

June 26, 2013

Petros Sourmelis
Head of Unit
European Commission - DG Trade
Market Access, Industry, Raw Materials, and Energy Unit
Brussels, Belgium

Dear Mr. Sourmelis,

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

We would like to thank the EU Commission and DG Trade for your leadership in addressing the immensely important topic of responsible sourcing of minerals originating from conflict-affected and high-risk areas. The instability in eastern Democratic Republic of Congo (DRC) continues to result in death, widespread sexual violence, and rape - often used as tools of warfare to terrorize and humiliate communities. The utilization of natural resources is one key underlying driver of the conflict. There is a clear moral imperative to take steps to bring the conflict in the DRC to an end. In order to promote real change, the problem must be approached in a manner that addresses the root economic, political, and security causes of the conflict.

The members of our coalition have been active for some years now in helping to shape U.S. policy to address these issues. Many of the entities in our coalition also have strong ties to the European Union through our subsidiaries or investments and some of us have been engaged in the development of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

For the development of the U.S. Conflict minerals provision, Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the MSG offered a unique perspective. Of the numerous entities involved, the MSG was the only group that offered consensus positions forged between NGOs, companies, and investors. Perhaps because of this unique perspective, the final rule implementing the U.S. legislation referred to MSG comments in over 70 instances.

As the European Union considers similar policies, we propose to offer our insight and experience to EU policy makers. This letter is an initial statement of the MSG perspective as input to the EU conflict minerals policy consultation and an offer to continue the dialogue. It is our hope that this dialogue will be helpful in shaping a policy that can complement the U.S. law to create an efficient and effective means to help the people of the DRC and the Great Lakes Region (GLR) of Africa.

Patricia Jurewicz from the Responsible Sourcing Network serves as our primary point of contact. You can reach her at patricia@sourcingnetwork.org and +1.510.735.8145.

Sincerely,

The following 27 signatories:

Advanced Micro Devices, Inc.



Aquinas Associates



Boston Common Asset Management



Bureau d'Etudes Scientifiques et Techniques,
Bukavu South Kivu Province



Calvert Investments



Catholic Health East



CREA: Center for Reflection, Education and Action



ES Global



Etica SGR



Everence Financial and the Praxis Mutual Funds



Future 500



General Electric Company



Hewlett-Packard Company



Interfaith Center on Corporate Responsibility



Jewish World Watch



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Mercy Investment Services, Inc.



Motorola Solutions Inc.



Responsible Sourcing Network



Sisters of St. Dominic of Caldwell, NJ



Sisters of St. Francis of Philadelphia



Sustainalytics



Swedwatch



Trillium Asset Management, LLC



Tri-State Coalition for Responsible Investment



Ursuline Sisters of Tildonk, U.S. Province



US SIF: The Forum for Sustainable and Responsible Investment



Enclosure

MULTI-STAKEHOLDER GROUP
PERSPECTIVES ON EUROPEAN UNION CONFLICT MINERALS INITIATIVE

In 2010, the U.S. Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), which contains Section 1502 on Conflict Minerals. This was a concerted effort to break the link between the minerals trade and the funding of the conflict in eastern DRC and to reduce the demand for black-market conflict minerals. The policy goal of Section 1502 is to require accountability of conflict mineral sourcing in the DRC and its adjoining countries.

The EU initiative for responsible mineral sourcing should focus on incentivizing execution of existing systems and programs and seek to complement the ongoing implementation of Dodd-Frank Section 1502. It is important that any EU initiative for responsible mineral sourcing focus on the conflict in the GLR before broadening its scope to address global conflict-affected and high-risk areas or expanding the types of minerals addressed. Expansion at this time would delay the execution, create confusion in the supply chain, and could propagate unintended consequences to global artisanal mining in conflict or high-risk areas. In the future, separate legislation could be initiated to address other conflict-affected mineral areas (that are appropriately recognized by the United Nations), where lessons and successes from addressing the mineral sourcing issue in the GLR could be appropriately applied.

Radical reform of the way minerals are sourced in the GLR is needed to encourage a fair, humane, and sustainable minerals trade. Therefore, the EU initiative, like Dodd-Frank, should take into account the need to break the link between mineral extraction and human rights violations. It should support a formal natural resource economy that operates within the rule of law as part of a holistic approach to ameliorate the conflict and its destructive effects.

Though not all mineral investment in eastern DRC is illicit, much of it lies beyond any form of oversight or the influence of long-term public and sustainable planning. The mechanisms governing this industry need special attention as the Congolese state increases its capacity to govern. The EU could contribute to building the capacity of Congolese and other regional governments' institutions to:

- Monitor and implement their obligations to ensure that in-region entities are aware of, and comply with, the OECD Due Diligence Guidance;
- Support the implementation of mineral traceability/transparency initiatives;
- Support local and regional oversight mechanisms, including mine site validations; and
- Develop and implement national legislation to comply with the regional certification mechanism established by the International Conference of the Great Lakes Region (ICGLR).

These measures, in concert with other political and economic initiatives, should create an environment attractive to industry and investors.

The work of the [Public Private Alliance \(PPA\) for Responsible Mineral Trade](#) together with the closed pipe projects, such as [Solutions for Hope](#), represent real opportunities for responsible sourcing from conflict-affected areas in the DRC. For example, the PPA is sponsoring a pilot program to develop conflict-free artisanal gold mining in the DRC. The closed pipe projects have proven to be successful, thus far, by creating a market for conflict-free tantalum and tin from the DRC and achieving a world-market driven price for conflict-free ores, which has led to increased income for the local communities. As the European Commission prepares to move forward on a possible initiative for the responsible sourcing of minerals originating from conflict-affected and high-risk areas, it should reward companies for exercising due diligence on their supply chains and participating in conflict-free mineral sourcing efforts from the GLR generally, and the DRC specifically.

The MSG recommends that the European Commission take the following actions in order to ameliorate conflict-supporting, exploitative, and unethical mining practices in the GLR:

Policy Recommendations for DG Trade

The gravity of the conflict requires companies that use and/or source from the GLR to exercise due diligence to ensure their sourcing practices do not support conflict. A voluntary scheme is not sufficient to address the current crisis. However, EU legislation should complement and support existing efforts like Section 1502 and current supply chain initiatives. Companies, NGOs, and SRIs are working individually and collectively to promote responsible sourcing through the implementation of Dodd-Frank and the OECD Guidance, and through projects to enable conflict-free sourcing from the GLR. Thus, any EU legislation should be complementary to the U.S. requirements by:

- a) Imposing no additional requirements beyond what Dodd-Frank has stipulated;
- b) Accepting SEC filings under Dodd-Frank in satisfaction of any required EU disclosure or due diligence process; and
- c) Allowing parent companies to provide representations or disclosures on behalf of all subsidiaries, manufacturing sites, or sales offices.

In addition:

- If a parent company is subject to reporting under Dodd-Frank 1502, the EU should accept that report in satisfaction of the requirements of parallel EU legislation on behalf of all EU affiliates covered by the Dodd-Frank report.
- Parent companies should post their smelter lists on their websites.
- The EU should require smelters within its jurisdiction to participate in industry initiatives that meet international standards and include independent auditing. To achieve conflict-free mineral sourcing, a critical mass of smelters must be audited and placed on a publicly-available list.
- The EU should consider incentives, such as tax credits or investment incentives, to companies that exercise due diligence on their supply chains and source certified conflict-free minerals from the GLR. This could include, but should not be limited to, participating in conflict-free mineral sourcing initiatives such as the [Conflict-Free Tin Initiative](#) (CFTI) supported by the Dutch government. The CFTI is a closed pipe program for tin, which encourages sourcing of conflict-free material from DRC certified mines.
- The EU should offer trade preferences to GLR countries that quickly implement conflict-free mineral certification processes and coordinate with ICGLR.

Additional Recommendations:

- Take diplomatic action in the GLR to improve the conditions for investment and economic development by creating and funding up-stream programs similar to the closed pipe projects and those being undertaken by the PPA.
- Work with the DRC government to finance and build secure trade routes from mine to smelter.
- Discontinue aid to countries that act to destabilize the DRC.
- Help develop mining sector reform to ensure accountability in the taxation and export processes of minerals sourced from certified conflict-free mines.
- Invest in livelihood initiatives for residents in and around mining areas in the DRC. As of now most of the people residing in the eastern provinces of the DRC are illiterate and below the poverty line, working as diggers, breakers, or rock haulers. Investment should focus on subsistence farming and basic infrastructure.

We all agree that the violence and abuse in the GLR must end and that an important part of the solution is for the EU to provide capacity building and incentives in support of responsible sourcing practices of minerals from the region.