

August 1, 2011

By Fax

Chairman Mary L. Schapiro
Commissioner Luis Aguilar
Commissioner Elisse Walter
Commissioner Kathleen Casey
Commissioner Troy Paredes

Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Dear Chairman and Commissioners,

On behalf of civil society organizations in Eastern Congo, we write to express our strong support for Section 1502 of the Dodd-Frank Act and to urge the Securities and Exchange Commission (SEC) to issue the final rules no later than August.

The purpose of the law, as we understand it, is to address the urgent humanitarian situation in the Eastern Democratic Republic of Congo (DRC) by curbing the trade in conflict minerals. Therefore, it is crucial that the final rules allow no delays in implementation, including delays in reporting requirements.

Specifically, companies should not be allowed to report that the minerals in their products are of indeterminate origin; rather, if companies fail to determine the origin of the minerals in their products, they must describe them as "Not DRC-Conflict Free" in their Conflict Minerals report. Otherwise, a perverse incentive is created for companies not to engage in full due diligence, so that they may truthfully characterize their minerals as "indeterminate" for as long as possible. While "indeterminate" may sound better for public relations purposes, the truth today is that an unknown origin is worse than knowing the origin is DRC. The latter implies that the company has undertaken greater efforts to determine origins, and this will sooner be in a position to eliminate human rights abuses and profits to illegal armed groups from their supply chain.

Any delay or phase-in period will have adverse impacts on the ground in eastern Congo. Delays violate the aim of the provision to cut off financing to armed groups, undermine efforts to reform the mining sector in the region and demilitarize eastern Congo mining areas and remove incentives for companies to quickly adopt due diligence measures as mandated by the law. We also urge the SEC to incorporate the UN/OECD due diligence standards as part of its final rules.

We are strongly opposed to delays for the following reasons:

1. Delays exacerbate the ongoing humanitarian crisis in eastern Congo and impede efforts to demilitarize mining areas

The human rights situation in the eastern Congo is dire. Human rights abuses, including gender-based violence such as sexual slavery, forced recruitment, forced prostitution, and rape in artisanal mining areas in eastern Congo, have reached catastrophic proportions. The UN Joint Human Rights Office in the DRC reported that over 300 civilians were raped by armed groups in an incident that took place in August 2010, in three villages located close to mining sites. The UN investigation revealed a direct link between the violence and competition over access to minerals.ⁱ

Members of the Congolese army and rebel groups have made tens of millions of dollars from illegal control of the mines and illicit taxation of minerals along trading routes. Artisanal miners often face harsh living and working conditions and “...quickly find that slavery, extortion and fraud they are confronted with on a daily basis in the mining zones make the cost of living prohibitive”ⁱⁱ.

The Congolese government has expressed strong support for the conflict minerals provision as a “major opportunity to break the links between conflict, and production and trade in minerals” from DRC.ⁱⁱⁱ The provision has already played a significant role in pressuring the authorities in the DRC to begin to attempt to reform the artisanal mining sector which continues to support warlords and dubious businesspersons, exacerbate sexual violence and child slavery, block economic diversification, and inflict significant environmental damage on the region. For over five years, factions of the Congolese national army have made millions of dollars per year through illegal mining and extortion of the trade at the Bisie mine alone^{iv}. But even though the involvement of some of the Congolese army units is still valid as evidenced by the UN Group of Experts’ interim report, the Congolese army has withdrawn from Bisie, the largest tin mine ore in the region, accounting for 70% of the cassiterite in North Kivu province.

Companies must be required to carry out supply chain due diligence immediately in order to make the most of the opportunity to establish a clean trade in minerals from eastern Congo that will allow for the creation of a legitimate mining sector that benefits Congolese citizens and cuts off funding to abusive armed groups. Delays in implementation would seriously jeopardize progress that has been made so far and hinder further efforts by the Congolese government to demilitarize the mines and further reform in the mining sector.

2. Delays in implementation would remove incentives for companies to comply with the law and carry out due diligence measures now

Section 1502 has provided a major impetus for companies to move forward over the past year with a number of initiatives to combat the trade in conflict minerals. In its most recent report, the United Nations Group of Experts on the DRC stated that the Dodd-Frank Act “...has proved an important catalyst for traceability and certification initiatives and due diligence implementation in the minerals sector regionally and internationally”.^v

The UN Group of Experts’ first report on the trade in conflict minerals was published in 2000, but it is only since the conflict minerals provision was passed last year that industry initiatives to address this deadly trade have been developed. In anticipation of the law, the Electronics Industry Citizenship Coalition (EICC) and the Global e-Sustainability Initiative (GeSI) have designed the Conflict Free Smelter (CFS) scheme to audit due diligence measures carried out by companies that

process the four minerals covered by Section 1502. Delays will decrease the incentive for companies to quickly implement due diligence measures that are urgently needed to stop fuelling conflict in eastern DRC. This will impede efforts to establish a clean trade in minerals and reduce the violence on the ground.

Conclusion

Section 1502 was prompted by the U.S. Congress' concern "that the exploitation and trade of conflict minerals originating in the DRC is helping to finance conflict characterized by extreme levels of violence in the eastern DRC..." In order for this provision to be effective in addressing an urgent humanitarian crisis, we urge the SEC to issue the final rules no later than August, incorporate the UN/OECD due diligence standards into the final rule and to follow the clear intent of the law by allowing no delays or phase-in periods for implementation and reporting requirements.

Yours sincerely,

Nord Kivu Civil Society Groups:

1. For North Kivu Women's Synergy for Sexual Violence Victims, or **SFVS** (Standing for 35 women's rights local organizations):
Justine Masika BIHAMBA, Coordinator



2. For **SOS Africa**:
Fidel Bafilemba, Board Members President



3. For the Research Center on Environment, Democracy and Human Rights, or CREDDHO:
Lwayer Gautier Misonia, Coordinator



4. For Small Farmers' Development Initiatives, or **ASSODIP**:
MURAIRI Janvier, President

ⁱ MONUSCO and UNHCHR, Rapport Préliminaire de la mission d'enquête du Bureau Conjoint des Nations Unies aux Droits de l'Homme sur les viols massifs et autres violations des droits de l'homme commis par une coalition de groupes armés sur l'axe Kibua-Mpofi, en territoire de Walikale, province du Nord-Kivu, du 30 juillet au 3 août 2010, 24 Septembre, 2010

ⁱⁱ Free the Slaves, The Congo Report: Slavery in Conflict Minerals, June 2011

<http://www.freetheslaves.net/Document.Doc?id=243>

ⁱⁱⁱ Letter to the Securities and Exchange Commission from the Minister of Mines of the Democratic Republic of Congo, July 15, 2011

^{iv} Global Witness, Congo's Minerals Trade in the Balance, May 2011

<http://www.globalwitness.org/sites/default/files/library/Congo's%20minerals%20trade%20in%20the%20balance%20low%20res.pdf>

^v The United Nations Security Council, Group of Experts on the DRC, June 6, 2011

http://www.un.org/ga/search/view_doc.asp?symbol=S/2011/345