Information Technology Industry Council

Hearing on

"The Unintended Consequences of Dodd-Frank's Conflict Minerals Provision"

Testimony of

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Chairman Campbell, Ranking Member Clay and members of the Subcommittee – thank you for the opportunity to testify at today's hearing regarding the Democratic Republic of the Congo, conflict minerals and section 1502 of Dodd-Frank.

My name is Rick Goss and I am the Senior Vice President of Environment and Sustainability for the Information Technology Industry Council, or ITI. ITI is a global trade association representing 50 of the world's most innovative companies in the information and communications technology sector. Our members have an abiding commitment to sustainability and corporate social responsibility – a commitment we have again demonstrated through our strong leadership on conflict minerals. While the minerals and metals covered under section 1502 are routinely used by every industry across the global economy, tech companies have taken the lead to drive private sector initiatives and secure measurable progress.

Along with governments and civil society, ITI and our members share a commitment to the fundamental principles of peace and security for the Congo, and we are dedicated to being responsible actors within the context of comprehensive, government-led strategies for Central Africa. First, we are committed to ethical sourcing throughout our global supply chains. We do not want to conduct business, either directly or indirectly, with any supplier that supports, prolongs or perpetuates armed conflict or human rights abuses. Second, we want to source cleanly from Central Africa to help provide critical economic benefits to hundreds of thousands of people who depend on mining and mining-related activities as their sole source of livelihood. With these twin objectives in mind, our sector has made a conscious choice to remain engaged in the region.

Even before the Congressional negotiations on conflict minerals culminated in 2010, the tech sector was already implementing programs and processes to enhance transparency in global supply chains by, among other actions, creating an inclusive industry forum to address common supply chain challenges and develop solutions. Our initiatives have continued ever since and include:

- Launching the Conflict-Free Smelter Program;
- Establishing clean, in-region sourcing channels in Central Africa;
- Developing and promoting supply chain transparency and reporting measures; and,
- Joining with governments and civil society in the Public-Private Alliance for Responsible Minerals Trade.

Based on our long history of credible engagement and concrete achievements, the tech sector can bring unique judgments and perspectives on the impacts of section 1502 and on the broader policy debate. Let me begin by relating the positive outcomes that section 1502 has yielded.

First, the public debate on conflict minerals has brought desperately needed attention to an outright humanitarian crisis that had been largely ignored by the international community. Over five million people in Central Africa have suffered premature deaths, primarily related to disease and malnutrition, with militias and government soldiers alike regularly committing atrocities against civilians.

Second, the enactment of section 1502 drove other sectors to join with tech to drive policies and transparency measures throughout global supply chains. The tech sector has continuously promoted corporate due diligence efforts as an important part of a coordinated international solution to the challenges in the region, and has supported the broad applicability of these requirements across the economy.

Finally, section 1502 helped convince regional governments to engage more fully in mining sector reforms. This includes Congolese laws on due diligence and licensing in the minerals trade, and coordinated efforts led by the International Conference of the Great Lakes Region.

Section 1502, however, has also created obstacles for companies that want to remain responsibly engaged in Central Africa. Simply put, the mechanism contained in section 1502 encourages companies to avoid the region, while layering regulatory burdens and costs on those that stay. Even companies that source cleanly from the covered region must submit a full Conflict Minerals Report to the SEC, and must further subject that report to an independent private sector audit. Companies that elect to exit the region altogether can avoid these obligations.

This has led to a *de facto* embargo on minerals from the covered region, with serious consequences for local populations. Major smelters report that a majority of their direct customers are demanding metals that are <u>Congo-free</u>, rather than <u>conflict-free</u>. Likewise, most companies expend the bulk of their time and resources establishing that they are <u>not</u> sourcing from the region, rather than developing programs to build clean-sourcing capacity. As a consequence, countless companies are fulfilling redundant paperwork obligations: developing parallel lists of smelters, reviewing supplier declarations, writing reports and scheduling audits. These efforts yield few if any benefits to the people of the Congo.

Also, because of endemic security and corruption challenges, the volume of materials processed through legitimate in-region programs to date has been modest at best. The United Nations reports that, even as security has improved at some major mining centers, exports of tin, tantalum and tungsten from the eastern DRC have all but halted. The prices for uncertified minerals have plummeted, with impoverished artisanal miners earning mere cents on the dollar, while brokers and exporters secure huge profits. The societal impacts can be measured in reduced family incomes, limited availability and rising prices for food and medicines, and in falling school enrollments. The U.N. also reported significant black market movement of covered minerals from the Congo, and a rush by armed groups and the Congolese military to gold mines where due diligence requirements have not impacted trade. Furthermore, militias and "criminal, mafia-type networks"[1] within the Congolese Army are exploiting other sources of revenue, through products such as timber, charcoal, cannabis, ivory and basic supplies, and through practices such as human trafficking, illegal roadblocks and extortion.

Section 1502, by focusing almost exclusively on the role of the private sector, has diverted critical attention away from the indispensable role of governments in addressing the endemic political, security and humanitarian crises in the region. Private sector initiatives alone cannot succeed in a region beset by rampant conflict and corruption, and destabilized by chronic interference and intrusions from neighboring countries. The underlying causes of this regional war are political, not economic, and are linked to entrenched ethnic enmities and disputes over political power, land rights and citizenship. While control over natural resources is in part responsible for fueling violence in eastern Congo, it is striking to note that adjacent areas that are equally rich in resources are not plagued by conflict.

The most recent United Nations Security Council Resolution on the Congo authorized the deployment of an "Intervention Brigade" with the stated objective of "contributing to reducing the threat posed by armed groups to state authority and civilian security in eastern DRC and to make space for stabilization activities." The Security Council took this step in large part due to the continued threat posed by the rebel group M23, which has received significant logistical and military assistance from other governments in the region. The

[1] See page 75 of the U.N. Group of Experts report: www.un.org/ga/search/view_doc.asp?symbol=S/2010/596

heads of state of ten neighboring countries, meanwhile, recently recommitted to respect one another's territorial sovereignty and to refrian from interfering in DRC's internal affairs; supporting armed groups; and harboring war criminals.

Ultimately, corporate efforts alone are no substitute for comprehensive international engagement; in the absence of this international will, the status quo will reign in the Congo.

In closing, ITI and our members urge Congress to consider ways to overcome the deterrent effects of section 1502 and provide incentives to companies that responsibly source from Central Africa. These efforts could include lowering the regulatory burden; offering a federal procurement preference; enacting tax incentives; and, providing public recognition to those companies that source through approved, in-region programs. The United States and other governments can also support in-region transparency and governance initiatives, and can place collective pressure on foreign smelters to participate in our audit program. The tech sector will continue to embrace our role as part of the solution, even as we join with governments and civil society to press for more concerted and lasting action from the international community to resolve the unfolding calamity in Central Africa.

Thank you again for the invitation to testify today. I would be pleased to answer any questions.