



By E-mail

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

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

Dear Chairman and Commissioners,

The International Corporate Accountability Roundtable (“ICAR”) is a coalition of leading human rights groups including Amnesty International, EarthRights International, Global Witness, Human Rights First, and Human Rights Watch. ICAR, along with our partner the Enough Project, submit this update to your offices concerning recent news articles and blog posts made in support of Section 1502 of the Dodd-Frank Act, and of the SEC crafting strong rules to give full force to the law’s intent. We reiterate our request that the final rule allow for no delays in implementation, including delays in reporting requirements. We also ask that the SEC issue the final rules as soon as possible.

Enclosed, please find:

1. Global Witness Fact Sheet on Conflict Minerals;
2. Article by Salil Tripathi, Director of Policy at the Institute for Human Rights and Business, published in the Guardian;
3. Article by Sasha Lezhnev, Policy Consultant at the Enough Project, published by the Huffington Post;
4. Article by Jason Stearns, an academic who has spent 10 years working on DRC issues and was named by the UN to lead a special investigation into the violence in the country;
5. Four Letters to the Editor, published in the New York Times;
6. Post by Brilliant Earth Jewelers, published on Greenwala.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Amol Mehra", written in a cursive style.

Amol Mehra
Coordinator
International Corporate Accountability Roundtable

1. From Global Witness

THE DODD FRANK ACT'S SECTION 1502 ON CONFLICT MINERALS

For over a decade, the trade in conflict minerals has fueled human rights abuses and promoted insecurity in eastern Democratic Republic of the Congo (DRC). The Dodd Frank Wall Street Reform and Consumer Protection Act, passed by the US Congress in July 2010, includes a provision – section 1502 – aimed at stopping the national army and rebel groups in the DRC from illegally using profits from the minerals trade to fund their fight. Section 1502 is a disclosure requirement that calls on companies to determine whether their products contain conflict minerals – by carrying out supply chain due diligence – and to report this to the Securities and Exchange Commission (SEC).

This legislation has the potential to make a significant impact on the ground in the DRC; however, there has been considerable fear-mongering and spreading of misinformation about its requirements and likely impact. This document seeks to clarify some of the most common misconceptions.

1. Dodd Frank 1502 does not place a de facto embargo on minerals from the DRC

Dodd Frank 1502 is a disclosure requirement only and places no ban or penalty on the use of conflict minerals. If companies discover they have been sourcing conflict minerals from DRC or adjoining countries, it is not illegal for them to continue doing so; however, they must report this to the SEC.

Critics of the law are arguing that whatever its intentions, it will in practice end the trade in minerals mined in the east of Congo. It is true that mineral exports from the region have dropped significantly in recent months, and that this has forced many artisanal miners to seek alternative livelihoods. The downturn stems from a six month suspension of mining and trading activities imposed by the Congolese government and an overly restrictive interpretation of Dodd Frank by industry associations. It has serious implications for miners and their families. The idea that the current hiatus is a permanent shut-down of the trade is misplaced, however. Indeed, despite alarmist talk of an end to eastern Congo's minerals sector, the past few weeks have seen major international companies unveiling plans to invest in and source from mines in areas of Congo covered by the law.

Amidst the claims of some international observers that the law is a disaster for Congo, it is worth noting that the Congolese government has publicly expressed its support for Dodd Frank in a letter to the SEC and that the measure is also backed by mining sector officials in eastern areas of the country that are most directly affected. As the Governor of North Kivu province said to Global Witness researchers in April this year: the war has been going on since 1996, why didn't the US government pass this law ten years ago?

2. Implementation of the law should not be delayed; companies have had ample time to prepare

The problem of conflict minerals has been widely documented for a decade now and businesses have long been aware of the harmful impact their purchases can have. Despite having many years to put the necessary control measures in place, most companies did not begin even paying lip service to changing their practices until the threat of a US law materialised

two years ago. The sad reality is that the majority of businesses will not live up to their responsibilities until legally compelled to do so. A delay in the implementation of the law means further scope for armed groups in Congo that kill and rape to finance themselves via the minerals trade.

The conflict minerals trade contributes to a dire humanitarian situation in the east of Congo. Human rights abuses, including gender-based violence such as rape and sexual slavery, 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 in North Kivu province. The UN investigation revealed a direct link between the violence and competition over access to minerals. In June this year, several people were killed in the same region during fighting between two armed groups that were contesting a lucrative mining site.

It is well understood that many companies, in the first year of the law's implementation, may not be able to say if they are sourcing from DRC or adjoining countries. However, through full compliance with the law, companies can lay a foundation for following years and improve on their supply chain due diligence and the data they are able to generate. Here it is worth recalling, once more, that there is no penalty if companies cannot determine whether the minerals they use come from DRC or neighbouring countries. The consequence for businesses that find themselves in this situation is that they have to submit to the SEC a 'conflict minerals report'.

Delays to the implementation of the law may also deter and even undermine companies that have begun making efforts to improve their supply chain controls, for example via the industry driven Conflict Free Smelter programme. This concern is voiced in a letter to the SEC in June this year from a major international smelter of tantalum: "We urge the SEC to issue the final regulation for Section 1502 as soon as possible so that industry has certainty regarding the implementation process, and so that companies that currently source conflict minerals do not enjoy a competitive advantage.

3. Dodd Frank 1502 targets abusive units of the Congolese army as much as it does militias

A recent New York Times article argued that the law is no longer relevant because militias or rebels it was designed to target have now joined the government army. This assertion is completely misplaced. Dodd Frank 1502 targets units of the Congolese army as much as it does militias precisely because the army is comprised largely of ex-rebels, is the major player in the conflict minerals trade and regularly commits appalling crimes against the civilian population. Furthermore, militia groups still control and benefit from minerals in certain areas of eastern Congo. The notorious FDLR rebels derive significant profit from the trade in gold, and a recent violent clash between two other armed groups in North Kivu's Walikale territory was partly motivated by competition over a newly discovered tin ore deposit.

4. It is possible for manufacturing companies to identify which minerals smelter produced the metal they use

Section 1502 requires that companies take steps to determine if the minerals in their products originate from DRC or adjoining countries. To know with any degree of certainty the origin of the minerals they use, companies must first find out who their processors or smelters are. Global

Witness is recommending to the SEC that all companies be required to 1) identify and publish their smelters; 2) verify the smelter's chain of custody documents; and 3) watch out for 'red flags' which may indicate the minerals come from DRC and adjoining countries.

Some companies have stated that this process is too costly and difficult to undertake. However, Global Witness field researchers have been able to track supply chains into DRC and neighbouring countries, with significantly less resources and funds than are available to multinational corporations. To establish these tracking and reporting systems companies can pool their resources and work together to comply with the legislation.

Weak infrastructure and institutions in DRC speaks to the need for more stringent country of origin requirements, rather than more lenient ones. Since these systems are currently under development, more effort will be needed initially to ensure that the information disclosed is accurate and reliable.

There are actually only a handful of smelters globally that deal with tin, tantalum and tungsten. According to the Information Technology Industry Council (ITIC) there are less than 20 major tantalum processors, and research done by Global Witness indicates that there are fewer than 20 major tin smelters and less than 15 major tungsten smelters.

In February, Apple released its "2011 Supplier Responsibility Report" in which the firm details how it traced its supply chain, first to the suppliers that create the subcomponents to their products and then to the smelters that processed the ores. Intel has already conducted "on-site reviews on 11 tantalum smelters in six different countries" as part of the Conflict Free Smelter programme.

5. The SEC should lay down a common, internationally recognised standard for supply chain due diligence that applies to all four minerals covered by the law

Although there is some variance amongst supply chains, they do not differ significantly enough to warrant different due diligence requirements. In the 2010 report, *Do No Harm*, Global Witness maps out the route, from mine to manufacturer, which minerals travel to demonstrate that the supply chain is not as complex as some corporations would have it seem.

A clear due diligence standard is necessary in order to provide accurate, consistent and reliable information in the reports companies submit to the SEC. If issuers are allowed to choose from a variety of different measures, some are likely to choose the ones with the least stringent requirements. Global Witness is recommending that the SEC, in its final rules, states unequivocally that the due diligence requirements for Section 1502 of the Dodd Frank Act are exactly the same as those already adopted by the OECD and the UN Security Council. In July the OECD sent a letter to the SEC signed by nearly 200 companies, governments and Congolese and international NGOs which makes the same recommendation.

The due diligence standards adopted by the OECD and the UN Security Council consist of a five point framework that includes on the ground risk assessments and audits. The OECD guidance is the product of a tripartite working group comprising companies, governments and NGOs.

More information on the standards can be found at http://www.oecd.org/document/36/0,3746,en_2649_34889_44307940_1_1_1_1,00.html.

2. From Salil Tripathi, Guardian

Ignore the naysayers, restrictions on DRC conflict minerals remain vital

US legislation to encourage transparency in the trade of precious resources might mean a loss of income for Congo's artisanal miners, but the alternative is prolonged conflict



Critics say resource governance endangers the livelihoods of the DRC's mineral traders, but is the alternative continued conflict? Photograph: Katrina Manson/Reuters

A string of recent media comments have argued that a piece of US legislation aimed at ending conflict in the Democratic Republic of Congo (DRC) actually hurts civilians.

Pieces in the [Wall Street Journal](#), [Christian Science Monitor](#) and the [New York Times](#) all make the same point – that requiring companies to identify the source of their minerals will drive investment away from the DRC and keep people poor. It is a familiar argument, often made with regard to economic sanctions. It is also simplistic and wrong.

Critics say that, despite good intentions, the Wall Street Reform and Consumer Protection Act, popularly known as the Dodd-Frank Act, harms the poorest artisanal miners in the Congo. The relevant [section of the Dodd-Frank Act](#) (pdf) requires companies purchasing minerals from Congo to disclose measures taken to exercise due diligence on the sources and supply chains of specific resources associated with conflict in the region.

As with diamonds from Sierra Leone, Liberia and Angola in the 1990s, minerals from the DRC provide revenue for armed groups to buy weapons to continue fighting. Eastern Congo, where these minerals are found, is an area where murders, massacres, rapes, and other acts of gender-based violence are widespread. According to Global Witness, [companies from around the world](#), including [China and Malaysia](#), are working to extract the region's precious resources. To gain access, they must deal with commanders accused of ordering mass atrocities. This exposes them to potential [criminal liability and complicity](#) in rights violations.

Critics rightly contend that requiring companies to demonstrate they are not contributing to conflict will result, at least in the short term, in some leaving the DRC to source minerals elsewhere. When

that happens, artisanal miners lose income and, without alternative employment opportunities, many will be pushed deeper into poverty.

But [Global Witness](#) and the [Enough Project](#), which have spearheaded international campaigns against sourcing minerals from the DRC, aren't naive. They are aware of the impact of such measures on artisanal miners, but also see a greater evil: prolonged conflict. The problem is that the role of natural resource exploitation in the ongoing crises in the eastern DRC is [complex and defies a quick fix](#); it is a reminder that resource governance is an [enduring challenge in fragile states](#). Should similar measures – the ethical sourcing of cocoa from Ivory Coast, sugarcane from Caribbean islands and South America, diamonds from Sierra Leone, and cotton from Uzbekistan – also be given up where they impact negatively on local job opportunities? Restrictions on conflict minerals alone won't end unrest in the DRC. But not having any restrictions on products known to fuel conflict, ostensibly to preserve livelihoods for the country's people, won't make matters better, either.

Instead, for the Dodd-Frank Act to work, we need a more comprehensive, global approach. Examples of initial, co-ordinated efforts include the Organisation for Economic Co-operation and Development's work [to help companies procure minerals responsibly](#). There are also initiatives by the World Gold Council and jewellers' associations [to eliminate links with conflict](#). Such campaigns suggest major actors are eager to support serious measures. But greater co-ordination is still needed.

The challenge for companies working in the DRC and other difficult environments is to develop measures which ensure they source from entities not party to conflict. It would be a shame if they were to shirk that responsibility now the [UN Framework for Business and Human Rights and Guiding Principles](#) is in place as an authoritative basis for government and corporate action at all levels. For the international community, meanwhile, the task is to establish conditions in which economic activity that promotes peace and sustainable development can flourish. That means providing more resources for peacekeeping, preventing the flow of illegal arms, and prosecuting war criminals.

Governments cannot outsource those critical measures to business. Business cannot avoid [calls for due diligence](#). Both must act to improve the lives of people in the DRC.

3. From Sasha Lezhnev, Huffington Post

What Conflict Minerals Legislation Is Actually Accomplishing in Congo

Ending the world's deadliest conflict is no easy task, but a growing consensus of Congolese civil society, electronics and metals companies, investors, and governments are now taking action to do so. A chief driver of their work is the Dodd-Frank legislation on conflict minerals, which is why [a coalition of 40 Congolese human rights groups](#) called it "the leverage needed to instill and impose ethical business practices in the Great Lakes region."

David Aronson's op-ed "[How Congress Devastated Congo,](#)" misses the critical link in eastern Congo: the continuing role of the minerals trade as a fuel for violence and a major source of revenue for armed groups and military units responsible for atrocities. The [Dodd-Frank legislation](#) is the first policy initiative to start to change that equation in 15 years. Change will not come overnight, but the fact is the bill is setting into motion a series of modifications that will have lasting effects on the conflict.



Sasha Lezhnev/Enough Project

The economics are a driver that must be addressed, because the minerals trade fuels and enables the structures of violence and poor governance in eastern Congo. But we must also provide support to mining communities, promote responsible investment, and improve justice and security measures.

In trying to make change this dramatic, there will be unavoidable economic dislocations. While these temporary disruptions must be mitigated as much as possible, the alternative is to give up on this process part way through and revert to a brutal status quo ante that even critics of the bill surely don't endorse.

The rebels and Congolese army commanders who perpetrate the conflict and the government and businesses who partner with them are the real causes of misery in eastern Congo -- not Congress or human rights groups. As Delly Mawazo, then-director of CREDDHO, a leading Congolese human rights organization, told me in March, "Minerals are like a curse. They fuel war, help the economic balance in neighboring countries, and enrich elites."

Before the legislation, commanders and business elites were by far the main profiteers from the trade, and the majority of miners worked in slave-like conditions, as [Free the Slaves and Congolese human rights organizations](#) have documented.

Talk of miners' "jobs" implies regular wages and benefits, where in fact the mines are filled with child miners as young as 11, miners in debt bondage and forced labor situations. As Justine Masika, director of Synergie, a Congolese coalition of 35 women's groups, said, "Saying that the population will die if there is no mining -- that is a lie. The comptoirs [exporters] are the ones making the money. People never saw that money anyway."

Contrary to Aronson's assertion that civil society is against the bill, many [Congolese civil society groups are vocal advocates for the legislation](#) and have [written to the SEC asking for strong and timely regulations](#). Seven Congolese civil society coalitions set up the GATT-RN coalition in Goma in March to act as a watchdog to industry and government minerals trading initiatives.

Local perspectives on conflict minerals, as on other contentious issues, vary dramatically, and there are groups who have different views. Notably, although Congolese civil society and resources expert [Eric Kajemba](#) may not agree with the Enough Project, he nonetheless supports the Dodd-Frank Act, even if he has a different view of how it should be implemented.

It is increasingly important that there be wide dialogue and ample opportunities for all of these viewpoints to be incorporated into the implementation of the legislation, as well as other policy measures to regulate the minerals trade. For example, Congolese civil society organizations should have a seat at the table in international negotiations around mining reforms, and directly participate in monitoring regimes in the region.

Since the legislation passed, it has had a direct impact on armed commanders. Our team travels frequently to Congo, and we have seen first-hand how the Congolese army has pulled out of several major mines. For example, the Bisie mine produces some 70 percent of North Kivu's tin ore and was occupied illegally by a renegade unit of the Congolese army for years, but was demilitarized this year. Whether this demilitarization lasts is dependent on further reform, but it is starting to occur at Bisie and several other mines.

Minerals exports from the Kivus have decreased by approximately 75 percent, and the lowered exports are directly threatening commanders' multi-million dollar profits. Some commanders have resorted to smuggling, which has increased some 15-25 percent, but this smuggling is not nearly equal to the hand-over-fist profits that they generated in previous years. Other commanders have switched from trading in

tantalum and tin to gold, and thus industry and the region must work more squarely on gold. The World Gold Council, OECD, and mining companies are starting with conflict gold initiatives, but more must be done.

The bill has also accelerated reforms in the region that were previously unimaginable. As the United Nations Group of Experts stated last month, the bill "has proved an important catalyst for traceability and certification initiatives and due diligence implementation in the minerals sector regionally and internationally."

Regional governments and industry are launching a minerals tracing and certification initiative through the International Conference on the Great Lakes Region, or ICGLR, and tin industry iTSCi, whereby 95 percent of Rwanda's minerals and 75 percent of Katanga's minerals are to be tagged by year's end.

USAID is planning to support similar initiatives in the Kivus through a public-private alliance with company participation. Electronics companies are also pioneering verifiably conflict-free Congolese minerals pipelines, for example the Solutions for Hope project by Motorola Solutions in Katanga.

Furthermore, Congolese army commanders are now being arrested and prosecuted for minerals smuggling and sexual violence crimes. For example, Congolese army Col. Chuma was reportedly [arrested](#) last week for minerals crimes, General Jerome Kakwavu is [on trial](#) for rape crimes, and several mid-level commanders have been convicted of mass rape in 2011.

Aronson incorrectly asserts that Chinese companies have taken over the Congolese minerals market. In fact, only a trickle of small minerals exports have gone out from the region since April -- a total of five tin ore shipments in three months -- not a wholesale flood of minerals to China.

While a few small Chinese buyers have begun purchasing, Congolese exporters have been hesitant to use them because their prices are at least 20 percent lower and their business reputations are poor. Exporters and government officials have stayed engaged with the international minerals reform processes from the OECD, ICGLR, and tin industry, because they want the higher prices, reliability of business, and improved reputation that accompanies trade with the mainstream electronics industry.

In the transition from a war economy to legitimate business, mining communities must be supported. To this end, companies and donors should establish a mining community livelihood fund.

USAID is initiating a community mining program, and electronics companies have expressed interest in supporting similar work. Furthermore, companies should invest responsibly in the Congolese minerals sector, with full traceability, due diligence, and independent monitoring. The [Motorola Solutions for Hope initiative](#) is a step in the right direction, but more initiatives are needed.

The fight to end the conflict is far from over. Going forward, the Obama administration should support an independent monitoring system for the regional tracing initiatives; gold and jewelry companies should partner with the region to invest in tracing and monitoring initiatives at gold mines in the Kivus; and the SEC should issue regulations as soon as possible, without a phase-in, which would act as a disincentive to progress on the ground.

Accountability is also critical, and the administration should press Congo to arrest Gen. Bosco Ntaganda and operationalize the [Special Mixed Court for war criminals, which has strong local and international buy-in.](#)

These reforms are critical next steps, but don't be fooled -- they are finally no longer pipe dreams, because of the window opened by the legislation. Let us not derail the growing consensus to end the war in eastern Congo and revert back to the dystopia that has plagued the region for the past two decades.

4. From Jason Stearns

Thoughts about conflict minerals

Readers of this blog will probably have read David Aronson's lucid [Op-Ed](#) in The New York Times a few days ago. David argues that the Dodd-Frank legislation - the "Obama law" as some Congolese refer to it - has produced a de facto embargo of minerals in the eastern Congo and has actually benefited abusive military commanders.

Efforts to render minerals supply chains more accountable have indeed had unintended adverse effects. As I have written here before, commanders such as Bosco Ntaganda have benefited from smuggling and thousands of people may have been put out of jobs. There is no doubt that the implementation of the law has been sorely wanting, and that there need to be more focus on governance and political developments in general and not just conflict minerals. Nonetheless, I still believe that the Dodd-Frank bill - in Section 1502 on the Congo - should be supported.

Why?

Here are some thoughts about David's piece.

1. The Dodd-Frank legislation in no way mandates or supports a real or de facto embargo on minerals exports from eastern Congo. While in general the Dodd-Frank legislation has had some foreseeable negative side-effects in the region, it is important not to confuse the law itself and its perception. The SEC regulations will not enter into effect until January 2012 at the earliest, so it would be misleading to speak of the "impact of the Dodd-Frank legislation" before the regulations have even been promulgated. Indeed, the "de facto embargo" that the Op-Ed speaks of actually consists of two parts: a Congolese-imposed export ban on minerals (September 2010-March 2011) and decision by the main electronics lobbying body in the U.S. (the Electronics Industry Citizenship Coalition) to stop buying minerals from the Congo that have not been tagged or traced (April 2011-now).

The Dodd-Frank legislation did not directly lead to these initiatives, nor does it require such bans or embargoes. Instead, it requires companies to state publicly what they have done to implement due diligence with regard to Congolese minerals. While it is true that the fears and interests of various parties could have been better managed by the U.S. and Congolese governments - the minerals industry

in particular has been taking a hard-line position in defense of its interests - this does not undermine the validity of the law itself. In fact, it demonstrates the potential power of the law to induce real reform, and the importance of engaging with companies now to ensure they do not misunderstand the intent and purpose of Dodd-Frank. Many analysts in fact believe the EICC somewhat cynically is taking this extreme de facto embargo stance to try to water down Dodd-Frank and delay its due diligence measures as much as possible.

2. David's suggestion that the legislation is out-of-date, arguing that most Congolese rebel groups have been integrated into the Congolese army, does not accurately reflect the reality on the ground. According to the United Nations' most recent [report](#) (June 7, 2011) on these rebel groups, at least a dozen rebel groups remain active in the Kivus and many derive considerable profits from mining. David is correct in suggesting that some Congolese army commanders have benefited through smuggling, but both the SEC and the U.N. specifically include the Congolese army in their initiatives and require due diligence to detail any involvement of Congolese officers in the supply chain.

In general, David seems to imply that doing nothing would have been better than pushing for greater transparency. However, as various United Nations and NGO reports (including reports by Eric Kajemba and other Congolese activists) have explained in depth, the link between armed groups and mining remains strong - and delinking that nexus remains key to broader reform efforts in the region.

3. The Op-Ed discounts the positive impacts of Dodd-Frank. It places an emphasis on the short-term negative impact of how the Electronics Industry Citizenship Coalition and the Congolese government have immediately responded to the Dodd-Frank legislation. However, there also have been positive developments due to the push for transparency. The Congolese army has withdrawn from some of the largest mining areas, including the Bisie tin mine, the largest tin mine in the region which produces over 70% of all tin from North Kivu province. In addition, some large multinational corporations (Malaysia Smelting Corp and Rajesh Industries) have expressed an interest in investing in large-scale industrial mining in the Kivus and have said they would cater to western markets and would invest in certification and traceability initiatives. While these promises have not yet fully materialized, and industrial mining carries with it risks of its own, it is a step in the right direction. Furthermore, industry leaders such as Apple and Motorola have come up with detailed certification and supply chain due diligence plans that demonstrate their ongoing commitment to purchasing in the region.

4. The Op-Ed give the impression that all Congolese oppose the Dodd-Frank legislation. This is misleading. As recently as May 2011, a group of over 50 Congolese NGOs, together with over a dozen US and European NGOs, expressed their support for Dodd-Frank and urged for its rapid and thorough implementation. Since the beginning of the war, Congolese groups have expressed their concern about the link between mining and conflict and have pressed for action, including transparency, due diligence, and certification initiatives. Even the activists that Aronson quotes in his piece, Eric Kajemba and Didier de Failly, despite their complaints with regards to Dodd-Frank, recognize that the law is a reality and they are now talking to the U.S. government to find ways to better implement it. I interviewed Kajemba only last week in this space, and Kajemba said he supported the spirit of the Dodd-Frank legislation but expressed deep concern regarding the way it has been perceived and implemented so far.

This sentiment is echoed not only by large advocacy groups such as the Enough Project and Global Witness, but also the Organization for Economic Cooperation and Development and the United Nations. In fact, the U.N. Group of Experts in their report of June 2011 said: "Since its development in 2010, this United States legislation has proved an important catalyst for traceability and certification initiatives and due diligence implementation in the minerals sector regionally and internationally." This sentiment has been echoed by many groups, both Congolese and others, who have officially submitted their opinions to the SEC for them to take into consideration while they draft the regulations. The authors of Section 1502 of the legislation also consulted with a variety of Congolese groups and received their support in drafting the bill.

5. Efforts are currently underway to see how Dodd-Frank and the OECG guidelines can be implemented, the financing of armed groups undermined, while boosting transparent investment in local mining communities and livelihoods. In particular, the U.S. government is working with international partners and industry members to implement a dual-stamp system - one in the eventuality that companies can determine their products are "conflict-free," but also one in the immediate term in which companies can state they are "due diligence compliant." This dual system would help ensure that companies working to fulfill the spirit of the Dodd-Frank legislation and to mitigate any possible use of conflict minerals in their supply chains are not penalized for not immediately becoming "conflict-free."

5. From Opinion Pages of New York Times

LETTERS

A Conflict Over ‘Conflict Minerals’

Published: August 15, 2011

To the Editor:

“[How Congress Devastated Congo](#),” by David Aronson (Op-Ed, Aug. 8), suggests that Congress is to blame for the situation in the Democratic Republic of Congo. In fact, the United States government should be commended for its leadership in trying to regulate “conflict minerals” and to starve rebels of the resources and weapons they need to kill and rape.

Although implementation needs better support to prevent human suffering, particularly in a vast, largely lawless country like Congo, the intention of the Dodd-Frank law is admirable. Inaction is not an option. Such due diligence regimes need to be global and strictly carried out.

Companies should continue to invest in Congo, with third-party audits to minimize the risk of trading in “conflict minerals.” Those who do should face consequences from national police and international sanctions regimes. The resources of Congo should benefit the people rather than the rebels, who destroy their lives and livelihoods.

The women I met in eastern Congo want an end to this war. One way is to make the war less profitable.

MARGOT WALLSTRÖM

New York, Aug. 11, 2011

The writer is the United Nations special representative of the secretary general for sexual violence in conflict.

To the Editor:

The long-term development of Congo depends on channeling potentially vast mining revenues into long-term development. At this moment, the mineral wealth of the eastern Congo feeds conflict and corruption, with a few crumbs falling to the local population; almost nothing goes to government coffers.

The “conflict mineral” provisions of the Dodd-Frank financial reform law, which put the burden on companies to know and disclose the source of their supply, are a small but vital step in shifting the incentives away from the warlords. They won’t solve the problem, but their part in “devastating” an already devastated land is overstated.

David Aronson’s impressionistic account of harms and vague reference to the specter of China’s seizing of business don’t justify giving initiative back to the warlords.

PETER ROSENBLUM

New York, Aug. 8, 2011

The writer, a professor at Columbia Law School, is a consultant to the Carter Center on a project regarding industrial mining in Congo.

To the Editor:

David Aronson’s attack on the Dodd-Frank law’s provisions on “conflict minerals” does not tell the full story.

It’s not true that the law amounts to a long-term embargo. Despite alarmist talk of an end to eastern Congo’s minerals sector, major international companies are planning to invest in the areas covered by the law, and initiatives aimed at effective tracing and auditing to clean up the minerals trade are being developed.

Mr. Aronson’s article inadvertently echoes industry rhetoric aimed at delaying the implementation of the law. Any delay would frustrate companies that are trying to do the right thing, undermining efforts to curb a conflict that millions of aid dollars and several peace negotiations have so far failed to stop.

GAVIN HAYMAN

Director of Campaigns, Global Witness

London, Aug. 8, 2011

To the Editor:

As a Congolese civil-society advocate, I have seen how the Dodd-Frank legislation on “conflict minerals” provides “the leverage needed to instill and impose ethical minerals business practices,” according to a coalition of Congolese human-rights groups.

I have seen how the law has helped lead the Congolese Army to pull out of several mines, and how lowered exports are threatening commanders' profits.

The law accelerates reforms. Governments and industry are starting a minerals tracing and validation initiative, Motorola Solutions is pioneering a pipeline of conflict-free minerals, and army commanders are being arrested for their role in this trade.

Efforts to end the conflict must also address economic opportunities for mining communities, including alternative livelihoods and support for responsible mining.

FIDEL BAFILEMBA

Congo Field Researcher

Enough Project

Goma, Democratic Republic of Congo

Aug. 10, 2011

6. From Brilliant Earth Jewelers, Greenwala

It's not very often that Congress passes new legislation aimed at breaking the link between violence and gold mining. So last summer, when Congress approved a law aimed at stopping the export of certain "conflict minerals"-gold, as well as tin, tantalum, and tungsten-from the Democratic Republic of Congo, we [expressed our strong support](#). Now, with debate about the effects of the law becoming heated, we would like to reiterate that support.

To begin, it's important to remember why the law was passed. Since 1998, Congo has been embroiled in a terrible civil war. More than 5 million lives have been lost to violence, disease, and starvation. A million people have been displaced from their homes, and 200,000 women have suffered from sexual violence. Although the war is an ethnic conflict, mining profits have been helping to sustain the violence. The new law, a provision in the Dodd Frank financial reform legislation, responds to this situation by requiring more transparency. Certain large, publicly-traded companies will need to identify whether the minerals in their products come from Congo. If so, they will need to explain the precautions they are taking to ensure that their minerals are not tied to the conflict.

The jewelry and electronics industries are among those most affected by the law. (Most gold is used to make jewelry. Tin, tantalum, and tungsten are common components of cell phones, laptops, and other electronics.) At Brilliant Earth, we use only recycled gold and fair trade gold in our jewelry, allowing us to be certain that none of our gold contributes to the conflict in Congo. However, many companies are unable to say with certainty whether the minerals in their products are contributing to the war-though a year after the law's passage, this situation may be changing. We are pleased by reports that some companies, prompted by the law, are [investigating](#) the origins of the minerals in their products and in some cases altering their suppliers.

The law seems to be working. Why then, is it facing criticism? Some opposition seems to consist of grumbling from companies about compliance costs and the difficulty of tracing fungible minerals, such as gold. These complaints are to be expected. The SEC should consider them, but we hope that the law's final implementing regulations, due later this year, are not weakened as a result. In addition, some of the most pointed criticism has been launched by a different group: well-meaning observers concerned that the law is having unintended consequences. For instance, one journalist writes in a recent [New York Times op-ed](#) that the law, by casting a shadow over Congo's minerals, is taking away income from Congo's artisanal miners.

There are hundreds of thousands of artisanal miners in Congo who dedicate themselves to minerals mining. These miners, most of whom are poor, use simple tools and methods to mine for gold and other minerals. Only a portion of the minerals produced by these artisanal miners helps fund the conflict. (Indeed, the conflict is mostly confined to an area along Congo's eastern border.) However, critics of the law note that companies are becoming reluctant to associate themselves with any minerals from Congo-even minerals not associated with the conflict. Mineral exports from Congo have dropped and, as a result, some artisanal miners have found themselves without work.

At Brilliant Earth, we strongly believe that artisanal miners in Congo and elsewhere deserve a chance at a decent living. In fact, through our non-profit fund, we are supporting a program aimed at [increasing the bargaining power](#) of artisanal diamond diggers in eastern Congo. So we are truly concerned that the law may be having negative economic consequences for some of Congo's miners.

On the other hand, we wish to express our continued support for the new law. Human rights groups believe that, due to the law, mineral profits used by Congolese military commanders to fund the war [are drying up](#). Returning to the old status quo, in which the combatants were able to exploit Congo's minerals with impunity, doesn't seem like a good

option to us. The war is simply too terrible and destructive not to try measures that could dampen the violence. (For a better sense of the scale of the violence and the link to minerals mining, we recommend viewing this [60 Minutes report](#) from November 2009.)

The new law doesn't ban the export of Congo's minerals to the United States; it simply requires more transparency. Thus, instead of questioning the existence of the law, we think that all of those who care about Congo should work together, with much greater urgency, to improve transparency in Congo's artisanal mining sector. If the minerals produced by Congo's artisanal miners can become more traceable, artisanal miners will find more buyers for their non-conflict minerals. And perhaps, out of all this change, a different sort of mining sector can emerge in Congo—one that is both free of violence and fairer to Congo's miners.