

Comments on the Dodd-Frank Wall Street Reform and Consumer Protection Act Section 1502 (DF-1502) by the Tantalum-Niobium International Study Center (T.I.C.)

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The Tantalum-Niobium International Study Center (T.I.C.) is the international association representing the tantalum and niobium supply chains. The T.I.C. absolutely supports due diligence requirements for mineral sourcing provenance. Our membership believes that verified supply chains which confirm that sourcing is legal, ethical, responsible and sustainable, will improve the quality of life for those directly involved in mining and provide consumers with confidence that they are ethically supporting minerals industries. While the T.I.C. supports the extra weight that DF-1502 brings to our industries' due diligence efforts, our members believe that the wording of DF-1502 incorrectly stigmatizes a select few minerals and countries.

The T.I.C.'s views on due diligence are established in the Association's ASM (Artisanal and Small-scale Mining) Code of Conduct, adopted by the T.I.C.'s members in October 2016 to replace the Association's 2009 ASM Policy¹. Central to this process is the OECD's due diligence guidance², which is clearly-written, non-discriminatory in its application, and has a proven track-record of practicality in the field. The scope of the OECD's guidance also covers human rights, which this Association also fully supports.

Dodd-Frank's Section 1502 (DF-1502) shares some similarities with the OECD's guidance and has given extra credibility to the field implementation of mineral validation processes since 2011. However, unlike the OECD's guidance, DF-1502 is discriminatory both geographically and in targeting only tantalum, tungsten, tin and gold ("3TG"). Under DF-1502 all 3TG minerals are called 'conflict' minerals regardless of their origin or the certification of the supply chain. Similarly, the DRC and its neighbours are termed 'conflict countries' regardless of the presence, or former presence, of conflict. The T.I.C. believes DF-1502 was written quickly in response to a set of particular events, and attempted to achieve simple, inflexible solutions from a highly complex situation; now the named countries and industries are left with an inappropriate perpetual dictum.

¹ The T.I.C.'s Artisanal and Small-scale Mining (ASM) Code of Conduct is available at <http://www.tanb.org/images/ASM%20Code%20of%20Conduct%202016.pdf>

² The OECD's "Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas" (3rd edition, 2016) is available at <http://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>

Therefore, while in general agreement with the overarching goals of DF-1502, the T.I.C. questions its geographical, temporal and mineral ambit:

1. Why should the DRC and its neighbours be singled out for special treatment rather than “conflict-free” sourcing procedures being a global requirement?
2. What criteria determine whether and for how long the DRC and its neighbours are classified as “conflict” countries?
3. Why should 3TG be singled out and tainted as the only “conflict” minerals rather than requiring all mineral supply chains to undergo a risk-proportionate level of due diligence?

In our view, world-class original equipment manufacturers (OEMs) are extremely likely to continue demanding responsible sourcing best practices from their supply chains, especially considering the imminent European Union (EU) legislation on this subject. The T.I.C. urges the Securities and Exchange Commission Commissioners to take this opportunity to review and improve the law to enable clear and uniform implementation in line with the OECD guidance (as is the EU legislation), and in doing so recognize the importance of responsible supply chains to business and the livelihoods of the most vulnerable within those supply chains.

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