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.