



**Fédération des
Entreprises du Congo**

**DIRECTION PROVINCIALE DU
NORD-KIVU**

**Ms Mary SCHAPIRO,
Chairman Securities and
Exchange Commission
100 F Street NE
Washington D.C. 20524**

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COMMENTS ON SECTION 1502 of the DODD FRANK

Dear Chairman,

I am writing to you as the Vice President of the Mining Chamber of the DRC in charge of the 3T, regarding the conflict mineral final rules which will be released soon.

This year, I had the opportunity to work twice with your staff in Washington and discuss with them on the very strict interpretation of the section 1502 of the Dodd Frank by the end users and its very negative impact on the mining industry not only in eastern of the D.R.CONGO on tin, tantalite and tungsten but many peaceful areas as well, even in our neighboring countries.

As mentioned in our previous letter dated on 25 February 2011, we raised serious concerns about the interpretation of the Dodd Frank by the end users and the risk of a "de facto embargo" on minerals coming from eastern of DRC especially the provinces of North-Kivu and South-Kivu. The de-facto embargo we expected is very real and causes very big problems to the whole economy and stability of the area.

In our letter we were requesting more time to allow us at least to export the pending stocks which were purchased before the 1st of April 2011, the deadline created by the EICC smelter audit program. There is still no answer to this problem and some of this material is still in the provinces of North-Kivu, South-Kivu and the best buyers are reluctant to buy it. What can we do with this mineral? We can neither take it back to the mine nor sell it.

We also mentioned in our letter that the "de facto embargo" will jeopardize all the efforts made by the local industry and will harm thousands of artisanal miners who rely on the mining in eastern of D.R.CONGO; we can confirm today that as expected there is more smuggling activities, very big decrease in revenue of the Government of DRC, huge impact on the live hoods of thousands of Congolese, there is no more formal business in the Kivus due to this interpretation of consumers which is far more than the requirements of the law and does not give chance for the improvements that had already begun to work.

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We could confirm today that we do have all the tools which will help in:

Traceability with the ITSCI scheme with ITRI which gave well results in Katanga and we do hope that the scheme will be starting soon in North-Kivu, South-Kivu and Maniema but it seems that maybe if the mining industry is willing to invest in these areas for traceability and for mining development we still cannot move forward until US companies are willing to buy our clean metals.

We are working on the traceability also with BGR which is a German funded project in eastern of DRC on tin, tantalite, tungsten and gold.

Due diligence with the UN Group of experts, the OECD and the ICGLR with the guidelines endorsed by all the stakeholders, today we can confirm as the private sector body in DRC, the Fédération des Entreprises du Congo (FEC) gave its best to support the guidelines and we do believe it responds to all the questions raised on the concept of "conflict minerals".

We advised our Government to ask all the private sector to comply with the guidelines and to put it in our legal framework, this was already done and it is a must for all the companies to comply with the guidelines.

The ITSCI project is also supporting and based on OECD guidelines. The industry and Government all strongly hope that the guidance for upstream companies dealing in African minerals will be accepted as the standard for the SEC rules.

Certification with the ICGLR, the tools of ICGLR were endorsed by all the eleven countries last year by the Head of States of the Great lakes region in Lusaka, this shows the commitment of all the region to fight against the illegality in the exploitation of natural resources within the region.

We spent more than two years to get all this tools mentioned above hoping that this will help to cut the links between the armed groups and our business, improve the situation of human rights on ground, fight against those who are collecting illegal taxes, fight against the child labor but we can say that unfortunately while we have this tools, the result was the "de facto embargo" with its consequences on ground.

We all mentioned in the letter sent to you by the UN Group of Experts, the OECD and the ICGLR that we strongly support the guidance, its concept of mitigation and do think that this is the solution to the concept of conflict minerals in the great lakes region and recommend that the regulations from the SEC to be in the spirit of the guidelines.

We need you to help us with such a difficult situation. We need the 'DRC conflict' and 'DRC conflict free' definitions to be the ones from the Annex II of the OECD; otherwise everyone will still be confused about what to buy and what not to buy – and eventually the embargo will never end.

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We do strongly believe in cutting the links between the armed groups and our business hence support the guidelines in bringing more transparency in natural resources in the DRC in the interest of thousands of Congolese and helping our country to get more revenue from "clean supply chain" in D.R.CONGO but we also need time to recover from the terrible effect of the embargo and begin our due diligence projects again, whenever we can find buyers for the metals that we produce. We hope that you might phase-in the disclosure and audit rules so that we have a chance to do this.

John NSANA KANYONI



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Vice President of the Mining Chamber
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