



**SAVE ACTS MINE**

**ANALYSIS OF THE SITUATION RELATING TO THE  
SUSPENSION OF DODD-FRANCK ACT SECTION 1502 BY  
THE AMERICAN ADMINISTRATION**

*By Jamal Usseni*

*The trump administration should not be placed on the dark side of the force but had to remain on the bright side of it...*

## **INTRODUCTION**

We have been one of the most critical voices in section 1502 of the Dodd-Franck Act ... over time we have become its defender ... this is our analysis of the facts to defend this American law in Favor of the DRC our country.

In 2010 While the eastern Democratic Republic of the Congo (DRC) has been under intense activity by foreign and national negative forces for nearly two decades, the Obama administration passed a law in the US Senate, Dodd-Franck Act (DFA) Protect US consumers from industry abuse. The Act contains two sections, including 1502 for Responsible Supply of Natural Resources and 1504 for Combating Corruption. These have a direct link with the industry that uses mineral resources such as gold, tin, tungsten and especially colombo tantalite (Coltan) used in the aerospace, nuclear, weapons and The main source of supply in the world is in the eastern region of the DRC. Indeed, as prescribed by these two sections of the DFA, in respect of 1502, US companies using these minerals must exercise due diligence on a permanent basis on their value chains to ensure that their purchases do not contribute to the Financing of the negative forces operating in eastern DRC, human rights violations, terrorist financing through money laundering, etc. for the 1504, US companies had to declare any payment made to the leaders of foreign countries.

It should be noted that the adoption of this law was the result of a powerful lobbying in the United States and abroad of the organizations of the American civil society supported by several other organizations in Europe and in the DRC who were able to establish a A direct link between the armed conflicts that have affected the eastern DRC for two decades and the exploitation of these strategic minerals, hence the term "blood minerals"

### **MEASURES TO SUPPORT THE CHAIN TO COMPLY WITH DODD-FRANCK ACT SECTION 1502...**

In order to comply with this new regulation adopted in the United States, a series of measures had to be taken in the regions of the great lakes and particularly in the DRC so that the minerals coming from this region were classified as "Conflict-free" thus reassured the final consumers Who source their supplies in the region.

#### ***A) Traceability of minerals***

The minerals were to be labeled from the extraction site to the foundry passing through the export point. The objective of this mechanism is to identify all the actors who come into possession of the mineral from the extraction point to the final consumer. The first Traceability System for 3Ts ores to be operational in the DRC and still in operation is the ITSci system of the ITRI.

### ***(B) The exercise of due diligence***

In order to ensure that mineral supply chains pose no risk to end-users downstream, upstream actors should exercise a due diligence by setting up risk management policies within their companies Based on five steps that allowed them to identify risks, evaluate them and adopt appropriate risk mitigation measures. The benchmark in this regard is the OECD guide for responsible supply chains for minerals from conflict or high-risk areas.

### ***C) Regional certification of origin of minerals***

The mechanism of regional certification of origin of minerals would like to ensure that the declared origin of minerals is accurate and true so as to avoid the risk of misrepresentation of minerals at regional level. This mechanism is managed at regional level by the ICGLR Secretariat and at the level of each Member State the mechanism is managed by authorized services. In the DRC, the CEEC is responsible for implementing the mechanism through the issuance of certificates of origin for each export of minerals.

The implementation of these three mechanisms reassures the confidence of the final consumers who use the minerals coming from the Great Lakes region.

### **2012-2014: PERVERVE EFFECTS OF DODD-FRANCK ACT SECTION 1502 IN THE DRC?**

When the law comes into force in April 2011, the shock is perceptible in the DRC. And opinion does not fail to shout that the minerals of the DRC are struck by a de facto embargo by the "Americans". The law is accused of further impoverishing a population that has suffered enough from the pangs of war and whose survival depends mainly on the economic benefits of artisanal mining in the region.

On the security front, armed groups that were active on the ground did not disappear overnight, although their capacity for nuisance was severely impaired. However, there is a resurgence of the negative forces supported militarily and financially by Rwanda and Uganda, the case of the M23 and the ADF / NALU according to several reports of the UN expert group for the DRC.

Given these two parameters, economic and security, the D.F.A was less adapted to the local context and terribly disappointed the expectations that were placed on it by its defenders. But is this really the case?

It is important to point out an important fact: the circumstances that underlay the perverse effects of the application of the DFA that everyone has decried about the economy is not to put responsibility on the shoulders of the legislator American side but still on the Congolese side which took three years to comply with the new rules of the game whereas they had had 9 months to get in order before the entry into force of the Law in the united states. While on the Rwandan side the system was very quickly

configured according to the new regulations and took advantage of the delay taken on the Congolese side. The same situation was also manifested in the interior of the DRC where Katanga province under the leadership of former governor Moïse Katumbi Shapwe quickly implemented the new regulations by launching the traceability system of stanniferous minerals at Katanga while the provinces of North and South Kivu as well as Maniema large producers of these minerals were slowly following the trail.

On the security front, the Congolese government and Monusco should take advantage of the clear weakening of the Congolese negative forces between 2011 and 2012 to defeat them definitively by intensifying joint military operations thanks to the advent of the Monusco intervention brigade. But instead there has been unnecessary quarrel between the parties involved in the conflict in eastern DRC ... the peace and security of the people not doing their business!

### **QUID OF THE MARKETING OF ARTISANAL GOLD IN THE EAST OF THE DRC ...**

Eastern DRC contains one of the largest gold reserves in the world and is at the same time the scene of one of the most deadly armed conflicts in Africa. The balance of hidden interests whose objectives are not the political or social change in the country but the exploitation and marketing of this mineral whose demand continues to rise on the world market.

The biggest challenge for the eastern DRC pacification is the commercialization of this precious mineral, also targeted by DFA. If the commercialization of the 3Ts was quickly mastered by the three mechanisms mentioned above, especially to the cause of their volume, this is not the case for gold which has a very small volume but the value is very high. This facilitates smuggling and cross-border smuggling. The various Gold Traceability Initiatives in the DRC have been found to be limited due to the complex context in which the exploitation of gold is carried out in the DRC and the cross-border smuggling of this ore to Uganda, Tanzania, Kenya and to Dubai.

By analyzing the mapping of the activities of the negative forces that continue to operate in the DRC, it is realized that they operate in areas with high gold production potential. This proves that gold, also targeted by the DFA, artisanally produces these negative forces that are still operating in the eastern DRC. To conclude that those who buy gold in Uganda, Tanzania, Kenya and Dubai support the crimes and atrocities that these negative forces are committing on the population. Hence the need to continue efforts to strengthen control of the marketing of gold from eastern DRC through the application of sanctions targeting individuals, companies and governments involved in or facilitating Murderous trade.

## **FORCE IN THE APPARENT WEAKNESS**

In view of the above DFA has presented weaknesses that have placed it under the fire of the harshest critics to call it unnecessary law in both the United States and the DRC.

Although criticized for its impact on the ground in the DRC and the Great Lakes region, the law has sparked international momentum towards more responsibility in the mineral supply policies of multinational companies. Areas, particularly the Great Lakes region of Africa. Among other commendable initiatives taken as a result of DFA is the law on conflict minerals initiated by the European Union. Whose spirit would be to act in complementarity to overcome the shortcomings of the DFA while opening up to other regions of the world in order to lower the pressure on the region of the great African lakes.

It can also be safely argued that it is thanks to the DFA that the exploitation of the 3Ts in the eastern DRC is becoming increasingly responsible through the implementation of the mechanisms of Traceability of minerals, due diligence and certification of origin of ores.

## **INSTRUCTION OF PRESIDENT TRUMP FOR SUSPENSION OF SECTION 1502 OF D.F.A**

President Trump's instruction to the Acting SEC President to suspend section 1502 of the DFA for a two-year term, which was deemed catastrophic for US industry and disappointing for its impact in the DRC shortly after the repeal And simple section 1504, the anti-bribery law of the United States of America reveals a difficult thing to name.

Referring to the proposal for the suspension of Section 1502 of DFA, reading the draft of the decree by which the president trump instructs the SEC to take action against section 1502 of the DFA, there are two important assertions which deserve to be analyzed in depth:

***(A) Responsible mineral sourcing efforts have harmed parts of the DRC and are at the root of the region's instability.***

This statement is simply false and demonstrates a sharp lack of knowledge of the situation on the ground by the current US administration. Especially since the adoption of measures to control the supply chain of 3 Ts minerals in the DRC (tracability, due diligence and certification), the negative forces exploiting the mines of cassiterite, wolframite or Of tin. Contrary to what was happening before 2011. All these management measures had a dissuasive effect on the armed groups involved in the commercialization of these minerals. They know that only qualified and validated mining sites can benefit from traceability to hope to sell in the legal market.

That did not exist before the DFA was passed. To date, 3T minerals from areas controlled by armed groups can only be sold on the black market to feed the network of illegal cross-border smuggling of minerals that are subsequently sold to Rwanda. The situation of the exploitation of gold and its implications have already been widely

described above. So if instability there is still in the region it is not aware of the measures of supervision of the chain of supply of the minerals as wanted by the section 1502 of the DFA but earlier to the lack of rigorous application Of these management measures by other players in the Great Lakes region who have no interest in bringing peace back to the east of the DRC. These actors are known all over the world and even trump administration.

***(B) The responsible supply of minerals in the DRC would have undermined the interests of the United States' national security.***

This other argument behind the decree suspending section 1502 of the DFA is unfounded, dangerous and obstructing the true reality of the situation on the ground to the American people.

Indeed, the Islamist terrorist threat is exactly hovering over the eastern DRC not to carry out terrorist actions against US or Western interests in the DRC; it is not yet the case for the moment but to finance itself Through the illegal trade of various products including gold.

Two areas deserve special attention: the Beni-Lubero area and the Fizi area. If we draw attention to these two zones, this does not mean that other sensitive areas, such as walikale in North Kivu and Shabunda in South Kivu, do not present a high risk, as these two areas highlighted earlier Internal security of the United States of America.

#### **Case of the Beni-Lubero area**

Information in our possession indicates the involvement of ADF / NALU in the illicit trade in cocoa, coffee, exotic wood and gold to neighboring Uganda. The point at which this illicit and murderous traffic passes is the nobili-kamango border crossing. However the greatest fear is to be placed in the control by the ADF / NALU on a large deposit of thorium, from which is obtained uranium, located on the border between the province of Ituri and the province of North Kivu Near the villages of Kainama and Boga. Zones or operates the ADF / NALU in the eyes of the whole world including the trump administration.

#### **Case of the Fizi area**

Tanzanian subjects enter Congolese territory from Kigoma, a coastal town on Lake Tanganyika in Tanzania, to land directly in Baraka, in the territory of Fizi in the DRC. These people come to buy gold in large quantities in Misisi and other gold quarries in this area without any control over the source of the funds they use to buy gold they bring to Dar es salaam. Let us also note that in this zone is active a very active and effective negative force on the ground, Mai-Mai Yakotumba, which prevents the Congolese government from exercising full authority over this part of the country.

In our humble opinion, this constitutes a real threat to the internal and external security of the United States of America, which every American president is supposed to defend.

So to argue that it is section 1502 of the DFA that weakens the east of the DRC and undermines the interest of the national security of the United States is simply false; however, his suspension would indeed act in this direction ... Is this President Donald trump wants?

### **INSUFFICIENT MOBILIZATION OF THE EUROPEAN UNION AND THE UNITED NATIONS IN THE FIELD OF THE TRUMP ADMINISTRATION DECISION ON SECTION 1502 OF THE DFA**

There has been a high degree of responsiveness on the part of European governments to some of the positions taken by President Donald Trump on issues of international policy, such as Vladimir Putin's relationship with Russia, Brexit, etc., were also reactions against The decree on immigration of nationals of certain Muslim countries to the United States. This is not the case for the proposed suspension of section 1502 of the DFA. Why this disparity in international opinion on such important issues?

The pacification of the Great Lakes region in general and the east of the DRC in particular is a matter of international policy. The adoption of section 1502 of the DFA in the united states was made within the framework of the will of the international community to pacify this region prey to the war for two decades by cutting the link between the negative forces operating in this region And their main source of funding, which turned out to be the trade of 3Ts and Gold minerals. If it were agreed that the effects of the suspension of this provision of the American legal arsenal would have an irreparable negative impact on the security situation in that region of the world, for which the same international community spends billions of dollars Dollars through the most expensive and most important United Nations peacekeeping mission, MONUSCO, why such a weak mobilization to say no to this decision of the American administration, which also relies on false allegations , As demonstrated above?

In line with the recommendations of the DFA adopted in the United States, the United Nations Security Council adopted resolution S / RES / 1952, calling for greater responsibility on the part of multinational enterprises for their mineral Fragile areas such as eastern DRC by exercising due diligence on their value chains and more involvement of states and civil society to support private sector efforts to implement supply chains of responsible minerals In the Great Lakes region of Africa.

Why does the United Nations not express its opposition to the decision of the American administration because the above-mentioned resolution is based on the provisions of section 1502 of the DFA that the same administration wants to suspend?



## **CONSEQUENCES FOR EASTERN DRC IF SECTION 1502 OF THE DFA WAS SUSPENDED**

The consequences of the suspension of section 1502 of the DFA on the eastern region of the DRC will largely depend on the attitude of the American and European industry and, by extension, the Asian industry after this decision is formalized in the United States. Two scenarios are possible, either they continue their engagement or they abandon their commitments returning in the situation before the DFA.

In the first scenario, progress in terms of implementation of the supply chains responsible for the minerals obtained through years of work and effort will be preserved and capitalized in order to perpetuate the results. Under these conditions, these companies will benefit from a stronger image with their consumers and then that they have continued to respect their commitment to sourcing responsibly in the region despite the suspension of the law. In the second scenario, we will see the collapse of the entire 3Ts ore supply system that has been in place for the last 5 years. The situation will be characterized by the following facts:

- Control of 3T mining sites by negative forces increasing the risk of direct financial support to negative forces by US companies sourcing in the region;
- Direct involvement of negative forces in the trade of 3T minerals increasing their financial and operational capacity on the ground as well as their capacity for nuisance on the population;
- Systematic human rights violations in mining sites due to lack of supervision;
- The practice of modern slavery in 3Ts mining sites;
- The practice of sexual slavery on women in mining areas;
- The practice of child labor in 3Tsmining sites;
- The increase in the counter-band and illegal cross-border trafficking of 3T minerals between the DRC and neighboring countries exposing US companies sourcing from the Great Lakes region has a very high risk of misrepresentation of minerals.

All this being done in a context of renewed activity of the negative forces in an area weakened by several years of armed violence and whose international community, despite its very obvious good faith, is having difficulty pacifying.

## **CONCLUSION**

In view of the consequences of the suspension of section 1502 of the DFA on eastern DRC, it is appropriate to ask what are the real motives behind this decision of the US administration, which is based on false allegations As demonstrated above.

There have been some timid manifestations of some American companies that express their support for the law while the vast majority of these are for its abrogation pure and

simple. Faced with this situation what about US companies? Where is the greatness of the United States of America in all this? If one blames the fact that compliance with the requirements of the DFA causes additional expenses to US companies, we must conclude that its suspension will allow US companies to win billions more dollars for the blood of millions of people Humans? In all that where are the grandeur and the nobility of the United States of America? During his election campaign, President Trump promised to create millions of jobs for the Americans, let's say the suspension of this law is part of his strategy, can these millions of American jobs create justify the conflagration of an entire region of the world ? Did the United States of America lose their souls?

The deep sense of the trump administration's decision, if ever passed, is a strong anti-American sentiment among the people of eastern DRC who will feel abandoned to their sad fate by a friendly people, the American people .