Malaysia Smelting Corporation Berhad

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

Transmitted by email to: rule-comments@sec.gov

25th October 2011

Dear Chairman Schapiro,

COMMENTS RELATING TO DODD FRANK SECTION 1502 CONFLICT MINERAL LEGISLATION

Further to our letter dated 18th January 2011 providing our comments to the above legislation we would like to follow up with additional comments.

The delay in the structuring and releasing of the SEC rules has caused a considerable amount of uncertainty and confusion in all the affected global industry supply chains. While the upstream sectors of the supply chain have been actively involved in implementing and complying with due diligence processes in full support of the OECD due diligence guidance the end consuming sector and, in particular, the electronics industry is still uncertain about how to address their responsibilities with regard to SEC reporting and compliance specific to the Conflict Minerals Legislation.

This has given rise to a *significant disincentive scenario* to multinational and US consumers which has resulted in them avoiding purchase of metal products that contained DRC tin even if the metal producer has complied with due diligence guidelines aimed at achieving 'DRC conflict free' material as required by Dodd Frank. This practice is very much evident in the tin and tantalum sectors where buyers now insist that they can only purchase metals that do not contain DRC material as a result of the uncertainty and in particular to avoid onerous SEC auditing and reporting. Consequently some of the downstream tin and tantalum supply chain industries are responding to the new marketing opportunity for their metal production which is simply ***CONGO FREE and not CONFLICT FREE!***

There are some consumers that have responded positively by engaging in responsible upstream sourcing. AVX, the tantalum capacitor producer, has started their "Solutions for Hope" project which involved working with a DRC tantalite mining company. In the tin industry we have been approached by a European tin plate producer to carry out a similar project. Sadly these are exceptions rather than the norm and may only represent access to market for a small fraction of the conflict-free minerals from central Africa.

MSC has remained actively engaged in DRC and with the International Tin Supply Chain Initiative (iTSCi) process mentioned as demonstrating traceability and due diligence by Congressman McDermott during the recent SEC roundtable and is the only tin smelter involved in the OECD implementation trial and working group. The Company is also in the forefront of its industry in engaging with the EICC/GeSi Conflict Free Smelter (CFS) scheme and expects the CFS audit to commence before end 2011 at our Malaysian smelting facility. MSC also welcomed a recent visit by the UN Group of Experts to demonstrate its due diligence processes and the tremendous progress made to date. MSC is currently the only tin smelter who is taking DRC tin concentrates that have been tagged under iTSCi and would be proud to label the MSC tin product brand as 'DRC conflict free' if SEC can ensure that label is appropriately meaningful and cannot also be used by the 'congo free' smelters.

In recent months we have received reports from the tin market about consumers who have opted not to buy MSC tin products despite our assurances that the smelter has complied with due diligence processes recognized by UN, NGOs, OECD and EICC/GeSi.

If the disincentive scenario worsens this will have a negative impact on our tin business and we will be put under tremendous pressure to reconsider our engagement in DRC, as several other companies have been forced to do in the past. We hope it will not reach that point as a pull out by MSC, the last remaining significant buyer, at this juncture will have devastating consequences for the tin industry in Eastern DRC which remains today a highly sensitive political and economic region. The Company is also currently negotiating with the DRC government to invest in large scale tin mining and sustainable development of the DRC tin industry.

We put forward the issue to Madam Chairman with the fervent hope that the forthcoming SEC rules will address our concern and provide incentive rather than disincentive for US metal consuming companies to remain engaged with DRC as this will be consistent with various international organizations' guidelines including the US Conflict Minerals Bill that asked industries to practice due diligence and protect the DRC economy and livelihood of the thousands that depended on the minerals production and trade.

This can **only** be achieved by providing a realistic phase-in period, of at least 2 years, allowing both upstream and downstream companies to further refine their due diligence practices before full reporting is required. Providing a more realistic and simplistic framework to deal with the auditing and reporting process for US companies will also directly benefit upstream industry outside the US striving to make sure conflict-free business in the DRC can continue.

Yours sincerely,

Chua Cheong Yong
Group Chief Operating Officer, Smelting
Malaysia Smelting Corporation Berhad