

Chairman Mary Schapiro  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

December 19, 2011

Dear Chairman Schapiro,

My name is Delly Mawazo Seseste, and I am a Congolese civil society leader and advocate. I was born in Kayna, a village located in Lubero Territory in Eastern Congo. In 2006, I became the Executive Director of the Research Center on Environment, Democracy and Human Rights (CREDDHO) after co-founding the organization some years earlier. Our work focused on a number of issues, including sexual violence and natural resource exploitation. I therefore know first-hand about the link between armed groups and the violence in the Congo.

When Section 1502 of the Dodd-Frank Act was passed, I felt hope for my people and my country. I understood that transparency and disclosure could have significant benefits in addressing the harms of mineral exploitation in my country. Spurred by the passage of the law, some positive changes have taken place on the ground, including demilitarization of some mining areas. Further, the Congolese government has started to address this issue as well. However, this progress is threatened by the significant delays in the issuance of the final rule. I am concerned that these delays are causing a lack of regulatory certainty that leaves us lost and perpetuates our suffering.

Chairman Schapiro, please stand with the people of the Congo and ensure that final rules implementing Section 1502 of the Dodd-Frank Act are issued as soon as possible, with no delays or phase-ins. We've lost millions of lives to the violence in my country, and the funding of armed groups who control these mines needs to be stopped. Section 1502 of Dodd-Frank is a disclosure regime that helps us do just this.

I have attached to this letter a document that further details why this law and rulemaking is so important. Also, I attach my effort at creating a solution. I am encouraging Apple to engage in the Congo but to do so by sourcing minerals from conflict-free mines. The sooner the rules are released, the more incentive and ability there is for other companies to do the same. We need the rules to be released so that we can begin working towards a solution. Please help the minerals in my country become a blessing rather than a curse.

Sincerely,



Delly Mawazo Sesete

## **Statement of Delly Mawazo Sesete on the Conflict Minerals Provision of the Dodd-Frank Act**

*Delly MAWAZO SESETE is an expert on Conflict Minerals from the Democratic Republic of the Congo. He is currently the President of the Board of Directors for Synergie des Femmes pour les Victimes des Violences Sexuelles. He is also a member of the Research Center on Environment, Democracy and Human Rights (CREDDHO), for which he held the position of Executive Director for five years.*

### **Ways to make minerals exploitation and trade a blessing, rather than a curse, from the ground up**

#### *Comments on the Conflict Minerals Provision of the Dodd-Frank Act*

Will the Kivus, provinces in the eastern Democratic Republic of Congo (DRC), be one day redeemed? War, massacres and misery are the current terms used to describe this rich region. Why? One of the reasons is that the minerals trade is under control of armed forces, both foreign and local born, and to some extent members of the Congolese army. As a result, the civilian population cannot benefit from revenue generated by this trade, but on the contrary, have to endure the consequences of armed groups fighting for control of mine sites: murder, rape, pillage and slavery. Governments, corporations and the international community, have borne witness to these abuses through efforts by Congolese and international NGOs, and are now aware of the link between this interminable conflict and natural resources exploitation in the Kivus. One the initiatives aiming to stop the illicit exploitation of minerals in the DRC is Section 1502 of the Dodd Frank Act, known as the Conflict Minerals provision. While legislation has been welcomed by many stakeholders, there are some that argue against it. The main argument against the Dodd Frank Act is that it has created an embargo on the local minerals industry, causing miners to be without a means to support themselves. In the following paragraphs I hope to explain the downsides of link between the conflict and trades before saying something about dissenting voices within the civil society. Then, I will discuss the benefits of implementing the Dodd Frank Act. Finally I will draw a short conclusion.

#### *Who is in control of minerals exploitation and trade in the Kivus?*

To understand who is in control of the trade in minerals necessitates understanding the supply chain. The path of these rare earths seems to be clear after the minerals have reached big cities like Goma and beyond - but what happens upstream, at the actual site of the mines? As observers of the situation, it is our duty to explain who exactly is in control upstream. In the Kivus, the map indicating areas where armed groups are deployed matches precisely with the location of lucrative mines. Is this a coincidence or result of a strategy? There is compelling evidence that leads one to assert that the armed groups are located on or in the bordering areas of mining sites because they benefit from forced labor, collecting illegal taxes and other forms of exploitation. Often, two or more armed groups will fight for the control of mine sites by terrorizing the people who live and work there. The latest one of these clashes was between

Janvier BUNGO and CHEKA MaiMAI groups for the control of MISOKE in Masisi, territory in a north Kivu Province that is very rich in coltan, over the course of July in 2011.

The fight for control of mining sites is savage and the violence is blind, often leading to brutal killings, rape against women and young girls, plunder of public and private belongings and forced displacements.

Devastatingly, even the government of the DRC participates in the violence by sending in the oft corrupt Congolese military, which then perpetrates its own human rights abuses, including modern forms of slavery.

It must, however, be noted that while some sites are under control of the government, the military and political leaders are operating via civil proxies (middle men). This has made the task of monitoring become much harder. It is obvious that the lack of government control of mining activities has been detrimental to attempts to clean up the trade. The violence and instability faced by civilians are what makes us view these minerals as a curse. What are the benefits for local communities? If there are any at all, they are so minute that they are not perceptible. The biggest tin ore site in Walikale, the Bisie mine, is landlocked and as a result it cannot be accessed by means other than by foot or helicopter. Additionally, the road between Goma (the capital city of North-Kivu province) and Walikale is so damaged that no clear thinking man or woman would dare use them. 89 km long, it takes more than 1 week to reach Walikale from Goma. This lack of infrastructure is one of most puzzling paradoxes in a region that is hugely rich in minerals. However, minerals deposits merely represent the potential for economic success for the region and are not a guarantee. Rather than the government providing basic infrastructure such as schools and hospitals, those are often developed by international NGOs. What reasonable human being could seriously continue to support this trade? It is up to influential stakeholders to make a change because although the situation is grim, hope is not lost. We can still impact the situation by quickly implementing strong rules for the Conflict Minerals provision.

*What are the expected benefits of Dodd-Frank Act (Section 1502) implementation?*

It has been repeatedly said that the link between minerals exploitation and armed groups is now blatant. This recognition alone will not suffice. As the problem is now understood, it is our common duty to act. What is now problematic is that the Dodd-Frank Act was passed roughly one year ago and has not yet been implemented. We are still waiting for regulations that will be drafted by the Securities and Exchange Commission (SEC). We urge the SEC to act promptly as with these regulations, armed groups will be forced to end their involvement in the exploitation and trade in minerals. As companies will slowly shift from sourcing minerals from conflict mines, the financial system of the armed groups will be affected. The most palpable result that will be felt will be by the civilian population that will see women's dignity and community stability restored.

*What about dissenting voices within civil society?*

We are not frustrated to see dissent among Congolese civil society actors and international NGOs. It is the manifestation of high interest with the matter and the enjoyment of freedom of expression. Having said that, we need to address the main argument of those who oppose the Dodd-Frank Act and who say the law “calls for a de facto embargo” which they claim has come to kill the local market. They try to claim that the Dodd-Frank Act is against the economic interest of local communities that depend on minerals to win their bread. We do not contest the fact that some Congolese depend on minerals. However, it should be recognized that the economic interests cannot be an overall excuse for doing nothing to break the link between the armed conflicts and the minerals exploitation in the Kivus. We can find an alternative to minerals exploitation but not to peace or preserving the life and dignity of people. The actual condition of the workers being exploited constitutes a loss and not a benefit. Paraphrasing a native of Walikale, we can say that we would rather keep intact the minerals sites and exploit them in dignity in the future then continue exploiting them now in damaging and harmful conditions.

We should remember that the portion of civil society that opposes the Dodd-Frank Act have changed their tunes from a couple of years ago. As a Congolese who attended several meetings related to conflict minerals, I vividly recall that in the course of many meetings Congolese officials and the representatives of comptoirs (traders) were denying the link between the armed conflicts and the minerals exploitation. Since that time, the outright denial of the truth has come to an end; however, they are trying to continue this dangerous trade by pretending to care that the “local economy has to be preserved”. The Dodd-Frank-Act is not a disaster nor is it against the local mining communities. This “idea” has been implanted in some civil society organizations by manipulative traders and corporations. It is strange to meet diplomats who are misinformed about the Dodd-Frank Act. We have met some of them. The Dodd-Frank Act does not mandate that the local community’s interests are to be dropped. If the Conflict Minerals provision is implemented the minerals from Kivu will be “clean and conflicts free”.

#### *In conclusion*

Noting that everyone has right to express their opinion on sensitive matters such as conflict minerals, we recognize that the future is now. So let us urge the US government to implement the Dodd-Frank act so we can have a conflict free minerals trade in the Kivus. We are tired of seeing our minerals becoming more and more a curse instead of remaining a blessing and gift from God. We should not continue to deceive ourselves by asserting that economic interests overweigh conventional values such as life, dignity, liberty and property. Dodd-Frank is very hard to implement in the DRC because of a lack of political will. If our government cares about the Congolese that live in the Kivus as they claim, it should renew their support to Dodd-Frank as they stated one year ago via their spokesman Lambert Membe Omalanga.

There is compelling evidence that the beneficiaries of minerals exploitation and trade in the Kivus are not the local communities but armed groups and corporate interests on the supply chain. We urge them to be part of solution and support the implementation of Dodd-Frank Act in its section 1502. Indeed, if we look at social conditions in mining zones (schools, hospitals, roads...), we can sum this up by asserting that the troubling paradox should come to an end. In

addition, we have coordinated a survey on modern forms of slavery and have realized that people suffer from different kinds of slavery in mining sites. Children are dropping out of school to work like slaves in mining sites. We must put an end to this.

As for local market safeguards, the scaremongering tactics taken by electronic companies in April 2011 should not make us panic. We need to move forward in order to heal the Democratic Republic of the Congo.

Finally, we should recognize that laws like the Conflict Minerals provision and similar legislation are not cure-alls – there is no quick fix. We need traceability, certification, due diligence and beyond that, support to government and local communities in building infrastructure and developing alternative livelihoods to mining.

# **Tim Cook, CEO of Apple Inc.: Make a conflict-free product that includes minerals from eastern Congo**

Created By

[Delly Mawazo Sesete](#)

I am originally from North Kivu in the eastern region of the Democratic Republic of the Congo, where conflict has been raging for over fifteen years. I want an iPhone for the holidays this year - and I do like the iPhone4S - but having monitored mining sites in eastern Congo for several years documenting human rights abuses, I have seen firsthand the rape, violence, and devastation being fueled by the trade in minerals found in Apple's products.

I cannot in good conscience purchase an iPhone because the gold, tin, tungsten, and tantalum that power it on are destroying my home.

Apple, give my family and my people a chance for a better future by cleaning up your supply chain so that you are purchasing minerals from my country that benefit rather than destroy communities.

Join me in asking Apple to create a conflict-free product that includes conflict-free minerals from eastern Congo that help Congolese communities by the 2013 holiday season. They can pave the way for all companies and consumers to make conflict-free phones and computers that help people in eastern Congo.

<http://www.change.org/petitions/ceo-of-apple-inc-make-a-conflict-free-product-that-includes-minerals-from-eastern-congo>