

**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

Table of Contents

I.	Executive Summary	1
II.	Description of Industry and Supply Chains	1
III.	Establishing a Minerals Chain of Custody is Nearly Impossible for an Electronics Manufacturer	3
A.	Producers of Products Containing Conflict Minerals Do Not Have Visibility to the Entire Supply Chain.....	4
B.	Identification of Conflict-Free Conflict Minerals is Nearly Impossible under Current Conditions	5
IV.	Ongoing Initiatives to Create Supply Chain Transparency	5
A.	Ongoing Industry-Lead Efforts to Improve Supply Chain Visibility	6
1.	I TRI Tin Supply Chain Initiative (iTSCi) Process	6
2.	The Electronic Industry Citizenship Coalition/ Global e-Sustainability Initiative	7
3.	IPC Materials Declaration Standard	8
B.	Organization for Economic Co-operation and Development (OECD) Framework Due Diligence Guidance.....	8
V.	Specific Recommendations for the SEC in Developing Regulations.....	8
A.	Timing of Implementation of the SEC Regulations.....	9
B.	Rules Are Needed to Phase in the Requirements.....	9
C.	Due Diligence.....	10
D.	Exemption for Recycled Minerals.....	11
VI.	Economic Impact	12
VII.	Conclusion	12

I. Executive Summary

IPC – Association Connecting Electronics Industries is writing to articulate issues and concerns that we believe should be addressed by the Security and Exchange Commission (SEC) during the upcoming rule-making process mandated under Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (hereinafter financial reform bill).

IPC, a U.S. headquartered global trade association, represents all facets of the electronic interconnect industry, including design, printed board manufacturing and electronics assembly. Printed boards and electronic assemblies are used in a variety of electronic devices that include computers, cell phones, pacemakers, and sophisticated missile defense systems. IPC has over 2,700 member companies. As a member-driven organization and leading source for industry standards, training, market research and public policy advocacy, IPC supports programs to meet the needs of an estimated \$1.7 trillion global electronics industry.

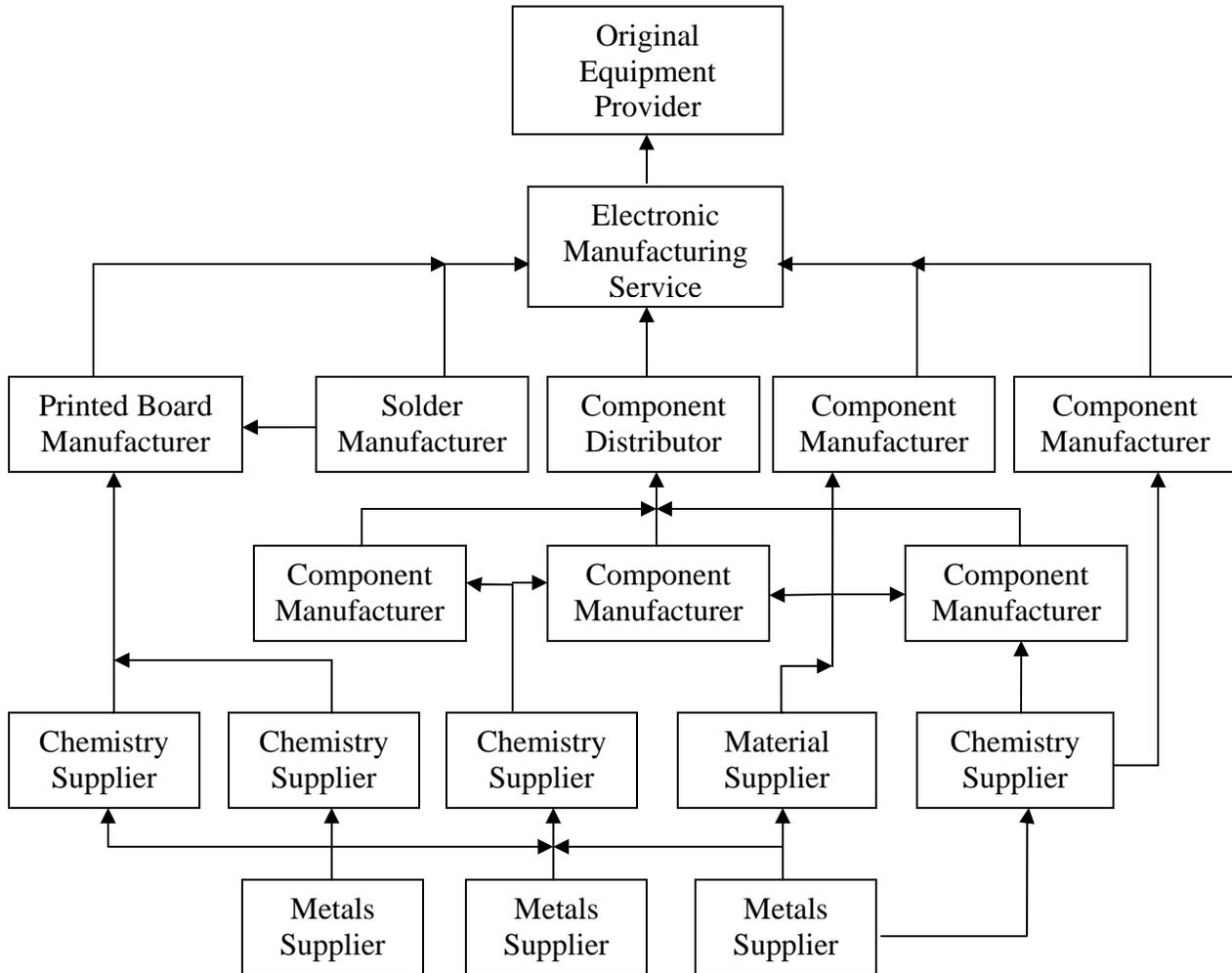
IPC supports the underlying goal of Section 1502, which is to prevent the atrocities occurring in the Congo. We understand that those perpetrating the atrocities are obtaining funding from the minerals trade and that the aim of Section 1502 is to cut off this funding. The electronics industry, including IPC members, is actively involved in a number of initiatives that seek to improve control and transparency in the mining and refinement of conflict minerals.

IPC encourages 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 Democratic Republic of Congo (DRC). We are concerned about the potential significant and unintended effects that the implementation of the regulations may have. In order to minimize these effects, IPC recommends that the SEC allow companies the flexibility to develop appropriate due diligence measures, recognize ongoing efforts to improve the transparency of the supply chain, address the need to phase in requirements, and provide the necessary time to implement these measures. It is important that the regulations acknowledge the realities of the situation on the ground in the DRC, the complexities of the international minerals trade, and the broad and diverse global electronics supply chain.

II. Description of Industry and Supply Chains

Supply chains in the electronics industry are extremely complex. At each step of the chain there are multiple suppliers, which are often located around the globe. *Figure 1* provides a very simple version of the global electronics supply chain. Most printed board assemblies contain dozens of components, often from several or more suppliers. Some complex printed board assemblies contain hundreds of components.

Figure 1
Simplified Electronics Supply Chain



DOWNSTREAM SUPPLY CHAIN

UPSTREAM SUPPLY CHAIN
Smelter, Mines, Comptoirs, Negotiants etc.

At the most downstream position in the supply chain is the Original Equipment Manufacturer (OEM). This is the company responsible for specifying, marketing, and distributing the product. The OEM's name is on the product. Some OEMs assemble or manufacture the final product internally, but the majority of OEMs outsource manufacturing to an Electronics Manufacturing Services (EMS) provider or contract manufacturer.

The EMS firm is often responsible for all manufacturing of the product sold by the OEM. In some cases, the OEM is responsible for subassembly design, for example a disc drive or memory card in a laptop computer, but in many cases, the OEM specifies all parts in the product through an Approved Supplier List (ASL). One of the key manufacturing steps carried out by the EMS is to attach *components* to *printed boards* with *solder*. Although each of these italicized items contains conflict minerals, the EMS typically does not control selection of suppliers or materials sources. The U.S. EMS industry has annual revenues of approximately \$43 billion.

Component manufacturers manufacture a broad variety of electronic components including *integrated circuits (chips)*, *connectors*, *capacitors*, *batteries*, etc. Many of these products contain one or more conflict minerals. EMS firms may obtain components directly from component manufacturers or from component distributors.

Printed Board (PB) manufacturers manufacture bare *printed boards*. The U.S. PB industry is approximately a \$3.1 billion per year industry. Many *printed boards* are finished with tin surface finishes. A number of printed boards also contain gold plating for specific electrical connections.

Solder manufacturers formulate and sell bar and paste *solder* to EMS firms for use in soldering *components* to *printed boards*. Almost all *solders* today contain significant levels of tin.

Chemical suppliers formulate and sell chemistry for gold and tin plating of *printed boards*.

Metals suppliers provide tin, gold, tantalum, and tungsten to chemical suppliers, component manufacturers and solder manufacturers.

While many members of the supply chain are large companies, some are very small companies with little leverage over their suppliers, let alone their suppliers' suppliers.

III. Establishing a Minerals Chain of Custody is Nearly Impossible for an Electronics Manufacturer

Due to the complexity of the supply chain, there are major challenges for downstream users attempting to establish a chain of custody from the mine to the product: 1) tracing conflict minerals from finished products back through complicated supply chains to the smelter, 2) tracing ores from the smelter back to the mines of origin; and 3) identifying which mines are conflict mines—that is, mines whose output is controlled by or taxed by warring factions.

A. Producers of Products Containing Conflict Minerals Do Not Have Visibility to the Entire Supply Chain

The assumption that downstream users are able to trace the metals in their products back to the mine assumes a supply chain is a transparent, linear process. In fact, it is a complex, multi-layered network of trading companies and suppliers where products are sourced and consolidated from multiple countries and multiple manufacturers.

Tracing metals from the smelter to mines is complicated by several factors. First and foremost is the nature of the metals themselves. While minerals are mined from the ground, it is metals refined from these minerals that are used in products built by companies subject to the reporting requirements. The smelting process, which converts minerals to useable metals through alteration of physical properties, combines minerals from many sources, making continuance of a chain of custody for original mineral lots impossible.

Typically, companies who purchase products that may contain conflict metals only have direct contact with the first tier supplier or company immediately upstream from themselves. In the case of OEMs utilizing an ASL, there may be selection of second tier suppliers and contact with these suppliers. However, the vast majority of upstream companies in the supply chain are often unknown or unavailable to the ultimate downstream user.

The complexity and length of the supply chain represents a real challenge when attempting to trace specific metals and the minerals from which they are refined. Although one might expect that a purchaser of products would know what is in the products they purchase, that is often far from the truth, especially in electronics manufacturing. In addition to the complexity of the supply chain, a desire to protect intellectual property often contributes to the lack of knowledge regarding product material content. Purchasers typically do not have the necessary leverage to force a supplier to disclose material content. This is particularly true for small and medium manufacturers (SMMs) in the supply chain, which typically have little leverage over their suppliers. Companies throughout the supply chain face significant challenges when trying to trace the conflict metals in their products.

Companies' attempts to gather data regarding the use of the six substances restricted under the European Union Restriction on Hazardous Substances (RoHS) Directive illuminates the difficulties involved in working with highly complex supply chains. When RoHS was first implemented, many electronics OEMs found themselves unable to assess whether their products contained the six substances restricted under RoHS. It took several years for the supply chain to develop knowledge and information regarding the presence of just six substances. Entire computer programs and databases needed to be developed to allow companies to efficiently query and store compliance data from hundreds of suppliers. The difficulty in gathering information regarding the use of conflict metals is expected to be similar.

B. Identification of Conflict-Free Conflict Minerals is Nearly Impossible under Current Conditions

Without improved governance and tracking from the mine to the smelter, it is nearly impossible for downstream users to certify with any level of credibility that their products are conflict free. The problems associated with minerals originate significantly upstream from the companies that are subject to the new legislation. Before the actions of downstream companies can have any effect, more must be done on the ground to: 1) accurately identify good versus bad mines; 2) implement a stronger system of governance to regulate the mineral trade; and 3) work with refiners and smelters to create a process for validating the source of minerals to downstream users. A study by the RESOLVE group found that,

“While expressing a desire to source responsibly, GeSI and EICC companies have found three major challenges for transparency down to the mine level: their supply chains are not sufficiently transparent to this level; their tracking capacity and accountability mechanisms to this level are missing or limited; and the on-the-ground capacity (in conflict regions) to differentiate sources and ensure independence from operations that may support warring groups does not exist. Metals from multiple mines and other sources are typically undifferentiated and mixed at various points in the supply chain, including by négociants, comptoirs, traders, and smelters.”

IPC members are participating in several multi-stakeholder efforts to address and improve transparency in the trade and manufacture of conflict minerals from the DRC and adjoining countries. These efforts are described in Section IV. We encourage the SEC to review the efforts of these groups and recognize their contribution to addressing the underlying goals of Section 1502.

IV. Ongoing Initiatives to Create Supply Chain Transparency

IPC members are committed to addressing the issues associated with conflict minerals and are actively working on both a domestic and international level to craft solutions. IPC member companies are participating in a variety of initiatives to develop industry wide protocols for removing conflict minerals from supply chains. These initiatives are systematically evaluating supply chains to determine the most effective measures to combat trade in conflict minerals.

Through these efforts, many obstacles have been identified and we are working together with non-governmental organizations (NGOs), international organizations, and other groups to overcome them. These efforts, though, highlight the difficulty in crafting a solution and further indicate the need for the SEC to take a measured approach with its rule making. Moreover, while it is important to look to these initiatives for guidance, until there is confidence that those processes are workable, the SEC should not create obligations or set standards for companies based on the industry or international organization initiatives. A phased approach should be considered until the activity currently under exploration creates accepted systems or processes. The RESOLVE group has also pointed out the difficulty in establishing a chain of custody stating,

“Currently, large-scale smelting facilities typically mingle materials from multiple sources as they are processed. Tracing a metal in a given product is also complex because the material sources vary, and can vary over the life of the product. A given product will often have several suppliers for a particular component, and thus tracing or tracking one supply chain is a snapshot unlikely to remain static or represent a complete supply chain picture.”¹

IPC urges the SEC to be cognizant of these difficulties and to provide sufficient time for the industry to build necessary compliance systems.

A. Ongoing Industry-Lead Efforts to Improve Supply Chain Visibility

1. ITRI Tin Supply Chain Initiative (iTSCi) Process

ITRI, a global organization representing the tin industry, has been working since early 2009 on the ITRI Tin Supply Chain Initiative (iTSCi), a phased approach towards improved due diligence, governance, and traceability of cassiterite from the DRC.² IPC’s Solder Products Value Council (SPVC), representing the world’s leading solder manufacturers, believes that smelters and mines are in the best position to develop and implement a system to ensure mineral traceability from the exporter back to the mine site and to develop chain of custody data. Furthermore, the IPC SPVC supports ITRI’s efforts to achieve that goal.

The iTSCi initiative has been widely welcomed with constructive feedback from the United Nations, the Organization for Economic Cooperation and Development (OECD) and a number of specialist non-governmental organizations (NGOs). Michael Biryabarema, director of Rwandan Geology and Mines Authority (OGMR) recently commented, “The recently agreed U.S. ‘conflict minerals’ bill presents many challenges to African mining and mineral trading businesses, not least the implementation of full and complex due diligence procedures that have not yet been prescribed in detail by relevant authorities. The iTSCi scheme can assist in mitigating the impacts of such regulation by meeting the anticipated requirements as far as possible within the exceedingly short timescales for compliance available to industry and national Governments alike.”³

The first phase of the iTSCi scheme began operation in July 2009. The goal of this phase is to ensure that all official export and evaluation documentation is available with mineral shipments for export. The first phase focuses on the immediate supply chain from the DRC exporter/comptoir to smelter and introduces due diligence procedures, which will ensure the legitimacy of suppliers and the mineral, which they export. A newly agreed procedure for recording a range of export documents, as well as a specially designed “comptoir certificate,” forms the basis of the first phase. The comptoir’s certificate will record a physical description of

¹ Resolve, *Tracing a Path Forward: A Study of the Challenges of the Supply Chain for Target Metals Used in Electronics*, April 2010.

² http://www.itri.co.uk/POOLED/ARTICLES/BF_PARTART/VIEW.ASP?Q=BF_PARTART_310250

³ 10 Sep 2010 Press Release, “ITRI and Rwandan Government to co-operate on iTSCi conflict mineral traceability scheme.” http://www.itri.co.uk/pooled/articles/BF_NEWSART/view.asp?Q=BF_NEWSART_320726

the material, together with the declared mine origin and transport route via the intermediate ‘negociant’ supplier.

Implementation of the iTSCi process in the eastern DRC is currently suspended because all mining activity in the eastern DRC has been temporarily suspended by the government of the DRC since September, 2010. In September and October 2010, the tin, tantalum and electronics industry project partners spent 10 days visiting the DRC and Rwanda in order to see recent progress in the iTSCi mineral traceability project implementation on the ground. The delegation also attended the joint International Conference on the Great Lakes Region (ICGLR) and OECD meeting in Nairobi to discuss due diligence guidance on mineral sourcing from conflict-affected areas.

Future phases of iTSCi will extend the level of knowledge by collating upstream supply chain information from mine to exporter/comptoir. At that stage ITRI intends to work with project partners within the DRC from relevant technical organizations and official services. A third phase of the project is envisioned to develop a more detailed set of supply chain performance standards and ratings that will allow both qualitative and quantitative assessment of a range of factors at each level of the supply chain.

2. The Electronic Industry Citizenship Coalition/ Global e-Sustainability Initiative

In 2009, the Electronic Industry Citizenship Coalition (EICC) and Global e-Sustainability Initiative (GeSI) launched a project to improve visibility in the minerals supply chain, with particular focus on identifying sources of specific minerals and understanding how the minerals move through their lifecycles — from mine to electronics manufacturing. A number of IPC’s larger members are directly participating in and supporting the EICC/GeSI initiative. A summary report of that research project, *Tracing a Path Forward: A Study of the Challenges of the Supply Chain for Target Metals Used in Electronics*, was published in April 2010 by the RESOLVE group, which lead the project. The RESOLVE group found that despite companies best efforts they, “face significant challenges due to a lack of transparency and complex structure and relationships in particular metals supply chains.”

RESOLVE’s research was built around an effort to trace the supply for these metals beginning with suppliers for GeSI and EICC member companies and then pursuing suppliers upstream in the supply chain. RESOLVE also undertook a review of supply chain initiatives relevant to the tin, tantalum, and cobalt supply chains, and the supply chain for other metals in electronics such as gold. RESOLVE sought input from a stakeholder advisory group of diverse organizations including GeSI and EICC members, international and local NGOs, mining companies, investors, and trade associations.

In 2010 EICC/GeSI launched a pilot tantalum smelter validation process. This process will identify smelters that can demonstrate through third party validation that they only source conflict-free material. Over the course of the next few quarters the program will be expanded to include tin and possibly other metals. The group continues to engage companies from all levels

of the tantalum mining and processing industry to drive toward a credible solution that promotes the responsible sourcing of tantalum.

3. IPC Materials Declaration Standard

IPC 1752 Materials Declaration standard for electronic data exchange of product materials information is expected to be modified to assist the electronics industry in validating supply chain compliance with conflict metals legislation and regulation. IPC 1752 Materials Declaration standard was developed to assist the electronics industry in exchanging data related to compliance with the RoHS Directive. When the RoHS Directive was first implemented, the electronics industry faced an enormous challenge in identifying the presence of six prohibited substances throughout a broad and deep supply chain. As a result of company's efforts to assess their use of these substances, members of the supply chain were sending and receiving dozens of materials declaration inquiries each week. In order to make this process more efficient and allow data to be shared across the supply chain, IPC formed the IPC Supplier Declaration Committee (IPC 2-18). The IPC 2-18 task group on materials declaration, which was responsible for development of IPC 1752 and the recently published revision, IPC 1752A, has begun conversations regarding the exchange of data related to compliance with the forthcoming SEC regulations on conflict minerals. It is expected that changes to the standard will be implemented once the SEC has finalized their regulations.

B. Organization for Economic Co-operation and Development (OECD) Framework Due Diligence Guidance

The Organization for Economic Co-operation and Development (OECD) is currently developing practical guidance for managing the supply chain of key minerals from conflict-affected and high-risk areas, with particular regard to the DRC, including relevant aspects of conflict financing, extortion, corruption/financial crime, human rights, security and transparency. OECD findings will be forwarded to the UN Group of Experts for consideration. While much attention is being paid to OECD efforts, IPC is concerned that this ongoing effort is only in the middle stages of development. Although much work has gone into the drafting of the guidelines, they have yet to be tested in any way. The current draft framework will be the subject to a twelve month pilot program to determine if the guidelines are feasible and implementable. Since the pilot program does not conclude until after the SEC will presumably issue a final rule, the SEC should not promulgate the OECD requirements into law as that would be premature.

V. Specific Recommendations for the SEC in Developing Regulations

The SEC should use its discretion in developing regulations that take into account the current lack of accurate information and the deficiency in the transparency associated with the tracking of conflict minerals. Given the reality of trade in minerals, we have identified the following areas in which we believe the SEC should apply their discretion during the rule-making process. By adopting the recommendations set forth below, the SEC will sharpen the regulation, target the requirements, and minimize the burden on those practicing legitimate trade. Without addressing the issues of timing, transition, due diligence, and recycled materials, the regulation could have a

substantial negative impact on the health of the U.S. economy, jobs, manufacturing, and exports while negatively impacting the welfare of the very people Section 1502 was intended to assist.

A. Timing of Implementation of the SEC Regulations

As discussed (Section IV), a number of governmental and non-governmental initiatives are underway to increase supply chain transparency for conflict minerals. These systems are in their infancy. Further, they are hampered by insecurity on the ground in the DRC as well as governmental actions that have shut down some of the mines for an unknown period of time. It is highly unlikely that a full scale-up of these programs will be possible by the April 2011 deadline imposed by Section 1502. The SEC should therefore use its discretion to implement a phased-in approach to the regulations requiring OEMs to declare whether the minerals used in their products are conflict-free or not.

Failure to establish a realistic, implementable time-line for required supply chain transparency will result in significant, negative unintended consequences for those engaged in legitimate minerals trade. As it will be impossible to implement measures to provide chain of custody from all conflict mines to smelters by April 2011, companies required to declare the conflict status of their products will likely seek supply chains outside of the DRC and the adjacent countries. While the minerals trade represents a significant, and often only, source of income for many in the region, the supply of minerals from this region is not critical to world markets. In order to be able to label their products conflict-free, OEMs will have no choice but to impose a de-facto ban on minerals originating in the DRC. This will impose real financial hardship the thousands of legitimate miners, traders, comptoirs and negociants in the region that depend on the minerals trade. In order to avoid these consequences, we recommend that the SEC adopt a schedule that will allow enough time for the implementation to supply chain traceability in the DRC so that legitimate trade can continue to provide critical financial support for individuals in the region.

B. Rules Are Needed to Phase in the Requirements

In order to make the reporting requirements useful and practicable, it is necessary for the SEC to implement transition rules to address minerals already present in the supply chain when the regulation is implemented. Additionally, regulations will be needed to address minerals from a mine that changes status from “non-conflict” to “conflict.” Without these transition rules, users of conflict metals will not be able to identify themselves as “conflict-free,” until the regulations have been in place for a number of years.

Although a number of efforts to institute smelter verification programs and thereby establish a supply of “conflict-free” minerals and refined metals are underway, it will be some time before these processes have been fully implemented and validated. It is therefore necessary to establish a transition period that exempts minerals or processed metals already at smelters, processing centers, or other downstream positions in the supply chain that was obtained prior to a specified implementation date. If there is no transition rule for materials already in the supply chain prior to a validation program then all smelted metals for the initial reporting will have to be reported as being of unknown origin. This is because manufacturers will be unable to obtain the information as all minerals are comingled without respect to country or mine of origin.

Similarly, products manufactured with the refined metals already incorporated in finished goods or from conflict minerals already in the suppliers' inventories prior to an established cutoff date should be exempt. This exemption will allow for the design and implementation of programs to impose identification requirements on their upstream supply chains. Again, absent a transition rule, filers will be forced to identify all products as containing conflict minerals of unknown origin in the initial reporting period.

We encourage the SEC to adopt a no-transubstantiation rule stating that if a mineral is 'conflict-free' when it arrives at the smelter, it cannot become "conflict-full" if it's mine of origin changes status during the period that the mineral/refined metal is moving through the supply chain. The State Department identified this as a challenge to properly identifying which mines are controlled by parties perpetrating atrocities. From the extraction of the minerals from the mines to the incorporation of the refined metals into products manufactured in the United States, significant time will pass and "conflict mines" will change status. For this reason, a no-transubstantiation rule is recommended.

C. Due Diligence

Section 1502 requires filers to report on the due diligence they have exercised over the source and chain of custody of minerals mined in conflict regions. It has been suggested that due diligence requires the company filing with the SEC to identify all parties between the mine and the SEC filer, i.e. the entire supply chain. This is both impracticable and inefficient due to the complexity of the supply chain and the nature of minerals processing. Instead, we encourage the SEC to allow companies to develop supply-chain implemented solutions that are efficient and effective

We urge the SEC to avoid defining "due diligence" in a manner that prescribes specific requirements for due diligence. Each company in the electronics supply chain is unique and has their own unique supply chain. Some companies are quite large and have extensive resources, while others do not. Given the diversity of companies and products impacted by future regulations regarding Section 1502, the SEC should avoid defining the particular details of what constitutes due diligence. We urge the SEC to provide companies the flexibility to develop a due diligence plan that is consistent with their supply chain and information available within.

Requiring each company filing with the SEC to identify and audit their entire supply chain is exceedingly inefficient. Rather, we submit that the filer work with its direct suppliers to promulgate requirements to use conflict free minerals/metals upstream. Specifically, we encourage the SEC to recognize the following elements of due diligence:

- Contractual obligations on direct suppliers to exclude conflict minerals mined in the Democratic Republic of the Congo or an adjoining country from goods supplied to the company subject to the SEC.
- Implementation of a risk-based program that uses company control processes to verify that suppliers are providing credible information and pushing contractual obligations upstream.

- Participation in, or reliance on, information gained from an industry wide or smelter validation process such as those described in Section IV of these comments.
- Reliance on government-produced information, such as the mapping of conflict regions assigned to the Departments of State and Commerce, should be presumed to satisfy the requirement that due diligence be reliable for those elements of due diligence that require working with suppliers to prevent sourcing from conflict mines or refiners using conflict minerals. In addition, the governments of the DRC and adjoining counties are engaging in an evolving set of measures to suppress trade in minerals from conflict mines.

The legislative requirement for companies to exercise due diligence over the source and chain of custody of conflict-minerals should not be interpreted to require the establishment of a chain of custody reaching from the product to the mine. Establishing a chain of custody over the metals that have been refined from conflict minerals must be recognized as impossible. While we recognize that the problem of conflict minerals originates in conflict mines, we also recognize that the mine of origin is often very far removed from the manufacturer required to report under the law. Further, once minerals have been processed into metals, individual lots of minerals can no longer be isolated. In such scenarios, tracing the chain of custody requirement to the smelter is exceedingly difficult, while tracing it beyond the smelter is nearly impossible. Any chain of custody for the origin of minerals must be recognized to end at the smelter. Therefore, we urge the SEC to clarify that the legislative requirement for companies to report to the SEC the measures they have taken to exercise due diligence on the source and chain of custody of minerals to mean that persons covered by the Act will report on the measures they have taken to ensure that the mineral processors involved in their supply chains identify the sources of conflict minerals in their products.

Given the nature of the situation on the ground in the DRC, it is important for the regulation to recognize that due diligence does not require 100% accuracy, given that certainty is not possible with the situation on the ground and the fluid nature of supply chains. Evidence that conflict minerals may have entered a supply chain despite the exercise of due diligence should not render a report unreliable if the reporting person has exercised reasonable care in conducting its due diligence process. As stated by RESOLVE, “Processed material can be deemed “conflict free” only if all material entering a processing facility is tracked or batched and handled separately from materials of different origin... 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% sourcing certainty about individual metals or the product as a whole without significant alterations and/or assurance mechanisms in their supply chains. Success requires confidence in supply chain relationships and new strategies, such as direct sourcing, or innovations, such as minerals tagging or fingerprinting. Movement is likely to come in a step-wise manner.” We urge the SEC to be cognizant of existing limitations and developing compliance schemes when developing requirements.

D. Exemption for Recycled Minerals

The regulations should specifically exempt recycled or reclaimed metals, as downstream users have no ability to trace the origin of the original minerals. 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.

We believe Congress intended to regulate ore and metal refined directly from minerals mined from the DRC and adjoining countries. Exempting recycled or reclaimed metals does not contradict the congressional intent, to stop funding the atrocities in the DRC. The DRC rebel groups are funded by operating mines to extract and sell ore, and by extracting tariffs from those transporting ore. The DRC rebel groups do not obtain revenue from trading in recycled materials. Accordingly, recycled metal was not intended to be covered by the statute and should be excluded in the SEC's regulations.

Furthermore, given other government efforts to encourage recycling in electronics and other industries, we presume that the SEC would not wish to contradict recycling promotion by failing to provide necessary exemptions for recycled metals.

VI. Economic Impact

We believe the regulation should be implemented in a manner that minimizes costs and the burden on companies without diminishing the intent of the legislation. We encourage the SEC to conduct a thorough cost analysis on the impact of this regulation before issuing a final rule. The overall impact on the economy is likely greater than \$100 million (the threshold established in E.O. 12866 to warrant further scrutiny of a proposed rule by the Office of Management and Budget (OMB)). Expected costs to comply with the regulation include new computer systems to track, store and exchange data regarding mineral origins; evaluation of products; review of the supply chain; modification of supplier contracts; participation in smelter validation programs; and independent third party audits.

SMMs will be disproportionately affected by the requirements under this regulation. SMMs will face larger per unit compliance costs because they have smaller business volumes and more limited resources with which to conduct audits and manage the required documentation. Additionally, SMMs may have difficulty in controlling their suppliers sourcing of conflict minerals as their small size affords them limited leverage over their suppliers. SMMs do not have the customs and compliance staff typical of larger corporations and companies thus making compliance efforts even more difficult. As required by the Regulatory Flexibility Act, the SEC must provide economic analysis on the impact to small businesses. To ameliorate the impact on SMMs, we encourage the SEC to allow maximum flexibility in the implementation of Section 1502.

VII. Conclusion

IPC is committed to addressing the use of conflict minerals and is actively working with many of its members on both a domestic and international level to address the issue. IPC member companies are participating in a variety of sector specific initiatives to develop industry wide protocols for removing conflict minerals from supply chains as well as with international

organizations. Given the broad potential impact of these regulations on the day-to-day operations of manufacturing companies throughout the United States, and the impacts on legitimate trade in the DRC, we urge the SEC to exercise caution when implementing regulations under Section 1502 of the Dodd-Frank Act. Specifically, we encourage the SEC to allow maximum time and flexibility for industry to implement these potentially far-reaching rules. We encourage the SEC to allow companies the flexibility to develop appropriate, supply-chain-based due diligence processes. We also encourage the SEC to develop appropriate exemptions for recycled materials and materials already in the manufacturing supply chain at the time these regulations are implemented. Finally, we ask the SEC to conduct a thorough economic analysis of the draft regulations to ensure that they have implemented the underlying goals of the legislation without imposing undue burden on manufacturers and the American economy.

We look forward to continuing to work with the SEC. Please contact me should you have any questions.

Fern Abrams
Director of Government Relations and Environmental Policy