

TANTALUM-NIOBIUM INTERNATIONAL STUDY CENTER

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Mary L. Shapiro, Chairman,
Securities and Exchange Commission,
100 F Street, NE,
Washington, DC 20549,
U.S.A.

**(Submitted via email:
rule-comments@sec.gov)**

November 11th 2010

Subject: Dodd-Frank Wall Street Reform and Consumer Protection Act

Dear Ms Shapiro,

I am writing to you on behalf of the Tantalum-Niobium International Study Center (T.I.C.) with regard to Section 1502 Conflict Minerals Supply Chain, incorporated within the Miscellaneous Provisions of the above Act passed by the U.S. Senate and signed into Law by President Obama in July of this year.

The T.I.C. is the largest association focused on the tantalum and niobium industries, and has a broad based and world-wide membership encompassing all levels of the industry, including the majority of the significant miners and traders, processors and producers, as well as some Original Equipment Manufacturers (OEMs). Tantalum has many application areas, including the electronics, automotive and aerospace industries, and the medical field.

As early as 2002 we sought, and received, assurances from our members that they only purchased from legitimate and ethical sources; although we accepted we would not be in a position to 'police' this. However, two years ago, the association determined the need to be more proactive, and, in 2009, our membership ratified a new Policy requiring members to carry out appropriate and auditable Due Diligence. Earlier this year, considering that tantalum and tin have a very similar upstream supply chain, we joined forces with ITRI Ltd in piloting Phase 2 of the iTSCi scheme, that requires that every bag of concentrate leaving the minesite can be fully traced not only with appropriate Government documentation, but also is sealed with a uniquely numbered tag provided only to legitimate mines by the iTSCi scheme local management, Pact Inc.

Piloting of this scheme at a site in Southern Kivu had shown much promise, and confirmed that – with a few minor modifications – the tagging process provides an excellent, and cost effective, tool for the traceability of mineral from minesite to export. The iTSCi scheme focuses on the 'upstream' portion of the supply chain – that is mine to processor (smelter) – on the basis that

ore from one source, once processed to metal or chemical, is indistinguishable from any other ore.

It is important to note that the scheme has the full cooperation of the Government of the DRC who work closely with the scheme's managers. Both the T.I.C. and ITRI Ltd have been active on the OECD Working Group developing Due Diligence Guidelines for Responsible Supply Chains; as a result the iTSCi scheme will be a key element in the Guidelines. We are confident, too, that it will be given full consideration in the forthcoming ICGLR procedures.

While columbotantalite (colloquially called 'coltan' in the region) is of relatively minor importance compared with, for example, gold, it is clear that the T.I.C. is fully committed to breaking the link between mineral trade and conflict finance. The T.I.C. is therefore broadly supportive of the U.S. Legislation, and looks forward to the Regulations currently being developed adding clarity to some of the clauses that are currently somewhat ambiguous.

We hope that the Regulations, with the help of the Conflict Map to be developed and maintained by the Departments of State and Commerce, will clearly distinguish between those parts of the DRC that should be classified as 'conflict zones' and those that are not. For example, historically, close to one half of the columbotantalite exported from the DRC has originated from minesites in Katanga Province, that is outside of the generally accepted 'conflict zone'. The T.I.C. is completing a study to implement the iTSCi scheme in Katanga as quickly as possible and it would certainly be beneficial, not just to the tantalum and niobium industries, but also to miners and traders from Katanga, to be assured that properly traced material from that province will not be subjected to a country-wide ban. It is further hoped that the Conflict Map – and Regulations – will distinguish between legitimate and non-legitimate minesites even within the Eastern Provinces that are otherwise broadly regarded as the 'conflict zone'.

It should be noted that the supply chain is quite lengthy – approximately nine months will elapse between mining of the ore and production of the finished metal or chemical fit for use by OEMs. Indeed, depending upon the supply/demand relationship, this chain can be significantly longer, as worldwide inventories have been known, even in recent years, to exceed two years of consumption. This needs to be taken into consideration during the development of the Regulations. For example, considering that there remains some fluidity in the 'conflict zones', it will be important that 'legitimacy' relates to the time of mining of the ore, not to its date of eventual processing.

As we currently understand it, the timing of implementation of the Regulations as required by the legislation will mean that material that is not properly traceable (i.e. 'tagged') and at the point of export by April 1st 2011 will be unacceptable to our end users. This is a very tight timeline, and it will be very difficult to 'roll out' the iTSCi scheme by then, even in Katanga, let alone throughout the DRC: this has been exacerbated by the recent moratorium imposed by President Kabila on mining in the Eastern Provinces of the DRC. This expedited regional roll-out cost is approximately US\$6 million, and financial support is being sought for this: once running, the levy paid by exporters and processors (smelters) should result in the scheme being self funding.

The OECD Guidelines, which are in the final stages of development, allow for a 'mitigation' period. It is to be hoped that the Regulations support this concept, especially during their early implementation phase: we are sure you are fully cognizant that this is not a clear-cut issue and that at some sites occasional infraction will doubtless continue to occur – hopefully to a rapidly dwindling level - notwithstanding the best efforts of all actors within the supply chain. The search for perfection might indeed be counter-productive.

From a more regional perspective, we are pleased that the Government of Rwanda has recently signed an appropriate Memorandum, committing to roll out the iTSCi scheme throughout

Rwanda by April 1st 2011. It is to be hoped that the Regulations clearly state that minerals originating from, and confirmed to be originating from, Rwanda as well as other Central African countries will not be classified as 'conflict' minerals.

The T.I.C. and its members will be happy to collaborate with the SEC as you finalise the Regulations. It is to everyone's best interest that they are firm, but fair. The last result that anyone wishes is for a set of Regulations so restrictive that companies subject to the Regulations simply disengage from Central Africa. This will have an enormous negative impact on a major stakeholder - the millions in Africa directly or indirectly dependent on the mining industry for their livelihood; hardly a socially acceptable outcome.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R. Burt', is positioned above the typed name.

Richard Burt
President
Tantalum-Niobium International Study Center