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THE UNINTENDED CONSEQUENCES OF DODD-FRANK'S CONFLICT MINERALS PROVISION

HEARING

BEFORE THE

SUBCOMMITTEE ON

MONETARY POLICY AND TRADE

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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THE UNINTENDED CONSEQUENCES OF DODD-FRANK'S CONFLICT MINERALS PROVISION

Tuesday, May 21, 2013

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MONETARY POLICY AND TRADE,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:01 p.m., in room 2128, Rayburn House Office Building, Hon. John Campbell [chairman of the subcommittee] presiding.

Members present: Representatives Campbell, Huizenga, Pearce, Posey, Grimm, Stutzman, Mulvaney, Pittenger, Cotton; Clay, Moore, and Peters.

Chairman CAMPBELL. The subcommittee will come to order. Without objection, the Chair is authorized to declare a recess of the committee at any time, and I will note that we are expecting votes on the Floor sometime prior to 2:30. So I expect that we will be recessing when those votes come. And the vote series should last about 45 or 50 minutes. So we will take a recess, and then we will come back and continue and conclude the hearing after that time.

I also want to remind our audience that disruptions of committee business constitute a violation of the District of Columbia code. And I want to thank you in advance for your cooperation in facilitating an orderly and respectful hearing this afternoon.

The Chair now recognizes himself for 3 minutes for an opening statement.

Thank you to our distinguished panel for appearing today before this subcommittee. The Democratic Republic of the Congo, or the DRC, has been in a near-constant state of civil war since it obtained independence in 1960. Some experts have argued that the Congolese army and various armed militias are fighting for control over mineral-rich areas in eastern DRC and that the sale of minerals in this region finances weapons purchases.

By extension of this logic, cutting off the mineral trade from the conflict areas of the DRC would starve the militias of their funding, and therefore end a long and brutal civil war.

That narrative was inserted into the Dodd-Frank Act as Section 1502, which requires public companies to certify to the U.S. Securities and Exchange Commission that their supply chains are free of any and all tin, tantalum, tungsten, and gold originating from the

eastern DRC. The SEC issued its final rule implementing Section 1502 just last year.

The reason for this hearing is to evaluate the consequences of Section 1502 as implemented. Congress has an obligation to conduct regular oversight on the laws it passes and the agencies that implement them. It is important that we regularly assess laws such as Section 1502 in order to see if they are working as they were intended.

There is another narrative that I believe we will hear today from some of our witnesses. Many Congolese activists remain concerned that Section 1502 has had a significant adverse effect on innocent bystanders in the DRC and that the result has been a de facto embargo on all minerals originating from the DRC and from surrounding areas.

As much as 17 percent of Congolese rely on the mineral trade, with a majority of the revenues accruing to artisanal miners unaffiliated with the conflict. Many of these people have seen their livelihoods eliminated as the market for legitimately mined minerals has evaporated. The consequences have been so impactful that the Congolese now refer to Section 1502 as "Loi Obama" or "Obama's law."

Despite the economic consequences, there is no indication that the violence is subsiding. Just yesterday, the Associated Press reported that M23, a rebel group being funded by Rwanda, opened fire on Congolese military forces north of Goma. M23 soldiers are from the Tutsi ethnic group, who are upset that the United Nations intervention brigade has been sent into the DRC with authority to engage the rebel groups. That narrative is premised upon claims that minerals will cause this conflict.

So what we are evaluating today is, to put it simply, if this law was intended to improve the lives of millions of Congolese, has it had that effect? If it hasn't, what should Congress or the Administration be doing differently?

I yield back the balance of my time. I would like to recognize the ranking member of the subcommittee, the gentleman from Missouri, Mr. Clay, for 3 minutes for his opening statement.

Mr. CLAY. Thank you, Mr. Chairman. And thank you for conducting this hearing.

Today, the subcommittee will hold a hearing on the unintended consequences of Dodd-Frank's mineral provision. This hearing focuses on the Democratic Republic of the Congo's activities in the mineral trade industry.

The Republic of the Congo is home to vast reserves of gold, tin, and other minerals critical to the production of many items such as iPads, cell phones and others. Also, the Congo has a long-running civil conflict between the national government and a cast of warlords and local gangs. This conflict is due to which group controls the land and has the minerals.

The minerals help fund the conflict, as the warlords force locals into the mines either at gunpoint, or through rape and murder campaigns. The warlords then sell the minerals on the black market, giving them the money they need to buy weapons and to subjugate locals and fight against the national army.

To address this issue, former U.S. Senators Sam Brownback and Russ Feingold, as well as current U.S. Senator Dick Durbin, introduced a bill requiring companies to disclose their sourcing efforts. The bill was adopted into Dodd-Frank by unanimous consent, and a companion to the minerals measure won by partisan support in the House and Senate, and President Obama signed the Dodd-Frank Act into law in July of 2010.

So, Mr. Chairman, I look forward to the witnesses' testimony. And before I yield back, I would like to ask unanimous consent to submit 3 letters from different groups on their positions on this aspect of Dodd-Frank.

Chairman CAMPBELL. Without objection, it is so ordered.

Mr. CLAY. And I yield back, Mr. Chairman.

Chairman CAMPBELL. The gentleman yields back his time.

Now, for the purpose of an opening statement, I would like to recognize the vice chairman of the subcommittee, the gentleman from Michigan, Mr. Huizenga, for 4 minutes.

Mr. HUIZENGA. Thank you, Mr. Chairman. I appreciate your efforts here today, as well as those of Ranking Member Clay.

I know this often gets said, but this truly is an important hearing. And I wish there was more attention paid to this particular issue because it is so important not only for the western world, but probably, frankly, more important for the African world and what this means in the long run as we are trying to make policy in this world economy.

My Spanish is better than my French, but Mr. Aronson, you had put a traditional Congolese saying on there, and my pronunciation of the French will sound like Spanish. So I am just going to stick with the English translation, but, "For us, without us, it is against us." And that is exactly what I am trying to capture, I guess, as we are looking into these issues.

We are here today to discuss Section 1502 as it applies to these minerals sourced in these conflict regions, such as the Congo. And I have asked for a map of the DRC to be put up as well, because I know so often, we kind of get lost as to where this is and what the implications are. And frankly, how huge the country is, and how far away Kinshasa would be from some of these other areas.

I would ask our witnesses, as you are going through this, to please point out where on the map you see the problems and the solutions coming from so that we may all have a better, fuller picture of what is going on.

But I think we can all agree on protecting the citizens of the Congo and condemning all human rights violations. That is something we can agree on, regardless of party affiliation or where we are from. But my concern is that this overly burdensome regulation has really done nothing to improve the lives of those in the mining community, but has only led to more violence in the region.

In fact, these efforts to ensure that the minerals do not enter the supply chains have resulted in a de facto embargo against the DRC. And according to the extractive industry's transparency initiative, as many as 12.5 million Congolese, approximately 17 percent of the DRC's population, depend on mineral trading to make a living. And most of the money generated by mineral trading goes to artisanal miners, rather than soldiers and rebels.

Dr. Laura Seay, assistant professor of political science at Morehouse College, who testified before this committee last year, reported that, "Despite ending most of the trade in Congolese conflict minerals," the de facto embargo has "done little to improve the security situation or the daily lives of most Congolese." So I am looking forward to investigating that.

And for any policymaker, I think this is probably going to ring true. It becomes disheartening if we really realize that well-intentioned but misguided policy doesn't have the impact for which it is intended. And we have to remember that this was never once, Mr. Chairman, debated in Congress. It was certainly not—I wasn't here for the creation of Dodd-Frank, but I am here for the echo effects of it. We know that this was one of those provisions that was slid in, in the conference committee. And this unprecedented use of securities regulation as an instrument of human rights policy fails to help end the civil war in the DRC, and instead only exacerbates the problem that it was intended to combat.

I look forward to hearing from our witnesses today on ways to protect the citizens in these conflict regions. That is very important to me. And Mr. Chairman and Mr. Clay, I again appreciate you holding this hearing today. Thank you.

Chairman CAMPBELL. The gentleman yields back his time.

And now, we will recognize for his opening statement the gentleman from Indiana, Mr. Stutzman, for 1½ minutes.

Mr. STUTZMAN. Thank you, Mr. Chairman, and thank you for calling this hearing today.

As others have already said, we all share the goal of bringing peace and stability to the Congo. We are fortunate to live in a country where the rule of law is observed. Our police and military do not act with impunity, and entrepreneurs, such as those in my home State of Indiana, are able to build businesses and contribute to this country's prosperity.

The Congo is rich in resources, and the prosperity we enjoy in this country is possible in the Congo. Unfortunately, however, the entrepreneurial spirit of many Congolese has been crushed by instability, feuding over land ownership, corruption, and a lack of clear governing authority in large parts of the country, among other problems.

The good intentions of those who push for the inclusion of Section 1502 of the Dodd-Frank Act are easy to understand. They see minerals in the Congo as the source of the violence, and are, therefore, trying to cut off profits to war lords.

I look forward to hearing from our witnesses as to how well Dodd-Frank is achieving that objective of denying funding to violent groups. Based upon the written testimony from our witnesses, I am concerned it is not working. The question I have, then, is whether using the American security's disclosure process is the right way to reduce violence in the Congo. Like many of my colleagues, I have significant reservations about this. What competence does the SEC have with the complex supply chain management in the mineral trade in the Congo?

I also have a difficult time understanding how imposing a massive paperwork burden on U.S. companies, such as manufacturers

in my district, is likely to help reduce violence in the Congo. I look forward to hearing an update from these witnesses.

And I yield back the balance of my time.

Chairman CAMPBELL. The gentleman yields back.

I believe the final opening statement will be the gentleman from North Carolina, Mr. Pittenger, who is recognized for 1½ minutes.

Mr. PITTENGER. Thank you, Mr. Chairman. The purpose of today's hearing is to get at the truth of Section 1502 and to see how the conflict minerals policy is working on the ground today in the Democrat Republic of Congo.

As we consider the conflict minerals policy, it is important to understand that the mission of the SEC is to protect investors, maintain fair and efficient markets, and facilitate capital formation. Section 1502 pushes the SEC into non-mandated and uncharted territory, changing it from an enforcer of the Nation's securities laws into an international human rights cop in Central Africa.

Is this the proper role of the SEC? Is Section 1502 the best policy prescription to end the violence in the DRC? Even though some have estimated that Section 1502 has cost as many as 2 million people their livelihoods, the violence in the eastern DRC persists, as armed militias continue to terrorize local populations.

I don't question the merits or the intentions of those who formed the policy, even in the quiet of the night, writing this in the Dodd-Frank bill in conference. But there seems to be a very strong indication that the impact has been counterproductive.

Therefore, I look forward to hearing the witnesses and their testimony on the ongoing crisis in the DRC and how we can responsibly address this tragedy and yet remain focused on the SEC's stated mission.

Thank you. I yield back the balance of my time.

Chairman CAMPBELL. The gentleman yields back. And that concludes the opening statements.

We will now move to our distinguished panel of witnesses. And we will begin with Mr. David Aronson, who is editor of Congoresources.org. He is a freelance writer and editor who has lived in central Africa and written about the Congo for nearly 25 years. He previously served as the senior editor for the U.S. Institute of Peace; served as a spokesman for the U.S. Commission on Civil Rights; was assistant director of the Southern Poverty Law Center; and served as the editor of the Carnegie Endowment for International Peace. He has a Bachelor's degree in Anthropology from Wesleyan University and a Master's of Fine Arts in English from the University of Florida.

Mr. Aronson, you are recognized for 5 minutes.

STATEMENT OF DAVID ARONSON, FREELANCE WRITER, EDITOR OF WWW.CONGORESOURCES.ORG

Mr. ARONSON. Thank you, Chairman John Campbell, Ranking Member William Lacy Clay, Vice Chairman Bill Huizenga, and members of the subcommittee for holding this hearing on the unintended impacts of Dodd-Frank's Conflict Minerals Provision.

My name is David Aronson. I am a freelance writer and editor who has lived and worked on and off in central Africa for 25 years.

Dodd-Frank Section 1502, the conflict minerals provision of the 2010 Dodd-Frank Wall Street Reform and Consumer Act, is a case study in how good intentions can go awry, particularly when a compelling activist-sponsored narrative substitutes for considered and timely analysis.

As I will make clear, the law imposed a de facto embargo on mineral production that impoverished the region's million or so artisanal miners. It also drove the trade into the hands of militia and predatory Congolese army units. The military situation on the ground has considerably worsened since passage of the law, and the SEC's promulgation of the implementation guidelines.

Advocates for the law disregarded the consensus opinion of Congolese experts who repeatedly warned them of the dangers the campaign posed to their people. The case for Dodd-Frank Section 1502 rested on some dubious and misleading assumptions, which I will be happy to discuss in the question-and-answer session.

Finally, a dozen respected scholars and NGOs have independently studied this issue in the past 18 months. They have all concluded that the law is imposing unacceptable costs on the Congolese, while doing little to diminish the violence.

First, a little background. In early 2011, in response to negative publicity from activist groups and in anticipation of the eventual implementation of Section 1502, the Electronic Industry Citizenship Coalition (EICC), stopped accepting minerals from central Africa that were not certifiably clean. The resulting de facto embargo of Congolese minerals went into effect on April 1, 2011 and had an immediate impact on the artisanal mine sector and on the broader economy of the region.

To understand the extent of that impact, consider this open letter addressed to President Obama and SEC Chairman Mary Schapiro from 50 South Kivu civil society organizations, dated July 5th, 2011:

"The abrupt cessation of the trade has had devastating impacts on our people. Millions of our artisanal miners have suddenly had their livelihood cut from under them. They find it increasingly difficult to pay school, health, or maternity fees. Some even report having difficulty providing food for their families. Mining enclaves have emerged over the past decade in places so remote that only planes can access them. The world's sudden refusal to buy these minerals means that the planes no longer service these communities. With nothing to trade, they are unable to provide themselves with basic necessities.

"Because artisanal mining was one of our own engines of growth, secondary economic impacts are being felt throughout the province. Even in our large towns, economic activity has diminished. Construction has slowed, and trade in everything has fallen. People with very little to begin with are now doing with less."

I would add one more reason for concern. Near-epidemic levels of livestock and crop diseases are currently devastating agricultural production in the region. Families who dispersed their risk by sending some members out to mine, while keeping others at home to farm, are being hit on both counts. And they have nothing else to fall back on.

Today, the de facto embargo factor of Congo's tantalum, tungsten, and tin, the "3 t's," is still in effect. And Section 1502 continues to depress the economy of eastern Congo. There has been some resumption in the trade overall; however, the trade has by no means reached its pre-embargo level, and miners receive significantly less than they used to for each kilo of mineral that they produce.

In contrast, the gold trade continues unabated, with virtually no procedures in place to formalize, let alone control it. While a number of efforts are under way to establish conflict-free gold supply chains for boutique jewelers, gold is so valuable, so easy to smuggle, and so fungible, that it is hard to imagine how the trade could ever be brought under control.

As I said, over the past 18 months, a dozen independent scholars and NGOs have published reports on the impact of the conflict minerals campaign. Strikingly, they have all reached similar conclusions. Section 1502 is harming ordinary people, helping entrench militia and war lords, and in no way significantly reducing conflict. To my knowledge, not a single independent analysis has concluded that Dodd-Frank Section 1502 has had a positive impact on development in eastern Congo.

Finally, I would ask the subcommittee to listen to the voices of some Congolese who have been affected most directly by the law.

This, just very quickly, too. Serge Malumbo writes, "We cannot give you exactly the number of lives that are lost each day following the cessation of artisanal mining in the DRC and yet even if a child died or who is hungry or do not go to school because his father digger lacked money, that is a tragedy, it is a sad news that should challenge our humanity."

I see that my time is up. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Aronson can be found on page 40 of the appendix.]

Chairman CAMPBELL. Thank you, Mr. Aronson.

Next, we will hear from Mr. Mvemba Dizolele, who is a distinguished visiting fellow at the Hoover Institution. He also serves as a policy adviser for the Eastern Congo Initiative; lectures at the school of Advanced International Studies at Johns Hopkins University; served as an election monitor with the Carter Center in the Congo in 2006 and in 2011; and is a veteran of the United States Marine Corps. He earned a Bachelor of Arts in Political Science and French from Southern Utah University, and has a Master's of Business Administration and a Master's of Public Policy from the University of Chicago.

Mr. Dizolele, you are recognized for 5 minutes.

STATEMENT OF MVEMBA PHEZO DIZOLELE, VISITING FELLOW, HOOVER INSTITUTION ON WAR, REVOLUTION AND PEACE

Mr. DIZOLELE. Chairman Campbell, Ranking Member Clay, and distinguished members of the subcommittee, thank you for the invitation and honor to testify before your subcommittee today.

A little over a year ago, I had the privilege, along with other colleagues, to share with members of the subcommittee my perspective and insights about Section 1502 of Dodd-Frank and its con-

sequences for the people of the DRC. I would like to note, however, that the views expressed in this statement today are mine and mine alone.

A year is enough time for emotions to cool off and reason and honesty to prevail, as we monitor and evaluate Dodd-Frank Section 1502. It is then quite appropriate for us to look at the unintended consequences of this legislation with the informed vantage point of time.

A week ago, I returned from a working trip in the Democratic Republic of Congo, where I participated in a conference about the Peace, Security, and Cooperation Framework for the Democratic Republic of Congo and the so-called "conflict minerals." The conference brought together Congolese academics, political leaders, and representatives of civil society organizations in a memorable moment of reflection about ways and means to usher lasting peace in Congo and end the illicit and illegal trade and looting of natural resources.

Throughout the conference, I think Kinshasa could not help but marvel, as I have done many times before, at the determination and commitment of our friends who promoted Section 1502.

They mobilized thousands of people in a campaign that raised awareness of the continued conflict in eastern Congo. The high-level zeal is the campaign's main strength.

Section 1502 seeks to bring peace to the eastern Congo by regulating mineral trade through U.S. law, cleaning up the supply chain, and reducing militias' access to financial means.

The spirit of the law supposes that such a regulation will de facto curb the violence and human rights abuses.

This campaign, however, has a serious weakness. Proponents of Section 1502 built their case on an erroneous premise that claimed that minerals were either the source or at the center of the conflict. Cutting militias' access to mines will lead to peace, the argument goes.

Let me suggest then, that the best way to evaluate the consequences of Section 1502 would be to look at its premise, claims and impact on institution-building and on the Congolese people.

Mineral trade in eastern Congo is part of a wider economy which can only be regulated either by the most powerful armed groups working in collusion, the biggest armed group imposing its way on the smaller ones, or by their backers seeking to maximize profit and preserve their own interests.

As such, Section 1502 builds on a weak foundation and requires the buy-in of the very negative actors it seeks to tame.

This approach perverts basic peacemaking models and rewards criminals and would-be spoilers. This premise led to a law with the following results. First, the U.S. Congress passed legislation that ignores the will and agency of the Congolese people and imposed an outside solution to a problem that is best understood by the Congolese.

This approach to peacemaking undermines DRC's strong civil society, which has been working hard over the years to end the looting of natural resources. Their actions include the audit of mining contracts, the revision of the mining code, and the call for secu-

rity sector reform and a respect for the transparent and credible electoral process.

Second, the U.S. Securities and Exchange Commission, which is entrusted with the implementation of this law, is not qualified to carry out such a task. The SEC has neither the expertise nor the money to conduct a cost-and-benefit analysis of the impact of Section 1502 on the Congolese and U.S. businesses.

Thus, the SEC had to decide on such a complicated matter affecting the livelihood of millions of people without adequate assessment of the situation on the ground in Congo.

It was inappropriate to ask the SEC to serve as the primary agency to enforce this law. This work is simply outside the agency's scope and mandate.

Third, Section 1502 perpetrates the dominant, but wrong, narrative that casts the Congolese people as incapable of solving their problems and in constant need of outside guidance.

The truth is that no one understands mining in Congo better than the Congolese. By failing to engage the Congolese in an honest dialogue on the relationship between conflict and mining, proponents of Section 1502 failed to spur a national ownership of the initiative through a true partnership with the Congolese.

Fourth, Section 1502 creates what is known as "Congo fatigue." Staffers in both Chambers of Congress work hard to help steer U.S.-Congo policy in the direction that best benefits the Congolese people. House Members and Senators invest their political capital to do the same.

It is, therefore, disappointing to hear that the legislation they passed did not yield the anticipated result because they were misled. Such a realization makes it difficult to engage Members of Congress the next time around.

Fifth—

Chairman CAMPBELL. Mr. Dizolele, if you could—number five, and then wrap up.

Mr. DIZOLELE. I am almost done, Mr. Chairman.

Fifth, there is no evidence that Section 1502 has reduced violence in the targeted region. In fact, the emergence of the M23 militia last spring, which has escalated tensions in the Great Lakes, has proved that this law has little bearing on war entrepreneurs.

The Congo may be a dysfunctional state, perhaps, or even a weak state, but this does not mean the Congolese society is weak.

Thank you very much.

[The prepared statement of Mr. Dizolele can be found on page 49 of the appendix.]

Chairman CAMPBELL. Thank you, Mr. Dizolele.

Next, we have Mr. Rick Goss, senior vice president of the Information Technology Industry Council, where he directs the development of policy related to green product design, renewable energy, and responsible supply chain management.

He previously worked for the Electronic Industries Alliance as the vice president, environmental affairs, on policies such as electronics recycling, green procurement, and product materials content.

He has a Bachelor of Arts in political science from the University of Rochester and a Master's of Science and Environmental Management from Rensselaer Polytechnic Institute.

Mr. Goss, thank you for being here. You are recognized for 5 minutes.

STATEMENT OF RICK GOSS, SENIOR VICE PRESIDENT OF ENVIRONMENT AND SUSTAINABILITY, INFORMATION TECHNOLOGY INDUSTRY COUNCIL (ITI)

Mr. GOSS. Thank you very much, Chairman Campbell, Ranking Member Clay, and members of the subcommittee for the invitation to testify today on this very important topic.

ITI, my employer, is a global trade association representing 50 of the world's most innovative companies in the information and communications technology sector.

Our members have an abiding commitment to sustainability and corporate social responsibility, a commitment we have again demonstrated through our strong leadership on conflict minerals.

While the minerals and metals covered under Section 1502 are routinely used by every industry across the global economy, tech companies have taken the lead to drive private sector initiatives and secure measurable progress. ITI and our members are dedicated to being responsible actors within the context of comprehensive, government-led strategies for Central Africa.

First, we are committed to ethical sourcing throughout our global supply chains. Second, we want to source cleanly from Central Africa to help provide critical economic benefits to local populations.

With these twin objectives in mind, our sector has made a conscious choice to remain engaged in the region. Our initiatives include launching the conflict-free smelter program, establishing clean, in-region sourcing channels in Central Africa, developing and promoting supply chain transparency and reporting measures, and, finally, joining with governments and civil society in the Public-Private Alliance for Responsible Minerals Trade.

Based on a long history of credible engagement and concrete achievements, the tech sector can bring unique judgments and perspectives on the impacts of Section 1502 and on the broader policy debate.

Let me begin by relating the positive outcomes that Section 1502 has yielded. First, the public debate on conflict minerals has brought desperately needed attention to an outright humanitarian crisis that had been largely ignored by the international community.

Second, the enactment of Section 1502 drove other sectors to join with tech to drive policies and transparency measures throughout global supply chains.

And, finally, Section 1502 helped convince regional governments to engage more fully in mining sector reforms.

Section 1502, however, has also created obstacles for companies that want to remain responsibly engaged in Central Africa.

Simply put, the mechanism contained in Section 1502 encourages companies to avoid the region, while layering regulatory burdens and costs on those that stay.

This has led to a de facto embargo on minerals from the covered region, with serious consequences for local populations.

Major smelters report that a majority of their direct customers are demanding metals that are Congo-free rather than conflict-free.

Likewise, most companies expend the bulk of their time and resources establishing that they are not sourcing from the region, rather than on developing programs that build clean sourcing capacity.

Also, because of endemic security and corruption challenges, the volume of materials processed through legitimate in-region programs to date has been modest. The United Nations reports that even as security has improved at some major mining centers, exports of tin, tantalum, and tungsten from the eastern DRC have all but halted. The prices for uncertified minerals have plummeted, with impoverished artisanal miners earning mere cents on the dollar, while brokers and exporters secure huge profits.

The societal impacts can be measured in reduced family incomes, limited availability of and rising prices for food and medicines, and falling school enrollments.

The United Nations has also documented black market activities on conflict minerals and has determined that militias and "criminal, mafia-type networks" within the Congolese army are exploiting other sources of revenue through products such as timber, charcoal, cannabis, ivory, and basic supplies, and through practices such as human trafficking, illegal roadblocks, and extortion.

Section 1502, by focusing almost exclusively on the role of the private sector, has diverted critical attention away from the indispensable role of governments in addressing the endemic political security and humanitarian crises in the region.

Private sector initiatives alone cannot succeed in a region beset by rampant conflict and corruption and destabilized by chronic interference and intrusions from neighboring countries.

The underlying causes of this regional war are political, not economic, and are linked to entrenched ethnic enemies and disputes over political power, land rights, and citizenship.

While control over natural resources is in part responsible for fueling violence in eastern Congo, it is striking to note that adjacent areas that are equally rich in resources are not plagued by conflict.

Ultimately, corporate efforts alone are no substitute for comprehensive international engagement. In the absence of this international will, the status quo will reign in the Congo.

In closing, ITI and our members urge Congress to consider ways to overcome the deterrent effects of Section 1502 and to provide incentives to companies that responsibly source from Central Africa.

These efforts could include lowering the regulatory burden, offering a Federal procurement preference, enacting tax incentives, and providing public recognition to those companies that source through approved in-region programs.

The U.S. and other governments can also support in-region transparency and governance initiatives, and can place collective pressure on foreign smelters to participate in our audit program.

Finally, the tech sector will continue to embrace our role as part of the solution, even as we join with governments and civil society

to press for more concerted and lasting action from the international community to resolve the unfolding calamity in Central Africa.

Thank you again for the invitation to testify today.

[The prepared statement of Mr. Goss can be found on page 54 of the appendix.]

Chairman CAMPBELL. Thank you, Mr. Goss.

That buzz means there is a vote on the Floor, but we will complete the testimony of our witnesses, and then I will recess the committee. We will be gone probably about 30 minutes, and then we will come back for the questioning phase of the hearing.

So, Ms. Sophia Pickles, a conflict resources campaigner for Global Witness, which focuses on the eastern Democratic Republic of the Congo and the wider Great Lakes region of Central Africa, has worked on DRC issues since 2004. She lived in Manono from 2006 to 2008, and coordinated an all-party parliamentary group focused on the Great Lakes region in the U.K. Parliament.

Ms. Pickles, you are recognized for 5 minutes.

STATEMENT OF SOPHIA PICKLES, POLICY ADVISOR, GLOBAL WITNESS

Ms. PICKLES. Thank you.

I would like to thank the Subcommittee on Monetary Policy and Trade, in particular Chairman Campbell and Ranking Member Clay, for the opportunity to speak with you today.

My name is Sophia Pickles. I work for Global Witness, a nongovernmental organization that campaigns to break the links between natural resources, corruption, and conflict.

I lead our campaign on eastern DRC and conflict minerals. My work has focused on the African Great Lakes region since 2004, and I lived for 2 years in Manono, a mineral trading town in Congo's Katanga province.

I travel frequently to eastern Congo to carry out in-depth field investigations. These involve visits to mining areas and interviews with all stakeholders in the trade, including artisanal miners, and mineral traders, mining authorities, representatives of the army, and local civil societies. I also meet regularly with ministers and other senior officials in the DRC, Rwanda, and Burundi.

For the last 15 years, armed groups and members of the Congolese national army have used profits from the trade in tin, tantalum, tungsten, and gold to finance themselves and their operations in eastern DRC. Minerals are not the root cause of this conflict, but competition for control of lucrative mine sites has been an incentive for warring parties to continue fighting.

The local population in North and South Kivu provinces has borne the brunt of a war characterized by murder, rape, pillage, and mass displacement. Section 1502 has generated unprecedented scrutiny of supply chains from eastern DRC by requiring U.S.-listed companies to check whether the minerals they use are funding armed groups.

While some industry associations claim that implementing the law is too burdensome, company compliance over the past 3 years paints a different picture. Collective industry initiatives to support

due diligence, such as the Conflict-Free Smelter Program launched by the electronics industry, emerged as early as 2010.

SEC-listed companies not previously engaged in the region have invested in closed-pipe sourcing initiatives in DRC. Two examples are: Solutions for Hope settled in Katanga in 2011; and the Conflict-Free Tin Initiative launched in south Kivu in October 2012.

A number of companies like Hewlett Packard, Phillips, Intel, and Apple have made progress tracing their supply chains as far as the smelters and refiners.

Section 1502 has also catalyzed changes in DRC's domestic mining sector well before the law's first implementation year began just 5 months ago. The passage of Section 1502 prompted the Congolese government to introduce domestic legislation in 2012, obligating companies operating in its mineral sector to undertake supply-chain due diligence, complementary to that required under Section 1502. The government has since suspended two trading houses operating in eastern Congo for failing to do due diligence. In eastern Congo, mineral traders who had previously turned a blind eye to the conflict minerals trade have formed a local coalition that promotes the implementation of due diligence and the development of conflict-free supply chains. Traders told me that this initiative and others like it were developed in response to Section 1502.

Local oversight and whistle-blowing groups are also emerging. Congolese civil society organizations such as Observatoire Gouvernance et Paix (OGP) train local communities in how to monitor mining areas and trading routes and report on military or armed group involvement. This tie to civil society and community engagement is key to disrupting and preventing armed groups from accessing illegal revenues from the minerals trade.

Proper implementation of Section 1502 has the potential to substantially improve the socioeconomic situation of artisanal mining communities. These communities are extremely vulnerable to the activities of rebel groups and to the abusive factions of the Congolese army.

Insecurity caused by the presence of armed groups that prey on the mines and trading routes is one of the main drivers for sustained poverty in artisanal mining communities, limiting access to agricultural fields and markets and impacting household incomes, and the ability to pay for things like school fees.

Challenges remain. The number of companies doing due diligence and sourcing from eastern Congo is still limited, largely as a result of the uncertainty created by the SEC's 16-month delay in publishing the law's final rule.

It is too early to measure the impact of due diligence on a wide scale. But opportunities for conflict-free sourcing from eastern DRC are emerging. The law has led to changes in how companies approach supply chain management. It has catalyzed reform as DRC's domestic mining sector and spurred development of a regional mineral certification system.

Increased scrutiny of certain mines and mineral trading routes is gradually creating opportunities for transparent and conflict-free sourcing.

Thank you, and I look forward to your questions.

[The prepared statement of Ms. Pickles can be found on page 60 of the appendix.]

Chairman CAMPBELL. Thank you, Ms. Pickles.

We will now recess the committee. We should be back from these votes in about 35 minutes or so.

The committee is in recess.

[recess]

Chairman CAMPBELL. I tried to hit the gavel a little softer that time, so I didn't startle any of you out there.

Thank you for your patience. The votes are over, and the committee will now return to order and be back in session.

So with the testimony of the witnesses having been completed, we are now into the questioning phase of the committee. I will now recognize myself for 5 minutes for questions.

And my first question will be to Mr. Aronson, Mr. Dizolele, and Mr. Goss. Ms. Pickles mentioned several different activities that large companies—Apple and some others that you mentioned—were taking in the Congo to try and distinguish in the DRC between the minerals that might fund some of the rebel activities and so forth versus others.

Are any of the 3 of you aware of those activities? Do you agree that those things are happening? Are they effective? Are they non-effective? I would just like some comments from the three of you on what she said.

Mr. ARONSON. Thank you very much, Mr. Chairman, for that question. I would say two things. First of all, there are, in fact, a plethora of initiatives under way. In fact, as the Poly Institute has written, the number of different international initiatives to deal with Congolese minerals is astounding and itself becoming increasingly problematic. There are so many initiatives under way and they are all sort of dealing with the same actors. And they are all trying to apply similar but not identical standards.

And so the Poly Institute, which is a Goma-based local Congolese-owned think tank, said that the multiplication of uncoordinated visits from many different purposes are generally regarded by economic operators on the ground as auditing activities with related increase in audit fatigue. Participants warned against the increase in conflict minerals tourism that fails to deliver concrete results.

I would say that some of those initiatives under way are having very mixed results. As, in fact, Ms. Pickles demonstrated in her excellent report on recent developments in eastern Congo under—with Global Witness. For example, she pointed out that a project in Yabibwe that has produced a few hundred tons of product and that is being, I think, underwritten by the Dutch, perhaps in conjunction with the United States, is widely viewed as a test case for responsible sourcing.

However, there are increasing allegations that it is being exploited by a military-led smuggling racket. So these initiatives that are under way, there are a large number of them. They are to some extent redundant and to some extent they are already deeply compromised.

Chairman CAMPBELL. Mr. Goss?

Mr. GOSS. Thank you, Mr. Chairman.

Obviously, ITI represents a great number of the tech companies that are involved in Central Africa. I would also mention the Solutions for Hope initiative and the Conflict-Free Tin Initiative here.

I mentioned in my testimony the public-private alliance that the U.S. State Department and the USAID have put together. Two-thirds of the private corporations participating in that effort are tech companies here.

And what I would say is, yes, we have had some limited success in terms of putting together so-called "closed-pipe" systems to generate conflict-free material, mostly tantalum and tin, that can then go into our conflict-free smelter program. But the volumes are modest and the challenges are most of the programs are being run in non-conflict areas within the DRC or within neighboring countries covered by Section 1502.

And so there is a foothold there, but really what is lacking are the broader security efforts in the Kivus and in neighboring countries here to try to bring more conditions of peace and security to allow these programs to expand.

Chairman CAMPBELL. Okay.

Mr. Dizolele?

Mr. DIZOLELE. Mr. Chairman, there are a lot of initiatives that have taken place now, but the challenge is these initiatives from the Congolese side, at least, on both sides, actually, is that they do the bare minimum to fit the narrative, what is demanded of them from this side of the world.

That also means the networks are still controlled by the same elements, meaning war criminals who often control even those mines that are supposed to be clean. So I think we have a challenge where we are looking at the process, looking at the appearance of the process, and not digging deep into the substance of what is happening or not happening.

If the goal is in fact to reduce violence, and these criminals are still bypassing the system, as we see from the emergence of the M23 militia, then we are still at ground zero.

Thank you.

Chairman CAMPBELL. Okay. Thank you.

And I was going to turn next to Ms. Pickles, so I will just mention this, and then maybe we will get to it later. And I was going to ask you, conversely, versus what the 3 of them had mentioned about how many groups or companies, which seemed pretty easy—the easiest way to do this is just avoid the DRC or perhaps even avoid the African continent completely when acquiring things, and your comments on that.

But my time has expired, so I will yield now to the ranking member of the subcommittee, the gentleman from Missouri, Mr. Clay, for 5 minutes.

Mr. CLAY. Thank you, Mr. Chairman.

Mr. Dizolele, according to your testimony, violence has increased due to the Dodd-Frank Act. And in one part of your testimony, you say Section 1502 has reduced violence. There is no evidence that this section has reduced violence in the targeted region. In fact, the emergence of the M23 militia last spring, which escalated things in the Great Lakes, is proof that this law has little bearing on war entrepreneurs.

And you talked about how in the Congo, businesses are not the enemies. Armed groups and their international local backers are. Give me examples of who local backers are.

Mr. DIZOLELE. Thank you, Ranking Member Clay.

I start in my testimony by saying there is a premise to this legislation. The premise was very clear, that by cutting funds to the militias, we will see a downward trend in violence. We have not seen it. We have seen the emergence of a set of militias. We can go through the alphabet soup of their names, but they are there. The M23, which is the biggest that has emerged, if we have been following the reports documented to the U.N. group of experts, to the U.S. intelligence and the State Department itself, is a group that receives a lot of outside backers. The country that has been pointed to mostly has been Rwanda, and sometimes Uganda. These countries have denied involvement, but those are some of the outside backers that I am talking about.

Mr. CLAY. And you also say that this section perpetrates the dominant, but wrong narrative. It casts the Congolese people as incapable of solving their problems and in constant need of outside guidance.

Do you want to expand on that for me?

Mr. DIZOLELE. Very much so, Ranking Member Clay.

There is a narrative that has emerged on Congo, which is always a mess. There is always war and the entire place is in chaos. What is lost in that narrative is that you have a very resourceful people who are holding the country together. They have been doing this through a set of initiatives. And I am talking particularly here about the civil society organizations have been at the forefront of reforms in DRC. So they really don't need people to come and push them in a direction that often doesn't benefit them.

What they need is partnership with outside groups that care. Because, after all, advocacy needs to be in solidarity with the affected people.

Mr. CLAY. And I find it intriguing in one part of your statement where you say the campaign, however, has a serious weakness. Proponents of Section 1502 built their case on an erroneous premise that claims the minerals were either the source or at the center of the conflict. Cutting militias' access to them will lead to peace, the argument goes. And that has not happened?

Mr. DIZOLELE. Yes, sir. That has not happened. That is the example I have given. If you live in the far reaches of North Kivu, if you are a woman—let's use the case of women—the statute has not changed your chances of being raped when you go to the field, because the field has been infested by armed groups.

So what difference does it make to a 17-year-old who lives in village X in North Kivu when she goes to the field? She pays the same consequences. If you go to post-Section 1502 Africa, if you go to Ponzi, you see that the number of rapes has not decreased. Those are some of the indicators we should be looking at.

Mr. CLAY. Expound for me on the statement where you say this approach perverts basic peacemaking models and rewards criminals and would-be spoilers.

Mr. DIZOLELE. Sir, in order for us to bring peace in the Great Lakes region, especially in the Kivus, we need a justice component.

If there is no justice component to go after these militias or these leaders, some of them wear the Congolese general stars, at these controlled mines. Some of them are sitting happily in Kigali and were receiving them here.

So whatever we do does not affect them. That is what I mean by they are above this labeling, above all the law, all this legislation. They are not affected.

Mr. CLAY. Okay. And you are also very critical of the Securities and Exchange Commission. According to you, it has neither the expertise nor the money to conduct a cost-and-benefit analysis of the impact of this section. Give me your thoughts behind that.

Mr. DIZOLELE. Part of the arguments about the unintended consequences of Section 1502 is what impact does it have. And nobody has been able to carry out this study. Now, this is an international affairs issue we are talking about. We are talking about a sovereign country with a government that may or may not be on board with what we are doing. And then we are asking a U.S. agency that doesn't deal with international affairs to carry out legislation that is affecting a sovereign government and a sovereign people.

The discussion—some people think the costs rise up to about $71 billion. If that is true, then we should have some studies to fall on, so we can have a sensible discussion.

Mr. CLAY. Thank you for your response, and my time is up.

Mr. Chairman, I want to submit for the record one more—

Chairman CAMPBELL. No, you have reached your limit of submissions to the record. No, just kidding.

[laughter]

What do you have?

Mr. CLAY. Mr. McDermott of Washington State would like to submit his statement.

Chairman CAMPBELL. Without objection, it is so ordered.

Mr. CLAY. Thank you.

Chairman CAMPBELL. I now recognize the vice chairman of the subcommittee, the gentleman from Michigan, Mr. Huizenga, for 5 minutes.

Mr. HUIZENGA. Thank you, Mr. Chairman.

I am going to try and move quickly. Obviously, this is very jarring and chilling testimony, I think, of anybody who has seen either video or read some of the accounts of what is going on. And I am hoping for some help unpacking a few of the players and getting some opinions, Ms. Pickles and Mr. Dizolele, and the others as well.

One of the questions is, would there be a conflict if there was no minerals present? And, I don't want to put words in your mouth, so I would just like to hear, maybe just right down the—Mr. Aronson, if you don't mind. Do you believe that there would be a conflict in the DRC right now if there were no minerals that were being fought over?

Mr. ARONSON. I guess I get to start.

Yes, clearly, there would be a variety of not just a conflict, but a variety of different conflicts under way. These conflicts are—

Mr. HUIZENGA. I am assuming religious, ethnic, tribal, and—

Mr. ARONSON. Right. Over citizenship, over chieftancy issues, over succession issues, over land issues—all of these. And the ena-

bling context is that there is such a weak governing structure in place that the government is unable to do the sort of the minimum necessity of a state, which is to impose order.

Mr. HUIZENGA. Yes, okay. And does everybody sort of agree with that? Mr. Dizolele? Mr. Goss?

Mr. DIZOLELE. I agree.

Mr. HUIZENGA. Okay.

Mr. GOSS. I agree, as well.

Ms. PICKLES. I agree, but I think it is important that we recognize the role that minerals have played in perpetuating the conflict for 15 years.

Mr. HUIZENGA. Okay. I am not dismissing that. I just want to try to get that.

And I am also curious—was the government really consulted or brought in as a partner on this when it was passed into Dodd-Frank? Ms. Pickles, if you care to address that? You are pretty critical of any sort of—sour on any sort of discussion about repealing this or rolling it back. So if you could maybe address that, and then we can kind of quickly work back the other way?

Ms. PICKLES. The Congolese government has made public statements in support of Section 1502, and has submitted those to the SEC, to the public record.

Mr. HUIZENGA. But is that universal? Because we were hearing testimony from Mr. Dizolele that that was not necessarily the view.

Ms. PICKLES. I think there is a divergence of views in Congo, as there would be in any country in the world over any piece of legislation. When I go to Congo, I meet people who very strongly support Section 1502 in the Congolese government and in provincial mining authorities in North and South Kivu and in the artisanal mining community.

At the same time, there are other people who don't support the legislation.

Mr. HUIZENGA. And quickly, do any of the other three of you care to address that notion of government involvement and approval—the Congolese government adding its stamp of approval?

Mr. DIZOLELE. Actually, I can—I think when I talked about Congolese not being consulted, this is something that affects the future of Congo and the people of Congo's livelihood. Just to give you an example, the SEC held a roundtable 2 years ago it was, or a year ago—right before the vote. You had 16 panelists, and among those panelists, there was not one single Congolese.

The main person—the foremost expert of the DRC government is a fellow by the name of Paul Margolia. Paul Margolia and the chief of staff of the Ministry of Mine had flown from Congo. They were not on the panel. They sat in the audience with everyone else.

So the Congolese voice, as far as we are concerned, was never heard in any official way.

They were maybe given a chance to submit letters, but we don't know what those letters say.

Mr. HUIZENGA. Okay.

Mr. DIZOLELE. So the fact that you discussed the future of a country's wealth without any Congolese voices is very disturbing.

Mr. HUIZENGA. In my remaining minute, I am curious, what constitutes a "clean" mine? What makes it acceptable, kosher to the

world market? And, as I think Mr. Dizolele pointed out a little bit, that who is in charge, it might be peaceful, but it might not be the right people that we want in charge.

And, Ms. Pickles, I don't know if you would care to address that, and we will work back as well here? We have about 40 seconds.

Ms. PICKLES. For a mine to be conflict-free, we have to apply principles of due diligence, so companies have to make sure that they are not supporting armed groups or rebels who are in the mine site. And the communities have to be involved in that as well as the Congolese government.

Mr. HUIZENGA. Mr. Dizolele?

Mr. DIZOLELE. I think there is another problem. I have visited some of the mines. Not every mine has militias in it. Some mines have children. So when we have children in mines, what do we call it? Is it conflict-free, because there are no armed groups? Are there child labor issues?

Does it fit in a green color or does it fit in the red?

This is part of the challenge with this characterization of the mines.

Thank you, sir.

Mr. HUIZENGA. I appreciate that.

I know my time has expired, and, Mr. Chairman, I, again, just want to say thank you for exploring this. And I hope at some point, we can maybe put together a trip that actually goes and explores this firsthand as well. So, thank you.

Chairman CAMPBELL. I thank the vice chairman.

And now we turn to the gentlelady from Wisconsin, Ms. Moore, for her questions. You have 5 minutes.

Ms. MOORE. Thank you so much, Mr. Chairman.

And I want to thank each and every panelist for taking the time and staying here while we went out to vote, because this is a very complicated subject. And it is hard to know what to do.

You said in your testimony, Mr. Dizolele, it is just—what does that mean? It is for us, with us, it is between us.

I think that with Dodd-Frank, as you all have stipulated, there was a sincere effort to try to make sure that we did something to promote transparency and about these conflict diamonds. And so, as we look at it from a cost-benefit analysis, there may be a cost to these companies which Ms. Pickles has pointed out has with the short period of time that this regulation has been in place—has self-complied with this regulation and our ability to stabilize, to Mr. Dizolele's point to stop slavery, because many of these miners were just mining at gunpoint.

And so, I guess the question I can start with is, Mr. Aronson, you say that this is misplaced. Do you think Ms. Pickles made a good point when she said that maybe we haven't had enough time to see whether or not this is good policy?

Mr. ARONSON. I guess I respectfully disagree with Ms. Pickles.

There is no evidence that it is going to have a positive impact. There have been a dozen independent studies and reports by independent and respected NGOs and scholars, all of which have concluded that it has had negative impacts—

Ms. MOORE. So if we were to just repeal this law, do you think that the violence would be eliminated and that these criminals would go away?

Mr. ARONSON. I don't think it would have any significant impact on the law—on the ground either way—I think—in terms of the violence. I think it might restore their livelihood to a bunch of miners, and that would be a net positive.

Ms. MOORE. We had heard from the bishops, I think that has already been put in the record, that this is a smaller part of the economy than we think, and the people who were involved in the economy were doing so at really meager, not even wages, near slave wages.

Is that a mischaracterization of the kind of income opportunity that was provided through mining, even before Dodd-Frank?

Mr. ARONSON. I believe it is. Certainly, at the mines that I went out to see, miners were making $13 to $15 per kilo. That translated to about $2 to $3 a day. That sounds awful, but—

Ms. MOORE. It does sound awful.

Let me ask some more questions—I don't mean to be rude.

I want to ask some questions of Mr. Dizolele.

You have said that the army has been—that we are outsiders who are doing things. But this has had a very deep impact on what the military has done. They have not—they are not allowed in the mine. The Congolese government has introduced domestic legislation requiring companies to operate its sectors and to identify the supply chain.

A group of mineral traders in North Kivu, NGOs, they founded an organization that promotes the use of OECD.

Did you think that these are not beneficial in the long run? I know short run, it has been a terrible thing, but don't you think—see where the government and military and NGOs in the area are taking some responsibility toward transparency?

Mr. DIZOLELE. Thank you very much, Congresswoman.

No, I think you misunderstand a couple of things.

One, go back to the premise that minerals are not causing the conflict. So as long as minerals are not the source or the reason for the conflict, we are missing the point. We are doing something very important and very commendable, so we do appreciate the attention.

But, as I said earlier, if you are Sifa, living in North Kivu, and you cannot plant your field because the militia is still present, then this—

Ms. MOORE. But we need some other sort of—

Mr. DIZOLELE. You need—most initiative.

Ms. MOORE. Okay. Ms. Pickles, I have 2 seconds, so give me your thoughts on why we ought to continue this initiative, despite the objection from the other side.

Ms. PICKLES. Because we have already seen progress. We have already seen companies—sourcing—the conflict resourcing is happening in the Kivus now. And it is already bringing stability to communities where closed-pipe systems have been set up, and that is bringing economic development.

I would say to the point about artisanal miners and their livelihoods, as long as there are armed groups preying on the trade and

preying on the north trading routes, people will not be able to access their fields; there will be instability. And that will have a negative economic effect on the ground.

Ms. MOORE. Thank you so much.

And thank you, Mr. Chairman, for your indulgence.

Chairman CAMPBELL. Thank you.

The gentleman from Indiana, Mr. Stutzman, is now recognized for 5 minutes.

Mr. STUTZMAN. Thank you, Mr. Chairman.

And thank you to the panel for being here, and this interesting yet, I guess, sad situation at the same time.

I would like to ask a question regarding the market in general and how has Section 1502—has it distorted the market, has it manipulated the market at all?

Mr. Goss, or anyone on the panel, if you would like to address that?

Mr. Goss, I guess I will start with you.

Mr. GOSS. Thank you, Congressman. The impacts of 1502, I think it is clear from my fellow panelists here, are very complicated in terms of the actual impact on the ground in the DRC.

I will start my response by noting that I agree in part with my colleagues to my right and also with my colleague on the left here.

The core issue here is not over the minerals. Let's not forget that in 1994, we had 800,000 people killed in 100 days in and around Rwanda.

This was not over minerals. This was over politics. It was over ethnic tensions. It was over generations-old disputes here.

There are other equally rich areas of the Congo that are not prone to this type of conflict. This is a political battle that is going on in eastern Congo here.

The effects of Section 1502, yes, to some extent I would agree with Ms. Pickles that, yes, part of this—and I said so in my testimony—part of this is control over natural resources in those areas is helping to fuel or prolong some of the conflict there. I don't think that is at issue here.

The question is, will Section 1502, yes or no, solve the overall conflict? It certainly has had the impact of precipitously dropping the output in the Kivus in particular here.

I would say that there is virtually no conflict-free sourcing going on in the Kivus. Hardly any at all here, given the ongoing conflict. Most of the—

Mr. STUTZMAN. So you would say, then, there is not even another commodity that is—is there another commodity that is causing violence? You are saying this is outside of any sort of minerals, outside of any of the resources that are part of the country? This is a deeper problem than just politically? There is—it goes back to ethnic tension.

Mr. GOSS. Yes. I would say that there is a far deeper, far more comprehensive set of issues at play here than simply control over minerals.

And there are certainly other things, other than minerals, other commodities, such as the ones I mentioned in my testimony, that are also being used for illegal gain and to fund not only militias, but illicit bands within the government military as well here.

I know from meeting with the European Commission most recently, just a few weeks ago in Paris, they certainly see Dodd-Frank, and this is their term, as a market distortion, that it has forced responsible industries out of the region, to the detriment of the local populations.

In fact, part of what they are considering as they move forward on a potential legislative initiative is to look—and again, this is their term, how do we restore the marketplace, how do we restore balance, how do we encourage companies, responsible companies, to engage or re-engage in the region?

Hence, some of the recommendations I made at the end of my testimony.

Mr. STUTZMAN. If I could, Mr. Dizolele, would you agree with that?

And then, also, do you know, was the Congolese government consulted regarding Section 1502 when it was passed?

Mr. DIZOLELE. Thank you very much, Congressman.

The Congolese government reacted to Section 1502, so in many ways, they were pushed into it. The first reaction, even before the law was voted, was President Kabila suspending mining in that region, which had a negative effect even before the United States passed its law.

So, were they consulted? On the periphery. They were—it was a very, very—consultation. Like I said, the foremost experts of the Ministry of Mining in Congo were not even part of the panel that discussed Dodd-Frank at the SEC. They sat in the audience with the rest of us, when, in fact, those of us who follow Congo, we had wanted to hear from them.

Because they live with this; they know their laws. They have been engaged by the World Bank.

The World Bank has a good program in DRC called Promene.

I think the activists who want this thing need to join forces with those groups in Congo to have something that is much more comprehensive. And also, we cannot pass laws on one section of Congo as if it was one country, when in fact there are many areas which are much more mineral rich, but don't have the same effect. There is no war in Kananga over mines. There is no war in the Kasai province over diamonds. So this tells us that the problem is bigger than what we are trying to address—unfortunately.

Mr. STUTZMAN. Thank you, Mr. Chairman.

Chairman CAMPBELL. Thank you.

Next, the gentleman from South Carolina, Mr. Mulvaney, is recognized for 5 minutes.

Mr. MULVANEY. Thank you, Mr. Chairman.

And thank you to the witnesses.

It is sort of hard to know where to begin on this. I am going to ignore my biggest concern here, and my biggest concern is that this is the Financial Services Committee and that we are dealing with Dodd-Frank, which was supposedly the response to the financial crisis of 2008 and 2009, and for some reason, we are sitting in here today talking about conflict minerals in the Congo.

How we got here—I know exactly how we got here. You shouldn't be here, by the way. We shouldn't be here. We shouldn't be doing this. This committee should be—this hearing should be taking

place in the Foreign Affairs Committee or the Energy and Commerce Committee or the Ways and Means Committee.

But we are here because somebody back during the last minutes of Dodd-Frank thought they were smarter than everybody else and really slick and could figure out a way to slip something into a bill late at night that would pass into law, somebody who thought that they knew better than everybody else and didn't need congressional hearings, didn't need an amendment process, didn't need the mining experts from the country that is actually going to be impacted and decided that their intentions were good enough to go ahead and slip this into law.

And that is absurd. I think it is a test case, Mr. Chairman, for exactly what is broken about the system. But, again, I am going to ignore it and try and keep things really simple for me as a new member of this committee. And my question is really simple, which is, are the Congolese people better off because of Section 1502 of Dodd-Frank? And what I have heard so far from Mr. Aronson is that they are not; from Mr. Dizolele, I have heard that they have not.

Sitting here, I am looking at some of the testimony from the folks who actually live in the country—heaven forbid we actually ask the people who were impacted—who said that, "Even in our large towns, economic activity has diminished. Construction slowed. Trade in everything has fallen. People with very little to begin with are now doing with less."

Ms. Pickles, I hear what you are saying. I have read your testimony as well. I think I hear what your defense is, which is that proper implementation of Section 1502 has the potential to substantially improve socioeconomic—I will be perfectly candid with you. My 13-year-old triplets have the potential to improve the conditions in the Congo. That doesn't mean they are going to, but they certainly have the potential to do that, right?

You are telling us that we have to sit and wait. These gentlemen are telling us the country is worse off. You are telling us to sit and wait. So I only have one question: How long do we have to wait? If we come back a year from now, and these gentlemen are still saying things are worse, will that be enough or will we have to wait longer?

How long do we have to wait before we repeal this? I would repeal it today, because it is absurd that it is there in the first place.

So just tell me that, how long do we have to wait?

Ms. PICKLES. You don't have to wait, it has already started, is my answer to that. If you look at the other parts of my testimony, you will see that conflict-free sourcing has already started in eastern Congo.

Mr. MULVANEY. Yes, you said sourcing. That is better for the—for who, the fact that there are now secure supply lines? I am looking at the actual impact on the people. I am looking at the woman that Mr. Dizolele talked about who was getting raped in the fields before Section 1502 and is still getting raped in the fields afterward, and probably will after all the secure supply chains in the world go in there.

I hear what you are saying. You said that there is stability in economic development. Again, I go back to the folks who actually

live there who say that millions of artisanal miners—I had to look that up, by the way; it means subsistence miners—have suddenly had their livelihood cut out from under them. They find it increasingly difficult to pay for school, health or maternity fees. Some even have reported difficulty providing food for their families.

How is that making them better?

Ms. PICKLES. I think there are two sides to that story. I have a quote here from a group in Congo that says for 15 years, dire poverty and slavery-like conditions, exacerbated by the nonexistence of basic social infrastructure and caused by the trade in conflict minerals, has affected our communities and made us worse off.

Mr. MULVANEY. Where is the next part of that sentence? Where is the next part of the sentence that says, "and now it is better." Do you have that?

Ms. PICKLES. No, sir, not—

Mr. MULVANEY. Everybody admits that things were bad in the past. The question is whether or not Section 1502 is making it better. Where is the evidence that it is making it better?

Ms. PICKLES. When I was in Nabibwe, which is one of the mining communities that has been—where conflict resourcing has started—3 weeks ago, I spoke to individuals who told me that their economic circumstances have improved because of the conflict resourcing that has begun there.

For example, somebody told me that the could now start a bakery because there was a consistent supply chain coming out of Congo and that he could then use that economic base to start his own business.

Mr. MULVANEY. And he couldn't start a bakery before?

Ms. PICKLES. No, he couldn't, because there were armed groups in the area who were preventing him from being able to access the roads, for example.

Mr. MULVANEY. This is not going to get undone. I know that it isn't. I appreciate you having the hearing. I hope that our friends on the other side and our friends in the Senate recognize that as important as Dodd-Frank is, and I know that it is, and as important as this issue is, there was no reason for this issue to be dealt with in Dodd-Frank. And if we were going to do something this year, maybe we could at least move this over to a committee that has some understanding of the issue.

This is not what this committee is set up to do. It is not what Dodd-Frank is set up to do. And I appreciate the opportunity for the hearing.

Thank you, Mr. Chairman.

Chairman CAMPBELL. Thank you, Mr. Mulvaney.

We now move up the road a piece to North Carolina, to Mr. Pittenger. You are recognized for 5 minutes.

Mr. PITTENGER. Thank you, Mr. Chairman.

And thank you, witnesses, for your testimonies.

I would like to pick up a little bit on Mr. Mulvaney's comments and questions. It seems to me, in our reports we have heard that there are 1 million to 2 million people who are displaced, they have lost their livelihood, because of what they refer to as "Obama's law."

Mr. Dizolele, what are these people doing today? What are those folks doing to take care of their families—to take care of their children, their education? What is happening to them?

Mr. DIZOLELE. Congressman, it is a very important question. They are surviving—some starving, some in IDP camps and waiting for a handout. And I think this is my primary contention. These are people who are very resourceful, who can tend to their own field, who can feed themselves.

As long as the conflict continues, they are reduced to pretty much asking for handouts. And until we address the political side that is causing the conflict, legislation like this will have minimal effect in changing the lives of those who are in the condition you just described.

Mr. PITTENGER. Mr. Dizolele, do you make the correlation that Section 1502 translated into the displacement of these 1 million to 2 million people?

Mr. DIZOLELE. No, I do not make such a correlation. I think Section 1502, as I said in my remarks, is operating outside the realm of the violence in the sense that the network of war criminals that benefits from this market-like illicit trade of minerals, above Dodd-Frank. Congresswoman Moore had asked about the mines being free of the military. Yes, they may be free of people in uniform, that doesn't necessarily mean they are free of military influences, because some of the generals are in the mines.

Mr. PITTENGER. But since the implementation of the bill, my question is—there seems to be a timing that these people were displaced and some connection to when this bill came into effect.

Mr. DIZOLELE. Congressman, in eastern Congo, people get displaced all the time, because the conflict has been quasi-permanent. The conflict started in 1994 and has been going on until today. Goma is about to fall as we speak today. Goma is under pressure, so we don't know if Goma is going to last until Saturday. If it does—if Goma falls to the militias, then there will be more displaced people.

So displacement itself is not related to—

Mr. PITTENGER. It is ongoing.

Do you see any resolution, then, with the—if by chance that this Section 1502 was removed? Are you an advocate of that?

Mr. DIZOLELE. I am not an advocate of Section 1502.

Mr. PITTENGER. Are you an advocate of it being removed from the law?

Mr. DIZOLELE. I cannot speak to that. I think that is why we are having this hearing. Your subcommittee will make that decision. I do believe, however, that the best way to help Congo is through a multidimensional approach. There have been other countries that faced similar crises, like Sierra Leone had conflict that was fueled by mining, by diamonds. But going after diamonds alone didn't bring peace to Sierra Leone or Liberia. We need more initiatives to bring peace to Congo. The reinstatement of the authority of the state is key, not going after small pieces of the crisis.

Mr. PITTENGER. Thank you.

Would anybody else care to comment on that?

I yield the balance of my time.

Ms. PICKLES. Yes, I would like to comment.

I think we have to be careful not to conflate the broader conflict in Congo and breaking the link between minerals and conflict. I agree with what you are saying, Mr. Dizolele, that we do have to take a holistic approach if we want to find long-term peace and stability in Congo. But breaking the link between the minerals trade and the armed groups is a really important way of preventing them from receiving funding from a very lucrative revenue source.

And that is what Section 1502 is trying to do. We are trying to create clean supply chains from Congo so that American businesses can source from this area responsibly.

Mr. GOSS. May I add to that? What we have seen in the tech sector here is that our attempts to make a go in-region, to try to create these closed-pipe sourcing have been, I would say, minimally successful because of the ongoing and broader security issues here, in the Kivus in particular, the conflict regions here.

As the private sector, we clearly see that we have a role as part of a solution here, but it really needs to be first and foremost a solution that is led by the international community. The international community needs to create the preconditions to allow private sector programs to work in this area, and right now we haven't seen that. What we have—in effect, the U.N. has rated Congo absolutely last on the human development index—187 out of 187.

We have a western-style disclosure regime and an OECD due diligence guidance approach that we are trying to put in play in that set of circumstances. And frankly, as hard as we try, we are not able to get it to hold. There needs to be more leadership from the international community to create those conditions.

Thank you.

Chairman CAMPBELL. Thank you, Mr. Pittenger.

With the indulgence of the panel, we are going to do one more round of questions, which seems to be the consensus up here. So if you all have another 20 or 25 minutes, we will take one more round and go through.

So, with that, I will recognize myself again for a fresh 5 minutes on the second round, and I will go to what I addressed Ms. Pickles about in the first round, and we didn't get around to answering, which was your response to the 3 gentlemen at the table.

Actually, I am going to back up. This artisanal, which I have now heard pronounced about 3 different times, and I think I have pronounced it two different ways myself—so I will say artisan miners or subsistence miners, can someone actually describe to us what that is? Just what is a person in the DRC who is an artisan miner—what does that person look like, do, et cetera?

Mr. Dizolele?

Mr. ARONSON. I will take a stab at answering that question. An artisanal miner is usually someone who lives in the—is often someone who lives in the neighborhood; has some relationship to existing local power relationships, power structure. And they spend their day in extremely physically arduous, to a certain extent highly dangerous activities. They dig holes in the ground and—

Chairman CAMPBELL. I'm sorry. Are they in a mine underground that is owned by somebody else, as we think of a miner in the

United States? Or are they sitting on the ground with a spade, digging around to see what they can find? Or are they both?

Mr. ARONSON. Both, I would suggest. I would suggest the whole anthropology of sort of the local context is very complicated, and it is important to sort of understand it varies from mine to mine and from region to region and subregion. But effectively, they are working the land of their village. They may have to pay fees to the local chief. They may have to pay fees to the local police.

Chairman CAMPBELL. Pretty primitive stuff, in other words.

Mr. ARONSON. Yes, yes.

Chairman CAMPBELL. Okay. Now, if I can—

Mr. ARONSON. And it is a hole that literally is about a meter wide and it goes sometimes 100 meters or 200 meters into the ground, at times.

Chairman CAMPBELL. Okay. Now, if I can go to Ms. Pickles.

So what these 3 gentlemen are saying is that Section 1502 has actually hurt people in the DRC—these people, these artisanal miners. And that it has hurt them by the fact that many entities or businesses or companies or whatever in the United States have decided rather than try and figure this whole thing out, I am just going to avoid anything from anywhere near the DRC, because that is the simplest way for me to comply with Section 1502, and that these people have been hurt.

Is there any legitimacy to that claim? What is your view on their argument there?

Ms. PICKLES. I think the first thing to say, just in addition to the point about artisanal miners, is that I just want to quote something that the African Union has written in their 2015 mining vision, which is that it is important to recognize that artisanal mining is both poverty-driven and a poverty-alleviating finite activity.

So in DRC, we are talking about people who may not choose to go artisanal mining, but may have to. But it also, in other circumstances, is people who have been forced to by armed groups. So I think it is a mixed picture, and we should bear that in mind when we are talking about artisanal livelihoods and artisanal communities, as a first point.

Chairman CAMPBELL. Has the total sale, if you will, of minerals from the DRC, particularly from those areas of the DRC, as Mr. Dizolele said, that may be not—that are not in a conflict area—has that dropped?

Ms. PICKLES. There has been—exports have been depressed over the last few years for a number of reasons. One of them is a presidential mining ban that was introduced in 2010 by the Congolese government. Another one is the long delay that the SEC's—the 16-month delay the SEC took before publishing their final rule, which caused uncertainty in supply chains, so some companies aren't yet sourcing from Congo, in every sense of the way.

And then also, recently, there have been export bans introduced by the Congolese government again, since May of last year, which have prevented people from exporting formally from Congo.

So all of those things combined—

Chairman CAMPBELL. Do you believe that will change then, over time?

Ms. PICKLES. Yes.

Chairman CAMPBELL. For?

Ms. PICKLES. If we take a slightly wider regional approach, there are 21,000 tons of conflict-free tantalum material that has been exported from Congo's—or, I am sorry, from the Great Lakes region since regional—and this just started a few years ago.

So we are already seeing an increase in the amount of conflict-free material coming out of the region. And I think that will only increase from now.

Chairman CAMPBELL. All right. I will yield back my time, and recognize the gentlelady from Wisconsin, Ms. Moore, for 5 minutes.

Thank you.

Ms. MOORE. Thank you. I get to be the ranking member. It is not often I get to do that.

Chairman CAMPBELL. Okay. Let me rephrase that—Acting Ranking Member Moore, the gentlelady from Wisconsin, is recognized for 5 minutes.

Ms. MOORE. Thank you so much, Mr. Chairman. I would just thank this panel for sticking around for a second round.

I just wanted to point out that I deliberately chose to be on this subcommittee, and much to the surprise of me and my colleagues, I turned down a chance to be the Housing Subcommittee, passed that over so I could be on this.

Chairman CAMPBELL. Is it because you are so fond of the chairman?

Ms. MOORE. It is because I am so fond of the chairman.

And also so fond of the subject. And I just wanted to point out—Mr. Mulvaney is not here—that we do deal with the Bank Secrecy Act, the Foreign Corrupt Practices Act, the Iran Sanctions Enabling Act, to deal with Iran nuclear weapons program, the Bank Secrecy Act, which deals with suspicious transactions, the Sudan Divestment Act. We deal with a lot of international monetary policy.

So his statement about why is this hearing being conducted in this subcommittee, this is one of our areas of jurisdiction. So I just wanted to clear that up.

To the extent that we have American corporations that are dealing in this region, it is one of the reasons that Global Watch and others really rely on this committee to make sure that the best practices and due diligence and so forth is taken by us, so that our monetary policy doesn't support foreign corruption.

And so, I am deliberately on this subcommittee for just these kinds of hearings, on conflict diamonds, and so forth, and Liberia. We have dealt with vulture funds.

This is your jurisdiction, Mr. Chairman. So don't let your Members take it away from you.

I did want to get back to this whole discussion of the artisanal workers and some of the choices that they have.

I have sort of heard the same argument with respect to some other sad parts of the history here in America, where it was a bad thing to free the slaves because they, then, would have no source of income.

And so, I am wondering, a comment from you, about the real status of these artisanal miners—we have heard conflicting testimony here about how much better off they were before Dodd-Frank.

And I guess, Ms. Pickles, I just want you to have an adequate amount of time to tell us what their financial status was before Dodd-Frank.

Ms. PICKLES. I think that one of the positive impacts of this legislation is that it has shone an unprecedented light on exactly that, on the inhumane conditions and the terrible working conditions that many artisanal miners in Congo have to endure from day to day.

I think if we are looking on a longer term, before Dodd-Frank, we are looking at 15 years of conflict that had been funded by minerals in eastern DRC.

So 15 years of artisanal miners in many of the mines in eastern Congo being taxed or inhumanely treated by armed groups who are taking the revenues from those mines.

I don't think it is a question of saying that Dodd-Frank has had a—of course, there have been negative impacts in the sense that there have been changes in the way that trade has happened over the last few years.

But now that we are seeing companies starting to source responsibly, that will open up new, conflict-free supply chains in the Kivus and provide economic stability for some of those artisanal—

Ms. MOORE. Is there any future with these workers really having some dignity and some transparency with regard to wages and hours worked and the kinds of things that we associate with human rights in the workplace?

Ms. PICKLES. I think so. But I think the first thing that we need to consider is effectively getting the armed men out of the mines. Once the armed men are out of the mines, then we can start to address some of those other problems. Of course, it has been a terrible—

Ms. MOORE. And if you want to see where the conflict comes in, you have to follow the money. And that is why this subcommittee is hearing this is because, as you pointed out, Mr. Dizolele, the minerals themselves may not be the source of the conflict, but they generate a lot of money, and they fund war. Would you disagree with that, Mr. Dizolele?

Mr. DIZOLELE. I will add to it, Congresswoman. There are many other sources of funding war in the DRC. The minerals are just an element of it.

An AK–47 in Goma doesn't cost much. All you have to do is go and rob some women who are selling mangos when they are going to market, and you will get cash to get an AK–47.

So this entire idea that the funding that come from mines will be the one which will continue to bring the new pipelines of weapons, is a bit overstretched.

Yes, they funded the big operators, what are called the war entrepreneurs. But the average militia guy, who is 15 or 17 years old—and let's keep that in mind. We are not talking about organized armies here. We are talking about kids. Those are not tapping into the resources. They are living just on $2 like everybody else. But they still have the AK–47 or the machete, if I can use the example that Mr. Goss used.

The genocides happen with AK–47s, and they happen with machetes.

Ms. MOORE. Thank you so much.

And thank you, Mr. Chairman.

Chairman CAMPBELL. The gentleman from Michigan, Vice Chairman Huizenga, is recognized for 5 minutes.

Mr. HUIZENGA. Thank you, Mr. Chairman. I appreciate that.

Mr. Dizolele, I was thinking sort of very similar along the lines that you were just discussing. And I am a student of history, I love history.

And I have no doubt, Ms. Pickles, that minerals have a role in this conflict, but so do agricultural products. So does the sex trade. So do a number of other things that drive economic activity, illicit or legal, and certainly we are not even talking about religious or ethnic or tribal differences. And it seems to me, we can't dismiss that, and somehow think that Section 1502 solves it. Because it—to me, the question isn't so much are we better off—or were we—I think as my friend from Wisconsin said, were we better off before Section 1502, and somehow, Section 1502 has made the Congo—the DRC—fall apart and go into internal conflict? Pretty clearly, that is not the case.

My question is, are we worse off than what we were? And I think that is a subtle difference, but it is a big difference. Because if we are worse off, then that means we are going backwards. And I am concerned that Section 1502 is putting us in the wrong direction. And I am concerned that we will think we have solved the problem with Section 1502. In many ways, the West—not just the United States, but at some point, maybe the West just sort of washes its hands of the issues that really are underlying the conflict because we say, "Wow, we solved it." We have made sure that everybody is going to establish some sort of supply chain here.

And, a trip I have talked about, Mr. Chairman—I am looking forward to visiting the SEC office in Kinshasa. I am sure there must be one, because they are now in charge of tracking all of these supply chains. And when we had Mary Jo White here—Chairman White here earlier—I am not convinced, and she seemed to indicate, as well, that the SEC is not equipped to do this.

Ms. Pickles, one of the things that you talked about was that part of this drop in exports was caused by a delay of the SEC's ruling, because that uncertainty caused these folks who need to establish these supply chains—they weren't sure, so then they just—they stopped.

That may be part of it, but what I am hearing from those end-users is that there is the difficulty of establishing that supply chain that is being required of them under Section 1502 and by the SEC. That is a huge part of their delay, and that is why they are desperately looking for other sources, and that they are trying to figure out where else in the world marketplace they can go to get these essential minerals for their processes and for their products without having to deal with this.

So, I will open it up. We have a minute-and-a-half. I would love to hear the conversation from—Ms. Pickles, you can start, and anybody else who cares to comment.

Ms. PICKLES. Okay, so touching on what was said right there in the beginning—yes, of course, we do need to take a holistic view of the conflict in Congo, but that doesn't mean that we shouldn't

be sourcing minerals from Congo that are outsourced responsibly, and that U.S. companies buying from Congo shouldn't be so—in how they respond to conflict.

Mr. HUIZENGA. Can I ask you one quick question?

Ms. PICKLES. Yes.

Mr. HUIZENGA. Do you have any concern that we may just sort of say, "Okay, we are done. We passed Section 1502. It is now being implemented. Whew. Good. That is off the table. Now we can walk away?"

Ms. PICKLES. No, I don't. And I think that there is evidence to prove the contrary. I have already talked about some of the closed-pipe fighting that is starting up in Congo. And I think—you mentioned before, "Are we going in the right direction? Are we seeing positives?" Yes, we are. We have seen a Congolese law that has passed that requires everybody in domestic mineral sectors to use due diligence. We have seen a similar law passed in Rwanda. We have seen traders in Congo now seem to understand what due diligence is, and taking steps to establish the supply chains themselves. And perhaps most importantly for this committee, we have seen U.S. companies investing directly in Congo to source responsibly.

Mr. HUIZENGA. I have one other quick question. Do you believe that would have happened at all on its own—

Ms. PICKLES. No, we have—no.

Mr. HUIZENGA. —as Mr. Goss seemed to indicate?

Ms. PICKLES. We have 15 years of proof to show—

Mr. HUIZENGA. Okay, but you just mentioned Rwanda?

The law doesn't cover Rwanda, does it?

Ms. PICKLES. Yes, Dodd-Frank Section 1502 covers Congo and its adjoining countries, so yes, Rwanda is covered.

Mr. HUIZENGA. So you believe that this is the only solution, though, passing Section 1502, and that this would not have happened without that?

And, Mr. Goss, I don't know if you care to comment on that?

Ms. PICKLES. I would just say that the momentum generated by Section 1502 and the requirement that it is made on companies to source responsibly has changed the dynamic completely—15 years of companies sourcing irresponsibly from Congo has been changed by this piece of legislation.

Mr. GOSS. If I may, I would add, I find myself in the middle of the conversation here, clearly. The tech industry seems some positives from Section 1502 and some distinct challenges with the mechanism in Section 1502, but I think the overriding point I am trying to make here is that the mineral sourcing, while it is part of this, is not going to bring a solution or a resolution to genocide in Central Africa, because it is politically based; it is ethnically based, et cetera, all the points that we have made before here.

Yes, our companies in particular—the tech industry in particular has tried to remain in the region, and to try to source responsibly, and we are at the lead of almost every one of these in-region sourcing programs here. The challenge is that they are generating minimal amounts of clean material.

Most other industries are basically saying, if we cannot source from the region, we will avoid it, and I think that is a major point

that the subcommittee needs to look at here, which is, is the mechanism facing in the right direction, or does the mechanism discourage investment? We would certainly like to see a mechanism in U.S. law that encourages investment and makes that easier to invest.

But frankly, no due diligence system is going to work in this country without the preconditions of security and stability. We see the U.N. Security Council just authorizing in March an intervention brigade to go in and try to neutralize M23, which is being funded by Rwanda, which is being provided with military assistance and arms from Rwanda, and potentially from Uganda.

You have foreign states that are providing arms and assistance to these rebel groups. I will repeat my testimony. This is not about economics; this is about politics. When you have foreign states, or adjoining states who have a stake in the outcome in eastern Congo, this is a job for the U.N.; it is a job for the international community.

I would agree with Ms. Pickles, that yes, minerals and other commodities, not just minerals, and the funding associated with those, have fueled violence; they have prolonged certain elements of this conflict.

But the conflict is not going to go away just because you take away the sourcing for the minerals, because there is a deeper basis for it than that.

Thank you.

Chairman CAMPBELL. Thank you. And our clean-up hitter for today will be the gentleman from Indiana, Mr. Stutzman. You are recognized for 5 minutes.

Mr. STUTZMAN. Thank you, Mr. Chairman.

My question is, are there other countries that are buying minerals out of the Congo?

Ms. Pickles, do you know?

Ms. PICKLES. Yes, I know it has happened.

When you say other countries, you mean other than the United States?

Mr. STUTZMAN. Correct, yes.

Ms. PICKLES. Yes, there has always been a broad market base for minerals from Congo.

Mr. STUTZMAN. Do they have a rule similar to Section 1502?

Ms. PICKLES. Section 1502 is a forerunner, so the American Government is the first to produce a piece of legislation like this.

Mr. STUTZMAN. But to me, as I listen to the situation here, reading what has to happen if a company can't verify that the minerals they use did not originate in the DRC, Section 1502 requires them to: one, exercise due diligence on the source and chain of custody of these minerals; two, to hire an independent third party to audit the due diligence measures; and three, to report to the SEC on the due diligence measures they undertook.

This is all responsibility for a company in the third district in Indiana. Is that correct, am I understanding that—right, Mr. Goss?

Some people may pat themselves on the back and say, well, we are making sure that we are not using their resources or their minerals, but we are only hurting the people of the Congo, because if we walk away, who else is going to take the same sort of initiative

and use the same integrity that Americans should and we expect to use in the Congo. Are the Chinese the same sort of standard? Are they going to operate with the same sort of integrity with which we expect Americans to operate?

Ms. PICKLES. Is that for me?

Mr. STUTZMAN. For anyone.

Ms. PICKLES. I think the first thing I would say is that U.S. companies are not walking away from Congo. I mentioned in my testimony in the beginning that—

Mr. STUTZMAN. But this will make it harder for them, correct?

Ms. PICKLES. It doesn't make it harder for them; it means that they have to source minerals in a responsible way. So, some U.S. companies who weren't buying from Congo before are now sourcing there, which demonstrates that—

Mr. STUTZMAN. Do we know, are there any companies that have walked away from the Congo since Section 1502?

Ms. PICKLES. Also, as I said earlier, there has been uncertainty because some companies didn't know what the final rule was going to say and were waiting to make sourcing decisions based on that.

Mr. STUTZMAN. I just think that if we want to help make a difference in the Congo, the best thing to do is to be involved economically and to share our best practices, to share the system that we operate under with people there rather than really restricting our own selves and tying our own hands.

Mr. Aronson, I have a question.

Some Section 1502 advocates compare the conflict minerals campaign by civil society to the South Africa divestment campaign in the 1980s. Is that an appropriate comparison, in your opinion?

Mr. ARONSON. Thank you very much for that question, Congressman.

I think that is an important comparison because it is one that the advocates themselves often cite. They say, well, look we have—yes, there are temporary economic impacts, negative impacts, but just as the South Africa divestment campaign had temporary costs on many black South Africans, but ultimately proved worthwhile, so this campaign will ultimately prove to be worthwhile because it will help end the conflicts.

First, it is not helping end the conflicts, and second, I think that we have to look at some of the key differences. For one thing, in South Africa you had South African leaders calling for the divestment campaign. There was no similar call from Congolese society for a embargo that has happened.

Second, the divestment campaign targeted the right people. It targeted the aging South African white elite. In this case, it is targeting African warlords who really don't care what Western leaders or Western audiences think of them.

And, finally, there was a clear mechanism in place for change in South Africa; you pitted the political elite versus the business elite which wanted to end the international isolation and get back to making money.

In the case of Section 1502, what we have done is sideline legitimate businesses. So we have inadvertently, but predictably, put money and power into the hands of warlords and armed groups in

eastern Congo including the Congolese army, which is often highly predatory.

Mr. STUTZMAN. I appreciate your answer, because that is my fear, Mr. Chairman, that we really are keeping the businesses that would operate appropriately out of the business. At some point, we are going to continue to pile on more and more regulations trying to fix a problem that is very difficult to fix and really just engaging ourselves.

Chairman CAMPBELL. Thank you, and I would like to thank each of our witnesses for their testimony today and for your indulgence with our recess during votes.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

And without objection, this hearing is now adjourned.

[Whereupon, at 4:25 p.m., the hearing was adjourned.]

A P P E N D I X

May 21, 2013

Congressman Jim McDermott
Submission for the Record
House Financial Services Hearing on Section 1502 of Dodd-Frank
May 21, 2013

Thank you, Mr. Chairman, for allowing me to submit this statement for the record – I regret that those members who are not on the Financial Services Committee, yet played a substantial role in writing this legislation, were not allowed to participate in the hearing. I believe it's a new precedent for the Financial Services Committee and I do not think it is a healthy one for the Congress.

I appreciate the witnesses' testimonies, and with my own experience in sub-Saharan Africa, I think we can all agree on how important what we are discussing today is. It is frustrating that we have let these conditions in Central Africa go on so long, but I am very encouraged by the amount of progress on the ground since 1502 passed.

International companies and foreign governments have ravaged Central Africa and the Congo, stripping it of its natural resources, for hundreds of years. In the 1880s the Belgians took this to a whole new horrific level, and other countries and international conglomerates joined in with no regard for the environment, security, or health of the people they were exploiting.

Few areas have the history of suffering and violence that can match Central Africa's. In other parts of the world where there is natural resource exploitation, we have seen corporations and the international community take at least some action. That can't be said here. Until this law passed, Central Africa was the site of the largest and most unstable natural resource black market in the world, and the sight of the world's largest ongoing war, and we had done nothing to stop it.

It is amazing that we took so long to act. Before this bill, we spent years hoping companies would do the right thing on their own, and despite repeated appeals they simply would not. But just a few weeks ago, at the Organization for Economic Co-operation and Development conference in Paris, it was almost unanimously agreed upon by companies, NGOs, Central African countries, and OECD members, including the U.S. State Department and much of the European Union, that there has been enormous progress, and that this law made the difference.

There are, of course, naysayers, and this law will not solve Central Africa's peace and stability problems. But it has changed behaviors and jump-started some good governance that is spreading. Transparency and responsible sourcing is an essential part of solving Central Africa's governance issues.

The United States and this committee have an obligation to take seriously the threat that foreign black markets pose. Companies around the world rely on this huge, unstable black market to manufacture their products with prices and supplies always in question. It is bad for companies and capital formation, investors and investor confidence, and consumers.

Progress has not come in a perfectly wrapped gift box, but the aim of this law was not to replace every single job within a corrupt system. That is not a realistic goal. Mr. Aronson's testimony seems to argue that we should keep the black market because innocent people benefit from it. In the face of the human catastrophe that this black market has fueled, I have to disagree. Funding widespread violence and slave labor is not an option, even if it provides jobs for others. We need to move faster, not go back to what we know does not work.

The misinformation out there is plentiful. What has delayed progress is the foot-dragging by a group of companies that just do not like regulation, not the poor design of the law. What is unusual is not the law, but the fact that we let this go on for so long.

In a lot of ways this hearing is odd in that it flies in the face of the big progress that is happening on the ground. We are seeing organizations opening multiple conflict-free mines at a time in order to employ the influx of workers. Conflict-free mining works, it is spreading quickly, and where it is in place, the situation has remained peaceful and stable. Other industries are jumping on board. The Diamond industry has seen this progress and is working on its own due diligence framework.

We always knew this law would take years to implement and to serve as a widespread model. That transition is one we knew would have some costs and a lot of benefits. Implementation has only just started and I am encouraged by all of the good work and progress so far. Now is the time to raise our expectations, not lower them.

Opening Statement
Of
Representative Gwen Moore
The Unintended Consequences of Dodd-Frank's Conflict Mineral Provision
May 21, 2013

Thank you to the Chairman and Ranking Member for holding this hearing.

I want to thank the witnesses for taking the time to come here today to share your perspectives on Section 1502 of Dodd-Frank.

The Congo suffers from the "paradox of plenty," or what economists sometimes call the "resource curse." In the case of the Congo, it has been especially bloody and destabilizing.

Section 1502 of Dodd-Frank is a provision, however limited, aimed at severing the link between resources and conflict in the Democrat Republic of the Congo.

After the floor debate on the SEC "cost-benefit" bill last week, I am disappointed that none of the trade groups challenging Section 1502 in court based on "cost-benefit" projections can be here today, as I would like to hear how they calculated the dollar value of the human suffering associated with keeping the black market alive in these minerals that fuels the bloody war.

I have not seen that number cited in the various studies.

I would have benefited from their perspective on that point, especially as I hear from other companies that they are complying and from the United Nations that the provision is having a positive impact on the country.

Furthermore, I understand that a group of high school sophomores had success showing reasonable country of origin inquire per Section 1502.

Prior to passage of Dodd-Frank, we knew that these minerals were funding the horrors of the ongoing conflict, so we acted.

According the United Nations Group of Experts, we also know that the provision is leading to a reduction in violence associated with the conflict and promoting good mining practices.

We know that companies are complying.

In fact, the VP of Kemet, the largest user of tantalum in the world and who is compliant with 1502, met with me in my office to make it perfectly clear that compliance is possible and happening.

In other words, Section 1502 is working.

It may not be a panacea to cure all that ills the Congo. Rather it is limited, market-based approach to begin to address the funding source fueling the conflict.

There may be some dislocation associated with the transition from a black market to a conflict free sourced market, but those impacts, I have to believe are better than slavery and death.

The SEC has issued a rule and companies are complying. The situation related to these minerals funding violence is improving. The benefits to the provision are playing out in real time in the Congo.

Nonetheless, I would be willing to work with anyone that has ideas for *improving* the provision to make it even more effective in breaking the cycle of violence associated with mineral funded war and devastation in the Congo, but I am not interested in going back to the status quo of black market materials funding violence, instability, and war.

Thank you again and I look forward to hearing from our witnesses.

David Aronson
Testimony before the United States House of Representatives
Committee on Financial Services, Monetary Policy and Trade Subcommittee
"The Unintended Consequences of Dodd-Frank's Conflict Minerals Provision"
May 21, 2013

It is the sense of Congress that the exploitation and trade of conflict minerals originating in the Democratic Republic of the Congo is helping to finance conflict characterized by extreme levels of violence in the eastern Democratic Republic of the Congo, particularly sexual- and gender-based violence, and contributing to an emergency humanitarian situation therein, warranting the provisions of section 13(p) of the Securities Exchange Act of 1934, as added by subsection (b).

—Dodd-Frank Act Section 1502, Paragraph "A"

"Pour nous, sans nous, c'est contre nous."

—Traditional Congolese saying

Thank you, Chairman John Campbell, Ranking Member Wm. Lacy Clay, and Members of the Subcommittee, for holding this hearing on the unintended impacts of Dodd Frank's conflict minerals provision. My name is David Aronson. I am a freelance writer and editor who has lived and worked off and on in central Africa for 25 years. I have written about the Congo for *The New York Times*, the *Washington Post*, *The New Republic*, *Dissent*, the *Chicago Tribune*, the *Christian Science Monitor*, the *World Policy Journal*, and elsewhere. My blog, www.CongoResources.org, receives some 15,000 unique visitors a month.

Dodd Frank 1502, the "conflict minerals" provision of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act (DF-1502), is a case study in how good intentions can go awry, particularly when a compelling activist-sponsored narrative substitutes for considered and timely analysis. As I will make clear:

- Advocates for the law disregarded the consensus opinion of Congolese experts who repeatedly warned them of the dangers the campaign posed to their people;
- The law imposed a de facto embargo on mineral production that impoverished the region's million or so artisanal miners; it also drove the trade into the hands of militia and predatory Congolese army units;
- The military situation on-the-ground has considerably worsened since passage of the law and the SEC's promulgation of the implementation guidelines;
- The case for DF-1502 rested on dubious and misleading assumptions;

- A dozen or so scholars and NGOs have independently studied this issue; they have all concluded that the law is imposing unacceptable costs on the Congolese while doing little to diminish the violence.

Background

Since the late 1990s, protracted civil conflicts in the Democratic Republic of Congo have led to an economic collapse, massive population displacements, deepening poverty, and a chronic state of food insecurity. It is hard to exaggerate the scale of the humanitarian catastrophe that has engulfed the country. Here are a few data points:

- The International Rescue Committee's detailed, geographically randomized population survey of 2007 estimated that 5.4 million people had died as a result of the wars and that the country was continuing to experience some 45,000 excess deaths per month. Even if the actual numbers are just half of what the IRC estimates, this would still make the conflict in eastern Congo the deadliest since World War II.
- In the latest UNDP report, the Congo placed187th out of 187 countries on its ranking of human development indicators, behind Afghanistan, Niger and Burundi. The country stands at the bottom of the International Food Policy Research Institute's Global Hunger Index. And earlier this month, Save the Children announced that Congo had displaced Niger as the world's worst place to be a mother. Niger is a desert; the Congo, properly managed, could be a breadbasket to the continent.
- Some 88 percent of Congolese live below the absolute poverty line of $1.25 per day; about 70 percent lack access to adequate food; and one in four children is severely malnourished. About 2.7 million Congolese are internally displaced, third most in the world.

Given the scale of this disaster, it is entirely creditable that activists in this country and abroad felt an obligation to respond. Their mission, to educate Western audiences about the suffering of distant people and enlist them in efforts to remedy that suffering, is part of an inspiring tradition that began with the 19th century abolition movement, continued through the international campaign against Red Rubber at the start of the 20th century, and persists in some of today's most distinguished human rights campaigns. It is a tradition I strongly identify with.

Unfortunately, in their quest to fashion a narrative that would resonate with and therefore galvanize their largely Western audience, activists ignored the complexities of the local context and brushed aside Congolese experts who repeatedly warned them of the dangers the conflict minerals campaign posed to their people. In doing so, they developed policy prescriptions that damaged an already tenuous economy, entrenched the position of the warlords, and accomplished little by way of resolving the conflicts.

Disregard of Local Experts

In a *New York Times* opinion editorial I wrote about DF-1502, I reported that knowledgeable Congolese felt excluded from the conflict minerals debate. It was, they told me, a dialog in which their voices went unheeded, dominated by Western advocacy groups confronting Western electronics companies. As a result, immensely important decisions about the lives of millions of Congolese were made without any input from them.

It happens that an organization with impeccable credentials for supporting the rights of workers in Third World countries wrote a contemporaneous paper about this very topic. The organization describes itself this way: "MakeITFair is a European project focusing on the electronics industry, especially on consumer electronics like mobile phones, laptops and MP3 players. We want to let young people across Europe know about the labour abuses and environmental problems that are going on right now around the world – just to satisfy our demand for all the latest electronic gadgets." In an October 2010 report, they wrote the following:

> The makeITfair project, however, deplores the lack of communication with local stakeholders when formulating what should be done. ... "When high level institutions and industry are busy drawing up standards, local views and priorities are in danger of remaining unheard.... Despite the fact that all such initiatives aim to end the mineral trade funding armed groups in Eastern DRC, there is growing concern that there is a boycott in practice on minerals from Eastern DRC, which may lead to worse consequences for the people on ground.... During interviews in Goma and Bukavu in May 2010, IPIS encountered very few representatives of civil society groups who were in favour of an embargo on minerals from Eastern DRC. By far most informants questioned the usefulness of an embargo.[1]

Negative Unintended Consequences

The Dodd-Frank Financial Reform Act was signed into law on July 22, 2010; on August 22, 2012, after several postponements to allow for further public debate and fact finding, the Securities and Exchange Commission (SEC) promulgated a detailed set of implementation regulations. What has happened in Congo as a result?

In early 2011, in response to negative publicity from activist groups and in anticipation of the eventual implementation of DF-1502, the Electronics Industry Citizenship Coalition (EICC)—which includes most large US electronics companies—advised the Malaysia Smelting Corporation, the last remaining smelter processing minerals from eastern Congo, to stop accepting minerals from central Africa that were not certifiably clean. The resulting *de facto* embargo of Congolese minerals went into effect on April 1, 2011 and had an immediate impact on the artisanal mining sector and on the broader economy of the region.

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[1] Voices from the Inside: Local Views on Mining Reform in Eastern DR Congo, Finnwatch and Swedwatch, October 2010. http://makeitfair.org/en/the-facts/news/local-voices-must-be-heard

To understand the extent of that impact, consider this open letter from 50 South Kivu civil society organizations dated July 5, 2011, and addressed to President Obama and SEC chair Mary Schapiro:

> In this environment, artisanal mining has emerged as one of our only economic lifelines, and has directly and indirectly provided millions of jobs. The abrupt cessation of this trade has had devastating impacts on our people:
> 1. Millions of our artisanal miners have suddenly had their livelihood cut from under them. They find it increasingly difficult to pay school, health, or maternity fees; some even report having difficulty providing food for their families.
> 2. Mining enclaves have emerged over the past decade in places so remote that only planes can access them. The world's sudden refusal to buy these minerals means the planes no longer service these communities; with nothing to trade, they are unable to provide themselves with such basic necessities as salt, sugar, oil, cloths, soap and so on.
> 3. Because artisinal mining was one of our only engines of economic growth, secondary economic impacts are being felt throughout the province. Even in our large towns, economic activity has diminished; construction slowed; trade in everything fallen. People with very little to begin with are now doing with less.[2]

I would add one more reason for concern: near epidemic-levels of livestock and crop diseases are currently devastating agricultural production. Families who dispersed their risk by sending some members to mine while keeping others at home to farm are being hit on both counts; they have nothing else to fall back on.

Today, the de facto embargo on Congo's tin, tantalum and tungsten (the three Ts) is still in effect, and DF-1502 continues to depress the economy of eastern Congo. There has been some resumption in the trade, from three sources:

- Several "conflict-free" initiatives are underway, with mixed results. The Dutch are funding a project in Nyabibwe that has produced a few hundred tons of product; local CSOs hope to expand the project to five nearby mining sites. However, there are allegations that the site, widely viewed as a test case for responsible sourcing, is already being exploited by a military-led smuggling racket.
- Despite the central government's suspension of a couple of Chinese trading houses from the mineral trade in May 2012, Chinese firms continue to buy some modest amount of undocumented minerals at significantly discounted prices.
- Finally, there has been a significant expansion in illicit trade through Rwanda, with cassiterite in particular being smuggled across Lake Kivu and repackaged as domestic Rwandan product. The fact that Rwanda is one of the unintended beneficiaries of the

[2] Open Letter to President Barack Obama And SEC Chair Mary Schapiro From Religious, Civil Society and Business Leaders In South Kivu Province, Democratic Republic Of Congo, July 5, 2011. http://www.sec.gov/comments/s7-40-10/s74010-324.pdf

legislation is a bitter pill for many Congolese, who point out that Rwanda has been plundering Congolese mineral wealth for years.

Overall, however, the trade has by no means reached its pre-embargo level, and miners receive significantly less than they used to for each kilogram of mineral that they produce. (Untagged cassiterite sells for $3-4 per kilo, in contrast to $9-10 per kilo for the tagged product. Miners were receiving $13-15 per kilo prior to the embargo.)

In contrast to the three Ts, the trade in gold continues unabated, with virtually no procedures in place to formalize let alone control it. As my fellow panelist, Sophia Pickles from Global Witness recently documented, up to 10 tonnes of gold from South Kivu are being laundered each year through Burundi and exported to Dubai--with an "almost complete absence of checks." In North Kivu, a significant portion of the gold trade is controlled by the Congolese army commanders, including ex-General Gabriel Amisi, who was fired as chief of staff last year after it was revealed he had been selling weapons to militia groups. Last month, the *Wall Street Journal* reported that "opportunities for illicit gains only increased after the U.S. in 2010 passed a Wall Street overhaul, known as Dodd-Frank." While a number of efforts are underway to establish "conflict-free" gold supply chains for boutique jewelers, gold is so valuable, so easy to smuggle, and so fungible that it is hard to imagine how the trade could be brought under control. I would respectfully submit that preventing Congolese warlords from selling gold to Middle East or South Asian traders in one of the most ungoverned areas of the world is not a feasible policy goal.

A Plethora of Initiatives

As the Pole Institute has documented, the number of different international initiatives to deal with Congolese minerals is astounding—and increasingly problematic: "It has become increasingly clear that the parallel development of a range of different international standards, which in the end all have to be applied by the same actors, is a problem... The multiplication of uncoordinated visits for many different purposes are generally regarded by economic operators on the ground as auditing activities with related increase of audit fatigue. Participants warned against the increase in 'conflict minerals tourism' that fails to deliver concrete results."[3]

The Violence in Congo Has only Gotten Worse

The economic harm caused by DF-1502 might be worthwhile if the embargo were having its intended effect, of reducing the overall level of violence in the region. Advocates used to argue that the legislation was not having its intended effects because the SEC had yet to issue the implementing regulations. Now that it has, it is important to ask whether we are seeing an improvement on the ground.

[3] Dominic Johnson, Senior Analyst, NO KIVU, NO CONFLICT? The misguided struggle against "conflict minerals" in the DRC. The Pole Institute, April 2013.

Roger Meece, the UN special representative in Congo and Monusco chief, drew a dire picture in a briefing before the Security Council. Appealing for an additional military brigade, he told the Council that an "ever-growing number of violent, destructive rebel groups is battling for territory while terrorizing local populations." Other groups have echoed Meese's assessment. Just last week, the International Red Cross reported that violence in eastern Congo had reached "unprecedented levels." This is not the result we were led to expect.

The Case for Conflict Minerals Rested on Dubious Assumptions

To be fair, it is difficult to disaggregate the impact of the conflict mineral law from other developments in the region. It could be that the situation would be even worse if the legislation hadn't passed. We have to examine whether the advocates' reasons for expecting the law to reduce violence stand up to sustained analysis. Here is how the Enough Project made the case for conflict minerals legislation in April 2009:

> The time has come to expose a sinister reality: Our insatiable demand for electronics products such as cell phones and laptops is helping fuel waves of sexual violence in a place that most of us will never go, affecting people most of us will never meet. The Democratic Republic of the Congo is the scene of the deadliest conflict globally since World War II. There are few other conflicts in the world where the link between our consumer appetites and mass human suffering is so direct.[4]

As several scholars have noted, this analysis fails on several counts:

1) It misdiagnoses the nature of the conflicts in eastern Congo. For example, the rebel movement that is of greatest concern at the moment, the M23, does not control any mines, has not attempted to do so, and does not seek to control mineral transport in the regions it does govern.
2) It diverts attention from other much-needed policy actions in the field, such as resolving land conflict, promoting inter-community reconciliation, jump-starting economic development, and fighting corruption.
3) It does not take into account the enabling context. Even if minerals were as central to the conflict as advocates claimed, attempts to impose a regulatory regime are unlikely to succeed given the institutional weakness of Congo's central government.
4) It ignores the fact that there are numerous other opportunities for violence entrepreneurs to make money, from taxing transport routes to robbing banks.
5) It increases the likelihood of conflict by depriving young men of nonviolent livelihood alternatives and by exacerbating competition between local stakeholders over ever-scarcer resources.

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[4] The Enough Project: "Can You Hear Congo Now? Cell Phones, Conflict Minerals, and the Worst Sexual Violence in the World," April 1, 2009. http://www.enoughproject.org/news/strategy-paper-can-you-hear-congo-now-cell-phones-conflict-minerals-and-worst-sexual-violence-w

Experts all but Unanimously View the Campaign as a Failure

Over the past eighteen months, a dozen independent scholars and NGOs have published reports on the impact of the conflict minerals campaign. Strikingly, they have all reached similar conclusions: DF-1502 is harming ordinary people, helping militia and warlords, and in no way significantly reducing conflict. Here is some of what these scholars and activists have had to say:

Laura Seay, assistant professor at Morehouse College, for the Center for Global Development:
"Nicknamed "Obama's Law" by the Congolese, section 1502 has created a de facto ban on Congolese mineral exports, put anywhere from tens of thousands up to 2 million Congolese miners out of work in the eastern Congo, and, despite ending most of the trade in Congolese conflict minerals, done little to improve the security situation or the daily lives of most Congolese."[5]

Raymond Gilpin, director of the US Institute of Peace Center for Sustainable Economies (CSE):
"Though well-intentioned, [DF-1502] fails to address the root causes of conflict and grossly underestimates the resilience and adaptability of the warring factions. In recent months the armed groups have proven that they can quickly adapt, shifting from conflict mining to smuggling, racketeering (including 'taxes' imposed on coal and cattle) and bank robbery."[6]

Severinne Autesserre, assistant professor at Colombia University, for the peer-reviewed Journal of African Studies:
"The well-meaning international efforts have also had unintended ramifications that have prevented the intervention from achieving its stated goals, and that have even, at times, contributed to the deterioration of the situation in eastern Congo. … Because of these exclusive focuses, the international efforts have exacerbated the problems that they aimed to combat."[7]

Enrico Carisch and Dr Claude Kabemba, of the Open Society's South Africa Initiative:
"But the reality on the ground could not be more different from the concept that every conflict in eastern Congo is - at its heart - a fight for control over the country's vast natural resources. This certainly does not appear to be the case with the current conflict.
In fact… the hundreds of thousands of artisanal gold miners in four provinces (North Kivu, South Kivu, Oriental and Maniema) are no longer afraid of warlords or militias. Instead, they fear the hordes of corrupt civil servants, bureaucrats and members of the government's security forces, who are far more interested in exploiting the miners rather than supporting and protecting them…

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[5] Laura Seay, What's Wrong with Dodd-Frank 1502? Conflict Minerals, Civilian Livelihoods, and the Unintended Consequences of Western Advocacy. Center for Global Development, Working Paper 284, January 2012
[6] Raymond Gilpin and Brett Boor, *On the Issues: Instability in the DR Congo*. US Institute of Peace, August 2012
[7] Severinne Autesserre, Dangerous Tales: Dominant Narratives and their Unintended Consequences. *African Affairs*, Oxford University Press, February 2012

The current conflict is not about minerals. It is about Congo's dreadful governance - and the bloody role of neighbouring governments."[8]

Dominic Johnson, a senior analyst for the Goma-based Pole Institute:
"A pattern is emerging in which Kivu's mining sector is being asphyxiated in the name of reform. Before 2010, Kivu's mineral traders had willingly participated in moves to strengthen formal and legal channels and to safeguard Kivu livelihoods by creating "conflict-free" production and trading chains within Eastern Congo. The mining ban killed this off..."[9]

To my knowledge, not a single independent analysis has concluded that Dodd-Frank 1502 has had a positive impact on developments in eastern Congo.

Listen to Congolese
Finally, I would ask the subcommittee to listen to the voices of Congolese who have been affected most directly by the law:

Serge Mulumba, president of the mining cooperative CDMC, in a letter to the SEC:
"We cannot give you exactly the number of lives that are lost each day following the cessation of artisanal mining in the DRC and yet even if a child died or who is hungry or do not go to school because his father digger lacked money, this is a tragedy, it is a sad news that should challenge our humanity."[10]

Pastor Raymond Muhombo Shemihiyo, in an open letter posted on Fair Jewelry Auction:
"Please listen attentively to our cries of weeping and anguish. Our families and us will be doomed to death if you do not hear these cries of alarm. Do not wait to rescue us when we will be already in the grave. Act in time to avoid the humanitarian catastrophe that would arise from the consequences of your suspension to purchase our minerals."[11]

The heads of three South Kivu mining associations, in a letter to Intel, begged the EICC to reconsider DF-1502:
"What is the refuge of all the Congolese jobless, around 85 % of the population. Is it to make peace or to trouble the peace, when the life is stopped for a population? No job, no life. Please imagine the consequences..."[12]

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[8] Enrico Carisch and Dr Claude Kabemba, *Congo-Kinshasa:Conflict Minerals Not Fueling M23 Rebellion* Open Society Initiative for Southern Africa (Johannesburg), 27 November 2012
[9] Dominic Johnson, Senior Analyst, NO KIVU, NO CONFLICT? The misguided struggle against "conflict minerals" in the DRC. The Pole Institute, April 2013
[10] Mulumba K. Serge, President of CDMC Mining Cooperative in DRC/KATANGA, October 17, 2011
[11] SOS From The Small Scale Miners of the Congo Regarding The Dodd Frank Act, A Letter from Pastor Raymond Muhombo Shemihiyo, General Mining Cooperatives of North Kivu, Democratic Republic of the Congo.
[12] Letter to Dr Jerry Meyers, Chair of Extractives work group Intel, from Mukulumanya W. Josue President of the Gecomiski, and Raymond Muhombo Shemihiyo President

Father Didier de Failly s.j., in a letter to the SEC:
"Now if the Dodd-Frank regulations are applied from April this year it will ruin all these efforts and condemn hundreds of thousands of people in Eastern DRC to keep under the terror of these maffiosi barons, instead of improving the whole situation. Even in Rwanda, Uganda and Burundi, thousands of people will be badly affected."[13]

"For us, without us, is against us"
Chairman John Campbell, Ranking Member Wm. Lacy Clay, and Members of the Subcommittee, I began my testimony by lauding the tradition of international citizen activism represented by groups like Enough and Global Witness, who at their best continue a centuries' old tradition of global conscience. One of that tradition's signal achievements was the peaceful overthrow of South Africa's *apartheid* regime. Defenders of the conflict minerals campaign sometimes suggest that it resembles the divestment campaign of the 1980s. Just as divestment imposed real, tangible costs on the South African economy but ultimately proved worth the price, so, they say, the conflict minerals campaign will eventually prove to have been worth the temporary economic dislocations it has caused.

I agree that the comparison to the divestment campaign is instructive. But it is not the similarities of the campaigns that strike me so much their differences. For one, the anti-apartheid activists were acting in solidarity with South Africa's moral and political leaders. Nelson Mandela and Archbishop Desmond Tutu urged Western countries to divest from South Africa. In calling for their universities and companies to divest, Western activists were following the lead of South Africans rather than fashioning a solution of their own. In the case of conflict minerals, by contrast, the activists consistently brushed aside the concerns of informed local leaders. Second, the divestment campaign targeted the right people with the right incentives: The leaders of *apartheid* South Africa saw themselves as representatives of European civilization. They could therefore be shamed by a Western-led campaign aimed at stigmatizing them. By contrast, the horizons of Mai Mai Sheka or Mutomboki are entirely local. It is safe to say that they do not care what Western starlets think of them. Finally, the divestment campaign was based on a clear theory of change: It pitted ageing pro-apartheid politicians against South Africa's business elite, who wanted an end to international isolation so they could go back to making money. With conflict minerals, just the opposite is true: By sidelining legitimate business interests, DF-1502 inadvertently—but predictably—put money and power into the hands of the worst elements on the ground, with the negative consequences we continue to see.

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[13] Father Didier de Failly, Note on The Need To Let Some Time To Implement A Thorough Control System On Artisanal Mining In Eastern DRC, 3/10/2011. http://www.sec.gov/comments/s7-40-10/s74010-190.pdf

The Unintended Consequences of Dodd-Frank's Conflict Minerals Provision

The United States House of Representatives

Committee on Financial Services

Subcommittee on Monetary Policy and Trade

Testimony by Mvemba Phezo Dizolele

Visiting Fellow, Hoover Institution on War, Revolution and Peace

Tuesday, May 20, 2013

Chairman Campbell, Ranking Member Clay and Distinguished Members of the Subcommittee on Monetary Policy and Trade:

Thank you for the invitation and honor to testify before your subcommittee today. A little over a year ago, I had the privilege, along with other colleagues, to share with members of this subcommittee my perspective and insight about Section 1502 of the Dodd-Frank Act and its consequences for the people of the Democratic Republic of Congo.

I would like to note, however, that the views expressed in this statement are mine, and mine alone.

A year is enough time for emotions to cool off and reason and honesty to prevail as we monitor and evaluate Dodd-Frank Section 1502. It is then quite appropriate for us to look at the unintended consequences of this legislation with the informed vantage point of time.

A week ago I returned from a working trip to the Democratic Republic of Congo where I participated in a conference about the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the

so-called Conflict Minerals. The Conference brought together Congolese academics, political leaders and representatives of civil society organizations in a memorable moment of reflection about ways and means to usher lasting peace in Congo and end the illicit and illegal trade and looting of natural resources.

Throughout the conference and my stay in Kinshasa, I could not help but marvel, as I have done many times before, at the determination and commitment of our friends who promoted Section 1502. I know that they mobilized thousands of people in a campaign that raised awareness on the continued conflict in eastern Congo. This high level zeal is the campaign's main strength.

Section 1502 seeks to bring peace to eastern Congo by regulating mineral trade through U.S. law, cleaning up the supply chain and reducing militias' access to financial means. The spirit of this law supposes that such a regulation would *de facto* curb the violence and human rights abuses.

This campaign, however, has a serious weakness. Proponents of 1502 built their case on an erroneous premise that claimed that minerals were either the source or at the center of the conflict. Cutting militias' access to mines will lead to peace, the argument goes.

Let me suggest then that the best way to evaluate the consequences of Section 1502 would be to look at its premise, claims and impact on institution-building and on the Congolese people.

Mineral trade in eastern Congo is part of a wider war economy, which can only be regulated either by the most powerful armed groups working in collusion, the biggest armed group imposing its way on the smaller ones or by their backers seeking to maximize profits and preserve their own interests. As such, Section 1502 builds on a weak foundation and requires the buy-in of the very negative actors it seeks to tame. This approach

perverts basic peacemaking models and rewards criminals and would-be spoilers.

This premise led to a law with the following results:

1. The U.S. Congress passed a legislation that ignores the will and agency of the Congolese people and imposes an outside solution to a problem that is best understood by the Congolese. This approach to peacemaking undermines DRC's strong civil society, which has been working hard over the years to end the looting of natural resources, including the audit of mining contracts, the revision of the mining code, the call for security sector reform and the respect of a transparent and credible electoral process.

2. The U.S. Securities and Exchange Commission, which is entrusted with the implementation of this law, is not qualified to carry out such a task. The SEC has neither the expertise nor the money to conduct a cost and benefit analysis of the impact of Section 1502 on the Congolese and U.S. business. Thus, the SEC had to decide on such a complicated matter affecting the livelihood of millions of people without adequate assessment of the situation on the ground in Congo. It was inappropriate to ask the SEC to serve as the primary agency to enforce this law. This work is simply outside this agency's scope and mandate.

3. Section 1502 perpetrates the dominant, but wrong narrative that casts the Congolese people as incapable of solving their problems and in constant need for outside guidance. The truth is that no one understands mining in Congo better than the Congolese. By failing to engage the Congolese in an honest dialogue on the relationship between conflict and mining, proponents of Section 1502 failed to spur a national ownership of the initiative through a true partnership with the Congolese.

4. Section 1502 creates what is known as "Congo fatigue". Staffers in both chambers of Congress work hard to help steer U.S. Congo policy in the direction that best benefits the Congolese people. House members and senators invest their political capital to do the same. It is therefore disappointing to hear that the legislation they passed did not yield the anticipated result because they were misled. Such realization makes it difficult to engage members of Congress the next time around.

5. There is no evidence that Section 1502 has reduced violence in the targeted region. In fact, the emergence of the M23 militia last spring, which escalated tensions in the Great Lakes, is proof that this law has little bearing on war entrepreneurs.

In Congo, businesses are not the enemies; armed groups and their international and local backers are. If we are serious about ending the conflict, we should go after the negative forces and help restore state authority so that the Congolese government can finally meet its obligations toward the people. This means that together we need to work on ending impunity at all levels of the polity. Only then can the Congolese know real peace.

The Congolese people want and deserve peace. We should empower them to that end. The Congolese government's inability to protect its people or control its territory undermines progress on everything else. A competent, professional military - organized, resourced, trained and vetted - is essential to solving problems from displacement, recruitment of child soldiers and gender-based violence, to economic growth or the trade in conflict minerals.

Congo may be a dysfunctional state, or perhaps even a weak state, but this does not the Congolese society is weak. The Congolese are among the world's most resourceful peoples. We should work with them and support them as they strive for solutions that suit their predicament. Above all, we

have to resist the urge to impose Western activists' vision of the world on the Congolese.

I thank you.

Information Technology
Industry Council

Hearing on
"The Unintended Consequences of Dodd-Frank's Conflict Minerals Provision"

Testimony of
Rick Goss
Senior Vice President of Environment and Sustainability
Information Technology Industry Council (ITI)

Before the
Subcommittee on Monetary Policy and Trade
Committee on Financial Services
United States House of Representatives

May 21, 2013

May 21, 2013

Chairman Campbell, Ranking Member Clay and members of the Subcommittee – thank you for the opportunity to testify at today's hearing regarding the Democratic Republic of the Congo, conflict minerals and section 1502 of Dodd-Frank.

My name is Rick Goss and I am the Senior Vice President of Environment and Sustainability for the Information Technology Industry Council, or ITI. ITI is a global trade association representing 50 of the world's most innovative companies in the information and communications technology sector. Our members have an abiding commitment to sustainability and corporate social responsibility – a commitment we have again demonstrated through our strong leadership on conflict minerals. While the minerals and metals covered under section 1502 are routinely used by every industry across the global economy, tech companies have taken the lead to drive private sector initiatives and secure measurable progress.

Along with governments and civil society, ITI and our members share a commitment to the fundamental principles of peace and security for the Congo, and we are dedicated to being responsible actors within the context of comprehensive, government-led strategies for Central Africa. First, we are committed to ethical sourcing throughout our global supply chains. We do not want to conduct business, either directly or indirectly, with any supplier that supports, prolongs or perpetuates armed conflict or human rights abuses. Second, we want to source cleanly from Central Africa to help provide critical economic benefits to hundreds of thousands of people who depend on mining and mining-related activities as their sole source of livelihood. With these twin objectives in mind, our sector has made a conscious choice to remain engaged in the region.

Even before the Congressional negotiations on conflict minerals culminated in 2010, the tech sector was already implementing programs and processes to enhance transparency in global supply chains by, among other actions, creating an inclusive industry forum to address common supply chain challenges and develop solutions. Our initiatives have continued ever since and include:

- Launching the Conflict-Free Smelter Program;
- Establishing clean, in-region sourcing channels in Central Africa;
- Developing and promoting supply chain transparency and reporting measures; and,
- Joining with governments and civil society in the Public-Private Alliance for Responsible Minerals Trade.

Based on our long history of credible engagement and concrete achievements, the tech sector can bring unique judgments and perspectives on the impacts of section 1502 and on the broader policy debate. Let me begin by relating the positive outcomes that section 1502 has yielded.

First, the public debate on conflict minerals has brought desperately needed attention to an outright humanitarian crisis that had been largely ignored by the international community. Over five million people in Central Africa have suffered premature deaths, primarily related to disease and malnutrition, with militias and government soldiers alike regularly committing atrocities against civilians.

Second, the enactment of section 1502 drove other sectors to join with tech to drive policies and transparency measures throughout global supply chains. The tech sector has continuously promoted corporate due diligence efforts as an important part of a coordinated international solution to the challenges in the region, and has supported the broad applicability of these requirements across the economy.

Finally, section 1502 helped convince regional governments to engage more fully in mining sector reforms. This includes Congolese laws on due diligence and licensing in the minerals trade, and coordinated efforts led by the International Conference of the Great Lakes Region.

Section 1502, however, has also created obstacles for companies that want to remain responsibly engaged in Central Africa. Simply put, the mechanism contained in section 1502 encourages companies to avoid the region, while layering regulatory burdens and costs on those that stay. Even companies that source cleanly from the covered region must submit a full Conflict Minerals Report to the SEC, and must further subject that report to an independent private sector audit. Companies that elect to exit the region altogether can avoid these obligations.

This has led to a *de facto* embargo on minerals from the covered region, with serious consequences for local populations. Major smelters report that a majority of their direct customers are demanding metals that are Congo-free, rather than conflict-free. Likewise, most companies expend the bulk of their time and resources establishing that they are not sourcing from the region, rather than developing programs to build clean-sourcing capacity. As a consequence, countless companies are fulfilling redundant paperwork obligations: developing parallel lists of smelters, reviewing supplier declarations, writing reports and scheduling audits. These efforts yield few if any benefits to the people of the Congo.

Also, because of endemic security and corruption challenges, the volume of materials processed through legitimate in-region programs to date has been modest at best. The United Nations reports that, even as security has improved at some major mining centers, exports of tin, tantalum and tungsten from the eastern DRC have all but halted. The prices for uncertified minerals have plummeted, with impoverished artisanal miners earning mere

cents on the dollar, while brokers and exporters secure huge profits. The societal impacts can be measured in reduced family incomes, limited availability and rising prices for food and medicines, and in falling school enrollments. The U.N. also reported significant black market movement of covered minerals from the Congo, and a rush by armed groups and the Congolese military to gold mines where due diligence requirements have not impacted trade. Furthermore, militias and "criminal, mafia-type networks"[1] within the Congolese Army are exploiting other sources of revenue, through products such as timber, charcoal, cannabis, ivory and basic supplies, and through practices such as human trafficking, illegal roadblocks and extortion.

Section 1502, by focusing almost exclusively on the role of the private sector, has diverted critical attention away from the indispensable role of governments in addressing the endemic political, security and humanitarian crises in the region. Private sector initiatives alone cannot succeed in a region beset by rampant conflict and corruption, and destabilized by chronic interference and intrusions from neighboring countries. The underlying causes of this regional war are political, not economic, and are linked to entrenched ethnic enmities and disputes over political power, land rights and citizenship. While control over natural resources is in part responsible for fueling violence in eastern Congo, it is striking to note that adjacent areas that are equally rich in resources are not plagued by conflict.

The most recent United Nations Security Council Resolution on the Congo authorized the deployment of an "Intervention Brigade" with the stated objective of "contributing to reducing the threat posed by armed groups to state authority and civilian security in eastern DRC and to make space for stabilization activities." The Security Council took this step in large part due to the continued threat posed by the rebel group M23, which has received significant logistical and military assistance from other governments in the region. The

[1] See page 75 of the U.N. Group of Experts report: www.un.org/ga/search/view_doc.asp?symbol=S/2010/596

heads of state of ten neighboring countries, meanwhile, recently recommitted to respect one another's territorial sovereignty and to refrian from interfering in DRC's internal affairs; supporting armed groups; and harboring war criminals.

Ultimately, corporate efforts alone are no substitute for comprehensive international engagement; in the absence of this international will, the status quo will reign in the Congo.

In closing, ITI and our members urge Congress to consider ways to overcome the deterrent effects of section 1502 and provide incentives to companies that responsibly source from Central Africa. These efforts could include lowering the regulatory burden; offering a federal procurement preference; enacting tax incentives; and, providing public recognition to those companies that source through approved, in-region programs. The United States and other governments can also support in-region transparency and governance initiatives, and can place collective pressure on foreign smelters to participate in our audit program. The tech sector will continue to embrace our role as part of the solution, even as we join with governments and civil society to press for more concerted and lasting action from the international community to resolve the unfolding calamity in Central Africa.

Thank you again for the invitation to testify today. I would be pleased to answer any questions.

global witness

Subcommittee on Monetary Policy and Trade

Committee on Financial Services
U.S. House of Representatives

Hearing entitled "The Unintended Consequences of Dodd-Frank's Conflict Minerals Provision"

May 21, 2013

Testimony of Sophia Pickles

Global Witness

Good afternoon Chairman Campbell, Ranking Member Clay and members of the Subcommittee. Thank you for holding this hearing today. My name is Sophia Pickles. I work for Global Witness, a non-governmental organization with offices in London and Washington DC that investigates and campaigns to break the links between natural resources, corruption and conflict. I lead our campaign on eastern Democratic Republic of Congo (DRC) and conflict minerals.

For twenty years, our investigations into conflict diamonds, illegal logging and corruption in oil, gas and mining have been the catalyst for international initiatives and policies to promote transparency and ensure that natural resources do not fuel conflict. Since 2004, Global Witness has conducted research and advocacy on a broad range of issues relating to natural resources in the DRC. Over the past seven years, we have focused on documenting the militarization of mining in the east of Congo and the role the trade in minerals plays in financing the conflict there.

Our work on the minerals trade is directly informed by regular, in-depth field investigations in eastern DRC, Rwanda and Burundi. These investigations involve frequent visits to mine sites and trading hubs, and interviews with all stakeholders involved in the trade, including artisanal miners and local traders, smugglers, mining sector authorities, representatives of the army and mining police, and members of local and regional civil society. We also meet regularly with ministers and other senior officials in the Congolese, Rwandan and Burundian governments.

For the last fifteen years, armed groups and members of the national army have used profits from the trade in tin, tantalum, tungsten and gold to finance themselves and their operations in eastern DRC. The local population in North and South Kivu provinces has borne the brunt of a war characterised by murder, rape, pillage and mass displacement. Although the region's mineral wealth is not the root cause of the conflict, competition for access to these resources has been an incentive for warring parties to continue fighting.

Minerals that have benefitted armed groups and factions of the army enter global supply chains and are used in a wide variety of household and industrial products. As you know, the Dodd-Frank Wall Street Reform and Consumer Protection Act includes Section 1502, a provision that requires U.S.-listed companies to carry out checks on their supply chains to determine whether their purchases

have funded conflict and/or human rights abuses. This provision is an important piece of legislation that seeks to break the links between eastern DRC's minerals trade and abusive armed groups. The passage of Section 1502 has generated unprecedented levels of international attention on mineral supply chains from eastern DRC. The law has led to changes in how international and Congolese companies approach supply chain management, catalyzed reform of DRC's domestic mining sector and spurred development of a regional mineral certification system. Increased scrutiny of certain mines and mineral trading routes in eastern DRC by mining authorities, companies and local communities is gradually creating opportunities for transparent and conflict-free sourcing.

Private sector efforts

While some U.S. industry associations and companies claim that implementing Section 1502 is too costly and burdensome, the substantial efforts made by companies to comply with the law paint a different picture. Certain companies have begun to make progress in identifying the origin of the metals they use and have published the names of the smelters and refiners in their supply chains. Others have invested in closed-pipe sourcing initiatives in eastern DRC. The range and scope of these initiatives suggests that the cost to business of sourcing minerals responsibly, and disclosing efforts to do so, is not prohibitive.

- In April 2013, Hewlett Packard (HP) published the names of the 195 tin, tantalum and tungsten smelters and gold refiners identified in its supply chain.[i] Apple has been tracking its supply chain since 2010; the company's 2012 Supplier Responsibility Report identified 211 smelters and refiners in its supply chain.[ii] Also in 2012, Philips identified the 127 tin, tantalum, tungsten smelters and gold refiners that it uses.[iii]

- In 2010, the Electronics Industry Citizenship Coalition and the Global e-Sustainability Initiative developed the Conflict-Free Smelter Program (CFS), an auditing system for smelters and refiners that aims to support company efforts to verify the upstream section of their supply chains. The CFS has validated 35 smelters as conflict-free, while another 31 are in the process of being evaluated and audited.[iv]

- In October 2012, the Conflict-Free Tin initiative (CFTI), a closed-pipe system in which all players in the vertically-integrated supply chain are known, was launched in eastern DRC's South Kivu province. Major SEC-listed companies are participating in the project, including firms like Phillips who were not previously buying minerals from the Great Lakes Region. One month after the launch, the front line of fighting between the M23 rebels and Congolese government troops was less than 30 miles from the CFTI site.[v] Although in its early stages, the CFTI is an example of how, if properly implemented, responsible sourcing from conflict-affected areas in eastern DRC can work. Production levels at the mine site, which typically employs around 1200 artisanal miners, have risen steadily and average over 100 tons of tin ore per month.[vi]

- In July 2011, Motorola Solutions and AVX launched a closed-pipe sourcing initiative, Solutions for Hope, in DRC's Katanga province. Tantalum from the Solutions for Hope sites is sold to CFS-certified smelters, helping to ensure that the entire supply chain is conflict-free. Companies participating in another closed-pipe sourcing initiative, Making Africa Work, have committed US$1.5m towards the construction of schools, infrastructure and health clinics around the mine site.

Mining sector reform in DRC

Political pressure generated by the passage of Section 1502 prompted changes in eastern DRC's mineral sector well before the final rule was published. As early as 2010, Bisie, North Kivu province's biggest tin mine, was demilitarised after five years under the control of various factions of the Congolese army. For the time being inadequate transport infrastructure linking Bisie to export hubs, and legal issues over concession rights have stymied responsible sourcing efforts and left the mine vulnerable to incursions by armed groups. Conflict-free sourcing opportunities are emerging in other areas in North and South Kivu provinces, however.

The Congolese Minister of Mines has publically recognized Section 1502 as a 'major opportunity' to break the links between minerals and conflict. In February 2012 the Congolese government introduced a law requiring companies operating in the country's tin, tantalum, tungsten or gold sectors to carry out supply chain due diligence in line with international standards set by the Organisation for Economic Cooperation and Development (OECD). The domestic legislation mirrors what companies covered by Section 1502 are expected to do and will complement responsible sourcing efforts by U.S. firms.

The Congolese government reinforced its commitment to clean up mineral supply chains in May 2012 when it suspended two Chinese-owned trading houses operating in North Kivu, for failing to carry out due diligence and sourcing from areas under the control of armed groups. Furthermore, the Congolese army's Commander-in-Chief issued a letter to all serving soldiers reiterating that members of the military are prohibited from entering mine sites or being involved in the minerals trade.

Section 1502 has also generated momentum at the Great Lakes regional level. The International Conference on the Great Lakes Region (ICGLR), a grouping of regional governments set up in May 2007, is developing a regional mineral certification scheme. The scheme, if implemented properly, could provide valuable information and assurances to international traders, smelters and manufacturers on the provenance of the minerals they are purchasing and the conditions in which they are produced. Boosted by the international attention generated by Section 1502, the ICGLR scheme now requires trading companies in the region to meet OECD due diligence standards as a condition for having their minerals certified.

Mineral traders operating in eastern DRC now have a much greater understanding of what supply chain due diligence is, how to do it and why it matters. Traders in North Kivu province, who had previously turned a blind eye to the conflict minerals trade, have formed a coalition called Save Act Mine (SAM) that promotes the implementation of OECD due diligence among members of the private sector. Traders have said that this initiative and others like it were developed in response to Section 1502, which some see as an opportunity for much needed reform of the trade.

Local oversight and whistle-blowing groups are also emerging. Congolese civil society organizations, such as Observatoire Gouvernance et Paix (OGP), train local communities and members of the mining police in how to monitor mining areas and trading routes and report on military or armed group involvement. This type of civil society and community engagement is key to preventing armed groups from accessing illegal revenues from the minerals trade.

Impact on mining communities

Proper implementation of Section 1502 has the potential to substantially improve socio-economic prospects for artisanal miners in eastern DRC. Artisanal mining communities are extremely vulnerable to the activities of rebel groups and abusive factions of the Congolese army. Diggers experience debt bondage, extortion and in some cases, slave-like labor conditions.

Insecurity resulting from the presence of armed groups vying for control of mineral resources is also one of the main drivers of poverty in many artisanal mining areas. It restricts freedom of movement for communities, limiting access to fields and therefore reducing the volume of agricultural goods produced.[vii] Insecurity also reduces the movement of goods and access to markets and renders more distant markets inaccessible, restricting the sale of goods to local outlets, which stifles farm production and economic activity. Decreased agricultural production and limited access to markets impact household income and can mean that families are unable to afford schooling for their children. As long as armed groups prey on mining and mineral trading areas, artisanal mining communities are likely to remain isolated and possibilities for economic development extremely limited.

The number of companies carrying out due diligence and sourcing from eastern Congo is still limited, largely as a result of the uncertainty created by the Securities and Exchange Commission's sixteen-month delay in publishing the final rule for Section 1502. Just five months into the law's first reporting year, it is too early to measure the impact of due diligence on a wide scale. However, in sites where closed-pipe supply chains have been set up, there are indications that the implementation of due diligence is helping to establish and safeguard conflict-free supply chains. Moreover, local monitoring groups have begun to identify and flag risks as they arise.

Restoring civilian control of eastern DRC's minerals trade and keeping the mining sector free of armed group involvement will require full engagement from Congolese and regional authorities and from local and foreign companies sourcing minerals from the Great Lakes. The region's gold trade, where as yet very little due diligence is being carried out, requires particular attention from governments and from companies buying gold.

Section 1502 represents a milestone in the fight for more transparent and responsible supply chain management. Breaking the links between the minerals trade and the conflict will deprive armed groups of a significant revenue stream, and the law has already catalyzed international engagement in eastern DRC's minerals trade and created opportunities for companies to invest in conflict-free supply chains from eastern DRC. If Section 1502 is properly implemented, U.S.-listed companies buying minerals from eastern Congo will help the country's vast mineral wealth work for, rather than against, the population.

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[i] http://www8.hp.com/us/en/hp-news/press-release.html?id=1391397#.UZilZFdnD2A
[ii] http://www.apple.com/uk/supplierresponsibility/reports.html
[iii] http://www.annualreport2012.philips.com/annual_report_2012/en/group_performance/social_performance/conflict_minerals.aspx
[iv] 'CFS Program Indicators,' 1 May 2013. Accessed here: http://www.conflictfreesmelter.org/CFSindicators.htm
[v] September 18, 2012 Press Release: "Conflict Free Tin Initiative," Accessed here: http://solutions-network.org/site-cfti/files/2012/09/Press-statement-Conflict-Free-Tin-Initiative-Press-Release-18-Sept.pdf
[vi] 'Conflict Free Tin Initiative,' Accessed here: http://solutions-network.org/site-cfti/status/
[vii] Solidarités International *RRMP Rapport d'Evaluation Multisectorielle, Banamatumo*, page 3

Statement of

The Institute of Internal Auditors

House Committee on Financial Services

Subcommittee on Monetary Policy and Trade

"The Unintended Consequences of Dodd-Frank's Conflict Minerals Provision"

Chairman Campbell, Ranking Member Clay and members of the Subcommittee:

The Institute of Internal Auditors (IIA)[1] appreciates the opportunity to submit this statement for the record to the hearing of the House Financial Services Subcommittee on Monetary Policy and Trade titled, "The Unintended Consequences of Dodd-Frank's Conflict Minerals Provision."

We commend you for holding this important hearing to review the unintended consequences of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), which requires the Securities and Exchange Commission to promulgate rules for public companies requiring them to disclose their use of minerals that originate in the Democratic Republic of the Congo (DRC), which Section 1502 defines as "conflict minerals."[2]

We fully acknowledge that Congress's intent for enacting the conflict minerals provision was well founded, and we are not expressing an opinion regarding its effectiveness in the DRC. However, we would like to use this opportunity to bring to the Subcommittee's attention some unintended consequences caused by Section 1502 specifically, and more broadly, the impact of mounting compliance burdens being placed on organizations overall:

(1) **Section 1502 may not be the most cost effective way to address the concerns expressed by Congress.** Companies are undergoing painstaking efforts in preparing to comply (and in some cases restructuring their operations to avoid the necessity to comply) with the challenging complexity and detail associated with Section 1502. This is resulting in an initial and ongoing organizational cost burden that we believe may not be the most cost effective way to achieve the goals of the provision; and

[1] The Institute of internal Auditors (IIA) is the global professional association that serves as the internal audit profession's global voice, recognized authority, acknowledged leader, chief advocate, and principal educator. The IIA's more than 180,000 members around the world predominately work in internal auditing, risk management, governance, internal control, information technology audit, education, and security. For additional information, visit the IIA's website: www.theiia.org.

[2] Public Law 111-203.

(2) **Section 1502, among other laws and resultant regulations enacted over the past ten-plus years, is exacting a toll on organizations that is overly burdensome.** Organizations do not have unlimited resources and continually diverting resources and attention from strategic activities may necessarily require companies to pull back from other investments. This calls into question the aggregate cost versus benefit of ten-plus years of legislative-driven mandates affecting organizations. It also raises concerns regarding the inherent distraction of organizations from their core missions, and the inability of risk management and risk mitigation personnel within organizations to continue to focus on the primary goal of managing risk (rather than determining how best to comply with arguably overly burdensome regulations like Section 1502).

Risk assurance and risk management functions, such as internal audit, are being distracted from helping boards and executive management better assess, evaluate and manage risk by being pulled into assisting other parts of the organization address a mounting compliance burden. Internal auditors provide independent, objective assurance and consulting to their company's boards and executive management that is designed to add value and improve an organization's operations. These individuals help their organizations accomplish their objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes. Organizational governance, risk management and internal control activities are fundamental to well managed companies.

Proper risk management requires internal auditors to evaluate risk exposures relating to an organization's governance, operations, and information systems regarding the following:

(1) Achievement of the organization's strategic objectives;

(2) Reliability and integrity of financial and operational information;

(3) Effectiveness and efficiency of operations and programs;

(4) Safeguarding of assets; and

(5) Compliance with laws, regulations, policies, procedures, and contracts.[3]

Such evaluations are fundamental to helping ensure that companies manage risk appropriately, especially in this time of globalization, interconnectedness and interdependency with heightened concerns regarding systemic risk and the potential impact that a troubled institution may have on the nation's financial system and the economy, in general.

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[3] *International Standards for the Professional Practice of Internal Auditing (Standards)*, available at https://na.theiia.org/standards-guidance/Public%20Documents/IPPF%202013%20English.pdf.

Section 1502 is an example of where the focus of internal auditors is being taken off of key strategic and operational risk assurance practices that are vital to a company's effective risk management activities, in order to focus on ensuring appropriate compliance mechanisms are established, which are typically not key to a company's operations.

In this time of economic uncertainty, most public companies are hesitant to hire additional internal audit, compliance and/or risk professionals when new laws and/or regulations are implemented, like those stemming from Section 1502. Instead, such risk professionals are usually required to redirect their activities away from risk-based assessments and other core competencies and toward helping companies ensure compliance with new mandates, creating a number of likely unintended consequences. Every increased hour spent on such compliance activities detracts or lessens the time available to evaluate and assess strategic, financial and operational risk management and risk mitigation. While compliance activities may not be the most cost effective way to accomplish the public policy objective, public companies are unnecessarily impacted.

Again, the IIA does not question the intentions of Section 1502, but simply wishes to draw the Subcommittee's attention to some unintended consequences of this particular provision on U.S. companies, as well as signal elevating concerns about the totality of regulatory compliance which calls into question the overall toll being placed on companies today.

Thank you again for the opportunity to submit this statement in relation to the Subcommittee's hearing. The IIA looks forward to being a resource to Congress so that it achieves its objectives in the most efficient, effective and cost/beneficial manner.

Atma Foundation
PO Box 4943
Portland, Oregon 97208

May 20, 2013

Dear Members of the House Financial Services Subcommittee on Monetary Policy and Trade,

Atma Foundation and Congolese partners submits this letter to the hearing record to express our support for Section 1502 of the Dodd-Frank Act. We are concerned about the documented link between the minerals trade and violence in the African Great Lakes region. We believe Section 1502 has been, and continues to be, a critical driver in helping address the conflict in the eastern Democratic Republic of Congo (DRC) by eliminating an important source of revenue for armed groups that have committed mass atrocities and serious human rights abuses. We therefore urge Congress and your Subcommittee to support and protect the integrity of this provision.

Congress intended for this provision to immediately address the urgent humanitarian situation in the eastern DRC by curbing the trade in conflict minerals, and to enable investors and the public to invest and buy products in an informed way. For over a decade, since the United Nations Group of Experts exposed the problem, minerals have and continue to fuel conflict and human rights abuses, including sexual and gender-based violence, in Central Africa and particularly in eastern DRC. This U.S. law requiring action has changed the dynamic on the ground in Central Africa, improved the international marketplace for minerals, and companies have found that conflict-free sourcing can be done.

Since the law passed, enormous progress has been made:

- Companies that have made an effort to source conflict-free have found that it can be done – they can buy conflict-free minerals in the open market, they can buy from another company that has a conflict-free production chain that they sell from, and companies can build their own supply chain just for themselves. All 3 of these methods exist today.
    - Companies from across manufacturing industries such as Intel, Philips, Apple, HP, SanDisk and others have traced their supply chains back to the point of the smelter, the choke point in the supply chain crucial to understanding where the minerals in their products originated and whether the minerals support armed groups directly or indirectly in the eastern DRC, and made the information public.
    - The Solutions for Hope initiative was established to source conflict free tantalum from the DRC and to promote economic stability.
    - The Conflict free Tin initiative, a joint initiative between companies and the Dutch government, was established to source conflict free tin from South Kivu in eastern DRC. The Conflict Free Tin initiative supports over 1,000 artisanal diggers and the income of the miners at the mine site has doubled.
    - The Conflict Free Smelter Program has certified as conflict free 30 smelters and refiners.
- The government of the DRC has taken action to demilitarize some mining areas and has passed domestic legislation requiring companies operating in DRC to carry out due diligence in line with OECD standards, to avoid minerals sourcing by armed groups.

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Despite the progress companies have made toward implementation, as well as the positive momentum on the ground, this provision continues to come under attack. Two months after the final rules were released, the U.S. Chamber of Commerce and two large industry groups brought a lawsuit against the SEC seeking to weaken, or eliminate, the provision. The biggest obstacle to current progress is the industry lawsuit that too many actors are hoping will keep them from having to be conflict-free.

We ask that you use this hearing to acknowledge the progress on the ground and in the marketplace and to reaffirm your support for this important provision and your commitment to ending the conflict in eastern Congo.

Yours sincerely,

Alysha Atma
Executive Director, Atma Foundation

Mme Elodie NTAMUZINDA
Presidente du Bureau de Coordination Societe Civile du Sud Kivu
Coordinatrice Provincial RRSF

Cyprien BIRHINGINGWA MUGABO
Coordonnateur du CENADEP Kivu SE-COSOC/GL
Coalition Régionale de la Société Civile contre l'Exploitation Illégale des Ressources Naturelles dans la Région des Grands Lacs

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STATEMENT TO THE HOUSE SUBCOMMITTEE ON MONETARY POLICY AND TRADE BY BISHOP NICOLAS DJOMO PRESIDENT OF THE CATHOLIC BISHOPS' CONFERENCE OF THE DR CONGO MAY 21, 2013

1. I am Bishop Nicolas Djomo, Bishop of the Diocese of Tshumbe in the Democratic Republic of the Congo (DRC) and President of the Catholic Bishops' Conference of the Congo (CENCO in French). I would like to thank the Honorable Representative John Campbell, Chairman of the Subcommittee, and the Honorable Representative William Lacy Clay, Ranking Member, for the opportunity to offer written statement today.

2. Today's hearing is about "*The Unintended Consequences of Dodd-Frank's Conflict Minerals Provision*." Instead, I think we should be talking about "The Unintended Consequences of Failure to Implement the Conflict Minerals Provision." We must focus on the "unintended consequences" and tremendous human costs of the unregulated, illicit trade in minerals that fuels violence.

3. As I indicated in my previous testimony before this Subcommittee last year, I do not come to you as a businessman, nor as a financial expert. I am a religious leader, a pastor, who is deeply disturbed by the terrible violence, misery and suffering that has dominated life in Eastern DRC since 1996.

4. Last year I shared horrific stories of death and destruction. You know of the millions of deaths due to the ongoing violence and the ghastly number of our women who have been brutally beaten and raped. In addition to the victims who have been maimed, tortured and raped, the violence has led to the loss of health centers to treat common, treatable diseases. Families, villages and communities have been disintegrated. One prominent driver of this violence is the illicit mining and trade in conflict minerals conducted by the many armed groups in Eastern DRC.

5. The Church is not opposed to economic enterprise nor to mining operations *per se*. But I urge Congress to ensure that mining activity in the Congo serves the common good and does not fuel violent destruction of lives and communities. Mining must also be conducted in ways that protect the health and environment of affected communities.

6. Section 1502 of the Dodd-Frank Financial Reform Act is an important step in protecting the common good in my country. We ask Congress to ensure that U.S. companies consider fully the heavy and gruesome social consequences and emergency assistance

burdens of the illicit mining sector in Eastern Congo as they calculate their costs and actions in complying with Section 1502.

7. The Church believes that business calculations are not just simple cost and income estimates on a spreadsheet. Pope Francis recently warned of the "cult of money and the dictatorship of an economy which is faceless and lacking any truly humane goal."Catholic Social Teaching has consistently called for equitable and sustainable economic development. This has been the teaching of Pope John XXIII, Pope Paul VI, Pope John Paul II and, in our present day, Pope Emeritus Benedict XVI and now, Pope Francis. The economy exists to serve the human person. Simply stated, we cannot allow the isolated, cold calculus of corporate profits to prevail when peoples' lives are at stake.

8. Businesses must take into account a social balance sheet that places appropriate priority on the value of the lives that can be saved by the simple act of conducting due diligence to determine whether legitimate business transactions are fueling violence and suffering. The horrible image of the collapsed clothing factory and the hundreds of lives lost in Bangladesh has seared into our consciences the results of irresponsible business practices. Congolese die every day in the illegal mines and at the hands of the armed groups that destroy communities to chase them away from potential mining sites. The international community, including our own nation and non-governmental agencies and the Church, provide emergency assistance to displaced and traumatized persons and families—assistance that has real financial costs that do not appear on the balance sheets of corporations. In light of these human and social costs, we urge you to protect the Conflict Minerals statute and allow the Securities and Exchange (SEC) regulations to go into effect as soon as possible.

9. As Pope Francis noted in addressing the diplomatic corps at the Vatican, "Fighting poverty, both material and spiritual, building peace and constructing bridges: these, as it were, are the reference points for a journey that I want to invite each of the countries here represented to take up. ... Here too, it helps me to think of the name of Francis, who teaches us profound respect for the whole of creation and the protection of our environment, which all too often, instead of using for the good, we exploit greedily, to one another's detriment."

10. Blessed Pope John XXIII, in his 1963 encyclical *Pacem in Terris*, observed that the world was heading towards ever greater unification or globalization. The development of a global economy demands the creation of a system of oversight for the universal common good of humanity. Consistent with these principles, the Catholic Church has a long tradition of urging affected governments, and private mining operators, to manage extractive facilities in ways that are safe and productive, respecting the rights of workers, consumers and residents in the affected areas. This requires strict compliance with applicable health and environmental laws, in conformity with international standards and regulatory bodies.

11. In order to protect human life and dignity in the Democratic Republic of the Congo (DRC), the Church publicly supported the passage of Section 1502 of the Dodd-Frank

Wall Street Reform and Consumer Protection Act. In October 2011, I came to the United States to defend the Congolese people and to argue for strong and effective regulations that would respect the intent of Section 1502 of the Dodd-Frank Act. I met with State Department officials, Members of Congress, and then-Chairman Mary Schapiro of the Securities and Exchange Commission (SEC).

12. The situation in the Congo is the most extensive humanitarian tragedy of our time, but it is only the latest chapter in a long history of armed pillage of our country. Our beloved nation fell prey to what is now called the "resource curse"long before the term was coined. In colonial times our land was devastated for its wood, ivory and precious metals, using slave labor to extract resources. Only a few years after our country's independence, a civil war broke out in the province of Katanga, fueled in large part by the industrial-level exploitation of copper. Today, two years after celebrating our 50th anniversary of independence, our natural resources continue to be a source of misery and suffering, instead of being a resource for peace and prosperity.

13. Ironically, even though mining is a major source of national income, this wealth has created more misery than prosperity. Militia groups attack and destroy whole communities to chase them from areas with rich mineral deposits. Rape has been used systematically to defile the dignity of women and thus destroy the family, the most fundamental building block of society. In this way, not only are communities forced from their land, the social fabric has been shredded and the community spirit destroyed. Laborers in the mines work under dangerous, unregulated conditions, often under gun point and receive meager wages for their hard labor. As a result,communities do not thrive; they barely survive under conditions that place them near the bottom of the poorest countries of the world. Sadly, this same fate has befallen many other African countries, whether it is the "resource curse" of oil in Nigeria and Chad, or "blood diamonds" in Sierra Leone.

14. Throughout DRC's long and bitter history, the Catholic Church has defended and assisted the Congolese people. The Church is one of the largest and most trusted institutions in the Congo. The Church's nationwide network of schools and health institutions has educated and cared for millions of Congolese. Our institutional presence reaches the remotest, and the most dangerous, regions of the country. This network is second only to that of the national government, and frequently works where the government cannot.

15. The Church also has established many diocesan-level human development institutions that work with international NGOs such as Catholic Relief Services (CRS). We empower people to produce better crops, set up small businesses, and give hope to women who are victims of rape as a weapon of war.

16. To counter the decades of war and bad governance, the Church created a network of Peace and Justice Commissions aimed at empowering civil society to defend the life and dignity of all Congolese and to protect people from the effects of war. Church staff members, with our development partners, work with communities in the mining areas to protect them from violence. Our staff has even met with militia leaders in an attempt to

end the violence and the illicit mining in order to rebuild the communities that have been devastated. Most people in Eastern Congo know that their poverty is linked to the violence and civil war that surround them. They also realize that this violence is directly connected to, and fueled by, illicit mining.

17. *Observers in Eastern Congo have seen a clear geographical overlap between the mining locations and the areas where the incidence of rape is high. Once a militia group gains access to a mine's resources, they use the revenue from the sale of the minerals to buy arms and recruit new militia and mine workers, thereby militarizing the conflict and furthering the cycle of violence.*

18. Illicit mines and minerals also exacerbate other causes of violence and suffering. Many local and regional sources of conflict stem from questions of identity: that is, who is perceived to be an indigenous Congolese. Indigenous Congolese have the right to own land. Those who are not Congolese, even if they have resided in Congo for years, can be denied ownership of land. Revenue from illicit mines militarizes the conflict over identity and land by injecting deadly firearms that make the conflict more deadly and intractable.

19. Militias also use the firearms purchased from the sale of conflict minerals to extort money in the form of "illicit taxes" from citizens. *The Church maintains that if the illicit, unregulated and unofficial mines were removed from militia control and transformed to legal, transparent and official operations, these mines would better serve the common good of the Congolese people.*

20. Church leaders have visited mining operations. We have seen the unsafe, dangerous and deplorable conditions under which many people, including children, work. With armed guards standing over them, these people are like slave labor. We have also seen the terrible environmental damage caused by these mines, leeching toxins into the soil and water so that villagers have no safe drinking water and their farmlands are destroyed. We must not permit the human costs of the recent tragedy in Bangladesh to be similarly repeated in the Congo through lax regulation and oversight. This is simply not an acceptable cost/benefit analysis.

21. The Church has learned that there is some controversy over the impact of the Dodd-Frank law. We are aware that the *de facto* embargo instituted by some companies has led to the loss of work in some mines. From our work and extensive network on the ground, we know that most people in Eastern Congo earn their living, meager as it may be, through subsistence agriculture. The mines "employ" a much smaller portion of the population and their working conditions often violate their basic, God-given human dignity. Many more people have been displaced and damaged by the violence than have received income from mines.

22. The Church also knows that in the long term, people's livelihoods and futures cannot truly improve while armed groups control the illegal economy that the mines provide. If we can sever the link between the mines and the militias, we believe that we can curtail

the violence and allow people to rebuild their communities and resolve the underlying causes of their conflicts. The hundreds of thousands of people who are currently displaced and dependent on emergency assistance could return to their homes. The women who have been traumatized by rape could receive healing care. Health clinics and schools could be rebuilt. Development assistance could be expanded so people can move from their meager dependence on subsistence agriculture to better crops. Better crops mean families will have more food, can send their surpluses to market, can educate their children and may be able to seek employment off the farm. All of these gains in the medium and long term will greatly surpass the loss of demeaning work in the mines.

23. *The passage of the Dodd-Frank law has already had a positive impact. In our informal talks, small-scale mineral buyers (comptoirs) tell us that they are willing to work with civil society and international businesses to establish legal and transparent supply chains that would re-establish formal, regulated and safe mines. We hear that international businesses have arrived in Eastern Congo to explore how such legal and transparent supply chains can be built. USAID has started to invest in this effort to facilitate its progress.*

24. Although large amounts of conflict minerals still leave the country, if international businesses favor legitimate, non-conflict mines, they and international donors can partner with the International Conference on the Great Lakes to strengthen the Conference's efforts to stop the remaining illicit trade in minerals. This would complement the efforts in the DRC to legalize mining in Eastern Congo. These are still daunting tasks, and they require the unqualified support of the international business community to do its part.

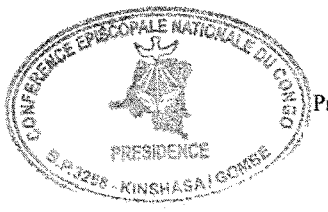
25. For too many decades Africa's export of oil, diamonds, precious metals, and minerals has been more of a curse than a blessing, but this situation is beginning to take a turn for the better. The international movement to ban "blood diamonds" that created the Kimberly process was a great global success story. The "Publish What You Pay" initiative is another global movement to empower people in developing countries to hold their governments accountable for the income that they receive from natural resource extraction.

26. Section 1502 of the Dodd-Frank Act opens yet another chapter in the effort to delink conflict, violence and the resultant suffering from the international trade in minerals. It was a bold move that showed U.S. global leadership at its best. This act was duly noted by other countries of the world, and by international businesses. It displayed the willingness of the U.S. government to place the moral values that Americans hold dear above a blind search for profit, no matter what the social costs in foreign countries. The people of the Congo saw this legislation as a true expression of solidarity with the women, families and villages who have suffered at the hands of those who destroy our communities to mine our resources. Improvements in transparency of the minerals trade in the Eastern Congo are happening largely because of the legislation that you passed in these hallowed halls. It is our belief that the rules that the SEC established in August, 2012, to implement the standards of Section 1502, live up to the laudable goals of the Conflict Minerals provision in the Dodd-Frank Act.

27. The Church in the Congo trusts that the international business community can and will join us in protecting the life and human dignity of the Congolese people by conducting legal, transparent and accountable international commerce. We are confident that they do not want to be part of the violence and suffering that has plagued Eastern Congo over the last fifteen years.

28. We have full confidence in the good will of the Congress, the SEC and business sector to realize that this is not the time to water down legislative standards or SEC rules to half measures that may save money, but cost lives. What the people of the Congo need and the U.S. Government and American companies can provide are simple and responsible actions that increase transparency and reflect the moral values that made the United States a respected world leader.

Kinshasa, May 17, 2013



+ Nicolas DJOMO
Bishop of Tshumbe
President of the DR Congo Bishops' Conference

May 20, 2013

Monetary Policy & Trade Subcommittee
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Subcommittee Members:

We are a multi-stakeholder group representing diverse organizations including companies from several industrial sectors; sustainable, responsible and faith-based investors (SRIs); and non-governmental organizations including several human rights activists.

In response to the subcommittee hearing entitled "The Unintended Consequences of Dodd-Frank's Conflict Minerals Provision," we are submitting a relevant written statement.

Attached please find a statement our multi-stakeholder group issued on the challenge to the conflict mineral 1502 rule. It was signed and published by 39 multi-stakeholder participants on the website http://www.sourcingnetwork.org/sec/ on 20 November 2012.

Sincerely,

Patricia Jurewicz
Director, Responsible Sourcing Network
Convener of the multi-stakeholder group

Enclosure

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Multi-stakeholder Group Statement on the Challenge to Conflict Minerals Rule

We are a multi-stakeholder group ("MSG") representing diverse organizations including issuers from several industrial sectors; sustainable, responsible and faith-based investors; and non-governmental organizations.

Since 2009 – predating the passage of the conflict minerals legislation (Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act) - the MSG has been working together to develop an agenda for action to address the conflict in the Democratic Republic of Congo ("DRC") by cutting off funding from trade in conflict minerals. After the law was passed, the MSG began to develop consensus policy positions on the Securities and Exchange Commission ("SEC") rulemaking to implement the provision. In the course of this rulemaking, we came together to file four separate comment letters[1], meet with SEC Commissioners and staff[2], and several MSG participants sat on panels at the SEC's Roundtable on Conflict Minerals in October 2011[3]. Our extensive efforts in this rulemaking were evidence of the shared concern we have about this issue and our belief that we could become part of the solution through bringing transparency to the supply chains for these minerals.

Recently, a petition was filed by the National Association of Manufacturers, the US Chamber of Commerce, and the Business Roundtable for judicial review of the final rule implementing Section 1502. The MSG would like to take this opportunity to urge all stakeholders to continue the important work underway to address the critical issue of transparency in the supply chains for these minerals. Our organizations will also continue to work towards this end, as we strongly believe these efforts are a matter of corporate social responsibility. In this context, we would like to make three points:

- As early as 2007, companies and industry associations, working with investors and advocacy groups, have developed programs that advance responsible sourcing of minerals. Several initiatives, such as those coordinated through the Electronics Industry Citizenship Coalition (EICC) and Global e-Sustainability Initiative (GeSI) Workgroup were initiated before Section 1502 was enacted and many MSG members will continue regardless of this lawsuit.
- By establishing expectations within our supply chains, we are creating demand for responsibly sourced minerals.
- Ultimately, a cross-industry approach to this issue is needed for responsible sourcing of minerals from the Great Lakes region in Central Africa. The active participation of all stakeholders is needed to make meaningful progress. We welcome additional participation in the development and implementation of a common approach.

The organizations in the MSG will continue to work together to eliminate the link between violence and human rights abuses and the mineral trade in the DRC and surrounding countries regardless of the lawsuit. We all agree that the violence and abuse in this region of the world must end and that an important part of the solution is the efficient and responsible minerals sourcing process in which many MSG members are already participating.

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[1] MSG submissions: November 17, 2010, March 2, 2011, August 22, 2011, and November 10, 2011.
[2] MSG had in-person meetings and one group conference call with SEC staff, SEC commissioners, or Commissioner Schapiro on: Nov/17/10, Mar/11/11, Jun/22/11, Feb/13/12, Feb/15/12, and Feb/17/12.
[3] MSG panelists: Tim Mohin, Advanced Micro Devices Inc.; Bennett Freeman, Calvert Investments; Darren Fenwick, Enough Project; Sandy Merber, General Electric Company; Mike Davis, Global Witness; and Susan Baker, Trillium Asset Management.

Advanced Micro Devices, Inc.

Africa Faith and Justice Network

American Baptist Home Mission Societies

Boston Common Asset Management

Bureau d'Etudes Scientifiques et Techniques

Calvert Investments

Child Labor Coalition

Christian Brothers Investment Services, Inc.

Comboni Missionaries

Congo Global Action

CREA: Center for Reflection, Education and Action

Dell, Inc.

Enough Project

Everence Financial

Future 500

General Electric Company

Hewlett-Packard Company

Intel Corporation

Interfaith Center on Corporate Responsibility

Jewish World Watch

KEMET Electronics Corp.

Marianists International

Mercy Investment Services, Inc.

Microsoft Corporation

Midwest Coalition for Responsible Investment

Missionary Oblates of Mary Immaculate – JPIC office

Motorola Solutions Inc.

National Consumers League

NEI Investments

Partnership Africa Canada

Responsible Sourcing Network,
a project of As You Sow

Royal Philips Electronics

Sisters of St. Dominic of Caldwell, NJ

Sustainalytics

Trillium Asset Management, LLC

Tri-State Coalition for Responsible Investment

US SIF: The Forum for Sustainable and
Responsible Investment

Veris Wealth Partners

Wespath Investment Management