

Ford also has engaged quite actively in the policy-making process and has signed on to several of the MSG joint comments to the SEC. In addition, Ford representatives have met with the SEC and U.S. State Department to discuss issues related to procedure and implementation in the automotive supply chain.^{xxii}

Ford has been an industry leader by encouraging the AIAG to coordinate efforts between different car companies and establishing an industry-wide traceability tool to manage the downstream supply chain.

The efforts of other automotive companies are in the fledgling stage. Several have made general commitments to eliminate conflict minerals in their supply chains and comply with the Dodd-Frank Act, but public statements of progress are rare. Several automotive companies participate in industry-wide efforts such as the EICC-GeSI Extractives Workgroup via AIAG's Conflict Minerals Work Group. In addition to Ford, other automotive companies including American Mitsuba Corporation, Chrysler Group, General Motor Company, Honda of America, Nissan North America, Toyota Motor Engineering & Manufacturing North America, Volkswagen, and Yazaki North America are participants in AIAG's Work Group.^{xxiii} Automotive companies would do well to follow Ford's lead by exercising due diligence and implement the new auto industry joint traceability software system and becoming active participants in the CFS, OECD, and MSG working groups.

BOX 11:

Automotive Industry Action Group

www.aiag.org

Founded in 1982 by representatives from Chrysler, Ford, and General Motors, AIAG is an association of automakers, manufacturers, retailers, suppliers, service providers, academics, and government that strives to create effective and responsible automotive supply chains. AIAG publishes standards and offers educational conferences and training to participants. Additionally, AIAG has a Conflict Minerals Work Group that identifies and implements appropriate strategies to create conflict-free automotive supply chains.

In September 2012, AIAG's Conflict Minerals Work Group announced the development of the iPoint Conflict Minerals Platform, the first web-based conflict mineral tracking and reporting system. This data management application pulls information from the EICC-GeSI Reporting Template and Dashboard and is designed to help companies source minerals responsibly and to successfully comply with Section 1502.

Current AIAG Conflict Minerals Work Group members include American Mitsuba Corporation, BorgWarner, Chrysler, Cisco Systems, Deloitte & Touche, Delphi Corporation, DENSO Corporation, DENSO International America, Inc., Dickinson Wright PLLC, Dykema Gossett Law Offices, Federal-Mogul Corporation, Ford Motor Company, Freudenberg-NOK General Partnership, GE Fanuc Automation NA Inc., General Motors Company, Hewlett-Packard, Honda of America Mfg., Inteva Products, Johnson Controls, KPMG LLP, Lear Corporation, Magna International Inc., Navistar, Nissan North America, Oxender Consulting, PTC - Parametric Technology Corporation, PwC, Robert Bosch LLC, RSJ Technical Consulting, Schneider Electric Sustainability Services, Tenneco, Inc., Tetra Tech, Toyota Motor Engineering & Manufacturing North America, Inc., TRW, Inc., Visteon Corporation, Volkswagen, and Yazaki North America, Inc.

III. Aerospace and Defense

AEROSPACE	Tin	Tantalum	Tungsten	Gold
Jet Engines	✓	✓	✓	✓
Rockets	✓		✓	✓

Most aerospace and defense companies have not taken adequate action to begin addressing the use of conflict minerals in their supply chains. With very few exceptions such as Boeing Company and Lockheed Martin Corporation, who are participating in the OECD *Guidance* implementation pilot, the

companies researched for this paper have made no public acknowledgements of the issue or any plans to address it.

GE is a notable forerunner. With businesses in the aerospace and many other major industries, it is hard to place the company in one particular industry category. GE's numerous departments and its location in a number of different supply chain tiers makes it more difficult for it to create a software tracking tool that will meet all of its needs. However, it is in the process of developing its own tracking software system since its divisions are too complex to use an industry-standard tool. Despite these challenges, GE has made a public commitment to work to eliminate the use of conflict minerals as well as support conflict-free miners in the DRC. GE recognizes that identifying sources and removing conflict minerals in its supply chain will be a long-term project and plans to show progress toward its goal each year.

As part of its long term commitment, GE communicates with suppliers on a regular basis and will subject its program to third party audits. The company is currently conducting a risk assessment of its most significant suppliers in order to develop appropriate tracking tools and is engaging outside stakeholders to prepare for filing its first conflict mineral report with the SEC. GE's supplier training materials are in the process of being updated and it will soon incorporate information on this issue into its new supplier due diligence process. In a few of its divisions, GE works directly with a small, finite group of smelters and has informed these smelters of its expectations that they will be certified as conflict-free under the EICC and GeSI's CFS or an equivalent program.

GE is also active in multi-stakeholder efforts such as the EICC-GeSI Extractives Workgroup, the PPA, and the CFS program. GE is participating in the pilot implementation phase of OECD's *Due Diligence Guidance* and has played a significant role in the development of the MSG's joint recommendations to the SEC. In addition, the GE Foundation supported Business for Social Responsibility's (BSR) interim report, released in February 2012, on how responsible companies can support development and capacity in eastern DRC.^{xxiv} (See Box 19.)

Other aerospace and defense companies have not made as much progress as GE. While some acknowledge human rights issues in their supply chains and have attended the EICC-GeSI workshops, the companies researched have not taken enough steps to report on what they are doing to address conflict minerals in their supply chains. Since tungsten is used heavily in aerospace parts, it would be beneficial to see other companies in the aerospace and defense industries join GE to establish ethical sourcing systems and encourage their tungsten smelters to go through the CFS audit process.

IV. Jewelry

	Tin	Tantalum	Tungsten	Gold
Jewelry	✓		✓	✓

The jewelry industry is in an unusual position with regard to conflict minerals. Jewelry companies have already been under scrutiny for human rights abuses in their diamond supply chains. Many of them have participated in the Kimberly Process

and adopted conflict-free diamond policies as a result. Some companies have developed gold sourcing policies that address the environmental impact as well, but they are typically vague about the methods used to ensure ethical human rights practices.

Tiffany & Co. is an interesting exception. In 2011, Tiffany & Co. sourced 48% of its gold from a U.S. mine and 52% from recycled sources. The company is currently exploring the possibility of sourcing metals from artisanal mines. The Tiffany & Co. Foundation provides grants to organizations that promote responsible mining of precious metals, diamonds, and gemstones, as well as organizations that assist communities where mining occurs.^{xxv} Tiffany & Co. should be commended for its commitment to responsible sourcing and supported in sourcing gold from artisanal mining options.

In addition to Tiffany & Co., other jewelry companies such as Signet Jewelers Limited and Cartier participate in the Responsible Jewellery Council (RJC), which is an international industry association established to advance responsible business practices throughout the diamond, gold, and platinum jewelry supply chains. RJC has developed a voluntary chain of custody (CoC) certification system that aims to identify conflict-free and responsibly-sourced jewelry materials. Jewelry companies can be certified against the CoC standard through an auditing process. Certified entities are publicly available on the RJC website.^{xxvi}

BOX 12:

Responsible Jewellery Council

www.responsiblejewellery.com

This association fosters human rights and environmental practices through the diamond and gold jewelry supply chain from mining to retailer. RJC requires all members to be audited for compliance with their Principles and Code of Practices. These audits cover company policies and management systems. In March 2012, RJC also initiated a voluntary audit program for members called “Chain-of-Custody Certification” to be used as a tool to support responsible sourcing and conflict-sensitive due diligence.

In September 2012, RJC joined forces with CFS and London Bullion Market Association (LBMA) to announce their mutual cross-recognition of gold refiner audits.^{xxvii} Currently, all three associations have audit programs in place. This mutual cross-recognition will increase the efficiency of the gold refiner auditing process and increase the number of verified gold refiners listed publicly on the CFS website.

The SEC’s rules for Section 1502 indicate that companies can comply with the Dodd-Frank Act by exclusively using refiners that have been certified as conflict-free by programs such as RJC, CFS, and LBMA.^{xxviii} Companies would do well to participate in these associations and use their certified refiners in order to ensure ethical sourcing and compliance with Section 1502.

In addition to RJC, a number of efforts for the jewelry and gold refining industries have been coordinated through the World Gold Council (WGC). In 2012, WGC created Conflict-Free Gold Standard to audit the upstream supply chain (mines to refiners). Please see the Mining section for further information.

V. Smelters/Refiners

By converting distinguishable mineral ore and recycled scrap metals into indistinguishable refined metals or derivatives, smelters and refiners play a critical role in the mineral supply chain. Furthermore, relatively few smelters and refiners process 3TG in the supply chains of electronic components, especially in comparison to the quantity of mines and exporters, and purchasers of the refined metals globally. Given these small numbers, smelters/refiners have been called the “choke point,” making them an important component in addressing the flow of conflict minerals. The EICC-GeSI CFS Program was launched in 2010 and is a tool to facilitate companies’ conflict-free supply chain goals. At time of writing this report, there are compliant smelters and refiners listed on the CFS website for tantalum and gold. Tungsten and tin smelters have not yet come up with the requisite three compliant smelters in their respective industry; therefore, there are currently no smelters listed on the public CFS website (a minimum of three compliant smelters is needed before making the list public for anti-trust purposes).

As of November 29, 2012, the 15 compliant tantalum smelters listed on the CFS website were: Exotech Inc., F&X, Gannon & Scott, Global Advanced Metals, H.C. Starck GmbH, Hi-Temp, Mitsui Mining & Smelting, Ningxia, Plansee, RFH, Solikamsk Metal Works, Taki Chemicals, Telex, Ulba, and Zhuzhou. With the exceptions of RFH and Solikamsk Metal Works, all of these smelters have a conflict-free policy. The country of origin of these smelters ranges from Australia to China, to Russia and Kazakhstan, to the DRC, as well as the United States. The smelters are labeled according to country level, which indicates to what extent the country has exposure to ore produced within or near conflict regions.^{xxx}

As of October 3, 2012, there were 11 compliant gold refiners: Asahi Pretec Corporation, DOWA, Matsuda Sangyo, Metalor USA Refining Corporation, Metalor Technologies SA, Metalor Technologies Hong Kong, Nihon Material Co. LTD, Ohio Precious Metals, LCC., Perth Mint Refinery, Royal Canadian Mint, and Tanaka Kikinzoku Kogyo K.K. Country of origin for these smelters includes Japan, United States, Canada, and Australia. Three of the gold refiners were added to this list via the CFS-LBMA-RJC cross-recognition audit protocol. With the exception of Tanaka Kikinzoku smelter, all of the gold smelters have a conflict-free policy.

In addition to the CFS Program, other Extractives Workgroup activities in support of smelters and refiners include smelter visits, comparative analysis between the international programs, *OECD Due Diligence Guidance* pilot implementation, and the CFS Early-Adopters Fund. The CFS Program employs a system that is accessible to all levels of all industries. Such a platform is also critical to enable companies tracking the origin of their materials for their 1502 report to only have to track to the smelter. If companies start mandating that their suppliers and sub-suppliers only purchase from compliant smelters, the economic demand for certified conflict-free minerals will grow.

The RJC Chain of Custody, LBMA Audit Guidance, and the CFS program all established transparent certification systems that address human rights, labor, ethical, and environmental issues, and aligned their efforts to avoid duplication. All of those involved in establishing these certifications should be commended and more should be encouraged to support them. However, it should be noted that the absence of developing country sources for gold from the CFS is a critical weakness. The LBMA and RJC programs, while only deal with gold, cover a broader geographic base and are focused on *OECD Due Diligence Guidance*. The CFS, LBMA, and RJC programs are all examples of great efforts in terms of outreach, multi-stakeholder engagement, and collaboration. The main disconnect has been that the gold sector has

largely been on a separate track than the sectors involved with the 3T's and not all stakeholders have engaged in both sectors. OECD stakeholders, including CFS, RJC, LBMA, and WGC are working to bring the 3Ts and gold tracks back together so there can be more cross-fertilization. In that sense, the RJC, LBMA, and CFS cross-recognition of gold refiner audits is a good example of the collaboration efforts across sectors.

BOX 13:

Conflict-Free Smelters Program

www.conflictreesmelter.org/

The CFS Program is a global, voluntary program developed and managed by EICC and GeSI. Independent third party auditors evaluate smelter and refiner procurement activities and determine if the smelter or refiner demonstrated that all the materials they processed originated from conflict-free sources. Although initiated by the ICT industry, other industries have started supporting the program and more are encouraged to contribute to its efforts.

The countries where smelters source their materials are divided into different levels of scrutiny. The closer the country is to the DRC, the higher the risk. If smelters are sourcing from the DRC or adjacent countries, they must be purchasing from a certified conflict-free mine. Many of the significant processors are based in Australia, China, Malaysia, Russia, Canada, Indonesia, and the U.S. Audits are conducted by third party assessment firms who are responsible for conducting on-site due diligence reviews of smelter facilities. Smelters have to be re-audited every two years. The CFS Program is aligned with the OECD *Due Diligence Guidance*, as well as the ICGLR, iTSCi, and BGR CTC certification standards. The CFS has also aligned its requirements with industry standards by LBMA, WGC, and RJC.

BOX 14:

London Bullion Market Association

www.lbma.org.uk

The LBMA is an international trade association based in London and represents the wholesale market for gold and silver. The association's work includes refining standards, good trading practices, and standard documentation.

In 2012, LBMA developed a Responsible Gold Programme, which requires that all LBMA Good Delivery Refiners comply with the LBMA Responsible Gold Guidance. The LBMA supports the work of the OECD in supply chain due diligence and based its guidelines on the OECD's *Due Diligence Guidance*. Along with RJC, the LBMA was involved in drafting the Gold Supplement section of the *Guidance*. The LBMA has also produced an audit guidance document to further add transparency and consistency to the Responsible Gold Programme. The first mandatory Good Delivery Refiner Audit Reports are due end of 2013.

VI. Mining

Minerals are a major source of foreign direct investment for some of the world's most vulnerable communities and are a large driver of infrastructure and development.^{xxxii} As such, mining can be considered a foundation industry, which jump-starts the creation of vital infrastructure such as transport, telecommunications, electricity, and piped water.

The mining industry can be divided up into three sectors:

1. Industrial
2. Medium/semi-industrial
3. Artisanal/small-scale mining

Industrial mining companies with operations based in the DRC play an important role in the mineral supply chain, especially because the industry has such a large presence in the country, both physically and financially. In some cases, the Congolese government requires small to medium or semi-industrial mining companies to partner with local cooperatives. In countries such as the DRC, artisanal mining is illegal and, as a result, unregulated. Efforts are underway to formalize all forms of mining in the DRC since mining is a source of livelihood for millions of people.

As is already known, some mining activities can have and continue to have adverse effects on Congolese communities. However, industrial mining companies are in a position to establish responsible mining practices that are transparent and promote local economic development. By contributing to creating stable infrastructures that benefit communities, mining companies can help bridge the disconnect between the financial value of minerals and underdevelopment in the Congo. In 2013, RSN issued a paper entitled *Architecture for Resource Sharing in the DRC: Exploring the Role of Trusts in Agriculture and Mining* that looks at innovative structures for mining companies to support the communities in which they operate.^{xxxiii}

The mining company Mining Mineral Resources (MMR) is a substantial participant in the Solutions for Hope project and KEMET's Partnership for Social and Economic Sustainability project. Both projects aim to develop closed-pipe supply chain systems that trace ore mined from government-approved sources through to manufacturer. The mined minerals originate from one or more of MMR's Mai Baridi, Kisengo, or Luba mines, which are all located in DRC's Katanga province (which is currently conflict-free). MMR has partnered with a local mining cooperative, Coopérative Des Artisanaux Miniers du Congo, to manage the diggers at all three mine sites. MMR is the responsible party to weigh and log the minerals for traceability, coordinate with the certification bodies, and transfer the ore to their depot for export. MMR established the Vinmart Foundation to manage the economic development component of these projects, which include building roads, schools, and medical clinics, as well as installing solar street lighting and fresh water wells.

Canadian gold mining company Banro Corporation has production mines located in the provinces of South Kivu and Maniema, which are also known as the Gold Belt and at high risk for conflict. In 2005, the company started the Banro Foundation, based in Bukavu, to benefit local communities, especially women, in South Kivu and Maniema through investments in education, health, and infrastructure development. The Foundation also focuses on economic development for women-led community groups by supporting micro-financing projects. The Banro Foundation has completed 60 projects in the past seven years.^{xxxiv} These projects include: building schools, granting scholarships, constructing health care facilities, providing medical equipment, building potable water systems, and rehabilitating roads and bridges.

AngloGold Ashanti (AGA) is headquartered in Johannesburg, South Africa and has 20 gold mining operations in 10 countries. It is currently constructing a mine in the DRC and is also part of a joint venture constructing a second Congolese mine. The company is a member of the WGC, LBMA, and RJC. Although AngloGold Ashanti was accused in 2005 of paying off a militia in Ituri, the company has made improvements.^{xxxv} In October 2012, AGA developed a strategic framework to facilitate a structured approach to managing the issues associated with illegal artisanal and small-scale mining (ASM) on its concession in the DRC. The framework is reported to be anchored in multi-stakeholder engagement at national, regional, and local levels to co-create solutions for addressing ASM challenges. The engagement will cover key elements including security, environmental and health impacts, formalization of artisanal mining, and alternative livelihood opportunities. AGA has ongoing engagement with development agencies such as USAID to align its support of socio-economic initiatives and conflict-free mineral production and trading in Ituri.

Freeport-McMoRan Copper & Gold's Tenke Fungurume Mine (TFM) is an industrial copper and cobalt mine in Katanga province, which is currently a conflict-free province. Although copper and cobalt are not classified as "conflict minerals" under the Dodd-Frank Act and OECD Guidance, TFM upholds procedures to ensure that its mine processes and sells only minerals that originate in the company's mining concession. These procedures include a system for tracking copper and cobalt products from the mine to the point of transfer to the customer.^{xxxvi} TFM contributes 0.3% of the company's annual net sales revenues (less transportation costs and marketing fees) to the TFM Social Community Fund towards supporting the local

BOX 15:

World Gold Council

www.gold.org

Based in the UK, the WGC is an association with 23 members from gold mining companies that represent 60% of corporate gold mining and is the market development organization for the gold industry. WGC works with the investment, jewelry, and technology sectors in sustaining gold demands and engages with governments and central banks.

In October 2012 The WGC developed the Conflict-Free Gold Standard with member companies, leading refiners, governments, civil society groups, investors, academics, independent experts, and supply chain participants. It is a common approach through which gold producers can assess that their gold has been extracted in a manner that does not cause, support, or benefit armed conflict or contribute to serious human rights abuses or breaches of international humanitarian law. Member companies must publicly issue a Conflict-Free Gold Report and such disclosures are subject to independent assurance. The Standard is available for use by any gold-producing entity. Like the *OECD Guidance*, the Standard applies to conflict areas globally. The Standard includes required assessments and disclosure of whether operations are located in areas considered to be conflict-affected or high risk. Company performance requirements reflect internationally-recognized benchmarks such as the *OECD Guidance*, the *UN Guiding Principles on Business and Human Rights*, and the *Voluntary Principles on Security and Human Rights*. Standard conformance disclosure is expected to be useful to: refiners, governments, law enforcement agencies, local communities, and civil society groups and donor organizations looking to support formalization of ASM and responsible mining practices. Audits will occur in the upstream supply chain (mines to refiners). Information from the WGC audits is accepted by and will feed into the CFS, RJC, and LBMA refiner audits. The WGC sits on the PPA Governance Committee.

communities living on the TFM mining concession. The Fund supports infrastructure, health, education, and agricultural services. In 2011, the Fund was registered as a Congolese not-for-profit entity. It is managed by a Board of Directors comprised of a representative appointed by the provincial government, two representatives nominated by the local community, and four company representatives. At the time of writing, there are 26 approved projects including construction and rehabilitation of schools, a community center, health centers, a program to increase potable water access for rural populations and a feasibility study for electrification of urban population centers.^{xxxvii} Pact, an NGO that supports corporate community engagement and is also involved with the iTSCI's conflict-free certification, launched a joint project with TFM to help local entrepreneurs become suppliers to the mine. These activities are now carried out by TFM's Community Development Department to assist local entrepreneurs with developing business skills and plans, technical support, and access to finance to assist in attaining commercial contracts with the company.^{xxxviii}

VII. Less Active Industries

OTHER INDUSTRIES	Tin	Tantalum	Tungsten	Gold
Packaged Food				
Food	✓			
Pet Food	✓			
Home Appliances	✓			
Medical Devices				
Hearing Aids		✓		✓
Pacemakers	✓	✓		✓
Prosthetic Devices		✓		
Rods		✓		
Skull Plates		✓		
Surgical Instruments	✓	✓		
Suture Clips		✓		
Wire Meshes		✓		
Tools				
Cutting Tools	✓	✓	✓	
Drill Bits	✓	✓	✓	
Rotary Burrs	✓		✓	
Sanding Disks	✓		✓	
Wear Restraint Tools			✓	

The following are industries that have been much less active in addressing human rights abuses at the raw commodity level than the ICT, automotive, aerospace/defense, jewelry, smelter/refiner, and mining industries. Investors expect that the following industries start taking action to address conflict minerals in their value chains as many products outside of electronics have exposure to 3TG.

Packaged Food

RSN's online research found that little has been done to address the use of conflict minerals in the food packaging industry. Some companies do not seem to be aware of the issue or believe that it is necessary for them to conduct conflict minerals due diligence. This is a cause for concern as tin is used in cans and other packaging materials. At a minimum, food companies will need to report to the SEC on the origin and condition of the minerals in the packaging of their food. Therefore, it is in their best interest to take cues from what other industries are doing and start to map out the supply chains of their packaging materials.

Medical Devices

Tantalum, tin, and gold are used in a large variety of medical devices like hearing aids, pacemakers,

and surgical instruments. Very little has been done to address the use of conflict minerals in the medical device industry. However, it should be noted that Medtronic is a signatory on RSN's MSG letter to the SEC, which included a series of comments to guide the development of the Section 1502. These companies need to begin taking action on this issue since they will need to report to the SEC on the origin and condition of the minerals in the manufacturing of their products. It is in their best interest to take cues from other industries and map their supply chains to identify their smelters. Medtronic and its peers may also consider developing a tracing tool for the medical device industry similar to what the ICT and automotive industries have done.

Retail

Retailers may have to report to the SEC if they contract to manufacture private label brands in the categories of canned food, electronics, toys, and even apparel, footwear, and accessories.^{xl} All of these products are likely to contain tin, tantalum, tungsten, or gold. The SEC rule states that if retail companies have actual influence over the design or manufacturing of the product, they will have to report to the SEC. Despite this risk, most retail companies researched have not taken much action regarding conflict minerals.

Walmart plans to include this issue in their overall sustainability strategy and has alluded to conflict minerals and responsible sourcing standards in its corporate social responsibility report. However, it has mainly identified this as an area for improvement and has not yet made much progress. Walmart currently communicates with suppliers regarding labor standards and requires certification that materials were obtained in compliance with forced labor and human trafficking laws.

The Retail Industry Leaders Association (RILA) is currently developing retail-focused training to fill out the EICC-GeSI questionnaire, help suppliers understand the OECD due diligence requirements, and identify the smelters in their supply chains. Premier members of RILA such as Walmart could benefit by supporting the association's work in developing these resources so they become established and used by the retail industry.

Although primarily a media and entertainment company, The Walt Disney Company is also a licensor and retailer of branded products. As a retailer, Disney has indicated plans to address conflict minerals in the near future. Disney has ethical sourcing and labor standards currently in place and has attended at least one EICC-GeSi Extractives workshop. The company appears to be moving in the right direction.

Other retail companies should begin work on risk assessments and due diligence in order to eliminate the use of conflict minerals in their supply chains. As noted in Box 16, it may be in the best interest of the industry to adopt a single, widely recognized approach, aligned with the OECD Guidance, to gain transparency and identify smelters. It is also important to note that both Walmart and Disney have supported Conservation International with conservation and economic development projects in the DRC. Although not related to mining, it is important that various economic development projects are supported to create vibrant and diverse communities.

BOX 16:**The Retail Industry Leaders Association**

www.rila.org

RILA is a national trade association representing some of the largest retailers in the U.S.

With the inclusion of the retail industry in the SEC's draft conflict mineral rule and the growing awareness by retailers throughout 2011, many RILA members identified the need to develop an understanding of the compliance obligation and the tools needed to meet it. The EICC and GeSI's CFS Program and accompanying supplier questionnaire seemed ideal for a consistent approach across various industries to help determine mineral origin. RILA joined the EICC-GeSI Extractives Workgroup in late 2011 and has examined if this approach would be usable for the industry. RILA was pleased that EICC-GeSI members agreed to expand the scope of the supplier questionnaire to include retail-specific needs and product level declarations.

RILA members also worked with BSR throughout 2012 to develop effective and easy to understand retail-focused training for the questionnaire. The training covers due diligence requirements for suppliers and how they should seek to identify the smelters in their supply chains. This supplier training also reviews company obligations under Section 1502 and explains how they can exercise appropriate due diligence. This retail training, along with the EICC-GeSI questionnaire, were piloted and fine-tuned with select suppliers in August and September of 2012.

RILA members continue to agree with other industries and NGOs that a single, widely recognized approach, aligned with the OECD *Guidance*, will consistently produce more accurate smelter information from across many industries. This industry-wide approach will be most effective in educating participants throughout the supply chain, resulting in greater transparency. The premier members of RILA are: Best Buy, Dollar General, The Home Depot, JCPenney, Lowe's, Target, Sears Holding, Walgreens, and Walmart.

BOX 17:**Conservation International**

www.conservation.org

CI works with corporate partners such as The Walt Disney Company, Walmart, and Starbucks to help communities in the DRC with financial and technical support necessary to stimulate local economies and preserve the landscape. CI has helped indigenous people develop monitoring and protection systems for biologically diverse nature reserves and assists in establishing funding for community development initiatives such as universities, orphanages, radio stations, and hydropower stations.

Apparel and Footwear

Although not as prominent as the ICT industry in terms of the amounts of 3TG it uses, the apparel and footwear industry is also affected by conflict minerals in its supply chain. In particular, tin and the far removed derivative organo-tin are the most commonly used. They can be found in items such as buckles, zippers, fasteners, buttons, in PVC materials found in the soles of shoes, luggage and purses, and in components that are soldered. Further research is needed in this industry and it should be encouraged by the investor community. While tin and other minerals are used less often in apparel and footwear, there is no *de minimis*, or minimal amount required, of 3TG specified in the Dodd-Frank regulations. This means

all industries with any trace of these minerals in their products will have to report to the SEC. As noted by the American Apparel & Footwear Association (AAFA), it is difficult for companies in this industry to gather information from their suppliers beyond the first tier; therefore, the association is working to develop useful resources. The AAFA is the leading association group in this industry addressing conflict minerals in apparel and footwear supply chains and is interested in the idea of standardized tools.

BOX 18:

The American Apparel & Footwear Association

www.wewear.org

Formed in 2000 through the merger of the American Apparel and Manufacturers Association and Footwear Industries of America, the AAFA (or wewear) is a national trade association representing more than 75% of the U.S. apparel and footwear industry and their suppliers. AAFA promotes and enhances its member's competitiveness, productivity, and profitability in the global market by minimizing regulatory, commercial, political, and trade restraints.^{xli}

Due to the fact that no *de minimis* was stipulated in the SEC rule, the breadth of products potentially affected by Section 1502 is currently being researched by the AAFA. The association is developing a multi-pronged approach for informing the apparel and footwear industry on conflict mineral disclosure and actions companies, brands, and manufacturers need to take to comply by the SEC rule. AAFA has published a preliminary risk assessment available to its members and intends to publish more information on a component by component basis. The association is also investigating whether to develop an education template to help companies reach out to second and third tier suppliers or use the template questionnaire provided by EICC-GeSI. AAFA is collaborating with key component suppliers such as zipper, sewing, and fastener companies and is also working with the RILA and National Retail Federation to interpret provisions of the SEC rule.

Tooling

Tungsten, and to a lesser degree tin and tantalum, is used in items such as drill bits, cutting tools, rotary tools, and sanding disks. Therefore, it is very likely that many tooling companies use materials sourced from the DRC. However, few companies in this industry have taken action to begin exercising due diligence and create conflict-free supply chains.

Sandvik is one tooling company that has made progress on this issue. The company requires country of origin certification and audits all suppliers classified as high risk. During its supplier evaluation processes, Sandvik pays particularly close attention to sourcing exposure from the DRC and avoids buying materials that may be connected to conflict areas. The company states that while they source materials from the DRC, it does not source from conflict zones to the best of its knowledge. It is particularly difficult to track where 100% of the ore comes from since the tungsten smelters have been the slowest to respond to being audited and validated.

Toys

The toy companies researched for this paper have taken little action regarding conflict minerals. None have publicly acknowledged the issue, however due to the increasing amount of blinking lights, sounds, and electronics, as well as PVC imbedded in toys, companies in this industry have just as much exposure to conflict minerals and Section 1502 requirements as other industries mentioned. Therefore, it is in the best interest of this industry to begin looking into supply chain mapping, risk assessments, and due diligence for conflict minerals.

ECONOMIC DEVELOPMENT

The challenge, and thus opportunity, is to leverage the wealth from mineral deposits and associated activities in the DRC to establish prosperous and stable local communities. Companies throughout the supply chain should contribute to local capacity building and economic development efforts because this will allow local communities to prosper, thereby creating stable and conflict-free environments. Lessons can be taken from the Solutions for Hope and Partnership for Social and Economic Stability closed-pipe supply chain systems that include support for social development. USAID is also looking to direct some of its funding for eastern DRC towards mining communities that are working toward conflict-free certification and a diversified foundation to achieve long-term economic stability. RSN's *Architecture for Resource Sharing in the DRC* also looks at the intersection between mining and economic development such as agriculture.^{xliii}

When local communities directly receive benefits from mining operations such as schools, clinics, clean water, and roads, mining companies are strengthening their social license to operate. If companies take this one step further and contribute to capacity building to diversify and expand small business development, economically independent communities could flourish. Providing economic alternatives to joining a militia or illegal mining in dangerous conditions is imperative to creating a conflict-free Congo.

Funded by the GE Foundation, BSR also reached a number of these conclusions, which it published in *Going Beyond the Supply Chain in the Democratic Republic of the Congo: Responsible Multistakeholder Action on Development and Capacity-Building in Eastern DRC*.^{xliii}

The MSG's Economic Development Work Group is not yet fully developed; however there are still plenty of opportunities for companies to individually support economic development efforts in the region. Once a number of the other supply chain and policy efforts are underway, there may be interest in formalizing the Economic Development Work Group, whose aim is to promote investment in the DRC focused on capacity building and alternative livelihoods. Although the PPA's main goals are to promote alignment of certification schemes and promote conflict-free minerals in the region, its secondary goal is to consider additional activities that support the vision of conflict-free minerals extraction and trade in the GLR. Economic development projects could potentially fall into this third category in the future.

In addition to the efforts previously mentioned in this paper, there are many other economic development projects being implemented in or near mining communities. These range from small-scale alternative livelihood programs to large-scale endeavors for DRC mine reformation. The following organizations and initiatives are just a few examples of efforts companies could support to assist in capacity building and economic growth in the DRC. Investing to expand other economic sectors in addition to mining is needed to create stable, diverse, and thriving communities where a peaceful, conflict-free world will thrive. Having a conflict-free Congo is one way to be certain that minerals coming from the region are 100% conflict-free.

BOX 19:

Business for Social Responsibility

www.bsr.org

Business for Social Responsibility (BSR) is a membership-based nonprofit organization that assists companies with a variety of environmental and social responsibility efforts. BSR offers services such as assessment of company activities, supply chain strategy, policy development, supplier engagement plans, tools, due diligence execution, and stakeholder engagement strategies. BSR has a global network of over 300 member companies and has offices in Asia, Europe, and North and South America. BSR, which assisted with establishing EICC, has heavily researched the mining industry, consults to companies and the EICC-GeSI Extractives Workgroup on establishing downstream traceability and due diligence, and is working closely with the OECD on its *Due Diligence Guidance* and pilot.

The BSR interim report outlines local development needs and opportunities in the DRC with which end-user companies and other stakeholders can support. For example, companies can encourage programs that support stable local economies, which provide alternatives to conflict. The report highlights the expectation of companies to contribute to community development as part of a continuing effort to sever the link between minerals trade and conflict in the DRC.

The BSR report emphasizes that development and capacity-building are just as necessary as supply chain responsibility and government engagement in order for the DRC conflict to be fully addressed. The report also emphasizes that multi-stakeholder action and partnerships between companies and NGOs are needed beyond the supply chain and are a crucial component to transitioning towards a peaceful country with an organized and transparent mining sector. Issues that company-NGO partnerships can collaborate together on are: livelihood improvement, encouraging diplomacy and good governance, strengthening mine reform, and infrastructure development. BSR also emphasizes that companies should build on and contribute to current existing multi-stakeholder initiatives such as the PPA and the Clinton Global Initiative DRC Action Network.

BOX 20:**Select Economic Development Projects****Eastern Congo Initiative**

www.easterncongo.org

A project of the New Venture Fund and founded by actor Ben Affleck, this initiative works to increase public and private funding that supports DRC communities, raises public awareness, and increases U.S. government engagement.

PROMINES

www.pactworld.org/cs/promines

Is co-funded by the World Bank and UK's Department for International Development and works in collaboration with DRC Ministry of Mines and Pact. With a focus on artisanal and small-scale mining, PROMINES provides technical assistance to reform the DRC mining sector, helps strengthen state management capacity, and expands benefits of mining into growth and development. PROMINES supports and helps improve the legal status, working practices, and economic return of artisanal mining in the DRC.

USAID Grants for Community and Economic Development in Eastern DRC

http://eastafrika.usaid.gov/en/Place/1005/Congo_DRC

20 million USD has been committed by the U.S. government to support community and economic development projects in eastern DRC. USAID is currently accepting proposals from NGOs on projects that promote alternative livelihoods and market access, and support civil society in capacity building, advocacy, and conflict resolution.

UNICEF Protecting Children and Developing Alternatives

www.unicef.org/socialprotection/framework/

A UN project focused on children in five mining communities in the DRC's Kivu region. It will offer protection services, return children to school, and reunite separated children with their families. In partnership with the World Bank and USAID, UNICEF is looking for and partnering with corporations to develop economic alternatives, strengthen communities, and protect children in the DRC.

DIPLOMACY WORKING GROUP

Having stable, diverse, and prosperous communities combined with certifying mines and minerals as conflict-free does not guarantee the conflict will end. Controlling the borders, settling disputes between bordering countries and ethnic groups, holding parties responsible for past atrocities, and demilitarizing the region are all needed to bring lasting peace to the region. The private sector is not in a position, nor is it the mandate, to achieving these results. However, it can encourage local and international governments to do their part.

To engage the U.S. government and encourage its appropriate agencies to step up and use their influence to encourage peace talks and activities in the region, the MSG created a Diplomacy Working Group. This group focuses on broad political, human rights, and governance issues and take steps to encourage positive interaction by the U.S. and other governments with the DRC and countries in the GLR. Although the two co-chairs of the Diplomacy Working Group are currently NGOs (Free the Slaves and Falling Whistles), multi-stakeholder participation is encouraged. The group is stronger and the messages it sends have more leverage when investors, companies, and NGOs are all aligned with a common message that is communicated to the U.S. Department of State and other agencies.

In January 2012, the Diplomacy Working Group coordinated a letter to Secretary of State Clinton and in July 2012, drafted another letter and had an in-person meeting with Special Advisor to the GLR, Ambassador Barrie Walkley. The letter to Ambassador Walkley asked for the U.S. government to support the strengthening of peace and security in eastern DRC, especially in light of increased military presence by the rebel group M23 and the souring relationship between the DRC and Rwanda. The companies that either signed the letter or attended the in-person meeting included AMD, HP, Intel, KEMET, Motorola Solutions, Pamoja Minerals, Philips, and RIM. These companies are commended for joining forces with NGOs and sending a strong message to the U.S. government to push for peace. Shortly after this meeting, Ambassador Walkley visited the region and sent a strong message to both countries, demonstrating the effectiveness of this approach.

For the ongoing conflict in the DRC, as well as with other politically-challenging countries that are linked to a company's business practices, it is in a company's best interest to insist on empowered civil societies and enforced rule of law. Therefore it is encouraged that companies incorporate diplomatic engagement that promotes human rights norms into their CSR strategies.

POLICY WORKING GROUP

With the passage of the Dodd-Frank legislation in July 2010, the SEC announced it would receive public comments and input on Conflict Mineral Section 1502 prior to issuing a draft rule. A few MSG participants agreed it would be beneficial to develop consensus policy positions and jointly submitted multi-stakeholder recommendations to the SEC. As a result, the MSG created a smaller Policy Working Group tasked with drafting the positions and recommendation letters and circulating them to the larger MSG for the opportunity to sign. The co-chairs of the group are a company and an NGO: AMD and Enough Project. Both organizations played a crucial role in negotiating challenging consensus positions, along with the convener, RSN.

To develop recommendations for the SEC that companies, investors, and NGOs could all agree to, the MSG created a few ground rules and general understandings:

- The option to sign an MSG letter or statement is on a case-by-case basis and there is no requirement that all MSG participants have to sign all statements.
- If a consensus position cannot be reached, then the MSG will not comment on that specific position in its recommendations.
- MSG members can submit separate letters to the SEC as an individual entity or as part of another group, but the positions in the other letters can not contradict the positions in the MSG letters.
- In face-to-face meetings with SEC staff and commissioners, if an individual position or opinion is mentioned that is not an MSG position, it must be noted.

The MSG was the only multi-stakeholder group that submitted several comments, had multiple participants in the SEC's roundtable discussion, and was engaged with the SEC throughout the entire process. The SEC appreciated the consensus recommendations from the MSG and referenced them more than comments from any other group.

Determining policy positions on regulations that impact a company's daily business practices can be difficult, but the Policy Working Group is committed to finding solutions and recommending a pragmatic implementation approach. All of those involved in the drafting and signing on to the letters should be commended. Companies that signed on to one or more of the four comment letters include AMD, Dell, EMC, Ford, GE, HP, Intel, KEMET, Medtronic, Microsoft, Motorola Solutions, Philips, Sprint, and Unity Minerals.

Although legislation is not always welcomed by the business community, it can level the playing field so laggard companies no longer externalize their costs. Leading companies who have already volunteered to implement a new policy or procedure to address a challenging issue such as conflict minerals, should embrace legislation. When possible, it is recommended that companies work together with SRIs and NGOs to positively influence legislation so it addresses the challenges at hand and meets the concerns of the largest quantity of diverse stakeholders possible.

RECOMMENDATIONS & NEXT STEPS

To help put an end to one of the worst conflicts in history, everyone has a role to play. Stakeholders throughout the world who are using these minerals in the products they consume, manufacture, or are invested in all have a responsibility to ensure that the materials contained in them are not contributing to the ongoing violence in the DRC. Even though it is the role of governments to create peaceful and stable environments for their people, the private sector can encourage and support governments in achieving their obligations. A holistic approach is needed by each company that not only includes transparent and accountable supply chains, but also supports effective diplomatic action and contributes to sustainable economic development.

Each company needs to take a holistic approach that fosters transparent supply chains and contributes to economic development in the Congo.

There are many activities related to the DRC and the GLR provided in this paper, which is a resource for companies to be easily engaged in conflict-free mineral sourcing, diplomatic discussions, and economic development in the region.

- Each company needs to take a holistic approach to sourcing its 3TG. In addition to presenting disclosure reports to the SEC, companies should not only communicate and publicly disclose their policies on conflict minerals, but also implement and audit supply chain traceability programs, educate sourcing staff, and contribute to certification processes.
- Investors are looking for companies to be fiscally responsible and to take actions that will minimize their material and reputational risks. If companies participate in and coordinate their efforts, they will minimize costs, improve efficiencies, and reduce risks in both their supply chains and the countries where their raw materials originate.
- Companies should be engaged with their stakeholders including consumers, suppliers, NGOs, and industry associations. Multi-stakeholder groups and industry associations groups can collectively contribute to downstream traceability systems, smelter audits, in-region certification systems, diplomatic discussions, or economic development activities. Company engagement with respective industry groups is a critical component towards implementing industry-wide standards for conflict-free mineral sourcing and achieving a peaceful, stable, and prosperous Congo.
- Investors should encourage less-engaged industries such as the medical device, tooling, toy, retail, aerospace/defense, food packaging, and apparel and footwear industries to follow the lead of their more engaged counterparts in the ICT, jewelry, and automotive sectors. The smelters not yet on the CFS list, and tungsten smelters especially, need to start doing their due diligence and go through the verification process as quickly as possible.
- The investor community expects companies to take specific accountability, diplomatic, and development actions in addition to abiding by the transparency requirements of Section 1502. These actions will help establish proactive corporate responsibility policies and practices that companies in each industry should adopt so they can be applied to similar issues in other aspects of their value chains in the future.
- To be certain that a company's 3TG minerals are conflict-free, the DRC must be conflict-free. In addition to supply chain disclosure, peace and stability in the Congo must also be a priority. To achieve this, companies should support the national and international diplomacy and policy frameworks, initiatives, and activities discussed in this paper.
- Companies throughout the supply chain should contribute to local capacity building and economic development efforts because this will allow local communities in the GLR to prosper, thereby creating

stable and conflict-free environments. There are a plethora of development projects and foundations in need of companies' financial support to promote community development, peace, and stability in the DRC.

- Rather than just sourcing 3TG minerals from other global sources, investors should encourage companies to source conflict-free material originating in the DRC and neighboring countries. Companies should not encourage a *de facto* ban on DRC minerals since hundreds of thousands of people depend upon mining for their livelihood and there are several closed-pipe solutions that are already operational.

CONCLUSION

Digging into a supply chain beyond the first or second tier can be a daunting task. However, if any of the materials inside a manufactured product can be linked to violence in the DRC, there is responsibility that needs to be taken. Although the rule for Section 1502 is at last finalized, legislation is not enough. Disclosing where minerals come from, even in addition to creating, verifying, and purchasing conflict-free minerals, will not end the conflict. Having a conflict-free environment and controlled borders is what is needed in the DRC for there to be a supply of minerals from the region that contributes to peace and prosperity for Congolese people.

Even though it is the role of governments to create peaceful and stable environments for their citizens, the private sector can encourage governments in fulfilling their obligations. A holistic approach is needed by each company that not only includes transparent and accountable supply chains, but also supports effective diplomatic action and contributes to sustainable economic development.

Investors should encourage companies from all industries operating at all stages of the value chain to support existing efforts that promote transparency, accountability, diplomacy, peace, and economic development in the GLR. Investors are looking for companies to take actions that will minimize their material and reputational risks as well as be fiscally responsible. If many companies participate in and coordinate their efforts, they will minimize costs, improve efficiencies, and reduce risks in both their supply chains and the countries where their raw materials originate. Sustainable and responsible investors want companies to source their minerals from the DRC and neighboring countries in a certified ethical and sustainable way so they contribute towards building a conflict-free environment. Due to the hundreds of thousands of Congolese people dependent upon mining for their livelihood, it is extremely important to not support a *de facto* ban on the GLR. Companies are already exercising due diligence processes and participating in measures designed to support a mining sector in the DRC that brings real benefit to the Congolese people and builds a conflict-free Congo. To be successful, existing efforts need support by more industries and companies, and investors can reward companies when they make this happen.

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