



TANZANIA CHAMBER OF MINERALS & ENERGY

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U.S. Securities and Exchange Commission,
100F Street NE,
Washington DC 20549 – 1090

Attention: Ms Elizabeth M. Murphy, Secretary

Re: Comments on Proposed Rule relating to the Dodd-Frank Wall Street Reform Act – Release Number 34 – 63547; File Number S7-40-10 - Section 1502 Conflict Minerals

Ladies and Gentlemen:

I wish to take the opportunity to first of all introduce the Tanzania Chamber of Minerals and Energy (TCME) that is registered and operating in the United Republic of Tanzania. The Chamber was formed in 1994 following Government's policies of liberalizing the economy and encouraging private investments in the mining sector. The Chamber aims at serving as a link on one hand between government and the public as a whole, and on the other, the minerals industry on all issues relating to the development of the industry with a commitment to promoting amongst its members the use of the most efficient and appropriate technology; full compliance with the country's Mining Policy, Legal, Fiscal, Regulatory and Administrative requirements and close adherence to best practice in its mining operations.

This includes internationally accepted safety and environmental protection standards, labour standards, proper utilization of resources, corporate social responsibility, use of local manpower, local sourcing of material resources and services and respect for law and order. I must hasten to state that, our Chamber has so far performed extremely well in meeting and fulfilling all these challenges. Tanzania being one of the most peaceful and stable countries in Africa, ever since the attainment of her independence some 50

I write, however, to express our grave concern about the potential impact of the current draft of the regulations on the gold industry in Tanzania. These impacts were, I am confident, neither desired nor foreseen by the architects of the legislation nor by the SEC. They would seem to flow, however, from an ambiguity in the legislation which at one point refers to ‘Disclosures Relating to Conflict Minerals Originating in the Democratic Republic of Congo’ but then goes on to impose a reporting/disclosure obligation on minerals originating in the DRC or **an adjoining country**. We believe that the intention of the legislation was, rather, to exert proper due diligence requirements around minerals mined in the DRC and the transport routes for such minerals through adjoining countries where these may be vulnerable to extortion by armed groups (or where minerals from the DRC have fraudulently been attributed to other countries). We are wholly supportive of measures within this intent and scope.

We are, however, concerned that a false equivalence is being created as between minerals originating in the DRC and those legitimately and accountably mined in Tanzania. Furthermore, it appears that the compliance costs associated with the SEC regulations could be as great for a manufacturer sourcing their minerals from Tanzania as they would be from the DRC since, sourcing one of the four ‘conflict minerals’ from the DRC or the nine adjoining countries, automatically triggers the requirement for a ‘conflict minerals’ report with the accompanying legal liability and audit requirement. I understand that the costs associated with due diligence, the production of the report and the audit will be significant and, thus provide a disincentive to continuing to source minerals from Tanzania and the region as a whole.

Let me, at this point, provide some background on the nature and importance of, for instance, gold mining to Tanzania. In 2010, Tanzania produced some 44 tonnes of gold, almost two thirds of the total produced from the region and 1.7% of global gold production. Expert estimates suggest that gold produced in the DRC is about 16 tonnes or 0.6% of global production. This contrasts with production patterns for the other so-called ‘conflict minerals’ of which the DRC is clearly the biggest producer in the region.

Besides, the nature of the gold mining industry in the two countries i.e. Tanzania and DRC is also very different. In Tanzania, 85% of gold production is produced by six, large scale mines operating transparently and

years ago in 1961, with no civil, religious or any other sorts of conflicts, has enabled our Chamber to meet those challenges with a great deal of success.

The Chamber membership represents the interests of nearly 60 members from all sectors of the mining industry; from some of the largest international companies such as African Barrick Gold, AngloGold Ashanti and Resolute, through to junior exploration and mining companies, service providers to the industry, as well as small mining companies and associations.

The Chamber is aware of the Dodd–Frank Wall Street Reform and Consumer Protection Act and the positive intention behind Section 1502 of the Act that aims at taking measures to prevent the use of minerals originating in the Democratic Republic of Congo (DRC) to finance, or otherwise benefit, armed groups involved in the conflict. Indeed, the people of the DRC, and especially its Eastern Provinces, have suffered from extreme violence and almost unimaginable human rights abuses that certainly require some effective interventions from within and outside the region. It is in this regard, that the Tanzanian government has, over the years, been actively engaged in pursuing and supporting regional and international initiatives that aim at establishing sustainable peace and stability in the DRC and the Eastern regions of DRC in particular.

However, it is also important to note that Tanzania has, at no point, sought to pursue any strategic or self-interested objectives in the DRC and, therefore, managed to avoid any direct involvement in the conflict, other than the pursuence of sustainable peace and stability. During many years of conflict, Tanzania has also lived up to its humanitarian responsibilities by providing a haven for over 150,000 refugees. Although many have been able to return to their homes, tens of thousands are still awaiting repatriation. There has also been a direct economic cost to the country since traditional economic activity has been badly disrupted. We fervently hope, both for humanitarian reasons and for the prosperity and stability of the region to see a lasting peace being re-established in the DRC, sooner than later. We therefore, welcome measures to oblige responsible manufacturers to source their supplies of tin, columbite, tantalum, tungsten and gold from non-conflict sources and work for the success of these measures.

accountably in the formal sector and contributing over 3% of tax revenues to the national coffers. It is an important source of skilled and relatively well paid jobs, provides growing supply chain opportunities and contributes substantially to the development social and economic infrastructure which in turn, also stimulates substantial growth in other sectors of the economy such as agriculture, tourism, commerce etc. Gold has become Tanzania's biggest export commodity – making a major contribution to the tenfold increase in our export earnings between 1999 and 2008. The industry has made a largely positive contribution to development and is a very important part of our economy.

In summary, the great majority of gold mining in the region is from Tanzania, where it is well regulated and has not been tainted by illegally produced gold from the DRC. However, a disproportionate share of the compliance burden will fall upon US-listed manufacturers who source their gold supplies from Tanzania. I am advised that, given the burdens imposed by the proposed regulations, it would be unfortunate, but entirely rational, for a manufacturer to decide to avoid the compliance costs and management time involved by changing the source of their gold away from the region entirely, an eventuality which will be disastrous to the Tanzanian mining industry. It appears likely, therefore, that unless amendments are made to the regulations, Tanzania will suffer significant collateral hardship and economic damage. Moreover, since Tanzanian gold is not financing, and has not financed, the conflict in the DRC the burden on manufacturers sourcing gold from our country and the sacrifice we are being asked to make, will be largely nugatory.

We, therefore, request the Commission to consider making amendments to the proposed regulations such that where the 'reasonable country of origin' enquiry concludes that the gold within a manufacturer's product was mined in Tanzania then the gold contained in the product should be determined to be 'DRC conflict free'. There would, in these circumstances, be no need for the manufacturer to commission a 'conflict minerals' report or third party audit of said report. This approach would be predicated upon the producers of Tanzanian gold being able, at the reasonable 'country of origin' inquiry stage, to provide credible evidence to the relevant refinery, through a chain of custody scheme, that the gold was indeed mined in Tanzania rather than illicitly originating in the DRC.

This is a significant issue for Tanzania, with important ramifications for the health of our gold industry and, therefore, for our economy and the welfare of our people. I would, therefore, request the Commission to weigh these arguments with the utmost care and remove Tanzania from the list of the adjoining countries.

Yours sincerely,

TANZANIA CHAMBER OF MINERALS AND ENERGY



Ami R Mpungwe (Rtd Ambassador)
CHAIRMAN

CC Hon. William Ngeleja, MP
Minister of Energy and Minerals,
Dar es Salaam.

CC Hon. Bernard Membe, MP
Minister of Foreign Affairs and International Cooperation,
Dar es Salaam.

CC H. E. Mwanaidi Sinare Majaar,
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