



global witness

Subcommittee on Monetary Policy and Trade

**Committee on Financial Services
U.S. House of Representatives**

Hearing entitled “The Unintended Consequences of Dodd-Frank’s Conflict Minerals Provision”

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Global Witness

Good afternoon Chairman Campbell, Ranking Member Clay and members of the Subcommittee. Thank you for holding this hearing today. My name is Sophia Pickles. I work for Global Witness, a non-governmental organization with offices in London and Washington DC that investigates and campaigns to break the links between natural resources, corruption and conflict. I lead our campaign on eastern Democratic Republic of Congo (DRC) and conflict minerals.

For twenty years, our investigations into conflict diamonds, illegal logging and corruption in oil, gas and mining have been the catalyst for international initiatives and policies to promote transparency and ensure that natural resources do not fuel conflict. Since 2004, Global Witness has conducted research and advocacy on a broad range of issues relating to natural resources in the DRC. Over the past seven years, we have focused on documenting the militarization of mining in the east of Congo and the role the trade in minerals plays in financing the conflict there.

Our work on the minerals trade is directly informed by regular, in-depth field investigations in eastern DRC, Rwanda and Burundi. These investigations involve frequent visits to mine sites and trading hubs, and interviews with all stakeholders involved in the trade, including artisanal miners and local traders, smugglers, mining sector authorities, representatives of the army and mining police, and members of local and regional civil society. We also meet regularly with ministers and other senior officials in the Congolese, Rwandan and Burundian governments.

For the last fifteen years, armed groups and members of the national army have used profits from the trade in tin, tantalum, tungsten and gold to finance themselves and their operations in eastern DRC. The local population in North and South Kivu provinces has borne the brunt of a war characterised by murder, rape, pillage and mass displacement. Although the region’s mineral wealth is not the root cause of the conflict, competition for access to these resources has been an incentive for warring parties to continue fighting.

Minerals that have benefitted armed groups and factions of the army enter global supply chains and are used in a wide variety of household and industrial products. As you know, the Dodd-Frank Wall Street Reform and Consumer Protection Act includes Section 1502, a provision that requires U.S.-listed companies to carry out checks on their supply chains to determine whether their purchases

have funded conflict and/or human rights abuses. This provision is an important piece of legislation that seeks to break the links between eastern DRC's minerals trade and abusive armed groups. The passage of Section 1502 has generated unprecedented levels of international attention on mineral supply chains from eastern DRC. The law has led to changes in how international and Congolese companies approach supply chain management, catalyzed reform of DRC's domestic mining sector and spurred development of a regional mineral certification system. Increased scrutiny of certain mines and mineral trading routes in eastern DRC by mining authorities, companies and local communities is gradually creating opportunities for transparent and conflict-free sourcing.

Private sector efforts

While some U.S. industry associations and companies claim that implementing Section 1502 is too costly and burdensome, the substantial efforts made by companies to comply with the law paint a different picture. Certain companies have begun to make progress in identifying the origin of the metals they use and have published the names of the smelters and refiners in their supply chains. Others have invested in closed-pipe sourcing initiatives in eastern DRC. The range and scope of these initiatives suggests that the cost to business of sourcing minerals responsibly, and disclosing efforts to do so, is not prohibitive.

- In April 2013, Hewlett Packard (HP) published the names of the 195 tin, tantalum and tungsten smelters and gold refiners identified in its supply chain.ⁱ Apple has been tracking its supply chain since 2010; the company's 2012 Supplier Responsibility Report identified 211 smelters and refiners in its supply chain.ⁱⁱ Also in 2012, Philips identified the 127 tin, tantalum, tungsten smelters and gold refiners that it uses.ⁱⁱⁱ
- In 2010, the Electronics Industry Citizenship Coalition and the Global e-Sustainability Initiative developed the Conflict-Free Smelter Program (CFS), an auditing system for smelters and refiners that aims to support company efforts to verify the upstream section of their supply chains. The CFS has validated 35 smelters as conflict-free, while another 31 are in the process of being evaluated and audited.^{iv}
- In October 2012, the Conflict-Free Tin initiative (CFTI), a closed-pipe system in which all players in the vertically-integrated supply chain are known, was launched in eastern DRC's South Kivu province. Major SEC-listed companies are participating in the project, including firms like Phillips who were not previously buying minerals from the Great Lakes Region. One month after the launch, the front line of fighting between the M23 rebels and Congolese government troops was less than 30 miles from the CFTI site.^v Although in its early stages, the CFTI is an example of how, if properly implemented, responsible sourcing from conflict-affected areas in eastern DRC can work. Production levels at the mine site, which typically employs around 1200 artisanal miners, have risen steadily and average over 100 tons of tin ore per month.^{vi}
- In July 2011, Motorola Solutions and AVX launched a closed-pipe sourcing initiative, Solutions for Hope, in DRC's Katanga province. Tantalum from the Solutions for Hope sites is sold to CFS-certified smelters, helping to ensure that the entire supply chain is conflict-free. Companies participating in another closed-pipe sourcing initiative, Making Africa Work, have committed US\$1.5m towards the construction of schools, infrastructure and health clinics around the mine site.

Mining sector reform in DRC

Political pressure generated by the passage of Section 1502 prompted changes in eastern DRC's mineral sector well before the final rule was published. As early as 2010, Bisie, North Kivu province's biggest tin mine, was demilitarised after five years under the control of various factions of the Congolese army. For the time being inadequate transport infrastructure linking Bisie to export hubs, and legal issues over concession rights have stymied responsible sourcing efforts and left the mine vulnerable to incursions by armed groups. Conflict-free sourcing opportunities are emerging in other areas in North and South Kivu provinces, however.

The Congolese Minister of Mines has publically recognized Section 1502 as a 'major opportunity' to break the links between minerals and conflict. In February 2012 the Congolese government introduced a law requiring companies operating in the country's tin, tantalum, tungsten or gold sectors to carry out supply chain due diligence in line with international standards set by the Organisation for Economic Cooperation and Development (OECD). The domestic legislation mirrors what companies covered by Section 1502 are expected to do and will complement responsible sourcing efforts by U.S. firms.

The Congolese government reinforced its commitment to clean up mineral supply chains in May 2012 when it suspended two Chinese-owned trading houses operating in North Kivu, for failing to carry out due diligence and sourcing from areas under the control of armed groups. Furthermore, the Congolese army's Commander-in-Chief issued a letter to all serving soldiers reiterating that members of the military are prohibited from entering mine sites or being involved in the minerals trade.

Section 1502 has also generated momentum at the Great Lakes regional level. The International Conference on the Great Lakes Region (ICGLR), a grouping of regional governments set up in May 2007, is developing a regional mineral certification scheme. The scheme, if implemented properly, could provide valuable information and assurances to international traders, smelters and manufacturers on the provenance of the minerals they are purchasing and the conditions in which they are produced. Boosted by the international attention generated by Section 1502, the ICGLR scheme now requires trading companies in the region to meet OECD due diligence standards as a condition for having their minerals certified.

Mineral traders operating in eastern DRC now have a much greater understanding of what supply chain due diligence is, how to do it and why it matters. Traders in North Kivu province, who had previously turned a blind eye to the conflict minerals trade, have formed a coalition called Save Act Mine (SAM) that promotes the implementation of OECD due diligence among members of the private sector. Traders have said that this initiative and others like it were developed in response to Section 1502, which some see as an opportunity for much needed reform of the trade.

Local oversight and whistle-blowing groups are also emerging. Congolese civil society organizations, such as Observatoire Gouvernance et Paix (OGP), train local communities and members of the mining police in how to monitor mining areas and trading routes and report on military or armed group involvement. This type of civil society and community engagement is key to preventing armed groups from accessing illegal revenues from the minerals trade.

Impact on mining communities

Proper implementation of Section 1502 has the potential to substantially improve socio-economic prospects for artisanal miners in eastern DRC. Artisanal mining communities are extremely vulnerable to the activities of rebel groups and abusive factions of the Congolese army. Diggers experience debt bondage, extortion and in some cases, slave-like labor conditions.

Insecurity resulting from the presence of armed groups vying for control of mineral resources is also one of the main drivers of poverty in many artisanal mining areas. It restricts freedom of movement for communities, limiting access to fields and therefore reducing the volume of agricultural goods produced.^{vii} Insecurity also reduces the movement of goods and access to markets and renders more distant markets inaccessible, restricting the sale of goods to local outlets, which stifles farm production and economic activity. Decreased agricultural production and limited access to markets impact household income and can mean that families are unable to afford schooling for their children. As long as armed groups prey on mining and mineral trading areas, artisanal mining communities are likely to remain isolated and possibilities for economic development extremely limited.

The number of companies carrying out due diligence and sourcing from eastern Congo is still limited, largely as a result of the uncertainty created by the Securities and Exchange Commission's sixteen-month delay in publishing the final rule for Section 1502. Just five months into the law's first reporting year, it is too early to measure the impact of due diligence on a wide scale. However, in sites where closed-pipe supply chains have been set up, there are indications that the implementation of due diligence is helping to establish and safeguard conflict-free supply chains. Moreover, local monitoring groups have begun to identify and flag risks as they arise.

Restoring civilian control of eastern DRC's minerals trade and keeping the mining sector free of armed group involvement will require full engagement from Congolese and regional authorities and from local and foreign companies sourcing minerals from the Great Lakes. The region's gold trade, where as yet very little due diligence is being carried out, requires particular attention from governments and from companies buying gold.

Section 1502 represents a milestone in the fight for more transparent and responsible supply chain management. Breaking the links between the minerals trade and the conflict will deprive armed groups of a significant revenue stream, and the law has already catalyzed international engagement in eastern DRC's minerals trade and created opportunities for companies to invest in conflict-free supply chains from eastern DRC. If Section 1502 is properly implemented, U.S.-listed companies buying minerals from eastern Congo will help the country's vast mineral wealth work for, rather than against, the population.

ⁱ <http://www8.hp.com/us/en/hp-news/press-release.html?id=1391397#.UZiZFdD2A>

ⁱⁱ <http://www.apple.com/uk/supplierresponsibility/reports.html>

ⁱⁱⁱ http://www.annualreport2012.philips.com/annual_report_2012/en/group_performance/social_performance/conflict_minerals.aspx

^{iv} 'CFS Program Indicators,' 1 May 2013. Accessed here: <http://www.conflictreesmelter.org/CFSIndicators.htm>

^v September 18, 2012 Press Release: "Conflict Free Tin Initiative," Accessed here: <http://solutions-network.org/site-cfti/files/2012/09/Press-statement-Conflict-Free-Tin-Initiative-Press-Release-18-Sept.pdf>

^{vi} 'Conflict Free Tin Initiative,' Accessed here: <http://solutions-network.org/site-cfti/status/>

^{vii} Solidarités International *RRMP Rapport d'Evaluation Multisectorielle, Banamatumo*, page 3