealing in materials, parts or components that contain 3T or gold. Many suppliers in each tier furnish products unrelated to minerals (e.g., service vendors, suppliers of paper products, fossil fuels, and raw textiles to name but a few). As only a portion of the NAM-estimated 2,000 1st tier suppliers fall under the mineral / metal category, one must therefore employ a correction factor take into account only those suppliers with relevant materials/products. NAM did not however provide data on what percentage that may be. Therefore, in the absence of other credible, relevant and authoritative data, we rely on data from the IPC study,[43] summarized in *Table 1* below:

Table 1:

Respondent Industry	*Percentage of supply base known to NOT contain the metals*	*Percentage of supply base known to contain the metals*	*Percentage of supply base with unknown status*
Electronic Manufacturing Services (EMS)	24	38	38
Printed Circuit Board (PCB) Manufacturers	85	7	8
Materials Industry	49	51	0
Equipment Industry Suppliers	27	47	26
Average	*46.25*	*35.75*	*18*

Given that SEC's proposed rules requires the same level of effort for unknown sources as for DRC-source materials, we combined the percentages in the last two columns to

[41] The most recent update of the CFS list (May 31, 2011) indicates only 3 companies (limited to tantalum) have been cleared as "compliant" by EICC. The CFS Program Status Update (http://www.conflictfreesmelter.org/CFSandDueDiligenceProgramStatusUpdate.htm) states that as of September 30, 2011, 12 tantalum companies have been assessed, and only 6 have been deemed "compliant". As of October 15, 2011, there are no compliant smelters for tin, tungsten or gold. http://www.conflictfreesmelter.org/cfshome.htm

[42] EICC-GeSI. CFS and Due Diligence Program Status Update. September 30, 2011. http://www.conflictfreesmelter.org/CFSandDueDiligenceProgramStatusUpdate.htm

[43] Results of an IPC Survey on the Impact of U.S. Conflict Minerals Reporting Requirements, February 2011 p. 5-6

obtain an estimated percent 53% (35% + 18%) of suppliers that deal in minerals and metals that would be subject to CM requirements. Therefore, we estimate that only 53% of the NAM-estimated 2,000 1st tier suppliers (1,060) provide materials, parts or components that contain 3T or gold and would thus be subject to CM management program efforts/costs. However, for complete clarity, it is our opinion that this is actually the number of material supply contracts involved, not the number of unique businesses.

4. Many issuers have fewer 1st tier suppliers: NAM's estimate of 2,000 1st tier suppliers (along with our corrected estimate of 1,060 material supply contracts) is not likely representative of small companies as we have defined that term. We believe that a better estimation of the supplier-customer ratio for small companies is the IPC 2011 survey of its members in the electronics supply chain. Respondents in the IPC survey had a median of 163 direct suppliers.[44] As with large issuer suppliers, only a portion of the 163 direct suppliers deal in CM materials, parts and components. Applying the same factor as above (53%), the estimated number of 1st tier suppliers who (a) serve small issuers and (b) are expected to need CM management program efforts/costs is 86. Again, we clarify our opinion is that this is actually the number of material supply contracts involved, not the number of unique businesses.

Issuers:
Using the definition of small and large stipulated in Section *V.A. Issue #1*, the calculations below are bifurcated into 72% small issuers (using 40 hours of effort) and 28% large issuers (using 100 hours of effort). To reiterate other assumptions, we believe external consulting will be used for 25% of the labor for small companies, 10% for large companies, and a billing rate of $200 per hour based on the variety of consultancies that will be hired.

i. Internal (small companies):
5,994 issuers x 72% x (40 man-hours x 75% of total work load) x $50/hr = $6,473,520 (internal labor costs)

ii. Internal (large companies):
5,994 issuers x 28% x (100 man-hours x 90% of total work load) x $50/hr = $7,552,440 (internal labor costs)

iii. Consultant (small companies):
5,994 issuers x 72% x (40 man-hours x 25% of total work load) x $200/hr = $8,631,360 (consultant costs)

iv. Consultant (large companies):
5,994 issuers x 28% x (100 man-hours x 10% of total work load) x $200/hr = $3,356,640 (consultant costs)

Thus, the total estimated cost for 5,994 issuers is $26,013,960.

[44] IPC Comments on SEC Proposed Rule on Conflict Minerals, March 2, 2011, p. 20 http://www.sec.gov/comments/s7-40-10/s74010-131.pdf

Suppliers:
To determine the additional impact on the supplier base to those 5,994 issuers, we employ a supplier-issuer overlap factor of 60%. This factor attempts to differentiate – and correct for – the number of estimated material supply contracts within the scope versus the number of unique businesses impacted. A 60% overlap factor means that the efforts are *reduced* by 60%, and only 40% of the effort/cost is required. Since NAM, SEC and IPC did not provide data on the amount of supplier overlap/mutuality, we based on our estimation that in general there is likely to be greater than a 50% customer overlap/mutuality throughout the supply chain, we chose 60% as a conservative overlap factor.

We furthermore factor in the size of the company employing the same benchmarks for "small" and "large" companies used for issuers as stipulated in Section *V.A. Issue# 1* – an important variable not taken into account in the SEC and NAM models. The calculations below are bifurcated into 72% small companies (using 40 hours of effort) and 28% large companies (using 100 hours of effort).

In order to estimate the number of suppliers, we multiply the issuers by the company size factor (large or small), and multiply the number of relevant 1st tier supplier contracts by the overlap factor.[45] Our estimate of total suppliers is 860,066, comprised of 148,459 small company and 711,607 big company suppliers.

The calculation estimating the cost of strengthening internal management systems in view of performing due diligence is therefore:

i. Internal (suppliers that are *small* companies):
Suppliers (small companies) = (5,994 issuers x 72%) x (86 relevant 1st tier supplier contracts x .4 overlap factor) = 148,459

Internal labor costs = 148,459 suppliers (small companies) x (40 man-hours x 75% of total work load) x $50/hr = $222,688,500

ii. Internal (suppliers that are *large* companies):
Suppliers (large companies) = (5,994 issuers x 28%) x (1060 relevant 1st tier supplier contracts x .4 overlap factor) = 711,607

Internal labor costs = 711,607 suppliers (large companies) x (100 man-hours x 90% of total work load) x $50/hr = $3,202,231,500

iii. Consultant (for suppliers that are small companies):
Consultant costs = 148,459 suppliers (small companies) x (40 man-hours x 25% of total work load) x $200/hr = $296,918,000

iv. Consultant (for suppliers that are *large* companies):

[45] A 60% overlap factor converts to 40% in the mathematical equation. The concept of "overlap" *reduces* the number of companies subject to the requirements by 60%, leaving the remaining 40% of the companies subject to the requirements (100% - 60% = 40%, or 0.40).

Consultant costs = 711,607 suppliers (large companies) x (100 man-hours x 10% of total work load) x $200/hr = $1,423,214,000

Thus, the estimated total cost to suppliers is $5.14 billion ($5,145,052,000). The estimated grand total amount for issuers and suppliers is $5.17 billion ($5,171,065,960).

D. Issue #4: Diffusion of solutions and efficiencies

NAM does not recognize or anticipate that common solutions will be developed, migrated across multiple companies/industries and create cost efficiencies. Some of these solutions that already exist or (in advanced development) include EICC-GeSI CFS audits, EICC Supplier Information templates, common cross-industry product content information platforms and consulting firms expertise/tools applied across their client bases. In contrast, NAM's numbers reflect an assumption that each individual company must reinvent the wheel in isolation from other existing or developing solutions.

As discussed above, one assumption underlying most of NAM's calculation is that there is always an exclusive and 1-to-1 relationship between each issuer and each supplier, which is unfounded.[46] Rather than reinventing the wheel at every link in the supply chain – and therefore repeatedly expending 100% of the costs for developing that CMR and supporting information – a more pertinent metaphor is the Microsoft model. Once the product (the CM information) has been produced, it can be replicated at little to no cost (and is still valid for other links in the supply chain). Work performed once can be diffused to multiple customers who request the same type/scope of conflict minerals information (assuming reasonable consistency in the effort scope and information outputs). With CM information completed, a supplier with only one customer gains no efficiencies in cost or labor – however, if that supplier has many customers, the efficiency gains are significant. Indeed, the supplier-issuer relationship is in many cases complex, and in most cases the issuer's supply chain is not wholly unique. Nevertheless, multiple issuers will almost certainly ultimately receive minerals from the same ore refinery. In other words, once the smelter has developed its CM program, those costs are not repeated for each individual customer conducting business with that smelter, and likewise for other layers in the supply chain. The very structure of the mineral supply chain thus allows for the creation of labor and cost efficiencies due to mutuality of suppliers – a significant efficiency factor not recognized by NAM.

This efficiency gain however assumes that (1) credible, consistent and validated information rolls up to the CMR and SEC filings and (2) there is a reasonable alignment between the supplier's available information and the information needed by its customers. The more exclusive the supplier-customer relationship – the fewer the customers among which the CM program cost/efforts may be spread. The less

[46] In reality, we believe there is substantial overlap/mutuality in customer relationships; therefore, once a supplier satisfies the CM requirements for one customer, that supplier will not need to wholly replicate their CM program development efforts/costs for other customers. This creates "overlap" or "mutuality" cost efficiencies that are not recognized in the NAM model.

exclusive, the more customers there are, the more pertinent the Microsoft metaphor. Thus, mutuality at certain points in the material flow, e.g. the smelting level, creates overlap which translates into effort reduction and cost efficiency.

E. Issue #5: Nature, scope and cost of CMR audit

The nature and scope of the audit, while a principle cost factor determinant, has not yet been clearly defined by the SEC. Neither the law nor the SEC's proposal specifies the requirements for the scope or execution of a due diligence process for the Conflict Minerals Report or the related audit. Instead, SEC has stated that it would be inappropriate for them to prescribe any specific guidance on the due diligence efforts.[47] This allows companies/industries to develop a framework reflecting their own unique circumstances, products and supply chain. However, the scope of the effort and the information relied upon must be specifically described in the Report."[48]

Consequently, interpretations vary of what constitutes a "due diligence process" or the related "audit." If one were to follow the OECD Guidance, mineral traceability audits and chain of custody audits would be required as well along the supply chain. The variability in defining the audit scope thus also accounts for differing implementation cost estimations.

Due diligence not only involves company-led management system development and implementation, the CMR to be submitted to the SEC must contain a certified audit which "shall constitute a critical component of due diligence in establishing the source and chain of custody of such minerals."[49] As a part of the due diligence requirement, NAM estimates that 75% of issuers (4,500) would have to conduct a CMR audit.[50] NAM goes on to posit that suppliers will "be asked to use the same diligence as issuers," which includes audits,[51] and continues by estimating that this audit mandate will impact 20% of the nation's 278,000 small companies (55,600). At the same time, using other figures provided NAM, the collective number of material supply contracts potentially subject to audits under their scenario could be 12 million (2,000 x 5,995 = 11,990,000).

Yet there is no requirement in the rule or law that suppliers be audited – only the issuers who are subject to the regulations must conduct audits of their CMRs.[52] Suppliers will be subject to auditing only if they are (a) themselves also an issuer, or (b) required to do so by their customers. The burden and cost for such audits are voluntary in the context of the regulation and the impetus for such audits is likely to be reduced if issuers are

[47] 75 Fed. Reg 80961.
[48] 75 Fed. Reg. 80958, 80972 - 80975
[49] Exchange Act Section 13(p)(1)(B).
[50] Page 25 of the NAM reports states: "We conservatively estimate that 75 percent, or 4,500, of the nearly 6,000 affected issuers will have to submit a CMR."
[51] NAM comments, p. 26.
[52] See Section 1502(b) and the preamble discussion at 75 Fed. Reg 80958. Further, the OECD Guidance only discusses audits of smelters – not other points in the supply chain, not even from the mine to the smelter.

allowed to use "reasonably reliable representations" from suppliers, a concept that is both included in SEC's proposal[53] and supported by NAM. Therefore, because supplier audits are outside the regulation and the driver of/need for such audits is likely to be reduced by "reasonably reliable representations" from suppliers, we are excluding those from our analysis and we focus on issuers only.

By applying the small/large company ratios to the NAM estimate of 4,500 issuers:

- 4500 x 72% = 3240 small company issuers required to develop/audit a CMR;
- 4500 x 28% = 1260 large company issuers required to develop/audit a CMR.

As specified in Section 1502(b) of the law, the audits undertaken by issuers must be conducted in accordance with SEC audit/auditor standards[54] and focus on the existence, functionality and controls of the issuers' CM management processes that are included in the CMR (i.e., a management system audit). It is critical to understand that a management system audit reviews and assesses how (or *if)* the audited entity:[55]

- establishes, maintains and communicates standards/expectations of behaviors;
- obtains, reviews and verifies relevant information;
- establishes and implements related control mechanisms;
- uses information in its decision-making;
- documents, tracks and reports data/decisions; and
- conducts follow-up on problems, concerns or issues that are identified within their business processes, audits or from external parties.

In performing such an audit – and in establishing expectations for the efforts and results – certain key factors must be considered:

- As with other SEC audit scopes, the CMR audits will provide "*credible and/or reasonable assurance*" – not absolute assurance, certainty or guarantees;
- As in any audit scope/process, limitations will exist in the quality and quantity of data;
- The instability in DRC and the region sets the stage for rapid and unforeseen changes in location/scope of conflict areas. While a mine or transportation route may be identified as "conflict free" at a point in time during supplier due diligence and the CMR development, supply chain reviews and audit process, it is possible for the status to change subsequent to the due diligence/CMR activities;[56]
- CM management systems and controls will be tested within the audit process, which means that a sampling of the technical supporting data will be assessed. Sample size determination factors and methodologies are incorporated in SEC audit standards; in many cases, the sample size will be less than 100%.

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[53] 75 Fed. Reg 80957.

[54] Such as *Government Auditing Standards: July 2007 Revision* (GAO-07-731G), commonly referred to as the "Yellow Book." This publication is referenced in SEC's proposal as the appropriate standard recommended by the GAO (*see* Footnote 101 at 75 Fed. Reg 80958). The Yellow Book incorporates many audit/auditor standards of the American Institute of Certified Public Accountants (AICPA).

[55] This is the general framework used for audits conducted under Sarbanes-Oxley, certain other financial auditing processes and certification systems such as ISO9001, ISO14001 and OHSAS18001.

[56] NAM concurs. See NAM Comments, p.14

To summarize, a CMR audit is not intended to confirm the technical accuracy of the material content, product certifications, supply chain linkages or other supporting data. Instead, the CMR audit will determine what, if any, internal processes exist to obtain appropriate technical information on product content, the supply chain flow, and how that information is assessed, used and reported by the audited company.[57]

Given the above, the scope of CMR audits is *highly dependent* on the complexity of an issuer's management systems and *less dependent* on the number of suppliers within the supply chain. We assume that larger companies have more complex management systems than smaller companies[58] and agree that NAM's unit cost estimates of $25,000 (small company) and $100,000 (large company) are reasonable. Therefore, our audit cost estimates are as follows:

Small issuers:
- 3240 x $25,000 per CMR audit = $81,000,000

Large issuers:
- 1260 x $100,000 per CMR audit = $126,000,000

Thus, the total cost for CMR audits of small and large issuers will come to $207,000,000 per year as issuers are to file the CMR including a certified audit with the SEC on an annual basis.

F. Issue #6: The use of information technology for record keeping

Apart from preparing the policies, procedures and controls, a significant level of effort is further required to implement the program at the issuer and supplier level. According to IHS,[59] as seen in the electronics sector faced with the EU-RoHS directive; and the chemical, process and manufacturing sectors for the EU-REACH regulation, it takes time to adopt and develop standards (what information, in what format, updated in what frequency, communicated via what mechanism, etc.). Even when standards are in place, companies commonly are faced with the "diversity of data" problem. Obtaining the appropriate content from suppliers is a major challenge: some suppliers provide documents explaining their compliance, some may not provide much useful information (e.g. e Yes/No compliance), some provide full material disclosure (FMD), some provide FMD but omit portions they consider a trade secret, others provide test reports. Generally speaking, considerable effort is usually required to obtain and transform supplier-furnished information into a usable parametric format that applications can

[57] A position that NAM also seems to take – see comments on "reliable due diligence" and "commercially practicable effort", p.13
[58] This assumption is supported by our analysis of IT systems and costs in Issue #6.
[59] IHS is a global information company in the pivotal areas such as energy, economics, geopolitical risk, sustainability and supply chain management. (http://www.ihs.com)

understand and be useful to engineers, procurement personnel, auditors and regulators.[60]

NAM's comments to SEC state that: "*issuers must collect information and maintain auditable records for the SEC. To do so, issuers may need to develop new IT systems to collect information on their suppliers. Most manufacturers and suppliers may have to develop new computer systems or revise existing systems to track, store, and exchange data regarding mineral origins. Because of the global nature of supply chains, these systems will need to be available globally, have high storage capacities, and advanced communication, and data transfer functionalities. Based on previous changes to supply chain computer systems over the last several years, the cost per company is likely to range from $1 million to $25 million depending on the size and complexity of the supply chain. Again making a conservative estimate of $1 million per IT system, the collective cost would be $6 billion ($1 million X 5,994 = $6.0 billion).*"[61]

While among the 5,994 issuers there are large companies that would typically use highly sophisticated enterprise systems (such as SAP or Oracle) in order to manage complex supply chains, the remainder of the 5,994 companies should be estimated using a lower unit cost. Therefore, using the IPC survey as an indication of company size distribution, the total annual revenues of the small and medium companies would in no reasonable way support the idea that all 5,994 issues have IT requirements that justify a $1 million modification each.

Moreover, in its economic impact analysis NAM apparently did not consider the possibility of shared software solutions and shared product information platforms. In the business world, a ubiquitous *modus operandum* is that once a software company has developed an appropriate piece of software tailored to the information capture and storage needs of an issuer, it is sold or licensed to other companies in the same market. Examples also abound of shared product information platforms, such as in the chemical industry. IHS' Design & Supply Chain group for example provides critical information and insight typically in the form of reference databases on a wide variety of goods including electronic components – including compliance with regulations such as RoHS and REACH. IHS explains:[62]

> *We aggregate content from suppliers, we standardized and classify the content, and we "describe" parts and materials in standard ways to allow part research, comparison, selection and reporting. This is labor-intensive work that many companies choose to outsource. In the IHS model we make these value-added databases available to our subscribers where the cost of content collection, processing and maintenance is shared across our installed base. This typically saves our subscribers considerable expense. Of course, not all parts or materials that all our subscribers use are in our database – so we offer content services to obtain this content specifically for them. This is especially true for their custom parts. Sourcing and processing individual parts for a client is very cost-intensive.*

[60] written correspondence with IHS. October 1, 2011.
[61] NAM Comments, p. 24
[62] written correspondence with IHS. October 1, 2011.

> *We've seen ranges of prices in industry of about $5/part to more than $30/part for chemical compliance information over the last 5 years. With a reference database the prices reduce considerably. For "mature" databases, developed over an estimated 5 years, companies would be able to match up to 60% of their parts and would reduce their annual "build and maintain" cost/part by up to 80% for matched parts.*

In sum, the efficiency effect due to replication and adaptation of a viable software solution seems not to have been considered by NAM. Furthermore, the Internet and encryption – commonplace in viable businesses – could serve in the place of the "data transfer functionalities." Indeed, this has already begun with the EICC-GeSI Supplier Information Template Tool.[63]

Based on its 2011 survey, IPC found that "anticipated costs for information technology modifications ranged from 12,500 to 750,000 dollars."[64] The survey result details indicate an average unit cost of $205,000 for IT system changes, which was skewed by the single largest value of $750,000.[65] According to their survey demographics, 72% of the respondents are companies with revenues less than $100 million. In looking at the data as a whole, the IPC study supports the position that the actual number of companies likely to incur IT system modification expense levels as posited by NAM is much smaller than 5,994.

Small issuers:
We apply the small company ratio of the 5,994 issuers to the small company cost estimates from IPC: 5,994 x 72% x $205,000 = $884,714,400

Large issuers:
The large company costs from NAM may then be applied to the large company ratio of the 5,994 issuers: 5,994 x 28% x $1,000,000 = $1,678,320,000

Thus, the total estimated cost to issuers for instituting the necessary IT systems modification in view of conforming with the Conflict Mineral Act is $2.56 billion.

VI. A Third Economic Impact Model

A. Estimated number of affected companies

1. Width and depth of mineral/metal supply chain

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[63] EICC & GeSI. *GeSI and the EICC® Launch Conflict Minerals Reporting Template and Dashboard.* August 3, 2011.
http://eicc.info/PDF/GeSI%20and%20the%20EICC%20Launch%20Conflict%20Minerals%20Reporting%20Template%20and%20Dashboard.pdf

[64] IPC Comments on SEC Proposed Rule on Conflict Minerals, March 2, 2011, p. 21

[65] If the outlier figure is factored out, the average drops more than 50% to $96,000.

Each company has its own supply chain, consisting of a certain number of direct or 1st tier suppliers and each of those direct suppliers has its own set of suppliers. In the analysis below, we use the term "width" to refer to the number of suppliers across each supplier tier and "depth" to refer to the number of tiers between the company and the mine. Clearly, each company's width is variable. Issuers will not readily know the width of their supply base beyond the 1st tier, but generalized estimates can be made by using industry association data and basic inquiries to points within the supply chain.[66]

In addition, not every supplier in each tier will be subject to conflict minerals activities (e.g., service vendors, suppliers of paper products, fossil fuels, and raw textiles to name but a few). Therefore, the width of a company's supply chain reasonably expected to be subject to CM efforts is a percentage (less than 100%) of their total supply base. The width for purposes of CM efforts consists only of materials/products that contain CM.

For many companies/industries (especially in the electronics industry and supply chain), a significant amount of product content information is likely to exist already within information management systems required by other laws in the US and EU.[67] As an example, we refer to the results of the IPC survey replicated in *Table 1* above indicated that 35.75% of the supply base was known to contain the conflict mineral, whereas 46.25% of the supply base was known not to contain the conflict mineral.[68]

A typical supply chain also consists of multiple layers (depth), but the number of layers is wholly dependent on the type of product, the distance from the ore source and/or ultimate final product. Therefore, each company's supply chain depth is variable. Companies may obtain information on their supply chain from publically available information, industry association data and basic inquiries to suppliers.[69]

Figure 2 below illustrates the width and depth concept in the mineral supply chain, which takes on an hourglass shape. The upstream supply chain is best defined as companies handling mineral concentrate, and the downstream supply chain as companies using refined metal, separated by the smelter / refinery link. The figure furthermore depicts the conflict minerals flow through the various mineral and metal supply chains. The top section blue background (A.) marks the sectors considered by this paper's economic impact model. The bottom light yellow background (B.) denotes tiers not considered by this paper's economic impact model.[70]

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[66] For instance, Figure 1 of *Comments on SEC Regulatory Initiatives Under the Dodd-Frank Act Title XV: Miscellaneous Provisions- Section 1502 Conflict Minerals (P.L. 111-203), IPC-Association Connecting Electronics Industries,* November 22, 2010.

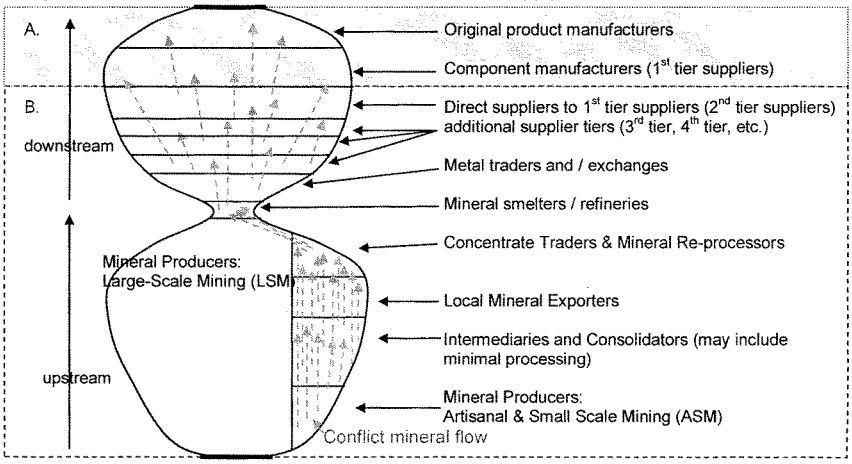
[67] More details on this matter are provided in Issue #6 on software systems.

[68] Results of an IPC Survey on the Impact of U.S. Conflict Minerals Reporting Requirements, February 2011 p. 5-6

[69] Figure 1 of *Comments on SEC Regulatory Initiatives Under the Dodd-Frank Act Title XV: Miscellaneous Provisions- Section 1502 Conflict Minerals (P.L. 111-203), IPC-Association Connecting Electronics Industries,* November 22, 2010. http://www.sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-78.pdf

[70] Neither does SEC or NAM: SEC (Vol. 75, No. 246) only considers the burden to issuers; NAM (in its Comments to the SEC) only considers costs to the issuers and 1st tier suppliers.

Figure 2: Width and depth illustration of mineral/metal supply chain



Source: supply chain sequence adapted from OECD publication[71]

Yet to begin to determine the economic impact also on the lower tiers of the supply chain, we propose a formula. The following formula applies previously discussed concepts to estimate the total number of suppliers within a company's supply base that may reasonably be expected to address CM requirements:

$$S_{CM} = \sum_{i=1}^{n} (S_T * x\% * .4)$$

Where:
S_{CM} = Estimated total number of the company's* suppliers subject to CM due diligence efforts
n = Estimated number of tiers in the company's supply chain (i.e., depth) back to mine of origin
S_T = Estimated number of suppliers in each tier n (i.e., width)
x = Percent of materials/product per each tier n identified (or estimated) as containing 3TG.** This factor will (a) increase as the supply tier nears the smelter, and becomes 100% for tiers between the smelter and the mine, and (b) probably decrease as the supply tier moves closer to the final product.

[71] OECD (2011), *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, OECD Publishing. http://www.oecd.org/dataoecd/62/30/46740847.pdf

.4 = The mathematical factor reflecting supplier overlap. A constant, this factor converts the number of contractual relationships to the number of unique businesses that would be required to implement CM programs.

* In this context, "the company" refers to a single business entity that is located at any point in the supply chain.
** Determination made based on screening activities. This is not the overlap factor, but screens out suppliers in each tier that provide services or materials that do not contain 3TG such as fuel, copy paper, etc.

2. Traceability in the conflict mineral supply chain

A distinction needs to be made between traceability of minerals from mine to smelter (upstream) and from smelter to end product (downstream) as is illustrated in *Figure 2* above. An investigation by the Enough Project provides general contours of the upstream supply chain of conflict minerals from the eastern Congo.[72] The 5 principal upstream links in the conflict mineral supply chain, between each of which are providers of material transportation, are:

1. *Mines:*
   - 13 major mines and approximately 200 total mines in the region
2. *Trading hubs:*
   - Minerals: two major trading hubs in the region, Bukavu and Goma;
   - Gold: Butembo and Uvira are also key trading hubs
3. *Exporters:*
   - There are currently 17 exporter companies based in Bukavu and 24 based in Goma
4. *Neighboring transit countries:*
   - Rwanda, Uganda, Burundi, Tanzania, Kenya
5. *Smelters and Refineries:*
   - *Tin*: 10 main smelting companies process over 80 percent of the world's tin, almost all of which are based in East Asia
   - *Tantalum*: four companies make up the overwhelming majority of the market based in Germany, the U.S., China, and Kazakhstan
   - *Tungsten*: several processing companies in China, Austria, and Russia.
   - *Congolese Gold*: Dubai, Switzerland, Italy, and Belgium

Based on this study, the upstream supply chain of conflict minerals appears to be a significant and definable sub-set of the mineral supply chain universe that involve many more countries than just the DRC.

The smelter level, representing the choke point in the hourglass figure above is a critical link. The EICC Conflict Free Smelter (CFS) program for example specifically reviews the documentation from mine to smelter. While the CFS program does not certify products,

[72] Enough Project. *From Mine to Mobile Phone: The Conflict Minerals Supply Chain.* Nov 10, 2009. http://www.enoughproject.org/files/publications/minetomobile.pdf

it approves smelters. According to UL-STR, auditor of the EICC Conflict Free Smelter program, the key point of the program is that smelters are *100% input verified*, which means "an approved smelter has undergone a 100% documentation review for all purchases of minerals in the audit period."[73] Consequently, inputs used to manufacture a given product are conflict-free. An additional benefit is that 100% input verification does not require internal lot traceability, a rather tedious process which involves controlling which raw material lots were processed into which final product lots. Thus, 100% input verification appears to be the easier approach than internal lot traceability. Furthermore, the 100% input verification approach is progressive in that it is concerned with recent purchases only.[74]

The information is then made available "upwards" to their customers, such that actors within higher tiers can track their minerals back to the smelter and match the results to the publicly available list of "conflict-free" smelters. Downstream traceability is enabled when suppliers in lower tiers submitting the same information as the 1st tier suppliers in effect establishing a chain of custody system.

While it is not within the scope of this white paper to describe in detail and provide the economic impact analysis also for the upstream supply chain, we point to the International Tin Research Institute's (ITRI) Tin Supply Chain Initiative (iTSCi) which, *inter alia*, seeks to provide verifiable mineral chain of custody information auditable by the smelter validation programme of downstream industry as recommended by the OECD Guidelines, and enable relevant US companies to report on due diligence efforts to the SEC as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act.[75] ITRI argues that a 3-month pilot project in North and South Kivu and Maniema in late 2010 proved the concept of rapid and simple implementation of chain of custody (employing bag-and-tag system as well as certification system) in the 'conflict affected' areas of the DRC activity. ITRI's 5-year plan, authored in February 2011, provides details and costs projections on how much it costs to build a clean supply chain for tin, estimated in the tens of millions. As the iTSCi establishes a viable paradigm for a clean tin supply chain, it may also serve as a model for doing the same for tungsten, tantalum and gold.

Implementing upstream traceability in Central Africa is however associated with a host of challenges which differ significantly from those in the downstream supply chain. Field-proof systems are required to ensure traceability of DRC sourced material, and the costs and challenges (including the rapidly changing security situation) may surpass the management systems approach. Aside from the need for lower tier levels to adapt/revise management systems to respond to CM customer requirements, technical requirements of tagging and bagging minerals generate other, non-management system related costs. Other cost factors include the need for additional capacity for mine inspectors, police, and customs officials. Thus, the challenges associated with

[73] Written correspondence with UL-STR. October 17, 2011. http://www.strquality.com

[74] Ibid.

[75] International Tin Research Institute. iTSCi 5-Year Plan: DRC & Rwanda. February 2011. http://www.sec.gov/comments/s7-40-10/s74010-326.pdfhttp://www.sec.gov/comments/s7-40-10/s74010-326.pdf

strengthening the infrastructure and institutional capacity of the country of origin present significant obstacles to traceability in the supply chain of the DRC and certain neighboring countries.[76]

B. Efficiencies, overlap and synergies in the implementation of Section 1502

i. Mutuality / overlap

As we have discussed above in various sections of this analysis, each company's program development and implementation costs are only *partially* proportional to the depth and width ("D/W") of their supply chain. Due to the overlap in supplier relationships, per-company program costs may increase to some extent as D/W increases, but the incremental cost for each supplier/tier is not 100% as NAM assumes. Most of the CM program is a management system – a framework of policies, procedures, training, internal controls and monitoring that will be developed at a corporate/business unit level to be applied across the company's operations and through the supply chain as determined by S_{CM} (i.e., the "Microsoft model"). Certain on-going information management activities within the program will be directly proportional to S_{CM}, but the operational tasks supporting those activities will be governed by this overarching management structure, the development of which is not repeated for each supplier (assuming reasonable consistency in information demands through the supply chain).

NAM assumes that all CM program costs will be fully replicated for each company in the supply chain. As we explained above, this assumption is incorrect as it should be anticipated that companies will share suppliers of certain products/materials. Where overlap exists, the incremental costs for CM program development will be generally reduced as explained above. This is most clearly demonstrated at the smelter level, which is generally considered by industry to be the "choke point" for CM material flow. Ores must be processed into commercially usable material by the smelters and there are a limited number of smelters worldwide; therefore smelters are the point in the supply chain that has the highest degree of mutuality. Mutuality will occur at other points in the supply chain, but perhaps not to the extent as seen in smelting. Regardless, as mutuality increases, the lower the incremental costs for implementing overarching management systems.

ii. Correction factors

The NAM estimate fails to recognize a number of important factors impacting costs. This paper applies three correction factors in order to properly gauge the extent of economic impact:

1. Large / small companies: As previously discussed, we divide the issuers and their suppliers into two groups: big and small. We estimate that 72% of issuers are small and 28% of issuers are large.

[76] Written correspondence with UL-STR. October 17, 2011. http://www.strquality.com

2. Non-CM mineral suppliers: based on findings from the IPC survey, only 53% of 1st tier suppliers provide materials, parts or components that contain 3T or gold and would thus be subject to CM management program efforts/costs.

3. Overlap / mutuality of suppliers: this correction factor accounts for the fact that issuers have some (possibly many) suppliers in common and so controls for overlapping issuer-supplier business relationships. This paper operationalizes this overlap factor as 60%, which means on the aggregate only 40% of the number of 3TG material supply contracts unique effort/cost is required.

iii. Technology transfer efficiencies

The NAM model implies that each company implementing CM programs will do so wholly independently. In reality, this is not likely. There are already a number of initiatives and services in the market that allow companies to take advantage of "shared solutions." These include:

- *Shared platforms*: Industry initiatives (such as in the electronics and tin mining industries) are already creating common platforms for information collection, tracking, reporting and even auditing to reduce the labor effort/cost burden on companies. This includes various material declaration and certification programs and standards that currently exist, such as IPC 1752 Materials Declaration standard for electronic data exchange of product materials information. Other current initiatives include the EICC-GeSI CFS and Supplier Reporting Template, the ITRI "Bag and Tag", and the recently announced Public-Private Alliance for Responsible Minerals Trade (PPA).[77]

- *Internal information management systems*: As mentioned in Section *V.F. Issue #6* above, many companies impacted by the CM law are also subject to other regulations related to product content, such as the EU Regulation on *Registration, Evaluation, Authorisation and Restriction of Chemicals* (REACH) and *Reduction of Hazardous Substances* (RoHS). REACH is a chemical registration and authorization legislation with a growing list of chemicals that require manufacturers to register the use of those chemicals if used or released by products above certain amounts as well as reporting to customers upon request the presence of any of those chemicals about certain limits. RoHS and its 2011 update (known as "RoHS recast") set threshold amounts for certain elements in a variety of product types that require manufacturers to restrict their use. Information required by REACH and RoHS regulations is managed in a similar manner even though the restrictions, information reporting and registration requirements are quite different. At the heart of each of these regulations is the need for information collection and management systems to ensure that all the needed data is gathered from the supply chain and that it is consistently reviewed, updated, verified and ultimately disseminated to customers and regulators. These

[77] U.S. Department of State. Under Secretary for Democracy and Global Affairs Maria Otero Travels to the Democratic Republic of Congo. Oct. 6, 2011. http://kinshasa.usembassy.gov/pressrelease_english_10062011.html

systems contain substantial overlap with the information tracking needs for CM programs. There are many vendors for IT-based systems for managing REACH and RoHS data.

iv. Human resource efficiencies

- *Cross-cutting consulting firms*: Consultancies provide management system development, supply chain due diligence and audit services that leverage their experience in management systems development/implementation, material traceability, sourcing, information management systems, auditing and specifically conflict minerals programs. Companies choosing to use such firms/services are likely to see improved process development and launch times as compared to internal program development in a vacuum.

- *Cross-cutting law firms:* Law firms that are developing expertise in the subject area who can advise multiple clients and cross-pollinate best practices across their client base.

v. Customer/supplier synergies
We have referenced the idea of "reasonable consistency in information demands through the supply chain" within this analysis. SEC's final regulations will create the platform for such reasonable consistency, therefore providing opportunities for cost efficiencies. In addition, it is expected that suppliers will also communicate with their customers to ensure alignment between their mutual CM data needs, which will also support reasonable consistency and cost efficiency.

C. Model comparison SEC vs. NAM vs. Third model

With our Third model's cost estimations previously justified, *Table 2* below juxtaposes SEC's and NAM's economic impact model with that of our Third model, itemizing the main cost drivers as laid out in the SEC proposed rule and NAM comments. As with the NAM and SEC estimates our Third model only takes into account the economic impact incurred by issuers (5,994) and 1st tier suppliers (860,066), and not all the actors throughout the entire mineral/metal supply chain. However, unlike NAM and SEC, our paper provides a conceptual mathematical model that can be applied to estimate companies beyond the 1st tier. Thus, the geographical scope of all three models focuses on companies operating within U.S. jurisdiction, or those who directly supply U.S. issuers.

Table 2:

Task	*SEC estimation of costs*	*NAM estimation of costs (low end estimate)*	*Third model estimation of costs*
1. Strengthening internal management	"an aggregate estimate of $16.5 million for the	$1.2 billion (which is calculated as 2 hours x	$26 million for the 5,994 issuers; $5.14 billion for

systems in view of performing due diligence	1,199 issuers"	$50 per hour x 2000 suppliers x 5,994 companies	1st tier suppliers to those issuers, for a total of $5.17 billion
2. Instituting the necessary IT systems (to collect information and maintain auditable records for the SEC)		$6.0 billion ($1 million x 5,994)	$884 million for issuers who are small companies; $1.68 billion for issuers who are large companies, for a total of $2.56 billion
3. Commissioning CMR audit	"We estimate that the 1,199 affected issuers' $25,000 cost would result in to an industry wide audit of approximately $29,975,000."	Big companies: $450 million ($100,000 x 4,500 issuers) Small and Medium sized companies: $1.39 billion (278,000 companies x .2 x $25,000)	As only issuers are required to conduct audits: $81 million for issuers who are small companies; $126 million for issuers who are large companies, for a total of $207 million
4. issuer-led implementation of risk-based programs that use company control processes to verify that suppliers are providing credible information		$300 million (1000 X $50= $50,000; $50,000 X 5,994)	(We believe task 4 and 5 are embedded in the first activity scope and cost within management system modifications. Therefore we are not costing out these elements individually.)
5. cost of filing SEC forms	$24,768,000		
Total	*$ 71,243,000 (not including internal company labor)*	*$9.34 billion (including internal company labor)*	*$7.93 billion (including internal company labor)*

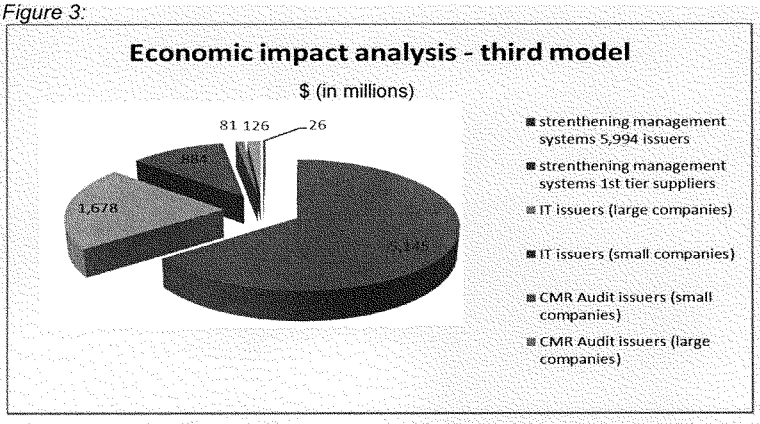
Thus, the total charge to implement due diligence according to our Third model, as itemized in the table above, would come to $7.93 billion. We thus regard Section 1502 as a "major" rule as it will have an annually effect the economy exceeding $100 million.[78]

Yet the order of magnitude of $7.93 billion must also be viewed relative to the size of the industries that depend on these minerals – including the industrial, aerospace, healthcare, automotive, chemicals, electronics/high tech, retail and jewelry sectors – and the trillions of dollars in wealth creation these sectors combined generate.

Figure 3 below visualizes the costs breakdown per task and per implementer.

[78] According to the designation as per the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA")

Figure 3:



D. Internal versus external company costs

Indeed, $7.93 billion represents considerable resources that would need to be dedicated to the fulfillment of the law. Yet it should also be considered what proportion of that amount comprise costs that can be covered with "in-house" human resources that may already exist within the individual companies (effectively diverting internal resources), and what proportion of those resources would go to cover external costs. *Table 3* below delineates each type of "cost."

Table 3: In-house resource costs vs. money outflows

Task	*Internal human resource costs*	*Money outflows*
1. Strengthening internal management systems in view of performing due diligence	Issuers: (internal costs) small companies: $6,473,520 large companies: $7,552,440 Suppliers: (internal costs) small companies: $222,688,500 large companies: $3,202,231,500	Issuers: (consultant costs) small companies: $8,631,360 large companies: $3,356,640 Suppliers: (consultant costs) small companies: $296,918,000 large companies: $1,423,214,000
2. Instituting the necessary IT systems	(Some company personnel time would be required for operating the IT systems)	Small issuers: $884,714,400 Large issuers: $1,678,320,000
3. Commissioning CMR audit	(Some company personnel time would be required for working with the auditors)	$207,000,000
Total	*$3,438,945,960*	*$4,502,154,400*

The delineation above shows that slightly more than half of resources expended for the law would comprise resource outflows – money paid to 3rd parties for consulting, IT systems and audits. Yet almost half of the $7.93 billion burden may be covered with "in-house" human resources that may already exist within the companies affected by the law.

E. Economic costs to issuers versus suppliers

A further object of analysis is the supplier / issuer breakdown of economic cost. Simply re-arranging the organization of costs as presented in *Table 3* above, *Table 4* below tabulates the issuers / suppliers costs.

Table 4: Economic costs to issuers versus suppliers

Task	*Economic cost to issuer*	*Economic cost to suppliers*
1. Strengthening internal management systems in view of performing due diligence	Issuers: (internal costs) small companies: $6,473,520 large companies: $7,552,440 Issuers: (consultant costs) small companies: $8,631,360 large companies: $3,356,640	Suppliers: (internal costs) small companies: $222,688,500 large companies: $3,202,231,500 Suppliers: (consultant costs) small companies: $296,918,000 large companies: $1,423,214,000
2. Instituting the necessary IT systems	Small issuers: $884,714,400 Large issuers: $1,678,320,000	(minor costs may be incurred by suppliers conforming with the issuer IT parameters)
3. Commissioning CMR audit	*$207,000,000*	-
Total	*$2,796,048,360*	*$5,145,052,000*

As the issuers/suppliers cost comparison reveals, the bulk (65%) of the total cost – $5.1 billion, would be incurred by the suppliers, while the smaller portion (35%) of the total – $2.8 billion – would be carried by the issuers. This is due to the fact that there are multiple suppliers for each issuer, even taking into consideration our various correction factors. As we noted earlier, SEC's analysis failed to include the impact on – and associated costs incurred by – the suppliers.

If one were only to consider the efforts/costs necessary at the issuer level – which SEC effectively did – the economic impact according to our model is $2.8 billion. However, since in light of Section 1502 the entire supply chain needs to be reformed in order for traceability/chain-of-custody to work from mine to CMR disclosure – and arrive at an accurate determination of whether "conflict" is in the mineral – the suppliers along the supply chain must also be factored into the economic impact equation.

F. Sunk versus recurring economic costs

While there would be some internal operational costs associated with performing ongoing due diligence and maintaining the necessary IT systems on a company-to-company basis over the years, the initial implementation of these efforts could be considered "sunk costs" in the economic sense in that they are one-off costs in exchange for services which cannot be thereafter sold or the value otherwise recuperated. Once the management systems are place, the codes of conduct have been revised, the new procedures are instituted, etc., the recurring cost of operating same is very low compared with the initial implementation. Thus, the estimated $7.73 billion it would take to implement Section 1502 (without taking into consideration the annual $207 million expenditure in independent CMR audits), would constitute a one-time cost/investment. Thereafter, the most notable "external" cost the issuers would incur on an annually recurring basis is a $207 million expenditure in commissioning independent CMR audits.

VII. Conclusion

All parties seem to agree that the Dodd-Frank Section 1502 is an important catalyst for action, and that only collective action can implement systems that will be able to track and account for the source of the minerals originating from Central Africa. Our model contends that affected companies in the U.S. would need to carry out three principal actions in order to be in a position to comply with the new law: (1.) strengthening internal management systems in view of performing due diligence, (2.) instituting the necessary IT systems, and (3.) commissioning CMR audits. We estimate that the cost of implementing these actions comes to $7.93 billion. However, almost half of the total cost – $3.4 billion – would be met with in-house company personnel time, and the rest – $4.5 billion – would comprise outflows to 3rd parties for consulting, IT systems and audits. Comparing the costs to the issuers vs. the suppliers, the bulk of the total costs – $5.1 billion or 65% – would be incurred by the suppliers (the group not included in SEC's analysis), while the smaller portion of the total – $2.8 billion or 35% – would be carried by the issuers. These implementation costs would however be borne by thousands of individual firms in lucrative industries such as the industrial, aerospace, healthcare, automotive, chemicals, electronics/high tech, retail and jewelry industries.

This white paper estimates the economic impact of the law to the issuers and 1st tier suppliers, and thus focuses on the impact to companies and their suppliers operating within U.S. jurisdiction. Yet costs will also be incurred throughout the upstream and smelter supply chain links. While promising traceability initiatives – such as the ITRI's Tin Supply Chain Initiative (iTSCi) and the Conflict Free Smelter (CFS) program – demonstrate market viability, law enforcement and customs protocols in affected central African countries would need to be significantly strengthened to make such schemes truly viable.

As this economic impact analysis demonstrates, transparency and disclosure in the mineral / metal sector will come at a significant cost. As a sweeping law affecting a multitude of industries in the U.S., we regard Section 1502 as a "major" rule as its effect on the economy will exceed $100 million per year. The challenge facing the SEC is to fashion regulation that enforces the spirit of transparency and disclosure as envisioned by Dodd-Frank Section 1502, yet promulgate circumspect regulation that prevents undue burden being placed on the industries involved in the mineral / metal sector, and so avert whole industries extricating themselves from DRC originating minerals.

IX. Definitions

Term	*Definition*
1st tier supplier	Companies that supply materials/products to original product manufacturers. retailers and issuers.
2nd tier supplier	Companies that directly supply the 1st tier suppliers.
3T	Tantalum, tin and tungsten
3TG	Tantalum, tin, tungsten and gold
Chain of custody	The ability to physically track the minerals at all points along their trading chain, from their source in the mine to their point of export and delivery to the smelter/refinery.
CM	Conflict Mineral
CMR	Conflict Mineral Report
Downstream	Companies using refined metal
Due diligence	"The process through which enterprises can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management systems."[79]
Issuer	"An organization that registers, distributes, and sells a security on the primary market."[80] An issuer is thus an organization that sells securities (stock) to the public.
Upstream	Individuals and companies handling raw ore or slightly processed ore products such as mineral concentrate

[79] OECD. *OECD Guidelines for Multinational Enterprises*. 25 May 2011. http://www.oecd.org/dataoecd/43/29/48004323.pdf
[80] Farlex Financial Dictionary. 2009.

RETAIL INDUSTRY LEADERS ASSOCIATION
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May 10, 2012

The Honorable Gary Miller
Chairman
Subcommittee on International Monetary Policy and Trade
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Carolyn McCarthy
Ranking Member
Subcommittee on International Monetary Policy and Trade
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Re: The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo

Dear Chairman Miller and Ranking Member McCarthy:

On behalf of the Retail Industry Leaders Association (RILA), I write to you today to provide our comments on the consequences of requiring Securities and Exchange Commission (SEC) registrants to provide disclosures about the use of minerals from the Democratic Republic of Congo and adjoining regions, and the SEC's proposed rule to implement this new disclosure requirement (Proposed Rule).[1]

By way of background, RILA members include the largest and fastest growing companies in the retail industry, which together account for more than $1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores and distribution centers domestically and abroad.

RILA members greatly sympathize with the people of the Congo and fully support ending the unlawful activities of armed groups controlling mines in the region. RILA also fully supports the intent of Section 1502 of the Dodd-Frank Regulatory Reform and Consumer Protection Act of 2010 (Dodd-Frank)[2] to protect the Congolese citizenry.

Nonetheless, as an overall policy matter, we do not believe that imposing a reporting burden on certain U.S. companies regulated by the SEC is an effective or efficient tool for ending human rights abuses. Our policy concerns are heightened by the SEC's impermissibly expansive Proposed Rule that would extend the scope of covered issuers beyond those who manufacture to include those who "contract to manufacture."

I. SEC's Proposal Exceeds Scope of Statutory Authority

A. *The Law Places A Reporting Obligation Only On Those Engaged In Value-Added Manufacturing Processes*

[1] 75 Fed. Reg. 80948 (Dec. 23, 2010). The Proposed Rule would set forth the new conflict-minerals disclosure requirements.by amending Regulation S-K for domestic registrants – publicly traded companies required to file annual reports with the SEC on Form 10-K – as well as certain foreign issuers. 17 CFR § 229.104.

[2] Pub. L. No. 111-203 (Jul. 21, 2010). The statute adds new § 13(p) to the Securities Exchange Act of 1934 (Exchange Act). References to the new conflict-minerals disclosure requirement in this letter are to § 13(p).

The SEC's Proposed Rule impermissibly extends the scope of issuers that would be covered beyond the boundaries established by the statute. Specifically, Section 1502 expressly applies the disclosure requirement to "any person described in paragraph (2)." A person is "described in [paragraph 2]" if "the person is required to file reports with the Commission pursuant to paragraph (1)(A) [the operative disclosure provision]" and "conflict minerals are necessary to the functionality or production of a product *manufactured* by such person." § 13(p)(2) (emphasis added). The foregoing definition does not include "contract to manufacture." The only reference to the "contract to manufacture" concept is in the information that a covered issuer must include in its disclosure report. *See* § 13(p)(1)(A)(ii) ("a description of the products manufactured or contracted to be manufactured that are not DRC conflict free").

In the preamble to the Proposed Rule, the SEC recognizes that the statute was "intended to apply only to issuers that manufacture products." 75 Fed. Reg. at 80952. The Commission further states that "[t]he absence of the phrase 'contract to manufacture' from the 'person described' definition raises some question as to whether the requirements apply equally to those who manufacture products themselves and those who contract to have their products manufactured by others." *Id.*

Nevertheless and without further analysis or justification, the SEC concludes that "[b]ased on the totality of the provision, however, it appears that the legislative intent was for the provision to apply both to issuers that directly manufacture products and to issuers that contract the manufacturing of their products . . . ." *Id.* The SEC further elaborates on the meaning of "contract to manufacture" in this context and states that the Proposed Rule is intended to apply to issuers that contract to manufacture products "over which they have any influence regarding the manufacturing ," as well as issuers selling generic products "under their own brand name or separate brand name that they have established, regardless of whether those issuers have any influence over the manufacturing of those products, as long as an issuer has contracted with another party to have the product manufactured specifically for that issuer." *Id.*

Thus, the SEC takes the "contract to manufacture" concept out of the statutory description of the type of information that must be included in a report, inserts it into the scope of parties covered, and further expands the concept to include anyone who might have even the most tenuous connection to the production design or specifications of a product manufactured by a stand-alone manufacturing entity.

The statutory "contracted to manufacture" language in paragraph (p)(1)(A)(ii) obviously and directly pertains to arrangements among those in the value-added process; that is, to those that are proximately upstream (*e.g.,* minerals, materials, processing) or proximately downstream (*e.g.,* an integrator of materials or component parts) from a manufacturer. Nothing in the text of the statute, its reasonable interpretation, nor its legislative history lends any support to the notion advanced by the SEC and others after the passage of the law that the language in § 13(p)(1)(A)(ii) referring to "contracted to manufacture" itself imposes a reporting obligation on anyone that is not *already* a proximate part of the value-added manufacturing process.[3]

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[3] In suggesting a reading contrary to the clear statutory language and context, the SEC takes note of a letter dated October 4, 2010 from Sen. Richard Durbin and Rep. Jim McDermott. However, the Supreme Court has specifically stated that post-enactment statements by legislators are "generally viewed as the least reliable source of authority for ascertaining the intent of any provision's drafters," and they are "entitled to

B. *Retailing Is Not Manufacturing*

As there is no basis for extending the statutory language beyond the value-added manufacturing process, the SEC would appear to have an obligation to spell out, through a definition of "manufacture," what is included in that process. RILA supports the recommendation of the National Association of Manufacturers ("NAM") that the SEC rely upon the generally accepted government definition of "manufacturing" as developed by the U.S. Census Bureau and North American Industry Classification System ("NAICS") and widely relied upon by both government and industry:

> Manufacturing as establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products.[4]

The definition of "manufacturer" should only include original equipment manufacturers and those businesses that design and specify bills of materials for products with control over the procurement or fabrication of the same products' bill of materials and specification of the constituent materials of the components. Although retailers in their private label programs may contract to have goods produced especially for them, this alone should not sweep retailers into the definition of a "manufacturer" within the meaning of the statute. An issuer should not fall within the definition of "manufacturer" by merely attaching a brand label to a generic good, contracting for the exclusive distribution of goods, or specifying the form, fit or function of a product.

II. SEC Cost Estimate

RILA and its members remain highly concerned that the cost estimate included in the Proposed Rule remarkably understates the true cost of the program that the SEC has proposed. In the Proposed Rule, and again at the roundtable hosted by the SEC on October 18, 2011, the SEC staff asked for comments on the accuracy of its costs estimates. As we noted in discussions with the staff, the tools necessary to perform the due diligence that would be required of retailers by the Proposed Rule do not currently exist and would have to be built. Based on their knowledge of their businesses and supply chains, and from discussions with potential independent auditors and consultants, the SEC's estimate of $35,898 for each of the 1,199 issuers the agency estimates would be required to file reports is woefully inadequate. RILA's view is shared by the National Association of Manufacturers, by researchers at Tulane University in a study (Chris Bayer, Dr. Elke de Buhr, Tulane University Law School's Payson Center for International Development, *A Critical Analysis of the SEC and NAM Economic Impact Models and the Proposal of a Third Model in view of the Implementation of Section 1502 of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act,* October 17, 2011) at the request of one of the sponsors of Section 1502, and by the Small Business Administration in a letter in 2011 (Winslow Sargeant, PH.D., Chief Counsel for Advocacy, Dillon Taylor, Assistant Chief Counsel for Advocacy, *Conflict Minerals,* File Number S7-40-10, October 25, 2011).

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no more weight than the views of a judge concerning a statute not yet passed." *District of Columbia v. Heller*, 554 U.S. 570, 662 n.28 (2008).

[4] Letter from the National Association of Manufacturers and other industry groups to Mary L. Shapiro, Chairman, Securities and Exchange Commission regarding SEC initiatives under the Dodd-Frank Act – Special Disclosures Section 1502 (Conflict Minerals), at 4 (Nov. 12, 2010).

III. Conclusion

In conclusion, RILA members are committed to identifying solutions to ease the suffering in the Congo and are prepared to work with stakeholders towards this eventual goal. However, even human rights abuses do not grant the Securities and Exchange Commission the license to exceed the bounds of the authority granted to it by Congress. In this regard, the final rule should reflect the statutory requirements that define the scope of issuers covered by the Section 1502 disclosure requirements.

Please do not hesitate to contact me if you have any questions at (703) 600-2046 or by email at stephanie.lester@rila.org.

Sincerely,

Stephanie Lester

Stephanie Lester
Vice President, International Trade
Retail Industry Leaders Association

SBA Office of Advocacy
www.sba.gov/advo

Advocacy: the voice of small business in government

October 25, 2011

VIA ELECTRONIC SUBMISSION

U.S. Securities and Exchange Commission
Attn: Elizabeth M. Murphy, Secretary
100 F Street, NE
Washington, DC 20549
Electronic Address: rule-comments@sec.gov

Re: Conflict Minerals, File Number S7-40-10

To Whom It May Concern:

The Office of Advocacy (Advocacy) offers the following comment to the Securities and Exchange Commission (SEC) in response to the above-referenced proposed rule.[1] Advocacy understands the underlying purpose of the proposed rule, which is to prevent atrocities occurring in the Democratic Republic of Congo. However, Advocacy has concerns that the proposed rule fails to comply with the Regulatory Flexibility Act (RFA). Specifically, the proposed rule appears to underestimate both the costs that the proposed rule will impose and the number of small businesses that will be impacted by the proposal. Advocacy recommends that the SEC publish in the *Federal Register* an amended initial regulatory flexibility analysis (IRFA) for the proposed rule to more accurately reflect the costs of the proposed rule and the number of small businesses that it will affect.

Office of Advocacy

Advocacy was established pursuant to Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within SBA, so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The RFA,[2] as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),[3] gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, federal agencies are required by the RFA to assess the impact of the proposed rule on small business and to consider less burdensome alternatives.

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.[4] The agency must include, in any explanation or discussion accompanying the final rule's publication in the Federal Register, the agency's response to these written comments submitted by Advocacy on the proposed rule, unless the agency certifies that the public interest is not served by doing so.[5]

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[1] 75 Fed. Reg. 80948 (Dec. 23, 2010), available at http://www.sec.gov/rules/proposed/2010/34-63547fr.pdf
[2] 5 U.S.C. § 601 et seq.
[3] Pub. L. 104-121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C. § 601 et seq.).
[4] Small Business Jobs Act of 2010 (PL 111-240) § 1601.
[5] Id.

Background

On July 21, 2010, Congress enacted section 1502 of the Dodd-Frank Act to require SEC filers to provide certain disclosures about the use of specified conflict minerals originating in the Democratic Republic of Congo (DRC).[6] Congress intended this provision of the Dodd-Frank act to bring transparency to the financial interests that support mining in the DRC.

On December 23, 2010, the SEC issued the proposed rule to implement section 1502 of the Dodd-Frank Act.[7] The proposed rule would require businesses that file with the SEC and manufacture products that require tin, tantalum, tungsten, and gold to report whether the minerals originated in the DRC or a neighboring country. Under the proposed rule, if a business discovers that its minerals do originate in the DRC or one of its neighbors, more reporting would be required. The businesses would be required to report on the measures they took to exercise "due diligence" on the source and chain of custody of the minerals. The proposed rule would also require businesses to provide independent verification of these steps through an independent private sector audit of the reporting.

On October 6, 2011, the SEC issued a notice to announce a roundtable regarding the proposed rule.[8] In the notice, the SEC extended the period to submit comments for the proposed rule until November 1, 2011.[9]

The IRFA Underestimates the Cost and the Number of Small Businesses Affected by the Proposed Rule

Under the RFA, an initial regulatory flexibility analysis (IRFA) must contain: (1) a description of the reasons why the regulatory action is being taken; (2) the objectives and legal basis for the proposed regulation; (3) a description and estimated number of regulated small entities; (4) a description and estimate of compliance requirements, including any differential for different categories of small entities; (5) identification of duplication, overlap, and conflict with other rules and regulations; and (6) a description of significant alternatives to the rule.[10]

In the proposed rule's IRFA, the SEC estimated that approximately 793 small entities would be subject to the proposal. The IRFA provided that the proposed rule would add to the annual disclosure requirements of companies with necessary conflict minerals, including small entities, by requiring them to comply with the disclosure and reporting obligations. The proposed rule stated that the costs of compliance are "difficult to assess but are likely insignificant."

Small business stakeholders have been in contact with Advocacy to express concern with the proposed rule. Small businesses contend that the SEC underestimates both the costs that the proposed rule will impose and the number of small businesses that will be impacted by the proposal.

As an example, one small business representative who met with Advocacy commented that the SEC proposed rule would impose a median due diligence burden in excess of $65,000 per company in the electronics industry supply chain to comply with the rule during the first year alone.[11] This same small business representative stated that the proposed rule would impose additional estimated costs for tracking software, additional staff, training, legal expenses, and third party audits with a median total of $170,000 per company in the electronics

[6] Public Law 111-203.
[7] 75 Fed. Reg. 80948 (Dec. 23, 2010), available at http://www.sec.gov/rules/proposed/2010/34-63547fr.pdf.
[8] SEC Release No. 34-65508; File No. S7-40-10 available at http://www.sec.gov/rules/other/2011/34-65508.pdf.
[9] Id
[10] 5 USC § 603.
[11] IPC – Association Connecting Electronics Industries comment letter to the SEC, dated March 2, 2011.

industry supply chain.[12] These high compliance costs stem from the fact that supply chains in the electronics industry are an extremely complex, multi-layered network of global trading companies and suppliers.

Similar to the electronics industry, small businesses in most industries that would be subject to the proposed rule participate in a complex supply chain that is comprised of numerous other businesses. The proposed rule would affect most manufacturers of electronics, aerospace, automotive, jewelry, health care devices, and industrial machinery. Even businesses that don't necessarily file with the SEC may be impacted if they are part of the supply chain for these metals to SEC filing companies. Because the SEC does not take into account the complexity of supply chains and the number of small businesses that are part of those supply chains, the SEC has underestimated the number of small businesses that would be impacted by the proposed rule.

Advocacy recommends that the SEC publish in the *Federal Register* an amended IRFA for the proposed rule. The amended IRFA should more accurately describe the costs and burdens of the proposed rule, and should also more accurately detail the number of small entities that would be impacted by the proposed rule. Amending the IRFA will help the SEC gain valuable insight into the effects of the proposed rule on small entities, and will require that the SEC consider less burdensome alternatives to the proposed rule.

Conclusion

Advocacy is committed to helping the SEC comply with the RFA in the development of its rule on conflict minerals. Accordingly, Advocacy stands ready to assist the SEC in amending the proposed rule's IRFA. If you have any questions or require additional information please contact me or Assistant Chief Counsel Dillon Taylor at (202) 401-9787 or by email at Dillon.Taylor@sba.gov.

Sincerely,

Winslow Sargeant

Winslow Sargeant, Ph.D.
Chief Counsel for Advocacy

Dillon Taylor
Assistant Chief Counsel for Advocacy

[12] Id.

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
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May 9, 2012

The Honorable Gary Miller
Chairman
Subcommittee on International
Monetary Policy and Trade
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Carolyn McCarthy
Ranking Member
Subcommittee on International
Monetary Policy and Trade
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Miller and Ranking Member McCarthy:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector and region, believes that an effective and coherent regulatory structure is needed to ensure the safety and soundness of the capital markets.

The Chamber supports the fundamental goal, as embodied in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), of preventing the exploitation of conflict minerals for the purpose of financing human rights violations within the Democratic Republic of Congo (DRC). However, Section 1502 was never subject to public debate and Congress could not evaluate serious flaws, particularly that the Securities and Exchange Commission (SEC) disclosure regime is not designed to solve societal woes.

In proposing the rule to implement Section 1502, the SEC estimates that issuers would be burdened with $71,243,000[1] in compliance costs and that the disclosures may impact between 1,199 and 5,551 companies, even if they never use conflict minerals. The cost-benefit analysis fails to show any benefits to investors, increased efficiencies for the marketplace or capital formation. Under Section 23(a) (2) the Exchange Act, in promulgating rules the Commission must consider the impact that any rule may have on competition and it is prohibited from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the Act's purposes.

Shareholders may also be harmed when some companies would be forced to make difficult judgments concerning how to report inconclusive data. Because of the inherent problems many companies would face in tracking their supply chain, they may not be able to reach a definitive conclusion as to whether their minerals were derived from a tainted source.

[1] The National Association of Manufacturers has stated that compliance costs may be as high as $16 billion.

Unable to provide unequivocal proof of the negative, many companies would have to report potentially damaging information that may not be accurate.

Furthermore, Section 1502 would place additional costs and burdens upon hundreds of thousands of small non-public companies.

Manufacturers, or other companies subject to these disclosures, may, individually, have tens of thousands of vendors, many of whom may be private companies that are involved in their supply chain. Some have already begun to have their vendors certify compliance with the proposed rule before it has been finalized. This has started to spread the compliance costs and burdens throughout the economy, upon hundreds of thousands of businesses that are not subject to the jurisdiction of the SEC. Therefore, billions of dollars of costs would be imposed upon businesses not even contemplated by the SEC.

We would like to thank the Subcommittee for holding this hearing to explore the difficulties of Section 1502. Imposing billions of dollars in additional regulatory costs on public companies and small businesses would harm the ability of firms to expand and create jobs. We look forward to working with the Subcommittee to address these issues and assist the capital formation needed for economic growth and job creation.

Sincerely,

R. Bruce Josten

Cc: The Members of the Subcommittee on International Monetary Policy and Trade

May 9, 2012

Statement of Mr. Ntama Byalira Bahati (Jacques)
Africa Faith and Justice Network Policy Analyst

Dear Members of the House Financial Services Subcommittee on International Monetary Policy and Trade:

My name is Ntama Byalira Bahati (Jacques), a Congolese citizen, and Africa Faith and Justice Network Policy Analyst since 2007. I am grateful for the opportunity to submit this statement for the record on behalf of the Congolese people and the Africa Faith and Justice Network.

As a person who witnessed the 1996 and 1998 wars against the Democratic Republic of the Congo (DRC), took part in the relief work in the City of Bukavu days after foreign troops had taken over the area and has seen the loss of relatives and friends, I write to urge the US Congress to stand with the Congolese people instead of the U.S. Chamber of Commerce and National Association of Manufacturers by asking the US Securities and Exchange Commission (SEC) to issue strong regulations and uphold the original intent of Congress enshrined in section 1502 of Dodd-Frank Wall Street Financial Reform and Consumer Protection Act of 2010. Disclosure is overdue.

On February 13, my colleague and I returned from a three week research trip in DRC on the effect of Dodd-Frank 1502, specifically on artisanal miners. We visited the Mukera gold mine located in Fizi Territory/South Kivu province and held a town hall meeting with artisanal miners and leaders of the community. We also met with civil society leaders and artisanal miners in Goma, the capital of North Kivu province. They asked us to deliver their message to US Congress and others who have been vocal on their behalf.

There are obvious signs of poverty in the Mukera mining community. There are no visible signs that living conditions in Mukera are better than they were under the three decades of dictatorial rule by late President Mobutu Sese Seko. Rather, the situation has worsened since the invasion by Rwanda, Uganda and Burundi in 1996. Upon hearing about the conflict mineral law for the first time, the people of Mukera wanted to know more. They wanted to know when they would benefit from it. AFJN, in collaboration with Pax Christi Uvira, has already delivered translated copies of the law to government authorities and miners who expressed interest. However, more awareness and empowerment is needed.

The ongoing financial link between artisanal mining and armed groups (a network in which the Congolese army and high-level Congolese government authorities are deeply involved) ensures that the economic livelihood of the people of Mukera will stay depressed, at least until mining sector reform is implemented. While DRC does have a mining code, it is not enforced, and strong new policy is crucial to improve the living conditions of mining communities. DRC has plenty of laws, but it lacks the leadership to enforce them.

Like the artisanal mining cooperative in Mukera, Mpama Bisiye Artisanal Miners' Cooperative (COMIMPA) in North Kivu aims not only to organize artisanal miners and defend their rights, but also to help improve their skills and tools, professionalize their work, and fight the plundering of their resources. They endeavor to combat all illegal and unethical practices in artisanal mining, and to stop efforts to eliminate artisanal mining while advocating for industrialization. COMIMPA understands the need for economic diversification and development of mining areas; minerals are a finite resource that will be depleted.

One of the ways COMIMPA is working to stop the illegal sale of minerals is by asking all traders to buy only from miners whose membership in the cooperative is proven. This way, if minerals are stolen or taken by force, particularly by armed groups, they would not be able to sell them. This is a step in the right direction towards reform and price control.

In a very lucrative business such as mining, the people doing the digging do not receive even the minimum value of what their minerals are worth. Since the conflict minerals law was enacted, one of the strategies to maintain the status quo has been to accuse the United States of imposing an embargo on minerals from the DRC. Even if there was a US embargo, which there is not, the current system is not an option. The level of plundering of DRC's resources is not acceptable and must end.

Congolese leadership, at the national and provincial levels, is most responsible for the lack of accountability in the mining sector. Any reform is an inconvenience to many of them. Their names have consistently appeared in UN experts' reports on DRC.

Time and time again the DRC government has been the first offender of any reform. Since high ranking army officers and members of the government at state and provincial level are also involved in the illicit mining trade, the affected people must prepare for a long journey to meaningful and effective implementation of any reform.

The International Conference on Great Lake Region (ICGLR) member states, although engaged in due diligence negotiations, have yet to fully commit to end DRC conflict mineral sales in their countries. For example, on November 3, 2011 the Rwandan government made headlines by returning about 82 tons of smuggled minerals to DRC. However, according to a statement by Nasson Kubuya Ndoole, the North Kivu Mining Minister in charge of overseeing the return of those minerals, the minerals were sold in Rwanda shortly after by DRC officials without any investigation to find out who was responsible for smuggling the minerals back into Rwanda.

Similarly, the delay in releasing the rules of Dodd-Frank 1502 is due in part to efforts by those who are opposed to the law and want to water it down, make it ineffective and completely take away the intent of Congress when it passed the law.

While all involved in the conflict mineral trade are making a lot of money, unfortunately, the Congolese people are paying the highest price. They suffer loss of life,

rape, displacement, impoverishment, instability, the plundering of their resources and much more. Likewise, US tax payers are paying the bills for peacekeeping, relief and other kinds of programs, both directly and through the UN.

The US Congress understood that cutting mineral revenue for armed groups will lessen the conflict, that's why they passed the law. For this reason, the rules must be strong and released without delay. If the rules are weak, the law is useless.

There is evidence that since Dodd-Frank 1502 passed, the loss of income has been felt by not only the armed groups, but also people and businesses which benefited from the illicit trade cash flow in the conflict zone. These are artisanal miners, stores, restaurants and many other businesses at mining sites and cities within Congo and outside Congo. However, "What good to eat and be satisfied today just to die tomorrow knowing that there is no happiness in the plight of the dead?" asks the Bureau of Study, Observation, and Coordination of the Regional Development of Walikale (BEDEWA). This is why we must focus on Dodd-Frank 1502's main goals which are to eliminate the financial power of armed groups in DRC, promote peace, prosperity, democracy and progress.

Dodd-Frank 1502 is not a solution to the social, historical, political, and economic problems of the DRC and no single law, particularly foreign, can solve these issues. Dodd-Frank is the second US law regarding the DRC after US Public law 109-456, focused on democracy, human rights, good governance, humanitarian relief, development aid and regional forces destabilizing the DRC. If both laws were implemented, provided the Congolese Government is willing to accept the help, they could make a difference for the people of Congo.

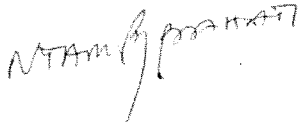
Colonel Emma K. Coulson, a military fellow researcher at the Joint Center for Political and Economic Studies says, in her paper entitled: "Impact of gender based violence on stability and security," that: "It benefits the US to partner with the DRC in settling their conflict and gain positive control of their natural resources." Furthermore, she argues: "The US is the largest consumer of coltan, which it uses to produce electronic products and high-end electronics critical to defense weapons systems. The DRC possesses 80 percent of coltan reserves-guaranteeing a role for the DRC in the international mineral trade as consumption increases. This is considering when the US begins to strategically evaluate where its vulnerabilities lie in procuring critical minerals for tomorrow's defense technology."

What can corporations do while we are waiting for the Dodd-Frank 1502 rules? They should be using the Organization for Economic Cooperation and Development's (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. There are also UN due diligence guidelines, which differ regarding application, enforcement, thematic and geographical coverage. The UN due diligence guidelines are for importers, processing industries and consumers of Congolese mineral products in all 192 States Members of the United Nations, not just the 34 OECD member States.

The people of Congo would like to know who would benefit from a prolonged phase-in period, suggested by opponents of Dodd-Frank 1502, before the full disclosure mandated by Dodd-Frank 1502 law comes into effect? If local people had a vote, would they choose to allow armed groups to continue having easy access to cash and wage wars against them? Why should we believe that if the SEC released tougher rules it would drive companies to other countries? If tougher rules can bring peace, which is the intent of the law, why should we accept anything less? Finally, for the last 16 years of war in Congo, mineral trade has been profitable to multinational corporations and armed groups. Currently US tax payers contribute a large portion of the UN peacekeeping mission in DRC, in addition to USAID relief and other programs financed by the US government. Tougher rules can save US tax payers money, force profitable companies to pay for compliance and allow Congolese people to get what their resources are worth.

Thank you

Ntama Byalira Bahati Jacques



Statement of Bennett Freeman
Senior Vice President, Sustainability Research and Policy
Calvert Investments

Subcommittee on International Monetary Policy and Trade Hearing on
The Costs and Consequences of Dodd-Frank Section 1502:
Impacts on America and the Congo

May 10, 2012

Calvert is pleased to have the opportunity to make a very brief statement at this hearing on Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act regarding conflict minerals. Calvert Investments is one of the nation's largest families of sustainable and responsible mutual funds based in Bethesda MD, with over $12 billion in current assets under management and nearly half a million investor accounts in the U.S.

As a sustainable and responsible investor, Calvert values companies which manage different forms of risk in their global supply chains. We have longstanding experience both in assessing human rights-related risk and the management of that risk across global supply chains—and expertise in evaluating appropriate and credible disclosure of such risk assessment and management. We have been especially concerned in recent years by the use of certain minerals—gold, tin, tungsten and tantalum—to fund the continuing bloody conflict in the Democratic Republic of the Congo (DRC) which has claimed more lives than any other since the end of World War II.

That is why we have joined other investors and shareholder advocates in a multi-stakeholder group which also includes major companies and human rights non-governmental organizations (NGOs) to promote responsible sourcing in the DRC. Together we have supported the legislation that was enacted as Section 1502 to curb the use of such minerals which prolong the conflict—and we have worked together since then to support the development of a rule that will ensure its full and swift yet effective and reasonable implementation.

We understand the complex issues at stake in the rulemaking process and the painstaking work undertaken by the SEC in order to reconcile that legislative intent with the interests of investors and issuers alike. We have brought to this process not only our expertise in evaluating human rights-related risk in global supply chains, but also our objective of making conflict mineral-related disclosures consistent and accessible to all investors. We are encouraged by recent indications that the rule may be finalized in the coming weeks, especially given the urgent legislative intent to address the situation in the DRC.

We welcome the examination of key issues at this hearing and we oppose any efforts by Congress to water down or weaken this provision that is critical for protecting human rights and providing important information for investors. We reiterate our hope and expectation that the final rule will be completed and released within the next several weeks given both the humanitarian urgency of the situation on the ground and our need to gain assurance that companies in which we invest are addressing these grave risks in their supply chains, consistent with this vital law.

COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK
LAW SCHOOL

Statement of Peter Rosenblum
Columbia Law School

Subcommittee on International Monetary Policy and Trade Hearing on
The Costs and Consequences of Dodd-Frank Section 1502:
Impacts on America and the Congo

May 10, 2012

Re: Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

I respectfully submit this statement in support of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Section 1502"), which mandates certain disclosures concerning conflict minerals that originate in the Democratic Republic of the Congo ("DRC") or an adjoining country.

I am a Professor at Columbia Law School and the faculty director of its Human Rights Institute. For more than 20 years I have been working on issues of human rights and development in the Democratic Republic of Congo. Beginning in 1989, I reported on human rights conditions for major human rights organizations including Human Rights Watch and the Lawyers Committee for Human Rights (now Human Rights First). Since then, I have continued to travel to the DRC and collaborate on projects with a variety of organizations including the UN, USAID and The Carter Center. Since 1998, I have increasingly focused my attention on the interconnections of natural resource extraction, human rights and development. Since 2006, I have been collaborating closely with The Carter Center on a project concerning industrial mining there.

The long-term development of the DRC hinges on success in channeling potentially vast mining revenues into development. At this moment, the mineral wealth of the Eastern Congo feeds conflict and corruption, with a few crumbs falling to the local population; almost nothing goes to government or long-term development. This is the local manifestation of the 'resource curse.' It is due to many factors, but it has been exacerbated by 15 years of sustained conflict that has created perverse incentives, reduced livelihood options and driven much of the population into unsustainable choices for survival.

Section 1502 will not single handedly reverse this process and turn natural resources into the engine of development. Without it, however, the prospects are considerably more bleak. Section 1502 incorporates some of the best thinking of the past 20 years in regard to the effort to overcome the 'resource curse' with market forces. Transparency, public disclosure, supply chain due diligence and incentives for corporate responsibility – as incorporated in Section 1502 – are the core components of the most promising and respected initiatives in the field. It is impossible to picture a path beyond the 'curse' without them.

Moreover, Section 1502 does not exist in a vacuum. It comes at a time when international organizations, regional bodies, industry associations and advocacy groups are converging on mining in the region and the tools for its repair. Section 1502 gives impetus to those efforts and pushes outliers to the margins. It has helped to spur legislative efforts by the government of the DRC to regulate the sector and reinforce requirements of due diligence; and it has triggered other initiatives to educate diggers and traders.

This is not to deny the potentially dislocative effects of 1502. But these should be carefully documented, scrutinized and understood in context. Throughout history, important social reform has had significant short term, negative impacts on labor and livelihoods. To cite the most extreme example, the end of slavery and labor indenture had dramatic and negative consequences for the plantation sector and its workers. Well intentioned commentators continued to defend labor servitude on a mixture of economic and humanitarian grounds for more than a decade after the formal end of slavery. More recently, efforts to end labor trafficking have faced similar arguments. Yet no one seriously argues against these historic reforms.

In sum, we should be attentive to the negative impacts of Section 1502, but wary of the arguments for weakening it. The evidence of negative effects has been largely impressionistic and over-inclusive – relying on anecdote and ignoring other causal factors. As a frequent visitor and long-term observer of the region, I am skeptical. The local dependency on mining, despite the deplorable conditions for workers and the corrosive effect on the society, is itself a product of the war that has undermined legitimate alternatives. Weakening Section 1502 would be a statement in support of this intolerable status quo.

Respectfully Submitted,

Peter Rosenblum
Lieff Cabraser Clinical Professor of Human Rights
And Faculty Co-Director, Human Rights Institute
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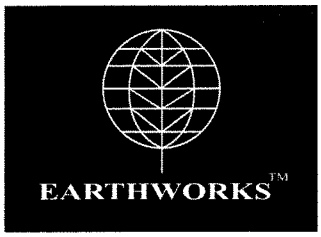

May 8, 2012

By E-mail

Dear Members of the House Financial Services Subcommittee on International Monetary Policy and Trade,

Earthworks submits this letter to the hearing record to express our support for Section 1502 of the Dodd-Frank Act. We are concerned about the documented link between the minerals trade and violence in the region, and believe Section 1502 is a critical driver to help reduce violence on the ground and ensure that clean supply chains are developed. We therefore urge Congress and your Subcommittee to support this provision and to ensure that the Securities and Exchange Commission (SEC) works to produce a final rule that will help break the link between minerals and conflict and reduce violence on the ground.

Congress intended for this law to immediately address the urgent humanitarian situation in the eastern Democratic Republic of Congo (DRC) by curbing the trade in conflict minerals. For over a decade, since the UN Group of Experts exposed the problem, minerals have fuelled conflict and human rights abuses, including sexual and gender-based violence. For U.S. taxpayers, the deadly trade in conflict minerals means continuing to pay US $500-600 million per year in aid and peacekeeping costs aimed at making Congo a more stable place. For companies, delays create uncertainty in the market and about the standards to which they will be held. Delays also impede the effectiveness of programs already underway on the ground. For investors, the reasonable right to know which activities their investments or purchases may be directly or indirectly supporting is compromised. Most importantly, for the Congolese people, further delays mean armed groups can continue to prey upon the minerals sector, fuel instability and commit human rights abuses against civilian populations. This is not what Congress intended by enacting Section 1502.

Since passage of Dodd-Frank, significant steps are being taken to ensure conflict minerals no longer line the pockets of armed groups including Congolese government actions to demilitarize mining areas and to require companies to carry out due diligence measures to avoid sourcing by armed groups. Industry groups are also developing initiatives to comply with the provision. However the delay of the SEC rulemaking and the possibility of weak rules threaten this progress. It has been nearly two years since President Obama signed the law and the statute is clear that the SEC should have produced final rules by April 2011. It is time to put this law into action. We ask that you use this opportunity to highlight the

benefits of this provision, and to consider using your offices to pressure the SEC to issue a strong rule that meets to Congressional intent and works to break the link between conflict and minerals in eastern Congo.

Sincerely,

Payal Sampat
International Program Director

Testimony for House Financial Services
Subcommittee on International Monetary Policy and Trade

Hearing on
"The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"

By The Enough Project

May 9, 2012

The Enough Project's ("Enough") mission is to end genocide and crimes against humanity in Africa. Since 2007, Enough has been working to build a permanent constituency to prevent genocide and crimes against humanity in Africa. Too often, the international community, including the United States, has seemed helpless in the face of such crimes occurring in the Democratic Republic of Congo (DRC) and surrounding countries. Enough conducts intensive field research on the conflicts in Sudan and the Democratic Republic of Congo, as well as regions affected by the Lord's Resistance Army. Enough develops practical policies to address the crises in these areas, and shares sensible tools to help empower businesses, citizens, and groups working to end serious human rights abuses and crimes against humanity.

The instability in the eastern region of the Democratic Republic of Congo (DRC) continues to cause countless deaths and has given rise to widespread sexual violence and rape, often used as tools of warfare to terrorize and humiliate communities. The exploitation of natural resources is an underlying driver of this instability.

In December 2008, the UN Security Council adopted Resolution 1857, encouraging Member States "to ensure that companies handling minerals from the DRC exercise due diligence on their suppliers." In 2009, the U.N. Group of Experts on the Democratic Republic of Congo, released a report stating that "The Group investigated FDLR's ongoing exploitation of natural resources in the Kivus, notably gold and cassiterite reserves, which the Group calculates continues to deliver millions of dollars in direct financing into the FDLR coffers."[12]

Similar to conflict diamonds in Sierra Leone, the war today in eastern Congo is being facilitated by a trade in conflict minerals that is worth hundreds of millions of dollars per year. Derivatives of tin, tungsten, tantalum and gold are critical to industrial and technology products worldwide, including mobile telephones, laptop computers, aerospace products, industrial machinery, and digital video recorders. According Margo Wallstrom, the former Special Representative on Sexual and Gender Based Violence:

> "More than 200,000 rapes have been reported since war began in the Democratic Republic of the Congo more than a decade ago. The eastern part of the country has been

[1] http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/601/43/PDF/N0960143.pdf?OpenElement p. 3

[2] http://www.un.org/apps/news/story.asp?NewsID=33173&Cr=&Cr1= (7 December 2009 – Minerals and arms smuggling worth millions of dollars persists in eastern Democratic Republic of the Congo (DRC) despite international sanctions, fuelling rebel strength despite national army operations, and army and rebel soldiers continue to kill civilians, according to a new United Nations report that calls on the Security Council to take action to plug the gaps).

> labeled the rape capital of the world. Control of Congo's natural resources and minerals has always been contested, and these vast riches have fuelled the country's conflicts. They have helped enrich militant groups, who have employed sexual violence as a tactic of war. One such resource, coltan, is so widely used in mobile phones that it has been said that we are all carrying a piece of the Congo in our pockets. But conflict minerals cannot be allowed to continue fuelling conflict and the consequent sexual violence. Although it is complicated to track conflict minerals, this cannot become an excuse for not trying. After all, neither American nor European consumers want their MP3 players and mobile phones to be funding gang rape in Africa."[3]

The trade in conflict minerals is not controlled by loose "factions" just buying weapons. It is used by high-level political and military actors to line their pockets, perpetuate state-level conflict that affects a massive geo-political region, and oppress communities tied to mining areas. The conflict in eastern Congo is one of the world's most complex. No one issue will solve it. The U.S. should, however, work where it has leverage to enact change and reduce violence—a huge piece of that leverage comes through consumer and private sector pressure that can be applied to markets that affect the conflict in eastern Congo.

The purpose of Section 1502 of the Dodd-Frank Wall Street Reform Act, as expressed by Congress, is to address "the exploitation and trade of conflict minerals originating in the Democratic Republic of the Congo [which is] helping to finance conflict characterized by extreme levels of violence in the eastern Democratic Republic of the Congo."

Section 1502 was designed to help reduce a major source of funding fueling ongoing violence in eastern DRC by requiring companies that have access to American markets to disclose certain details about their supply chain. Specifically, the legislation requires those companies that file annual reports with the Securities and Exchange Commission (SEC) to exercise due diligence on the source and chain of custody of the conflict minerals (tin, tungsten, tantalum and gold) in their products.

Given the well documented link between the instability in the rastern DRC and natural resources, one component of the NGO advocacy strategy has been, and continues to be, an international push to be reform the corrupt and often illegal mining system that armed belligerents extort and control to buy weapons and expand their ranks.[456] According to Free the Slaves, in a report it released entitled "Slavery in the Democratic Republic of Congo",

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[3] http://www.guardian.co.uk/commentisfree/2010/aug/14/conflict-minerals-finance-gang-rape

[4] http://sec.gov/comments/s7-40-10/s74010-352.pdf (ASSODIP is a non-profit-making organisation for human rights in the Democratic Republic of the Congo (DRC) with a rural farming community vocation that works to promote human rights in rural districts of North Kivu. It has been working for some years now on the problems of the connection between natural resources and recurring armed conflicts in the territories of the southern part of the province. It is clear that minerals are one, if not the main, reason for insecurity among population groups, mainly in Walikale and Masisi. Armed forces and groups operating in this part of the country regularly fight for control of mineral-rich sites. The most recent case is the open conflict since June this year between the forces of the Alliance of Patriots for a Free and Sovereign Congo (APCLS) and those of the Nduma Defense of Congo (NDC), all as associated with the FDLR.)

[5] http://sec.gov/comments/s7-40-10/s74010-285.pdf (Justine Masika Bihamba, Coordinator, North Kivu Women's Synergy for Sexual Violence Victims; Fidel Bafilemba, Board Members President, SOS Africa; Lwayer Gautier Misonia, Coordinator, Research Center on Environment, Democracy and Human Rights; Janvier Murairi, President, Small Farmers' Development Initiatives)

> "The militarization of mining is exacerbating the armed conflict and despite the perception that mining will bring relative prosperity, conditions at the mines are harsh. Forced labor is endemic in the mining zones, especially those controlled by armed groups. The (Congolese citizens) quickly find that extortion and fraud in mining zones make the cost of living prohibitive, driving them to desperate measures and widespread corruption means that any form of economic activity is tolerated in these areas, no matter the cost to human safety or dignity. There is not even minimal enforcement of Congo's mining code. Children are particularly vulnerable in mining sites, and this is true even when they have not been recruited into armed groups. Justice for Congo's slaves requires development of appropriate industry standards, including a robust, independently monitored and audited tracing and certification scheme for minerals sourced from eastern Congo. [1502's] goal is to ensure that the minerals trade does not illegally benefit armed groups or lead to widespread labor and human rights abuses in Congo. What is certain is that the motivation and momentum for businesses and governments to address the 'conflict minerals' problem in eastern Congo has never been stronger—largely as a result of the Dodd-Frank Act. If that momentum is leveraged to ensure that severe abuses, including slavery and sexual violence, are rooted out through due diligence, support for community development, and other processes, then the law will have served its purpose."[7]

Section 1502 is already having an impact. According to the U.N. Group of Experts on the DRC "requiring companies to exercise due diligence is effective. The Group's investigations in the DRC have shown that private sector purchasing power and due diligence implementation is reducing conflict financing, promoting good governance in the DRC mining sector, and preserving access to international markets for impoverished artisanal miners. It is worth recalling here that artisanal miners are among the prime sources of recruitment for armed groups in the DRC… The second point is that since the signing into law of the Dodd Frank act, a higher proportion than before of tin, tungsten and tantalum mined in the DRC is not funding conflict."[8]

The Electronics industry's conflict free smelter program is auditing smelters that process tin, tungsten, tantalum and gold. The purpose of the audit program is to create a list of conflict free smelters. That list can be used by issuers affected by Section 1502. The Congolese Ministry of Mines released a communique stating that "all mining operators, be they companies or individuals, are obliged to exercise, at all level of supply, operating, transport, marketing, treatment and export chains, the specific Due Diligence recommendations of the OECD and those contained in Resolution 1952 (2010) of the UN Security Council". Additionally, Congo's army has pulled out of many mines in a drive to demilitarize the sector. Congo and Rwanda have begun arresting officers and suspending companies for conflict minerals trading and the first-ever validation of mines occurred in eastern Congo in 2011 to check for armed groups and child labor.

Last August, USAID announced a $20 million dollar livelihood project in the Kivus[9]. Additionally, companies like Intel, Motorola, Hewlett-Packard, and KEMET have established closed-pipe supply chains to source clean minerals from eastern DRC.[10][11][12] Finally, the U.S. government launched the public

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[6] http://financialservices.house.gov/UploadedFiles/HHRG-112-BA20-WState-NDjomo-20120510.pdf (Testimony by Bishop Djomo, President of the Catholic Bishops of Congo)

[7] http://www.freetheslaves.net/Document.Doc?id=243 p. 6, 7, 12, 21, 24, 27

[8] http://sec.gov/comments/s7-40-10/s74010-346.pdf (UNGOE submission to the SEC)

[9] http://www.enoughproject.org/blogs/us-fund-livelihoods-project-worth-20-million-eastern-congo

[10] http://solutions-network.org/site-solutionsforhope/

private alliance to "to help the Democratic Republic of the Congo and other governments in the region break the link between the illicit minerals trade and the ongoing violence and human rights abuses. The U.S. government is working with Congolese partners, the private sector and civil society to help ensure responsible trade in minerals that does not benefit rebel groups or abusive army units."[13]

Dodd-Frank is one element of the United States' comprehensive approach to achieving positive change in Congo. In addition to conflict minerals, the U.S. is working on a number of initiatives to support security sector reform through leadership and civilian-military relations training. Additionally, the U.S. is supporting justice sector reform through funding implementing organizations on the ground working to build capacity within existing legal structures, bolster the mobile courts system, and working with civil society and state level partners to improve the state's ability to try war crimes and crimes against humanity through the Specialized Mixed Courts system.

The U.S. is also contributing upwards of $17 million dollars to support programs aimed at preventing and treating sexual and gender based violence in eastern Congo. Furthermore, the U.S. is providing significant funding through USAID to support a myriad of health and education initiatives, resources for road construction and infrastructure development as a means to build access to markets for clean minerals traders, agricultural output, and local and interstate commerce. Finally, the U.S. is funding voter education and capacity building programs through USAID to groups like the National Democratic Institute and the International Foundation for Electoral Systems.

Section 1502 was not meant to solve all of Congo's ills but the link between minerals, human rights, and the conflict in the east is clear. The situation in the east is an immediate human rights crisis that deserves immediate and continued international attention. It is Enough's view that the situation in the east is a reflection of the systemic challenges that face the country as a whole, and represent the most difficult issues the country has to face. Find solutions in the east and they will translate nationwide. Lack of infrastructure, insecurity, endemic corruption, lawlessness, and failed institutions remain the primary obstacles to durable solutions in Congo. 1502 seeks to use U.S. leverage where it exists and where there is demand from U.S. citizens to address a piece of the larger problem with the aim of reducing violence and oppression to create a space for additional reform.

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[11] http://www.kemet.com/kemet/web/homepage/kechome.nsf/weben/KEMET%20Policy%20on%20Conflict%20Minerals

[12] http://www.enoughproject.org/blogs/intel-publicly-sets-goal-make-conflict-free-chip-2013

[13] http://www.state.gov/r/pa/prs/ps/2011/11/177214.htm

May 8, 2012

House Financial Services Committee
Subcommittee on International Monetary Policy and Trade
Via E-mail

Dear Subcommittee Members:

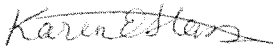
Free the Slaves submits this letter to the hearing record to express our support for strong implementation of Section 1502 of the Dodd-Frank Act. We are concerned about the documented link between the minerals trade and violence in the Democratic Republic of the Congo (DRC), including modern forms of slavery, which we have documented in DRC's eastern conflict zone. We believe Section 1502 is a critical driver to help reduce human rights abuses on the ground and ensure that clean supply chains are developed. We therefore urge Congress and your Subcommittee to support this provision and to ensure that the Securities and Exchange Commission (SEC) works to produce a final rule that will help break the link between minerals and conflict and reduce violence on the ground.

Congress intended for this law to immediately address the urgent humanitarian situation in the eastern Democratic Republic of Congo (DRC) by curbing the trade in conflict minerals. For over a decade, since the UN Group of Experts exposed the problem, minerals have fuelled conflict and severe human rights abuses, including sexual slavery, forced labor and gender-based violence. For U.S. taxpayers, the deadly trade in conflict minerals means continuing to pay US $500-600 million per year in aid and peacekeeping costs aimed at making Congo a more stable place. For companies, delays create uncertainty in the market and about the standards to which they will be held. Delays also impede the effectiveness of supply chain transparency programs already underway on the ground. For investors, the reasonable need to know what activities their investments or purchases may be directly or indirectly supporting is compromised. Most importantly, for the Congolese people, further delays mean armed groups can continue to prey upon the minerals sector, fuel instability and commit human rights abuses against civilian populations. This is not what Congress intended by enacting Section 1502.

Since passage of Dodd-Frank, significant steps are being taken to ensure conflict minerals no longer line the pockets of armed groups, including Congolese government actions to demilitarize mining areas and to require companies to carry out due diligence measures to avoid sourcing by armed groups. Industry groups are also developing initiatives to comply with the provision. However, the delay in the SEC rulemaking and the possibility of weak rules threaten this progress. It has been nearly two years since President Obama signed the law and the statute is clear that the SEC should have produced final rules by April 2011. It is time to put this law into action. We ask that you use this opportunity to highlight the

benefits of this provision, and to consider using your offices to pressure the SEC to issue a strong rule that meets the Congressional intent and works to break the link between conflict, human right abuse and minerals in eastern Congo.

Yours sincerely,



Karen Stauss
Director of Programs
Free the Slaves

global witness

May 10, 2012

Statement of Global Witness

House Financial Services Subcommittee on International Monetary Policy and Trade
For Hearing on *"The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"*

To Chairman Miller and Members of the Subcommittee:

Global Witness welcomes the opportunity to submit a statement for the hearing on Section 1502, the Conflict Minerals Provision of the Dodd-Frank Act. Global Witness is an international advocacy organization that works to break the links between natural resources exploitation, human rights violations, corruption and conflict. For over a decade, Global Witness has carried out research and advocacy on a broad range of issues relating to natural resources in the Democratic Republic of Congo (DRC). Our work is directly informed by regular, in-depth field investigations in eastern DRC where research is done by experienced staff, most of whom have previously lived in the region. We also consult with a range of Congolese partners including local civil society organizations, mineral traders, provincial mining authorities and other government representatives.

Since 2005, Global Witness has carried out investigations in the eastern Congo documenting how the trade in these minerals has fueled human rights abuses and promoted insecurity in the region. In a conflict that has lasted for over a decade, rebel groups and senior commanders of the Congolese national army fight over and illegally profit from eastern DRC's vast mineral wealth. These groups, responsible for mass rape and murder, enrich themselves through the trade in tin, tantalum, tungsten and gold.

While, the minerals trade is not the sole driver of conflict in eastern DRC, it is one of the most lucrative sources of financing for all warring parties. The UN Group of Experts and numerous local Congolese NGOs have documented the links between the minerals trade and armed violence in the region, and the problem has also been publicly acknowledged by the Congolese government.

The passage of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act is a significant step in addressing this urgent humanitarian crisis. This provision is aimed at stopping the national army and rebel groups in the DRC from illegally using profits from the minerals trade to fund their operations and to take away incentives for them to fight over mineral-rich areas. Section 1502 is a disclosure requirement that calls on companies to determine whether their products contain conflict minerals by carrying out supply chain due diligence, and to report this to the Securities & Exchange Commission (SEC). The implementation of the Conflict Minerals Provision alone will not automatically end the conflict in the DRC, but Global Witness believes that the law has the potential to make a significant positive impact in reducing the violence on the ground in eastern Congo.

Section 1502, however, has not yet been fully implemented as the SEC is over a year late in issuing the final rules. In the eastern DRC, there has been a downturn in the minerals trade, due in part to a six-month mining ban imposed by the Congolese government and an overly restrictive interpretation of the Dodd Frank requirements by certain industry associations. The holdup in the publication of the final rules has led some companies to delay engaging in the region, thus unnecessarily prolonging the disruption in trade from the Kivus. This has caused economic hardship in certain areas in eastern DRC.

Seven recent assessments of poverty in artisanal mining communities in eastern Democratic Republic of Congo (DRC) undertaken between August 2011 and January 2012 reveal that local communities rate insecurity, rather than a decline in mining activity, as the main reason for sustained or increased poverty. The studies are based on fieldwork, comprising quantitative data and interviews with local people. They were authored by three international non-governmental humanitarian organizations, Catholic Relief Services (CRS), Catholic Committee Against Hunger and for Development (CCFD), and Solidarités International and one Congolese organization, the Commission on Natural Resources of the DRC Bishops' Conference (CERN). The studies also found that mining communities surveyed are isolated and economically disadvantaged because of the presence of armed groups, including those present in mining sites, and a lack of basic infrastructure. If implemented effectively, Section 1502 offers the opportunity to create a clean minerals trade that will benefit the people of Congo.

Despite the delay of the final rules, the passage of Section 1502 has catalyzed noteworthy progress in the region to address the trade in conflict minerals. We are seeing initial efforts by the government of the DRC to demilitarize certain mining areas, and in February 2012 the government passed a law requiring all mining and mineral trading companies operating in the DRC to carry out due diligence in line with the standards set by the Organization for Economic Cooperation and Development (OECD). These standards, issued in 2010, were developed in close consultation with companies and have been endorsed by the United Nations and the US government. Section 1502 has also spurred action by companies to ensure their supply chains do not contribute to conflict. Industry groups are developing initiatives to comply with the legislation; some of which involve actively sourcing from the region via so-called 'closed pipe' supply chains.

When the US Congress passed Section 1502 in July of 2010, they sent a strong statement that the United States was not willing to turn a blind eye to the plight of the people in the Democratic Republic of Congo and that the urgent humanitarian crisis in the east of the country needed to be immediately addressed. The SEC is over a year late in issuing the final rules and stand in direct contradiction to the will of Congress. Global Witness asks the committee to use this opportunity to highlight the positive developments on the ground in the DRC and the emerging opportunities for the development of a clean minerals trade. We also encourage the committee to use its offices to pressure the SEC to immediately issue a strong rule, in line with Congressional intent, to help break the link between violence and the conflict minerals trade in eastern Congo.

GreenResearch™

Statement of David Schatsky
Principal Analyst/Founder
Green Research

Submitted to the House Financial Services Subcommittee on International Monetary Policy and Trade
For Hearing on *"The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"*

May 10, 2012

Following is an excerpt of the report "The Costs and Benefits of Dodd-Frank Section 1502: A Company-Level Perspective," published in January 2012. The report was researched and written by Green Research, a New York-based research and advisory firm that focuses on corporate responsibility and sustainability. This study was sponsored by Global Witness, an international NGO established in 1993 that works to break the links between natural resource exploitation, conflict, poverty, corruption and human rights abuses worldwide.

Purpose of this Study

The purpose of the study is to gather and share information that may be useful to the SEC's rulemaking process and to industry. It aims to paint a picture of the costs and benefits of compliance with Dodd-Frank Section 1502 at the level of individual firms. This information is designed to provide some insight that will help companies follow best practices, minimize the costs of compliance, and take advantage of the business benefits that the process of compliance may present. The questions the research sought to answer include:

- What changes in company systems and processes will be required to comply with Section 1502?
- What are the costs, if any, of making the necessary changes, in terms of staff time, professional services fees, systems and technology?
- What are the benefits of compliance with Section 1502?
- How do conflict minerals fit into companies' overall responsible supply chain strategy? How are the requirements set out by 1502 similar to and different from other responsible supply chain processes implemented?
- What are the perceived advantages and disadvantages of continuing to source minerals of Congolese origin?

Study Methodology

This report benefited from interviews with executives at more than 20 global companies affected by Dodd-Frank Section 1502. The companies interviewed ranged in size from about a half billion dollars to over $120 billion in annual revenues and represent a variety of industries including electronic components, computers, consumer health care, automotive and retail. We also spoke with several industry associations, consulting firms and software providers. Despite multiple attempts, we were not

able to secure interviews with representatives of the jewelry industry. A full statement of the methodology of this study can be found at the end of the report. The research was independently conducted by Green Research. The findings are our own.

This study was sponsored by Global Witness, an international NGO established in 1993 that works to break the links between natural resource exploitation, conflict, poverty, corruption and human rights abuses worldwide.

Key Findings

A common theme across our interviews was uncertainty. Participants had many questions. What would the final rules from the SEC be? What will this really cost us? Will the law produce the desired outcome in the DRC? On this last point we heard various blends of hope and skepticism. A number of participants voiced concern about facing new regulations. Some had the perception that the approach followed by Section 1502 was not devised in cooperation with industry. Beside all this, though, we found that the better informed the executive, the more likely he or she was to feel that the costs of compliance would be manageable. And many, but not all, executives could envision some business benefits arising from the compliance process. Some of the questions raised by the executives we interviewed will be swiftly answered after the SEC issues its final rules. Others will unfold as compliance measures are implemented and capacity building on the ground in the DRC and along companies' supply chains continues.

The following are the key findings of the study:

1. As companies become familiar with the legislation and its impacts on them, the perceived costs of compliance tend to decline. Across industry there are differing levels understanding of the requirements and implications of Section 1502. Our interviews revealed that the more companies know about these costs and implications, the more manageable they believe the compliance process and associated costs will be.

2. Section 1502 compliance costs will vary widely with the size and complexity of companies' supply chains but seem to be manageable for all company sizes. The largest companies (with annual revenues over $50 billion) are facing one-time costs ranging from $500,000 to $2 million; companies with well developed responsible sourcing systems may need to spend only half as much. Many smaller companies should be able to meet their obligations for less than the cost of a full-time employee in the first year, with costs declining over time.

3. Companies have an opportunity to reap a wide range of business benefits associated with Section 1502 compliance. Executives interviewed cited better risk management, improved supply chain performance, new innovation opportunities and the ability to prepare to meet a new generation of expectations for greater supply chain transparency and accountability as potential benefits of the new compliance regime. Companies should look for opportunities to seize these benefits as they review and update their supply chain processes and practices.

4. The impacts of the regulations on competition are likely to be benign. Many companies interviewed believe there will a negligible to positive impact on competition, as the regulations will tend to "level the playing field." With incremental costs modest compared to the overall costs of being a publicly traded company, the competitive position of public companies versus their counterparts should not significantly change. Indeed, Green Research believes that offering conflict-free products will become a competitive advantage.

5. Firms should exploit opportunities to collaborate with industry and cross-industry groups to set standards and share costs as they define and implement their responses. Where possible, companies and industry organizations should build on the work of groups like EICC and GeSI and others and

centralize the design of industry-wide processes with industry groups. One company expects to save 80 percent on consulting fees by working through an industry organization rather than going it alone.

6. The days of selling products containing substances of indeterminate origin produced under unknown conditions are coming to an end. The trend toward greater supply chain visibility and accountability, driven by rising expectations of responsible corporate behavior on the part of customers, investors, employees, NGOs and regulators, is set. Section 1502 presents an opportunity for companies to move towards greater supply chain transparency and accountability in their businesses, and design their processes and systems for the long term.

7. Executives' attitudes about the pros and cons of sourcing minerals of Congolese origin range widely from indifference, to acknowledgement of the difficulties of developing conflict-free Congolese sources, to an appreciation of benefits, ranging from supporting the legitimate Congo minerals sector and the workers who depend on it to expanding the global supply of these minerals.

May 9th, 2012
By E-mail

House Financial Services Committee
Subcommittee on International Monetary Policy and Trade

Dear Subcommittee Members,

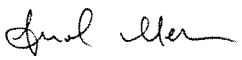
The International Corporate Accountability Roundtable (ICAR) is a coalition of leading civil society organizations working at the nexus of business and human rights. Our members include Amnesty International, EarthRights International, Global Witness, Human Rights First and Human Rights Watch. ICAR submits this letter to the hearing record to express our support for Section 1502 of the Dodd-Frank Act. We are concerned about the documented link between the minerals trade and violence in the region, and believe Section 1502 is a critical driver to help reduce violence on the ground and ensure that clean supply chains are developed. We therefore urge Congress and your Subcommittee to support this provision and to ensure that the Securities and Exchange Commission (SEC) works to produce a final rule that will help break the link between minerals and conflict and reduce violence on the ground.

Congress intended for this law to immediately address the urgent humanitarian situation in the eastern Democratic Republic of Congo (DRC) by curbing the trade in conflict minerals. For over a decade, since the UN Group of Experts exposed the problem, minerals have fuelled conflict and human rights abuses, including sexual and gender-based violence. For U.S. taxpayers, the deadly trade in conflict minerals means continuing to pay US $500-600 million per year in aid and peacekeeping costs aimed at making Congo a more stable place. For companies, delays create uncertainty in the market and about the standards to which they will be held. Delays also impede the effectiveness of programs already underway on the ground. For investors, the reasonable right to know which activities their investments or purchases may be directly or indirectly supporting is compromised. Most importantly, for the Congolese people, further delays mean armed groups can continue to prey upon the minerals sector, fuel instability and commit human rights abuses against civilian populations. This is not what Congress intended by enacting Section 1502.

Since passage of Dodd-Frank, significant steps are being taken to ensure conflict minerals no longer line the pockets of armed groups including Congolese government actions to

demilitarize mining areas and to require companies to carry out due diligence measures to avoid sourcing by armed groups. Industry groups are also developing initiatives to comply with the provision. However the delay of the SEC rulemaking and the possibility of weak rules threaten this progress. It has been nearly two years since President Obama signed the law and the statute is clear that the SEC should have produced final rules by April 2011. It is time to put this law into action. We ask that you use this opportunity to highlight the benefits of this provision, and to consider using your offices to pressure the SEC to issue a strong rule that meets to Congressional intent and works to break the link between conflict and minerals in eastern Congo.

Sincerely,



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The International Corporate Accountability Roundtable (ICAR) harnesses the power of the human rights community to identify and promote robust frameworks for corporate accountability, strengthen current measures and defend existing laws, policies and legal precedents.Our members include:

Accountability Counsel
Amnesty International
Business Ethics Network
Conflict Risk Network
EarthRights International
Earthworks
Free the Slaves
Global Witness
Greenpeace USA
Human Rights First
Human Rights Watch
Oxfam America
Revenue Watch Institute
United to End Genocide

For more information, please visit us online at www.accountabilityroundtable.org

March 2, 2011

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission (SEC)
100 F Street, NE
Washington, DC 20549-1090

RE: Comments Regarding File Number S7-40-10 on Conflict Minerals Disclosure

Dear Ms. Murphy,

We are writing on behalf of various communities of investors. Included in the signatories of this letter are members of the Social Investment Forum (SIF), the U.S. membership association of investors and professionals engaged in the practice of socially responsible and sustainable investing or "SRI", and the Interfaith Center on Corporate Responsibility (ICCR), a membership association of 275 faith- based institutional investors, including national denominations, religious communities, pension funds, foundations, hospital corporations, asset management companies, colleges, and unions. As SIF's recent Report on *Socially Responsible Investing Trends in the United States* points out, SRI assets in the United States topped $3 trillion at the end of 2009, representing one in every nine dollars under professional management in the United States and up 34 percent since 2005, during a period when all U.S. assets under professional management only increased 3 percent.[1] As such, we represent a key and growing constituency for the SEC.

In addition to responses to several of the questions posed by SEC staff in the draft rule on Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act on Conflict Minerals (File Number S7-40-10), we would like to underscore three broader points. First, conflict minerals disclosures are material to investors and will inform and improve an investor's ability to assess social (i.e., human rights) and reputational risks in an issuer's supply chain. Electronic manufacturers were the first exposed to the reputational risks associated with sourcing from the Democratic Republic of the Congo (DRC). As such, these companies were the first to address the demand for greater transparency and traceability in the sourcing of conflict minerals. The Extractives Work Group, a subcommittee of the Electronics Industry Citizenship Coalition (EICC) and Global e-Sustainability Initiative (GeSI)—two industry associations made up of electronic, communications and industrial manufacturers)—is in the process of completing a full smelter audit of tantalum ore processed from the conflict mineral columbite-tantalite and expects to release the results at the close of the first quarter of 2011. Information on the Extractives Work Group can be found at http://www.eicc.info/extractives.htm. We hope more companies will follow the lead of EICC and GeSI and give investors further insight into how management decisions are potentially aiding the direct or indirect flow of funds to armed groups in the DRC.

Next, this rulemaking process offers the unique opportunity to make conflict mineral related disclosures consistent and accessible to all investors, thereby improving efficiency in U.S. markets in allocating capital to issuers with the best overall prospects for long-term shareholder value.

[1] See http://www.socialinvest.org/news/releases/pressrelease.cfm?id=168.

Finally, during the SEC open meeting on December 15, 2010, Chairman Schapiro and SEC staff noted the lack of expertise within the SEC to grapple with these conflict minerals and other sustainability-related disclosures required by the Dodd-Frank Act and thanked organizations for offering comments and guidance on implementation. We feel that once the SEC is adequately funded, it should immediately investigate staffing an Office on Sustainability Issues. We believe this will establish the internal expertise necessary for future rulemaking in this area and aid in the enforcement on the conflict minerals and other specialized disclosures recently issued.

Below are direct responses to the questions posed by SEC staff with question numbers corresponding to the requests for comment in the SEC proposed rule on conflict minerals disclosures. This letter is meant to supplement the investor letter submitted by Lauren Compere of Boston Common Asset Management and signed by over 50 investors representing over $230 billion in assets under management on November 16, 2010 (http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-54.htm); a submission by the Social Investment Forum dated November 18, 2010 (http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-59.pdf); and input given during a meeting with the Division of Corporate Finance staff including Felicia Kung, Lillian Brown, Steven Hearne, and John Fieldsend on November 17, 2010 (http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-75.pdf).

Responses to requests for comment:

1. Investors believe reporting standards should maintain consistency with the statutory language and apply disclosure rules equally to all conflict minerals. Gold for example, is a high-value contributor to conflict financing in the DRC. To provide special conditions or exemptions for gold or any other mineral weakens the intent of the disclosure rules. Greater transparency in the gold supply chain is critical to an investor's ability to evaluate company sourcing practices in the DRC and adjoining regions.

2,4,8. All issuers including foreign private issuers that file reports under Sections 13(a) and 15(d) of the Securities Exchange Act of 1934 ("Exchange Act") should be required to file a "Conflict Minerals Disclosure" report as part of its annual report if it meets the requirement of "person described" in 2(B). As proposed, wholly-owned subsidiaries and asset-backed issuers should not be omitted under the definition. We also recommend that entities with Over-The-Counter American Depository Receipts (OTC ADRs) that file an annual report with the SEC using the form Annual Report to Security Holders (ARSs) or any other annual report pursuant to Section 12g3-2(b) of the Exchange Act also be required to file a "Conflict Minerals Disclosure" report.

5. We do not believe smaller issuers should be exempt from the disclosure rules. The rules will be credible only if all companies filing reports under Sections 13(a) and 15(d) are included in the definition. As investors in both large and small cap companies that have exposure to these minerals, it is critical for us to be able to properly assess consistent conflict minerals disclosures from all of our holdings, regardless of size. Congressional action directed at stemming the flow of funds to armed groups in the DRC and adjoining countries had been initiated well ahead of the passage of Section 1502, thereby affording companies the time to begin inquiries into the country of origin of conflict minerals necessary to the functionality of their products. Companies beginning an inquiry process can look to industry-wide smelter verification processes or other industry initiatives to minimize costs.

9. We believe the proposed rules should define the term "manufacture" to limit subjective interpretation and ambiguity. "Manufactured" should be defined as the "production, preparation,

assembling, combination, compounding, or processing of ingredients, materials, and/or processes such that the final product has a name, character, and use, distinct from the original ingredients, materials, and/or processes." This should specifically include the mining (all types, including initial ore extraction and production of concentrate), processing, refining, alloying, fabricating, importing, exporting, or sale of conflict minerals because sales supporting conflict could occur at various parts of the metals supply chain.

10. The rules should, as proposed, apply to both issuers that manufacture and issuers that contract to manufacture products in which conflict minerals are necessary to the functionality or production of those products.

12. The conflict minerals rules should apply to issuers who sell generic products under their own labels or labels that they establish to be contracting the manufacture of those products, as long as those issuers have contracted with other parties to have the products manufactured specifically for them.

13. Reporting issuers that are mining companies should be considered as "persons described" under Section 1502. The extraction of conflict minerals from a mine constitutes "manufacturing" or "contracting to manufacture" a "product." Further, we support the definition of "manufacture" from the United States Controlled Substances Act, which defines "manufacture" as the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin[2].

14. Investors will benefit from less ambiguity. Therefore we believe no distinctions should be made between an issuer who solely produces minerals from a mining reserve, and an issuer that produces, concentrates and refines conflict minerals. Both types of mining issuers should be subject to the disclosure requirements under the proposed rules.

16. The rules should define the phrase "necessary to the functionality or production of a product." Absent a definition in the rules, issuers will be uncertain in important aspects as to the scope of their reporting obligations. Investors will find it difficult to compare the reports of issuers that may use differing definitions. We support the definition of necessary as suggested in the "Multi-Stakeholder Group Letter" submitted by Patricia Jurewicz on November 18, 2010:

> A conflict mineral is considered necessary when:
>
> a. The conflict mineral is intentionally added to the product; or
> b. The conflict mineral is used by the Person for the production of a product and such mineral is purchased in mineral form by the Person and used by the Person in the production of the final product but does not appear in the final product; and
> c. The conflict mineral is essential to the product's use or purpose; or
> d. The conflict mineral is required for the marketability of the product

19. We agree a conflict mineral should be considered necessary when "[t]he conflict mineral is intentionally added to the product; or [t]he conflict mineral is used by the [issuer] for the production of a product and such mineral is purchased in mineral form by the [issuer]and used by the [issuer]in the

[2] 21 U.S.C.A. 802(15), the United States Controlled Substances Act.

production of the final product; and[t]he conflict mineral is essential to the product's use or purpose; or[t]he conflict mineral is required for the marketability of the product."[3]

20. When conflict minerals are present in tooling and production machinery used to produce a product, they should not be considered to be 'necessary to production' of the product. Tooling and production machinery often have long useful lives. Therefore the conflict minerals in the tooling or production machinery was in most cases mined many years ago prior to the development of any process to identify their origin. Identifying minerals contained in the tooling and production machinery as 'necessary' to production of an issuer's product would result in large categories of products being designated to contain minerals of unknown origin for many years. This would dilute the usefulness of conflict minerals report to investors without advancing the objectives of the statute.

23. As proposed, there should be a brief conflict minerals disclosure in the body of the annual report, which would provide an easily accessible location for gathering this material information.

24. In recognition of the materiality of the data, all required information as outlined in the proposed rule should be ***filed*** in the body of the annual report rather than furnished as an exhibit.

25, 26, 27 and 30. A separate captioned section offers investors access to conflict minerals disclosure filed in the body of the annual report. This captioned section should include all information as proposed.

Additionally, we note in the proposed rules that issuers who have determined conflict minerals in their products did not originate in the DRC or adjoining countries must file a description of the reasonable country of origin inquiry it undertook to make its determination. We concur with this proposed language and also encourage the SEC to require issuers who source conflict minerals from DRC countries, or cannot determine if they source conflict minerals from DRC countries, to file this information in the Conflict Minerals separately captioned section of the annual report.

Issuers that have determined that their conflict minerals did not originate in DRC countries should be required to file the countries of origin for their conflict minerals. The essence of the conflict minerals provision is to provide for full disclosure of the steps taken by issuers to avoid practices that contribute to financing the conflict in the DRC. In turn, these disclosures will be evaluated by investors that wish to make investment decisions based on the degree of care taken by the issuer to avoid contributing indirectly to the conflict. The rule should make clear that such reporting must be sufficiently detailed to provide investors an understanding of the steps an issuer has taken to determine whether the minerals in their supply chain are sourced from the DRC or adjoining countries. Further, investors would be able to analyze the various countries issuers claim that their conflict minerals have originated from. This information could be compared to country reports regarding their production of conflict minerals to determine whether issuers were accurately gathering country of origin information.

We understand there may be several reasonable approaches for country of origin inquiries and due diligence processes dependent on the circumstances of the registrant with such inquiries and processes improving year over year. The ability for investors to determine whether a company's particular inquiry and due diligence approach is improving depends on an investor's access to a series of filed reports. Therefore, we request that the SEC require issuers who source conflict minerals from the DRC or adjoining countries, or cannot determine if they source conflict minerals originating from the DRC or

[3] http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-67.pdf.

adjoining countries, to *file* a description of their reasonable country of origin inquiry and detail what steps they took to exercise due diligence on the source and chain of custody of the conflict minerals in the conflict minerals disclosure section of the annual report. This information can also be provided as part of the "Conflict Minerals Report".

28. The final rule should require an issuer to maintain reviewable business records if it determines that its conflict minerals did not originate in DRC countries. This would be useful for investors if instances arose where there was evidence (even years later) that contradicted a company's claim that its conflict minerals did not originate in the DRC. Moreover, the rule should require that those business records be maintained for five years consistent with the recommendations of recordkeeping from the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.*[4]

29. We prefer the disclosure in an issuer's annual report to be provided in an interactive format, such as XBRL, to facilitate analysis of the data.

31. An issuer should be required to post its audit report on its Internet website, as proposed.

32. An issuer should be required to keep posted its Conflict Minerals Report and audit reports on its Internet website for five years. This will give investors easy access to this important information and will allow investors to understand and evaluate whether the issuer is making progress in improving its due diligence processes.

33. The "reasonable country of origin inquiry standard" is appropriate. To be considered reasonable, the inquiry must include processes that allow an issuer to make a determination of the country of origin for the conflict minerals in its products. This is particularly important because failing to undertake a thorough inquiry to determine an issuer's country of origin could cause issuers not to file a conflict minerals report, when indeed they should, thereby thwarting the intent of the law to create a transparent supply chain for conflict minerals sourced from the DRC and adjoining countries.

For example, it is widely recognized that the processing facility (smelter) is the key choke point in the minerals supply chain. As such, companies could review information, from its processing facilities, such as purchasing documentation and bills of lading that will allow them to determine the country of origin for the minerals in their products.

Additionally, reasonable country of origin inquiry could include instances where issuers rely on an industry wide process that deems smelters "conflict free" provided this industry-wide process is comparable to the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.* Such standards and transparency requirements should be described in its annual disclosure or conflict minerals report as applicable. In this instance, reasonable country of origin inquiry would be the disclosure of the smelters for the conflict minerals in its products, in an issuer's annual disclosure or conflict minerals reports. Therefore investors and other interested stakeholders would be able to compare the smelter to a list of approved conflict free smelters from an industry-wide process or smelters identified by the Department of Commerce as sourcing conflict minerals from the DRC or adjoining countries.

[4] OECD, Due Diligence Guidance, page 24, 2010.

As processing facilities are deemed conflict free based on OECD (or comparable) due diligence guidance, issuers can contractually obligate their suppliers to source from processing facilities deemed conflict free. In this instance, an issuer should include in its disclosure to the SEC the processing facilities it has driven its suppliers to and a description of the steps it has taken to ensure compliance, such as spot checks or supply chain audits. If a processing facility is deemed conflict free and the processing facility sources from the DRC or adjoining countries, issuers should be required to disclose, in addition to the processing facility, the country of origin and mine of origin with greatest specificity for the minerals in its products, and a detailed summary of the audit report (described in our response to Question 50). Therefore, investors and other stakeholders can assess how the determination was made that the conflict minerals sourced from the DRC or adjoining countries did not directly or indirectly finance or benefit armed groups in the DRC countries.

34. We do not think it would be appropriate to permit an issuer to make no inquiry attempt, as this would provide a loophole for issuers to circumvent the intent behind the Conflict Minerals Provision.

35. Issuers should be able to rely on reasonable representation from their suppliers. As referenced in the "Multi-Stakeholder letter" submitted by Patricia Jurewicz on November 18, 2010:

"A supplier declaration approach is preferable in place of a product-based or materials declarations approach. The supplier declaration approach would consist of having direct and component suppliers and others in the supply chain take reasonable means to assure that all the tin, tantalum, tungsten, and/or gold in their materials/products are sourced from a compliant smelter."

"Compliant smelter" is one that has a process in place that allows an independent third party auditor to: 1) verify the origin of its input streams (i.e. including but not limited to raw materials recycled material, k-salts, tin slag etc.); 2) verify whether any of its input streams directly or indirectly financed or benefited armed groups in the DRC; 3) discloses the due diligence processes it uses in conformance to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

36. The essence of the statute is to provide for the disclosure of efforts by issuers to identify and eliminate from their products, minerals from conflict mines. Issuers' disclosures under the regulations should be sufficiently complete to allow investors to clearly understand the basis on which the issuer has determined the origin of conflict minerals, regardless of how the declaration is characterized. If they state that no conflict minerals originated in the DRC or adjoining countries, the due diligence process has to clearly define and demonstrate what led them to this statement.

37. As the proposed rules acknowledge, the effectiveness of efforts to determine country of origin will evolve over time as issuers and groups of issuers continue to work with governments and NGO's to develop infrastructure to trace origin of metal from mine to smelter, and as issuers improve the robustness of programs for tracing minerals from smelter to product. During the initial period after the rules are finalized, we expect that some reportable conflict minerals will be of unknown origin. In such case, issuers should provide disclosures in the Conflict Minerals Report describing the conflict minerals of unknown origin and any progress made in the reporting year toward determination of origin.

To avoid confusion, the rule should make clear that issuers are not required by anything in the statute or the rule to physically label their products in any way with regard to the presence or absence of conflict minerals.

However, if companies wish to label their products, we request that the Commission expressly reserve the use of a "DRC conflict free" label as an advertising claim for sourcing within the DRC region to provide incentive for those companies that conduct the extra effort to source conflict free and reward those that encourage legitimate minerals trade that does not directly or indirectly finance or benefit armed groups in the DRC or an adjoining country. We also request that any such claims or labels are subject to Federal Trade Commission (FTC) regulations and guidance in regards to substantiation and to guard against deceptive claims that a product is "DRC conflict free" under Section 5 of the Federal Trade Commission Act (FTCA).

The language of this provision, on its face, appears to permit a company to label a product "DRC conflict free" if the product contains conflict minerals sourced only from areas outside of the DRC or its adjoining countries. Companies that currently source conflict minerals from outside of the DRC region would have no incentive to begin sourcing responsibly from the DRC region, since presumably they could benefit from use of the "DRC conflict free" label even without changing their sourcing patterns or behavior. Allowing companies to use the "DRC conflict free" label in these circumstances might reduce benefits in the DRC, since companies could reap the benefits of the "DRC conflict free" label while completely avoiding the region.

We believe that for companies to label products as "DRC conflict free," more substantiation is required beyond the due diligence contemplated by the Act. Those companies wishing to use a "DRC conflict free" label should include in their reporting to the SEC information on the actual mine of origin and transport routes of their source minerals, along with any other information that is part of the basis of their claim that the minerals did not directly or indirectly finance or benefit armed groups in the DRC or an adjoining country. This information should be made available to the public in the same way that issuers make public other information related their use of conflict minerals (through the SEC and on the company's website). A claim such as 'DRC free' should be reserved for companies who can substantiate they source conflict minerals from countries outside of the DRC and adjoining countries.

Labeling a product as "DRC conflict free" is an advertising claim subject to FTC regulations and guidance pursuant to Section 5 of the FTCA.[5] Although the Dodd-Frank Act refers permissively to the ability of companies to apply a DRC conflict free label, there is nothing in that statute to suggest that Congress intended to modify the basic requirements of the FTCA for such claims. Like all advertising claims, those declaring a product is "DRC conflict free" must be properly qualified and substantiated and must not be misleading or deceptive.

Investors accordingly request that the Commission (1) clarify in its rule that products may not be labeled "DRC conflict free" if the minerals were sourced from outside of the DRC or adjoining countries, (2) reserve "DRC conflict free" labels for companies sourcing from the region, (3) recognize that the FTC has enforcement jurisdiction over DRC conflict free labeling claims, and (4) make substantiation a requirement if products are labeled "DRC conflict free".

39. We support the alternative rule as proposed for this question. Country of origin should be disclosed for all conflict minerals that originate in the DRC countries. Conflict minerals that do not originate in the DRC countries should be subject to the reporting required under the reasonable country of origin inquiry process (see response to Question 33). All conflict minerals identified as originating in the DRC countries

[5] 15 U.S.C. § 41.

should also disclose information to identify mine or location of origin of ores with greatest specificity, country of origin and facilities. When possible, issuer should directly correlate disclosed locations with the map of the region maintained by the U.S. government.

50. The rule should provide guidance to issuers of steps that presumptively would constitute a reliable due diligence process. We recommend the types of information delineated below are disclosed to the SEC. Please note that the elements listed below vary slightly from the original elements recommended in the November 16th investor letter[6] so they align with the recently approved OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Guidance, Annex I, p. 10).

Whether independently or through an industry wide process, a due diligence process for minerals sourced in the DRC and/or adjoining countries containing the following elements and demonstrating good faith and a reasonable standard of care, should be presumed to be reliable if the issuer's disclosure includes:

a. A conflict minerals policy;
b. A supply chain risk assessment procedure that includes "upstream" and "downstream" due diligence, which includes a description of efforts made and the result of efforts to obtain information outlined in [its upstream and downstream due diligence process] (which includes everything (in points a and b) below);
c. A description of the policies and procedures to remediate instances of non-conformance with the policy;
d. An independent third party audit of the Person's due diligence report, which includes a review of the management systems and processes; and
e. The results of the independent 3rd party smelter audit detailing items (b)i-x [see below]; or the inclusion of a link to the published smelter audit reports made available via the Person's website or publicly available website detailing items (b)i–x [see below]; with due regard taken of [designated] business confidentiality and other competitiveness concerns. [7]

Per the "Reporting" section of the investor letter submitted on November 16th, 2010[8], when it is determined that tin, tungsten, tantalum and/or gold mineral ore originates in the DRC and/or adjoining countries, the third party audit, made available via a publicly available website and which issuers must disclose in their conflict minerals report, should additionally include:

a. Smelter auditing protocol performed by an independent 3rd party.
b. When it is determined that incoming minerals originate from DRC or neighboring countries, the 3rd party audit in (a) would additionally include the following information (which is aligned with the OECD Guidance, p. 22, 26 & 37):

   i. an on-the-ground risk assessment that addresses the points outlined in the OECD's Guidance Step 2 and Appendix;
   ii. all taxes, fees or royalties paid to government for the purposes of extraction, trade, transport and export of minerals;

[6] See: http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-54.htm
[7] Business confidentiality and other competitive concerns means price information and supplier relationships subject to evolving interpretation.
[8] See: http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-54.htm

iii. any other payments made to governmental officials for the purposes of extraction, trade, transport and export of minerals;
iv. all taxes and any other payments made to public or private security forces or other armed groups at all points in the supply chain from extraction onwards;
v. the ownership (including beneficial ownership) and corporate structure of the exporter, including the names of corporate officers and directors; the business, government, political or military affiliations of the company and officers.
vi. the mine of mineral origin;
vii. quantity, dates and method of extraction (artisanal and small-scale or large-scale mining);
viii. locations where minerals are consolidated, traded, processed or upgraded;
ix. the identification of all upstream intermediaries, consolidators or other actors in the upstream supply chain;
x. transportation routes.

51. We do not believe there should be different due diligence measures prescribed for gold.

54. We recommend the rules make reference to specific due diligence standards that are aligned with international initiatives such as the OECD Guidance. They should be, as described above, in the context of describing steps that would give rise to a presumption that the due diligence process was reliable.

61. Gold stockpiles (e.g., bars and coins) existing outside of DRC and adjoining countries before July 15, 2010, should be considered "DRC conflict free" after due diligence as part of the Conflict Minerals Report. This will help to avoid the risk of encouraging new gold mining rather than use of existing gold stocks should those stockpiles, where already outside of DRC countries, be pre-existing.

62. The rules should not allow a *de minimis* threshold, since the conflict mineral content in products is for intentional use only and that content can represent significant value to conflict groups even if it is a small portion of a product.

63. Recycled metal that is reclaimed from end-user or post-consumer products or scrap metals should be exempt from this rule where the issuer has a reliable process for determining the metals are from recycled sources. The proposed rule acknowledges that issuers purchasing conflict minerals from recycled or scrap sources would not implicate the concerns of the provision.[9] This is consistent with the OECD Guidance, which says, "Metals reasonably assumed to be recycled are excluded from the scope of this Guidance".[10] The final rule should adopt the provision of the proposal that recycled and scrap material may be designated as DRC Conflict Free. As the SEC notes, issuers could misbrand their products as recycled, therefore we agree with the SEC's proposal that issuers claiming that their products are recycled exercise due diligence to ascertain how that determination was made and disclose in a Conflict Minerals Report which is subject to an independent audit.

64. The rule should require that issuers with recycled or scrapped conflict minerals undertake reasonable inquiry and due diligence to determine that conflict minerals were derived from recycled or scrap material. This should include reasonable processes to verify claims that the metals were acquired from recycled or scrap material. It is acceptable for recycled conflict minerals to be described, through a Conflict Minerals Report, as DRC conflict free, but the Commission must precisely define "recycled" and

[9] Securities and Exchange Commission, Conflict Minerals proposed rule, page 63 and footnote 157.
[10] OECD Due Diligence Guidance, page 6, footnote 2.

require thorough due diligence and audits of statements of provenance for recycled content determinations. This is of critical importance because definitions of "recycled" vary, and irresponsible elements of the supply chain could falsely claim for example that newly mined gold is actually recycled (as described further in our response to Question 65).

65. See response to Question 63. We believe the Commission should adopt the following definition of recycled to be included in the final rule:

> Recycled metals are reclaimed end-user or post-consumer products, or scrap processed metals created during product manufacturing. Recycled metal includes excess, obsolete, defective, and scrap metal materials which contain refined or processed metals that are appropriate to recycle in the production of tin, tantalum, and/or tungsten. Minerals partially processed, unprocessed or a bi-product from another ore are not recycled metals.

Given the intricacies and additional uses of gold, we support a specific definition of recycled gold from the non-profit organization, Earthworks: For gold, this should be defined as gold that is independently verified with statements of provenance to contain 100% gold from post-consumer products, such as post-consumer jewelry, electronics, or dental gold. The definition of post-consumer recycled gold must exclude scrap from jewelry (bench waste, etc.) and other manufacturing, and any jewelry or other product not previously individually owned ("unwanted" jewelry). This is necessary because there are cases elsewhere of companies turning newly-mined gold into apparent manufacturing scrap (to avoid taxes), and in other cases operations have made and subsequently "recycled" rough jewelry to gain a government pre-export manufacturing incentive. Gold coins and bars, or financial gold, should not be included in the definition as they do not represent a consumer product and resemble newly-mined gold. Bars and coins must be considered separate from recycled gold, in part also because companies or individuals could launder DRC conflict gold by making uncertified claims that gold bars are recycled when they may be newly mined gold bars, or an un-quantified mix of recycled and newly mined gold.

Thank you for the opportunity to comment on this important rulemaking process. We are available to meet in person or on the phone to clarify any questions you might have. Please contact Aditi Mohapatra at aditi.mohapatra@calvert.com or (301) 961- 4715.

Sincerely,

Lauren Compere
Managing Director
Boston Common Asset Management

Susan Baker
Portfolio Manager & ESG Research Analyst
Trillium Asset Management Co.

Patricia Jurewicz
Director, Responsible Sourcing Network
a Project of As You Sow

Aditi Mohapatra
Sustainability Analyst
Calvert Asset Management Co. Inc.

Lisa Woll
CEO
Social Investment Forum

Laura Berry
Executive Director
Interfaith Center on Corporate Responsibility

Additional Signatories:

Name	Title	Organization
Dr. Aidsand F. Wright-Riggins	Executive Director	American Baptist Home Mission Societies
Aidsand F. Wright-Riggins III	Executive Director	American Baptist Home Mission Society
Francois Meloche	Extra Financial Risk Manager	Batirente inc.
Edward Gerardo	Director, Community Commitment and Social Investments	Bon Secours Health System, Inc.
Brother Roger Croteau, CSC	Provincial Council Member	Brothers of Holy Cross Eastern Province
Sister Kathleen Coll,SSJ	Administrator, Shareholder Advocacy	Catholic Health East
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Victor I. Jarvis	President	Firstborn Advisors L.L.C.
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Rev. Séamus P. Finn OMI	Director	JPIC Ministry Missionary Oblates
Bro. Steven O'Neil, SM	shareholder adovocate.	Marianist Province of the US
Rev. Joseph P. La Mar, M.M.	Assistant CFO	Maryknoll Fathers and Brothers
Susan Smith Makos	Director of Social Responsibility	Mercy Investment Services, Inc.
Barbara Jennings, CSJ	Coordinator	Midwest Coalition for Responsible Investment

Name	Title	Organization
Mark Potter	Chair	National Jesuit Committee on Investment Responsibility
Michael Kramer, AIF	Managing Partner & Director of Social Research	Natural Investments, LLC
Judy Byron, OP	Director	Northwest Coalition for Responsible Investment
Dan Apfel	Executive Director	Responsible Endowments Coalition
Ethel Howley, SSND		School Sisters of Notre Dame Cooperative Investment Fund
Joy Facos	Senior Sustainable Investing Research Analyst	Sentinel Financial Services Company
Sr. Jean Anne Panisko	Treasurer	Sisters of Charity of Leavenworth
Sister Barbara Aires	Coordinator of Corporate Responsibility	Sisters of Charity of Saint Elizabeth
Sr. Pamela Marie Buganski, SND	Provincial Treasurer	Sisters of Notre Dame of Toledo, OH
Sr. Judy Boisvert		Sisters of St. Joseph of Peace
Carole Lombard csj	Office of Justice and Peace	Sisters of St. Joseph
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Ann Oestreich IHM	Congregation Justice Coordinator	Sisters of the Holy Cross - Congregation Justice Committee
Lars M. Lewander	President	Spring Water Asset Management, LLC
Patricia A. Daly, OP	Executive Director	Tri-State Coalition for Responsible Investment
Patricia Farrar-Rivas	CEO	Veris Wealth Partners
Sonia Kowal	Director of Socially Responsible Investing	Zevin Asset Management, LLC

national association of Evangelicals
COOPERATION WITHOUT COMPROMISE

May 8, 2012

The Hon. Gary Miller, Chairman
Subcommittee on International Monetary Policy and Trade
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Miller and Members of the Subcommittee,

As you meet to review implementation of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, please press the Securities and Exchange Commission to issue final rules governing disclosure requirements for companies that purchase conflict minerals.

American evangelicals have a long record of generous support for missionary work and humanitarian aid to Congo. We are aware of the tragic history of this country, with ongoing conflicts fueled by child soldiers, slave labor, sexual violence and the illicit trade in rare natural resources that are commonly known as conflict minerals. That is why we were heartened when Congress included the Section 1502 conflict mineral disclosure requirements in the financial reform bill. We are confident that American consumers, when presented with accurate information, will choose to purchase technology products that do not indirectly subsidize rape and killing in the Congo.

We are concerned that the SEC has delayed issuing final rules, and even more that some in the Congress want to water down or eliminate these important provisions. We urge that any discussion of the regulations consider their many benefits, including the moral value of protecting human life and dignity, the economic benefit of creating a level playing field that protects businesses from unethical competition, and the improved security that will come from bringing stability to a troubled area in the heart of Africa.

We respectfully request that this letter be included in the record of your deliberations.

Sincerely,

Galen Carey
Vice President, Government Relations

PO Box 23269 Washington DC 20026 Ph 202.789.1011 Fax 202.842.0392 Web www.nae.net

"The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"
Rep. Howard L. Berman
Statement for the Record
May 10, 2012

The Democratic Republic of the Congo has been plagued for decades by civil war and violence. The hallmarks of this instability are well known: child soldiers, sexual and gender-based violence, indiscriminate mass killings, and other serious human rights abuses. Despite the fact that civil war formally ended in 2003, violence continues today and it is fuelled in part by the availability of valuable minerals to warlords and criminal elements of the Congolese army. They sell gold, tungsten, tin, and tantalum for millions of dollars, and these "conflict minerals" eventually end up in products such as cell phones and laptops that are purchased by American consumers.

Section 1502 of the Dodd-Frank Wall Street Reform Act, which I was proud to work on with Ranking Member Barney Frank (D-MA) and Jim McDermott (D-WA), is intended to sever the ties between violent groups in the Congo and the minerals that finance their activities, and create greater transparency with regard to international supply chains. It aims to raise awareness among Americans that our spending habits have a real impact on the lives of innocent people half a world away.

Some critics of the law say that it will result in a total ban on sourcing minerals from the Congo, thus hurting the very people we are trying to help. This is simply not true. The law would not prevent companies from importing any minerals from this region of the world. Rather, its purpose is to help both consumers and investors make informed decisions about the products they buy and the companies in which they invest.

This is not a new approach. For decades, Americans have demanded more information about the origin of the products they buy to help ensure that they were not produced with the use of child labor, inhumane working conditions, or environmentally destructive procedures.

I believe that companies looking to be good corporate citizens and to burnish their reputations should support this legislation. Indeed, many companies are already moving in this direction. Motorola, Apple, and Intel have all made efforts to procure conflict-free minerals from the Congo. For example, Motorola Solutions for Hope and KEMET are both establishing closed supply chains so that they can control every stage of sourcing and prevent rebels or corrupt government officials from profiting from their activities. I commend these companies and encourage their efforts.

However, other companies have said that implementing this law would simply be too difficult and too expensive. They are telling us that, sophisticated as they are, they have no idea where their materials come from. They are saying that if we ask them to be responsible, they cannot

make a profit. I take issue with all of those statements. If this is the case, what makes them so different from companies already complying with the law? I would also be interested to know, based on the massive cost estimates they have calculated, what is the additional per-unit cost of a cell phone or other product, given the hundreds if not thousands of products that utilize the conflict minerals cited in section 1502?

The Congolese government has responded to this legislation by requiring companies to comply with OECD guidance on supply chain due diligence. The government has also reiterated that the military is prohibited from being involved in mining. With this legislation, we have started an important dialogue about how consumers, companies, and the Congolese Government can all play an important role in reducing violence and conflict in Central Africa. I recognize that conflict minerals are only a part of this puzzle, and that better, more accountable governance from the Government of the Congo is the only long term solution to insecurity and poverty in the country.

Finally, it is important to respond to critics who claim that Section 1502 was written without the support or input from the Congolese themselves. In fact, the legislation was supported by over 30 groups from the ReCongo, including the Catholic Bishops' Conference in the DRC, represented today by Bishop Nicolas Djomo. Furthermore, the groups who have been working to promote this provision, such as Global Witness and Enough, have done significant research on the ground to examine the impact of conflict minerals in the Congo. They have Congolese staffers, but also utilize outside experts who travel regularly to the region. I have found them to be a reliable source of information, and I thank them for their work.

In closing, I think it is very important that we use this hearing not just to discuss the costs of implementing Section 1502, but also to examine the human costs of not implementing the provision, and the real-world impact that would have on the people of Eastern Congo, who have already endured unthinkable violence and deprivation. As we evaluate Section 1502, we must not forget about or ignore the human rights basis behind the law.

SYNERGIE DES FEMMES POUR LES VICTIMES
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République Démocratique du Congo

March 7th, 2011

The Honorable Hillary Clinton
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

CC: -The Honorable Mary Schapiro, Chairman, U.S. Securities and Exchange Commission
-Ambassador Johnnie Carson, Assistant Secretary of State for African Affairs, U.S. Department of State
-Susan Page, Deputy Assistant Secretary for African Affairs, U.S. Department of State
-Robert Hormats, Under Secretary for Energy, Economic, and Business Affairs, U.S. Department of State
-Maria Otero, Under Secretary for Democracy and Global Affairs, U.S. Department of State

Dear Secretary Clinton:

As representatives of 35 Congolese women's rights organizations working in eastern Democratic Republic of the Congo, we write to you to urge the U.S. State Department to oppose a delay and fully support the swift and effective implementation of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Breaking the link between minerals and violence is a crucial step toward bringing peace to our region, eastern Congo. The U.S. law can help bring peace to eastern Congo, and delaying its implementation will fuel increased sexual violence on the ground.

We have been informed of lobby efforts by local and international mining operators to postpone implementation of the Dodd-Frank Act, but we would like to remind you that their initiative is only business motivated.

You have been on the ground and seen for yourself the heavy toll of minerals-fueled conflicts on innocent women, girls and children in DR Congo, and the US legislation is for us the leverage needed to instill and impose ethical minerals business practices in the Great Lakes Region. We therefore strongly oppose a delay or a phase in of the reporting requirements of the legislation.

Sincerely,

Justine Masika Bihamba
Coordinator
SYNERGIE - A Platform of 35 Women's Rights Groups Standing up for Victims of Sexual Violence

STAND Statement for the Record

Subcommittee on International Monetary Policy and Trade Hearing on
The Costs and Consequences of Dodd-Frank Section 1502:
Impacts on America and the Congo

May 10, 2012

To Chairman Miller and Members of the Subcommittee:

We currently serve as the National Student Director and Conflict-Free Campus Initiative coordinator of STAND, a student political constituency organization focused on atrocities prevention and civilian protection in U.S. foreign policy. The Conflict-Free Campus Initiative (CFCI) is a project of STAND and the Enough Project, and seeks to mobilize student communities across the United States to advocate for more responsible, transparent mineral supply chains from the Democratic Republic of the Congo (DRC). Throughout the country, over one hundred CFCI chapters are working to change university procurement and investment policies, in order to disentangle the link between our consumer electronics and violence in the DRC's eastern Kivu provinces.

To date, eight schools have passed resolutions on mineral extraction and violence in the DRC: the University of Colorado at Boulder, Clark University, Duke University, Stanford University, the Ohio University Honors Tutorial College, Pomona College, the University of Pennsylvania, and Westminster College. In tandem with the university campaigns, a growing constituency of informed youth activists has voiced its support for Section 1502 of the Dodd-Frank Act, and recognizes its essential role in civilian protection, conflict resolution, and human rights in the Democratic Republic of the Congo.

As representatives of this national student constituency, we implore you to continue your support for the Dodd-Frank legislation, as well as your commitment to human rights in the DRC's Kivu provinces. The creation of a legitimate, transparent, and accountable Congolese mining sector is a challenging process, and requires the firm cooperation and leadership of American corporations, the U.S. government, and grassroots activists. Unfortunately, the delayed implementation of the Securities and Exchange Commission's legally-mandated regulations on mineral extraction and due diligence is having a chilling effect to progress on the ground. As Congolese civilians cope with displacement, atrocities, and political corruption, the implementation of the SEC's regulations will play an important role in ensuring that US companies are not inadvertently financing conflict in the DRC.

Moving forward, we urge the expedient, comprehensive implementation of SEC regulations on mineral extraction in the DRC. Thank you again for the committee's consideration, and for the continued leadership of the United States Congress on this important human rights issue.

In peace,

Daniel Solomon
National Student Director
STAND
director@standnow.org

Carly Oboth
Conflict-Free Campus Initiative Coordinator
STAND
coboth@standnow.org

Excellency,

I have the honour to write to you in my capacity as Coordinator of the Group of Experts on the Democratic Republic of Congo (DRC) which was extended pursuant to Security Council resolution 2021 (20 11) of 29 November 2011. The UN Group of Experts on the Democratic Republic of Congo (DRC) understands that the United States House Committee on Financial Services has solicited written inputs ahead of its hearing on "The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo," on Thursday, 10 May.

In this regard the Group would like to reiterate some of its comments which it included in a letter to the Securities and Exchange Commission (SEC) dated 21 October 2011 in anticipation to the publication of its regulations:

First, the Group remains convinced that requiring companies to exercise due diligence is effective and that Dodd-Frank has been a critical catalyst for reform. The Group's investigations in the DRC have shown that private sector purchasing power and due diligence implementation – *inter alia* through establishing traceability schemes – help to put pressure on the military to disengage from mining and promote good governance in the DRC mining sector, thereby preserving international markets access for impoverished artisanal miners. In addition there is growing interest among refiners and smelters to assume responsibility "upstream" by acquiring mining permits and investing in semi-industrial production and processing, so to establish "closed-pipe" supply chains in which the company has custody of minerals from production to export.

Moreover, since the Dodd -Frank law has been passed, a higher proportion then before of tin, tungsten and tantalum mined in the DRC is not funding conflict. This is because:

- Production of these minerals has shifted to an extent to (largely) non-conflict areas, such as North Katanga and Maniema.
- The armed group *Front Democratique pour la Liberation du Rwanda* (FDLR) has less control over tin, tungsten and tantalum mines in the DRC's Kivu provinces then previously.
- Tin, tungsten and tantalum production levels have fallen in the Kivus, because companies aspiring to Dodd-Frank compliance are not purchasing from there. So while criminal networks within the Congolese armed forces (FARDC) continue to infiltrate mineral supply chains in the Kivus, the overall amount of profit they receive from this has fallen.

However, there are important challenges regarding Dodd-Frank. Market uncertainty resulting from the lengthy delay in the publication of the SEC rules coupled with the fear of potential 100% "conflict free" demands in their reporting obligations has led most industry actors to pull out of the market rather than conduct due diligence on their supply chains. This has led many purchasers to boycott all Kivu mineral products, reducing the total export levels to about a third of its original (pre-suspension) level.

The effect of this in the Kivus, unsurprisingly, has been the loss of a percentage of precarious jobs in certain mining zones, increased smuggling and general criminalisation of the minerals trade. It has also had a severely negative impact on provincial government revenues, weakening governance capacity. Critics of due diligence efforts have argued that such measures will only hurt economic development in eastern Congo. However, evidence from the Group's countless visits to mining zones throughout the Kivu provinces point to a reality which has been lost in this debate: Militarized mining has not led to true economic development for miners and their communities.

Scrapping or weakening Dodd Frank is not the solution. The solution is for SEC regulations to incorporate the UN Group of Experts and OECD due diligence guidelines' concept of mitigation.

Mitigation allows companies purchasing from mines where F ARDC criminal networks are in operation to continue purchasing provided they have put in place time-bound and publically-available strategies to progressively decrease the involvement and benefit of military actors.

Mineral supply chain tagging can be implemented in the Kivus, as it already has been in Katanga and Rwanda. This would enable legitimate, traceable trade to flow from the Kivus, which would reduce the negative consequences of the current slowdown of economic activity to civilian populations, and increase revenues to legitimate state agencies. And, as we have seen in Katanga, governance relating to minerals would be likely to improve too.

Another major challenge is that conflict financing from gold in the Kivus is continuing. The FDLR, other armed groups and FARDC criminal networks continue to derive considerable profit from the gold trade, increasing the risk of worsening conflict. This is happening, in part, because due diligence implementation in the gold sector has barely begun, and gold from the zones controlled by armed groups continues to have little difficulty reaching international markets.

Again, the solution is not to weaken or abandon Dodd Frank. The solution is to continue efforts to implement due diligence in the gold sector. Progress has been made with the major industrial gold producers, but important international markets for gold still pay too little attention to where their product is coming from.

An additional challenge is that criminal networks in the FARDC in eastern DRC are powerful and hard to dislodge. And thus far, it seems, the Government of the DRC has been unable to take them on.

Due diligence is not going to solve this problem, which, first and foremost, requires action by the DRC authorities. However, company due diligence will shed more light on the activities of these networks, thus increasing pressure on the government to take action.

In conclusion, Dodd Frank has had a massive and welcome impact so far, requiring chain participants all over the world to take due diligence and conflict financing seriously. This should not and must not be thrown away or weakened.

What is required now is a correct calibration of the SEC regulations concerning disclosure so that trade can keep flowing from the Kivus, but in ways that lead to improvements in the situation, not a deterioration. The SEC should use as its reference the UN/OECD due diligence guidelines, as previously urged by ICGLR member states, the OECD, companies and NGOs. Gold supply chains must urgently begin to implement due diligence.

Pressure must be maintained on DRC authorities to prosecute and punish FARDC criminal networks involved in the minerals trade.

Dodd Frank and due diligence is working. Retreat now will confuse all players in the market, unfairly diminishing the efforts of those who are implementing due diligence, and playing into the hands of the cynical and those with other agendas who have thus far refused to implement due diligence in the hope that it will simply go away.

Yours sincerely,

Steve Hege,
Coordinator
Group of Experts on the DRC
re-established pursuant to resolution 2021 (2011)

UNITED TO END GENOCIDE

May 7, 2012

By E-mail

Dear Members of the House Financial Services Subcommittee on International Monetary Policy and Trade,

United to End Genocide submits this letter to the hearing record to express our support for Section 1502 of the Dodd-Frank Act. We are concerned about the documented link between the minerals trade and violence in the region, and believe Section 1502 is a critical driver to help reduce violence on the ground and ensure that clean supply chains are developed. We therefore urge Congress and your Subcommittee to support this provision and to ensure that the Securities and Exchange Commission (SEC) works to produce a final rule that will help break the link between minerals and conflict and reduce violence on the ground.

Congress intended for this law to immediately address the urgent humanitarian situation in the eastern Democratic Republic of Congo (DRC) by curbing the trade in conflict minerals. For over a decade, since the UN Group of Experts exposed the problem, minerals have fuelled conflict and human rights abuses, including sexual and gender-based violence. For U.S. taxpayers, the deadly trade in conflict minerals means continuing to pay US $500-600 million per year in aid and peacekeeping costs aimed at making Congo a more stable place. For companies, delays create uncertainty in the market and about the standards to which they will be held. Delays also impede the effectiveness of programs already underway on the ground. For investors, the reasonable right to know which activities their investments or purchases may be directly or indirectly supporting is compromised. Most importantly, for the Congolese people, further delays mean armed groups can continue to prey upon the minerals sector, fuel instability and commit human rights abuses against civilian populations. This is not what Congress intended by enacting Section 1502.

Since passage of Dodd-Frank, significant steps are being taken to ensure conflict minerals no longer line the pockets of armed groups including Congolese government actions to demilitarize mining areas and to require companies to carry out due diligence measures to avoid sourcing by armed groups. Industry groups are also developing initiatives to comply with the provision. However the delay of the SEC rulemaking and the possibility of weak rules threaten this progress. It has been nearly two years since President Obama signed the law and the statute is clear that the SEC should have produced final rules by April 2011. It is time to put this law into action. We ask that you use this opportunity to highlight the benefits of this provision, and to consider using your offices to pressure the SEC to issue a strong rule

that meets to Congressional intent and works to break the link between conflict and minerals in eastern Congo

Yours sincerely,

Bama Athreya
Executive Director

From Mr. McDermott for the Record

U.S. House of Representatives

Subcommittee on International Monetary Policy and Trade

Hearing on "The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"

5-10-2012

Partial List of Investment Companies with Conflict Minerals Policies

	Company	Location	Phone	Comments
1.	AMP Capital	Sydney, Australia	+61 2 9257 5000	Encourages ethical behavior for the sourcing of minerals from the DRC. Recommends that companies take decisive action to make a public statement condemning the use of minerals that fuel ongoing conflict in the DRC.
2.	Boston Common Asset Management	Boston, MA 02109	617-720-5557	Over the last few years, we have seen supply chain traceability move from a 'nice to know' to a necessity as more companies become aware of their exposure to egregious human rights violations taking place at the bottom of their supply chain.
3.	Calvert Investments	Bethesda, MD 20814	800-368-2748	It is critical that companies responsibly source minerals from regions where conflict will not threaten their supply chain access... Further, these companies must publicly condemn conflict mineral use and work with their suppliers to ensure that sourcing policies are being adhered to.
4.	F&C Investments	Boston, MA 02110	617-426-9050	F&C welcomes the US Government's commitment to tackle the issue of so-called 'conflict minerals.'
5.	Interfaith Center on Corporate Responsibility	New York, NW 10115	212-870-2938	Its 300 member organizations with over $100 billion in AUM have an enduring record of corporate engagement that has demonstrated influence on policies promoting justice and sustainability in the world.
6.	Krull & Company	Asheville, NC 28815	877-235-3684	Also partnered with Calvert Investments
7.	Praxis Mutual Funds/Everence	Goshen, IN 46527	574-533-9511	Working with investors to encourage companies to find ways to use conflict-free minerals in the production of electronics and other goods.
8.	Tri-State Coalition	Montclair, NJ 07042	973-509-8800	Signatory to statement by group of investors calling on companies to make more of an effort to ensure that minerals used in electronics components are not contributing to the conflict in the DRC.

9.	Trillium Asset Management	Boston, MA 02111	617-423-6655	Trillium Asset Management Corporation has joined a coalition of investors in calling on major electronics, medical device and automobile component manufacturers, to ensure that the companies are not aiding conflict and human rights abuses by purchasing supplies from the DRC. The investors, who represent almost $200 billion in assets, have issued a statement calling on companies to condemn the use of minerals whose trade promotes the conflict in the DRC and take immediate steps to ensure that these minerals are not used in their products.
10.	Walden Asset Management	Boston, MA 02108	617-726-7250	Firm has been actively working to promote social responsibility in regards to conflict minerals and the company is keeping a close eye on action coming from Washington.

From Mr. McDermott for the Record

U.S. House of Representatives

Subcommittee on International Monetary Policy and Trade

Hearing on "The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"

5-10-2012

Partial List of Companies, and their U.S. locations, already going Conflict Free

Company Name	Intl HQ Country	Intl HQ City	USA HQ City	USA HQ State
Amkor	United States	Chandler		Arizona
Intel	United States	Santa Clara		California
Hewlett-Packard	United States	Palo Alto		California
National Semiconductor	United States	Santa Clara		California
Apple	United States	Cupertino		California
Advanced Micro Devices (AMD)	United States	Sunnyvale		California
Xilinx	United States	San Jose		California
Linear Technology	United States	Milpitas		California
Avago	United States	San Jose		California
Fairchild Semiconductor	United States	San Jose		California
Intersil	United States	Milpitas		California
PMC Sierra	United States	Sunnyvale		California
Sitime	United States	Sunnyvale		California
Bourns	United States	Riverside		California
Microsemi	United States	Aliso Viejo		California
Spansion	United States	Sunnyvale		California
Ecliptek	United States	Costa Mesa		California
International Rectifier	United States	El Segundo		California
Dymax	United States	Torrington		Connecticut
Molex	United States	Lisle		Illinois
Motorola	United States	Schaumburg		Illinois
Dover Corporation	United States	Downers Grove		Illinois
Selective Plating	United States	Addison		Illinois
Hamburg Industries	United States	Paxton		Illinois
Spirit Aero Systems	United States	Wichita		Kansas
K&L Microwave	United States	Salisbury		Maryland
Skyworks	United States	Woburn		Massachusetts
MKS Instruments	United States	Andover		Massachusetts
Ford	United States	Dearborn		Michigan
Calumet Electronics Corporation	United States	Calumet		Michigan
NVE	United States	Eden Prairie		Minnesota
Vectron	United States	Hudson		New

				Hampshire
Honeywell	United States	Morristown		New Jersey
TDK USA Corporation (TUC)	United States	Garden City		New York
Kionix	United States	Ithaca		New York
Fair-Rite	United States	Wallkill		New York
RF Micro Devices	United States	Greensboro		North Carolina
Triquint	United States	Hillsboro		Oregon
Lattice Semiconductor	United States	Hillsboro		Oregon
PEM PennEngineering	United States	Danboro		Pennsylvania
Air Products	United States	Allentown		Pennsylvania
Advanced Interconnections	United States	West Warwick		Rhode Island
Kemet	United States	Greenville		South Carolina
Freescale	United States	Austin		Texas
Fairview Microwave	United States	Allen		Texas
Texas Instruments	United States	Dallas		Texas
Silicon Labs	United States	Austin		Texas
Venkel	United States	Austin		Texas
Quartzdyne	United States	Salt Lake City		Utah
Nordstrom	United States	Seattle		Washington
Future Technology Devices International Chip	United Kingdom	Glasgow	Hillsboro	Oregon
Syfer	United Kingdom	Norfolk		
Bench	United Kingdom	Manchester		
Lite-On	Taiwan	Taipei		
TXC	Taiwan	Taipei		
Tyco	Switzerland	Schaffhausen	Princeton	New Jersey
ST Microelectronics	Switzerland	Geneva	Coppell	Texas
LG Electronics	South Korea	Seoul	San Diego	California
STATS ChipPAC	Singapore	Singapore	Freemont	California
Flextronics	Singapore	Singapore	Milpitas	California
Tanaka Electronics	Singapore	Singapore		
NXP	Netherlands	Eindhoven	San Jose	California
Phillips	Netherlands	Amsterdam	Andover	Massachusetts
Nikon	Japan	Tokyo	Belmont	California
Panasonic	Japan	Osaka	Secaucus	New Jersey
Senju Metal Group	Japan	Tokyo	Great Neck	New York
Sony	Japan	Tokyo	New York	New York
Toshiba	Japan	Tokyo		
NSC Corporation	Japan	Osaka		
iC-Haus	Germany	Bodenheim	Rindge	New Hampshire
Martinrea Honsel	Germany	Meschede		
Alcatel-Lucent	France	Paris	Murray Hill	New Jersey
Nokia	Finland	Espoo	Sunnyvale	California
Zhen Ding Technologies (ZDT)	China	Shenzen		
Miranda	Canada	Montreal	Grass Valley	California

From Mr. McDermott for the Record

U.S. House of Representatives

Subcommittee on International Monetary Policy and Trade

Hearing on "The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"

5-10-2012

Executive Order 13126 and the list of Forbidden Products for Federal Acquisition starting in 2001

Text below is from: http://www.dol.gov/ILAB/regs/eo13126/main.htm

Executive Order 13126

Executive Order 13126 [Text] [PDF] on the "Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor," was signed on June 12, 1999. The EO is intended to ensure that federal agencies enforce laws relating to forced or indentured child labor in the procurement process. It requires the Department of Labor, in consultation with the Departments of State and Homeland Security, to publish and maintain a list of products, by country of origin, which the three Departments have a reasonable basis to believe, might have been mined, produced or manufactured by forced or indentured child labor. Under the procurement regulations implementing the Executive Order, federal contractors who supply products on a list published by the Department of Labor must certify that they have made a good faith effort to determine whether forced or indentured child labor was used to produce the items listed.

On January 18, 2001, the Department of Labor published in the *Federal Register* the initial EO 13126 List comprised of 11 products from two countries, as well as the **Procedural Guidelines** for the "Maintenance of the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor" [Text] [PDF]. Also published in the January 18 *Federal Register* was the **GSA's Federal Acquisition Regulation Final Rule** [Text] [PDF] to implement the Executive Order.

Revisions to the EO 13126 List

On April 3, 2012 DOL released a **Notice of Final Determination** [Text] [PDF] in the *Federal Register* revising the list of products to add bricks from Afghanistan and coltan and cassiterite from the Democratic Republic of Congo. With this final determination, the list is comprised of 31 products from 23 countries.

View the bibliography for each product listed in the April 3, 2012 final determination (PDF)

On October 4, 2011 DOL published a **Notice of Initial Determination** [Text] [PDF] in the *Federal Register* proposing to add Bricks from Afghanistan and Cassiterite and Coltan from the Democratic Republic of the Congo to the list. Until publication of the final determination, the current May 31, 2011 list remains valid. The notice officially requests public comment on the initial determination through December 3, 2011.

On May 31, 2011 DOL released a **Notice of Final Determination** [Text] [PDF] in the *Federal Register* updating the EO 13126 list in accordance with the Procedural Guidelines. The final determination sets forth an updated list of products, by country of origin, which DOL, DOS and DHS believe might have been mined, produced, or manufactured by forced or indentured child labor. The final determination contains a list of 21 countries and 29 products.

View the bibliography for each product listed in the May 31, 2011 final determination (PDF)

On December 16, 2010 DOL published a **Notice of Initial Determination** [Text] [PDF] proposing to add Hand-Woven Textiles from Ethiopia to the list and to remove Charcoal from Brazil from the list where, preliminarily, DOL had reason to believe that the use of forced or indentured child labor had been significantly reduced. On December 23, 2010 DOL published a correction to the December 16 initial determination.

On July 20, 2010 DOL released a **Notice of Final Determination** [Text] [PDF] in the *Federal Register* updating the EO 13126 list in accordance with the Procedural Guidelines. The final determination sets forth an updated list of products, by country of origin, which DOL, DOS and DHS believe might have been mined, produced, or manufactured by forced or indentured child labor. The final determination contains a list of 21 countries and 29 products. Additionally, the final determination provides responses to the most commonly received public comments.

View the bibliographies for each product listed in the July 20, 2010 final determination (PDF)

On September 11, 2009 DOL published a **Notice of Initial Determination** [Text] [PDF] in the *Federal Register* announcing a proposed revision to the EO 13126 List and requesting public comment. All public comments received are available for viewing at www.regulations.gov (reference Docket ID No. DOL-2009-0002).

Current List of Products and Countries on EO 13126 List

The current list of products was published in the April 3, 2012 Federal Register and includes the following:

Product	Countries
Bamboo	Burma
Beans (green, soy, yellow)	Burma
Brazil Nuts/Chestnuts	Bolivia
Bricks	Afghanistan, Burma, China, India, Nepal, Pakistan
Carpets	Nepal, Pakistan
Cassiterite	Democratic Republic of Congo
Coal	Pakistan
Coca (stimulant plant)	Colombia
Cocoa	Cote d'Ivoire, Nigeria
Coffee	Cote d'Ivoire
Coltan	Democratic Republic of Congo
Cotton	Benin, Burkina Faso, China, Tajikistan, Uzbekistan
Cottonseed (hybrid)	India

Diamonds	Sierra Leone
Electronics	China
Embroidered Textiles (zari)	India, Nepal
Garments	Argentina, India, Thailand
Gold	Burkina Faso
Granite	Nigeria
Gravel (crushed stones)	Nigeria
Pornography	Russia
Rice	Burma, India, Mali
Rubber	Burma
Shrimp	Thailand
Stones	India, Nepal
Sugarcane	Bolivia, Burma
Teak	Burma
Textiles (hand-woven)	Ethopia
Tilapia (fish)	Ghana
Tobacco	Malawi
Toys	China

CONFLICT MINERALS TRADE ACT; INTERNATIONAL MEGAN'S LAW OF 2010; EXTENDING IMMUNITIES TO THE OFFICE OF THE HIGH REPRESENTATIVE AND THE INTERNATIONAL CIVILIAN OFFICE IN KOSOVO ACT OF 2010; LORD'S RESISTANCE ARMY DISARMAMENT AND NORTHERN UGANDA RECOVERY ACT OF 2009; AND GLOBAL SCIENCE PROGRAM FOR SECURITY, COMPETITIVENESS, AND DIPLOMACY ACT OF 2010

MARKUP

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

ON

H.R. 4128, H.R. 5138, H.R. 5139, S. 1067 and H.R. 4801

APRIL 28, 2010

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WEDNESDAY, APRIL 28, 2010

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:22 a.m. in room 2172, Rayburn House Office Building, Hon. Howard L. Berman (chairman of the committee) presiding.

Chairman BERMAN. The committee shall come to order. I think a quorum is present. Today we have five bills listed on the agenda. I understand that the committee has a consensus on four of the bills, and the Minority has requested we move en bloc.

The fifth bill, H.R. 4801, has pending amendments. I will just call up the four bills all at once and then call up H.R. 4801 separately.

Pursuant to notice, I ask unanimous consent to call up en bloc H.R. 4128, the Conflict Minerals Trade Act; H.R. 5138, the International Megan's Law of 2010; H.R. 5139, Extending Immunities to the Office of the High Representative and the International Civilian Office in Kosovo Act of 2010; and S. 1067, the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009.

[The information referred to follows:]

foreign elements from being engaged in illegal trade activities in the Democratic Republic of the Congo.

☒

Chairman BERMAN. Without objection, I may recess the committee from time to time. I now recognize myself for as much time as I may consume to make an opening statement.

For more than a decade, we have been hearing about the tragic situation in the Democratic Republic of the Congo: Mass killings of civilians. Rape used as a weapon of war. Child soldiers forced to the front lines.

H.R. 4128, the Conflict Minerals Act, is one important step toward ending a conflict in Congo that by some estimates has killed more than 5 million people.

The bill establishes a mechanism to track minerals mined in the DRC that end up in products like cell phones and laptops, and will help us cut off financing to some of the planet's most brutal armed groups. I am now supposed to hold up Marissa's cell phone and say in this cell phone is tin and coltan, both conflict minerals coming from the Congo.

In many respects, this legislation builds on the work already begun by some American companies. H.R. 4128 will make those efforts more effective by creating a level playing field for all companies that do business in the United States.

The American people don't want to put money in the hands of brutal thugs in the DRC, and neither do American companies. For less than 1 cent per cell phone, this bill will allow American consumers to make responsible choices, and help put the warlords out of business. I thank the author of the bill, Mr. McDermott, and my colleague Don Payne, chairman of the Africa Subcommittee, for all their hard work on these issues, and I encourage my colleagues to support the bill.

I would like to also commend Chris Smith for his hard work on H.R. 5138, the International Megan's Law of 2010, and I mean hard work. Many child sex offenders are traveling internationally or reside abroad because the laws against sex acts with minors are weaker or rarely enforced in particular countries.

International Megan's Law would establish a system for providing advance notice to foreign countries when a convicted child sex offender travels to that country and imposes a registration requirement for child sex offenders from the United States who reside abroad.

Worldwide, over 2 million children are sexually exploited each year through trafficking, prostitution and child-sex tourism. We all know the devastating emotional, physical and psychological effects on these child victims. We need to do all we can to prevent these predators from circumventing U.S. laws to prey on children in foreign countries. I encourage my colleagues to support this bill.

H.R. 5139, Extending Immunities to the Office of the High Representative and the International Civilian Office in Kosovo Act of 2010, is a technical fix to ensure legal protection for employees of both the Office of the High Representative (OHR) in Bosnia and Herzegovina, and the International Civilian Office (ICO) in Kosovo.

The bill, which adds the OHR and the ICO to the International Organization Immunities Act, will ensure that Americans serving in these important Balkans-based organizations will be protected from politically motivated litigation in the United States arising from their official duties and only their official duties.

The United States must protect its diplomats who serve in international organizations, often at great personal risk and sacrifice, from financially and personally ruinous litigation while also preserving its ability to use informal institutions in the conduct of foreign policy. Finally, we have S. 1067, the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009. I would like to thank the gentleman from Massachusetts, Mr. McGovern, for his work on the House version of this bill.

This legislation affirms the policy of the United States to work with regional governments toward a comprehensive and lasting resolution to the conflict in northern Uganda.

It further requires a strategy to support the disarmament of the Lord's Resistance Army, and support for humanitarian efforts and recovery and reconstruction in areas of the Democratic Republic of Congo, Southern Sudan and the Central African Republic affected by Lord's Resistance Army activity.

And it calls on the President to support efforts by the people of northern Uganda and the Government of Uganda to promote transitional justice and reconciliation on both local and national levels.

It should be noted that this bill does not include any earmarks.

I now yield back my time, and I turn to the ranking Republican member, Ileana Ros-Lehtinen, for her opening statement.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Chairman. It is a pleasure to work with you and for our staff to work together in a bipartisan manner in a very open process to bring these bills to our committee again, so I thank you, Mr. Chairman, and I thank your most excellent staff.

I support the en bloc consideration of the legislative items before us. Let me begin by applauding the years of work by our colleague, Congressman Chris Smith of New Jersey, in making the International Megan's Law a reality. Chris is a tenacious fighter for and a defender of the most vulnerable of our population, and I am so very proud of the work that he has done. It has taken a long time, and this is a happy day.

I was proud to be an original co-sponsor of its predecessor, H.R. 1623, and also of this new text, which was the result of months of bipartisan negotiation that Mr. Smith had with the Judiciary Committee, with input from relevant Executive Branch agencies.

The International Megan's Law is an important and long overdue instrument to help protect children from dangerous sexual offenders who use the anonymity afforded by international travel to hide their dangerous and dehumanizing exploitation. By requiring convicted sexual offenders to report upcoming international travel and creating a nexus for communication between local, national and

international authorities, the International Megan's Law will help curb international sex tourism by convicted predators. So thank you, Mr. Smith, for your work on this bill.

I am also proud, Mr. Chairman, to be adding my name as a cosponsor of the revised text of H.R. 4128, the Conflict Minerals Trade Act, which is being considered today. This important human rights legislation will help disrupt the illegal mineral trade that funds and fuels the bloody conflict in the Democratic Republic of the Congo.

There are other measures being considered en bloc that, while not perfect, advance issues of great importance to our members and our Nation. I remain committed to seeing Senate bill S. 1067 enacted into law as quickly as possible to help end the Lord's Resistance Army's 23-year legacy of death and despondency in northern Uganda and the surrounding region.

While I regret that the Senate failed to consider the earmark moratorium adopted by House Republicans despite repeated attempts to highlight this issue, I appreciate the cooperative efforts to make clear that the bill before us today does not contain an earmark in order to help facilitate the progress of this important human rights measure as well.

Another bill, H.R. 5139, considered en bloc will allow the President to extend International Organizations Immunity Act protection to the Office of High Representative, the High Representative in Bosnia and the International Civilian Office in Kosovo. American personnel who work for those offices deserve the same protection against politically motivated nuisance lawsuits that are enjoyed by more than 80 other international organizations covered by the Act.

While we support the agreed upon text, Mr. Chairman, I would like to underscore our concerns about the State Department's rush to secure the authorities in this bill while failing to respond in a timely manner to inquiries made on specific provisions, background and the need for this legislation. The Department needs to be placed on notice that the Congress, and specifically this committee, will not continue to come to the Department's rescue at the last minute, when approached by the Department with a request for a fix on a particular issue or authority.

This committee expects the Department to come into compliance with its statutory obligations under a number of U.S. laws, including the Iran, North Korea and Syria Nonproliferation Act (INKSNA) before any further requests such as H.R. 5139 are made of this committee. So please come forward with the repeated request that we have made for information about INKSNA before coming up for further requests.

With that, Mr. Chairman, I thank you for the time and look forward to the continued markup.

Chairman BERMAN. The gentlelady yields back the balance of her time, and before I recognize the gentleman from New Jersey, I just will yield to myself to express the same concern expressed by the ranking member regarding the difficulty of getting the State Department to respond.

The need for this legislation is coming not from the State Department, but from the people who work in those organizations. They

have a clear and compelling case, and the State Department was very slow to respond on a variety of the legal issues. In fact, it wasn't until very recently that we got the responses we had been trying to get for a long time.

At this point I am pleased to recognize the chairman of the Africa Subcommittee, the gentleman from New Jersey, Mr. Payne, who has spent a great deal of time on at least two of these measures that are before us in this en bloc motion.

Mr. PAYNE. Thank you very much, Mr. Chairman and ranking member. Let me begin by offering an amendment in the nature of a substitute to H.R. 4128.

Chairman BERMAN. Would the gentleman yield?

Mr. PAYNE. Yes.

Chairman BERMAN. We have already put that in as the base text for this.

Mr. PAYNE. Oh, great.

Chairman BERMAN. So it is the bill with that amendment in the nature of a substitute that is now before us.

Mr. PAYNE. Thank you very much. Thanks for that clarification.

I certainly would like, as I mentioned, to thank the chairman and the ranking member and the full committee staff on both sides of the aisle for working with me and my staff on this measure, the conflict minerals bill. I would also especially like to thank Mr. McDermott from the Ways and Means Committee for a strong interest and in the work of his staff as we work together on this bill.

The Democratic Republic of Congo, the DRC, has been in political turmoil for decades. In the early 1900s, the region was King Leopold's playground. In the 1960s, a nationalist movement led by Patrice Lumumba won Parliamentary elections in the Congo. Lumumba was considered a threat as a new leader in Africa and was later assassinated by Belgium troops, at that time supported by the United States Government.

In May 1997, the Alliance of the Democratic Forces for the Liberation of Congo Zaire, the AFDL, with the support of Rwanda and Uganda, marched into Kinshasa and ousted long-time dictator Mobutu Sese Seko. By August 1998, conflict erupted between Kabila and the Congolese forces supported by Rwanda. Angola, Namibia and Zimbabwe joined the fighting in support of Kabila. The Second Congolese War, often referred to as the African World War, contributed to displacement of many civilians, the destruction of towns and the death of millions.

Much progress has been made over the past several years in moving the DRC from political instability and civil war to relative stability and democratic rule. However, Eastern Congo remains marred by civil strife, and conflict minerals have been the source of much of the devastating violence in the region.

Although the government in Kinshasa has attempted to control the region, there is, for example, no direct road from the capital of Kinshasa to the eastern region of the country, therefore creating very, very difficult transportation problems and therefore making governance much more difficult.

The Conflict Minerals Trade Act promotes peace and security in the eastern region of the Democratic Republic of Congo by requiring the following: One, that the State Department create a map of

the DRC showing mines and areas that are under the control of militant groups involved in human rights violations;

That the Department of Commerce publishes a potential conflict goods list, products that may contain conflict minerals, and a list of international auditors who are approved to do audits of processing facilities to determine if conflict materials have been processed there in that area;

Three, that products containing conflict material from facilities that have not been audited may not be imported into the United States of America; and, four, the U.S. and other partner nations help build capacity of the Congolese Government.

The bill, while it will not change the situation in the DRC overnight, is a strong effort to build transparency in the mining sector. Our aim is to help bring about an end to the suffering of the people of Eastern Congo. As has been mentioned, I am offering this amendment in the nature of a substitute today to deal with some of the finer details of the bill.

Let me just say that I have been to the Eastern Congo on at least five occasions, have during the conflict time met with some of the warlords when they were head of militias, Bimba and Robetta. We have seen much progress made from those days to the present. However, there are still problems.

We have this bill, which follows a similar bill that I urged and pushed and we introduced years ago on conflict diamonds where the Kimberley Process now processes diamonds, and if they are not certified then those diamonds may not be sold on the marketplace and so we are expecting this particular bill to have the same result as it relates to tin and coltan and other valuable minerals that go into the processing.

And so I would like to once again appreciate the support of Chairman Berman and Ranking Member Ros-Lehtinen. They contributed to the provisions in the bill. We worked closely with them, and the bill will ensure that we provide a framework to assist the Government of the DRC.

On a number of occasions I have discussed this with President Kabila, my five or six meetings with him during the past 7 or 8 years, and we hope that this will help him in trying to bring under control that eastern region of this country. So I urge the members to support this amendment, H.R. 4128, and look forward to moving this bill to the Floor.

Secondly, I would just like to briefly urge members to support S. 1067, the Lord's Resistance Army's Disarmament in Northern Uganda Recovery Act of 2009. This bill seeks to bring an end to the more than 20 years of terror propagated by the Lord's Resistance Army, known as the LRA, in northern Uganda.

The bill calls for an interagency strategy to stop the LRA's reign of terror which has spread to neighboring DRC, South Sudan and the Central African Republic and to provide critical support to the innocent people, particularly the children whose lives have been devastated by Joseph Kony and those who support him.

Mr. Chairman, as you know, I had reservations about one section of the bill which says we should restrict assistance to the Government of Uganda if certain steps are not taken. I would like to say for the record the Government of Uganda has made significant ef-

forts to address the havoc wrecked by the LRA, and they have done a tremendous amount in trying to bring this under control.

But in the interest of moving the bill forward I agree to go ahead with the Senate version, but I would like to thank the chairman and Representative McGovern for working with me on alternative language to the House bill. I do support the Senate bill.

However, as I have mentioned, to hold punitive measures against a government who is trying to also deal with this situation. They have even, as you may recall, had the U.N. agree to have amnesty for Kony, which many of us thought was a horrible thing to do for such a terrible criminal.

However, if it would end the problem we went along with it, but Kony refused to go along with that and the ICC still has the indictment out for him. So I would be reluctant to penalize the Government of Uganda because of Kony, and that is what it says in the bill, but hopefully we can work on that to have that provision altered.

Finally, I just want to commend my colleague from New Jersey, Mr. Smith, and strongly urge the support of H.R. 5138, the International Megan's Law of 2010, which protects children from sexual exploitation by establishing an advance reporting requirement for registered sex offenders traveling internationally and provides a mechanism for notification and destination countries for traveling sex offenders who pose a risk to children. I certainly commend Congressman Smith for his leadership on the bill and Mr. Berman and Ms. Ros-Lehtinen for moving this forward.

As you know, Megan's Law, which was first passed in our home state of New Jersey in 1994 and later adopted by Congress in 1996, protects children from sex exploitation through community notification by identifying the whereabouts of sex offenders. International Megan's Law will protect children by preventing in some circumstances and monitoring in other cases, sex offenders who pose a risk of committing a sex offense against a minor while traveling abroad.

The United States has a moral obligation to strengthen international cooperation against sexual exploitation of a minor and must lead the global community in an effort to save potential children, child victims, by notifying other countries of U.S. sex offenders who pose a high risk of exploiting children. I strongly urge my colleagues to support this legislation. It will protect all children, both nationally and internationally, from sex offenders and sexual exploitation.

With that, Mr. Chairman, thank you for the time. I yield back.

Chairman BERMAN. The gentleman yields back, and now to the other gentleman from New Jersey, Mr. Smith, for 5 minutes.

Mr. SMITH. Mr. Chairman, I move to strike the last word, and I want to thank you——

Chairman BERMAN. The gentleman is recognized for 5 minutes.

Mr. SMITH [continuing]. For bringing before this committee all of these bills, but in particular the International Megan's Law, H.R. 5138, which as you and others have pointed out, establishes a model framework for intergovernmental notifications when a dangerous child sex offender travels internationally.

International Megan's Law works synergistically with our efforts to combat human trafficking, in this case by providing information about high risk sex offenders, child sex offenders. These are people who have been convicted, who unfortunately, today, we have every reason to believe as the evidence is overwhelming, travel abroad in order to exploit children. This legislation will work in a hand and glove manner with our already enacted Trafficking Victims Protection Act and other similar pieces of legislation.

I do want to thank you, Mr. Chairman, and Ileana Ros-Lehtinen for your leadership on this bill. I want to thank Don Payne, the prime co-sponsor, for his work on this. I deeply appreciate it. As he correctly pointed out, the International Megan's Law follows the Megan's Law, which passed in New Jersey back in the early 1990s.

Megan Kanka was a little girl, a 7-year-old girl, who actually lived in my home town. She was severely sexually assaulted and then brutally murdered by a convicted pedophile who had already spent time, more than a dozen years, in prison. He lived across the street. Nobody knew his background.

He invited her into his home. He said, "Come in and see my puppy." He had a little dog. And then he brutally raped and murdered her and nobody knew. Nobody knew who this person was. That led to enactment in New Jersey and then throughout all 50 states of the Megan's Law, which has had the ability to deter. Knowledge is power to deter, and now we are trying to extend that internationally when people go on these sex tourism efforts to exploit children.

I especially want to thank Maureen and Richard Kanka, who founded the Kanka Foundation, Megan's legacy. They have taken a horrific tragedy and have become national and now international proponents of Megan's Law as a way of trying to mitigate these horrific crimes.

Mr. Chairman, despite the fact that 137 countries are party to the optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography abound, including in the United States. Little is being done internationally to comply with the obligation to prevent these acts in the context of the horrific phenomena of child sex tourism.

As evidenced by the troubling information in the State Department's Annual Trafficking in Persons Report, child sex tourism is a serious and widespread problem. Congress has passed legislation to bring to justice those Americans who are caught sexually exploiting children abroad, but we have yet to institute measures that will protect children from suffering this exploitation in the first place and its lifelong consequences.

H.R. 5138 would implement one measure that is readily apparent: To identify and notify foreign governments of international travel by known dangerous sex child offenders. The move to such a formalized agreement is exemplified in a case in April 2008. A lifetime registered sex offender from the U.K. traveled to the U.S. with the intention of living with a woman he had communicated with on the internet and her young daughter. It was only after an alert of Interpol London that U.S. officials learned about the criminal history of this man and refused to allow him to enter the country.

There have been instances where ICE officials most recently in California learned of a group of men who were going to travel to South Korea, all of them sex offenders, all of them with grave MOs as to what they probably intended to do in South Korea. We notified South Korea. They didn't grant a visa and they were not allowed to commit what we believe would have been crimes in South Korea against children.

U.S. Immigration and Customs Enforcement, together with other U.S. and foreign law enforcement agencies, are making a sincere, but occasional, effort to share information. It is all being done on an ad hoc basis through Interpol and other available means regarding traveling child sex offenders. A legal structure is needed to systematize and coordinate these detection and notification efforts.

The International Megan's Law would provide this legal structure. It establishes a mechanism for U.S. law enforcement agencies to identify child sex offenders who pose a danger to children in a destination country and to notify that country about this child sex offender's travel intentions. It also includes a sense of the Congress that the President can negotiate agreements——

Chairman BERMAN. The time of the gentleman has expired. Without objection, the gentleman has 2 additional minutes.

Mr. SMITH. I appreciate that. Thank you, Mr. Chairman.

It also includes a sense of Congress that the President, as you know, can negotiate agreements with other governments to establish bilateral systems to receive and transmit notices about dangerous child sex offenders so that children in our own country will be better protected from known predators.

The bill also establishes a registration requirement for U.S. child sex offenders when they are residing abroad. Currently there is no legal mechanism to identify and track Americans convicted of child sex offenses overseas or to continue tracking the location and activities of a child sex offender if they leave the United States for more than 30 days. H.R. 5138 will enable the U.S. diplomatic missions to notify U.S. law enforcement when a child sex offender who is required to register enters or re-enters the United States.

I would ask that my full statement be made a part of the record.

Chairman BERMAN. Without objection.

Mr. SMITH. I would like to thank the many very dedicated staff on both sides of the aisle who worked so hard on this, beginning with Sheri Rickert. I would also like to thank Kristin Wells, who used to be with the committee who did yeoman's work on this, Janice Kaguyutan, Doug Anderson, Shanna Winters, Rick Kessler, who has been working with us very closely, Stephanie Gidigbi and a large group of people on the Judiciary Committee as well because we have been engaging in negotiations there as well. Thank you, Mr. Chairman.

Chairman BERMAN. Will the gentleman yield?

Mr. SMITH. I will be happy to yield.

Chairman BERMAN. I just want my colleagues on the committee to understand what you have done. You have gotten a bill like this through and with the approval and sign off and the waiving of jurisdiction of the staff of the House Judiciary Committee. Not a minor achievement.

Mr. SMITH. Thank you very much, and I do appreciate it very much.

Chairman BERMAN. The time of the gentleman has expired. Any member wish to be recognized to strike the last word or offer an amendment? The gentleman from Texas, Mr. Poe?

Mr. POE. Mr Chairman, I move to strike the last word.

Chairman BERMAN. The gentleman is recognized for 5 minutes.

Mr. POE. Thank you very much, Mr. Chairman. The International Megan's Law, H.R. 5138, is very important to our country. As founder and co-chair of the Victim's Rights Caucus, along with my friend, Mr. Costa, from California, I strongly urge support of H.R. 5138.

Unfortunately, unlawful sex tourism is big international business. One million children enter the multi-billion-dollar commercial sex every year. One million kids. Overall there are 2 million children that are enslaved in the global commercial sex trade.

These children are not statistics. They are real people. They are boys and girls who most often grow up in very poor families and broken homes from countries all over the world. They are lured away by recruiters who promise them jobs in another city. They are falsely imprisoned under the belief that they are going to go to some other country, have a job and send money back home to their families.

I recently was in the Ukraine and Bulgaria discussing this issue, and in some ways it is almost epidemic in the former eastern European bloc how young women primarily are lured away and then many of them never seen again because they are put into the sex trade.

When they leave home they are forced into prostitution, and studies show that child prostitutes serve between 2 and 30 clients a week, which means they serve anywhere between 100 and 1,500 clients per year. I don't like calling them clients. I like calling them criminals, but that is what they are under the terminology.

Those who resist or fail to earn enough money, the people who have procured them beat these children until they go back to work, bringing in this filthy lucre. If they don't die from an STD many of them fall into drug use, and without any hope or any other way many of them commit suicide.

The most startling statistic, Mr. Chairman, is the fact that Americans make up 25 percent of the world's sex trade tourists. In other words, all of these going on in foreign countries, 25 percent of the clients are Americans. Many of them have gone abroad so that they can exploit children. That is to our shame. We need to deal with that issue.

The International Megan's Law of 2010 is another tool to help free children and stop the child sex tourism. It makes it harder for Americans with a known history of the sex offender to sexually abuse children in another country because our laws have gotten stringent enough, these sex offenders who go to prison, and most of them statistically repeat once they leave the penitentiary. They decide to go to a foreign country where laws are different and they are less likely to be apprehended.

It says that if you abuse children here in the United States, you have to tell the U.S. Government when and where you are going

so we can warn other countries this criminal is coming to your country and he is a known child molester. It also says that if a country knows of a sex offender in their country we want to know what their plans are if they come to the United States.

The point of this law is to shine light on an industry that thrives in the darkness, in the depths of depravity. If you have a known history of sexually abusing children in our Nation, no longer can you just get on an airplane, go abuse other children in another country and come back home. I hope that means that a sex offender will think twice before exploiting other kids in foreign nations.

I hope this law puts the slimy pimps that prey on helpless children out of business, and this will help do that. They make profits by exploiting kids in the international sex tourism business. Hopefully children around the world, less of them will be caught in the sex trade and slavery. Children are victims of crime. Their freedom is stolen, their dignity, and their voices must be heard here in the United States and we must do what we can to help other kids throughout the world.

Lastly, I want to point out that once a person, a child, usually young women, are put into this atmosphere they never recover. They never get out of it, and those that do have tremendous physical, emotional and mental problems because of the sex trade tourism that they have been kidnapped and put into.

So I congratulate my friend from New Jersey for sponsoring this, and I totally support it. I yield back the remainder of my time.

Chairman BERMAN. The time of the gentleman has expired. Who else seeks recognition? The gentlelady from Texas. For what purpose do you seek recognition?

Ms. JACKSON LEE. To ask unanimous consent to speak for 5 minutes.

Chairman BERMAN. Without objection. The gentlelady moves to strike the last word and is recognized for 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, I want to thank you for your leadership and that of the ranking member for collecting these very important initiatives going forward. I will speak briefly about each of the initiatives that I am supporting.

The Conflict Minerals Trade Act has just really been galvanized by recent media stories about a high profile model that may have been either the victim or engaged or associated with allegations of conflict diamonds as it relates to the trial of Charles Taylor. It goes on and on and on. And so I think this legislation is long overdue, and I am very glad that businesses such as LG Electronics and Motorola and advocacy groups such as Oxam and Genocide Intervention Network, Global Witness are in support of this.

I received a letter from Corinna Gilfillan, who is with Global Witness, who indicated that the trade in conflict minerals by armed groups in the Eastern DRC has fueled horrific human rights abuses, including widespread killings of unarmed civilians, rape, torture, looting and Federal displacement of hundreds of thousands of people.

Might I just say that I wish that we were as forceful, though I know that there was much opposition, during the Liberian War

where these conflict minerals are clearly in play. So I support this legislation and look forward to its passage.

In addition, as the co-chair of the Congressional Caucus I am enthusiastically supporting H.R. 5138 and thank the co-sponsors and authors for the wisdom. I was a strong supporter and advocate of Megan's Law, and I believe that this is key in saving the lives of children.

I am reminded of visits early on in my congressional career to Bangladesh and to several other countries. I don't want to in essence call the roll, but countries who hopefully have made great strides in meeting with some of the Bangladesh leaders. I know that they have. Thailand, for example, with the horrific story of a year or 2 ago of individuals, men, who have left their country to abuse children.

This is intolerable and unacceptable, and if the Congress cannot stand before the major components of this bill, which is the establishment of a system for providing advance notice to foreign countries when a sex offender who poses a high risk is traveling and the imposition of a registration requirement for child offenders from the United States who reside abroad, what can we do?

So I am very grateful that we have put that legislation forward, and I do support it to avoid the result of HIV AIDS and other abuses, psychological trauma, disease, unwanted pregnancy that comes about through this horrific, horrible crime.

H.R. 5139, extending immunities to the Office of the High Representative Act, is a technical fix of which I support, and then in listening to my colleague from New Jersey, Chairman Payne, I want to associate myself on S. 1067 with his comments, his broad comments, the Lord's Resistance Army Disarmament in Northern Uganda Recovery Act.

We have spent time in Uganda, and certainly its President has had a long tenure. The rebel guerrilla army operating in Uganda and parts of Sudan, the LRA, has come to be known for its mass atrocities, and this seeking of disarmament to finally bring peace to this area is important.

I do think we should take into consideration who is to blame, but it should be noted that in this battle injuries targeted government troops, more than 200,000 lives have been taken, and millions of civilians have been displaced from their homes. Twenty thousand children have been abducted, raped, maimed and killed. This is long overdue. This legislation authorizes the President to provide additional assistance to respond to the humanitarian needs.

Let me also say that I support the Global Science Program for Security, Competitiveness and Diplomacy Act, H.R. 4801. Having been a 12-year member of the Science Committee, this is an excellent idea.

And I thank you for accepting my amendment, which expands it to Subsaharan countries that may have been a little bit more economically able because, for example, South Africa is a country that has an enormous range in science. Many of those individuals would be left out if they were not able to engage in this process of a scientific exchange. Science I believe is the work of the twenty-first century. We are in the twenty-first century, and we should leave no one out.

Mr. Chairman, I would like to ask for approval and passage of the bills that I have just commented on, and I thank the committee for yielding. I yield back.

Chairman BERMAN. The time of the gentlelady has expired.

Hearing no further amendments, I ask unanimous consent that the amendment in the nature of a substitute to H.R. 4128, the Conflict Minerals Trade Act, is considered adopted, and without objection I further ask unanimous consent to report en bloc the four bills favorably to the House, but as separate bills.

H.R. 5138, International Megan's Law of 2010; H.R. 5139, Extending Immunities to the Office of the High Representative Act of 2010; S. 1067, the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 will each be ordered reported without amendment. H.R. 4128, the Conflict Minerals Trade Act, will be ordered reported with an amendment in the nature of a substitute just adopted.

I move that these four bills as described be reported favorably to the House. All those in favor say aye.

[Chorus of ayes.]

Chairman BERMAN. All opposed say no.

[Chorus of noes.]

Chairman BERMAN. In the opinion of the chair, the ayes have it and the motion is agreed to without objection. The staff is authorized to make any technical and conforming changes. That takes care of four of the five bills. I thank the members for being here, and I ask you to stay for one more bill, which I really like because it is my bill.

Pursuant to notice I call up the final bill, H.R. 4801, the Global Science Program for Security, Competitiveness and Diplomacy Act of 2010.

[H.R. 4801 follows:]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

FULL COMMITTEE MARKUP NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-0128

Howard L. Berman (D-CA), Chairman

April 27, 2010

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN markup of the Committee on Foreign Affairs, to be held in **Room 2172 of the Rayburn House Office Building (and available live, via the WEBCAST link on the Committee website at http://www.hcfa.house.gov)** for the purpose of markup of the following legislation:

DATE: Wednesday, April 28, 2010

TIME: 10:00 a.m.

MARKUP OF: H.R. 4128, Conflict Minerals Trade Act;

H.R. 4801, Global Science Program for Security, Competitiveness, and Diplomacy Act of 2010;

H.R. 5138, International Megan's Law of 2010;

H.R. 5139, Extending Immunities to the Office of the High Representative and the International Civilian Office in Kosovo Act of 2010; and

S. 1067, Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009.

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF FULL COMMITTEE HEARING

Day Wednesday **Date** 04/28/10 **Room** 2172 RHOB

Starting Time 10:21 A.M. **Ending Time** 11:14 A.M.

Recesses ___ (__to____)

Presiding Member(s)

Howard L. Berman (CA), Chairman

CHECK ALL OF THE FOLLOWING THAT APPLY:

Open Session ✓	**Electronically Recorded (taped)** ✓
Executive (closed) Session	**Stenographic Record** ✓
Televised ✓	

TITLE OF HEARING or BILLS FOR MARKUP: *(Include bill number(s) and title(s) of legislation.)*

H.R. 4128, Conflict Minerals Trade Act;
H.R. 4801, Global Science Program for Security, Competitiveness, and Diplomacy Act of 2010;
H.R. 5138, International Megan's Law of 2010;
H.R. 5139, Extending Immunities to the Office of the High Representative and the International Civilian Office in Kosovo Act of 2010; and
S. 1067, Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009.

COMMITTEE MEMBERS PRESENT:

See attached

NON-COMMITTEE MEMBERS PRESENT:

HEARING WITNESSES: Same as meeting notice attached? Yes No
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

n/a

ACTIONS TAKEN DURING THE MARKUP: *(Attach copies of legislation and amendments.)*

The following bills were reported favorably, by voice vote:

H.R. 4128, Conflict Minerals Trade Act, as amended (amendment in the nature of a substitute);
H.R. 4801, Global Science Program for Security, Competitiveness, and Diplomacy Act of 2010, as amended (amendment in the nature of a substitute);
H.R. 5138, International Megan's Law of 2010;
H.R. 5139, Extending Immunities to the Office of the High Representative and the International Civilian Office in Kosovo Act of 2010; and
S. 1067, Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009.

RECORDED VOTES TAKEN (FOR MARKUP): *(Attach final vote tally sheet listing each member.)*

Subject	Yeas	Nays	Present	Not Voting

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED 11:14 A.M.

Doug Campbell, Deputy Staff Director

Attendance - HCFA Full Committee MARKUP:
Wednesday, April 28, 2010 @ 10:00 a.m. , 2172 RHOB

Howard L. Berman (CA)
Gary Ackerman (NY)
Donald Payne (NJ)
Brad Sherman (CA)
Eliot L. Engel (NY)
Diane E. Watson (CA)
Albio Sires (NJ)
Gerald E. Connolly (VA)
Michael E. McMahon (NY)
Gene Green (TX)
Sheila Jackson-Lee (TX)
Barbara Lee (CA)
Shelley Berkley (NV)
Joseph Crowley (NY)
Brad Miller (NC)
David Scott (GA)
Jim Costa (CA)
Keith Ellison (MN)

Ileana Ros-Lehtinen, (FL)
Christopher H. Smith (NJ)
Elton Gallegly (CA)
Edward R. Royce (CA)
Joe Wilson (SC)
Connie Mack (FL)
Jeff Fortenberry (NE)
Ted Poe (TX)
Bob Inglis (SC)
Gus Bilirakis (FL)

Wednesday, April 28, 2010

Chairman Berman's opening remarks at markup of Conflict Minerals Trade Act, H.R. 4128; International Megan's Law of 2010, H.R. 5138; Global Science Program for Security, Competitiveness, and Diplomacy Act of 2010, H.R. 4801; among other bills

For more than a decade, we have been hearing about the tragic situation in the Democratic Republic of the Congo: Mass killings of civilians. Rape used as a weapon of war. Child soldiers forced to the front lines.

HR 4128, The Conflict Minerals Act, is one important step towards ending a conflict in Congo that by some estimates has killed more than five million people.

The bill establishes a mechanism to track minerals mined in the DRC that end up in products like cell phones and laptops, and will help us cut off financing to some of planet's most brutal armed groups.

In many respects, this legislation builds on the work already begun by some American companies. H.R. 4128 will make those efforts more effective by creating a level playing field for all companies that do business in the United States.

The American people don't want to put money in the hands of brutal thugs in the DRC, and neither do American companies. For less than one cent per cell phone, this bill will allow American consumers to make responsible choices, and help put the warlords out of business. I thank the author of the bill, Mr. McDermott, and my colleague Don Payne for all their hard work on these issues, and I encourage my colleagues to support it.

I'd like to first commend Chris Smith for his hard work on H.R. 5138, the International Megan's Law of 2010. Many child sex offenders are travelling internationally or reside abroad because laws against sex acts with minors are weaker or rarely enforced in particular countries.

International Megan's Law would establish a system for providing advance notice to foreign countries when a convicted child sex offender travels to that country and imposes a registration requirement for child sex offenders from the United States who reside abroad.

Worldwide, over two million children are sexually exploited each year through trafficking, prostitution and child-sex tourism. We all know the devastating emotional, physical and psychological effects on these child victims. We need to do all we can to prevent these predators from circumventing U.S. laws to prey on children in foreign countries. I encourage my colleagues to support this bill.

H.R. 5139, Extending Immunities to the Office of the High Representative and the International Civilian Office in Kosovo Act of 2010, is a technical fix to ensure legal protection for employees of both the Office of the High Representative (OHR) in Bosnia and Herzegovina and the International Civilian Office (ICO) in Kosovo.

The bill, which adds the OHR and the ICO to the International Organization Immunities Act, will ensure that Americans serving in these important Balkans-based organizations will be protected from politically motivated litigation in the United States arising from their official activities.

The United States must protect its diplomats who serve in international organizations, often at great personal risk and sacrifice, from financially and personally ruinous litigation while also preserving its ability to use informal institutions in the conduct of foreign policy

Finally, we have S. 1067, the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009. I'd like to thank the gentleman from Massachusetts, Mr. McGovern, for his hard work on the House version of this bill.

This legislation affirms the policy of the United States to work with regional governments toward a comprehensive and lasting resolution to the conflict in northern Uganda.

It further requires a strategy to support the disarmament of the Lord's Resistance Army, and support for humanitarian efforts and recovery and reconstruction in areas of the Democratic Republic of Congo, Southern Sudan, and the Central African Republic affected by LRA activity.

And it calls on the President to support efforts by the people of northern Uganda and the government of Uganda to promote transitional justice and reconciliation on both local and national levels.

It should be noted that this bill does not include any earmarks.

H.R. 4801 bolsters U.S. science diplomacy programs by establishing a global science program to provide grants to U.S. and foreign scientists. The bill also authorizes the science envoys program introduced by President Obama in his Cairo speech last June.

Science diplomacy – the use of scientists, engineers, and researchers to engage with their foreign counterparts – is a proven means of engaging foreign populations, improving the image of the United States, and fostering cooperation with international partners.

The amendment in the nature of a substitute addresses the concerns of the National Science Foundation and clarifies the management structure of the Global Science Program.

COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

STATEMENT OF
THE HONORABLE ENI F.H. FALEOMAVAEGA
CHAIRMAN

before the
COMMITTEE ON FOREIGN AFFAIRS

Markup of H.R. 4128, H.R. 4801, H.R. 5138, H.R. 5139 and S.1067

MARCH 28, 2010

Mr. Chairman, H.R. 4128, the Conflict Minerals Trade Act; H.R. 4801, the Global Science Program for Security, Competitiveness, and Diplomacy Act of 2010; H.R.5139, Extending Immunities to the Office of the High Representative and the International Civilian Office in Kosovo Act of 2010; H.R. 5138, the International Megan's Law of 2010; and S.1067, the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 are all important pieces of legislation. I support each of these bills and urge my colleagues to do so as well.

The Conflict Minerals Trade Act is particularly important, and Congressman Payne, Chairman of the Subcommittee on Africa and Global Health, deserves special thanks and commendation for his hard work on the bill. The Act will go a long way toward cutting funding to warring factions in the Democratic Republic of Congo. That conflict, which has ravaged Congo and led to more than five million deaths, is the most deadly since World War II. Despite this stark fact, the fighting in Congo remains largely unknown in this country. Mr. Chairman, it is time for the United States to take concrete action, and H.R. 4128 is an important step in this regard.

CONGRESSWOMAN SHEILA JACKSON LEE

OF TEXAS

Committee on Foreign Affairs

Statement for Full Committee Markup of

- H.R. 4128, Conflict Minerals Trade Act, as amended (amendment in the nature of a substitute);
- H.R. 4801, Global Science Program for Security, Competitiveness, and Diplomacy Act of 2010, as amended (amendment in the nature of a substitute);
- H.R. 5138, International Megan's Law of 2010;
- H.R. 5139, Extending Immunities to the Office of the High Representative and the International Civilian Office in Kosovo Act of 2010; and
- S. 1067, Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009.

10:00 am Wednesday, April 28, 2010

2172 Rayburn House Office Building

Mr. Chairman, I ask for unanimous consent to strike the last word and to extend my remarks for the record. Thank you Chairman Berman and ranking member Ros-Lehtinen for your leadership in convening us for today's important mark up of these five bills: H.R. 4128—the Conflict Minerals Trade Act, H.R. 4801—the Global Science Program for Security, Competitiveness, and Diplomacy Act of 2010, H.R. 5138—the International Megan's Law of 2010, H.R. 5139—the Extending Immunities to the Office of the High Representative and the International Civilian Office in Kosovo Act of 2010, H.R. 5139—Extending Immunities to the Office of the High Representative Act of 2010, and S. 1067, Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009.Each of these bills will make critical changes to our foreign policy. Collectively,

they will change the lives of millions of people throughout the world. I am proud to support each of these bills.

I especially want to thank Chairman Berman for incorporating my suggestion into the Global Science Program for Security, Competitiveness, and Diplomacy Act of 2010. My language will expand the list of eligible countries to include South Africa, Botswana, Gabon, and other African countries that climb above the low-middle income rung as defined by the World Bank. This change is significant because it sends a message to the wealthier African countries that their relative success will not exclude them from American support.

These scientific exchanges will be vital to countries such as South Africa—a nation that serves as an economic, political, and academic anchor for the Southern Africa region. On February 1, 2010, two South African scientists won the African Union's inaugural awards for excellence in science. Professor Diane Hildebrandt, co-director at the centre for optimization modeling and process synthesis at Johannesburg's University of Witwatersrand, was the winner in the basic science and innovation category. Patrick Eriksson, head of the geology department at the University of Pretoria, was the winner in the earth and life sciences category.

As South Africa's President Jacob Zuma noted, "Science, technology and innovation form indispensable tools for driving socio-economic progress ... and is sustained by adequate and competent human capital." Zuma's comments were emblematic of the great promise of scientific innovation on the African continent, and this legislation will ensure that the United States remains an engaged partner in science and technology.

On a broader level, I support this legislation because it reaches out, in a concrete way, to vulnerable allies throughout the world. As co-Chair of the Congressional Pakistan Caucus, I note that this legislation will greatly facilitate the science and technology exchanges between the United States and Pakistan. Specifically, Pakistan has indicated to me that they have a strong working relationship with the National Science Foundation and are excited to work with the National Science Foundation to implement these exchanges between our countries. When building partnerships with our friends and allies in the Middle East, it is important to work through mutually-trusted institutions. This bill takes these concerns into consideration, and I am excited about the impact that it will have on my district, America, and countries throughout the world.

In regards to the Conflict Minerals Trade Act, I am encouraged to see the wide array of organizations that support leveraging our mineral investments and interests to stop human rights abuses in the Democratic Republic of the Congo. These groups include businesses such as LG Electronics and Motorola, and advocacy groups such as Oxfam, Genocide Intervention Network, and Global Witness. Yesterday, I received a letter of support from Corinna Gilfillan, the head of Global Witness' U.S. office. In her letter, Ms. Gilfillan wrote: "The trade in conflict minerals by armed groups in the eastern Democratic Republic of Congo (DRC) has fuelled horrific human rights abuses, including widespread killings of unarmed civilians, rape, torture, looting and forced displacement of hundreds of thousands of people. The best way to eliminate funding for these armed groups is to cut off the market for the conflict minerals they control. Passage of H.R. 4128 would be an important step toward bringing this about.

Ms. Gilfillan continues, "Legislation in the U.S. alone will not end the conflict in eastern Congo, but this bill would provide a crucial step toward the creation of a practical and enforceable means to ensure that the trade in Congolese minerals contributes to peace rather than war." I agree wholeheartedly with Ms. Gilfillan that this legislation is not a silver bullet. However, there are few, if any, places on this earth where human suffering is more acute than in the warzones of the DRC. If we can make even a modest dent in this suffering, this legislation will be an overwhelming success.

Regarding H.R. 5138, International Megan's Law of 2010.

As co-Chair of the Congressional Children's Caucus, I am in strong support of extending Meghan's Law overseas to protect children throughout the world from child sex offenders. This legislation will be an important tool in protecting children from American registered child sex offenders who pose a high risk of sexually exploiting children while traveling or residing overseas.

Since 1994, Congress has taken bold steps to protect our children from sex offenders. These efforts have resulted in a national registry and alert system. To date, however, information about sex offenders in the United States is not shared with other countries. H.R. 5138 will improve our capacity to share this information with foreign countries—information that these countries can use to protect their children.

The bill consists of two major components: (1) the establishment of a system for providing advance notice to foreign countries when a child sex offender who poses a high risk to children is traveling to that country; and (2) the imposition of a registration requirement for child sex offenders from the United States who reside abroad.

The bill also provides additional discretionary authority to the Secretary of State to restrict passports of dangerous child sex offenders, a sense of Congress that foreign governments should notify the United States when a U.S. citizen has committed a sex offense against a minor overseas, and a mandate for a special report to Congress on international mechanisms to protect children everywhere from traveling sex offenders.

According to UNICEF, as many as two million children are subjected to prostitution in the global commercial sex trade. As the State Department's 2009 Trafficking in Persons Reprort notes "There can be no exceptions and no cultural or socioeconomic rationalizations that prevent the rescue of children from sexual servitude. Sex trafficking has devastating consequences for minors, including long-lasting physical and psychological trauma, disease (including HIV/ AIDS), drug addiction, unwanted pregnancy, malnutrition, social ostracism, and possible death."

It is vital that we use every tool at our disposal to protect children abroad. This legislation will improve the capacity of countries to combat the sexual exploitation of minors.

Regarding H.R. 5139—"Extending Immunities to the Office of the High Representative Act of 2010"—I welcome this overdue technical fix to extend legal protection to our diplomats serving in the Office of the High Representative (OHR) in Bosnia and Herzegovina. Although our diplomats are currently protected, they may be vulnerable to litigation once the mandate of the OHR ends, and there is n. This protection is the same protection provided to other US diplomats working in international organizations, under the International Organizations and Immunities Act.

Mr. Chairman, I am also in support of **S. 1067—"The Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009."** The Lord's Resistance Army, formed in 1987 is presently being led by Joseph Kony. As a rebel guerrilla army operating in Uganda and parts of Sudan, the LRA has come to be known for its mass atrocities and brutality. Currently engaged in one of Africa's longest-running conflict, the LRA continues to fight the Ugandan Government for over 18 years.

In the midst of this battle with injuries targeted at government troops, more than 200,000 lives have been taken and millions of civilians have been displaced from their homes. 20,000 children have been abducted, raped, maimed, and killed. Unimaginable means have been used to alienate children from their families. Some children have been forced to kill their parents and relatives to ensure their own survival.

This two decade of battle between the Lord's Resistance Army and the Ugandan government must end. The people of Uganda, as human beings, deserve both peace and justice. The international community must work with the people of Uganda, the International Criminal Court, and the Ugandan judiciary to ensure that peace and justice are guaranteed.

This legislation authorizes the President to provide additional assistance to respond to the humanitarian needs of populations the Democratic Republic of Congo, southern Sudan, and Central African Republic affected by LRA activity. The legislation also authorizes the President to support efforts by the people of northern Uganda and the government of Uganda to promote transitional justice and reconciliation.

Expresses the sense of Congress that the Secretary of State and the Administrator of USAID should work with Congress to increase future assistance to Uganda if the government of Uganda demonstrates a commitment to reconstruction in war-affected areas of northern Uganda; and Expresses the sense of Congress that the Secretary should withhold non-humanitarian assistance to Uganda if the government of Uganda is not committed to reconstruction and reconciliation in the war-affected areas of northern Uganda and is not taking steps to ensure this process moves forward in a transparent and accountable manner.

Once again Mr. Chairman, thank you for bringing these important bills up for vote in committee. I yield back the balance of my time.

○

From Mr. McDermott for the Record

U.S. House of Representatives

Subcommittee on International Monetary Policy and Trade

Hearing on "The Costs and Consequences of Dodd-Frank Section 1502: Impacts on America and the Congo"

5-10-2012

States that have passed Conflict Minerals laws based on 1502:

- California
- Maryland

Cities with Passed Resolutions:

- Pittsburgh, PA
- St. Petersburg, FL

Schools with Passed Resolutions on Investment Policy based on 1502:

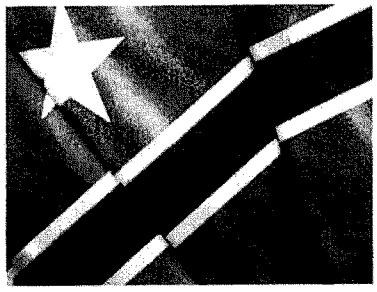
- University of Colorado-Boulder
- Clark University
- Duke University
- Stanford University
- Ohio University Honors Tutorial College
- Pomona College
- University of Pennsylvania
- Westminster College

supplychain
LINKING DESIGN AND RESOURCES

Shipping now: conflict-free parts

AVX Corp and Motorola Solutions Inc have announced the first shipment of tantalum products that the companies have validated as "conflict-free." AVX is using tantalite ore from US-government-approved sources in the DRC (Democratic Republic of the Congo) in its components.

The components are the result of SFH (Solutions for Hope), a cooperative effort between AVX and Motorola, which enables companies to meet the impending requirements from the Dodd-Frank Act. The act, signed into law in 2010, stipulates that US companies must disclose the use of certain minerals, including tantalum, in their products and ensure that the minerals do not fund illegally armed groups operating in the DRC.



The supply-chain process, which AVX controls, is a closed-pipe system, in which the ore, mined from government-approved sources, is traced from the mine to the customer. According to SFH, the minerals come from the Mal Baridi, Kisengo, and Luba mines in the northern area of the DRC. MMR (Mining Minerals Resources) SPRL has the mining rights and has contracted with a local mining co-op, which mines the minerals using a semimechanized process.

After collecting the minerals, MMR weighs and logs them for traceability. The company then transfers them to an MMR depot in Kalemie, DRC, for export. AVX takes ownership of the minerals at this point and transports them to a smelter, which turns them into tantalum powder and ships them to AVX's facility in the Czech Republic for use in tantalum capacitors.

To ensure validation of each step in the process, the companies conducted due diligence before launching the operation, including a review of the mine to determine its conflict-free status. After this status was confirmed, the mine began the traceability process of bagging and tagging. Gregory Mthembu-Salter, a consultant to the United Nations Group of Experts, conducted an independent audit of the operation to evaluate its conformance with guidelines of the Office of Environmental Compliance and Due Diligence. The findings indicated that the mine and trade routes are conflict-free but highlighted areas for improvement to the mining-operations systems.

The mining operations have hired a consultant to help address the issues that the report identified, and AVX uses Alfred H Knight, an independent organization, to conduct a number of analytical checks to validate the traceability mechanisms. Alfred H Knight takes samples at the mine; the depot at the point of export; the warehouse in Johannesburg, South Africa; and again at the smelter.

AVX also audits the smelter for compliance. The smelter can "semibatch" treated materials so that the company can track these materials through the smelting process to ensure that the DRC sends the conflict-free materials to AVX.

Intel, Hewlett-Packard, Foxconn, and Nokia have joined the SFH effort.

—by Barbara Jorgensen, *EBN* Community Editor

This story was originally posted by EBN: *http://bit.ly/HembfY.*

OUTLOOK

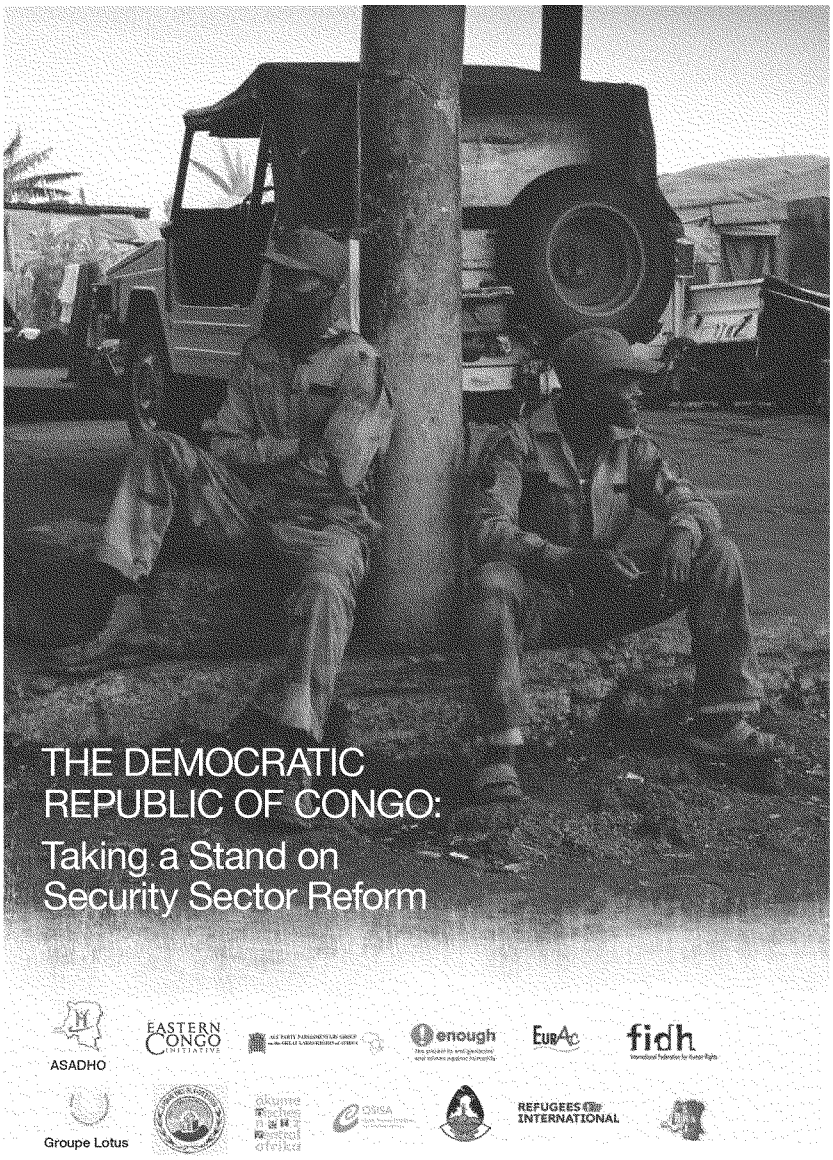
HARD-DISK-DRIVE-INDUSTRY GROWTH HITS RESET BUTTON

After suffering a year-over-year decline of 4.5% in 2011, largely due to flooding in factories caused by natural disasters, the hard-disk-drive industry should record year-over-year unit-shipment growth of 7.7% in 2012 and a CAGR (compound annual growth rate) of 9.6% for 2011 through 2016, according to research firm IDC.

IDC notes that, due to the imbalance in supply and demand that resulted from the floods in Thailand, hard-disk-drive prices have increased in recent months. IDC expects year-over-year hard-drive revenue growth to exceed shipment growth in 2012, a precedent for the industry. If the industry is successful with hybrid solid-state hard drives, revenue could approach $50 billion by 2016, the company estimates.

"In many respects, the hard-disk-drive industry has collectively hit the 'reset' button," says John Rydning, research vice president for hard-disk drives at IDC. Nevertheless, Rydning believes that the industry can realize long-term revenue growth only if the remaining participants transform into storage-device and storage-solution suppliers with a range of products for a variety of markets.

—by Suzanne Deffree


THE DEMOCRATIC
REPUBLIC OF CONGO:
Taking a Stand on
Security Sector Reform
ASADHO
EASTERN CONGO INITIATIVE
enough
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fidh
Groupe Lotus
REFUGEES INTERNATIONAL

CONTENTS

This report is produced by the following organizations:

INTERNATIONAL ORGANIZATIONS

- Eastern Congo Initiative (ECI)
- The Enough Project
- Eurac: European Network for Central Africa (Consisting of 48 European NGOs working for peace and development in Central Africa)
- International Federation for Human Rights (FIDH)
- OENZ: Ecumenical Network for Central Africa
- Open Society Initiative for Southern African (OSISA)
- Refugees International
- UK All-Party Parliamentary Group on the Great Lakes Region of Africa (APPG)

CONGOLESE ORGANIZATIONS

- African Association of Human Rights (Association Africaine des Droits de l'Homme (ASADHO))
- Congolese Network for Security Sector Reform and Justice (Consisting of 289 Congolese NGOs and set up to monitor progress of security sector reform)
- Groupe Lotus
- League of Voters (Ligue des Electeurs)
- Pole Institute - Intercultural Institute for Peace in the Great Lakes Region

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EXECUTIVE SUMMARY

1. The 2006 elections were a moment of great hope for the DRC, as the country and its people moved out of the shadow of one of the most destructive conflicts the world has known. The international community has invested heavily in the years since. Official development assistance since the end of the post-war transition totals more than $14 billion[1]. External funding makes up nearly half of the DRC's annual budget[2]. The UN peacekeeping mission, MONUSCO, costs more than $1 billion a year[3]. The international financial institutions have buttressed the DRC's economy, most importantly through writing off [4] $12.3 billion debt and granting access to IMF loans. Trade deals, notably the one struck with China[5], push the aggregate figure up still further.

2. Taking stock of progress as the DRC moves through its second post-war electoral cycle is sobering. Investment has not resulted in meaningful change in the lives of ordinary Congolese. The country is now in last place in the annual UNDP development rankings, 187th out of 187 countries[6]. Despite slight improvements, life expectancy and child mortality are below average for the region. National income per capita is less than 50 cents a day[7]. The DRC will miss all of its Millennium Development Goals. 1.7 million Congolese are displaced[8], a further 500,000 refugees outside the country[9]. There are worrying signs of renewed conflict in the East. The investment of billions of dollars has had little impact on the average Congolese citizen.

3. The central cause of this suffering is continued insecurity. The Congolese government's inability to protect its people or control its territory undermines progress on everything else. An effective security sector - organized, resourced, trained and vetted - is essential to solving problems from displacement, recruitment of child soldiers and gender-based violence, to economic growth or the trade in conflict minerals. This is not a new finding. The imperative of developing effective military, police and judicial structures has been repeatedly emphasized. Yet, far from showing sustained improvement, Congolese security forces continue posing a considerable threat to the civilian population rather than protecting them[10]. The recent allegations of an army Colonel leading his troops to engage in widespread rape and looting of villages near Fizi in 2011 underscores the fact that failed military reform can lead to human rights violations[11]. The military – the Forces Armées de la République Démocratique du Congo (FARDC) - has been accused of widespread involvement in the most serious human rights violations. Police corruption is endemic, and almost any form of judicial protection out of reach for the vast majority[12].

4. The root of the failure to implement security sector reform (SSR) is a lack of political will at the highest levels of the Congolese Government. Rather than articulating a vision for Congolese security and marshaling assistance to achieve it, the Government has instead encouraged divisions among the international community and allowed corrupt networks within the security services to flourish, stealing the resources intended to pay basic salaries or profiting from exploitation of natural resources. Unless this is changed, sustainable reform will be impossible. The investment made by Congo's partners could be wasted, and Congo's people will continue to suffer.

5. The international community also bears significant responsibility. The DRC's international partners have been politically incoherent and poorly coordinated. Little has been spent on security sector reform, despite its paramount strategic importance - official development aid disbursed for conflict, peace and security totaled just $530 million between 2006 and 2010, roughly 6% of total aid excluding debt relief. Spending directly on security system management and reform is even lower, $84.79 million over the same period, just over 1%[13]. A lack of political cohesion after 2006 undermined effective joint pressure on the Congolese government[14]. Poor coordination resulted in piecemeal interventions driven by competing short-term imperatives. The resulting failures have led many to give up on systemic reform altogether.

6. This is unsustainable and unacceptable. The DRC's external partners, old and new, must take a stand on SSR. As the dust settles after the 2011 presidential elections, many of the DRC's partners are reassessing their programs[15]. The international community must take this opportunity to be more forceful in pressing the DRC government to engage in reform. If international donors acted in concert, and effectively capitalized on their political and economic investment in the DRC, they could positively influence DRC government behavior. Their full weight needs to be brought to bear.

7. The international community therefore needs to create a new pact with the Congolese government, one that puts in place clear conditions and benchmarks for progress on achieving army reform and minimizing harm to the population in return for continued assistance and recognition. These benchmarks must be based on positive efforts to achieve change. A strategic plan for military reform must be implemented, and a high-level body to coordinate on-going programs set up. And steps must be taken to improve the protection of Congolese civilians, through minimizing human rights abuses carried out by the security forces, and prosecuting the worst offenders.

8. This new pact must transcend traditional donors. China will need peace in the DRC for future generations to reap the rewards from its investment. South Africa also has huge and growing economic interests in the DRC. Angola has pressing issues of national security at stake. All need the stability that can only come from effective SSR. The international financial institutions (IFI) have rewarded the stabilization of Congo's macro-economic situation with significant support[16]. They must recognize that continued growth will be dependent on new investment, which in turn demands security. Regional organizations, most importantly the African Union (AU) and Southern African Development Community (SADC), need to play an active role in marshaling effective pressure, and providing a framework for discussion. Critically, this pact must also include the Congolese population. Congolese civil society must have a key voice in defining a global vision for Congo's security, and connecting high-level reform processes with those that matter most, Congo's people.

9. And the new pact must happen now. Flawed presidential elections have been completed. The DRC's relations with its neighbors have improved significantly in recent years. Though security in the DRC is precarious, and there are worrying signs of a resurgence of violence in the East, challenges to the Congolese government from non-state armed actors have receded. In fact, the biggest threats perhaps now come from within the army itself. The government needs effective SSR, particularly of the military, to rebuild its reputation at home and abroad, an imperative reflected by President Kabila in his speech to the UN General Assembly in November 2011[17]. Since the elections there have been some promising signs of greater receptivity on the part of the Congolese government[18]. The opportunity to engage in an honest dialogue with the Government must not be missed.

10. Though the picture painted above is bleak, it is leavened with hope. There are signs that, with the right will and appropriate support, change is possible. Increased numbers of prosecutions for sexual violence (including of a senior officer[19]) and the reintegration of child soldiers show that justice can be done. FARDC formations trained by the US, South Africa and Belgium have performed well in intervening in delicate domestic environments. A census of military personnel is nearly complete. If these glimmers of hope are to be sustained and magnified, robust action is necessary. With the right political will in Kinshasa, endemic corruption can be tackled, salaries paid, and the worst abusers removed. Once the right conditions are in place, the long term and large scale work so clearly necessary – reducing the size of both police and military through retirement or new demobilization programs, vetting, reinforcing capacity and increasing the combat effectiveness of troops – can begin in earnest.

RECOMMENDATIONS

To the Congolese Government

Recognize the urgent need for serious reform to create an effective, professional security sector, especially the military. Overcome previous suspicions and engage positively with the international community in building a new coalition to assist with SSR efforts. Ensure that the voices of the Congolese people are heard in elaborating a new vision for security in the DRC.

1. Renew political commitment to security sector reform at the highest levels. Make military reform a top political priority of the new government. Remove from office those individuals that are obstructing SSR and take all necessary steps to achieve effective reform.
2. Urgently develop and implement a global vision for security and defense in the DRC in collaboration with Parliament and Congolese civil society, and implement a strategic action plan for achieving the vision of the FARDC set out in legislation. Request international expertise or assistance as appropriate.
3. Positively engage with international partners, notably in a high-level international forum on security sector reform, including though allocating a senior co-Chair, and agree on transparent, measurable benchmarks for progress.
4. Collaborate with international partners in re-launching a working-level cooperation body for military reform, based in Kinshasa, including through nominating a high-level co-Chair. Agree on an international partner to provide appropriate technical and administrative support.
5. Take urgent action to address the most pressing short-term requirements for ameliorating the performance of the security sector, notably the progressive demilitarization of the East, effective action to end corruption in the security services, and bringing the worst military human rights abusers to justice, including through requesting appropriate international support to meet short-term resource gaps.

To all DRC's international partners[20]

Overcome the legacy of frustration and failure built up since 2006, and use political space opening up in Kinshasa and the new government's need for support to generate new political will on security sector reform. Provide high-level political commitment and coordination, including the appointment of sufficiently senior officials to provide momentum and leadership. Robust benchmarks and nuanced conditionality will be essential. Assistance must be sustained for the long term, and founded on a realistic understanding of what is possible.

6. Re-energize efforts and cooperation on security sector reform in the DRC through concerted pressure at the highest level for Congolese Government commitment to effective security sector reform.
7. Collaborate in a broad-based coalition of international and regional actors engaged in the DRC, notably through the launch of a high-level forum on security sector reform in the DRC.
8. Agree benchmarks for progress with the Congolese government, to include; progress on the human rights record of the security services, development of a global vision for security and a strategic reform plan for the military; and the establishment of an effective coordination body on military reform. Put in place a binding series of conditions for on-going political and programmatic support.
9. Ensure that the imperative of effective SSR, and the benchmarks and conditions agreed at the high-level forum, are reflected in any new programming decisions or bilateral agreements.
10. Assist with short-term quick-win projects to raise confidence and open space for broader reform, notably progressive demilitarization of conflict-affected areas, anti-corruption activities and effective judicial action against human rights abuses committed by the security forces, as requested by the Congolese Government, and urge for long-term, sustained reform efforts.

To the Great Lakes Contact Group (US, UK, EU, UN, France, Belgium and the Netherlands)

11. Catalyze diplomatic efforts to build a new coalition on SSR, though pro-active high level diplomatic contacts with key partners, notably Angola, South Africa, China, the AU and SADC, and their inclusion in an expanded Great Lakes Contact Group.

To the UN Security Council and MONUSCO

12. Generate renewed engagement on security sector reform through an urgent debate on the issue. Encourage, in parallel with the AU, the organization of a high-level forum on security sector reform in the DRC.
13. Amend the mandate of MONUSCO to include assisting the DRC government on all aspects of SSR, including military reform.
14. Increase the resources allocated to the MONUSCO SSR unit, notably in fulfilling its mandated task of collating information on existing and planned SSR programs. Remind all member states of their responsibility to share information.
15. Extend the UN sanctions regime to include political and military leaders impeding effective SSR and direct the group of experts to provide information about the identity of these individuals.
16. Ensure that the UN system has sufficient in-country resources to make a comprehensive assessment of the human rights performance of the Congolese security services.

To the EU

17. Renew the mandates of EUSEC and EUPOL, and reflect the imperative for progress on SSR in the planned 2012 program review. Stand ready to offer technical assistance to the DRC in elaborating a strategic reform plan for the army.
18. Extend targeted sanctions to individuals hindering effective SSR.

To the AU

19. Encourage, in parallel with the UN, the organization of a high-level forum on security sector reform in the DRC
20. Participate actively in the high-level forum and technical cooperation mechanism, including through agreement of benchmarks and conditions.

To the World Bank and IMF

21. Expand the assessment criteria for on-going support to the DRC, notably access to the IMF loans, to include progress on security sector reform and budget allocations to key priority areas, especially justice.

Soldiers cooking their breakfast on a campfire. Many troops are missing basic requirements like military issue boots.

Insecurity: Congo's Achilles Heel

1. Taking stock of progress in the DRC since 2006 is sobering. The war has been over for a decade. An elected government has served a full term. Between 2006 and 2010, the DRC received considerable external assistance, including more than $14 billion in official development aid and a UN mission costing more than $1 billion a year. Yet this investment has yielded little result. Life expectancy and child mortality remain far below the Central Africa average. National income per capita is less than 50 cents a day[21]. In fact, the DRC has slipped to last place in UN development rankings, 187th out of 187 countries[22]. Public discontentment is rife, and there are concerning signs of renewed violence in the East. A decade on from the end of a devastating war, and all that has been invested in the DRC risks going to waste. The Congolese people deserve better.

2. The proximate cause of this failure is simple. Congo's population continues to suffer, directly and indirectly, at the hands of men with guns. There are an estimated 1.7 million[23] internally displaced people in the DRC, most in the conflict-affected Eastern provinces, driven from their homes by fear of a variety of armed groups – from the Lord's Resistance Army (LRA) in the North East, to Mai Mai groups, bandits and Front Democratique pour la Liberation de Rwanda (FDLR) rebels further South – and at the mercy of malnutrition, ill-health and pervasive fear.

Nearly half a million are refugees outside the country[24]. UNICEF estimates that thousands of children are still being used in various capacities by armed groups in DRC, including by the Congolese Army[25].

3. This failure is not just indicative of the inability of the Congolese security apparatus to defeat these groups. It is also the result of abuses at the hands of the security services themselves. A survey of more than 10,000 households in North and South Kivu cited the FARDC as the second most common source of insecurity, after banditry[26]. In June and July 2011, UN human rights monitors recorded more abuses at the hands of the FARDC than armed groups[27]. Congolese soldiers are responsible for some of the rapes reported across Eastern DRC[28]. Members of the security services are also responsible for pervasive low-level predation, including involvement in illegal resource exploitation and theft[29]. Many abuses have been perpetrated by deserters from the military, or by those reacting to abuses at the hands of the army.

4. Abuse by Congolese security forces extends beyond immediately conflict-affected zones. The abuse has been most visible in the brutal suppression of political protest or internal unrest, notably in the suppression of the Bundu dia Kongo group, the crushing of MLC forces loyal to Jean-Pierre Bemba

in Kinshasa, and heavy-handed responses to political protests around the 2011 elections. It has also been felt in the arbitrary arrest or killing of regime opponents, human rights activists and journalists, as well as day-to-day predation and lack of access to even-handed justice.

5. This is not a new insight. The establishment of an effective security sector is the fundamental step to meeting all other objectives, from ending the humanitarian crisis, preventing human rights abuses, encouraging investment and growth, stopping the trade in conflict minerals and preventing regional tensions from escalating. Adequate security is widely acknowledged to be a development, economic and geostrategic imperative. The Congolese Government recognized its pivotal importance in the 'Governance Compact' it produced immediately after the 2006 elections[30], repeated again by President Kabila in his address to the UN in November 2011[31]. All major bilateral and multilateral actors have engaged in a wide variety of security sector reform programs, from capacity building in the justice system, to rebuilding key infrastructure, or training military and police. The UN considers SSR to be the process of enhancing effective and accountable security in a country and the transformation of "security institutions to make them more professional and more accountable"[32]. Security institutions can include the armed forces, police, judiciary and others[33].

6. Yet despite this consensus, military reform efforts have failed, both during the transition and afterwards. They have failed for two primary reasons. The first is the lack of political will on the part of the Congolese government; the second inadequate and poorly coordinated assistance from the donor community.

Officers' Quarters at Camp Katindo in Goma, North Kivu province. Originally intended to house 350 people, the camp is now home to more than 16,000 people including many soldiers' families.

Congolese Government: Insufficient Political Will

7. The Congolese Government has lacked the will to follow through with reforms of the security sector, notably the military. A brief look at the record of reform failure demonstrates the government has not wanted a professional and effective military, as it would constitute a threat to the entrenched political and financial interests of the Congolese elite, especially those around the Congolese President. The Congolese government stalled on senior appointments to key bodies, failed to agree a workable strategic blue-print for reform or effectively follow up plans that were agreed[34], enabled or turned a blind eye to corruption, delayed the passing of essential legislation, and consistently undermined donor coordination.

8. This was in part due to a lack of capacity and a very low baseline for reform. The integration of former belligerents into unified military and police structures during the transition, a process known as 'brasssage', was partial and ineffective[35]. Parallel chains of command survived within the army and other security structures, and tens of thousands of combatants remained in non-state armed groups. Government administrative control was weak, notably in the East. The post-2006 administration immediately faced a variety of armed opponents[36]. Additionally, sensitivity to international interference on security issues was acute - the close supervision that the international community had exercised during the transition, embodied in CIAT[37] and MONUC, had been a source of considerable frustration, even humiliation. Memories of wartime occupation were vivid, by powers widely perceived – rightly or wrongly – to be acting on behalf of elements of the international community[38]. The government is defensive of its autonomy, and wary of dealing collectively with the international community.

Most military families cannot afford to send their children to school. Children often work from a young age to contribute to the family income.

9. But these issues are as much a result of continued failures of SSR as they are the cause - and they do not present a compelling reason to ignore the need for SSR. The fact remains that the Congolese government consistently failed to give sufficient political backing for serious change. Most importantly, it did not take steps to end corruption, ill-discipline and weak command structures undermining reform efforts in the security sector. Despite President Kabila's high-profile declaration of 'zero tolerance' for sexual violence and corruption in July 2009, not enough has changed on the ground. Support to justice, investigation and anti-corruption efforts are minimal and inadequate – the Justice Ministry was allocated just 0.1% of government spending in 2011[39], and its budget reportedly fell by 47% between 2007 and 2009[40]. Many in senior positions in the government and military continue to profit from corruption, either in raking off salaries, taking kickbacks, or involvement in illegal mining, trade or protection rackets.

10. No comprehensive national vision exists for defense and security policies, despite UN Security Council insistence and the emphasis placed on SSR in the government itself. A blueprint for the Congolese military has been developed, after many false starts[41], and has finally been given legal foundation with the promulgation, in 2011, of much delayed legislation[42].

A joint committee on justice reform was formed in 2005, the 'Comite Mixte de la Justice', co-chaired by the Minister of Justice and a senior diplomat, and a three year 'priority action plan' for the justice sector was launched in 2007. A coordination body for police reform, the 'Comite de Suivi de la Reforme de la Police' was launched by the Ministry of Interior in 2008[43].

11. Though they represent positive steps forward, these bodies are reportedly of mixed effectiveness[44], suffer from poorly-defined roles and tensions between stakeholders, and are not part of a comprehensive strategy for security. The army reform plan has not been followed up with practical planning for implementation[45], remains theoretical and is routinely bypassed or undermined in day-to-day decision-making. Changes to military structures such as the 'regimentation' process of 2011[46], for instance, bear no relation to the vision enshrined in official military planning. The Presidential Guard and intelligence services have been systematically excluded from reform, and remain completely unaccountable. Salaries for police and soldiers, despite some limited increases, remain inadequate and frequently unpaid[47]. An ICC indictee, Bosco Ntaganda, holds high rank in the military[48]. Senior positions remain unfilled, and formal command structures are routinely bypassed.

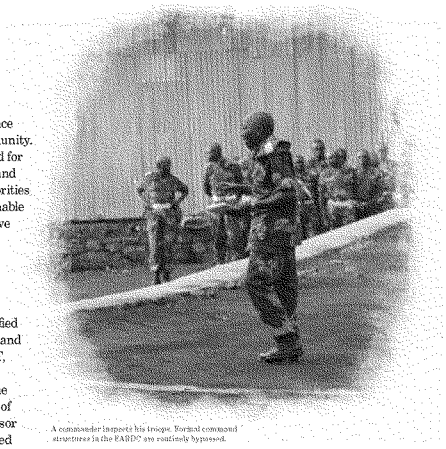
International Community: Inadequate and Incoherent

12. The second aspect key to understanding SSR efforts since 2006 is the attitudes and actions of the international community. The international community has been frequently criticized for political incoherence, leading to inadequate, incompatible and ineffective interventions, based on short-term national priorities and imperatives rather than achieving meaningful, sustainable reform[49]. There is a long list of donors and agencies that have engaged in reform or training of elements of the security services[50]. These efforts have not resulted in meaningful, sustained improvements, let alone the transformation in attitudes and effectiveness required.

13. The international community had been remarkably unified up to 2006. Under the leadership of an activist UN mission and heavy-hitting SRSG, and coordinated through a body, CIAT, with legal standing under the transitional arrangements, the widely agreed goal of elections drove policy. But once the transition was completed, divisions began to appear. Some of the signatories to this report urged the creation of a successor organization to CIAT, but the Congolese government rejected it as unacceptable. In the absence of a "lead nation"[51], and with the UN looking towards managing its departure, there was no overarching authority to harmonize police and, following elections, no single goal to work towards. International forums, notably the Great Lakes Contact Group, which had a broad membership[52] during the transition, swiftly devolved to include only traditional donors, and policy coherence even within multilateral organizations such as the EU fractured[53]. Pressure on the Congolese Government to sustain reform faltered.

14. The success of the 2006 elections resulted in attention across much of the international community turning away from the DRC. With the DRC redefined in many capitals as a 'post-conflict' state, resources were reallocated to concentrate on other issues of immediate concern across Africa. Policy was recalibrated to reflect this new reality. Many donors looked to long-term development. Despite manifest needs, official development spending on security-related programs between 2006 and 2010 was just $530 million, roughly 6% of the total[54] - this drops to just 1% for projects working on security system management and reform. This figure is alarmingly low given the fundamental importance of an effective security sector in protecting civilians, and in achieving all other development objectives.

15. And, far from being 'post-conflict', the DRC continued to suffer from extremely serious bouts of violence. Through the post-2006 period, successive spikes of conflict or regional tension left the international community scrambling to address acute short-term political crises or humanitarian emergencies. There were demands for immediate action against armed groups such as the CNDP, FDLR or LRA - necessitating the mass deployment of ineffective and poorly trained FARDC units[55].



A commander inspects his troops. Normal command structures in the FARDC are routinely bypassed.

Political settlements with Congolese armed groups, notably the CNDP, resulted in the unplanned, ad hoc integration of tens of thousands of former rebels and indicted war criminals into the ranks of the Congolese army[56]. Demobilization programs have unwittingly encouraged a churn of individuals from disarmament to recruitment. All of these factors are incompatible with strategic reform.

16. International incoherence has perhaps been most acutely felt in relation to SSR, particularly military reform, despite consistent calls for harmonization[57]. Technical coordination on the ground has been mixed. As seen above, committees bringing together donors, agencies and the Congolese government have been established on police and justice. They are functional, albeit with uncertain effectiveness. But no coordination body exists between the Congolese government and donors in relation to the military, worsened by the Congolese Government's infamous refusal to coordinate SSR attempts with its different partners.

17. This is reflected by a failure of coordination between members of the international community themselves. There have been attempts at harmonization, including informal consultations between Defense Attaches in Kinshasa agreeing a local division of labor, an Ambassadors Forum on SSR chaired by the UN, and regular diplomatic frameworks such as regular meetings of EU Heads of Mission. But while ad hoc communication may have avoided the most egregious duplication of effort, it was insufficient to generate real coherence, or political momentum for reform. Many resist sharing the detail, or even the fact, of their programs. There is no consolidated list of SSR-related interventions[58], or a comprehensive record of bilateral military programs and financing. Given the weakness of Congolese administrative capacity, it is likely that not even the Congolese government had a coherent picture of SSR activities at any one time.

Congolese police patrol the main streets of Goma.

The Shared Imperative of SSR

18. The result has been a range of disconnected bilateral initiatives on training, sensitization, infrastructure rehabilitation or capacity building. There have been some successes, notably in relation to justice and police[59], and in the performance of some military units, though many were short-lived, due to a subsequent lack of support - accommodation, equipment and salaries – or the break-up of units. Some offers of training have not been taken up, with centers and instructors standing idle. There have been attempts to engage with structural issues within the FARDC undertaken by MONUSCO[60] and EUSEC, a mission of the European Union launched in 2005. Involving small numbers of embedded European officers, EUSEC has had some success in relation to the 'chain of payments' – ensuring salaries reach individual soldiers – and in conducting a census of FARDC personnel, as well as in administrative reform[61]. But while these initiatives have been valuable, they are not sufficient to bring about systemic change.

19. This is by no means the exclusive responsibility of donors. As argued above, all coordination attempts suffered from patchy or inadequate engagement and political obstruction by the Congolese authorities. This has been most acutely felt by the UN. The most obvious candidate to carry out the role of in-country coordination is MONUSCO. But while it has a unit devoted to SSR, and has been mandated by the Security Council to act as coordinator and information hub since 2008, it has not been sufficiently well resourced, and was systematically undermined by a Congolese government reluctant for the UN to play such a prominent role. MONUSCO essentially stopped facilitating collective discussion on SSR following the demise of the Ambassadors Forum, which has been moribund since 2010. It currently has no mandate to engage in military reform.

20. In combination, these factors have resulted in the view that the Congolese security sector, and particularly its military, are simply too dysfunctional for reform to be achieved. The result has been an increasing detachment on SSR. Support for military reform is now frequently subsumed under wider stabilization efforts[62], or framed as a response to a specific threat, such as the US project to train units to tackle the LRA[63]. Though numerous projects are on-going to improve the justice system and build police capacity[64], and some progress has been made, the most important challenge facing the country, namely systemic transformation of the military, has largely been abandoned. Initiatives on large-scale FARDC training reduced to the point that only two bilateral programs were reported to be operational in January 2011[65].

21. This is compounded by the view that pushing the DRC government to take serious action is too dangerous to attempt - that effective sanctions would generate a political backlash, disrupt bilateral relationships, and risk defections, mutiny or insurrection. This is certainly the case in relation to entrenched corrupt networks and the impunity of the most infamous war criminals.

22. But this view must no longer be allowed to dominate. The status quo, of failed reform and popular discontent, presents far greater dangers. The most significant risk of renewed conflict comes from within the Congolese security services itself, particularly the FARDC[66], and from the inability of the Congolese government to control its territory or protect its people[67]. Reform of the security sector would no doubt bring short-term pain, but the long-term risk of inaction is far greater. The human, political and financial cost of the DRC again collapsing back into war is difficult to fathom.

23. Yet these costs would be felt by all of the DRC's external partners. China struck a landmark deal with the DRC government in 2007, exchanging a $6 billion investment in infrastructure – building roads, hospitals and universities – in return for long-term access to Congolese mineral resources, extending decades[68]. Internal and regional stability will be vital for this deal to come to fruition, demanding an effective security sector. South African companies have invested heavily in the DRC, and peace in the DRC and across Central Africa will be vital for its long term prosperity[69]. And Angola, the DRC's key regional security partner, considers chaos across the border to be a core threat to its national security[70]. It too needs an effective Congolese state. All three states have already engaged in bilateral reform and retraining.

24. Regional organizations, most importantly the African Union (AU) and the Southern Africa Development Committee (SADC) have a pressing and legitimate interest in regional prosperity and stability. And the international financial institutions – frequently cited as the actors with the most significant leverage and access in Kinshasa[71] - are committed to helping the DRC achieve sustained economic growth. The IMF is the only actor currently providing direct budget support to the DRC government[72].

A military family living in Camp Kitinda, North Kivu. Most families in the sprawling army camp live in tents or makeshift structures.

25. Reform is not only vitally necessary, it is possible. Compared to 2003 or 2006, political and military conditions in the DRC are now such that renewed, joint efforts on SSR could yield real and lasting results. The transition was characterized by acute political competition between wartime enemies, enmeshed in an unwieldy political structure. The years immediately after saw a fragile new government challenges by sustained and serious violence. Both acted as severe constraints on the possibilities for reform[73].

26. These constraints are now less acute. Congolese non-state armed groups may be reduced in number and scope[74]. Foreign armed groups are significantly less powerful than in the past[75]. Though both remain a considerable threat to civilians, neither presents the same challenge they once did to regional peace and security, or to the Kinshasa government. The political context has also changed. President Kabila and his government are facing a crisis of legitimacy. The 2011 elections were roundly criticized by international and Congolese election monitors, and have little popular credibility. The single most telling step that the government could take to rebuild its reputation at home and abroad, and to improve the lot of the population, would be to undertake meaningful reform of the security apparatus. There have been some promising signs recently. For example, the Commissioner General of the National Police in March 2012 publicly asked the international community for assistance in completing the police reform process[76].

27. The overriding need for meaningful SSR cannot be questioned. There is a broad synergy of interests across the international community and the DRC's neighbors, economic partners and population. The timing is right. It will be a long and difficult road, but the first step to unlocking a more hopeful future for the population is simple. The Congolese government must take responsibility for serious, sustained and strategic reform, particularly of the military, backed by political commitment at the very highest levels.

28. The international community must recognize this imperative. It must act on it. All other objectives – humanitarian, developmental, economic or security-related – will be difficult or impossible to achieve without concerted SSR. The DRC's external partners must make a collective stand on serious security sector reform, both to engender political will and to support resulting Congolese reform processes. The Congolese government has received significant financial and diplomatic support since the end of the war. The weight of these commitments must be brought to bear.

Military wives seek to supplement their income with small-scale trade in the local market. "We have to beg for support from our acquaintances. The government does not support us at all," said one soldier.

A New Deal on SSR

29. It is a new political commitment that is urgently needed above all, on both sides. The international community should seek to strike a new collective pact with the Congolese Government on SSR. This need not involve the immediate allocation of significant new resources. In the absence of political will and the establishment of oversight structures, significant new programs could be counter-productive, replacing functions that need to be carried out by government. Though investment will certainly be necessary, a new push on SSR need not be expensive in the short-term.

30. Such a pact would see political backing and coordinated, targeted programmatic support exchanged for Congolese leadership and robust benchmarks on progress towards mutually agreed goals. It would need to involve all international actors engaged in the DRC, including the traditional donor community, newer international actors including China and South Africa, the DRC's neighbors either bilaterally or through regional organizations (AU and SADC), and the international financial institutions. It would demand renewed commitment, coordination and communication, robust benchmarks, and quick-win confidence raising projects.

31. It should be launched in a spirit of transparency and collaboration, recognizing that a new effort on SSR is a need shared by the Congolese government, its people, and all of its economic, diplomatic and development partners. An overly confrontational attitude on the part of the international community could cause an unhelpful political backlash – managing tensions will require astute and fleet-footed diplomacy, and a leading role to be played by African actors. But equally, no one should be under any illusion as to difficulties that will need to be faced – there is no magic bullet to security sector reform in the DRC. It needs sustained political commitment above all. There will be disagreements, with Congolese Government, and between elements of the international community. Such a push will need sustained, high-level political commitment, and must be backed by real conditions.

Coordinate and Communicate

32. Renewed coordination among all partners at both political and technical levels is an essential pre-requisite. A broad-based coalition of international partners will be vital, including African bilateral actors, regional organizations – notably SADC and the African Union – the DRC's key economic partners, and traditional donors. This would enable on-going information sharing and ensure complementarity of support, as well as ensuring coherent and concerted messaging. This could initially be generated by an expanded Great Lakes 'Contact Group', bringing together all players to agree to parameters of benchmarks and follow-up. This would need to be backed with active diplomacy by key donors – the US, EU, UK, France and Belgium – to bring in the most important African bilateral actors, China and multilateral organizations essential to managing political fall-out in Kinshasa.

33. Such a forum should launch a high-level political follow-up mechanism on SSR in the DRC, under the auspices of the AU and UN, and the joint leadership of the Congolese Government, that would bring together all parties, including donors and multilateral actors. It is also vital that it include representatives of Congolese civil society. Successful reform will depend on the input of the Congolese population, at all levels, and their views must be heard. The forum should meet quarterly, and provide for on-going oversight and a mechanism for the resolution of disputes or disagreement. It should also seek to address problems of policy incoherence, linking an on-going assessment of political conditions to decision making in multilateral bodies such as the IMF and World Bank.

34. Finally, a new working level cooperation mechanism on military reform should be launched in Kinshasa, again co-chaired by the Congolese government, with support or a permanent secretariat provided by MONUSCO, EUSEC or a mutually acceptable alternative. It would ensure harmonization, communication and effective burden-sharing. It would also map on-going and planned programs and interventions, maintain comprehensive project database, and act as a communication hub between donors, government and civil society.

FARDC troops assemble for inspection.

Benchmarking

35. Though a new partnership should be launched in a spirit of positive collaboration, it should also be backed by robust, binding benchmarks. These would need to be discussed and calibrated against a realistic assessment of what is achievable. They should center on two key areas. The first key benchmark should be rooted in the human rights performance of the Congolese security services. This is a metric that would reflect whether soldiers or police are violating human rights, whether war criminals in the military have been arrested or removed (through vetting and effective military justice), and would act as a proxy for improved internal discipline and the coherence of formal command structures. Information is already collated by the UN Joint Human Rights Office, and could be complimented by Congolese human rights organizations, international NGOs or ad hoc bodies such as those authorized by UN sanctions bodies. Progress should be reported on a quarterly basis to the political follow-up mechanism. The MONUSCO mandate should provide for increased resources to monitor progress on SSR.

36. The second should be the development and implementation of a practical path for FARDC reform. Legislation passed in 2010 and promulgated by the Congolese President in 2011 provides a framework, enshrining in law a long term vision for the security sector. A practical plan for its achievement is urgently necessary. Appropriate technical support should be made available via MONUSCO, EUSEC or an alternative.

Consequences

37. These conditions must be backed by real consequences in the event of continued failure or obstruction. This would not necessarily need to include hard conditionality on development spending or humanitarian aid, which would endanger the poorest and most vulnerable, and would risk a political backlash from Congolese actors that reduced rather than expanded the space available for reform. But there are many other avenues for international leverage, starting with sustained political and diplomatic pressure at the highest levels. These could include:

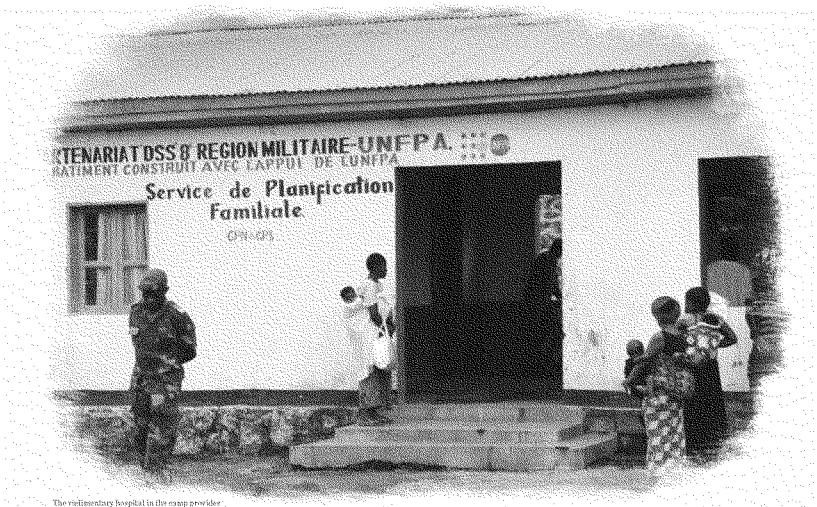
- A publicly available quarterly progress report discussed at each meeting of the high-level political follow-up mechanism;

- Explicit linkage of progressive MONUSCO draw-down with successful SSR, as measured by agreed criteria;

- A sliding-scale of suspension of financing, projects, grants and aid disbursements, with excess funding transferred to supporting civil society, Parliamentary oversight, humanitarian needs or governance mechanisms;

- A moratorium on non-essential inward and outward visits by senior officials and ministers, and the hosting of large-scale conferences and events in the DRC[7]; and

- Extension of UN and EU targeted sanctions to military and political figures blocking security sector reform.



The parliamentary hospital in the camp provides basic medical services to military families.

Confidence-Building

38. Rather than looking immediately to long-term objectives, the high-level forum should, in the first instance, seek to elaborate achievable, realistic and high-impact short-term projects, to raise confidence and open space for reform. The first steps would need to be focused on minimizing the harm done by elements of the Congolese security apparatus to the civilians in their areas of deployment, and beginning to tackle the corruption and ill-discipline that undermine all other efforts. These would again need to be discussed and agreed, but could take three initial forms – the progressive demilitarization of the East, action on corruption, and prosecution of those guilty of the most serious human rights abuses.

39. Demilitarization would bring multiple benefits. The East of the DRC, particularly the Kivus, has seen large-scale deployments of Congolese military[78]. By moving troops to barracks, away from contact with civilians, it would remove one of the key sources of insecurity for the population. Having the majority of troops in barracks would allow salaries and support to be monitored, removing the need for income from illegal trade, predation or corruption. And it would allow structures to be mapped, training needs to be assessed, and discipline rebuilt. It would thus both protect civilians and simultaneously open space for reform. It would need to be progressive and carefully considered, so that the most vulnerable were not left open to attack by non-state armed groups, and MONUSCO would need to fill any resulting security vacuums. Necessary international support to the process would include provision of sufficient barracks, support to redeployed troops and dependents, and logistics. Such support could be coordinated by the UN though MONUSCO and the ISSSS, already engaged in similar projects in conflict affected regions.

40. The second would be to take on the entrenched corrupt networks that have undermined reform. This would be a necessary step in pursuing demilitarization – without the expectation of support, soldiers might refuse to deploy away from resource-rich areas, or simply prey on the population around barracks. It would also bring enormous long-term benefits in building formal command structures, discipline and capacity. This would be the key litmus test of high-level political will in Kinshasa – it is a truism in anti-corruption initiatives that enforcement mechanisms are ineffective in the absence of commitment at the highest levels. It would demand the clarification of senior command structures, the strengthening of central administrative control, and the appointment of capable personnel.

41. Third, significant steps should be taken to bring to justice those members of the security forces accused of the most serious human rights abuses, including those in the most senior ranks. Not only would this be of clear benefit in its own right, it would send a message that criminality on the part of members of the military or police would no longer be tolerated, and be a vital step to changing the ethos of the security services. This would demand significant support to the capacity of Congolese military and civilian justice systems.

42. These three goals interlock, and would constitute a significant test of Congolese political will. Once they were achieved, and the steps outlined above taken, longer-term necessities - such as reducing the number of personnel in both police and military, and conducting a thorough vetting of all personnel – could begin to be planned and implemented.

A soldier at home in his barracks, Kotindo Camp, Goma.

Learn from successes – and failures

43. Finally, the international community should learn the lessons of the past. The implementation of MONUSCO's conditionality policy - whereby peacekeepers do not work with Congolese personnel guilty of human rights abuses - shows that perpetrators can be identified and held to account[79] if made a priority. Improved rates of arrest and trial for sexual and gender-based violence (SGBV) in the Kivu provinces, notably the prosecution of a Lieutenant Colonel for rape in 2011[80], show that justice is possible with the right combination of training, material support and political attention. That this landmark judgment was delivered by a 'mobile gender court' – a long-standing Congolese solution to delivering justice in remote areas – demonstrates the importance of working flexibly within Congolese realities. The court was supported by the American Bar Association, using funding from an international NGO, and worked with the Congolese judicial system, local government and civil society[81].

44. Additionally, more than 30,000 children have successfully been demobilized from armed groups since 2006 through interventions executed in concert with the Congolese government, UN agencies and local Congolese organizations. Children and adolescents who join armed groups whether through force or ignorance have a difficult time returning to their homes and communities if they are demobilized. Disarmament, demobilization and reintegration programs supported by UNICEF make a difference by reuniting some with their families and communities and supporting others in vocational training programs[82].

45. The EUSEC project on reform of the Congolese military demonstrates that structural reform need not be expensive if support is correctly targeted. EUSEC was launched in 2005 and embedded small numbers of European officers at senior levels in both headquarters and with individual units. Designed to offer strategic advice and targeted support, its most significant initiatives have been working on the 'chain of payments' – ensuring salaries reached individual soldiers – undertaking a census of FARDC personnel, developing a 'logistics doctrine' for the FARDC, and conducting administrative training. The census started in 2006, and has been able to offer a far more reliable idea of numbers of serving soldiers than was previously available[83]. The strategic purpose of interventions matters more than their cost.

46. The positive performance of military units trained by the US, Belgium and South Africa demonstrate that improvements in conduct and discipline are possible. Many police units trained for the 2006 elections were reported to have functioned well. But once elections were past, support dropped away, and the trained units swiftly degraded, with equipment going missing, unit structures being broken up and discipline slipping[84]. Training and equipment are vital, but attention also needs to be sustained.

ANNEX I –OECD statistics on spending in the DRC

Fig 1. OECD Development spending 2006-2010[85]

	2006	2007	2008	2009	2010	Total
Disbursed	2334.573	1448.157	1928.990	2548.207	5972.137	14,132.064
Committed	2175.442	1983.223	2224.644	3083.140	3732.631	13,199.1

This gives a headline total of more than $13 billion in official development commitments to the DRC between 2006 and 2010, and more than $14 billion in disbursements. This translates to an overall financial commitment of $2.8 billion a year between 2006 and 2010.

However, debt relief for past projects causes a sharp spike in total disbursements in 2010 (see below for more detail on debt relief). Thus, though indicative of the level of financial support received by the DRC, it does not necessarily reflect actual year-on-year resource flows.

Fig 2. OECD development spending 2006-2010 (excluding debt)[86]

	2006	2007	2008	2009	2010	Total
Disbursed	1198.729	1156.323	1754.167	2338.246	2116.93	8,564.395
Committed	1183.808	1740.224	2099.748	2939.14	2282.966	10,254.651

Non-debt related development commitments totaled roughly $10.2 billion between 2006 and 2010, with disbursements at $8.5 billion, and an average commitment of just over $2 billion a year. This spending was overwhelmingly on project aid. Official disbursed budget support was just $474 million, or 5.5%, largely from the IMF and EU in 2009 and 2010, as well as some 'emergency' budget support to assist the DRC to achieve HIPC completion point, and pay teachers' salaries, which was not necessarily included in OECD statistics[87].

Fig 3. OECD development spending on 'Conflict, Peace and Security' (disbursement only)[88]

	2006	2007	2008	2009	2010	Total
'Conflict, Peace and Security'	99.99	73.96	89.4	124.83	142.32	530.51
'Security System Management and Reform'	1.05	8.02	19.64	21.48	35.60	85.79

Thus disbursed development spending on conflict peace and security between 2006 and 2010 is equivalent to 3.75% of the headline financial commitment to the DRC of $14 billion and on security system management makes up 0.6%. If compared to total development spending excluding debt relief over the same period, the equivalent figures are 6.19% and 1% respectively. By comparison, disbursements on humanitarian aid were $1.875 billion over the same period, or 21.89% of total development spending, excluding debt.

Fig 4. MONUC/MONUSCO budget[89]

2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	Total
1091.242	1112.739	1187.676	1346.584	1365	6099

The total operating budget for the UN peacekeeping mission totaled $6.099 billion between July 2006 and July 2011. The US paid 27.14% of peacekeeping costs, or $1.47 billion, over the same period, the UK paid 8.15%, or $499 million, and France paid 7.55%, or $463 million.

Fig 5. Top ten OECD bilateral donors to DRC 2010 (disbursement, excluding debt[90])

Country	Total
USA	277.85
UK	187.77
Belgium	164.69
Japan	80
Germany	77.11
Sweden	71.48
Spain	32
Norway	28.30
Canada	26.52
Netherlands	19.59

These figures do not include peacekeeping (see above), bilateral military assistance or contributions via multilateral agencies. They do not include assistance provided by non-OECD members, such as China, Angola, and South Africa, for which no comprehensive set of spending data exists.

The largest multilateral agencies in the DRC over this period were the EU and International Development Agency (World Bank). The IDA disbursed a total of $1.47 billion between 2006 and 2010 (excluding debt relief), and the EU disbursed $1.2 billion in the same period.

Fig. 6 Development spending by Contact Group core members, 2006-2010 disbursements, excluding debt[91])

US	UK	France	Belgium	The Netherlands	Total
970.544	849.058	130.457	758.833	199.155	2908.047

Again, these figures do not include contributions to multilateral agencies, to peacekeeping, or to bilateral military programs.

Fig. 7 DRC debt relief

Nominal debt relief	2010	2011	2012	2013	2014
($US millions)					
Under enhanced HIPC	389.5	528.4	478.2	511.2	498.6
Under MDRI	4.5	14.8	16.8	18.9	19.8
Total	394	543.2	495	530.1	518.4

These numbers give the best estimate of the annual savings to the DRC through debt relief initiatives[92]. They also represent the annual cost to the creditors of agreeing this debt relief.

ACRONYMS

ADF-NALU: Allied Democratic Forces-National Army for the Liberation Uganda (ADF-NALU)

AU: African Union (AU)

CAR: Central African Republic (CAR)

CIAT: Comité International d'Appui à la Transition - The International Committee to Accompany the Transition (CIAT)

CNDP: Congrès national pour la défense du peuple - National Congress for the Defense of the People (CNDP)

DAC: Development Assistance Committee (DAC)

DRC: Democratic Republic of the Congo (DRC)

ECF: Extended Credit Facility (ECF)

EU: European Union (EU)

EUPOL: EU Police Mission in DRC (EUPOL)

EUSEC: EU Advisory and Assistance Mission for Security Reform in DRC (EUSEC)

FARDC: Forces Armées de la République Démocratique du Congo - Armed Forces of the DRC (FARDC)

FDLR: Forces démocratiques de libération du Rwanda - Democratic Forces for the Liberation of Rwanda (FDLR)

FNL: Forces for National Liberation (Burundian FNL)

GNI: Gross National Income (GNI)

HIPC: Heavily Indebted Poor Countries (HIPC)

ICC: International Criminal Court (ICC)

IDA: International Development Association (IDA)

IFI: International Financial Institutions (IFI)

IFRI: French Institute of International Relations (IFRI)

IMF: International Monetary Fund (IMF)

ISSSS: The International Security and Stabilisation Support Strategy (ISSSS)

LRA: Lord's Resistance Army (LRA)

MDRI: The Multilateral Debt Relief Initiative (MDRI)

MLC: Movement for the Liberation of the Congo (MLC)

MONUC: United Nations Mission in the Democratic Republic of Congo (MONUC)

MONUSCO: The United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO)

NGO: Non-Governmental Organization (NGO)

ODA: Official Development Aid (ODA)

OECD: The Organization for Economic Co-operation and Development (OECD)

SADC: Southern African Development Community (SADC)

SGBV: Sexual and Gender-based Violence (SGBV)

SRSG: Special Representative of the Secretary-General (SRSC)

SSR: Security Sector Reform (SSR)

STAREC: Stabilization and Reconstruction Plan for War-Affected Areas (STAREC)

UK: United Kingdom (UK)

UN: United Nations (UN)

UNDP: United Nations Development Programme (UNDP)

UNHCR: United Nations High Commissioner for Refugees (UNHCR)

UNICEF: United Nations Children's Fund (UNICEF)

US: United States (US)

ENDNOTES

1 Figures from OECD-DAC. This includes all disbursed multi-lateral and bilateral official development aid (ODA), but excludes military assistance, peacekeeping, aid from non-members of the OECD and some budget support. See annex 1 for more details.

2 According to official figures, the total Congolese budget for 2010 was $5.9 billion, of which external receipts made up $2.8 billion, or 45.47%, the vast majority of which was project financing. The 2011 budget anticipated total spending of $7.3 billion, and total external receipts were expected to be $3.3 billion, or 45.2%. Figures accessed at http://www.ministeredubudget.cd.

3 The annual MONUC/MONUSCO budget has increased slightly, from $1.1 billion for 2006-2007 to $1.3 billion for 2010-2011.

4 The DRC reached completion point under the HIPC program in June 2010, unlocking 12.38 billion in debt relief. This is estimated to equate to roughly $500 million per year in additional government revenues.

5 A deal signed in 2007 will see some $6 billion of investment in infrastructure exchanged for access to the DRC's mineral resources.

6 UNDP Human Development Index 2011, accessed at http://hdr.undp.org/en/statistics/

7 GNI per capita is $180 (2010). Accessed at http://data.worldbank.org/country/congo-democratic-republic

8 Internal Displacement Monitoring Centre, accessed at http://www.internal-displacement.org/8025708F004CE90B/%28httpCountries%29/554559DA509C85888025 70A7004A96C7?opendocument

9 467,693 at January 2012(UNHCR), accessed at http://www.unhcr.org/pages/49e45a6c6.html

10 "We are entirely exploitable' The lack of protection for civilians in eastern DRC', Oxfam Briefing Note, July 2011; 'Small Arms in Eastern Congo, A Survey on the Perception of Insecurity', GRIP, 2011.

11 In June 2011, ex-PARECO Hutu commander, Colonel Kifaru Niragire allegedly led over 100 soldiers to engage in serious human rights violations of civilians in the Fizi area. Col Kifaru had apparently deserted from the military due to the reorganization of military command. See eg http://reliefweb.int/node/421990 ; http://reliefweb.int/node/422945

12 See State Department 2010 Country Reports on Human Rights Practices (accessed at http://www.state.gov/documents/organization/160463.pdf) or 'Second joint report of seven United Nations experts on the situation in the Democratic Republic of the Congo', UN Human Rights Council, 10 March 2010.

13 Figures for the amount spent on military assistance are not collated by the OECD, and no comprehensive database exists for past or on-going projects, itself indicative of poor coordination. See annex I.

14 See paragraph 13

15 This includes the private as well as public sectors - business confidence reportedly fell from 5.7% in November to -27% in December 2011 as a cause of 'uncertainty over elections ('No Confidence Vote from Companies', Africa Confidential, 20 January 2012.

16 The DRC reached completion point under the World Bank HIPC program in June 2010. It has had access to an IMF Extended Credit Facility since 2009.

17 See report at http://gadebate.un.org/66/democratic-republic-congo

18 Confidential interviews by author with various policymakers, January 2012. See also, Radio Okapi: Police reform: General Bisengimana asks the international community for help, March 21, 2012 http://radiookapi.net/actualite/2012/03/21/reforme-de-la-police-le-general-bisengimana-demande-laide-de-la-communaute-internationale/

19 'DR Congo colonel Kibibi Mutware jailed for mass rape', BBC, 21 February 2011.

20 Including the US, EU, UK, France, China, Angola, South Africa, Belgium, The Netherlands, the UN, AU and SADC.

21 Accessed at http://data.worldbank.org/country/congo-democratic-republic

22 UNDP Human Development Index 2011, accessed at http://hdr.undp.org/en/statistics/

23 Internal Displacement Monitoring Centre, accessed at http://www.internal-displacement.org/8025708F004CE90B/%28httpCountries%29/554559DA509C85888025 70A7004A96C7?opendocument

24 467,693 at January 2012(UNHCR), accessed at http://www.unhcr.org/pages/49e45a6c6.html

25 In 2011, more than 270 new cases of child recruitment were documented, while 5,403 children, including 1,935 girls, formerly associated with armed forces and groups who were released or escaped in 2011 or during previous years, were provided with reintegration. Interviews with UNICEF staff in March 2012 and see also http://www.child-soldiers.org/Child_Soldiers_Coalition_DRC_shadow_Report_15April2011.pdf

26 'Small Arms in Eastern Congo, A Survey on the Perception of Insecurity', GRIP, 2011.

27 Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, 21 October 2011 (S/2011/656)

28 'Soldiers who rape, commanders who condone', Human Rights Watch, 2009.

29 See, for instance, 'The complexity of resource governance in a context of state fragility: The case of eastern DRC', International Alert, 2010; "We are entirely exploitable' The lack of protection for civilians in eastern DRC', Oxfam Briefing Note, July 2011.

30 The 'Governance Compact' was circulated to donors along with the first post-election budget in 2007, laying out the government's reform priorities. SSR was the first issue addressed. Accessed at http://www.un.int/drcongo/archives/ContratdeGouvernance.pdf

31 See report at http://gadebate.un.org/66/democratic-republic-congo

32 United Nations Peacekeeping Security Sector Reform website: http://www.un.org/en/peacekeeping/issues/security.shtml

33 It can also include, "corrections, intelligence services and institutions responsible for border management, customs and civil emergencies. http://www.un.org/en/peacekeeping/issues/security.shtml

34 See paragraph 10.

35 The 'brassage' process was intended to create 18 new integrated brigades, with training conducted by international actors including Belgium, South Africa, Angola and the UN. Only 14 integrated brigades were formed by the end of the transition, and many tens of thousands of armed men remained outside formal structures. The failure of army integration during the transition was a direct cause of violence after 2006, which in turn undermined future SSR efforts.

36 The most immediate challenges were posed by the armed guard of Jean-Pierre Bemba, in central Kinshasa, and the CNDP of Laurent Nkunda in the East, as well as the FDLR and LRA. Congolese Mai Mai groups and sporadic inter-community violence.

37 The International Support Committee for the Transition – known by its French acronym CIAT – was an Ambassador-level committee that had a formal advisory position to the transitional authorities. It took a strong stance in disagreements with the transitional government, and was greatly resented by many Congolese actors as an infringement of their sovereignty.

38 The strong relationship between key donors – notably the UK, US and EU – and the governments of Rwanda and Uganda led to widespread suspicion among Congolese actors during the war and post-war years.

39 2011 budget allocation to the Justice Ministry was $5.6 million, out of a projected total budget of more than $7 billion – less than 0.1%. Figures from www.ministeredubudget.cd

40 'Putting Complementarity into Practice: Domestic Justice for International Crimes in DRC, Uganda, and Kenya', Open Society Justice Initiative, 2011.

41 A 'Plan de Reform de l'Armee', was developed in 2009, following an earlier blueprint - 'Plan Directeur de la Reform De L'Armee' - that was presented to the international community at a round-table in Kinshasa in 2008, and subsequently largely rejected. This was the successor to a 'National Strategic Plan for the Integration of the Armed Forces' released in August 2005.

42 The organic law on the 'Organisation and Functioning of the Congolese Armed Forces' sets out the structures, responsibilities and outlook of the FARDC, and reflects the vision initially set out in the Army Reform Plan of 2009. An organic law on the 'Organisation and Functioning of the Police' was promulgated at the same time.

43 See www.consilium.europa.eu/uedocs/cmsUpload/081204EUPOLComitedeSuividelareformedelapolice-CSRP.pdf. The CSPR has reportedly developed a three year reform plan and as strategic 15 year vision for the police.

44 A 'Joint Committee for SSR' was established in 2005, but was ineffective – its defense sub-committee had to be chaired by a MONUC officer because 'no suitable Congolese was available'. This is indicative of the low political salience given to coordination by the Congolese government.

45 A 'logistics plan' was developed in conjunction with the EU EUSEC mission in early 2011, but has not been implemented.

46 The 'regimentation' was an ad hoc restructuring of military units in Eastern DRC undertaken during 2011. It involved the withdrawal of units from active deployment and their reallocation into new command structures, intended to disrupt parallel chains of command.

47 Salaries for rank-and-file in both police and army are around $40 per month, moving up to $60 for a general.

48 Bosco Ntaganda was indicted by the ICC for war crimes in 2006. He is a serving General in the Congolese armed forces.

49 See for instance Henri Boshoff, Dylan Hendrickson, Sylvie More Clingendael, Thierry Vircoulon, Supporting SSR in the DRC: between a Rock and a Hard Place. An Analysis of the Donor Approach to Supporting Security Sector Reform in the Democratic Republic of Congo, Clingendael Paper, June 2010, and Sebastien Melmot, Candide au Congo : L'Echec annonce de la reforme du secteur de sécurité (RSS), Focus Stratégique No. 9, IFRI, September 2008.

50 The key actors with an interest in SSR are US, EU, AU, UK, China, Angola, Belgium, The Netherlands, South Africa and Japan. A partial list of activities includes military reform or training by the US, EU, Angola, South Africa, Belgium, France, China and the UN; police reform or training by France, the UK, EU and UN; and justice reform training and capacity building by the EU, the UN, US, and others.

51 Ideally a single bilateral actor would take responsibility for leading reform in the DRC, as the UK did in Sierra Leone or the US in Liberia. However, the scale of the challenge posed by the DRC and he political risk that any state would face in taking responsibility, mean that the emergence of a 'lead nation' is increasingly unlikely, even if it were accepted by the Congolese Government.

52 The Great Lakes Contact Group involved a broad range of the international community, including African states, multilateral organizations and key players such as China. In recent years its membership has been restricted to the traditional donors – US, EU, UN, UK, France, Belgium and The Netherlands.

53 See, for instance, Justaert, Arnout and Stephan Keukeleire. (2010): The EU's Security Sector Reform Policies in the Democratic Republic of Congo, In:Vanhoonacker, Sophie, Hylke Dijkstra and Heidi Maurer (eds). Understanding the Role of Bureaucracy in the European Security and Defence Policy, European Integration online Papers (EIoP), Special Issue 1, Vol. 14, http://eiop.or.at/eiop/texte/2010-006a.htm.

54 This does not include financing for military projects, as they are not collated by the OECD-DAC, and comprehensive figures are unavailable. Nor does it include projects run by bilateral actors that are not members of the DAC – notably South Africa, Angola and China – or actions undertaken directly by MONUC/MONUSCO.

55 The latest iteration of this has been seen in reporting in March 2012 of a new UN-supported offensive against the FDLR that observers have claimed could displace 100,000 – 'UN-backed Congolese army drive could displace 100,000 people, analysts warn', The Guardian, 16 March 2012.

56 The ad hoc integration of a new caseload of some 12,000 former rebels in 2009 is reported to have undone years of efforts to map numbers and deployments of the Congolese military, as well as further weakening unit cohesion and command structures.

57 "While there is broad agreement among international actors that security sector reform is a key issue, donors need to harmonise their support to the Government in developing a security sector reform strategy" Twenty-second report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo, 21 September 2006, S/2006/759

58 MONUSCO SSR unit has been attempting to map programs for several years, but still has an incomplete record.

59 The most significant justice reform programs have been run by the EU, as well as the UN, NGOs and others. Where abuses were previously almost-completely unpunished, in 2008, 27 soldiers were convicted of crimes of sexual violence in the Kivus (HRW, 2009). The EUPOL mission of the EU is mandated to engage in central police reform, but though it had some successes, including helping draw-up a 15 year reform plan, it has since been assessed as 'struggling to fulfil its strategic level mandate' (House of Commons, European Scrutiny Committee, 7th Report 2010-11, p51) The UK launched an innovative multi-year program to build police accountability and performance in 2009 (http://projects.dfid.gov.uk/project.aspx?Project=113961).

60 The MONUSCO SSR unit was launched in 2008. It had just 9 staff as of October 2011 (http://monusco.unmissions.org/Default.aspx?tabid=3896)

61 http://consilium.europa.eu/uedocs/cms_data/docs/missionPress/files/110711%20Fact%20sheet%20EUSEC%20DR%20Congo%20%28v%2013%29.pdf

62 The International Security and Stabilisation Support Strategy (ISSSS) acts in support of the Democratic Republic of Congo's Stabilization and Reconstruction Plan for War-Affected Areas (STAREC), launched in June 2009. It has undertaken a range of SSR-related activities in the East of the country, designed to increase security extend state authority, including training of police, reconstruction of training centers and barracks, demobilization and infrastructure projects. It is supported by 13 donors, and had spent roughly $168 million from 2009 to 2011.

63 The US has been engaged in training Congolese light infantry since December 2009, with the first units graduating in September 2010, since deployed to the LRA-affected area. It was intended to create a 'model unit' to inform other programs. It included elements intended to make units self-sufficient, as well as 'training the trainer', human rights awareness and operational effectiveness. http://www.africom.mil/getArticle.asp?art=5256

64 These include, but are not limited to, a UK-funded program on police reform, police training by the UN, police reform through the EU EUPOL initiative, a variety of EU-funded support and capacity building programs for the justice sector, a UNDP-led joint initiative on military justice reform.

65 Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, 17 January 2011, s/2011/20. Training of specialist troops – demining, medical and so on – continues, as does officer training, both in-country and overseas conducted by France, Belgium, China and others. Unit-level training is conducted by MONUSCO, and work on strategic military reform is on-going through the EU EUSEC program, and by MONUSCO SSR unit.

66 There have been numerous reports of defections by military officers and men, frequently by former armed group members. For instance, a former CNDP battalion commander, Major Patient Akilimali, was reported to have defected from the army in October 2010 with 28 men, and a former armed-group officer, Col. Albert Kahasha was reported missing from his post with 30 men in January 2012. (www.radiookapi.net/actualite/2010/10/28/goma-defection-dEtE%80%99un-commandant-de-bataillon-des-farde-a-alimbongo/; www.lepotentiel.cd/2012/01/nord-kivu-un-colonel-des-farde-disparait-avec-30-de-ses-soldats-a-beni.html)

67 There are concerns over the sustainability of the transition of the CNDP from military to political actor given the de facto independence of former CNDP combatants, despite their integration into official structures, and continuing control over fiefdoms in North Kivu, including lucrative mining areas. Resentment is reported to have led to regrowth of informal armed groups, and risks a return to inter-communal violence. Remaining armed groups, both foreign and Congolese pose an acute threat to civilians.

68 'China and Congo: Friends in Need', Global Witness, March 2011

69 Most striking is the Grand Inga project, to develop the hydropower resources of the Congo River, being jointly developed by the DRC and South Africa, involving the South African national power company, Eskom, designed to meet South Africa's future energy needs. A new bilateral agreement was signed in November 2011. See http://www.info.gov.za/speech/DynamicAction?pageid=461&sid=23176&tid=48818

70 Confidential interviews by author with various policymakers, January 2012.

71 Ibid.

72 The IMF provides finance to the DRC under an Extended Credit Facility (ECF) launched in 2009, worth about $550 million over three years. It expires in June 2012. The previous IMF program had been completed in 2006. The IMF, World Bank, African Development Bank and European Union also provided budget support in 2009 and 2010 to help the DRC reach the HIPC completion point, and for emergency payment of teachers' salaries.

73 Estimates vary as to the number of armed men in the DRC at the beginning of the transition – according to figures provided by the belligerents themselves there were more than 300,000. More than 180,000 had passed through a demobilization process by December 2006. Figures from 'Completing the demobilization, disarmament and reintegration process of armed groups in the Democratic Republic of Congo and the link to security sector reform of FARDC', Institute for Security Studies Situation Report, Henri Boshof, 23 November 2010.

74 The large scale, formed military units left over from the war and failed transitional integration – notably those loyal to war time rebel groups – that were present immediately after the 2006 elections have either largely disintegrated or been brought into official structures, however nominally. But a constellation of smaller groups remain, and there are no comprehensive estimates of the numbers available. Assessment is particularly difficult given the terrain, fluid nature of multiple militias, defections, re-recruitment and blurring between criminality and organized activity.

75 Between 2002 and early 2012, the UN repatriated more than 26,000 foreign fighters and dependents. The FDLR has seen its numbers drop tenfold from 20,000 in 2001 to some 3000 at present. The LRA has carried out horrific attacks on civilians in the DRC, as well as in the CAR and South Sudan, but is down to some 300 fighters scattered in small groups across a wide area. Other significant groups are the Uganda ADF-NALU, estimated to have 500 fighters, and the Burundian FNL.

76 See Radio Okapi: Police reform: General Bisengimana asks the international community for help, March 21, 2012 http://radiookapi.net/actualite/2012/03/21/reforme-de-la-police-le-general-bisengimana-demande-laide-de-la-communaute-internationale/

77 For instance, the 14th Summit of La Francophonie is due to take place in Kinshasa in late 2012.

78 There were an estimated 60,000 FARDC troops deployed in the Kivu provinces in late 2009. Latest estimates compiled by EUSEC are that the total number of men in the Congolese military is 105,000, meaning that nearly 60% of the FARDC are deployed in just two provinces. A census of police numbers is underway, with numbers estimated at around 100,000.

79 See Thirtieth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo, 4 December 2009, s/2009/623

80 Lt Col Kibibi Mutware was sentenced to 20 years imprisonment for crimes against humanity, along with 3 officers and 5 men. 'DR Congo colonel Kibibi Mutware jailed for mass rape', BBC, 23 February 2011.

81 DRC Mobile Gender Courts Factsheet, accessed at http://www.soros.org/initiatives/justice/articles_publications/publications/congo-mobile-20110719

82 Interviews with UNICEF staff in March 2012.

83 Latest estimates are of a total of approximately 105,000.

84 Confidential interviews by author with various policymakers, January 2012

85 OECD-DAC, all figures in USD millions, current prices. Accessed on 20 March 2012

86 ibid

87 See 'Budget Support and Fragile States: Mokoro Study for Oxfam Novib, Handout 3: Individualising the cases – Ethiopia and DRC' for further information, accessed at www.odi.org.uk/events/docs/4640.pdf

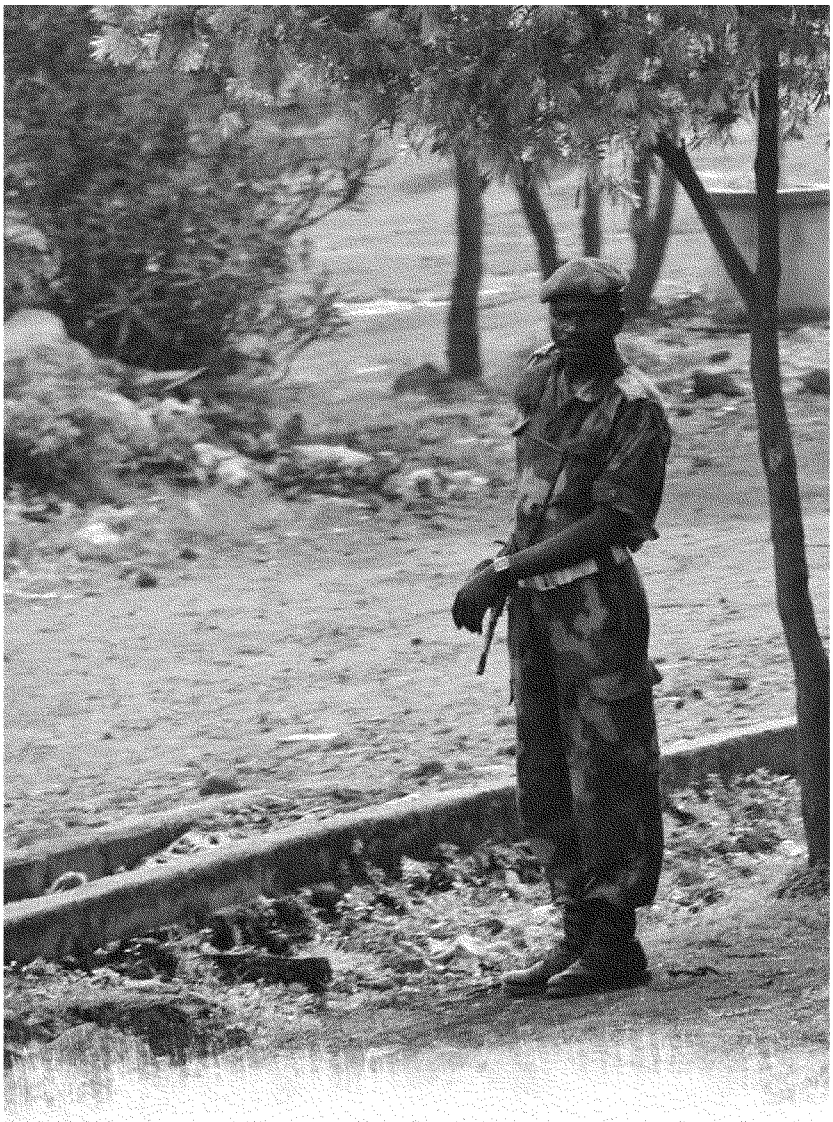
88 OECD-DAC, all figures in USD millions, current prices. Accessed on 20 March 2012

89 Figures in USD millions, from UN Secretary General's reports, accessed at www.un.org

90 OECD-DAC, all figures in USD millions, current prices. Accessed on 20 March 2012

91 ibid

92 'Democratic Republic of the Congo: Enhanced Initiative for Heavily Indebted Poor Countries—Completion Point Document and Multilateral Debt Relief Initiative Paper', IMF Country Report No. 10/36, December 2010



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