



United States Department of State

Washington, D.C. 20520

STATEMENT CONCERNING IMPLEMENTATION OF
SECTION 1502 OF THE DODD-FRANK LEGISLATION
CONCERNING CONFLICT MINERALS DUE DILIGENCE

Consistent with Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”), the Department of State (“the Department”) is undertaking a number of actions to address the problem of conflict minerals -- or the exploitation and trade of gold, columbite-tantalite (coltan), cassiterite (tin), wolframite (tungsten), or their derivatives --sourced from the eastern Democratic Republic of the Congo (DRC) that have helped to fuel conflict in the eastern DRC.

Section 1502 instructs the Securities and Exchange Commission (SEC), in consultation with the Department of State, to promulgate regulations requiring, in part, certain companies to submit annually a description of the measures taken to exercise due diligence on the source and chain of custody of the four “conflict minerals.” In parallel, the Department is “to provide guidance to commercial entities seeking to exercise due diligence on and formalize the origin and chain of custody of conflict minerals used in their products and on their suppliers to ensure that conflict minerals used in the products of such suppliers do not directly or indirectly finance armed conflict or result in labor or human rights violations.” The Department will consider whether to revise this guidance after the final regulations are issued by the SEC, which has indicated the regulations will be issued between August and December 2011.

The Department holds that it is critical that companies begin now to perform meaningful due diligence with respect to conflict minerals. To this end, companies should begin immediately to structure their supply chain relationships in a responsible and productive manner to encourage legitimate, conflict-free trade, including conflict-free minerals sourced from the DRC and the Great Lakes region. Doing so will facilitate useful disclosures under Section 1502, as well as effective responses to any discovery of benefit to armed groups.

The Department specifically endorses the guidance issued by the Organization for Economic Cooperation and Development (OECD) and encourages companies to draw upon this guidance as they establish their due diligence practices.¹ We

¹ “OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas,” adopted as a Recommendation by the OECD Council on May

encourage companies, whether or not they are subject to the Section 1502 disclosure requirement, that are within the supply chain of these minerals to exercise due diligence based on the OECD guidance and framework as a means of responding to requests from subject suppliers and customers.

The five-step framework at the core of this system has been developed in a broadly consultative, multi-stakeholder process and has been recommended by the United Nations Security Council DRC Sanctions Committee's Group of Experts (UNGOE), "taken forward" by the Security Council itself, and endorsed by the International Conference on the Great Lakes Region. Under this five-step framework, companies should:

1. Establish strong company management systems;
2. Identify and assess risk in the supply chain;
3. Design and implement a strategy to respond to identified risks;
4. Carry out independent third-party audit of supply chain due diligence at identified points in the supply chain; and
5. Report on supply chain due diligence.

This framework has particular significance in light of its development by an inclusive and international multi-stakeholder process, its regional endorsement by the International Conference of the Great Lakes Region, and the decision of the UN Security Council to consider, when it is determining whether to designate for targeted sanctions an individual or entity supporting the armed groups that foster conflict and human rights abuses in the eastern part of the DRC through illicit trade of natural resources, whether an individual or entity has exercised due diligence consistent with these steps. Consistent with the five-step framework, a company may rely on the documented representations of suppliers further "upstream," provided that the company has taken the appropriate internal and independent auditing measures and due diligence steps set forth in the five-step framework. Furthermore, we note that, according to the OECD guidance, companies "may coordinate efforts through industry-wide initiatives to...overcome practical challenges and effectively discharge the due diligence recommendations contained in this Guidance."

We recognize implementation of this framework will take time, and will present challenges as many of the mechanisms needed to facilitate transparency for in-

region sourcing are developed. We also acknowledge that these due diligence frameworks will likely continue to evolve and develop, particularly as both the OECD and UNGOE are engaged in processes to evaluate implementation. Nonetheless, we urge governments to take steps to support these frameworks and companies to begin to exercise due diligence immediately in order to ensure a viable and conflict-free supply chain of minerals from the region. To facilitate this process, we will continue to hold consultations on the way forward with interested stakeholders in order to produce collective answers to the many outstanding issues.

In addition, the Department specifically notes and encourages the efforts of the International Conference on the Great Lakes Region (ICGLR) and its eleven member states to develop a comprehensive regional certification mechanism and other tools concerning the supply chain in these four minerals. As an intergovernmental body, the ICGLR and its Protocol against the Illegal Exploitation of Natural Resources (2006) provide a political mandate and a legal framework to develop such a mechanism. Together, if implemented with sufficient transparency and independence and supported by complementary initiatives further down the supply chain, the ICGLR's tools should help create a supply chain in these minerals from the Great Lakes region that does not benefit armed groups and contributes to human rights, peace and security, and economic development.

Finally, the Department wishes to make clear that the intention of this guidance is to facilitate and promote improved governance, peace and stability, respect for human rights, economic development, and improved livelihoods in the DRC and Great Lakes region. We thank the private sector for its partnership in implementing this critical tool to end the trade in conflict minerals, and we thank civil society for its partnership in supporting greater peace and prosperity in the DRC.

For questions regarding this document, please contact Brad Brooks-Rubin of the Department of State's Bureau of Economic, Energy and Business Affairs at (202) 647-2856, or Brooks-RubinBA@state.gov.



Robert D. Hormats
Under Secretary of State for
Economic, Energy, and Agricultural Affairs



María Otero
Under Secretary of State for
Democracy and Global Affairs