

## MEMORANDUM

**To:** File

**From:** John Fieldsend  
Special Counsel  
Office of Rulemaking  
Division of Corporation Finance  
U.S. Securities and Exchange Commission

**Date:** October 5, 2011

**Re:** Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act Regarding Congolese Conflict Minerals

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On October 5, 2011, Paula Dubberly, Felicia Kung, Lillian Brown, and John Fieldsend of the Division of Corporation Finance met with Eric Kajemba Chirhalirwa of the Observatoire Gouvernance et Paix, David Aronson of CongoResources.org, Pere Didier de Failly of the Bureau d'Etudes Scientifiques et Techniques, Carolyn Walsh and Erin L. McGrain of Patton Boggs LLP, and Christine Chirhalirwa. The participants discussed the Commission's required rulemaking in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which relates to reporting requirements regarding conflict minerals originating in the Democratic Republic of the Congo and adjoining countries. Attached to this memorandum is a document provided to the staff at the meeting by the participants.

Attachment

**ON OPEN LETTER TO PRESIDENT BARACK OBAMA AND SEC CHAIR MARY SCHAPIRO FROM RELIGIOUS, CIVIL SOCIETY AND BUSINESS LEADERS IN SOUTH KIVU PROVINCE, DEMOCRATIC REPUBLIC OF CONGO**

July 05, 2011

President Barack Obama  
The White House  
1600 Pennsylvania Ave.  
Washington, DC 20500

The Honourable Mary L. Schapiro  
Chairman  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Dear President Obama and Chairman Schapiro:

We write to you in our capacity as representatives of the people of South Kivu Province in the Democratic Republic of Congo, in the hope that you may be able to alleviate the unintended economic crisis that has befallen our people as a result of the recent passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The relevant passage of the Act, Section 1502, require that companies listed on the American stock exchanges that manufacture products containing minerals that may have been mined in Congo declare what actions they have undertaken to insure that these minerals are conflict free.

While the law does not require that companies cease buying minerals from the Congo, it has predictably resulted in an "embargo in fact" on the legitimate mineral trade in eastern Congo. International buyers tell our merchants that they prefer to buy from countries whose products are not under a cloud of international suspicion.

As you know, our country is already among the poorest in the world. The 32-year reign of Mobutu Sese Seko, characterized by extreme corruption, left our nation's institutions in a state of advanced decay. The 14 years since have been dominated by invasions and rebellions.

*[Handwritten signatures and initials are present throughout the page, including a large signature at the top right, and several initials on the left margin (e.g., 'K', 'Ru', 'JH'). A large handwritten signature 'Chair' is written vertically on the right side. At the bottom, there is a dense collection of various handwritten signatures and initials, some of which appear to be names of the signatories mentioned in the text, such as 'Mary' and 'Chair'.*

In this environment, artisanal mining has emerged as one of our only economic lifelines, and has directly and indirectly provided millions of jobs. The abrupt cessation of this trade has had devastating impacts on our people:

1. Millions of our artisanal miners have suddenly had their livelihood cut from under them. (Many of them continue to mine; finding small-scale buyers who are either buying on speculation or smuggling abroad, but at less than a half of what they were making before.) They find it increasingly difficult to pay school, health, or maternity fees. Some even report having difficulty providing food for their families.
2. Mining enclaves have emerged over the past decade in places so remote that only planes can access them. The world's sudden refusal to buy these minerals means that the planes no longer service these communities; with nothing to trade, they are unable to provide themselves with such basic necessities as salt, sugar, oil, cloths, soap and so on.
3. Because artisanal mining was one of our only engines of economic growth, secondary economic impacts are being felt throughout the province. Even in our large towns, economic activity has diminished; construction slowed; trade in everything fallen. People with very little to begin with are now doing with less.

Had these unfortunate consequences at least resulted in a significant reduction in the conflicts here, they might have proven worthwhile. But minerals are only one of numerous elements propelling these conflicts, and we have seen no reduction in the toll our people suffer from them. If anything, the law has forced the mineral trade further underground, complicating the various initiatives we and others have undertaken to increase its transparency.

We know that neither of you wish to cause further needless suffering to our people. And we recognize that the authors of the relevant portions of the Dodd Frank Act intended to help us, not hurt us. Now we ask you to find a way to apply the Act in a way that relieves the unintended burden it has placed on us, and that was never intended by its authors. Specifically, we ask:

1. That President Obama direct a competent team of USAID or State Department officials to conduct a thorough assessment of the law's actual and potential impact on the lives of the people of eastern Congo, including its likelihood in drawing down the region's conflicts;
2. That you make a strenuous effort to ensure that our voices, rather than those of Western NGOs who claim to speak on our behalf, be consulted thoroughly as the law is defined and implemented;
3. Finally, we ask that SEC Chairperson Mary Schapiro issue a letter clarifying those American-listed companies can continue until further notice to purchase minerals from eastern Congo without fear of future sanction.

We are all in agreement on the need to increase transparency in the mineral trade and to develop traceability programs. There are in fact numerous bilateral and multilateral initiatives underway, working with the Congolese government, which seeks to do just that.

*[Handwritten signatures and initials]*

Unfortunately, the law as it has been understood here has left these initiatives blocked and frustrated.

We remain hopeful that together we can find a solution to this problem in a way that respects the letter of the law while remaining true to the spirit of cooperation and concern for our people that inspired it.

Sincerely,

**For civilians organisations :**

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